



TENATIVE AGENDA
OTTUMWA CITY COUNCIL

REGULAR MEETING NO. 21
Council Chambers, City Hall

July 5, 2022
5:30 O'Clock P.M.

PLEDGE OF ALLEGIANCE

A. ROLL CALL: Council Member Pope, Roe, Galloway, McAntire, Hull and Mayor Johnson.

B. CONSENT AGENDA:

1. Minutes from Special Meeting No. 19 on June 21, 2022 and Regular Meeting No. 20 on June 21, 2022 as presented.
2. Recommend re-appointment of Bill Hoffman to the Waterworks Board of Trustees, term to expire 7/22/2028.
3. Approve the appointments of Kevin McDaniel, Drayton Hamm, Derik LeBoeuf and Cody Napoleon to the positions of Equipment Operator – Sewer Maintenance & Street Cleaning, effective on or about July 10, 2022.
4. Approve the appointments of Tyler Phillips and Tyler Batterson to the positions of Equipment Operator – Street Maintenance, effective on or about August 1, 2022.
5. Approve the appointment of Michael Ashlock to WPCF – Maintenance Technician, effective on or about July 10, 2022.
6. Civil Service Commission Eligibility List for June 22, 2022: Police Officer Entrance.
7. Set July 19, 2022 as the date of a Public Hearing to Consider a Five Year Renewal of Lease Agreement between the City of Ottumwa and Musco Sport Lighting, LLC.
8. Resolution No. 170-2022, setting July 19, 2022 as the date for a Public Hearing on Proposed Ordinance No. 3200-2022, adopting the New State Electrical Code.
9. Resolution No. 173-2022, setting July 19, 2022 as the date of a Public Hearing on Proposed Ordinance Amending Appendix D, Electricity Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee.
10. Resolution No. 175-2022, setting July 19, 2022 as the date of a Public Hearing on Proposed Ordinance Repealing Current Gas Franchise, Granting a New Franchise to MidAmerican Energy Company, and Imposing a Franchise Fee.
11. Resolution No. 184-2022, fixing date for a Public Hearing on the proposed Vacation of a portion of the alleyway running northwest/southeast from E. McPherson Avenue to Phillips Street between West Second Street and Third Street West in the City of Ottumwa.
12. Resolution No. 186-2022, approving the contract, bonds, and certificate of insurance for the North Market Street Façade Project, CDBG 20-CVN-024.
13. Beer and/or liquor applications for: Courtside Bar & Grill, 2511 N. Court, with Outdoor Service Area; Smokin' Joe's Tobacco and Liquor Outlet #5, 1115 Albia Rd.; Morgan's Corner Bar & Grill, 436 W. Second St.; all applications pending final inspections.

C. APPROVAL OF AGENDA

D. ADMINISTRATORS REPORT TO COUNCIL AND CITIZENS:

1. Policy establishing process for honorary street names.
2. Franchise Fees Implementation.

All items on this agenda are subject to discussion and/or action.

E. IDENTIFICATION OF CITIZENS DESIRING TO COMMENT ON AGENDA ITEMS:

(When called upon by the Mayor, step to the microphone, state their name, address and agenda item to be addressed. The Mayor will invite you to address the Council when that topic is being discussed. Remarks will be limited to **three minutes or less**. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments are to be directly germane to the agenda item being discussed; if not directly germane as determined by the Mayor will be ruled out of order.)

F. DEPARTMENTAL RECOMMENDATIONS/REPORTS:

1. Replacement of Chopper Pump for WPCF.

RECOMMENDATION: Approve the replacement of a Vaughan Model HE6U8CS-118 Horizontal Suction Chopper Pump from Motion Industries in the amount of \$11,721 for the WPCF.

2. Replacement of Chopper Pump for WPCF.

RECOMMENDATION: Approve the replacement of a Vaughan Model HE3L6CS-080 Horizontal Suction Chopper Pump from Motion Industries in the amount of \$9,910 for the WPCF.

G. PUBLIC HEARING:

1. This is the time, place and date set for a public hearing approving the plans, specifications, form of contract and estimated cost for the Friction Seal Project 2022.

- A. Open the public hearing.
- B. Close the public hearing.
- C. Resolution No. 177-2022, approving the plans, specifications, form of contract and estimated cost for the Friction Seal Project 2022.

RECOMMENDATION: Pass and adopt Resolution No. 177-2022.

2. This is the time, place and date set for a public hearing approving the plans, specifications, form of contract and estimated cost for the Asphalt Street Repair Program 2022.

- A. Open the public hearing.
- B. Close the public hearing.
- C. Resolution No. 178-2022, approving the plans, specifications, form of contract and estimated cost for the Asphalt Street Repair Program 2022.

RECOMMENDATION: Pass and adopt Resolution No. 178-2022.

3. This is the time, place, and date set for a public hearing approving the plans, specifications, form of contract and estimated cost for the Troeger Parking Lot Project.

- A. Open the public hearing.
- B. Close the public hearing.
- C. Resolution No. 179-2022, approving the plans, specifications, form of contract and estimated cost for the Troeger Parking Lot Project.

RECOMMENDATION: Pass and adopt Resolution No. 179-2022.

4. This is the time, place, and date set for a public hearing approving the plans, specifications, form of contract and estimated cost for the Bridge View Hotel Parking Lot Extension Project.
 - A. Open the public hearing.
 - B. Close the public hearing.
 - C. Resolution No. 180-2022, approving the plans, specifications, form of contract and estimated cost for the Bridge View Hotel Parking Lot Extension Project.

RECOMMENDATION: Pass and adopt Resolution No. 180-2022.

5. This is the time, place, and date set for a public hearing on proposed Ordinance No. 3201-2022, amending the code of ordinances (Municipal Code of the City of Ottumwa, Iowa) by changing the zoning classification of property known as 316 N. Court from R-4 to C-3 in the City of Ottumwa, Wapello County, Iowa.
 - A. Open the public hearing.
 - B. Close the public hearing.
 - C. Ordinance No. 3201-2022, amending the Code of Ordinances by changing the zoning classification of property known as 316 N. Court from R-4 to C-3 in the City of Ottumwa, Wapello County, Iowa.

RECOMMENDATION: A. Pass the first consideration of Ordinance No. 3201-2022.
B. Waive the second and third consideration, pass and adopt Ordinance No. 3201-2022.

H. RESOLUTIONS:

1. Resolution No. 171-2022, awarding the contract for Asbestos abatement and demolition of the condemned property at 505 South Sheridan to Weston McKee of Fairfield, Iowa for the best bid \$1,200 for Asbestos Abatement and \$12,500 for Demolition, for total bid \$13,700.

RECOMMENDATION: Pass and adopt Resolution No. 171-2022.

2. Resolution No. 172-2022, awarding the contract for Asbestos abatement and demolition of the condemned property at 125 South Davis Street to Dan Laursen of Ottumwa, Iowa, for the best bid \$12,000 for Asbestos Abatement and \$11,500 for Demolition, for total bid \$23,500.

RECOMMENDATION: Pass and adopt Resolution No. 172-2022.

3. Resolution No. 181-2022, approving a Sewer Service Agreement and Pre-Annexation Agreement between the City of Ottumwa and RJ Performance and authorize the Mayor to sign said Agreement.

RECOMMENDATION: Pass and adopt Resolution No. 181-2022.

4. Resolution No. 183-2022, approving and authorizing the purchase of certain real property, and authorizing execution of a real estate purchase agreement with The Wapello County Historical Society.

RECOMMENDATION: Pass and adopt Resolution No. 183-2022.

5. Resolution No. 187-2022, approving a Real Estate Gift Agreement with Wells Fargo Bank NA for the property located at 422 South Ferry.

RECOMMENDATION: Pass and adopt Resolution No. 187-2022.

I. ORDINANCES:

1. Ordinance No. 3198-2022, repealing and replacing Chapter 7, Animals and Fowl, of the Municipal Code of the City of Ottumwa, Iowa.

RECOMMENATION: Pass second consideration of Ordinance No. 3198-2022.

J. PUBLIC FORUM:

The Mayor will request comments from the public on topics of city business or operations other than those listed on this agenda. Comments shall not be personalized and limited to three minutes or less. Comments not directly applicable to operations, inappropriate, or an improper utilization of meeting time, as determined by the Mayor, will be ruled out of order. When called upon by the Mayor, step to the microphone; give your name, address and topic on which to address the Council. The Council is not likely to take any action on your comments due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department, city administrator or legal counsel for response, if relevant.

K. PETITIONS AND COMMUNICATIONS

ADJOURN

***** It is the goal of the City of Ottumwa that all City Council public meetings are accessible to people with disabilities. If you need assistance in participating in City Council meetings due to a disability as defined under the ADA, please call the City Clerk's Office at (641) 683-0621 at least one (1) business day prior to the scheduled meeting to request an accommodation. *****



[CITY OF]

OTTUMWA

FAX COVER SHEET

City of Ottumwa

DATE: 7/1/2022 TIME: 12:30 PM NO. OF PAGES 5
(Including Cover Sheet)

TO: News Media CO: _____

FAX NO: _____

FROM: Christina Reinhard

FAX NO: 641-683-0613 PHONE NO: 641-683-0620

MEMO: Tentative Agenda for the Regular City Council Meeting #21 to be held on 7/5/2022 at 5:30 P.M.

*** FAX MULTI TX REPORT ***

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TX INCOMPLETE -----
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KTVO
Ottumwa Waterworks
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Tom FM



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SHEETS 5
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KTVO
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FAX NO: 641-683-0613 PHONE NO: 641-683-0620

MEMO: Tentative Agenda for the Regular City Council Meeting #21 to be held on 7/5/2022 at 5:30 P.M.

SPECIAL MEETING NO. 19
Room 108, City Hall

June 21, 2022
3:00 O'Clock P.M.

The meeting was called to order at 3:00 P.M.

Present were Council Member McAntire, Hull, Roe, Galloway and Mayor Johnson.
Council Member Pope was absent.

Also in attendance City Admin. Rath, PW Dir. Seals, David Vollmar (Alliant Energy, Interstate Power & Light Company), Mark Reinders (Mid American Energy Company), Cameron Bose, resident of Ottumwa.

Galloway moved, seconded by Roe to approve the agenda as presented. Motion carried 4-0 vote. Council Member Pope was absent.

Rath presented Franchise Fees along with four main questions that need answered from this mtg.
Is this something council wants to entertain and proceed with as a community?
What is our revenue purpose statement?
Does council want to consider any exemptions by customer class?
What is the amount council is comfortable recommending and adopting?

In general, the city is in a bit of a revenue crisis and trying to find resources to maintain our current level of services. Iowa cities currently have the right to implement a franchise fee of up to 5% as part of their agts. with franchised utilities that operate within their right-of-way. IA Code requires the city to adopt and publish a Revenue Purpose Statement and adopt an ordinance formally setting or increasing the franchise fee.

Roe asked what is our intended use for the money generated from franchise fees? I'm not against this, but we need to be very clear in how this is presented to the public.

Galloway added, we need to be transparent in how this generated revenue is going to be spent.

Pope arrived to the mtg. at 3:14 P.M.

Rath discussed Iowa Code §384.3A Franchise Fee Account – use of franchise fee revenues. We must state within our Revenue Purpose Statement how we intend to use funds. Below is what we intend to state for both the electric and gas. Pursuant to Iowa Code § 364.2(4)(f) the City of Ottumwa states that all revenue generated from franchise fees assessed on the sales of electricity / sales of natural gas within the city shall be deposited in the franchise fee account in the general fund and shall be used to reimburse the City for all costs associated with inspecting, supervising or otherwise regulating its franchises. Moneys in the franchise fee account in the general fund in excess of the amounts necessary for costs associated with inspecting, supervising or otherwise regulating its franchises shall be expended for any of the following:

- a) The repair, remediation, restoration, cleanup, replacement, and improvement of existing public improvements and other publicly owned property, buildings, and facilities.
- b) Projects designed to prevent or mitigate future disasters as defined in Iowa Code Section 29C.2.
- c) Energy conservation measures for low-income homeowners, low-income energy assistance programs, and weatherization programs.

- d) Public safety, including the equipping of fire, police, emergency services, sanitation, street, and civil defense departments.
- e) The establishment, construction, reconstruction, repair, equipping, remodeling, and extension of public works, public utilities, and public transportation systems.
- f) The construction, reconstruction, or repair of streets, highways, bridges, sidewalks, pedestrian underpasses and overpasses, street lighting fixtures, and public grounds, and the acquisition of real estate needed for such purposes.
- g) Property tax abatements, building permit fee abatements, and abatement of other fees for property damaged by a disaster as defined in section 29C.2.
- h) Economic development activities and projects.

Every 1% increase equates to \$1.31 added to the bill for electricity (residential).

McAntire discussed how this will affect the County; they won't receive 30% of LOST revenue if we implement franchise fees. They could lose \$160-180,000 annually.

After franchise fees are set, can they be reviewed annually when reviewing the budget to see if it makes sense to either increase or lower the percent?

Galloway stepped out of the meeting at 3:41 P.M. / returned at 4:07 P.M.

Roe stated, we have a difficult decision to make, and not a popular one. We have a revenue crisis and staff crisis; if you don't have staff, you might as well roll it up and shut it down. Franchise fees is our best option, we can't survive as a city and grow if we don't have it.


General consensus of council is move forward with 3% franchise fee for electric and 3% franchise fee for natural gas; this equates to an estimated increase of \$4.30 on the average residential bill. Want to leave our revenue purpose statement broad in order to facilitate all budgetary demands that could be helped with revenue from franchise fees. Do not wish to proceed with any exemptions.

Mayor Johnson inquired if anyone from the audience wished to address an item not on the agenda. Cameron Bose requested to speak about the conditions of some of the streets/roads on the Southside of Ottumwa, specifically the area around Minneopa and Grace.

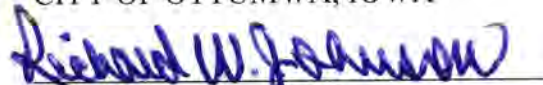
There being no further discussion, Roe moved, seconded by Hull that the meeting adjourn. All ayes.

Adjournment was at 4:34 P.M.

ATTEST:


Christina Reinhard, CMC, City Clerk

CITY OF OTTUMWA, IOWA


Richard W. Johnson, Mayor

Published in the Ottumwa Courier on 7/5/2022

OTTUMWA CITY COUNCIL MINUTES

REGULAR MEETING NO. 20
Council Chambers, City Hall

June 21, 2022
5:30 O'Clock P.M.

The meeting was called to order at 5:34 P.M.

Present were Council Member Hull, Pope, Roe, Galloway, McAntire and Mayor Johnson.

Mayor Johnson presented Collins Clingman with a cert. of achievement for honors rec'd during Special Olympics USA.

Hull moved, seconded by Pope to approve consent agenda items: Mins. from Regular Mtg. No. 18 on June 7, 2022 as presented; Recommend re-appointment of Robert Snell to Cemetery Brd. of Trustees, term to expire 7/1/2029; Award contract for Tree Trimming and tree and stump removal services to Bub's Tree Care for best bid price of \$50.00 per hr. for all services rendered, July 1, 2022 through June 30, 2023; Approve purchase of one 2023 Ford Utility Police Interceptor Utility vehicle as insurance replacement from Stiver's Ford of Waukee, IA for \$28,671 and the police equip. necessary for basic police functions for \$12,000 from Racom Corp; Approve conflict of interest waiver for Ahlers & Cooney, P.C. between City of Ottumwa and Wapello County EMC; Res. No. 158-2022, approving contract, bonds and cert. of ins. for Campground Shower House and Office Facility 2022 Project; Res. No. 159-2022, approving updates to Salary Schedule, effective July 1, 2022; Res. No. 164-2022, approving contract, bonds and cert. of ins. for 2022 Catch Basin Replacement Program; Res. No. 165-2022, approving contract, bonds and cert. of ins. for 2022 Sanitary Utility Access Program; Cigarette Permit Applications for: Yesway #1012 (2508 N. Court), Yesway #1013 (534 Church), Yesway #1014 (502 W. Second), Yesway #1030 (1317 E. Mary); MAD Ave. Quik Shop (405 S. Madison); Beer and/or liquor applications for: Mike's Pizza & Steakhouse, 2517 Northgate; Yesway Store #10012, 2508 N. Court; Yesway Store #10013, 534 Church; Yesway Store #10030, 1317 E. Mary; Yesway Store #10014, 502 W. Second; Red's Pub, 618 Church, temp. OSA for July 1, 2022; all applications pending final inspections. All ayes.

Roe moved, seconded by Hull to approve the agenda as presented. All ayes.

Laura Carrell, Exec. Dir. Meet Ottumwa, Greater Ottumwa CVB, presented quarterly report. Three part mission: Assisting Leisure Travelers, Working with Planners & Organizers, Supporting our Local Community. Requesting increase of funding from hotel/motel tax; from 35% up to 40%.

Police Chief Farrington presented on reinstating a K-9 Program in Ottumwa. Goal is to have two trained K-9 on staff for better coverage for the City that will be multi-trained and looking to cover costs with fundraising and grants.

City Admin. Rath stated applications are available on our website and outside the Mayor's office for the Human Rights Commission.

Mayor Johnson inquired if there was anyone from the audience who wished to address an item on the agenda. Felisha Morrow, Laryssa Droz, Kathy Caldwell, Kristy Mundt, Melissa Childs, Shannon Murphy, Patrick Simmons all wished to speak on Item I-2, Ord. No. 3198-2022.

Comm. Dev. Dir. Simonson provided Council Update on the property located at 817 Chester which was brought up during the public hearing portion of a previous Council mtg. The Rushman's submitted a petition in July 2019 seeking to purchase 817 Chester to use for green space. The City Council pulled the resolution presented to set a public hearing for consideration of the disposition on the April 7, 2020 mtg.;

and the item was never brought back in front of council until recently. Council never voted to dispose of this property until it was disposed to another entity in April 2022. Council did not agree to dispose of property for green space because it was a buildable lot; at the time council tabled setting the PH, a refund should have been done and the petition closed; however, the item was left open and unresolved. Although there was lack of communication within this process, it doesn't mean the outcome should not follow the policy. Lori Rushman also addressed the council and provided documents from Rick Lynch as her attorney. It is best at this point to have attorneys from both parties address the matter and come up to resolution.

This was the time, place and date set for a public hearing approving the plans, specs., form of contract and est. cost for N. Market St. Façade Improvements Project. Simonson reported est. cost of project is \$375,000; funds coming from City and bldg. owners along with IEDA through CDBG program. No objections were rec'd. Galloway moved, seconded by Roe to close the public hearing. All ayes.

Roe moved, seconded by McAntire that Res. No. 160-2022, approving the plans, specs., form of contract and est. cost for N. Market St. Façade Improvements Project, be passed and adopted. All ayes.

Hull moved, seconded by Roe that Res. No. 122-2022, adopting the policy stmts. governing operation of the City's Build Ottumwa Program, be passed and adopted. Simonson stated City Attorney recommended resolution be amended to include additional language, which staff recommends approval of proposed amended resolution.

Roe moved, seconded by Hull, that Res. No. 122-2022 adopting the policy stmts. governing the operation of the City's Build Ottumwa Program, be amended to include additional language as recommended by City Attorney and staff, be passed and adopted. All ayes. Vote taken on the original motion for Res. No. 122-2022. All ayes.

Galloway moved, seconded by Pope that Res. No. 161-2022, awarding contract for the N. Market St. Façade Improvements Project to Christner Contracting Inc., of Ottumwa, IA, for \$277,777, be passed and adopted. Simonson reported two bids were rec'd. All ayes.

Roe moved, seconded by Pope that Res. No. 162-2022, approving ten yr. lease agt. between City of Ottumwa and USDOT-FAA for space at Ottumwa Reg. Airport, and repealing Res. No. 60-2022, be passed and adopted. Rath reported new lease was approved March 15, 2022; the FAA subsequently made some minor modifications to the lease and request city approval. All ayes.

Pope moved, seconded by Roe that Res. No. 163-2022, auth. City Admin. to sign contract with GovHR for recruitment services not to exceed \$25,000 for Dir. of Finance Position, be passed and adopted. Rath explained after position was vacated Feb. 15, 2022, three applications were rec'd. Two interviews have occurred, with two offers being presented; the position still remains open at this time. GovHR specializes in local government recruitment; if they are able to place a candidate into vacant position, they offer a 12 month guarantee for placement. All ayes.

Galloway moved, seconded by McAntire that Res. No. 166-2022, approving and auth. Execution of Amended and Restated Collateral Assignment related to Agt. for Private Development with HCI52501 Investment, LLC, be passed and adopted. Simonson reported this pertains to the Bonita project. All ayes.

Roe moved, seconded by McAntire that Res. No. 167-2022, approving Agt. between the City of Ottumwa and the Greater Ottumwa CVB, Inc., be passed and adopted. Rath presented the proposed Agt. increases

the percentage allocated to Meet Ottumwa from 35% to 40%. It also moves to a three-yr. term with possibility of one-yr. extension. All ayes.

Hull moved, seconded by McAntire that Res. No. 168-2022, approving extension of the Agt. with Integrity Golf Group, LLC for the management of Cedar Creek Golf Course, be passed and adopted. Rath reported the original Agt. is set to expire Dec. 31, 2023, with a five-yr. extension. Recently the management group was faced with a costly repair to the irrigation system; therefore, they requested certainty of operations to recover these costs over time. This approves extension Jan. 1, 2024-Dec. 2028. All ayes.

Roe moved, seconded by Galloway that Res. No. 169-2022, approving a limited extension of the Agt. with Heartland Humane Society for provision of animal care services, be passed and adopted. Rath reported this extension will bridge the gap while the City and Heartland work out details of a longer term Agt. The City will cont. working with local veterinary services and qualified boarding facilities for the care of those animals which are injured, deemed aggressive or designated as dangerous under City Code. Galloway stated when working through the new contract, make sure they are being compensated according to the duties they are providing for us. All ayes.

Hull moved, seconded by McAntire to pass the third consideration and adopt Ord. No. 3197-2022, amending the zoning ord. of the City of Ottumwa, IA, by conditionally rezoning property generally located at 1321 Asbury Dr. in the City of Ottumwa and directing the Zoning Admin. to note the Ord. Number and Date of this change on the official zoning map. All ayes.

Roe moved, seconded by McAntire to pass the first consideration of Ord. No. 3198-2022, repealing and replacing Ch. 7, Animals and Fowl, of the Mun. Code of the City of Ottumwa, IA. Rath reported the revised code identified a number of minor revisions such as definitions and clarifying language to assist in enforcement of the code. Additionally, there was a revised classification of animal from “potentially dangerous” to “high risk.” Language was also added to inc. procedural and appeal processes as well as language exempting service animals from some aspects of the code. The petition filed Nov. 16, 2021 requested removal of breed specific language within the code. Pit bulls have been included in the definition of dangerous animals since the 1980’s. While the code has been revised to inc. definitions and processes related to vicious, high risk, and dangerous dogs; it does not remove the pit bull terrier from the definition of a dangerous animal. A revised version of the code was originally presented at the May 3, 2022 mtg., but a number of questions and/or suggestions prompted further revision of the code before being voted upon. A work session was held May 24, 2022, to further review and discuss. Additions made to the code include revised definition of “pit bull terrier,” additional restrictions regarding “tethering,” clarification of violations subject to simple misdemeanors.

Items noted from public input: Why isn’t anything related to PET ACT included in revised Ord?; dealing with pets during a natural disaster occurrence; wouldn’t the City Clerk want record of all dogs licensed and vaccinations (regardless of breed); American Kennel Club, American Veterinary Medical Association, National Animal Control Association, American Bar Association, American Society for the Prevention of Cruelty to Animals, Centers for Disease Control & Prevention oppose BSL and recognize the inequities and inherent fallacies of such laws and the City is using the AKC description of dogs while ignoring they are against BSL; “pit bull terrier” is defined using the AKC and UKC characteristics standards of American Staffordshire Bull Terrier, American Pit Bull Terrier and Staffordshire Bull Terrier, while this ordinance uses the physical characteristics to identify; the code is still allowing one person’s opinion to dictate breed; the process is completely subjective with no due process in place; as dog owners, our pets love us unconditionally; it’s not fair that we are punishing a dog just because they look the wrong way, they haven’t done anything wrong; thank the council for stepping up on treatment of

animals in this revision; requesting enforceable law based on science not opinion; what is going to make our city safer?; breed specific language is discriminatory; make it equal.

Roe stated the ordinance in front of you is much like the ordinance put in front of council two years ago, it is not perfect, nor will it ever be perfect; it will always be an imperfect document that needs revising from time to time. This is about more than just pit bulls. Every law is about accountability; responsibility means something. We are not doing ourselves any favors by changing the rules. This council has been publically chastised for making laws that nobody can enforce and nobody will follow. I've been on council long enough if this rule gets changed and a pit bull bites and kills someone, it isn't the people who fought for this change that will be blamed for the incident. It will be the police dept. and the city who will be blamed.

Galloway shared I do agree with Roe that if we were to change the ordinance and allow pit bulls in Ottumwa, we would be setting up citizens to fail. However, we do need to be forward thinking on this topic because breed specific language has come to the state house and senate twice now and it will make it through funnel in the next two years. We are labeling pit bulls as "dangerous," but other breeds can be dangerous too. We need to continue talking about this, I don't think our work is done after these three readings. Pit bulls are here in Ottumwa and I know council and the police dept. will bear burden should anything happen. We have added a lot of positive things to this ordinance.

Vote taken: Ayes: Hull, Pope, Roe, McAntire. Nays: Galloway. Motion carried 4-1 vote.

Mayor Johnson inquired if anyone from the audience wished to address an item not on the agenda. Michael Harville requests an appeal/suspension of removal order of his two dogs. My dogs have never chased a cat in town, they have lived peacefully in Ottumwa and I'm asking for city council to allow me to keep my animals until such time council can examine my request.

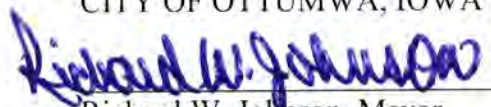
Mayor Johnson informed Mr. Harville that we cannot take any action on this item tonight as it was not included in our posted Agenda. This will need to be handled through our police dept. until council can hear your request during our next mtg.

There being no further discussion, Hull moved, seconded by McAntire that the meeting adjourn. All ayes.

Adjournment was at 7:30 P.M.

ATTEST:


Christina Reinhard, CMC, City Clerk

CITY OF OTTUMWA, IOWA

Richard W. Johnson, Mayor

Published in the Ottumwa Courier on 7/2/2022



July 5, 2022

TO: Ottumwa City Council Members

FROM: Richard W. Johnson, Mayor

SUBJECT: APPOINTMENT TO CITY BOARDS AND/OR COMMISSIONS

Recommend re-appointment to the Waterworks Board of Trustees, term to expire 07/22/2028.

Bill Hoffman
922 Green

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Barbara Codjoe

Prepared By

Barbara Codjoe

Department Head

Administration

Department



City Administrator Approval

AGENDA TITLE: Approve the appointment of Kevin McDaniel, Drayton Hamm, Derik LeBoeuf and Cody Napoleon to the positions of Equipment Operator - Sewer Maintenance & Street Cleaning.

Public hearing required if this box is checked.

RECOMMENDATION: Approve the appointment of Kevin McDaniel, Drayton Hamm, Derik LeBoeuf and Cody Napoleon to the positions of Equipment Operator - Sewer Maintenance & Street Cleaning on or about July 10, 2022.

DISCUSSION: Appoint Kevin McDaniel, Drayton Hamm, Derik LeBoeuf and Cody Napoleon to the positions of Equipment Operator - Sewer Maintenance & Street Cleaning. All operators will be starting at \$20.57 per hour.

These appointments will backfill transfers to other departments at the garage.

Source of Funds: N/A

Budgeted Item:

Budget Amendment Needed:

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Administration
Department

Barbara Codjoe
Prepared By
Barbara Codjoe
Department Head



City Administrator Approval

AGENDA TITLE: Approve the appointment of Tyler Phillips and Tyler Batterson to the positions of Equipment Operator - Street Maintenance

Public hearing required if this box is checked.

RECOMMENDATION: Approve the appointment of Tyler Phillips and Tyler Batterson to the positions of Equipment Operator in the Street Maintenance Department on or about August 1, 2022.

DISCUSSION: Appoint Tyler Phillips and Tyler Batterson to the positions of Equipment Operator in the Street Maintenance Department. This will be considered a lateral transfer and there will be no change in pay.

The delay in transfer will be to help train new operators coming into the department.

Source of Funds: N/A

Budgeted Item: Budget Amendment Needed:

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Barbara Codjoe
Prepared By
Barbara Codjoe
Department Head

Administration
Department



City Administrator Approval

AGENDA TITLE: Approve the appointment of Michael Ashlock to Maintenance Technician at the Water Pollution Control Facility.

Public hearing required if this box is checked.

RECOMMENDATION: Approve the appointment of Michael Ashlock to Maintenance Technician at the Water Pollution Control Facility on or about July 10, 2022.

DISCUSSION: Appoint Michael Ashlock to Maintenance Technician at the Water Pollution Control Facility.

Michael will be starting at \$22.02 (step 3 - Year 1) as per the collective bargaining agreement. Michael has worked with us previously and has continued to keep his Grade 2 Waste Water Certification active. Michael has also been working at the plant through Supreme Staffing. Michael will be filling a position that was vacated due to a transfer on April 23, 2022.

Source of Funds: N/A

Budgeted Item: Budget Amendment Needed: No

Michael previously worked for the city. As per our recall policy (Resolution 168-2020 passed on 08/04/2020), Years of Service for Mike will be 10 years based on the calculations below.

12/29/1997 - 03/26/2003 = 1,913 days

09/02/2003 - 08/04/2005 = 702 days

01/24/2017 - 12/12/2019 = 1,052 days

Total = 3,667 days / 365 days = 10.04 years

OTTUMWA CIVIL SERVICE COMMISSION

POLICE OFFICER – Entrance Eligibility List

1. Torell Washington
2. Stephanie Nuno

Certified June 22, 2022

OTTUMWA CIVIL SERVICE COMMISSION

Ed Wilson, Chairman
Ann Youngman
Amy Gardner

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Philip Rath
Prepared By

Administration
Department

Department Head

Philip Rath
City Administrator Approval

AGENDA TITLE: Set Public Hearing to Consider Five Year Renewal of Lease Agreement between the City of Ottumwa and Musco Sport Lighting, LLC.

Public hearing required if this box is checked.

RECOMMENDATION: Set the time, date, and place for public hearing as:

July 19, 2022 at 5:30 PM
City Council Meeting
Council Chambers
105 E Third Street

DISCUSSION: The City of Ottumwa renewed the Agreement with Musco Sport Lighting, LLC on or around March 2, 2021 for the lease of the South One-Half of Building #23 - a hangar at the Ottumwa Regional Airport. Since that time the Fixed Base Operator services, including hangar rental and fueling services have been assumed by the city. Musco has agreed to replace the current extension with a new five-year agreement to reflect these changes in airport personnel and service provision. The new agreement would be effective July 1, 2022 - June 30, 2027.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of: Jul 5, 2022

Planning & Development
Department

Zach Simonson
Prepared By
Zach Simonson
Department Head



City Administrator Approval

AGENDA TITLE: RESOLUTION NO. 170-2022: RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON CONSIDERING ORDINANCE NO. 3200-2022: AN ORDINANCE ADOPTING THE STATE ELECTRICAL CODE BY AMENDING CHAPTER 13 OF THE CITY OF OTTUMWA MUNICIPAL CODE.

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution No. 170-2022

DISCUSSION: The State Fire Marshal's Office and Electrical Examining Board has requested that Ottumwa enforce the Iowa Electrical Code. This resolution sets a public hearing for July 19, 2022 to consider an Ordinance to update the electrical code as requested.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

RESOLUTION NO. 170-2022

RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON
CONSIDERING ORDINANCE NO. 3200-2022: AN ORDINANCE ADOPTING
THE STATE ELECTRICAL CODE BY AMENDING CHAPTER 13 OF THE
CITY OF OTTUMWA MUNICIPAL CODE

WHEREAS, the Iowa Fire Marshal has requested that the City of Ottumwa update its electrical code to comply with the State Electrical Code; and

WHEREAS, it is appropriate to conduct a public hearing on adopting a statewide standard code on July 19, 2022 at 5:30pm in the City Hall..

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

Section 1. That this Council meet in the City Hall, at 5:30 p.m. on July 19, 2022, for the purpose of considering Ordinance No. 3200-2022: An Ordinance Adopting the State Electrical Code by Amending Chapter 13 of the City of Ottumwa Municipal Code.

Section 2. That the City Clerk is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said City, said publication to be not less than four (4) clear days nor more than twenty (20) days before the date of said public meeting.

Section 3. The notice of the proposed action shall be in substantially the following form:

(One publication required)

NOTICE OF PUBLIC HEARING ON ORDINANCE NO. 3200-2022: AN ORDINANCE
ADOPTING THE STATE ELECTRICAL CODE BY AMENDING CHAPTER 13 OF THE
CITY OF OTTUMWA MUNICIPAL CODE

TO WHOM IT MAY CONCERN:

Notice is hereby given that the City Council of the City of Ottumwa, Iowa will hold a public hearing on Tuesday July 19, 2022 at 5:30 P.M. at City Hall in the City of Ottumwa, Iowa on Ordinance No. 3200-2022: An Ordinance Adopting the State Electrical Code by Amending Chapter 13 of the City of Ottumwa Municipal Code in the City Hall building located at 105 East Third Street. A copy of the ordinance and state electrical code is available for review in the City Clerk's office. All persons interested in the Ordinance No. 3200-2022 are invited to be present at the above time and place on the date mentioned to present their objections to, or arguments for the ordinance. Statements can also be given to the City Clerk up to 4:30 P.M. on Tuesday May 3, 2022.

FOR THE CITY OF OTTUMWA:
Christina Reinhard, City Clerk

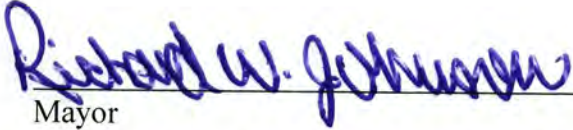
Dated this 5th day of July, 2022.



City Clerk, City of Ottumwa in the State of
Iowa


(End of Notice)

PASSED AND APPROVED this July 5, 2022.



Mayor

ATTEST:




City Clerk

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

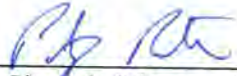
Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Resolution 173-2022 - Resolution Setting Public Hearing on Proposed Ordinance Amending Appendix D, Electricity Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution 173-2022

DISCUSSION: Pursuant to Iowa Code section 364.2(4)(f) municipalities may impose a franchise fee when adopted by ordinance. Prior to consideration of the ordinance, the City Council is required to hold a public hearing. This resolution is presented to establish that public hearing before the council at the regular meeting scheduled to begin at 5:30 PM on July 19, 2022.

Source of Funds: N/A

Budgeted Item: Budget Amendment Needed:

NOTICE OF HEARING – ELECTRIC FRANCHISE

Notice is hereby given that the City Council of Ottumwa, Iowa will conduct a public hearing on the 19th day of July, 2022, at 5:30 P.M. in the in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa to receive comments on the following item:

An Ordinance Amending Appendix D, Electric Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee.

Pursuant to Iowa Code section 364.2(4)(f), the proposed ordinance imposes a franchise fee. The franchise fee provision of the ordinance provides, “A franchise fee of three percent is imposed upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged.”

This is a summary of the proposed ordinance. The proposed ordinance is on file and available for public inspection in the office of the City Clerk.

Any and all residents and interested property owners are invited and encouraged to attend this hearing at the time and place mentioned above and to submit comments either orally, in writing, or both. For further information, please contact City Hall.

This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 380.7(3) and 362.3 of the Code of Iowa, as amended.

Dated this 5th day of July 2022.

Christina Reinhard
City Clerk, City of Ottumwa, State of Iowa

(This Notice to be posted)

NOTICE AND CALL OF PUBLIC MEETING


Governmental Body: The City Council of the City of Ottumwa, State of Iowa.
Date of Meeting: July 5, 2022.
Time of Meeting: 5:30 P.M.
Place of Meeting: City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for the meeting is as follows:

- RESOLUTION SETTING PUBLIC HEARING ON PROPOSED ORDINANCE AMENDING APPENDIX D, ELECTRICITY FRANCHISE, WITH INTERSTATE POWER AND LIGHT COMPANY FOR THE PURPOSE OF IMPOSING A FRANCHISE FEE.

Such additional matters as are set forth on the additional _____ page(s) attached hereto.
(number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of the governmental body.



City Clerk, the City of Ottumwa, State of Iowa

July 5, 2022

The City Council of the City of Ottumwa, State of Iowa, met in regular session, in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa, at 5:30 P.M. on the above date. There were present Mayor Johnson, in the chair, and the following named Council Members:

Sandra Pope, Marc Roe, Cara Galloway, Doug McAntire,
Russ Hull

Absent: None

* * * * *

Council Member Galloway introduced the following Resolution entitled "**RESOLUTION SETTING PUBLIC HEARING ON PROPOSED ORDINANCE AMENDING APPENDIX D, ELECTRICITY FRANCHISE, WITH INTERSTATE POWER AND LIGHT COMPANY FOR THE PURPOSE OF IMPOSING A FRANCHISE FEE,**" and moved that the same be adopted. Council Member McAntire seconded the motion to adopt. The roll was called and the vote was,

AYES: Pope, Roe, Galloway, McAntire, Hull

NAYS: None

Whereupon, the Mayor declared the following Resolution duly adopted:

RESOLUTION NO. 173-2022

RESOLUTION SETTING PUBLIC HEARING ON PROPOSED ORDINANCE AMENDING APPENDIX D, ELECTRICITY FRANCHISE, WITH INTERSTATE POWER AND LIGHT COMPANY FOR THE PURPOSE OF IMPOSING A FRANCHISE FEE

WHEREAS, the City Council will consider a proposed Ordinance Amending Appendix D, Electric Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee; and

WHEREAS, pursuant to Iowa Code section 364.2(4)(f), the proposed ordinance imposes a franchise fee. The franchise fee provision of the ordinance provides, "A franchise fee of three percent is imposed upon the gross revenue generated from sales of electricity by the Company within the corporate limits of the City. The franchise fee shall be remitted by the Company to the City on or before the last business day of the calendar quarter following the close of the calendar quarter in which the franchise fee is charged;" and

WHEREAS, the City shall be solely responsible for the proper use of any amounts collected as a franchise fee, and shall only use such fees as collected for purposes as allowed by applicable law; and

WHEREAS, pursuant to Iowa Code § 364.2(4)(a), the City Council of the City of Ottumwa will hold a public hearing regarding any adoption of an electric franchise prior to adoption of any such franchise; and

WHEREAS, pursuant to Iowa Code § 364.2(4)(f)(2), before a city adopts or amends a franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the increased rate will be expended; and

WHEREAS, the revenue purpose statement shall be published as provided in Iowa Code § 362.3.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Ottumwa, Iowa, that this Council shall meet at 5:30 P.M. on the 19th day of July, 2022, in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa, for the following purposes:

1. To consider the adoption of a Resolution Adopting Revenue Purpose Statement Regarding Revenues from Proposed Electric Franchise Fees Pursuant to Iowa Code § 364.2(4)(f); and
2. To hold a public hearing to receive public comments on the proposed Ordinance Amending Appendix D, Electricity Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee; and
3. To consider an Ordinance Amending Appendix D, Electricity Franchise, with Interstate Power and Light Company for the Purpose of Imposing a Franchise Fee.

BE IT FURTHER RESOLVED, that the Clerk is hereby instructed to cause a Notice of Public Hearing to be published in the manner required by Iowa Code § 362.3.

BE IT FURTHER RESOLVED, that the Clerk is hereby instructed to cause a Notice of meeting to consider the adoption of a Resolution Adopting Revenue Purpose Statement Regarding Revenues from Proposed Electric Franchise Fees to be published in the manner required by Iowa Code § 362.3.

PASSED AND APPROVED this 5th day of July, 2022.

Richard W. Johnson
Mayor

ATTEST:

Christina Purhard
City Clerk

CERTIFICATE

STATE OF IOWA

)

) SS

COUNTY OF WAPELLO

)

I, the undersigned City Clerk of the City of Ottumwa, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the City showing proceedings of the City Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the City hereto affixed this 5th day of July, 2022.

Christa Reinhard

City Clerk, the City of Ottumwa, State of Iowa

(SEAL)

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Resolution 175-2022 - Resolution Setting Public Hearing on Proposed Ordinance Repealing Current Gas Franchise, Granting a New Franchise to MidAmerican Energy Company, and Imposing a Franchise Fee

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution 175-2022

DISCUSSION:

Pursuant to Iowa Code section 364.2(4)(f) municipalities may impose a franchise fee when adopted by ordinance. Prior to consideration of the ordinance, the City Council is required to hold a public hearing. This resolution is presented to establish that public hearing before the council at the regular meeting scheduled to begin at 5:30 PM on July 19, 2022.

Source of Funds: N/A

Budgeted Item:

Budget Amendment Needed:

NOTICE OF HEARING – GAS FRANCHISE

Notice is hereby given that the City Council of Ottumwa, Iowa will conduct a public hearing on the 19th day of July, 2022, at 5:30 P.M. in the in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa to receive comments on the following item:

An ordinance repealing ordinance no. 2888-2000 and granting to MidAmerican Energy Company, its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Ottumwa, Iowa, a natural gas system and to furnish and sell natural gas to the City and its inhabitants and authorizing the City to collect franchise fees for a period of 25 years.

Pursuant to Iowa Code section 364.2(4)(f), the proposed ordinance imposes a franchise fee. The franchise fee provision of the ordinance provides, “A franchise fee of three percent (3%) is imposed upon the gross revenue generated from the sales of natural gas by the Company within the corporate limits of the city. For purposes of this section gross revenue shall include in addition to revenue from direct sales of natural gas to customers, the gross revenue derived by the company from the transmission, transportation or distribution of natural gas sold to customers by suppliers other than the company through the company's distribution system within the City. In determining the amount of the fee, the Company may presume that the customer's cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided.”

This is a summary of the proposed ordinance. The proposed ordinance is on file and available for public inspection in the office of the City Clerk.

Any and all residents and interested property owners are invited and encouraged to attend this hearing at the time and place mentioned above and to submit comments either orally, in writing, or both. For further information, please contact City Hall.

This Notice is given by order of the Council of Ottumwa, Iowa, as provided by Sections 380.7(3) and 362.3 of the Code of Iowa, as amended.

Dated this 5th day of July 2022.

Christina Reinhard
City Clerk, City of Ottumwa, State of Iowa

(This Notice to be posted)

NOTICE AND CALL OF PUBLIC MEETING

Governmental Body: The City Council of the City of Ottumwa, State of Iowa.
Date of Meeting: July 5, 2022.
Time of Meeting: 5:30 P.M.
Place of Meeting: City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for the meeting is as follows:

- RESOLUTION SETTING PUBLIC HEARING ON PROPOSED ORDINANCE REPEALING CURRENT GAS FRANCHISE, GRANTING A NEW FRANCHISE TO MIDAMERICAN ENERGY COMPANY, AND IMPOSING A FRANCHISE FEE.

Such additional matters as are set forth on the additional _____ page(s) attached hereto.
(number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of the governmental body.



City Clerk, the City of Ottumwa, State of Iowa

July 5, 2022

The City Council of the City of Ottumwa, State of Iowa, met in regular session, in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa, at 5:30 P.M. on the above date. There were present Mayor Johnson, in the chair, and the following named Council Members:

Sandra Pope, Marc Roe, Cara Galloway, Doug McAntire,
Russ Hull

Absent: None

* * * * *

Council Member Galloway introduced the following Resolution entitled "**RESOLUTION SETTING PUBLIC HEARING ON PROPOSED ORDINANCE REPEALING CURRENT GAS FRANCHISE, GRANTING A NEW FRANCHISE TO MIDAMERICAN ENERGY COMPANY, AND IMPOSING A FRANCHISE FEE,**" and moved that the same be adopted. Council Member McAntire seconded the motion to adopt. The roll was called and the vote was,

AYES: Pope, Roe, Galloway, McAntire, Hull

NAYS: None

Whereupon, the Mayor declared the following Resolution duly adopted:

RESOLUTION NO. 175-2022

RESOLUTION SETTING PUBLIC HEARING ON PROPOSED ORDINANCE REPEALING CURRENT GAS FRANCHISE, GRANTING A NEW FRANCHISE TO MIDAMERICAN ENERGY COMPANY, AND IMPOSING A FRANCHISE FEE

WHEREAS, the City Council will consider a proposed ordinance repealing ordinance no. 2888-2000 and granting to MidAmerican Energy Company, its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Ottumwa, Iowa, a natural gas system and to furnish and sell natural gas to the City and its inhabitants and authorizing the City to collect franchise fees for a period of 25 years; and

WHEREAS, pursuant to Iowa Code section 364.2(4)(f), the proposed ordinance imposes a franchise fee. The franchise fee provision of the ordinance provides, "A franchise fee of three percent (3%) is imposed upon the gross revenue generated from the sales of natural gas by the Company within the corporate limits of the city. For purposes of this section gross revenue shall include in addition to revenue from direct sales of natural gas to customers, the gross revenue derived by the company from the transmission, transportation or distribution of natural gas sold to customers by suppliers other than the company through the company's distribution system within the City. In determining the amount of the fee, the Company may presume that the customer's cost of gas is the same as if the gas were sold by the Company, unless a different cost is provided;" and

WHEREAS, the City shall be solely responsible for the proper use of any amounts collected as a franchise fee, and shall only use such fees as collected for purposes as allowed by applicable law; and

WHEREAS, pursuant to Iowa Code § 364.2(4)(a), the City Council of the City of Ottumwa will hold a public hearing regarding any adoption of a gas franchise prior to adoption of any such franchise; and

WHEREAS, pursuant to Iowa Code § 364.2(4)(f)(2), before a city adopts or amends a franchise ordinance to increase the percentage rate at which franchise fees are assessed, a revenue purpose statement shall be prepared specifying the purpose or purposes for which the revenue collected from the increased rate will be expended; and

WHEREAS, the revenue purpose statement shall be published as provided in Iowa Code § 362.3.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Ottumwa, Iowa, that this Council shall meet at 5:30 P.M. on the 19th day of July, 2022, in the City Hall – Council Chambers, 105 E. Third Street, Ottumwa, Iowa, for the following purposes:

1. To consider the adoption of a Resolution Adopting Revenue Purpose Statement Regarding Revenues from Proposed Gas Franchise Fees Pursuant to Iowa Code § 364.2(4)(f); and
2. To hold a public hearing to receive public comments on the proposed repeal of its current gas franchise with MidAmerican Energy Company, and granting of a new franchise to MidAmerican Energy Company (under which a franchise fee will be assessed); and
3. To consider an ordinance repealing ordinance no. 2888-2000 and granting to MidAmerican Energy Company, its successors and assigns, the right and non-exclusive franchise to acquire, construct, erect, maintain and operate in the City of Ottumwa, Iowa, a natural gas system and to furnish and sell natural gas to the City and its inhabitants and authorizing the City to collect franchise fees for a period of 25 years.

BE IT FURTHER RESOLVED, that the Clerk is hereby instructed to cause a Notice of Public Hearing to be published in the manner required by Iowa Code § 362.3.

BE IT FURTHER RESOLVED, that the Clerk is hereby instructed to cause a Notice of meeting to consider the adoption of a Resolution Adopting Revenue Purpose

Statement Regarding Revenues from Proposed Gas Franchise Fees to be published in the manner required by Iowa Code § 362.3.

PASSED AND APPROVED this 5th day of July, 2022.

Richard W. Johnson
Mayor

ATTEST:

Christi Runhard
City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF WAPELLO)

I, the undersigned City Clerk of the City of Ottumwa, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of the City showing proceedings of the City Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of the agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the City hereto affixed this 5th day of July, 2022.

Christina Reinhard
City Clerk, the City of Ottumwa, State of
Iowa



CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Planning & Development
Department

Zach Simonson
Prepared By
Zach Simonson
Department Head



City Administrator Approval

AGENDA TITLE: RESOLUTION NO. 184-2022: RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSED VACATION OF A PORTION OF THE ALLEYWAY RUNNING NORTHWEST/SOUTHEAST FROM E MCPHERSON AVENUE TO PHILLIPS STREET BETWEEN WEST SECOND STREET AND THIRD STREET WEST IN THE CITY OF OTTUMWA

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution No. 184-2022

DISCUSSION: This resolution sets a public hearing for a proposed alley vacation on July 19, 2022. Vacating this alley would advance the Elliott Oil fuel station project on W. Second.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

(This agenda item should be incorporated with the other items in your regular agenda and posted or published as required)

AGENDA ITEM


Governmental Body: The City of Ottumwa, Iowa
Date of Meeting: July 5, 2022
Time of Meeting: 5:30 P.M.
Place of Meeting: Council Chambers, second floor of City Hall, 105 East Third Street, Ottumwa, Iowa.

PUBLIC NOTICE IS HEREBY GIVEN that the above mentioned governmental body will meet at the date, time and place above set out. The tentative agenda for said meeting is as follows:

- Resolution fixing date for a public hearing on the proposed vacation of a portion of the alleyway running northwest/southeast from E McPherson Avenue to Phillips Street between West Second Street and Third Street West in the City Of Ottumwa.

Such additional matters as are set forth on the additional _____ pages(s) attached hereto. (number)

This notice is given at the direction of the Mayor pursuant to Chapter 21, Code of Iowa, and the local rules of said governmental body.



City Clerk, Ottumwa, Iowa

July 5, 2022

The City Council of Ottumwa, Iowa, met in regular session, in the Council Chambers, second floor of City Hall, 105 East Third Street, Ottumwa, Iowa, at 5:30 P.M., on the above date. There were present the Mayor Johnson, in the chair, and the following named Council Members:

Sandra Pope, Marc Roe, Cara Galloway, Doug McAntire, Russ Hull

Absent: None

* * * * *

Council Member Galloway introduced the following Resolution entitled "RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSED VACATION OF A PORTION OF THE ALLEYWAY RUNNING NORTHWEST/SOUTHEAST FROM E MCPHERSON AVENUE TO PHILLIPS STREET BETWEEN WEST SECOND STREET AND THIRD STREET WEST IN THE CITY OF OTTUMWA", and moved its adoption. Council Member McAntire seconded the motion to adopt. The roll was called and the vote was,

AYES: Pope, Roe, Galloway, McAntire, Hull

NAYS: None

Whereupon, the Mayor declared the Resolution duly adopted as follows:

RESOLUTION NO. 184-2022

RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSED VACATION OF A PORTION OF THE ALLEYWAY RUNNING NORTHWEST/SOUTHEAST FROM E MCPHERSON AVENUE TO PHILLIPS STREET BETWEEN WEST SECOND STREET AND THIRD STREET WEST IN THE CITY OF OTTUMWA

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

WHEREAS, Iowa Code Section 306.12 requires that all adjoining property owners and affected utility companies be notified by certified mail regarding the proposed roadway vacation; and

WHEREAS the City Council wishes to give proper consideration to such vacation as required by law:

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Ottumwa, Iowa that:

Section 1. The City Clerk is hereby directed to send notice of the hearing by certified mail to all adjoining property owners, and all utility companies whose facilities adjoin or are on the alley right-of-way.

Section 2. The City Clerk is directed to cause notice to be published in the Ottumwa Courier an official county newspaper of Wapello County, of the vacation proposal and the date upon which the Council will consider and act upon the vacation not less than seven nor more than twenty days prior to the date set, such notice to be in substantially the following form:

NOTICE OF INTENT TO HOLD A PUBLIC HEARING REGARDING
THE PROPOSED VACATION OF A PORTION OF THE ALLEYWAY
RUNNING NORTHWEST/SOUTHEAST FROM E MCPHERSON
AVENUE TO PHILLIPS STREET BETWEEN WEST SECOND STREET
AND THIRD STREET WEST IN THE CITY OF OTTUMWA

The City of Ottumwa hereby gives notice that at the regular meeting of the City Council to be held at Council Chambers, second floor of City Hall, 105 East Third Street, Ottumwa, Iowa on the 19th day of July, 2022, at 5:30 P.M., the City Council will hold a public hearing and consider whether to approve by ordinance the vacation of the following alleyway, to wit:

THAT PORTION OF THE PLATTED 16.5 FOOT ALLEY LYING SOUTHWESTERLY AND ADJOINING LOT FIVE (5) AND LOT SIX (6) IN HIGHLAND PARK ADDITION TO THE CITY OF OTTUMWA AND LOT FIVE (5) AND THE NORTHWESTERLY EIGHT (8) FEET OF LOT SIX (6) IN HINSEY & HEDRICK'S ADDITION TO THE CITY OF OTTUMWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF SAID LOT FIVE (5) IN HIGHLAND PARK ADDITION; THENCE SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID ALLEY A DISTANCE OF 203 FEET TO THE SOUTHEAST CORNER OF THE NORTHWESTERLY EIGHT (8) FEET OF SAID LOT SIX (6) IN HINSEY & HEDRICK'S ADDITION; THENCE 16.5 FEET ALONG THE SOUTHWESTERLY EXTENSION OF THE SOUTHEASTERLY LINE OF SAID NORTHWESTERLY EIGHT (8) FEET OF LOT SIX (6) TO THE NORTHEASTERLY LINE OF LOT 14 IN SAID HINSEY & HEDRICK'S ADDITION, SAID POINT LYING ON THE SOUTHWESTERLY LINE OF SAID ALLEY; THENCE NORTHWESTERLY 203 FEET ALONG THE SOUTHWESTERLY LINE OF SAID ALLEY TO THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY LINE OF SAID LOT 5 IN HIGHLAND PARK ADDITION; THENCE NORTHEASTERLY 16.5 FEET ALONG SAID EXTENSION TO THE POINT OF BEGINNING.

A property area map is available for public inspection in the office of the City Clerk.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of said City to the proposal to vacate the portion of the alleyway.

After all objections have been received and considered, the Council will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to vacate the portion of the alleyway.

This Notice is given by authority of the City Council of the City of Ottumwa.

Dated this 5th day of July 2022.

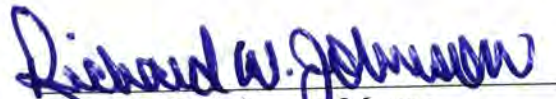


Chris Reinhard
City Clerk, City of Ottumwa, Iowa

(End of Notice)

Section 3. The City Council shall consider, hold a public hearing, and take action upon the proposed alley vacation at its regular meeting to be held at Council Chambers, second floor of City Hall, 105 East Third Street, Ottumwa, Iowa on the 19th day of July, 2022 at 5:30 P.M.

Dated this 5th day of July, 2022.


Richard W. Johnson Mayor

Attest:



Chris Reinhard, City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF WAPELLO)

I, the undersigned City Clerk of Ottumwa, Iowa, do hereby certify that attached is a true and complete copy of the portion of the corporate records of said Municipality showing proceedings of the Council, and the same is a true and complete copy of the action taken by said Council with respect to said matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council (a copy of the face sheet of said agenda being attached hereto) pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by said law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective city offices as indicated therein, that no Council vacancy existed except as may be stated in said proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of said Municipality hereto affixed this 5
day of July, 2022.

Christie Reubard
City Clerk, Ottumwa, Iowa



02072377-1\10981-1025

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Planning & Development
Department

Zach Simonson
Prepared By
Zach Simonson
Department Head



City Administrator Approval

AGENDA TITLE: RESOLUTION NO. 186-2022: A RESOLUTION APPROVING THE CONTRACT, BOND, AND CERTIFICATE OF INSURANCE FOR THE NORTH MARKET STREET FACADE PROJECT, CDBG 20-CVN-024

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution No. 186-2022

DISCUSSION: Resolution 161-2022 awarded the contract for this facade project to CCI for the sum of \$277,777. This resolution approves the contract, bond and certificate of insurance for the project and sets the project to begin work.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

RESOLUTION NO. 186 - 2022

A RESOLUTION APPROVING THE CONTRACT, BOND, AND CERTIFICATE OF INSURANCE FOR THE
NORTH MARKET STREET FACADE PROJECT, CDBG 20-CVN-024

WHEREAS, the Ottumwa City Council accepted bids for the above referenced project and
awarded the contract to Christner Contracting, Inc. for the sum of \$277,777; and

WHEREAS, the contract, bond and certificate of insurance have been filed with the City Clerk;
and

WHEREAS, the general contractor and all subcontractors have satisfied the contractor clearance
requirements of the Community Development Block Grant program.

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

The contract, bond, and certificate of insurance with Christner Contracting, Inc. for the above
referenced project are hereby approved and the Mayor is authorized to sign the contract.

APPROVED, PASSED, AND ADOPTED this 5th day of July 2022.

CITY OF OTTUMWA, IOWA


Richard W. Johnson, Mayor

ATTEST:


Christina Reinhard, City Clerk

AIA[®] Document A104[™] – 2017

Standard Abbreviated Form of Agreement Between Owner and Contractor

AGREEMENT made as of the 30 day of June in the year 2021
(*In words, indicate day, month and year.*)

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

City of Ottumwa
City Hall, Room 204
Ottumwa, Iowa 52501
Contact – Zach Simonson

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

Christner Contracting Inc.
17587 US-34
Ottumwa, Iowa 52501
Contact – Anthony Christner

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

Ottumwa N. Market Facades
Addresses under this scope of work –
105-107 N. Market St. and 114-116 N. Market Street in downtown Ottumwa Iowa.
The improvements that are to be carried out are to be in strict accordance with the associated plans and specifications that have been prepared for this project, the State Historic Preservation Office (SHPO), and miscellaneous appurtenant work usually associated with a façade improvement project.

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

Curtis Architecture & Design PC
3408 Woodland Ave. #302
West Des Moines, Iowa 50266
Contact – Rodney Curtis, AIA

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.

Init.

TABLE OF ARTICLES

- 1 THE WORK OF THIS CONTRACT
- 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 3 CONTRACT SUM
- 4 PAYMENT
- 5 DISPUTE RESOLUTION
- 6 ENUMERATION OF CONTRACT DOCUMENTS
- 7 GENERAL PROVISIONS
- 8 OWNER
- 9 CONTRACTOR
- 10 ARCHITECT
- 11 SUBCONTRACTORS
- 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS
- 13 CHANGES IN THE WORK
- 14 TIME
- 15 PAYMENTS AND COMPLETION
- 16 PROTECTION OF PERSONS AND PROPERTY
- 17 INSURANCE AND BONDS
- 18 CORRECTION OF WORK
- 19 MISCELLANEOUS PROVISIONS
- 20 TERMINATION OF THE CONTRACT
- 21 CLAIMS AND DISPUTES

EXHIBIT A DETERMINATION OF THE COST OF THE WORK

ARTICLE 1 THE WORK OF THIS CONTRACT

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

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

[X] The date of this Agreement.

Init.

- 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.

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

§ 2.3 Substantial Completion

§ 2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:
(Check the appropriate box and complete the necessary information.)

- Not later than () calendar days from the date of commencement of the Work.
- By the following date: May 31st, 2023

§ 2.3.2 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
-----------------	-----------------------------

§ 2.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 2.3, liquidated damages, if any, shall be assessed as set forth in Section 3.5.

ARTICLE 3 CONTRACT SUM

§ 3.1 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 of the following:
(Check the appropriate box.)

- Stipulated Sum, in accordance with Section 3.2 below
- Cost of the Work plus the Contractor’s Fee, in accordance with Section 3.3 below
- Cost of the Work plus the Contractor’s Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be Two Hundred Seventy Seven Thousand Seven Hundred Seventy Seven Dollars (\$ 277,777.00), subject to additions and deductions as provided in the Contract Documents.

§ 3.2.1 The Stipulated Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:
(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

N/A

§ 3.2.2 Unit prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
N/A		

§ 3.2.3 Allowances, if any, included in the stipulated sum:
(Identify each allowance.)

Item	Price

§ 3.3 Cost of the Work Plus Contractor's Fee

§ 3.3.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.3.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

N/A

§ 3.4 Cost of the Work Plus Contractor's Fee With a Guaranteed Maximum Price

§ 3.4.1 The Cost of the Work is as defined in Exhibit A, Determination of the Cost of the Work.

§ 3.4.2 The Contractor's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Contractor's Fee and the method of adjustment to the Fee for changes in the Work.)

N/A

§ 3.4.3 Guaranteed Maximum Price

§ 3.4.3.1 The sum of the Cost of the Work and the Contractor's Fee is guaranteed by the Contractor not to exceed (\$), subject to additions and deductions by changes in the Work as provided in the Contract Documents. This maximum sum is referred to in the Contract Documents as the Guaranteed Maximum Price. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Contractor without reimbursement by the Owner.
(Insert specific provisions if the Contractor is to participate in any savings.)

N/A

§ 3.4.3.2 The Guaranteed Maximum Price is based on the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner:

(State the numbers or other identification of accepted alternates. If the bidding or proposal documents permit the Owner to accept other alternates subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date when that amount expires.)

§ 3.4.3.3 Unit Prices, if any:

(Identify the item and state the unit price and the quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)

§ 3.4.3.4 Allowances, if any, included in the Guaranteed Maximum Price:

(Identify each allowance.)

Init.

Item

Price

§ 3.4.3.5 Assumptions, if any, on which the Guaranteed Maximum Price is based:

§ 3.4.3.6 To the extent that the Contract Documents are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order.

§ 3.4.3.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in Section 3.4.3.5. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions contained in Section 3.4.3.5 and the revised Contract Documents.

§ 3.5 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

\$500.00 per day for each day after date of completion stated in this contract. Days for weather will be taken into consideration. The Contract Time shall be extended if the Subcontractor is delayed, disrupted, hindered, or interfered with at any time in the commencement or progress of the Work by any cause beyond the control of Subcontractor, including but not limited to the following: an act or neglect of the Owner, Contractor, Architect/Engineer, or separate contractor or subcontractor; changes ordered in the Work; changes ordered in sequence of the Work; hazardous materials; concealed or unknown conditions; differing site conditions; disease, epidemics, or pandemic (including but not limited to COVID-19); labor or material shortages, delivery delays, or transportation delays caused by diseases, epidemics, pandemic (including but not limited to COVID-19), or shortages and delays that are otherwise unusual; labor disputes not involving Subcontractor; fire; terrorism; governmental actions; unusual weather; quarantine; restrictions on access, work, travel, or materials; unavoidable casualties; other causes beyond the Subcontractor's control; delay pending mediation and arbitration; or other causes that justify delay.

ARTICLE 4 PAYMENT

§ 4.1 Progress Payments

§ 4.1.1 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.

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

Application for payment shall be submitted 14 days prior to the first Monday of each month. Applications past this date could result in a delayed payment.

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the 14 days prior to the first Monday day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the First day of the following month. If an Application for Payment is received by the Architect after the date fixed above, payment 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.)

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

(Insert a percentage or amount to be withheld as retainage from each Application for Payment and any terms for reduction of retainage during the course of the Work. The amount of retainage may be limited by governing law.)

Init.

5%

§ 4.1.5 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.)*

%

§ 4.2 Final Payment

§ 4.2.1 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 Section 18.2, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Contractor has submitted a final accounting for the Cost of the Work, where payment is on the basis of the Cost of the Work with or without a Guaranteed Maximum Price; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 15.7.1.

§ 4.2.2 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:

ARTICLE 5 DISPUTE RESOLUTION

§ 5.1 Binding Dispute Resolution

For any claim subject to, but not resolved by, mediation pursuant to Section 21.5, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

- Arbitration pursuant to Section 21.6 of this Agreement
- 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 in a court of competent jurisdiction.

ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS

§ 6.1 The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.

§ 6.1.1 The Agreement is this executed AIA Document A104™–2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 6.1.2 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.)

N/A

§ 6.1.3 The Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
Bid form	Ott. N. Market Bid Form	6/9/2022	1
Section 3 paperwork	Intent to Comply	6/9/2022	3
Bid Security	Doc. A310 – 2010	6/6/2022	2
Construction Contract	Contract Provisions	3/28/2022	6
Attachments	Labor Standards	3/28/2022	4
	Davis Bacon Wages	2/25/2022	6

§ 6.1.4 The Specifications:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Specification Book North Market Façade Improvements - Covid Grant

Section	Title	Date	Pages
Book	North Market Façade	3/28/2022	295

§ 6.1.5 The Drawings:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
G0.1	Index, Renderings, Notes	3/28/2022
A1.0	105-107 N. Market	3/28/2022
A1.1	105-107 N. Market	3/28/2022
A1.2	105-107 N. Market	3/28/2022
A2.0	114-116 N. Market	3/28/2022
A2.1	114-116 N. Market	3/28/2022

§ 6.1.6 The Addenda, if any:

Number	Date	Pages
#1	5/26/2022	2
#2	6/02/2022	1

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are enumerated in this Article 6.

§ 6.1.7 Additional documents, if any, forming part of the Contract Documents:

.1 Other Exhibits:
(Check all boxes that apply.)

[N/A] Exhibit A, Determination of the Cost of the Work.

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

[N/A] The Sustainability Plan:

Title	Date	Pages
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[N/A] Supplementary and other Conditions of the Contract:

- 2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents.)

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 The Contract Documents

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), Drawings, Specifications, Addenda issued prior to the execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. 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. 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 to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 7.2 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 between any persons or entities other than the Owner and the Contractor.

§ 7.3 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.

§ 7.4 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.

§ 7.5 Ownership and use of Drawings, Specifications and Other Instruments of Service

§ 7.5.1 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 in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and 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 the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 7.5.2 The Contractor, Subcontractors, Sub-subcontractors and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to the protocols established pursuant to Sections 7.6 and 7.7, 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 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.

§ 7.6 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building

Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 7.7 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 7.8 Severability

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 7.9 Notice

§ 7.9.1 Except as otherwise provided in Section 7.9.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission 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.)

§ 7.9.2 Notice of Claims shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 7.10 Relationship of the Parties

Where the Contract is based on the Cost of the Work plus the Contractor's Fee, with or without a Guaranteed Maximum Price, the Contractor accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Contractor's skill and judgment in furthering the interests of the Owner; to furnish efficient business administration and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish and approve, in a timely manner, information required by the Contractor and to make payments to the Contractor in accordance with the requirements of the Contract Documents.

ARTICLE 8 OWNER

§ 8.1 Information and Services Required of the Owner

§ 8.1.1 Prior to commencement of the Work, at the written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 8.1.1, the Contract Time shall be extended appropriately.

§ 8.1.2 The Owner shall furnish all necessary surveys and a legal description of the site.

§ 8.1.3 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.

§ 8.1.4 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 9.6.1, the Owner shall secure and pay for other necessary approvals, easements, assessments, and charges required for the construction, use, or occupancy of permanent structures or for permanent changes in existing facilities.

§ 8.2 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the 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 is 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.

§ 8.3 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 notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to any other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 15.4.3, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including the Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 21.

ARTICLE 9 CONTRACTOR

§ 9.1 Review of Contract Documents and Field Conditions by Contractor

§ 9.1.1 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.

§ 9.1.2 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 8.1.2, 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.

§ 9.1.3 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.

§ 9.2 Supervision and Construction Procedures

§ 9.2.1 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.

§ 9.2.2 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.

§ 9.3 Labor and Materials

§ 9.3.1 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.

§ 9.3.2 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 skilled in tasks assigned to them.

§ 9.3.3 The Contractor may make a substitution only with the consent of the Owner, after evaluation by the Architect and in accordance with a Modification.

§ 9.4 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 under normal usage. All other warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 15.6.3.

§ 9.5 Taxes

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

§ 9.6 Permits, Fees, Notices, and Compliance with Laws

§ 9.6.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as 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.

§ 9.6.2 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. 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.

§ 9.7 Allowances

The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. The Owner shall select materials and equipment under allowances with reasonable promptness. Allowance amounts shall include the costs to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts. Contractor's costs for unloading and handling at the site, labor, installation, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowance.

§ 9.8 Contractor's Construction Schedules

§ 9.8.1 The Contractor, promptly after being awarded the Contract, shall 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.

§ 9.8.2 The Contractor shall perform the Work in general accordance with the most recent schedule submitted to the Owner and Architect.

§ 9.9 Submittals

§ 9.9.1 The Contractor shall review for compliance with the Contract Documents and submit to the Architect Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents in coordination with the Contractor's construction schedule and in such sequence as to allow the Architect reasonable time for review. 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. The Work shall be in accordance with approved submittals.

§ 9.9.2 Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

§ 9.9.3 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 or unless the Contractor needs to provide such services in order to carry out the Contractor's own responsibilities. If professional design services or certifications by a design professional are specifically required, the Owner and the Architect will specify the performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional. If no criteria are specified, the design shall comply with applicable codes and ordinances. Each Party shall be entitled to rely upon the information provided by the other Party. The Architect will review and approve or take other appropriate action on submittals for the limited purpose of checking for conformance with information provided and the design concept expressed in the Contract Documents. The Architect's review of Shop Drawings, Product Data, Samples, and similar submittals shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. In performing such review, the Architect will approve, or take other appropriate action upon, the Contractor's Shop Drawings, Product Data, Samples, and similar submittals.

§ 9.10 Use of Site

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

§ 9.11 Cutting and Patching

The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly.

§ 9.12 Cleaning Up

The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and 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 material from and about the Project.

§ 9.13 Access to Work

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

§ 9.14 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 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 an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 9.15 Indemnification

§ 9.15.1 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 which would otherwise exist as to a party or person described in this Section 9.15.1.

§ 9.15.2 In claims against any person or entity indemnified under this Section 9.15 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 9.15.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 10 ARCHITECT

§ 10.1 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, unless otherwise modified in writing in accordance with other provisions of the Contract.

§ 10.2 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.

§ 10.3 The Architect will visit the site at intervals appropriate to the stage of the construction 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 safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 10.4 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 promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) 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.

§ 10.5 Based on the Architect's evaluations of the Work and 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.

§ 10.6 The Architect has authority to reject Work that does not conform to the Contract Documents and to require inspection or testing of the Work.

§ 10.7 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.

§ 10.8 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 will make initial decisions on all claims, disputes, and other matters in question between the Owner and Contractor but will not be liable for results of any interpretations or decisions rendered in good faith.

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

ARTICLE 11 SUBCONTRACTORS

§ 11.1 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.

§ 11.2 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the Subcontractors or suppliers proposed for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner or Architect has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. 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. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the 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 the Contract Documents, assumes toward the Owner and Architect, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

ARTICLE 12 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 12.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 12.2 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 activities with theirs as required by the Contract Documents.

§ 12.3 The Owner shall be reimbursed by the Contractor for costs incurred by the Owner which are payable to a Separate Contractor because of delays, improperly timed activities, or defective construction of the Contractor. The Owner shall be responsible to the Contractor for costs incurred by the Contractor because of delays, improperly timed activities, damage to the Work, or defective construction of a Separate Contractor.

ARTICLE 13 CHANGES IN THE WORK

§ 13.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner, Contractor, and Architect, or by written Construction Change Directive signed by the Owner and Architect. Upon issuance of the Change Order or Construction Change Directive, the Contractor shall proceed promptly with such changes in the Work, unless otherwise provided in the Change Order or Construction Change Directive.

§ 13.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the Owner and Architect, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. The Architect will make an interim determination of the amount of payment due for purposes of certifying the Contractor's monthly Application for Payment. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Architect will prepare a Change Order.

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§ 13.3 The Architect will have 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 shall be effected by written order and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work.

§ 13.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be equitably adjusted as mutually agreed between the Owner and Contractor; provided that the Contractor provides notice to the Owner and Architect promptly and before conditions are disturbed.

ARTICLE 14 TIME

§ 14.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 14.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 14.3 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 14.4 The date of Substantial Completion is the date certified by the Architect in accordance with Section 15.6.3.

§ 14.5 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control; or (3) by other causes that the Contractor asserts, and the Architect determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Architect may determine, subject to the provisions of Article 21.

ARTICLE 15 PAYMENTS AND COMPLETION

§ 15.1 Schedule of Values

§ 15.1.1 Where the Contract is based on a Stipulated Sum or the Cost of the Work with a Guaranteed Maximum Price pursuant to Section 3.2 or 3.4, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Stipulated Sum or Guaranteed Maximum Price to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy required by the Architect. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 15.1.2 The allocation of the Stipulated Sum or Guaranteed Maximum Price under this Section 15.1 shall not constitute a separate stipulated sum or guaranteed maximum price for each individual line item in the schedule of values.

§ 15.2 Control Estimate

§ 15.2.1 Where the Contract Sum is the Cost of the Work, plus the Contractor's Fee without a Guaranteed Maximum Price pursuant to Section 3.3, the Contractor shall prepare and submit to the Owner a Control Estimate within 14 days of executing this Agreement. The Control Estimate shall include the estimated Cost of the Work plus the Contractor's Fee.

§ 15.2.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 6, including all Modifications thereto;
- .2 a list of the assumptions made by the Contractor in the preparation of the Control Estimate to supplement the information provided by the Owner and contained in the Contract Documents;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems and the Contractor's Fee;

- .4 a project schedule upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequences and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment the Owner's occupancy requirements, and the date of Substantial Completion; and
- .5 a list of any contingency amounts included in the Control Estimate for further development of design and construction.

§ 15.2.3 When the Control Estimate is acceptable to the Owner and Architect, the Owner shall acknowledge it in writing. The Owner's acceptance of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ 15.2.4 The Contractor shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Contractor's first Application for Payment and shall be revised and submitted with each Application for Payment.

§ 15.2.5 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Contractor. The Contractor shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Contract Documents.

§ 15.3 Applications for Payment

§ 15.3.1 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 15.1, for completed portions of the Work. The application shall be notarized, if required; be supported by all data substantiating the Contractor's right to payment that the Owner or Architect require; shall reflect retainage if provided for in the Contract Documents; and include any revised cost control information required by Section 15.2.4. 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 supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 15.3.2 With each Application for Payment where the Contract Sum is based upon the Cost of the Work, or the Cost of the Work with a Guaranteed Maximum Price, the Contractor shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner to demonstrate that cash disbursements already made by the Contractor on account of the Cost of the Work equal or exceed progress payments already received by the Contractor plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Contractor's Fee.

§ 15.3.3 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 stored, and protected from damage, off the site at a location agreed upon in writing.

§ 15.3.4 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 other encumbrances adverse to the Owner's interests.

§ 15.4 Certificates for Payment

§ 15.4.1 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 of the Architect's reasons for withholding certification in whole or in part as provided in Section 15.4.3.

§ 15.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluations of the Work and the data in the Application for Payment, that, to the best of the

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Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment in the amount certified. 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. 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 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.

§ 15.4.3 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 15.4.2 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 15.4.1. If the Contractor and the 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 9.2.2, 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 suppliers 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.

§ 15.4.4 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 15.4.3, in whole or in part, that party may submit a Claim in accordance with Article 21.

§ 15.5 Progress Payments

§ 15.5.1 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.

§ 15.5.2 Neither the Owner nor Architect shall have an obligation to pay or see to the payment of money to a Subcontractor or supplier except as may otherwise be required by law.

§ 15.5.3 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.

§ 15.5.4 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 15.6 Substantial Completion

§ 15.6.1 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.

§ 15.6.2 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.

§ 15.6.3 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. When the Architect determines that the Work or designated portion thereof is substantially complete, the Architect will issue a Certificate of Substantial Completion which shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and 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.

§ 15.6.4 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to the 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.

§ 15.7 Final Completion and Final Payment

§ 15.7.1 Upon receipt of the Contractor's 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 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 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 stated in Section 15.7.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 15.7.2 Final payment shall not become due until the Contractor has delivered to the Owner a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and equipment for which a lien could be filed, or 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 costs and reasonable attorneys' fees.

§ 15.7.3 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;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 15.7.4 Acceptance of final payment by the Contractor, a Subcontractor or 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 the final Application for Payment.

ARTICLE 16 PROTECTION OF PERSONS AND PROPERTY

§ 16.1 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. 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;

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- 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, a Subcontractor, or a Sub-subcontractor; 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.

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 and property and their protection from damage, injury, or loss. The Contractor shall promptly remedy damage and loss to property 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 16.1.2 and 16.1.3. The Contractor may make a claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect 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 9.15.

§ 16.2 Hazardous Materials and Substances

§ 16.2.1 The Contractor is responsible for compliance with the requirements of the Contract Documents regarding hazardous materials or substances. 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 notify the Owner and Architect of the condition. 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 shutdown, delay, and start-up.

§ 16.2.2 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 16.2.1 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.

§ 16.2.3 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.

ARTICLE 17 INSURANCE AND BONDS

§ 17.1 Contractor's Insurance

§ 17.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 17.1 or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 18.4, unless a different duration is stated below:

§ 17.1.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million (\$ 1,000,000.00) each occurrence, Two Million (\$ 2,000,000.00) general aggregate, and One Million (\$ 1,000,000.00) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;

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- 3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- 4 bodily injury or property damage arising out of completed operations; and
- 5 the Contractor's indemnity obligations under Section 9.15.

§ 17.1.3 Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than One Million (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 17.1.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 17.1.2 and 17.1.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 17.1.5 Workers' Compensation at statutory limits.

§ 17.1.6 Employers' Liability with policy limits not less than One Million (\$ 1,000,000.00) each accident, One Million (\$ 1,000,000.00) each employee, and (\$) policy limit.

§ 17.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than N/A (\$) per claim and (\$) in the aggregate.

§ 17.1.8 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than N/A (\$) per claim and (\$) in the aggregate.

§ 17.1.9 Coverage under Sections 17.1.7 and 17.1.8 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ 17.1.10 The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Section 17.1 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the period required by Section 17.1.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy.

§ 17.1.11 The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ 17.1.12 To the fullest extent permitted by law, the Contractor shall cause the commercial liability coverage required by this Section 17.1 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 for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's Consultants, CG 20 32 07 04.

§ 17.1.13 Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.1, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner

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shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 17.1.14 Other Insurance Provided by the Contractor

(List below any other insurance coverage to be provided by the Contractor and any applicable limits.)

Coverage	Limits
Umbrella Coverage	Three Million (\$3,000,000.00)

§ 17.2 Owner's Insurance

§ 17.2.1 Owner's Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

§ 17.2.2 Property Insurance

§ 17.2.2.1 The Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed or materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section 17.2.2.2, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ 17.2.2.2 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section 17.2.2.1 or, if necessary, replace the insurance policy required under Section 17.2.2.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 18.4.

§ 17.2.2.3 If the insurance required by this Section 17.2.2 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ 17.2.2.4 If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 18.4, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

§ 17.2.2.5 Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Section 17.2.2 and, upon the Contractor's request, provide a copy of the property insurance policy or policies required by this Section 17.2.2. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

§ 17.2.2.6 Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 17.2.2, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

§ 17.2.2.7 Waiver of Subrogation

§ 17.2.2.7.1 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; (2) the Architect and Architect’s consultants; and (3) Separate Contractors, 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 those losses are covered by property insurance required by this Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect’s consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this Section 17.2.2.7 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 17.2.2.7.2 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, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 17.2.2.7.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 17.2.2.8 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. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements, written where legally required for validity, the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 17.2.3 Other Insurance Provided by the Owner

(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage	Limits
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§ 17.3 Performance Bond and Payment Bond

§ 17.3.1 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 the Contract Documents on the date of execution of the Contract.

§ 17.3.2 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 18 CORRECTION OF WORK

§ 18.1 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, unless compensable under Section A.1.7.3 in Exhibit A, Determination of the Cost of the Work.

§ 18.2 In addition to the Contractor’s obligations under Section 9.4, 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 15.6.3, 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 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.

§ 18.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it in accordance with Section 8.3.

§ 18.4 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.

§ 18.5 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Article 18.

ARTICLE 19 MISCELLANEOUS PROVISIONS

§ 19.1 Assignment of Contract

Neither party to the Contract shall assign the Contract without written consent of the other, except that 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.

§ 19.2 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 21.6.

§ 19.3 Tests and Inspections

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities shall be made at an appropriate time. 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 tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 19.4 The Owner's representative:

(Name, address, email address and other information)

Zach Simonson
City Hall, Room 204
Ottumwa, Iowa 52501
641 683-0606
simonsonz@ottumwa.us

§ 19.5 The Contractor's representative:

(Name, address, email address and other information)

Anthony Christner
17587 US-34
Ottumwa, Iowa 52501
641 6842-0648
anthony@christnercontracting.com

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

ARTICLE 20 TERMINATION OF THE CONTRACT

§ 20.1 Termination by the Contractor

If the Architect fails to certify payment as provided in Section 15.4.1 for a period of 30 days through no fault of the Contractor, or if the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days' notice to the Owner and the 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.

§ 20.2 Termination by the Owner for Cause

§ 20.2.1 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.

§ 20.2.2 When any of the reasons described in Section 20.2.1 exists, the Owner, upon certification by the Architect that sufficient cause exists to justify such action, may, without prejudice to any other remedy the Owner may have and after giving the Contractor seven days' notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever reasonable method the Owner may deem expedient. Upon 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.

§ 20.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 20.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 20.2.4 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 Architect, upon application, and this obligation for payment shall survive termination of the Contract.

§ 20.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Owner shall pay the Contractor for Work executed; and costs incurred by reason of such termination, including costs attributable to termination of Subcontracts; and a termination fee, if any, as follows:

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

ARTICLE 21 CLAIMS AND DISPUTES

§ 21.1 Claims, disputes, and other matters in question arising out of or relating to this Contract, including those alleging an error or omission by the Architect but excluding those arising under Section 16.2, shall be referred initially to the Architect for decision. Such matters, except those waived as provided for in Section 21.11 and Sections 15.7.3 and 15.7.4, shall, after initial decision by the Architect or 30 days after submission of the matter to the Architect, be subject to mediation as a condition precedent to binding dispute resolution.

§ 21.2 Notice of Claims

§ 21.2.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 18.2, shall be initiated by notice to the

Architect 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.

§ 21.2.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 18.2, shall be initiated by notice to the other party.

§ 21.3 Time Limits on Claims

The Owner and Contractor shall commence all claims and causes of action against the other and arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in this Agreement whether in contract, tort, breach of warranty, or otherwise, within the 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 21.3.

§ 21.4 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 21.5 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution 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, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 21.6 If the parties have selected arbitration as the method for binding dispute resolution in this 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 the Construction Industry Arbitration Rules in effect on the date of this Agreement. 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 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.

§ 21.7 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, 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).

§ 21.8 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, any party to an arbitration 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 a Claim not described in the written Consent.

§ 21.9 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 21.10 Continuing Contract Performance

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

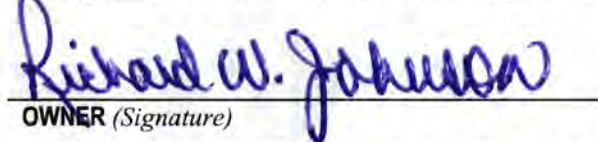
§ 21.11 Waiver of Claims for Consequential Damages

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

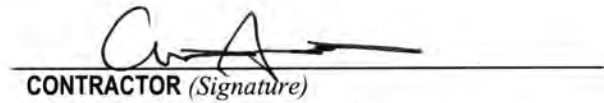
- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the 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 20. Nothing contained in this Section 21.11 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

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


OWNER (Signature)

Richard W. Johnson, Mayor
(Printed name and title)


CONTRACTOR (Signature)

Anthony Christner CEO
(Printed name and title)

Additions and Deletions Report for

AIA[®] Document A104[™] – 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 07:12:20 ET on 07/01/2022.

PAGE 1

AGREEMENT made as of the 30 day of June in the year 2021

...

City of Ottumwa
City Hall, Room 204
Ottumwa, Iowa 52501
Contact – Zach Simonson

...

Christner Contracting Inc.
17587 US-34
Ottumwa, Iowa 52501
Contact – Anthony Christner

...

Ottumwa N. Market Facades
Addresses under this scope of work –
105-107 N. Market St. and 114-116 N. Market Street in downtown Ottumwa Iowa.
The improvements that are to be carried out are to be in strict accordance with the associated plans and specifications that have been prepared for this project, the State Historic Preservation Office (SHPO), and miscellaneous appurtenant work usually associated with a façade improvement project.

...

Curtis Architecture & Design PC
3408 Woodland Ave. #302
West Des Moines, Iowa 50266
Contact – Rodney Curtis, AIA

PAGE 2

The date of this Agreement.

PAGE 3

By the following date: May 31st, 2023

...

Stipulated Sum, in accordance with Section 3.2 below

...

§ 3.2 The Stipulated Sum shall be Two Hundred Seventy Seven Thousand Seven Hundred Seventy Seven Dollars (\$ 277,777.00), subject to additions and deductions as provided in the Contract Documents.

...

N/A
PAGE 4

N/A

...

N/A

...

N/A

...

N/A
PAGE 5

\$500.00 per day for each day after date of completion stated in this contract. Days for weather will be taken into consideration. The Contract Time shall be extended if the Subcontractor is delayed, disrupted, hindered, or interfered with at any time in the commencement or progress of the Work by any cause beyond the control of Subcontractor, including but not limited to the following: an act or neglect of the Owner, Contractor, Architect/Engineer, or separate contractor or subcontractor; changes ordered in the Work; changes ordered in sequence of the Work; hazardous materials; concealed or unknown conditions; differing site conditions; disease, epidemics, or pandemic (including but not limited to COVID-19); labor or material shortages, delivery delays, or transportation delays caused by diseases, epidemics, pandemic (including but not limited to COVID-19), or shortages and delays that are otherwise unusual; labor disputes not involving Subcontractor; fire; terrorism; governmental actions; unusual weather; quarantine; restrictions on access, work, travel, or materials; unavoidable casualties; other causes beyond the Subcontractor's control; delay pending mediation and arbitration; or other causes that justify delay.

...

Application for payment shall be submitted 14 days prior to the first Monday of each month. Applications past this date could result in a delayed payment.

§ 4.1.3 Provided that an Application for Payment is received by the Architect not later than the 14 days prior to the first Monday day of a month, the Owner shall make payment of the certified amount to the Contractor not later than the First day of the following month. If an Application for Payment is received by the Architect after the date fixed above, payment shall be made by the Owner not later than Thirty (30) days after the Architect receives the Application for Payment.

PAGE 6

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[] Litigation in a court of competent jurisdiction

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<u>Bid form</u>	<u>Ott. N. Market Bid Form</u>	<u>6/9/2022</u>	<u>1</u>
<u>Section 3 paperwork</u>	<u>Intent to Comply</u>	<u>6/9/2022</u>	<u>3</u>
<u>Bid Security</u>	<u>Doc. A310 – 2010</u>	<u>6/6/2022</u>	<u>2</u>
<u>Construction Contract</u>	<u>Contract Provisions</u>	<u>3/28/2022</u>	<u>6</u>
<u>Attachments</u>	<u>Labor Standards</u>	<u>3/28/2022</u>	<u>4</u>
	<u>Davis Bacon Wages</u>	<u>2/25/2022</u>	<u>6</u>

...

Specification Book North Market Façade Improvements - Covid Grant

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<u>Book</u>	<u>North Market Façade</u>	<u>3/28/2022</u>	<u>295</u>
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<u>G0.1</u>	<u>Index, Renderings, Notes</u>	<u>3/28/2022</u>
<u>A1.0</u>	<u>105-107 N. Market</u>	<u>3/28/2022</u>
<u>A1.1</u>	<u>105-107 N. Market</u>	<u>3/28/2022</u>
<u>A1.2</u>	<u>105-107 N. Market</u>	<u>3/28/2022</u>
<u>A2.0</u>	<u>114-116 N. Market</u>	<u>3/28/2022</u>
<u>A2.1</u>	<u>114-116 N. Market</u>	<u>3/28/2022</u>

...

<u>#1</u>	<u>5/26/2022</u>	<u>2</u>
<u>#2</u>	<u>6/02/2022</u>	<u>1</u>

...

[N/A] Exhibit A, Determination of the Cost of the Work.

[N/A] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:

...

[N/A] The Sustainability Plan:

...

[N/A] Supplementary and other Conditions of the Contract:

§ 17.1.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million (\$ 1,000,000.00) each occurrence, Two Million (\$ 2,000,000.00) general aggregate, and One Million (\$ 1,000,000.00) aggregate for products-completed operations hazard, providing coverage for claims including

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§ 17.1.3 Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than One Million (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

...

§ 17.1.6 Employers' Liability with policy limits not less than One Million (\$ 1,000,000.00) each accident, One Million (\$ 1,000,000.00) each employee, and (\$) policy limit.

§ 17.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than N/A (\$) per claim and (\$) in the aggregate.

§ 17.1.8 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than N/A (\$) per claim and (\$) in the aggregate.

PAGE 21

Umbrella Coverage
PAGE 23

Three Million (\$3,000,000.00)

Zach Simonson
City Hall, Room 204
Ottumwa, Iowa 52501
641 683-0606
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...

Anthony Christner
17587 US-34
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641 6842-0648
anthony@christnercontracting.com

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 07:12:20 ET on 07/01/2022 under Order No. 2114339925 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.


(Signed)

ARCHITECT
(Title)

7/5/22
(Dated)

SECTION 00 73 33

CONTRACT PROVISIONS

ALL CONTRACTS

All project contracts and subcontracts shall contain at a minimum the following provisions, as appropriate:

1. Access and Maintenance of Records

- (a) The contractor must maintain all required records for three years after final payments are made and all other pending matters are closed.
- (b) At any time during normal business hours and as frequently as is deemed necessary, the contractor shall make available to the Iowa Economic Development Authority, the State Auditor, the General Accounting Office, and the Department of Housing and Urban Development, for their examination, all of its records pertaining to all matters covered by this contract and permit these agencies to audit, examine, make excerpts or transcripts from such records, contract, invoices, payrolls, personnel records, conditions of employment, and all other matters covered by this contract.

2. Civil Rights

The Contractor must comply with the following laws and regulations:

- (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352).

States that no person may be excluded from participation in, denied the benefits of, or subjected to discrimination under any program or activity receiving Federal financial assistance on the basis of race, color, or national origin.

- (b) Title VIII of the Civil Rights Act of 1968, as amended.

3. Fair Housing Act.

- (a) Federal Executive Order 11063, as amended by Executive Order 12259.

4. Equal Opportunity Housing.

- (a) Iowa Civil Rights Act of 1965.

This Act mirrors the Federal Civil Rights Act.

- (b) Section 109 of Title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5309).

Provides that no person shall be excluded from participation in, denied the benefits of, or subjected to discrimination on the basis of race, color, national origin, sex, age, or handicap under any program or activity funded in part or in whole under Title I of the Act.

- (c) The Age Discrimination Act of 1975, as amended (42 U.S.C. 1601 et seq.)

Provides that no person on the basis of age, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity receiving Federal financial assistance.

- (d) Section 504 of the Rehabilitation Act of 1973, as amended (P.L. 93-112, 29 U.S.C. 794).

Provides that no otherwise qualified individual shall solely by reason of his/her handicap be excluded from participation in, be denied the benefits of, or be discriminated against under any program or activity receiving Federal financial assistance.

- (e) Americans with Disabilities Act (P.L. 101-336, 42 U.S.C. 12101-12213)

Provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, state and local government services, and telecommunications.

(f) Section 3 of the Housing and Urban Development Act of 1968, as amended (12 U.S.C. 1701u).

Provides to the greatest extent feasible, that training and employment opportunities be made available to lower-income residents of project areas and that contracts be awarded to small businesses located within the project area or owned in substantial part by project area residents.

- (1) The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
- (2) The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
- (3) The contractor agrees to post copies of a notice advising workers of the Contractor's commitments under Section 3 in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- (4) The contractor agrees to provide written notice of employment and contracting opportunities to all known Section 3 Workers and Section 3 Businesses.
- (5) The contractor agrees to employ, to the greatest extent feasible, Section 3 workers or provide written justification to the recipient that is consistent with 24 CFR Part 75, describing why it was unable to meet minimum numerical Section 3 worker hours goals, despite its efforts to comply with the provisions of this clause.
- (6) The contractor agrees to maintain records documenting Section 3 Workers that were hired to work on previous Section 3 covered projects or activities that were retained by the contractor for subsequent Section 3 covered projects or activities.
- (7) The contractor agrees to post contract and job opportunities to the Opportunity Portal and will check the Business Registry for businesses located in the project area.
- (8) The contractor agrees to include compliance with Section 3 requirements in every subcontract for Section 3 projects as defined in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
- (9) The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
- (10) The contractor will certify that they have followed prioritization of effort in 24 CFR part 75.19 for all employment and training opportunities. The contractor will further certify that

it meets or exceeds the applicable Section 3 benchmarks, defined in 24 CFR Part 75.23, and if not, shall describe in detail the qualitative efforts it has taken to pursue low- and very low-income persons for economic opportunities.

- (11) Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

5. Termination Clause

All contracts utilizing CDBG funds must contain a termination clause that specifies the following:

- (a) Under what conditions the clause may be imposed.
- (b) The form the termination notice must take (i.e. certified letter).
- (c) The time frame required between notice of termination and its effective date.
- (d) The method used to compute the final payment(s) to the contractor.

6. Certification regarding government-wide restriction on lobbying.

All contracts must contain the following certification concerning restriction of lobbying:

- (a) The Contractor certifies, to the best of their knowledge and belief, that:
 - (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Federal Lobbying" in accordance with its instruction.
 - (3) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.
- (b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

7. Lead-Safe Housing Regulations – 24 CFR Part 35, et. al. (As applicable)

Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Properties and Housing Receiving Federal Assistance, Final Rule

8. Recycled Materials

The contractor agrees to comply with all the requirements of Code of Iowa chapter 8A.315-317 and Iowa Administrative Code chapter 11-117.6(5) — Recycled Product and Content which states:

- (a) When appropriate, specifications shall include requirements for the use of recovered materials and products.
- (b) The specifications shall not restrict the use of alternative materials, exclude recovered materials, or require performance standards that exclude products containing recovered materials unless the subrecipient seeking the product can document that the use of recovered materials will impede the intended use of the product.

9. Notice of Awarding Agency Requirements and Regulations Pertaining to Reporting

The Contractor must provide information as necessary and as requested by the Iowa Economic Development Authority for the purpose of fulfilling all reporting requirements related to the CDBG program.

ALL CONTRACTS IN EXCESS OF \$10,000

In addition to the preceding provisions, all contracts in excess of \$10,000 must include the following language, pursuant to Federal Executive Orders 11246 and 11375:

- 10.** During the performance of this contract, the contractor agrees as follows:
- (a) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. 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 to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
 - (b) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
 - (c) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under Section 202 of the Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
 - (d) The contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
 - (e) The contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
 - (f) In the event of the contractor's non-compliance with the nondiscrimination clause of this

contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in E.O. No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

- (g) The contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of E.O. No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance:

Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

ALL CONTRACTS IN EXCESS OF \$100,000

11. Clean Air and Water Acts Apply:

- (a) Section 306 of the Clean Air Acts (42 U.S.C. 1857(h)).
- (b) Section 508 of the Clean Water Act (33 U.S.C. 1368).
- (c) Executive Order 11738. *Providing administration of the Clean Air and Water Acts*

12. Clean Air and Water Acts Required Clauses

- 13.** *This clause is required in all third-party contracts involving projects subject to the Clean Air Act (42 U.S.C. 1857 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), and the regulations of the Environmental Protection Agency with respect to 40 CFR Part 15, as amended. It should also be mentioned in the bid document.*

- (a) During the performance of this contract, the CONTRACTOR agrees as follows:

- (1) The CONTRACTOR will certify that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the Excluded Party Listing System pursuant to 40 CFR 32.
- (2) The CONTRACTOR agrees to comply with all the requirements of Section 114 of the Clean Air Act, as amended, (42 U.S.C. 1857c-8) and Section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- (3) The CONTRACTOR agrees that as a condition for the award of the contract, prompt notice will be given of any notification received from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that a facility utilized or to be utilized for the contract is under consideration to be listed on the Excluded Party Listing System.
- (4) The CONTRACTOR agrees that it will include or cause to be included the criteria and requirements in Paragraph (1) through (4) of this section in every nonexempt subcontract and require every subcontractor to take such action as the Government may direct as a means of enforcing such provisions.

ALL CONSTRUCTION CONTRACTS IN EXCESS OF \$2,000

In addition to the preceding provisions, all construction contracts in excess of \$2,000 must include, verbatim, the Federal Labor Standards Provisions identified below and found in Appendix 2 of the IEDA CDBG Management Guide. [Housing rehabilitation contracts of less than 8 units are excluded from this requirement.]

14. Federal Labor Standards Provisions

- (a) Davis-Bacon and Related Acts.
- (b) Contract Work Hours and Safety Standard Act.
- (c) Copeland Anti-kickback Act.

END OF SECTION 00 73 33

SECTION 00 73 34

LABOR STANDARDS

Federal Labor Standards Provisions

U.S. Department of Housing
And Urban Development
Office of Labor Relations

Applicability

The Project or Program to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A.1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii)(a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives,

and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor

the full amount of wages required by the contract in the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) **Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD

or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(i), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of

probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under

the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any

trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) **Equal employment opportunity.** The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1010, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of... influencing in any way the action of such Administration... makes, utters or publishes any statement

knowing the same to be false... shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in subparagraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act. (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

END OF SECTION 00 73 34

DAVIS BACON WAGE DETERMINATION

SECTION 00 73 46

"General Decision Number: IA20220055 02/25/2022

Superseded General Decision Number: IA20210055

State: Iowa

Construction Type: Building

County: Wapello County in Iowa.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Contracts subject to the Davis-Bacon Act are generally required to pay at least the applicable minimum wage rate required under Executive Order 14026 or Executive Order 13658. Please note that these Executive Orders apply to covered contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but do not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60).

If the contract is entered into on or after January 30, 2022, or the contract is renewed or extended (e.g., an option is exercised) on or after January 30, 2022:	. Executive Order 14026 generally applies to the contract. . The contractor must pay all covered workers at least \$15.00 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in 2022.
If the contract was awarded on or between January 1, 2015 and January 29, 2022, and the contract is not renewed or extended on or after January 30, 2022:	. Executive Order 13658 generally applies to the contract. . The contractor must pay all covered workers at least \$11.25 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on that contract in 2022.

The applicable Executive Order minimum wage rate will be adjusted annually. If this contract is covered by one of the Executive Orders and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must still submit a conformance request.

Additional information on contractor requirements and worker protections under the Executive Orders is available at <https://www.dol.gov/agencies/whd/government-contracts>.

Modification Number	Publication Date
0	01/07/2022
1	02/11/2022

2 02/18/2022
 3 02/25/2022

BOIL0083-009 01/01/2021

	Rates	Fringes
BOILERMAKER.....	\$ 41.52	30.36

 CARP0004-002 05/01/2021

	Rates	Fringes
CARPENTER (Form Work Only).....	\$ 30.75	25.77

 ELEV0033-002 01/01/2022

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 49.49	36.885+a+b

FOOTNOTES:

A. Employer contributes 8% of regular basic hourly rate as vacation pay credit for employees with more than 5 years of service, and 6% for employees with less than 5 years of service.

B. PAID HOLIDAYS: New Year's Day; Memorial Day; Independence Day; Labor Day; Veteran's Day; Thanksgiving Day; Day after Thanksgiving; & Christmas Day.

 ENGI0150-010 06/01/2021

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Forklift).....	\$ 36.50	35.80

Class 1(B)

 ENGI0150-037 06/01/2021

	Rates	Fringes
POWER EQUIPMENT OPERATOR (Crane).....	\$ 37.50	35.80

Class 1(A)

 IRON0111-002 07/01/2021

	Rates	Fringes
IRONWORKER (Reinforcing).....	\$ 33.75	28.36

 IRON0577-001 08/01/2021

	Rates	Fringes
IRONWORKER (Ornamental).....	\$ 28.00	24.85

 LAB00177-002 05/01/2016

	Rates	Fringes
LABORER (Mason Tender - Brick)...	\$ 24.07	10.98

PAIN0246-001 05/01/2021		
	Rates	Fringes
PAINTER (Brush and Roller).....	\$ 28.84	13.62

PAIN0676-001 05/01/2021		
	Rates	Fringes
DRYWALL FINISHER/TAPER.....	\$ 30.19	16.28

PLUM0033-003 06/01/2021		
	Rates	Fringes
PIPEFITTER (Includes HVAC Pipe and Unit Installation).....	\$ 37.65	22.25

PLUM0033-004 06/01/2021		
	Rates	Fringes
PLUMBER.....	\$ 37.65	22.25

SFIA0669-002 01/01/2022		
	Rates	Fringes
SPRINKLER FITTER (Fire Sprinklers).....	\$ 37.58	24.69

SHEE0091-011 06/01/2018		
	Rates	Fringes
SHEET METAL WORKER (Includes HVAC Duct Installation).....	\$ 30.62	21.45

* UAVG-IA-0001 01/01/2019		
	Rates	Fringes
MILLWRIGHT.....	\$ 28.20	23.74

* SUIA2016-028 07/19/2016		
	Rates	Fringes
BRICKLAYER.....	\$ 25.93	9.70
CARPENTER, Includes Acoustical Ceiling Installation, and Drywall Hanging (Excludes Form Work).....	\$ 20.13	13.22
CEMENT MASON/CONCRETE FINISHER...	\$ 21.12	11.07
ELECTRICIAN, Includes Installation of HVAC/Temperature Controls.....	\$ 23.58	9.15

INSULATOR: Mechanical (Duct, Pipe and Mechanical System Insulation).....	\$ 19.04	7.32
IRONWORKER, STRUCTURAL.....	\$ 25.29	15.89
LABORER: Common or General.....	\$ 17.25	6.93
LABORER: Landscape.....	\$ 14.81 **	0.00
LABORER: Pipelayer.....	\$ 18.00	2.70
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 27.31	15.35
OPERATOR: Bobcat/Skid Steer/Skid Loader.....	\$ 27.55	22.85
OPERATOR: Bulldozer.....	\$ 22.31	8.36
OPERATOR: Loader.....	\$ 25.80	17.19
ROOFER.....	\$ 14.00 **	3.91

WELDERS - Receive rate prescribed for craft performing
operation to which welding is incidental.
=====

** Workers in this classification may be entitled to a higher
minimum wage under Executive Order 14026 (\$15.00) or 13658
(\$11.25). Please see the Note at the top of the wage
determination for more information.

Note: Executive Order (EO) 13706, Establishing Paid Sick Leave
for Federal Contractors applies to all contracts subject to the
Davis-Bacon Act for which the contract is awarded (and any
solicitation was issued) on or after January 1, 2017. If this
contract is covered by the EO, the contractor must provide
employees with 1 hour of paid sick leave for every 30 hours
they work, up to 56 hours of paid sick leave each year.
Employees must be permitted to use paid sick leave for their
own illness, injury or other health-related needs, including
preventive care; to assist a family member (or person who is
like family to the employee) who is ill, injured, or has other
health-related needs, including preventive care; or for reasons
resulting from, or to assist a family member (or person who is
like family to the employee) who is a victim of, domestic
violence, sexual assault, or stalking. Additional information
on contractor requirements and worker protections under the EO
is available at
<https://www.dol.gov/agencies/whd/government-contracts>.

Unlisted classifications needed for work not included within
the scope of the classifications listed may be added after
award only as provided in the labor standards contract clauses
(29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification

and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than "SU" or "UAVG" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the "SU" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour National Office because National Office has responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISIO"

END OF SECTION 00 73 46

SECTION 00 41 00

BID FORM

Pursuant to & in compliance w/ the Bidding Documents relating to the Building Contract for:

North Market Façade Improvements

Including Addenda Nos. 1, 2, the undersigned, having become thoroughly familiar with the terms and conditions of the proposed Contract Documents prepared by Curtis Architecture & Design, with local conditions affecting performance and costs of the Work at the place where the Work is to be completed, and having fully inspected the site in all particulars, hereby proposes and agrees to fully perform the Work in strict accord with the proposed Contract Documents, including furnishing all labor and materials, and to do all the work required to construct and complete said Work in accordance with the Contract Documents, for the consideration of the sum of money stated below.

BASE BID: \$ 277,777 (including all Allowances)

Two hundred seventy-seven thousand seven hundred seventy-seven and no/100 DOLLARS

ESTIMATED CONSTRUCTION TIMELINE May 31st, 2023

We understand the Owner reserves the right to reject this bid, or to negotiate with the Bidder, when such is deemed by the Owner to be in his best interest, but that this bid shall remain open and not be withdrawn for a period of thirty days from the date prescribed for its opening.

If written notice of the acceptance of this bid is mailed, faxed, or delivered to the undersigned within thirty days after the date set for the opening of this bid, or at any time thereafter before it is withdrawn, the undersigned will sign and return the Contract Agreement; prepared in accord with the Bidding Documents and this bid as accepted.

Notice of acceptance, or request for additional information, may be addressed to the undersigned at the address set forth below.

Name of Contractor: Christner Contracting Inc. Date: 06/09/2022

Signature of Bidder: [Handwritten Signature]

Typed / hand printed name of signer: Anthony Christner

Note: If bidder is a corporation, set forth the legal name of the corporation together with the signature of the officer, officers, or agent authorized to sign contracts on behalf of the corporation. If bidder is a partnership, set forth the name of the firm together with the signature of the partner or partners authorized to sign contracts on behalf of the partnership.

Business address: 17587 Hwy 34 Ottumwa, IA 52501

Email address: info@christnercontracting.com

Telephone #: 641.684.0648 Federal Tax ID #: 20-8955145

INTENT TO COMPLY WITH SECTION 3 REQUIREMENTS
(Conforms to 2021 IEDA CDBG Management Guide)

This form shall be provided with procurement documents and returned with all submitted bids.

Section 3 of the Housing and Urban Development Act of 1968 [12 U.S.C. 1701u and 24 CFR Part 75] is HUD's legislative directive for ensuring that economic opportunities resulting from HUD financial assistance, including employment, job training, and contracting are, to the greatest extent feasible, directed to low- and very low-income persons, and the businesses that employ these individuals, are notified about the expenditure of HUD funds in their community and encouraged to seek opportunities, if created.

A Section 3 Worker is defined as any worker who currently fits or when hired within the past five years fit at least one of the following categories, as documented:

1. The worker's income for the previous annualized calendar year is below the applicable income limit established by HUD;
2. The worker is employed by a Section 3 business concern; or
3. The worker is a YouthBuild participant.

A Targeted Section 3 Worker is defined as a Section 3 worker who fits one of the following categories:

1. A worker is employed by a Section 3 business concern; or
2. A worker who currently fits or when hired fit at least one of the following categories, as documented within the past five years:
 - a. Living within one mile of the project, or if fewer than 5,000 people live within one mile of the project, within a circle centered on the project that is sufficient to encompass a population of 5,000 people; or
 - b. The worker is a YouthBuild participant.

A Section 3 Business is defined as a business in which:

1. At least 51% owned by low- or very low-income persons;
2. Over 75% of the labor hours performed for the business over the prior three-month period are performed by Section 3 workers; or
3. At least 51% owned and controlled by current public housing residents or residents who currently live in Section 8-assisted living.

Note: If your business meets the definition of a Section 3 business, you may register as a Section 3 Business through HUD's Business Registry here: <https://portalapps.hud.gov/Sec3BusReg/BRegistry/RegisterBusiness>

Businesses who self-certify that they meet one of the regulatory definitions of a Section 3 business will be included in a searchable online database. The database can be used by agencies that receive HUD funds, developers, contractors, and others to facilitate the award of covered construction and non-construction contracts to Section 3 businesses.

Please complete the following:

1. If awarded a contract for this CDBG funded project, do you anticipate being able to determine employees' hourly wages and addresses?

Yes No

If yes, please estimate the number of hours to be completed on the project by all workers: 2500

2. Is your business a Section 3 Business?

Yes No

3. Is the bidder willing to consider hiring Section 3 Workers for future employment opportunities that are a direct result of this CDBG funded project?

Yes No


4. Is the bidder willing to consider subcontracting with Section 3 Businesses for this project?

Yes No

5. Is the bidder willing to provide information on hours worked by Section 3 Workers and Targeted Section 3 Workers on this project?

Yes No

I understand that this contracting opportunity is subject to HUD Section 3 requirements [24 CFR Part 75]. I have read and understand the Section 3 requirements as generally described above and presented in the Section 3 contract language included in the procurement documents for this project. If awarded a contract, the business commits to following Section 3 requirements, as they apply to this project. If awarded a contract for this project, the business agrees to provide reports to the City of Ottumwa on Section 3 efforts and accomplishments.

Christner Contracting Inc.	17587 Hwy 34 Ottumwa, IA 52501
Name of Contractor/Subcontractor	Address
Anthony Christner	CEO
Print Name	Title
	06/09/2022
Signature	Date

END OF SECTION 00 41 00

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Christner Contracting, Inc.
17587 Highway 34 West
Ottumwa, IA 52501

SURETY:

(Name, legal status and principal place of business)

Employers Mutual Casualty Company
P.O. Box 712
Des Moines, IA 50306

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.

OWNER:

(Name, legal status and address)

City of Ottumwa
105 E. Third St.
Ottumwa, IA 52501

BOND AMOUNT: \$ Five Percent (5%) of the Total Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

North Market Façade Improvements, Ottumwa, IA

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, 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.

Signed and sealed this 6th day of June 2022


(Witness) Dorell Christner

Christner Contracting, Inc.
(Principal) _____ (Seal)


(Title) Anthony Christner CEO


(Witness) Sara Huston

Employers Mutual Casualty Company
(Surety) _____ (Seal)


(Title) Dione R. Young, Attorney-in-Fact



POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

KNOW ALL MEN BY THESE PRESENTS, that:

- 1. Employers Mutual Casualty Company, an Iowa Corporation
- 2. EMCASCO Insurance Company, an Iowa Corporation
- 3. Union Insurance Company of Providence, an Iowa Corporation
- 4. Illinois EMCASCO Insurance Company, an Iowa Corporation
- 5. Dakota Fire Insurance Company, a North Dakota Corporation
- 6. EMC Property & Casualty Company, an Iowa Corporation

hereinafter referred to severally as "Company" and collectively as "Companies", each does, by these presents, make, constitute and appoint:

CRAIG E. HANSEN, BRIAN M. DEIMERLY, JAY D. FREIERMUTH, TIM MCCULLOH, CINDY BENNETT, ANNE CROWNER, STACY VENN, DIONE R. YOUNG, SHIRLEY S BARTENHAGEN

its true and lawful attorney-in-fact, with full power and authority conferred to sign, seal, and execute the Surety Bond:

In an amount not exceeding Ten Million Dollars\$10,000,000.00

and to bind each Company thereby as fully and to the same extent as if such instruments were signed by the duly authorized officers of each such Company, and all of the acts of said attorney pursuant to the authority hereby given are hereby ratified and confirmed.

The authority hereby granted shall expire October 10th, 2022, unless sooner revoked.

AUTHORITY FOR POWER OF ATTORNEY

This Power-of-Attorney is made and executed pursuant to and by the authority of the following resolution of the Boards of Directors of each of the Companies at the first regularly scheduled meeting of each company duly called and held in 1999:

RESOLVED: The President and Chief Executive Officer, any Vice President, the Treasurer and the Secretary of Employers Mutual Casualty Company shall have power and authority to (1) appoint attorneys-in-fact and authorize them to execute on behalf of each Company and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof; and (2) to remove any such attorney-in-fact at any time and revoke the power and authority given to him or her. Attorneys-in-fact shall have power and authority, subject to the terms and limitations of the power-of-attorney issued to them, to execute and deliver on behalf of the Company, and to attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof, and any such instrument executed by any such attorney-in-fact shall be fully and in all respects binding upon the Company. Certification as to the validity of any power-of-attorney authorized herein made by an officer of Employers Mutual Casualty Company shall be fully and in all respects binding upon this Company. The facsimile or mechanically reproduced signature of such officer, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power-of-attorney of the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

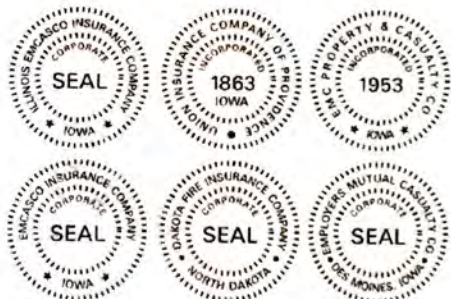
IN WITNESS THEREOF, the Companies have caused these presents to be signed for each by their officers as shown, and the Corporate seals to be hereto affixed this 30th day of March, 2020.

Scott R. Jean

Scott R. Jean, President & CEO
of Company 1; Chairman, President
& CEO of Companies 2, 3, 4, 5 & 6

Todd Stroth

Todd Stroth, Executive Vice President
Chief Legal Officer & Secretary of
Companies 1, 2, 3, 4, 5 & 6



On this 30th day of March, 2020 before me a Notary Public in and for the State of Iowa, personally appeared Scott R. Jean and Todd Stroth, who, being by me duly sworn, did say that they are, and are known to me to be the CEO, Chairman, President, Executive Vice President, Chief Legal Officer and/or Secretary, respectively, of each of the Companies above; that the seals affixed to this instrument are the seals of said corporations; that said instrument was signed and sealed on behalf of each of the Companies by authority of their respective Boards of Directors; and that the said Scott R. Jean and Todd Stroth, as such officers, acknowledged the execution of said instrument to be their voluntary act and deed, and the voluntary act and deed of each of the Companies.

My Commission Expires October 10, 2022.

Kathy Loveridge

Kathy Loveridge
Notary Public in and for the State of Iowa



CERTIFICATE

I, James D. Clough, Vice President of the Companies, do hereby certify that the foregoing resolution of the Boards of Directors by each of the Companies, and this Power of Attorney issued pursuant thereto on 30th day of March, 2020, are true and correct and are still in full force and effect.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 6th day of June, 2022.

James D. Clough

Vice President

CITY OF OTTUMWA

Staff Summary

**** ACTION ITEM ****

Council Meeting of: July 5, 2022

John Lloyd WPCF Superintendent

Prepared By

Public Works - WPCF
Department

Larry Seals *Larry Seals*
Department Head

[Signature]

City Administrator Approval

AGENDA TITLE: Replacement of Chopper Pump

Public hearing required if this box is checked.

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION:

Approve the replacement of a Vaughan Model HE6U8CS-118 Horizontal Suction Chopper Pump in the amount of \$11,721.

DISCUSSION: This is to replace a recently replaced identical unit used for mixing bio-solids in the Primary Digester. This keeps a spare on hand to use in the future. The cost of an assembled unit is \$11,721 and a pump repair kit would be 11,225. Due to a difference in price of less than \$500 we would recommend a pump from the factory and not the rebuild kit.

WPCF budgeted \$75,000 in 610-8-815-6727 and will be taken out of the line item. With and expense of \$11,721.00 there would be a balance of \$63,279.



QUOTATION

DATE: June 23, 2022
TO: Motion - Tony Paris
SUBJECT: Vaughan Pump Replacement
RE: HE6U8CS Serial # 142493

We are pleased to offer the following materials for the above referenced pump.

SCOPE OF SUPPLY

**Option 1) 1 EA Vaughan Model HE6U8CS-118
"Complete Unit" Horizontal End Suction Chopper
Pump consisting of:**
Casing and Backplate, cast ductile iron.
Impeller, Cutter Bar, Cutter Nut and Upper Cutter, cast steel, heat treated to minimum Rockwell C60.
Shaft, heat treated steel supported by rolling element bearings.
Bearings, oil bath lubricated with minimum 100,000 hour L-10 bearing life.
Bearing Housing, cast ductile iron with sight glass and bronze non-contacting labyrinth bearing isolators at each end.
Flushless Mechanical Seal, cartridge type with stainless steel housing, integral stainless steel shaft sleeve, and tungsten carbide faces.
Elastomers, Buna N
Flanges, 6" discharge & 8" inlet, ANSI Class 125.
Pump Finish: Solvent wash and coated with Tnemec Perma-Shield PL Series 431 epoxy. (Except Motor & powder coated base.)
Electric Motor as described below:
DRIVE, 30 HP, 1200 RPM, 460/3/60, premium efficient 1.15 SF, "C" flanged, TEFC enclosure.
Coupling, elastomeric type by TB Woods.
Motor Mount, fabricated steel, piloted for self-aligning mounting of a C-face flange mounted motor.
Base, powder coated steel complete with lifting eyes and anchor bolt holes
Mounting Pad Set
Freight, F.O.B. Ottumwa, IA

TOTAL PRICE:

\$19,960.00

**Option 2) 1 EA Vaughan Model HE6U8CS-118
"Bare" Horizontal End Suction Chopper Pump
consisting of:**

Casing and Backplate, cast ductile iron.

Impeller, Cutter Bar, Cutter Nut and Upper Cutter, cast steel, heat treated to minimum Rockwell C60.

Shaft, heat treated steel supported by rolling element bearings.

Bearings, oil bath lubricated with minimum 100,000 hour L-10 bearing life.

Bearing Housing, cast ductile iron with sight glass and bronze non-contacting labyrinth bearing isolators at each end.

Flushless Mechanical Seal, cartridge type with stainless steel housing, integral stainless steel shaft sleeve, and tungsten carbide faces.

Elastomers, Buna N

Flanges, 6" discharge & 8" inlet, ANSI Class 125.

Pump Finish: Solvent wash and coated with Tnemec Perma-Shield PL Series 431 epoxy. (Except Motor & powder coated base.)

Freight, F.O.B. Ottumwa, IA

TOTAL PRICE:

\$ 11,721.00

ADD FOR MOUNTING PAD SET, IF RQUIRED

\$ 265.00

Option 3) 1 Heat Treating Casing Volute (interior) For Option 1 or 2

DEDUCT PRICE FOR NOT HEAT TREATED CASING:

<\$ 775.00>

NOTES:

- Heat treating the casing may help extend volute life.
- Availability is estimated at 8 weeks after receipt of purchase order.
- Pricing is valid for thirty (30) days from June 23, 2022.
- There is a mounting pad on the base to re-use under the feet of the pump if you go with the "complete pump unit" option.
- Unloading and storage is by Others.
- If this pump will be stored for more than thirty (30) days the shaft must be turned every thirty (30) days.
- Sales tax is not included.

#1 Chopper
Rebuild/Repair



QUOTATION

DATE: June 23, 2022
TO: City of Ottumwa
SUBJECT: Vaughan Pump Repair
RE: HE6U8CS Serial # 142493-06/18

We are pleased to offer the following repair materials/services for the above referenced pump.

SCOPE OF SUPPLY

Quantity	Description
	Recommended Repair Parts
1	Impeller V111-133-118
2	Thrust Bearing V801-139
2	Radial Bearing V801-132
1	Flushless Mechanical Seal V801-309HES
1	Cutter Bar V114-681
1	Bearing Nut V801-603
1	Bearing Nut Retainer V801-602
1	Upper Cutter V103--852
1	Cutter Nut V104-611
2	O Ring V850-358B
1	Upper Cutter Shims V104-072
2	O Ring V850-380B
1	O Ring V801-640B
1	Gasket V112-831
1	Freight

TOTAL: \$7,145.00

	Likely Needed
1	Suction Plate V107-345 with heat treating
1	Casing V107-314
1	Freight

TOTAL: \$4,080.00

Ottumwa
June 23, 2022
-page 2-

SERVICES

- Free pick up and delivery.
- Shop labor estimate for teardown, inspection and repair based on the above materials.
- One (1) year warranty on repairs.

TOTAL: \$1,500.00

NOTES:

- Availability of materials 2-3 weeks after receipt of order.
- Sales tax is not included.
- Quote is valid for 30 days from June 23, 2022.

Thank you for the opportunity to offer this proposal. Feel free to contact me with any questions or if additional data is required.

Sincerely;

ALLIED SYSTEMS, INC.

Larry Landphair

Larry Landphair
Sales Engineer



#1 Chopper

Quote

MOTION INDUSTRIES

710 SOUTH MADISON AVENUE
OTTUMWA, IA 52501-5228
PHONE : 6416825401
FAX : 6416821688

Date: 06/20/22

Note: Due to recent volatility of raw materials, price and delivery are subject to change based on availability at time of order.

Requests for statutory and regulatory documentation (REACH, RoHS, California Prop 65, Conflict Minerals, Certificates of Conformance, Safety Data Sheets, and other applicable compliance documents) for the product(s) in this order must be communicated by the customer to the Motion Industries, Inc. sales representative at the time the order is placed. Motion Industries, Inc. cannot accept requests for these documents after completion of the sale.

To:
CITY OF OTTUMWA CITY HALL SHIPPING TO:

CITY OF OTTUMWA
WPCF
SOUTH EMMA
OTTUMWA, IA 52501-1701
PO: VAUGHAN PUMP
REL: TYLER BURNS

Quote Number: IA08 - 0000232913
Customer RFQ: VAUGHAN PUMP
FOB: FOB ORG,FRT PP&ADD
Quote Sent By: TONY
Payment Terms: 1% 10TH & 25TH NET 30
Delivery: STOCK UNLESS NOTED

CUST.PICK-UP BRANCH

Description	Manufacturer	Quantity	Unit	Unit Price	Amount
LINE ITEM: 001 VAUGHAN MODEL HE6U8CS-118 COMPLETE UNIT WITH MOTOR ITEM NO: 99999999 Lead Time: 8 WEEKS	VAUGHAN COMPANY	1	EA	\$25,156.540	\$25,156.54
Expected Date:					

BUYER UNDERSTANDS AND AGREES THAT GOODS PRESENTED TO BUYER PURSUANT TO THIS INVOICE ARE BEING TENDERED CONTINGENT UPON BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS RELATED TO SALES. MOTION'S TERMS AND CONDITIONS ARE AVAILABLE AT THE MOTION BRANCH OR AT WWW.MOTIONINDUSTRIES.COM. BUYER'S ACCEPTANCE OF THE DELIVERY OF THE GOODS SHALL CONFIRM BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS.

Description	Manufacturer	Quantity	Unit	Unit Price	Amount
<p>VAUGHAN MODEL HE6U8CS-118 COMPLETE UNIT HORIZONTAL END SUCTION CHOPPER PUMP CONSISTING OF: CASING AND BACKPLATE, CAST DUCTILE IRON. IMPELLER, CUTTER BAR, CUTTER NUT AND UPPER CUTTER, CAST STEEL, HEAT TREATED TO MINIMUM ROCKWELL C60. SHAFT, HEAT TREATED STEEL SUPPORTED BY ROLLING ELEMENT BEARINGS. BEARINGS, OIL BATH LUBRICATED WITH MINIMUM 100,000 HOUR L-10 BEARING LIFE. BEARING HOUSING, CAST DUCTILE IRON WITH SIGHT GLASS AND BRONZE NON-CONTACTING LABYRINTH BEARING ISOLATORS AT EACH END. FLUSHLESS MECHANICAL SEAL, CARTRIDGE TYPE WITH STAINLESS STEEL HOUSING, INTEGRAL STAINLESS STEEL SHAFT SLEEVE, AND TUNGSTEN CARBIDE FACES. ELASTOMERS, BUNA N FLANGES, 6 DISCHARGE & 8" INLET, ANSI CLASS 125. PUMP FINISH: SOLVENT WASH AND COATED WITH TNE MEC PERMA-SHIELD PL SERIES 431 EPOXY. (EXCEPT MOTOR & POWDER COATED BASE.) ELECTRIC MOTOR AS DESCRIBED BELOW: DRIVE, 30 HP, 1200 RPM, 460/3/60, PREMIUM EFFICIENT 1.15 SF, "C" FLANGED, TEFC ENCLOSURE. COUPLING, ELASTOMERIC TYPE BY TB WOODS. MOTOR MOUNT, FABRICATED STEEL, PILOTED FOR SELF-ALIGNING MOUNTING OF A C-FACE FLANGE MOUNTED MOTOR. BASE, POWDER COATED STEEL COMPLETE WITH LIFTING EYES AND ANCHOR BOLT HOLES MOUNTING PAD SET FREIGHT, F.O.B. OTTUMWA, IA</p>					
<p>LINE ITEM: 002</p>		1	EA	\$15,342.870	<u>\$15,342.87</u>
<p>VAUGHAN MODEL HE6U8CS-118 HORIZONTAL END SUCTION CHOPPER PUMP</p>					
<p>ITEM NO: 99999999 VAUGHAN COMPANY</p>					
<p>Lead Time: 8 WEEKS</p>					
<p style="text-align: right;">Expected Date:</p>					

BUYER UNDERSTANDS AND AGREES THAT GOODS PRESENTED TO BUYER PURSUANT TO THIS INVOICE ARE BEING TENDERED CONTINGENT UPON BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS RELATED TO SALES. MOTION'S TERMS AND CONDITIONS ARE AVAILABLE AT THE MOTION BRANCH OR AT WWW.MOTIONINDUSTRIES.COM. BUYER'S ACCEPTANCE OF THE DELIVERY OF THE GOODS SHALL CONFIRM BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS.

Description	Manufacturer	Quantity	Unit	Unit Price	Amount
<p>CASING AND BACKPLATE, CAST DUCTILE IRON. IMPELLER, CUTTER BAR, CUTTER NUT AND UPPER CUTTER, CAST STEEL, HEAT TREATED TO MINIMUM ROCKWELL C60. SHAFT, HEAT TREATED STEEL SUPPORTED BY ROLLING ELEMENT BEARINGS. BEARINGS, OIL BATH LUBRICATED WITH MINIMUM 100,000 HOUR L-10 BEARING LIFE. BEARING HOUSING, CAST DUCTILE IRON WITH SIGHT GLASS AND BRONZE NON-CONTACTING LABYRINTH BEARING ISOLATORS AT EACH END. FLUSHLESS MECHANICAL SEAL, CARTRIDGE TYPE WITH STAINLESS STEEL HOUSING, INTEGRAL STAINLESS STEEL SHAFT SLEEVE, AND TUNGSTEN CARBIDE FACES. ELASTOMERS, BUNA N FLANGES, 6 DISCHARGE & 8" INLET, ANSI CLASS 125. PUMP FINISH: SOLVENT WASH AND COATED WITH TNEC PERMA-SHIELD PL SERIES 431 EPOXY. (EXCEPT MOTOR & POWDER COATED BASE.) HEAT TREATING THE CASING MAY HELP EXTEND VOLUTE LIFE. AVAILABILITY IS ESTIMATED AT 8 WEEKS AFTER RECEIPT OF PURCHASE ORDER. PRICING IS VALID FOR THIRTY (30) DAYS FROM JUNE 20, 2022. THERE IS A MOUNTING PAD ON THE BASE TO RE-USE UNDER THE FEET OF THE PUMP IF YOU GO WITH THE COMPLETE PUMP UNIT OPTION. UNLOADING AND STORAGE IS BY OTHERS. IF THIS PUMP WILL BE STORED FOR MORE THAN THIRTY (30) DAYS THE SHAFT MUST BE TURNED EVERY THIRTY (30) DAYS.</p>					
SUB TOTAL:					\$40,499.41
SALES TAX:					\$0.00
TOTAL: USD					\$40,499.41
<p>Want to view inventory and place orders on-line? MotionIndustries.com can meet your needs. Register On-line at www.MotionIndustries.com.</p>					

BUYER UNDERSTANDS AND AGREES THAT GOODS PRESENTED TO BUYER PURSUANT TO THIS INVOICE ARE BEING TENDERED CONTINGENT UPON BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS RELATED TO SALES. MOTION'S TERMS AND CONDITIONS ARE AVAILABLE AT THE MOTION BRANCH OR AT WWW.MOTIONINDUSTRIES.COM. BUYER'S ACCEPTANCE OF THE DELIVERY OF THE GOODS SHALL CONFIRM BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS.

CITY OF OTTUMWA

Staff Summary

**** ACTION ITEM ****

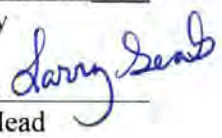
Council Meeting of: July 5, 2022

John Lloyd WPCF Superintendent

Prepared By

Public Works - WPCF
Department

Larry Seals
Department Head




City Administrator Approval

AGENDA TITLE: Replacement of Chopper Pump

**Public hearing required if this box is checked. **

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION:

Approve the replacement of a Vaughan Model HE3L6CS-080 Horizontal Suction Chopper Pump in the amount of \$9,910.

DISCUSSION: This is to replace a recently replaced identical unit used for mixing bio-solids in the Primary Digester. This keeps a spare on hand to use in the future. The cost of an assembled unit is \$9,910 and a pump repair kit would be 8,875. Due to a difference of \$1,035 we would recommend a pump from the factory and not the rebuild kit.

WPCF budgeted \$75,000 in 610-8-815-6727 and will be taken out of the line item. With and expense of \$9910.00 there would be a balance of \$53,369.



QUOTATION

DATE: June 23, 2022
TO: City of Ottumwa
SUBJECT: Vaughan Pump Replacement
RE: HE3L6CSB-080 Serial # 157772

We are pleased to offer the following materials for the above referenced pump.

SCOPE OF SUPPLY

Option 1) 1 EA VAUGHAN MODEL HE3L6CS-080
"COMPLETE" HORIZONTAL BELT DRIVEN
END SUCTION CHOPPER PUMP CONSISTING
OF:

- CASING AND BACK PULL-OUT PLATE, cast ductile iron.
- IMPELLER, CUTTER NUT AND UPPER CUTTER, cast steel, heat treated to minimum 60 Rockwell C Hardness. Impeller dynamically balanced.
- CUTTER BAR, cast steel, heat treated to minimum 60 Rockwell C Hardness.
- SHAFT, heat treated steel.
- BEARINGS, ball type thrust and radial bearings, oil lubricated.
- BEARING HOUSING, cast ductile iron with sight glass.
- FLUSHLESS MECHANICAL SEAL, cartridge type with TC faces and integral shaft sleeve, as manufactured by Vaughan.
- ELASTOMERS, BUNA N
- FLANGES, 6" discharge & 3" inlet, 125 LB ANSI rated.
- PUMP STANDARD FINISH: treated with solvent wash and a single coat of Tnemec Perma-Shield PL Series 431 Epoxy (minimum 5 MDFT). (Except Motor)

Electric Motor as described below:

DRIVE, 15 HP, 1800 RPM, 460/3/60, premium efficient 1.15 SF, "Foot Mount" flanged, TEFC enclosure.

Side Mount Belt Drive Base, powder coated steel complete with lifting eyes and anchor bolt holes

Mounting Pad Set

Freight, F.O.B. Ottumwa, IA

TOTAL PRICE:

\$15,945.00

Ottumwa
June 23, 2022

-page 2-

**Option 2) 1 EA VAUGHAN MODEL HE3L6CS-080 "BARE"
HORIZONTAL BELT DRIVEN END SUCTION
CHOPPER PUMP CONSISTING OF:**

- **CASING AND BACK PULL-OUT PLATE**, cast ductile iron.
 - **IMPELLER, CUTTER NUT AND UPPER CUTTER**, cast steel, heat treated to minimum 60 Rockwell C Hardness. Impeller dynamically balanced.
 - **CUTTER BAR**, cast steel, heat treated to minimum 60 Rockwell C Hardness.
 - **SHAFT**, heat treated steel.
 - **BEARINGS**, ball type thrust and radial bearings, oil lubricated.
 - **BEARING HOUSING**, cast ductile iron with sight glass.
 - **FLUSHLESS MECHANICAL SEAL**, cartridge type with TC faces and integral shaft sleeve, as manufactured by Vaughan.
 - **ELASTOMERS**, BUNA N
 - **FLANGES**, 6" discharge & 3" inlet, 125 LB ANSI rated.
 - **PUMP STANDARD FINISH**: treated with solvent wash and a single coat of Tnemec Perma-Shield PL Series 431 Epoxy (minimum 5 MDFT). (Except Motor)
- Freight, F.O.B. Ottumwa, IA**

TOTAL PRICE:

~~\$ 9,910.00~~

ADD FOR MOUNTING PAD SET, IF REQUIRED:

\$ 265.00

Option 3) 1 Heat Treating Casing Volute (interior)

DEDUCT PRICE FOR NOT HEAT TREATED CASING:

<\$ 775.00>

NOTES:

- Heat treating the casing may help extend volute life.
- Availability is estimated at 8 weeks after receipt of purchase order.
- Pricing is valid for thirty (30) days from June 23, 2022.
- There is a mounting pad on the existing base to re-use under the feet of the pump if you go with the "bare unit" option.
- Unloading and storage is by Others.
- If this pump will be stored for more than thirty (30) days the shaft must be turned every thirty (30) days.
- Sales tax is not included.

Ottumwa
June 23, 2022

-page 3-

Thank you for the opportunity to offer this proposal. Feel free to contact me with any questions or if additional data is required.

Sincerely;

ALLIED SYSTEMS, INC.

Larry Landphair

Larry Landphair



QUOTATION

DATE: June 23, 20220
 TO: City of Ottumwa
 SUBJECT: Vaughan Pump Repair
 RE: HE3L6CSB-080 Serial # 80399A-05/05

We are pleased to offer the following repair materials/Services for the above referenced pump

SCOPE OF SUPPLY

Quantity	Description
	Recommended Repair Parts
1	Key V801-611
1	Impeller V102-539-080
2	Thrust Bearing V801-139
2	Radial Bearing V801-132
1	Mechanical Seal V801-309
1	Cutter Bar V107-347
1	Slinger Seal V801-827
1	Grease Seal V801-767
1	Bearing Nut V801-603
1	Bearing Nut Retainer V801-602
1	Lip Seal V801-826
1	Lip Seal Sleeve V108-605
1	O Ring V801-826
1	Cutter Nut V104-611
1	O Ring Cartridge V850-358B
1	Upper Cutter Shim V104-072
2	O Ring V850-375B
1	O Ring V850-267B
1	O Ring V850-369B
1	O Ring V850-453B
2	Belts BX64
1	Freight

TOTAL: \$ 5,925.00

	Likely Needed
1	Casing V107-161 with heat treating
1	Suction Plate V107-343
1	Freight

TOTAL: \$ 2,950.00

Ottumwa
June 23, 2022
-page 2-

SERVICES

- Free pick up and delivery.
- Shop labor estimate for teardown, inspection and repair based on the above materials.
- One (1) year warranty on repairs.

TOTAL: \$1,500.00

NOTES:

- Availability of materials 2-3 weeks after receipt of order.
- Sales tax is not included.
- Quote is valid for 30 days from June 23, 2022.

Thank you for the opportunity to offer this proposal. Feel free to contact me with any questions or if additional data is required.

Sincerely;

ALLIED SYSTEMS, INC.

Larry Landphair

Larry Landphair
Sales Engineer



#2 Primary

Quote

MOTION INDUSTRIES
 710 SOUTH MADISON AVENUE
 OTTUMWA, IA 52501-5228
 PHONE : 6416825401
 FAX : 6416821688

Date: 06/22/22

Note: Due to recent volatility of raw materials, price and delivery are subject to change based on availability at time of order.

Requests for statutory and regulatory documentation (REACH, RoHS, California Prop 65, Conflict Minerals, Certificates of Conformance, Safety Data Sheets, and other applicable compliance documents) for the product(s) in this order must be communicated by the customer to the Motion Industries, Inc. sales representative at the time the order is placed. Motion Industries, Inc. cannot accept requests for these documents after completion of the sale.

To:
 CITY OF OTTUMWA CITY HALL SHIPPING TO:

 CITY OF OTTUMWA
 SOUTH EMMA
 WPCF
 ATTN: TYLER BURNS
 OTTUMWA, IA 52501-1701
 PO: VAUGHN PUMP #2
 REL: TYLER BURNS

Quote Number: IA08 - 0000232998
Customer RFQ: VAUGHN PUMP #2
FOB: FOB ORG,FRT PP&ADD
Quote Sent By: TONY
Payment Terms: 1% 10TH & 25TH NET 30
Delivery: STOCK UNLESS NOTED

CUST.PICK-UP BRANCH

Description	Manufacturer	Quantity	Unit	Unit Price	Amount
LINE ITEM: 001 VAUGHAN MODEL HE3L6CS-080 COMPLETE UNIT WITH MOTOR ITEM NO: 99999999 VAUGHAN COMPANY Lead Time: 8 WEEKS Expected Date:		1	EA	\$19,986.760	\$19,986.76
LINE ITEM: 002 VAUGHAN MODE HE3L6CS-080 HORIZONTAL END SUCTION CHOPPER PUMP ITEM NO: 99999999 VAUGHAN COMPANY Lead Time: 8 WEEKS Expected Date:		1	EA	\$13,252.600	\$13,252.60

BUYER UNDERSTANDS AND AGREES THAT GOODS PRESENTED TO BUYER PURSUANT TO THIS INVOICE ARE BEING TENDERED CONTINGENT UPON BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS RELATED TO SALES. MOTION'S TERMS AND CONDITIONS ARE AVAILABLE AT THE MOTION BRANCH OR AT WWW.MOTIONINDUSTRIES.COM. BUYER'S ACCEPTANCE OF THE DELIVERY OF THE GOODS SHALL CONFIRM BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS.

Description	Manufacturer	Quantity	Unit	Unit Price	Amount
				SUB TOTAL:	\$33,239.36
				SALES TAX:	\$0.00
				TOTAL: USD	\$33,239.36
<p>Want to view inventory and place orders on-line? MotionIndustries.com can meet your needs. Register On-line at www.MotionIndustries.com.</p>					

BUYER UNDERSTANDS AND AGREES THAT GOODS PRESENTED TO BUYER PURSUANT TO THIS INVOICE ARE BEING TENDERED CONTINGENT UPON BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS RELATED TO SALES. MOTION'S TERMS AND CONDITIONS ARE AVAILABLE AT THE MOTION BRANCH OR AT WWW.MOTIONINDUSTRIES.COM. BUYER'S ACCEPTANCE OF THE DELIVERY OF THE GOODS SHALL CONFIRM BUYER'S AGREEMENT TO ALL OF MOTION'S TERMS AND CONDITIONS.

Item No. G.-1.

CITY OF OTTUMWA

Staff Summary

**** ACTION ITEM ****

Council Meeting of: July 5, 2022

Alicia Bankson

Prepared By

Darryl Seals

Department Head

Engineering

Department

[Signature]

City Administrator Approval

AGENDA TITLE: Resolution #177-2022. Approving the Plans, Specifications, Form of Contract and Estimated Cost for the Friction Seal Project 2022.

**Public hearing required if this box is checked. **

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION: Pass and adopt Resolution #177-2022.

DISCUSSION: This project is for the application of a Friction Seal surface treatment. This process is similar to a chip seal, except it uses angular granite chips instead of pea gravel. Unlike with pea gravel the angular chips won't come loose and get kicked up by high speed traffic. The chips also improve road friction versus the existing asphalt surface. The process includes first patching and sealing the existing pavement surface, then a single pass application of binder and granite chips. This protects the existing asphalt surface from oxidation and is expected to last 6-9 years.

Bids will be received and opened by the City of Ottumwa on July 27, 2022 at 2:00 p.m. The bid report and bid award recommendation will be presented at the City Council meeting on August 2, 2022, or at a later date as determined by staff.

Estimated Cost: \$115,000.00

Source of Funds: ESRP – LOST Transfer Budgeted Item: Yes Budget Amendment Needed: No

RESOLUTION #177-2022

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, FORM OF CONTRACT,
AND ESTIMATED COST FOR THE FRICTION SEAL PROJECT 2022

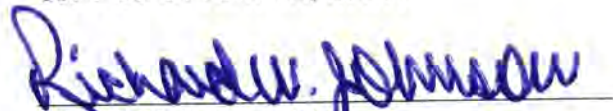
WHEREAS, The City Council of the City of Ottumwa, Iowa has conducted a public hearing on the plans, specifications, form of contract, and estimated cost for the above referenced project; and,

WHEREAS, No objections to the said plans, specifications, form of contract and estimated cost were received.


NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA THAT: The plans, specifications, form of contract, and estimated cost for the above referenced project are hereby approved and adopted.

APPROVED, PASSED, AND ADOPTED, this 5th day of July, 2022.

CITY OF OTTUMWA, IOWA


Richard W. Johnson, Mayor

ATTEST:


Christina Reinhard, City Clerk

PROOF OF PUBLICATION

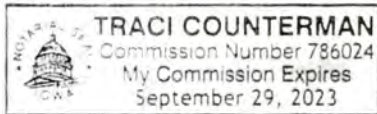
STATE OF IOWA
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

Notice of Public Hearing Section 00010 Friction Seal
City of Ottumwa hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 6/21/22

Subscribed and sworn to before me, and in my presence, by the said 21st day of June, 2022



Traci Counterman

Notary Public

In and for Wapello County

Printer's fee \$24.04

COPY OF ADVERTISEMENT

SECTION 00010
NOTICE OF PUBLIC HEARING

The City Council of Ottumwa, Iowa, will hold a public hearing on the proposed Plans and Specifications, form of contract and estimate of cost for the construction of said improvements described in general as "Friction Seal Project 2022 - Ottumwa, Iowa" at 5:30 o'clock p.m. on July 5, 2022, in the Council Chambers, City Hall, Ottumwa, Iowa. At said hearing any interested person may appear and file objections thereto or to the cost of the improvements. At the hearing, the City will receive and consider any objections made by any interested party, to the Plans and Specifications, proposed form of Contract, and the estimate of cost for the project. The work to be done is as follows: Furnish all labor, materials and equipment to construct the following: This project is for the application of a Friction Seal surface treatment. This process is similar to a chip seal, except it uses angular granite chips instead of pea gravel. The process includes first patching and sealing the existing pavement surface, then a single pass application of binder and granite chips. All work and materials are to be in strict compliance with the Plans and Specifications prepared by the City of Ottumwa Engineering Department which together with the proposed form of contract and estimate of cost have heretofore been approved by the City and are now on file for public examination in the office of the Clerk, and are by this ref-

CITY OF OTTUMWA

Staff Summary

**** ACTION ITEM ****

Council Meeting of: July 5, 2022

Engineering
Department

Alicia Bankson
Prepared By
Darryl Seal

Department Head

RJ Rte

City Administrator Approval

AGENDA TITLE: Resolution #178-2022. Approving the Plans, Specifications, Form of Contract and Estimated Cost for the Asphalt Street Repair Program 2022.

**Public hearing required if this box is checked. **

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION: Pass and adopt Resolution #178-2022.

DISCUSSION: This project is for our annual asphalt street repair program, which started in 2003, and is used to set unit price cost. The work will consist of overlays on various streets in the city. Staff has reviewed the sewer conditions and ADA requirements for each of the streets listed below.

Bids will be received and opened by the City of Ottumwa on July 27, 2022 at 2:00 p.m. The bid report and bid award recommendation will be presented at the City Council meeting on August 2, 2022, or at a later date as determined by staff.

Streets scheduled for overlays: North Court from Golf north to the new HMA between Northview and Elmdale.

Funding Source: \$926,978.00	FY 2012/2013	\$950,000.00	FY 2013/2014
\$480,000.00	FY 2014/2015	\$700,000.00	FY 2015/2016
\$1,000,000.00	FY 2016/2017	\$800,000.00	FY 2017/2018
\$1,250,000.00	FY 2018/2019	(Includes \$460,000, .E. Main St Reconstruction)	
\$350,000.00	FY 2019/2020		
No program	2020/2021		
No program	2021/2022		
\$33,000.00	Parks Department		

Source of Funds: ESPR Fund

Budgeted Item: Yes

Budget Amendment Needed: No

RESOLUTION #178-2022

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, FORM OF CONTRACT,
AND ESTIMATED COST FOR THE 2022 ASPHALT STREET REPAIR PROGRAM

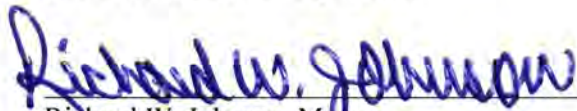
WHEREAS, The City Council of the City of Ottumwa, Iowa has conducted a public hearing on the plans, specifications, form of contract, and estimated cost for the above referenced project; and,

WHEREAS, No objections to the said plans, specifications, form of contract and estimated cost were received.


NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA THAT: The plans, specifications, form of contract, and estimated cost for the above referenced project are hereby approved and adopted.

APPROVED, PASSED, AND ADOPTED, this 5th day of July, 2022.

CITY OF OTTUMWA, IOWA


Richard W. Johnson, Mayor

ATTEST:

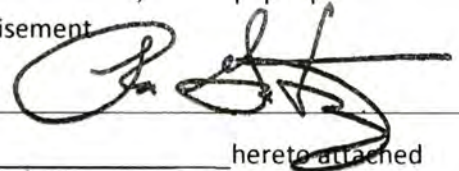

Christina Reinhard, City Clerk

PROOF OF PUBLICATION

STATE OF IOWA
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

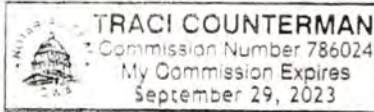
Public Hearing Section 00010 Asphalt Street Repair
City of Ottumwa



hereto attached

was published in said newspaper for 1 consecutive week's to-wit: 6/21/22

Subscribed and sworn to before me, and in my presence, by the said 21st day of June, 2022



Notary Public

In and for Wapello County

Printer's fee \$21.85

COPY OF ADVERTISEMENT

SECTION 00010
NOTICE OF PUBLIC HEARING

The City Council of Ottumwa, Iowa, will hold a public hearing on the proposed Plans and Specifications, form of contract and estimate of cost for the construction of said improvements described in general as Asphalt Street Repair Program 2022, Ottumwa, Iowa" at 5:30 o'clock p.m. on July 5, 2022 in the Council Chambers, City Hall, Ottumwa, Iowa. At said hearing any interested person may appear and file objections thereto or to the cost of the improvements. At the hearing, the City will receive and consider any objections made by any interested party, to the Plans and Specifications, proposed form of Contract, and the estimate of cost for the project. The work to be done is as follows: Furnish all labor, materials and equipment to construct the following: Mill, patch and overlay certain streets in Ottumwa. The first 10 loads of millings are to be delivered to the city yard on Gateway Drive All work and materials are to be in strict compliance with the Plans and Specifications prepared by the City of Ottumwa Engineering Department which together with the proposed form of contract and estimate of cost have heretofore been approved by the City and are now on file for public examination in the office of the Clerk, and are by this reference made a part hereof as though fully set out and incorporated herein. CITY OF OTTUMWA, IOWA By: Richard W. Johnson, Mayor ATTEST: Christina Reinhard, City Clerk

2022 ASPHALT STREET REPAIR PROGRAM

Bid Tabulation

month/day/21

ITEM	DESCRIPTION	RANGE	UNIT	QTY	Engineers Estimate		Norris Asphalt	
					PRICE	EXTENSION	PRICE	EXTENSION
1	2303-0031500-HMA-Base Course (1,000,000ESAL)	100-250	TN	100	\$ 197.50	\$19,750.00	\$ -	\$0.00
2	2303-0031500-HMA-Base Course (1,000,000ESAL)	250-500	TN	250	\$ 165.00	\$41,250.00	\$ -	\$0.00
3	2303-0031500-HMA-Base Course (1,000,000ESAL)	500-750	TN	500	\$ 156.88	\$78,437.50	\$ -	\$0.00
4	2303-0031500-HMA-Base Course (1,000,000ESAL)	750-1000	TN	750	\$ 151.88	\$113,906.25	\$ -	\$0.00
5	2303-0031500-HMA-Base Course (1,000,000ESAL)	1000-1500	TN	1000	\$ 148.13	\$148,125.00	\$ -	\$0.00
6	2303-0031500-HMA-Base Course (1,000,000ESAL)	1500-2000	TN	1500	\$ 147.50	\$221,250.00	\$ -	\$0.00
7	2303-0033500-HMA-Surface Course (1,000,000ESAL)	100-250	TN	100	\$ 198.13	\$19,812.50	\$ -	\$0.00
8	2303-0033500-HMA-Surface Course (1,000,000ESAL)	250-500	TN	250	\$ 165.63	\$41,406.25	\$ -	\$0.00
9	2303-0033500-HMA-Surface Course (1,000,000ESAL)	500-750	TN	500	\$ 157.50	\$78,750.00	\$ -	\$0.00
10	2303-0033500-HMA-Surface Course (1,000,000ESAL)	750-1000	TN	750	\$ 152.50	\$114,375.00	\$ -	\$0.00
11	2303-0033500-HMA-Surface Course (1,000,000ESAL)	1000-1500	TN	1000	\$ 148.75	\$148,750.00	\$ -	\$0.00
12	2303-0033500-HMA-Surface Course (1,000,000ESAL)	1500-2000	TN	1500	\$ 148.13	\$222,187.50	\$ -	\$0.00
13	2599-9999006-Tack Coat Emulsion	500-1500	GL	500	\$ 4.63	\$2,315.00	\$ -	\$0.00
14	2121-7425022-Compacted Granular Shoulders, Type B	50-500	TN	50	\$ 45.63	\$2,281.25	\$ -	\$0.00
15	2303-3400000-Manhole Adjustment (if needed)	1	EA	1	\$ 1,375.00	\$1,375.00	\$ -	\$0.00
16	2318-1001210- Full Depth Reclamation (8" Depth)	4000-10000	SY	4000	\$ 8.50	\$34,000.00	\$ -	\$0.00
17	2318-1001230- Mineral Stabilizing Agent, Fly Ash, Type-C	217-541	TN	217	\$ 231.25	\$50,181.25	\$ -	\$0.00
BASE BID TOTAL						\$1,338,150.00		\$0.00
ALTERNATE BID ITEM								
18	2212-5070310-HMA Full Depth Patch	50-500	SY	50	\$ 117.50	\$5,875.00	\$ -	\$0.00
19	2212-5070310-PCC Full Depth Patch	50-500	SY	50	\$ 161.25	\$8,062.50	\$ -	\$0.00
20	2214-5145150-HMA Pavement Scarification (0-4" Depth)-Header	50-500	SY	50	\$ 37.00	\$1,850.00	\$ -	\$0.00
21	2214-5145150-PCC Pavement Scarification (0-4" Depth)-Header	50-500	SY	50	\$ 51.25	\$2,562.50	\$ -	\$0.00
22	2214-5145150-HMA Pavement Scarification (0-2" Depth)-Mainline	50-1000	SY	50	\$ 12.50	\$625.00	\$ -	\$0.00
23	2214-5145150-HMA Pavement Scarification (0-2" Depth)-Mainline	1001-4000	SY	1001	\$ 9.81	\$9,822.31	\$ -	\$0.00
24	2214-5145150-HMA Pavement Scarification (2.01"-4" Depth) Mainline	50-1000	SY	50	\$ 22.50	\$1,125.00	\$ -	\$0.00
25	2214-5145150-HMA Pavement Scarification (2.01"-4" Depth)-Mainline	1001-4000	SY	1001	\$ 15.44	\$15,452.94	\$ -	\$0.00
26	2214-5145150-PCC Pavement Scarification (0-2" Depth)-Mainline	50-1000	SY	50	\$ 18.75	\$937.50	\$ -	\$0.00
27	2214-5145150-PCC Pavement Scarification (0-2" Depth)-Mainline	1001-4000	SY	1001	\$ 15.00	\$15,015.00	\$ -	\$0.00
28	2214-5145150-PCC Pavement Scarification (2.01"-4" Depth) Mainline	50-1000	SY	50	\$ 29.38	\$1,468.75	\$ -	\$0.00
29	2214-5145150-PCC Pavement Scarification (2.01"-4" Depth)-Mainline	1001-4000	SY	1001	\$ 21.56	\$21,584.06	\$ -	\$0.00
30	2511-67459000-Removal of Sidewalk	50-1000	SY	50	\$ 15.38	\$768.75	\$ -	\$0.00
31	2511-7526004-Sidewalk, PCC, 4 in.	50-500	SY	50	\$ 91.25	\$4,562.50	\$ -	\$0.00
32	2511-7526006-Sidewalk, PCC, 6 in.	50-500	SY	50	\$ 108.75	\$5,437.50	\$ -	\$0.00
33	2511-7528100-Detectable Warnings for Curb Ramps	50-500	SF	50	\$ 75.00	\$3,750.00	\$ -	\$0.00
34	2512-1725256-Curb and Gutter, PCC 2.5'	50-500	LF	50	\$ 58.75	\$2,937.50	\$ -	\$0.00
35	2213-6745500-Removal of Curb and Gutter	50-500	LF	50	\$ 14.38	\$718.75	\$ -	\$0.00
36	2528-8445113 - Flagger	1	EA	1	\$ 618.75	\$618.75	\$ -	\$0.00
37	2528-8445115 - Pilot Car	1	EA	1	\$ 925.00	\$925.00	\$ -	\$0.00
ALTERNATE BID TOTAL						\$104,099.31		\$0.00
TOTAL PROJECT BID						\$1,442,249.31		\$0.00

I hereby certify that this is a true tabulation of the bids received at 2:00 P.M. on MONTH DAY, 2022 by:

North Court 1 - 4" overlay Golf to Carter \$259,684.96
 North Court 2 - 4" overlay Carter to new HMA \$263,663.02
 Parks Department \$33,000.00
Total of All Streets \$556,347.98

CITY OF OTTUMWA

Staff Summary

**** ACTION ITEM ****

Council Meeting of: July 5, 2022

Engineering
Department

Alicia Bankson
Prepared By
Darryl Seals

Department Head

[Signature]
City Administrator Approval

AGENDA TITLE: Resolution #179-2022. Approving the Plans, Specifications, Form of Contract and Estimated Cost for the Troeger Parking Lot Project.

****Public hearing required if this box is checked. ****

****The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.****

RECOMMENDATION: Pass and adopt Resolution #179-2022.

DISCUSSION: This project will consist of constructing a 5180 SY, 7" PCC parking lot located in Troeger Park. The work will include grading, hauling sub base, and storm sewer improvements. Work also includes new sidewalk along Church Street and crosswalk improvements. Once completed it will add an additional 136 parking spaces.

This project is tied directly to the development and construction of the Cobblestone Hotel at the Bridgeview site.

The plan set bidding documents are set up to allow two bidding scenarios. The first set is a completion date of December 31st 2022 and the second set with a late start date of April 1st 2023.

The project is funded from the CIP program.

Bids will be received and opened by the City of Ottumwa on July 27, 2022 at 2:00 p.m. The bid report and bid award recommendation will be presented at the City Council meeting on August 2, 2022, or at a later date as determined by staff.

Engineers estimate: \$569,377.50

RESOLUTION #179-2022

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, FORM OF CONTRACT,
AND ESTIMATED COST FOR THE TROEGER PARKING LOT PROJECT

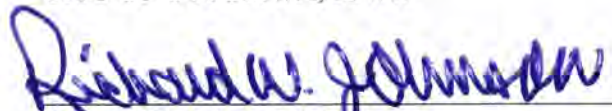
WHEREAS, The City Council of the City of Ottumwa, Iowa has conducted a public hearing on the plans, specifications, form of contract, and estimated cost for the above referenced project; and,

WHEREAS, No objections to the said plans, specifications, form of contract and estimated cost were received.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA THAT: The plans, specifications, form of contract, and estimated cost for the above referenced project are hereby approved and adopted.

APPROVED, PASSED, AND ADOPTED, this 5th day of July, 2022.

CITY OF OTTUMWA, IOWA


Richard W. Johnson, Mayor

ATTEST:


Christina Reinhard, City Clerk

6/30/22

SECTION 00010
NOTICE OF PUBLIC HEAR-
ING

The City Council of Ottumwa, Iowa, will hold a public hearing on the proposed Plans and Specifications, form of contract and estimate of cost for the construction of said improvements described in general as "Troeger Parking Lot", Ottumwa, Iowa" at 5:30 o'clock p.m. on July 5, 2022, in the Council Chambers, City Hall, Ottumwa, Iowa. At said hearing any interested person may appear and file objections thereto or to the cost of the improvements. At the hearing, the City will receive and consider any objections made by any interested party, to the Plans and Specifications, proposed form of Contract, and the estimate of cost for the project. The work to be done is as follows: Furnish all labor, materials and equipment to construct the following: A 5180 SY, 7" PCC parking lot located in Troeger Park. Work will include grading, hauling sub base, and storm sewer improvements. Work also includes new sidewalk along Church Street and crosswalk improvements. All work and materials are to be in strict compliance with the Plans and Specifications prepared by the City of Ottumwa Engineering Department which together with the proposed form of contract and estimate of cost have heretofore been approved by the City and are now on file for public examination in the office of the Clerk, and are by this reference made a part hereof as though fully set out and incorporated herein. CITY OF OTTUMWA, IOWA By: Richard W. Johnson, Mayor ATTEST: Christina Reinhard, City Clerk

CITY OF OTTUMWA

Staff Summary

**** ACTION ITEM ****

Council Meeting of: July 5, 2022

Engineering
Department

Alicia Bankson
Prepared By
Darryl Seals
Department Head

[Signature]
City Administrator Approval

AGENDA TITLE: Resolution #180-2022. Approving the Plans, Specifications, Form of Contract and Estimated Cost for the Bridge View Hotel Parking Lot Extension Project.

**Public hearing required if this box is checked. **

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION: Pass and adopt Resolution #180-2022.

DISCUSSION: This project will consist of constructing a 4575 SY, 7" PCC parking lot at the south end of the existing Bridge View Parking Lot. The work will also include 452 LF of 24" RCP, new storm sewer installation that will remove storm water from the existing sanitary sewer. Once completed this project will allow for an additional 117 paved parking spaces.

The plan set bidding documents are set up to allow two bidding scenarios. The first set is a completion date of December 31st 2022 and the second set with a late start date of April 1st 2023.

Bids will be received and opened by the City of Ottumwa on August 2, 2022 at 2:00 p.m. The bid report and bid award recommendation will be presented at the City Council meeting on August 2, 2022, or at a later date as determined by staff.

Engineers estimate \$574,256.

RESOLUTION #180-2022

A RESOLUTION APPROVING THE PLANS, SPECIFICATIONS, FORM OF CONTRACT,
AND ESTIMATED COST FOR THE BRIDGE VIEW HOTEL PARKING
LOT EXTENSION PROJECT

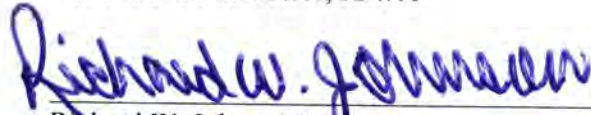
WHEREAS, The City Council of the City of Ottumwa, Iowa has conducted a public hearing on the plans, specifications, form of contract, and estimated cost for the above referenced project; and,

WHEREAS, No objections to the said plans, specifications, form of contract and estimated cost were received.

NOW, THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA THAT: The plans, specifications, form of contract, and estimated cost for the above referenced project are hereby approved and adopted.

APPROVED, PASSED, AND ADOPTED, this 5th day of July, 2022.

CITY OF OTTUMWA, IOWA



Richard W. Johnson, Mayor

ATTEST:



Christina Reinhard, City Clerk

6/30/22

SECTION 00010
NOTICE OF PUBLIC HEAR-
ING

The City Council of Ottumwa, Iowa, will hold a public hearing on the proposed Plans and Specifications, form of contract and estimate of cost for the construction of said improvements described in general as "Bridge View Hotel Parking Lot Extension, Ottumwa, Iowa" at 5:30 o'clock p.m. on July 5, 2022, in the Council Chambers, City Hall, Ottumwa, Iowa. At said hearing any interested person may appear and file objections thereto or to the cost of the improvements. At the hearing, the City will receive and consider any objections made by any interested party, to the Plans and Specifications, proposed form of Contract, and the estimate of cost for the project. The work to be done is as follows: Furnish all labor, materials and equipment to construct the following: A 4575 SY, 7" PCC parking lot at the south end of the existing Bridge View Parking Lot. Work will also include 452 LF of 24" RCP, new storm sewer installation and crosswalk improvements. All work and materials are to be in strict compliance with the Plans and Specifications prepared by the City of Ottumwa Engineering Department which together with the proposed form of contract and estimate of cost have heretofore been approved by the City and are now on file for public examination in the office of the Clerk, and are by this reference made a part hereof as though fully set out and incorporated herein. CITY OF OTTUMWA, IOWA By: Richard W. Johnson, Mayor ATTEST: Christina Reinhard, City Clerk

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of: Jul 5, 2022

Planning & Development
Department

Zach Simonson
Prepared By
Zach Simonson
Department Head



City Administrator Approval

AGENDA TITLE: ORDINANCE NO. 3201-2022: AN ORDINANCE AMENDING THE CODE OF ORDINANCES (MUNICIPAL CODE OF THE CITY OF OTTUMWA, IOWA) BY CHANGING THE ZONING CLASSIFICATION OF PROPERTY KNOWN AS 316 N COURT FROM R-4 TO C-3 IN THE CITY OF OTTUMWA, WAPELLO COUNTY, IOWA

Public hearing required if this box is checked.

RECOMMENDATION: Open the public hearing.
Receive public comment.
Close the public hearing.
Waive first and second consideration.
Pass and adopt Ordinance No. 3201-2022.

DISCUSSION: The applicant purchased the property at 316 N Court to demolish a derelict house that was previously on the lot. The applicant now seeks to build a parking lot for the adjacent law firm.

The Future Land Use Plan designates the property as suitable for Neighborhood Mixed-Use. C-3 classification is compatible with Neighborhood Mixed-Use in the Future Land Use Plan adopted with the Our Ottumwa 2040 Comprehensive Plan. The rezoning would not make

Source of Funds:

Budgeted Item: Budget Amendment Needed:

the property incompatible with the character of the neighborhood. The entire 300 block of N Court St is commercial use other than this parcel.

The rezoning and the broader project has resulted in removing a blighted, derelict house. The new off-street parking will reduce on-street parking around the Courthouse and other N. Court area businesses.

The Plan and Zoning Commission recommended the rezoning on a vote of 8-0. Staff recommends waiving additional considerations to permit the parking lot project to begin more quickly.

ORDINANCE NO. 3201-2022

AN ORDINANCE AMENDING THE CODE OF ORDINANCES (MUNICIPAL CODE OF THE CITY OF OTTUMWA, IOWA) BY CHANGING THE ZONING CLASSIFICATION OF PROPERTY KNOWN AS 316 N COURT FROM R-4 TO C-3 IN THE CITY OF OTTUMWA, WAPELLO COUNTY, IOWA

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA, THAT:

SECTION 1

Zoning Ordinance #3105-2015 of the City of Ottumwa, Iowa, as amended and as set forth in Chapter 38 of the Municipal Code, City of Ottumwa, Iowa be and the same is hereby amended and changed to conform with this ordinance and the following described property, to wit:

Part of Lots 14 and 15 in Half Block 3 of the Original Plat of the City of Ottumwa, Wapello County, Iowa, described as follows, to-wit: Commencing at the North Corner of said Lot 15 at a point of intersection of the Southeast line of North Court Street and the Southwest line of Sixth Street in said City; thence Southwest along Court Street 50 feet; thence at right angles Southeasterly parallel with Sixth Street 111.4 feet to the middle of Lot 14; thence at right angles Northeasterly 50 feet to Sixth Street; thence Northwesterly along the Southwest line of Sixth Street to the place of beginning.

Be and the same is hereby changed from its present zoning classification of "R-4" Multifamily Residential District (Medium Density) to "C-3" Commercial Mixed-Use District.

SECTION 2

The official zoning map of the City of Ottumwa, Iowa duly designated as such, and on file in the office of the City Clerk and the Wapello County Recorder, is hereby amended and changed to conform to this ordinance and the City Clerk, pursuant to Section 38-30 of the Zoning Ordinance #3088-2015, as amended, is hereby directed to record a certified copy of this said ordinance with the Wapello County Recorder and attach a certified copy of this said ordinance to the official zoning map.

SECTION 3

This ordinance shall be in full force and effect, from and after its passage, adoption and approval and publication as required by law, unless a subsequent effective date is set out hereinabove.

SECTION 4

When this ordinance is in effect, it shall automatically supplement, amend and become a part of the said Code of Ordinance (Municipal Code) of the City of Ottumwa, Iowa.

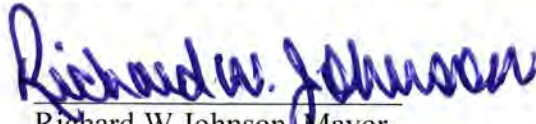
Passed on its first consideration on the 5th day of July, 2022.

Passed on its second consideration on the ___ day of waived, 2022.

Requirement of consideration and vote at two prior council meetings suspended on the ___ day of _____, 2022.

Final passage and adoption on the 5th day of July, 2022.

CITY OF OTTUMWA, IOWA


Richard W Johnson, Mayor

___ No action taken by Mayor.

___ Vetoed this ___ day of _____, 2022.

Richard W Johnson, Mayor

___ Repassed and adopted over the veto this ___ day of _____, 2022.

___ Veto affirmed this ___ day of _____, 2021 by failure of vote taken to repass.

___ Veto affirmed, no timely vote taken to repass over veto.

ATTEST:



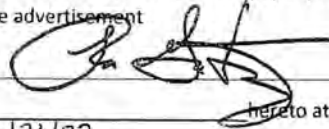
Chris Reinhard, City Clerk

PROOF OF PUBLICATION

STATE OF IOWA
WAPELLO COUNTY

I, Ron Gutierrez, being duly sworn on my oath, say I am the Publisher of the Ottumwa Courier, a newspaper printed in said Wapello County, Iowa and of general circulation there in, and that the advertisement

Public Hearing Change in zoning July 5
City of Ottumwa



was published in said newspaper for 1 consecutive week's to-wit: 6/21/22

Subscribed and sworn to before me, and in my presence, by the said 21ST day of June, 2022

hereto attached



Notary Public

In and for Wapello County

Printer's fee \$29.28

COPY OF ADVERTISEMENT

NOTICE OF PUBLIC HEARING

Notice of public hearing on proposed change in zoning classification on certain property located in the City of Ottumwa, Wapello County, Iowa. **TO WHOM IT MAY CONCERN:** Notice is hereby given that the City Council will hold a public hearing at 5:30 p.m. on Tuesday July 5, 2022 at City Hall in the City of Ottumwa, Iowa, in regard to a rezoning request 316 North Court Street in the City of Ottumwa. The Property is zoned R-4 Multifamily Residential District (Medium Density) and is legally described as follows: Part of Lots 14 and 15 in Half Block 3 of the Original Plat of the City of Ottumwa, Wapello County Iowa, described as follows, to-wit: Commencing at the North Center of said Lot 15 at a point of intersection of the Southeast line of North Court Street and the Southwest line of Sixth Street in said City; thence Southwest along Court Street 50 feet; thence at right angles southeasterly parallel with Sixth Street 111.4 feet to the middle of Lot 14; thence at right angles Northeasterly 50 feet to Sixth Street; thence Northwesterly along the Southwest line of Sixth Street to the place of beginning. The applicant requests a zoning change of the parcel from its present zoning of R-4 Multifamily Family Residential District (Medium Density) to C-3 Neighborhood Commercial Mixed-Use District. Said change will permit use of the property for a parking lot to serve the neighboring office building. All persons interested in the above proposed change in zoning are invited to be present at the above time and place on the date mentioned to present their objections to, or arguments for the proposed change in zoning classification. Members of the public wishing to contribute to the public hearing may attend the meeting at City Hall, mail written remarks to Planning Department, 105 E Third St., Ottumwa, IA 52501, call 641-883-0606 or email remarks to simonsonz@ottumwa.us. FOR THE CITY OF OTTUMWA CITY COUNCIL Chris Reinhard, City Clerk

LAW OFFICES
BOX AND BOX
ATTORNEYS AT LAW

HERBERT F. BOX -- 1908-2004
JAMES M. BOX
CYNTHIA D. HUCKS

304 NORTH COURT STREET
OTTUMWA, IOWA 52501

TELEPHONE (641)682-4512
FACSIMILE (641) 682-4878
ATTORNEY & MEDIATION SERVICES

May 12, 2022

City of Ottumwa
Planning and Development
City Hall, Room 204
105 East Third Street
Ottumwa, Iowa 52501

In re: Real Estate at 316 North Court Street, Ottumwa, Rezone Application

To Whom it May Concern:

I am contacting you and providing an application to rezone property located at 316 North Court Street, Ottumwa. This lot is adjacent to Box and Box Attorneys. The following items are included with our application for rezoning.

1. Application to Rezone Property
2. Full Legal Description (Deed)
3. Application Fee
4. Site Plan from French Reneker

We are seeking to re-zone the property to expand our parking lot for Box and Box Attorneys. Often we have clients, employees and tenants parking along North Court Street and in an effort to alleviate the parking congestion, we acquired the neighboring lot. This expanded parking will also assist when the snow route ordinance in effect as well. As the city is aware, the house that was on the lot was in complete disrepair and the neighborhood certainly benefits from its demise. We have hired French Reneker to prepare the site plan and a copy of that is included.

Please advise if there is any additional information needed at this time to begin to process our application.

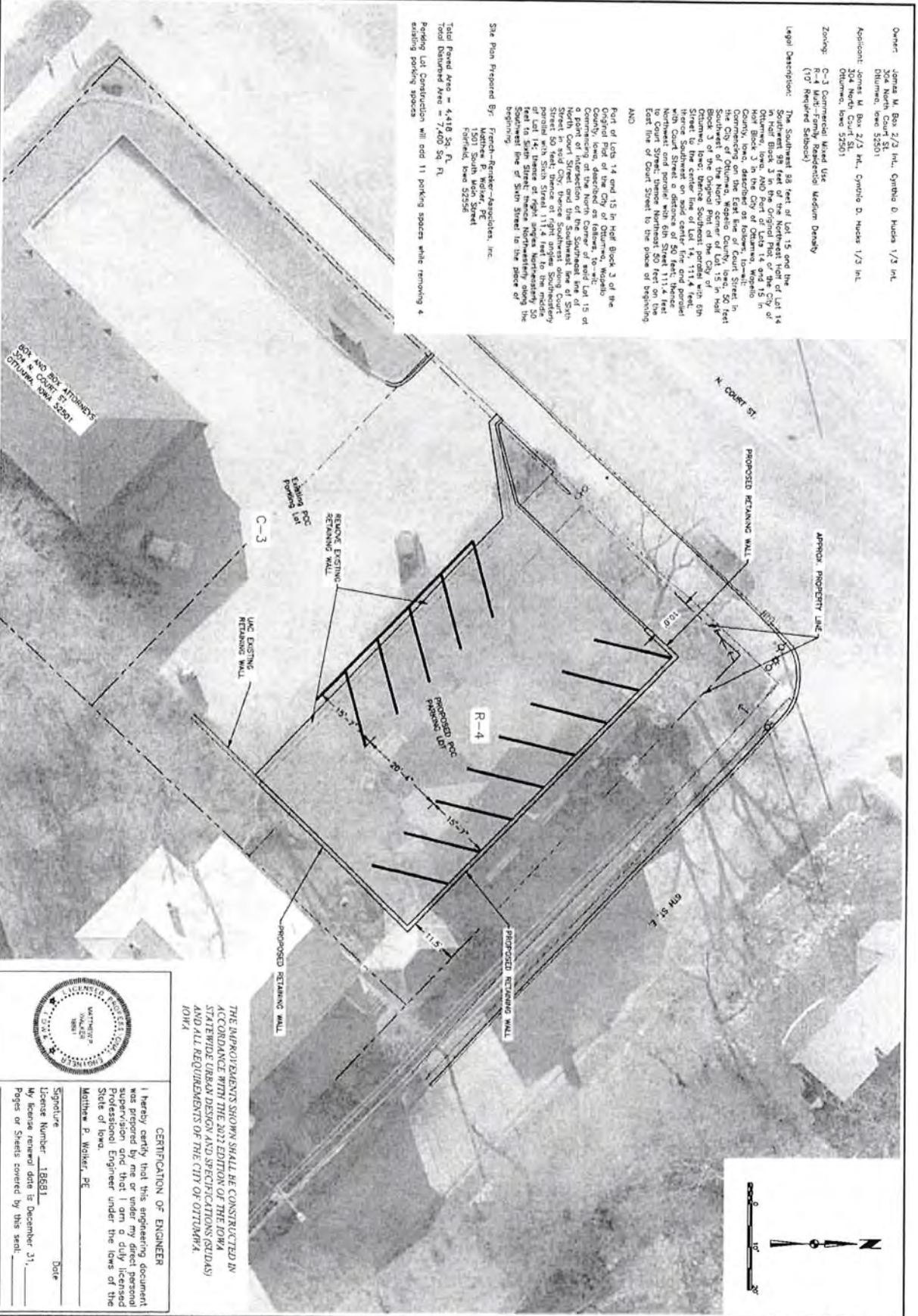
Yours truly,

Cynthia D. Hucks


CDH:apb

NO.	REVISION DESCRIPTION	DATE	BY
1			
2			
3			

DRAWING PATH/NAME: C:\2022\210328CA\DRAWINGS\PLANS\PLAN.dwg - ZONING
 PLOTED: 04/28/22 - 11:32am - shpawson



Owner: James M. Box 2/3 Int., Cynthia D. Hulse 1/3 Int.
 304 North Court St.
 Ottumwa, Iowa 52501

Applicant: James M. Box 2/3 Int., Cynthia D. Hulse 1/3 Int.
 304 North Court St.
 Ottumwa, Iowa 52501

Zoning: C-3 Commercial Mixed Use
 R-4 Multi-Family Residential Medium Density
 (10' Required Setback)

Legal Description: The Southwest 88 feet of Lot 15 and the Southwest 98 feet of the Northwest half of Lot 14 in Half Block 3 in the Original Plat of the City of Ottumwa, Iowa, as shown on the Plat of the City of Ottumwa, Iowa, County, Iowa, described as follows, to-wit: Commencing on the East line of Court Street; in the Southwest of the North corner of Lot 15, 50 feet to the East line of Court Street; thence South 88 feet to the East line of Court Street; thence South 98 feet to the East line of Court Street; thence East 111.4 feet to the East line of Court Street to the place of beginning.


AND

Part of Lots 14 and 15 in Half Block 3 of the Original Plat of the City of Ottumwa, Iowa, as shown on the Plat of the City of Ottumwa, Iowa, County, Iowa, described as follows, to-wit: Lot 15 of a part of intersection of the Southwest line of Sixth North Court Street and the Southwest line of Sixth North Court Street, 50 feet; thence of right angles South Court Street 50 feet; thence of right angles Northwest 111.4 feet to the center line of Sixth Street; thence of right angles Northwest 50 feet to the Southwest line of Sixth Street to the place of beginning.

Site Plan Prepared By: French-Reneker-Associates, Inc.
 Matthew P. Wolter, PE
 1501 South Lyon Street
 Ottumwa, Iowa 52501

Total Paved Area = 4,418 Sq. Ft.
 Total Unpaved Area = 7,400 Sq. Ft.
 Pending Lot Construction will add 11 parking spaces while removing 4 existing parking spaces

304 AND BOX ATTORNEYS
 304 & COOPER ST
 OTTUMWA, IOWA 52501



CERTIFICATION OF ENGINEER

I hereby certify that this engineering document was prepared by me or under my direct personal supervision and that I am a duly licensed Professional Engineer under the laws of the State of Iowa.

Matthew P. Wolter, PE

Signature: _____ Date: _____
 License Number: 18681
 My license renewal date is December 31, _____
 Pages or Sheets covered by this seal: _____

THE IMPROVEMENTS SHOWN SHALL BE CONSTRUCTED IN ACCORDANCE WITH THE 2022 EDITION OF THE IOWA STATEWIDE URBAN DESIGN AND SPECIFICATIONS (SUAS) AND ALL REQUIREMENTS OF THE CITY OF OTTUMWA, IOWA

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****


Council Meeting of : July 5, 2022

Jake Rusch

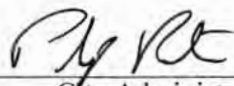
Prepared By

Building and Code Enforcement

Department

Zach Simonson 

Department Head



City Administrator Approval

AGENDA TITLE: Resolution No.171-2022. A resolution awarding the contract for Asbestos abatement and demolition of the condemned property at 505 S Sheridan.

****Public hearing required if this box is checked.****

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION: Pass and Adopt Resolution 171-2022

DISCUSSION: Bids for this project were accepted until 2 P.M. on June 23,2022. Two Asbestos bids and two demolition bids were received. Weston McKee submitted the best bids in the amount of \$1,200 for Asbestos and \$12,500 for demolition. Staff recommends awarding him the contract. A bid tab is attached.

RESOLUTION NO. 171-2022

A RESOLUTION AWARDED THE CONTRACT FOR ASBESTOS ABATEMENT AND DEMOLITION OF THE CONDEMNED PROPERTY AT 505 S SHERIDAN

WHEREAS, the City of Ottumwa was accepted bids for the above referenced project until 2pm on June 23, 2022; and

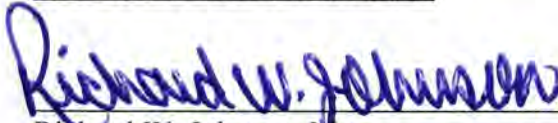
WHEREAS, the lowest qualified bid was from Weston McKee in the amount of \$1,200 for asbestos abatement and \$12,500 for demolition and leveling of the lot.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA IN THE STATE OF IOWA THAT:

Weston McKee be awarded the contract for asbestos abatement and demolition of the condemned property at 505 S Sheridan in the amount of \$1,200 for asbestos abatement and \$12,500 for demolition and leveling of the lot.

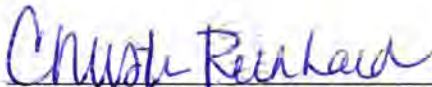
APPROVED, PASSED AND ADOPTED this 5th day of July 2022.

CITY OF OTTUMWA, IOWA



Richard W. Johnson, Mayor

ATTEST:



Christina Reinhard, City Clerk

505 S Sheridan	Asbestos	Demolition	Total
Weston McKee	\$1,200.00	\$12,500.00	\$13,700.00
Dan Laursen	\$2,500.00	\$12,000.00	\$14,500.00
Best Bid For Demolition and			
Asbestos removal Is Weston McKee			\$13,700



[CITY OF]
OTTUMWA

REQUEST BID FOR ASBESTOS REMOVAL AND DISPOSAL AND
DEMOLITION OF 505 S SHERIDAN STREET OTTUMWA, IOWA

BID FORM

Address	Asbestos Bid	Demolition Bid	TOTAL BID
505 S Sheridan Street	1,200	12,500	13,700
			Thirteen thousand seven hundred

_____ Initial here if you are willing to have individual portions of your bid considered for award.

It is understood that the City reserves the right to accept or reject any or all proposals, to disregard any formality in connection therewith, or to accept any proposal, which in its opinion, is in the best interest of the City.

A Bid Security must be included in the sealed bid envelope along with this bid sheet. The bid security must equal ten percent (10%) of the total bid price and must be in the form of cash or a cashier's check or as a certified check drawn on a bank in Iowa or chartered in the United States, or a certified share draft drawn on a credit union chartered under the laws of the United States.

The Successful Bidder shall then provide a performance bond with corporate surety to one hundred percent (100%) of the bid price on all projects. A cashier's check, a certified share

Wm Initial Form Here

draft, as described above or cash may be used. An irrevocable letter of credit stating the amount of the project for an amount equal to 100% of the bid price may be substituted for the performance bond.

The Bid Form and Work Required document automatically become part of the final contract should this proposal be accepted.

If my proposal is accepted, I, the undersigned, agree to enter into a contract (see attached sample) for said work.


Signature

Weston McKeese
Printed Name

2953 Glasgow Rd
Address

601-226-4412
Telephone Number

Fairfield TN 37056
City, State, Zip

6-19-22
Date

weston.mckeese@yahoo
E-mail Address

WESTON
MELKE

505 S SHERIDAN
10th

\$1,370 cash

Nestor McKee

23 AM 00

City Clerk

105 EAST Third ST

OTUMWA IA
52501

505 SHERIDAN Street Project

JUNE 23 2022

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of: July 5, 2022

Jake Rusch

Prepared By

Building and Code Enforcement

Department

Zach Simonson 

Department Head



City Administrator Approval

AGENDA TITLE: Resolution No.172-2022. A resolution awarding the contract for Asbestos abatement and demolition of the condemned property at 125 S Davis.

****Public hearing required if this box is checked.****

The Proof of Publication for each Public Hearing must be attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda.

RECOMMENDATION: Pass and Adopt Resolution 172-2022

DISCUSSION:

Bids for this project were accepted until 2 P.M. on June 23,2022. Two Asbestos bids and two demolition bids were received. Dan Laursen submitted the best bids in the amount of \$12,000 for Asbestos and \$11,500 for demolition. Staff recommends awarding him the contract. A bid tab is attached.

RESOLUTION NO. 172-2022

A RESOLUTION AWARDING THE CONTRACT FOR ASBESTOS ABATEMENT
AND DEMOLITION OF THE CONDEMNED PROPERTY AT 125 S DAVIS

WHEREAS, the City of Ottumwa was accepted bids for the above referenced project until 2pm on June 23, 2022; and

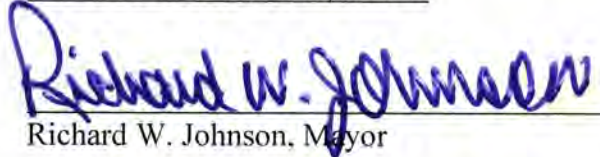
WHEREAS, the lowest qualified bid was from Dan Laursen in the amount of \$12,000 for asbestos abatement and \$11,500 for demolition and leveling of the lot.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF OTTUMWA IN THE STATE OF IOWA THAT:

Dan Laursen be awarded the contract for asbestos abatement and demolition of the condemned property at 125 S Davis in the amount of \$12,000 for asbestos abatement and \$11,500 for demolition and leveling of the lot.

APPROVED, PASSED AND ADOPTED this 5th day of July 2022.

CITY OF OTTUMWA, IOWA


Richard W. Johnson, Mayor

ATTEST:


Christina Reinhard, City Clerk

125 S DAVIS	Asbestos	Demolition	Total
Dan Laursen	\$12,000.00	\$11,500.00	\$23,500.00
Weston McKee	\$10,000.00	\$15,500.00	\$25,500.00
Best Bid For Demolition and			
Asbestos removal Is Dan Laursen			\$23,500

 Initial Form Here



[CITY OF]
OTTUMWA

REQUEST BID FOR ASBESTOS REMOVAL AND DISPOSAL AND
DEMOLITION OF 125 S DAVIS STREET OTTUMWA, IOWA

BID FORM

Address	Asbestos Bid	Demolition Bid	TOTAL BID
125 S DAVIS Street	\$ 12,000 ⁰⁰	\$ 11,500 ⁰⁰	\$ 23,500 ⁰⁰
	\$ 12,000 ⁰⁰	\$ 11,500 ⁰⁰	\$ 23,500 ⁰⁰

_____ Initial here if you are willing to have individual portions of your bid considered for award.

It is understood that the City reserves the right to accept or reject any or all proposals, to disregard any formality in connection therewith, or to accept any proposal, which in its opinion, is in the best interest of the City.

A Bid Security must be included in the sealed bid envelope along with this bid sheet. The bid security must equal ten percent (10%) of the total bid price and must be in the form of cash or a cashier's check or as a certified check drawn on a bank in Iowa or chartered in the United States, or a certified share draft drawn on a credit union chartered under the laws of the United States.

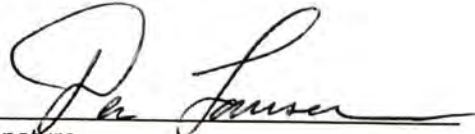
The Successful Bidder shall then provide a performance bond with corporate surety to one hundred percent (100%) of the bid price on all projects. A cashier's check, a certified share draft, as described above or cash may be used. An irrevocable letter of credit stating the

 Initial Form Here

amount of the project for an amount equal to 100% of the bid price may be substituted for the performance bond.

The Bid Form and Work Required document automatically become part of the final contract should this proposal be accepted.

If my proposal is accepted, I, the undersigned, agree to enter into a contract (see attached sample) for said work.


Signature

DAN LAURSEN.
Printed Name

510 MURRELL DRIVE
Address

641-799-3818.
Telephone Number

OTTUMWA IA 52501
City, State, Zip

JUNE 23- 22
Date

DAN LAURSEN 44. @YAHOO.COM.
E-mail Address



1400051

Success BANK

P.O. Box 35
Bloomfield, Iowa 52537
Ph. 641-664-2006

No. 15842


72-394/739
952220

June 23, 2022

REMITTER Barbara J Miller - 125 S Davis
Prepaid Bond Ottumwa, IA

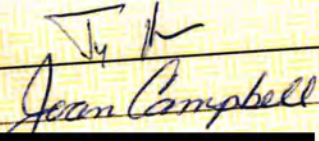
PAY TO THE ORDER OF City of Ottumwa \$ 2,400.00

USD 2,400.00*

DOLLARS  Security features
included
inside on back

THIS DOCUMENT HAS A MICRO-PRINT SIGNATURE LINE, WATERMARK, ORIGINAL DOCUMENT SECURITY SCREEN AND A THERMOCHROMIC ICON. ABSENCE OF THESE FEATURES WILL INDICATE A COPY

CASHIER'S CHECK



Jean Campbell

MP

SECURESTAR



Dan Laursen Excavating

DBA Asbestos Abatement & Inspections of Iowa
510 Morrell Drive
Ottumwa, Iowa 52501

PM 1 53

City of Ottumwa IA -
Bid For. 125 S. DAVIS ST -
OTTUMWA, IA 52501.

CITY OF OTTUMWA

Staff Summary

**** ACTION ITEM ****

Council Meeting of: July 5, 2022

Engineering
Department

Alicia Bankson
Prepared By
Darryl Seals

Department Head

[Signature]
City Administrator Approval

AGENDA TITLE: Resolution #181-2022. Approve a Sewer Service Agreement and Pre-Annexation Agreement between the City of Ottumwa and RJ Performance and authorize the Mayor to sign said Agreement.

****Public hearing required if this box is checked. ****

****The Proof of Publication for each Public Hearing must be Attached to this Staff Summary. If the Proof of Publication is not attached, the item will not be placed on the agenda. ****

RECOMMENDATION: Pass and Adopt Resolution #181-2022.

DISCUSSION: In order for any properties outside of city limits to connect to the City owned sewer system they are required to enter into a pre-annexation agreement and sewer connection agreement.

Working with our legal counsel a new Sewer Connection Agreement and Pre-Annexation Agreement including an Application For Voluntary Annexation has been updated to correspond with current state legal requirements. These agreements allow for annexation when the property becomes contiguous to the city limits.

Recently the City was approach by RJ Performance as to the possibility of connecting to an existing private low pressure sewer system adjacent to their existing business. This low pressure system then connects to a City gravity system that was extended in 2000 for Bowling Motors Development area. As part of a sewer connection agreement with Bowling Motors the City "will charge a \$5,000 connection fee" and then 50% of the fee is to be paid to Bowling Motors & RV.

RJ Performance is served by OWW and will have sewer charges included in future billing cycles at OCL rates as outlined in City Code.

Source of Funds:

Budgeted Item:

Budget Amendment Needed:

RESOLUTION #181-2022

RESOLUTION APPROVING A SEWER SERVICE AGREEMENT AND PRE-ANNEXATION AGREEMENT BETWEEN THE CITY OF OTTUMWA AND RJ PERFORMANCE

WHEREAS, Customer is located outside of the city limits of the City of Ottumwa and would like to receive sewer utility service from the City; and


WHEREAS, Iowa Code Section 364.4(2) allows the City to provide utility service outside of the city limits by contract; and

WHEREAS, The City of Ottumwa agrees to enter into a Sewer Service Agreement and Pre-Annexation Agreement with RJ Performance.

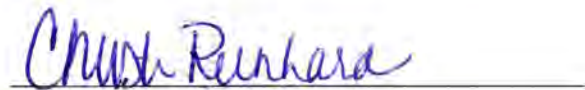
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA: That the proposed Sewer Service Agreement and Pre-Annexation Agreement between the City of Ottumwa and RJ Performance is hereby approved and the Mayor is authorized to sign said Agreements on behalf of the City of Ottumwa.

APPROVED, PASSED, AND ADOPTED, this 5th day of July, 2022.

CITY OF OTTUMWA, IOWA


Richard W. Johnson, Mayor

ATTEST:


Christina Reinhard, City Clerk

Prepared by: Kristine Stone, Ahlers & Cooney PC, 100 Court Ave. #600, Des Moines, IA 50309 515-243-7611

Return to: City Clerk, City of Ottumwa, Iowa, 105 E. Third Street, Ottumwa, IA 52501

**PRE-ANNEXATION AGREEMENT
BETWEEN
THE CITY OF OTTUMWA, IOWA
AND HDWLR, LLC**

This Pre-Annexation Agreement (the "Agreement"), dated for reference purposes the 5 day of July, 2022, is made and entered into by and between the City of Ottumwa, Iowa ("City") and HDWLR, LLC ("Owner").

WHEREAS, Owner is the legal owner of real estate legally described as:

A part of the West Half of the Southwest Quarter (W ½SE¼) of Section Twenty five (25), Township Seventy-three (73) North, Range Fourteen (14) West of the 5th P.M., in Wapello County, Iowa, described as follows:

Beginning at the Northwest corner of the Southwest Quarter (SW¼) of said Section Twenty-five (25), thence running South along the center of the public highway, a distance of 786.2 feet to the point of beginning of the tract of land herein described, thence South along the West side of the Southwest Quarter (SW ¼) of Section Twenty-five (25) which is also the center of the public highway, a distance of 789.2 feet; thence at an angle of 90° 221 to the left a distance of 269.15 feet; thence at an angle 00°151 to the right, a distance of 150.3 feet; thence North 37°441 East, a distance of 224.01 feet to the Center of the Public Highway; thence North 42°341 West to the point of beginning, subject to the right of the public in roadways along the westerly and northeasterly sides of said real estate, and subject to any easements of record.

EXCEPT that part condemned by the State of Iowa in Book 491, Page 416.

and shown in Exhibit A attached hereto and incorporated herein by reference (the "Real Estate"); and

WHEREAS, as of the date of this Agreement, the Real Estate is not contiguous to the corporate city limits of the City of Ottumwa, but is located within two (2) miles of the corporate city limits of the City of Ottumwa and constitutes territory which may be

annexed by City, as provided in Iowa Code Chapter 368, when joined with other property; and

WHEREAS, Owner desires to have the Real Estate annexed by City upon certain terms and conditions as hereinafter set forth; and

WHEREAS, notice of the proposed annexation shall be given to the parties legally required to be notified pursuant to Chapter 368 of the Iowa Code at the time the Real Estate becomes contiguous to City; and

WHEREAS, the City Council, after due and careful consideration, has concluded that the annexation of the Real Estate by City on the terms and conditions hereinafter set forth would further the growth of City, would provide for the harmonious development of City, would enable City to control the development of the area and would serve the best interests of City.

NOW THEREFORE, IN CONSIDERATION OF THE PROMISES AND THE MUTUAL COVENANTS AND AGREEMENTS HEREIN CONTAINED, IT IS HEREBY AGREED AS FOLLOWS:

SECTION 1. AGREEMENT PURSUANT TO IOWA CODE CHAPTER 368. This Agreement is made pursuant to and in accordance with the provisions of Iowa Code Chapter 368. The foregoing preambles and recitations are made a part of this Agreement.

SECTION 2. TERM. The term of this Agreement is from July 5th, 2022 until the annexation of the Real Estate to City is final.

SECTION 3. PETITION FOR ANNEXATION. Owner, upon execution of this Agreement, will submit to the City Clerk an Application for Voluntary Annexation of the Real Estate by City, in the form provided in Exhibit B. The City Clerk will file the Application, submit it to the City Council for consideration at such time and under such circumstances as the City Council deems appropriate, and comply with the requirements of Iowa Code Chapter 368. Pursuant to Iowa Code § 368.7(1)(e), upon execution of this Agreement, Owner hereby waives the right to withdraw or rescind the Application and hereby waives the right to withdraw its consent to the Application and waives its right to object to annexation.

SECTION 4. ADMINISTRATIVE COSTS. City agrees to pay the administrative costs associated with the annexation of the Real Estate, which includes filing and recording costs.

SECTION 5. BINDING AGREEMENT. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their heirs, successors and assignees and shall be recorded with the Real Estate and will apply to any subsequent plats and/or subdivisions of the Real Estate. Following execution of this Agreement, the City shall record this Agreement in the County Recorder's office, at the City's sole cost.

SECTION 6. EFFECT OF INVALID PROVISION. If any provision of the Agreement is held invalid, such invalidity shall not affect any of the other provisions contained herein.

SECTION 7. DEFAULT. Failure by Owner to substantially observe or perform any material covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement constitutes an Event of Default. Whenever any Event occurs and is continuing, City may take any one or more of the following actions after giving written notice by City to Owner of the Event of Default, but only if the Event of Default has not been cured within sixty (60) days following such notice, or if the Event of Default cannot be cured within sixty (60) days and Owner does not provide assurances to City that the Event of Default will be cured as soon as reasonably possible thereafter:

- (1) City may suspend any part of or all of its performance under this Agreement until it receives assurances from Owner, deemed adequate by City, that Owner will cure its default and continue its performance under this Agreement;
- (2) City may cancel and rescind this Agreement;
- (3) Owner will reimburse City for all amounts expended by City in connection with the Agreement, and City may take any action, including any legal action it deems necessary, to recover such amounts from Owner;
- (4) City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to collect any payments due under this Agreement or to enforce performance and observance of any obligation, agreement, or covenant under this Agreement.

SECTION 8. NOTICES. Any notice to be delivered pursuant to the terms of the Agreement shall be delivered or mailed by certified mail, return receipt requested, to the respective parties at the following addresses:

If to City: Attn: City Clerk
 City of Ottumwa, Iowa
 105 E. Third Street
 Ottumwa, IA 52501

If to Owner: HDWLR, LLC
 14231 Sycamore Road
 Ottumwa, IA 52501

SECTION 9. COUNCIL APPROVAL. This Agreement is subject to final approval of the City of Ottumwa, Iowa in its sole discretion.

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

OWNER:

By: [Signature]

Print Name: Hunter M Coy

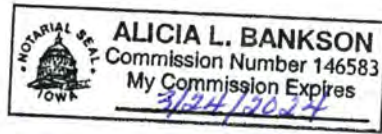
Date: 6-27th-22

By: _____

Date: _____

Print Name: _____

INSERT APPROPRIATE NOTARY BLOCK



Alicia L. Bankson
6/27/22

CITY OF OTTUMWA, IOWA

By: Richard W. Johnson
Richard W. Johnson, Mayor

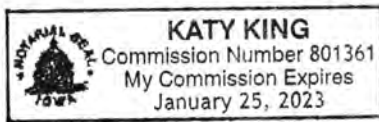


ATTEST:

Christina Reinhard
Christina Reinhard, City Clerk

STATE OF Iowa)
) SS
COUNTY OF Wapello)

On this 5th day of July, 2022, before me a Notary Public in and for said State, personally appeared Richard W. Johnson and Christina Reinhard, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ottumwa, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.



Katy King
Notary Public in the State of Iowa
My Commission expires 1-25-2023

EXHIBIT A
LEGAL DESCRIPTION AND MAP OF AREA TO BE ANNEXED

A part of the West Half of the Southwest Quarter (W ½SE¼) of Section Twenty five (25), Township Seventy-three (73) North, Range Fourteen (14) West of the 5th P.M., in Wapello County, Iowa, described as follows:

Beginning at the Northwest corner of the Southwest Quarter (SW¼) of said Section Twenty-five (25), thence running South along the center of the public highway, a distance of 786.2 feet to the point of beginning of the tract of land herein described, thence South along the West side of the Southwest Quarter (SW ¼) of Section Twenty-five (25) which is also the center of the public highway, a distance of 789.2 feet; thence at an angle of 90° 221 to the left a distance of 269.15 feet; thence at an angle 00°151 to the right, a distance of 150.3 feet; thence North 37°441 East, a distance of 224.01 feet to the Center of the Public Highway; thence North 42°341 West to the point of beginning, subject to the right of the public in roadways along the westerly and northeasterly sides of said real estate, and subject to any easements of record.

EXCEPT that part condemned by the State of Iowa in Book 491, Page 416.

EXHIBIT B
APPLICATION FOR VOLUNTARY ANNEXATION
TO THE CITY OF OTTUMWA

TO THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA:

I, the undersigned being the owner of the property herein described, which, with the inclusion of one or more properties, would form an annexation territory adjoining the City of Ottumwa that would not form any "island" of territory which would not be within the City of Ottumwa as defined by Iowa Code section 368.1(10), do hereby apply in writing to the City Council of the City of Ottumwa pursuant to Iowa Code section 368.7 for annexation to the City of Ottumwa of the following legally described land:

A part of the West Half of the Southwest Quarter (W ½SE¼) of Section Twenty five (25), Township Seventy-three (73) North, Range Fourteen (14) West of the 5th P.M., in Wapello County, Iowa, described as follows:

Beginning at the Northwest corner of the Southwest Quarter (SW¼) of said Section Twenty-five (25), thence running South along the center of the public highway, a distance of 786.2 feet to the point of beginning of the tract of land herein described, thence South along the West side of the Southwest Quarter (SW ¼) of Section Twenty-five (25) which is also the center of the public highway, a distance of 789.2 feet; thence at an angle of 90° 221 to the left a distance of 269.15 feet; thence at an angle 00°151 to the right, a distance of 150.3 feet; thence North 37°441 East, a distance of 224.01 feet to the Center of the Public Highway; thence North 42°341 West to the point of beginning, subject to the right of the public in roadways along the westerly and northeasterly sides of said real estate, and subject to any easements of record.

EXCEPT that part condemned by the State of Iowa in Book 491, Page 416.

and as shown on the attached map also included in this Application.

A map of the territory for which this petition is being filed is attached as "Exhibit B-1".

The above-described land is not in the urbanized area of any city other than the City of Ottumwa.

The undersigned requests the City Council approve this Application and take all steps necessary to complete this annexation in conjunction with the applications of all other property owners of the adjoining territory who may apply in writing requesting annexation.

[Signature page follows]

Property Owner

By: *[Signature]*

6-24-22
Date

Its: Manager

Print Name: Hunter McCoy

EXHIBIT B-1

MAP OF AREA TO BE ANNEXED



Overview



Legend

- Easements
- Lots
- Parcels**
- <blank>
- <blank>
- Subdivisions
- City Limits
- Lot Symbols
- Misc Symbols
- Parcel Symbols
- Road Symbols
- Right-of-Way Line
- Roads**
- Sections
- Section Center
- Quarter Lines
- Quarter Quarter Lines

Parcel ID	007252540681000	Alternate ID n/a	Owner Address
Sec/Twp/Rng	25-73-14	Class	HDWLR LLC
Property Address	14231 SYCAMORE RD	Acres	5.39
	OTTUMWA		14231 Sycamore Rd
			Ottumwa, IA 52501

District: RICHLAND TWP/ OTTUMWASCH/ AP TIF
 Brief Tax Description: PT N PT SWSW LYING S
 W OF RD & 3A & PT NWSW
 LYING SW OF RD SEC
 25-73-14 EX .61AC
 FOR ROW TO STATE OF
 IOWA
(Note: Not to be used on legal documents)

Date created: 6/22/2022
 Last Data Uploaded: 6/21/2022 8:04:20 PM

Developed by Schneider
 GEOSPATIAL

EXHIBIT B-1A

MAP OF AREA TO BE ANNEXED



Parcel ID	007252540681000	Alternate ID	143	Owner Address	HEDM R LLC
Sec/Twp/Rng	25-75-14	Class	C		14291 Sycamore Rd
Property Address	14291 SYCAMORE RD	Acres	5.29		Ottumwa, IA 52501
	OTTUMWA				

District: RIC ILAND TWP / OTTUMWASCH / A P 11E
 Brief Tax Description: PT N PT 5 W SW LYING S
 W OF RD 63A & PT N W SW
 LYING SW OF RD SEC
 25-73-14 EX. 61AC
 FOR ROW TO STATE OF
 IOWA
 (Note: Not to be used on legal documents.)

Date created: 6/26/2022
 Last Date Uploaded: 6/26/2022 11:21:05 AM

Developed by: Schneider
 GEO SPATIAL

**SEWER SERVICE AGREEMENT
CITY OF OTTUMWA**

THIS AGREEMENT, dated as of the 5 day of July, 2022 by and between the City of Ottumwa, Iowa (hereinafter referred to as the "City") and **HDWLR, LLC** (hereinafter referred to as "Customer"), each hereinafter referred to from time to time as "Party" or collectively as "Parties".

WITNESSETH:

WHEREAS, Customer is located outside of the city limits of the City of Ottumwa and would like to receive sewer utility service from the City; and

WHEREAS, Iowa Code section 364.4(2) allows the City to provide utility service outside of the city limits by contract.

NOW, THEREFORE, in consideration of the promises and mutual covenants herein contained and intending to be legally bound to the same, Customer and the City mutually agree and covenant as follows:

ARTICLE I: TERM

- 1.1 Term. The Primary Term of this Agreement shall be from the date of this Agreement as first written above through December 31 2022 ("Primary Term"). This Agreement shall automatically extend on a year-to-year basis (the "Extended Term") unless terminated by either Party by written notice to the other Party given not less than sixty (60) days prior to the end of the Primary Term, or no less than sixty (60) days prior to the end of any Extended Term.
- 1.2 Notice of Default and Opportunity to Cure. Customer acknowledges and agrees that it has a duty to comply with the obligations in this Agreement and that a failure to comply with this Agreement may be grounds for default of the Agreement, termination of the Agreement, or the reduction or cessation of sewer service pursuant to this Agreement. If the City determines that Customer is in default of the Agreement, the City will provide notice of the default to Customer, and Customer shall have thirty (30) days to cure the default. If at the end of the thirty (30) day period, Customer has not cured the default, the City may terminate the Agreement and immediately cease to provide service.
- 1.3 Mutual Termination. This Agreement may be terminated by mutual agreement of the Parties, at any time, in writing and executed by the Parties.

ARTICLE II: RATES AND PRICE

- 2.1 The rate structure and the rates and charges which shall apply to the sewer service to be provided to Customer shall be established by the Ottumwa City Council in its discretion, in accordance with applicable law. Such rates and charges shall be subject to modifications and adjustments, from time to time, in the City's discretion. Customer acknowledges and agrees that this Agreement does not inhibit in any way the City's ability to establish, modify, amend, alter, or terminate any of its rate classifications or the rates applicable to those classifications.
- 2.2 Customer agrees to be solely responsible for the costs associated with any and all upgrades, repair, maintenance and/or replacement of existing City sewer infrastructure necessitated by Customer's usage.
- 2.3 Customer agrees to be solely responsible for all costs associated with Customer's connection to the City sewer system. Such costs include locating and connecting to the existing low pressure 1 1/2" line that connects to the public system.

ARTICLE III: BILLING AND PAYMENT

- 3.1 Statement. Ottumwa Water and Hydro will issue to customer a monthly billing statement by mail as part of the monthly water bill.
- 3.2 Payment. Customer will make payment on or before the due date reflected in the billing statement.
- 3.3 Disconnection of Service. The City reserves the right to disconnect or deny service in accordance with applicable provisions of Iowa Code, this Agreement, or such rules or regulations as may be established by the Ottumwa City Council.

ARTICLE IV: FORCE MAJEURE AND NON-LIABILITY

- 4.1 Force Majeure. Subject to the terms hereof, the City will exercise reasonable diligence and care to furnish and deliver sewer service to Customer. However, notwithstanding the foregoing, the City will not be liable for interruption, irregularity, shortage, or an insufficiency in the supply of sewer service (hereinafter collectively referred to as "Irregularity"), or for any injury, loss, or damage occasioned thereby, if same is due to causes or contingencies beyond the reasonable control of the City, including but not limited to system infrastructure deviations, accidents, breakdown of equipment, required maintenance work, inability to secure right of way, acts of God, or the public enemy, authority and orders of government, acts or failures to act on the part of any governmental authority, floods, earthquakes, hurricanes, lightning, hail, storms or other natural calamities, explosions or fires, pandemics, labor trouble, strikes, lockouts, or industrial disputes or disturbances, riots, civil violence or disobedience, public disturbance or war. Irregularities can have an effect upon equipment that is connected to the City's system and

which is in use at the time of the disturbance. The effects may be significant where the equipment in use is sensitive to such Irregularities such as, but not limited to, computers, electronic equipment, or other equipment in which computers or electronic equipment form an integral operating part. Customer is therefore advised to provide for protection of its facilities and equipment to minimize the effects and losses which may result from Irregularities in the characteristics of the sewer service.

Whenever the City finds it necessary, for the purpose of making repairs or improvements to its system or to comply with applicable regulations or permit requirements, it shall have the right to temporarily suspend the delivery of sewer service with reasonable notice when practicable, otherwise without notice. In all cases of interruption or suspension of service, the City will make reasonable efforts to restore service within the shortest time possible, consistent with good safety practices.

Nothing herein shall be a waiver of any claims or defenses available to the City based on its status as a municipal entity or otherwise available under applicable law, and the City expressly reserves the right to exercise and assert all such claims and defenses at any time.

ARTICLE V: NOTICE

- 5.1 Notice shall be deemed delivered when personally delivered or when deposited in the United States certified or registered mail, return receipt requested, postage prepaid or when received from an overnight courier and addressed to:

Customer at: HDWLR, LLC
14231 Sycamore Road
Ottumwa, IA 52501

City at: City Clerk
City of Ottumwa, Iowa
105 E. Third Street
Ottumwa, IA 52501

or at such other address designated in writing by either Party from time to time to the other Party and delivered as provided in this Section.

ARTICLE VI: MISCELLANEOUS

- 6.1 This Agreement may be executed in counterparts, and each one taken together shall constitute one and the same instrument.

- 6.2 This Agreement constitutes the entire Agreement between the Parties and supersedes any previous contract or agreement for water service. No representation or agreement, oral or otherwise, shall modify the subject matter hereof unless and until such representation or agreement is reduced to writing and executed by authorized representatives of both Parties. This Agreement shall not supersede agreements for other utility services between the Parties, which shall remain in full force and effect and be separately applicable to and enforceable against the Parties.
- 6.3 This Agreement may not be amended, modified or supplemented, except in writing signed by authorized representatives of both Parties. No delay on the part of either Party in exercising any right or remedy under this Agreement shall operate as a waiver thereof. No prior waiver on the part of either Party, nor any single or partial exercise of any right or remedy under this Agreement shall preclude any other or further exercise thereof or any other right or remedy under this Agreement.
- 6.4 If any provision of this Agreement is adjudged by any court of competent jurisdiction to be illegal or unenforceable, such provision shall be deemed separate and independent, and the remainder of this Agreement shall remain in full force and effect. Upon such determination that any term or other provision is invalid, illegal or incapable of being enforced, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 6.5 This Agreement may not be assigned by either Party without the prior written authorization of the non-assigning party.
- 6.6 THE LAWS OF THE STATE OF IOWA SHALL CONTROL THE OBLIGATIONS AND PROCEDURES ESTABLISHED BY THIS AGREEMENT AND THE PERFORMANCE AND ENFORCEMENT OF IT.
- 6.7 Each Party represents that it has the necessary corporate and/or legal authority to enter into this Agreement and to perform the obligations imposed herein. Each Party further represents that this Agreement, when executed by its duly authorized representative, shall become a valid, binding and enforceable legal obligation of that Party.
- 6.8 Except as otherwise provided in this Agreement, the sale of sewer service to Customer shall continue to be governed by the Code of Ordinances of the City of Ottumwa, Iowa, and any amendments or modifications thereto.
- 6.9 To the fullest extent permitted by law, the Customer shall defend, indemnify, and hold harmless the City, its elected or appointed officials, agents, representatives, and employees ("Indemnitees") from and against all liabilities, claims, debts, taxes, obligations, costs and expenses (including reasonable attorney's fees, court costs and costs of appeal) that the City may incur or sustain as a result of any breach of this Agreement or negligent or other

wrongful conduct in the performance of this Agreement by Customer, its officers, agents, representatives and employees.

In the event the City should prevail in any legal action arising out of the performance or non-performance of this Agreement, the Customer shall pay, in addition to any damages, all expenses of such action including all reasonable attorney's fees, all expert witness fees, costs, and all litigation expenses incurred by the City, 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.

[Signature page to follow]

IN WITNESS WHEREOF, the Parties hereto set their hands and seals on the date first above written.

CITY

Richard W. Johnson
Mayor Richard W. Johnson

Attest:

Christina Reinhard
City Clerk Christina Reinhard

CUSTOMER

Hunter McCoy, Manager
Name/Title Hunter McCoy, Manager

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of: Jul 5, 2022

Philip Rath
Prepared By

Administration
Department

Department Head



City Administrator Approval

AGENDA TITLE: Resolution No. 183-2022 - Resolution Approving and Authorizing the Purchase of Certain Real Property, and Authorizing Execution of a Real Estate Purchase Agreement with the Wapello County Historical Society

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution 183-2022

DISCUSSION: The depot had previously been identified as one of the central pieces of the riverfront and downtown economic development due to its location and ability to serve as a transportation hub. Earlier this year the city was contacted by representatives of the Iowa Heartland History Connection to consider a purchase of this property and continuation of the lease with Amtrak. Staff negotiated with IHHC regarding the purchase, which also includes acquisition of the neighboring "clubhouse." Funds for purchase of these properties was included in the recent financing.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

ITEM TO INCLUDE ON AGENDA

CITY OF OTTUMWA, IOWA

July 5, 2022

5:30 p.m.

- Resolution approving and authorizing the purchase of certain real property, and authorizing execution of a real estate purchase agreement with The Wapello County Historical Society

IMPORTANT INFORMATION

1. The above agenda items should be included, along with any other agenda items, in the meeting agenda. The agenda should be posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting. If no such office exists, the notice must be posted at the building in which the meeting is to be held.
2. If you do not now have a bulletin board designated as above mentioned, designate one and establish a uniform policy of posting your notices of meeting and tentative agenda.
3. Notice and tentative agenda must be posted at least 24 hours prior to the commencement of the meeting.

NOTICE MUST BE GIVEN PURSUANT TO IOWA CODE
CHAPTER 21 AND THE LOCAL RULES OF THE CITY.

July 5, 2022

The City Council of the City of Ottumwa in the State of Iowa, met in regular session, in the Council Chambers, City Hall, 105 E. Third St., Ottumwa, Iowa at 5:30 p.m., on the above date. There were present Mayor Johnson in the chair, and the following named Council Members:

Sandra Pope, Marc Roe, Cara Galloway, Doug McAntire, Russ Hull

Absent: none

Vacant: none

* * * * *

Council Member Roe then introduced and delivered to the Clerk the Resolution hereinafter set out entitled "RESOLUTION APPROVING AND AUTHORIZING THE PURCHASE OF CERTAIN REAL PROPERTY, AND AUTHORIZING EXECUTION OF A REAL ESTATE PURCHASE AGREEMENT WITH THE WAPELLO COUNTY HISTORICAL SOCIETY", and moved:

- that the Resolution be adopted.
- to defer action on the Resolution and the proposal to the meeting to be held at _____ .M. on the _____ day of _____, 2022, at this place.

Council Member Galloway seconded the motion. The roll was called, and the vote was:

AYES: Pope, Roe, Galloway, Hull

NAYS: McAntire

Whereupon, the Mayor declared the measure duly adopted.

RESOLUTION NO. 183-2022

RESOLUTION APPROVING AND AUTHORIZING THE
PURCHASE OF CERTAIN REAL PROPERTY, AND
AUTHORIZING EXECUTION OF A REAL ESTATE
PURCHASE AGREEMENT WITH THE WAPELLO COUNTY
HISTORICAL SOCIETY

WHEREAS, the City Council of the City of Ottumwa (the "City") has received a proposal in the form of a proposed Real Estate Purchase Agreement (the "Agreement") with The Wapello County Historical Society (the "Seller"), pursuant to which Agreement the City would purchase certain real property from the Seller for \$480,000; and

WHEREAS, the real property proposed to be purchased by the City under the Agreement is legally described as follows:

A part of the South half (South $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section twenty-four (24), Township Seventy-two (72) North, Range Fourteen (14) West of the 5th P.M. in the City of Ottumwa, Wapello County, Iowa being more particularly described as follows:

Commencing at the most Northerly corner of the intersection of South Washington Street and West Main Street in said City of Ottumwa, Wapello County, Iowa, said point also being the most Southerly corner of Block twenty-five (25) of the Original Plat of Ottumwa, Wapello County, Iowa: thence South $43^{\circ}49'15''$ West 243.15 feet along the Northwesterly line of South Washington Street to the Northeast line of the Wapello County Historical Society Property (also known as the Amtrak Depot); thence South $45^{\circ}52'00''$ East 77.60 feet along the Northeast line of said property to the most Easterly corner thereof and to the point of beginning for this description; thence South $42^{\circ}39'55''$ East 92.71 feet along the Southwesterly line of the former Chicago Rock Island and Pacific Railroad and now known as River Drive; thence South $40^{\circ}21'25''$ East 65.21 feet along said Southwesterly line; thence Southerly 211.10 feet along a 795.79 foot radius curve concave Southwesterly, having a chord bearing South $32^{\circ}47'30''$ East 210.49 feet to the Northwest line of Vacated South Court Street (by Ord. 253); thence South $43^{\circ}42'15''$ West 15.93 feet along said Northwest line of Vacated South Court Street; thence North $44^{\circ}54'30''$ West 363.88 feet to the most Southerly corner of the Wapello County Historical Society property as described in Deed Book 454 on page 47; thence North $45^{\circ}08'00''$ East 68.91 feet along the Southeast line of said property to the Point of Beginning, containing 0.44 acres and subject to any and all easements and/ or restrictions of record. The bearings used in this description are based on State Plane coordinates using G.P.S.

AND

A part of Out Lot Number Thirteen (13) of the Original Plat of the Town of Louisville, now the City of Ottumwa, Wapello County, Iowa; also a part of the

Vacated South Washington Street, vacated by Ordinance Number 253, dated February 25, 1887 and also, a part of the South Half of the Southeast Quarter (SE ¼) of Section 24, Township 72 North, Range 14 West of the 5th P.M., in the City of Ottumwa, Wapello County, Iowa, being more particularly described as follows, to-wit:

Commencing at the most Northerly corner of the intersection of South Washington Street and West Main Street in the said City of Ottumwa, Wapello County, Iowa, said point also being the most Southerly corner of Block 25 of the said Original Plat; thence South 45°08 1 4011 West along the Northwesterly line of the said South Washington Street, a distance of 235.50 feet to a point that is 12.00 feet Southwest of the Original Deed described centerline of the former Keokuk, Des Moines & Minnesota Railroad Company, a corporation, said point also being the Point of Beginning of the tract of land herein described; thence continuing South 45°08 1 4011 West along the said Northwesterly line of South Washington Street, a distance of 8.00 feet; thence South 44°32 1 4011 East along the Northeasterly line of the vacated part of South Washington Street as vacated by said Ordinance Number 253 and this line extended, a distance of 77.60 feet; thence South 46°27 1 2011 West, a distance of 68.91 feet; thence North 43°34 1 3011 West, a distance of 329.58 feet; thence North 46°27 1 2011 East a distance of 71.40 feet to a point that is 12.00 feet Southwest of the said Original Deed described centerline of the former Keokuk, Des Moines Minnesota Railroad Company, a corporation; thence South 44° 32 1 4011 East, & a distance of 251.84 feet to the Point of Beginning, containing 23,817 square feet more or less and being subject to an easement for ingress and egress and for maintenance and repair of all existing public and private utilities located within the above described tract of land.

In determining the above description bearings the Northwest line of South Court Street in the said City of Ottumwa was assumed to bear North 45° 00' East.

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

Section 1. That the City shall offer to purchase the real property described herein for \$480,000, and other good and valuable consideration, under the terms and conditions of the Agreement.

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

PASSED AND APPROVED this July 5, 2022.

Richard W. Johnson
Mayor

ATTEST:

Christina Reinhard
City Clerk

CERTIFICATE

STATE OF IOWA

)

) SS

COUNTY OF WAPELLO

)

I, the undersigned City Clerk of the City of Ottumwa, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the records of the City showing proceedings of the Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Council hereto affixed this 5th day of July 2022.


City Clerk, City of Ottumwa, State of Iowa



Real Estate Purchase Agreement

This Real Estate Purchase Agreement is dated July 5, 2022 and is between The Wapello County Historical Society, an Iowa non-profit corporation doing business as Iowa Heartland History Connection (the "Seller") and the City of Ottumwa, Iowa (the "Buyer").

The parties agree as follows:

1. **Purchase and Sale of Property.** The Seller shall convey to the Buyer the real property known locally as 210 W. Main Street, Ottumwa, Iowa and 160 River Drive, Ottumwa, Iowa, and legally described as:

A part of the South half (South $\frac{1}{2}$) of the Southeast Quarter (SE $\frac{1}{4}$) of Section twenty-four (24), Township Seventy-two (72) North, Range Fourteen (14) West of the 5th P.M. in the City of Ottumwa, Wapello County, Iowa being more particularly described as follows:

Commencing at the most Northerly corner of the intersection of South Washington Street and West Main Street in said City of Ottumwa, Wapello County, Iowa, said point also being the most Southerly corner of Block twenty-five (25) of the Original Plat of Ottumwa, Wapello County, Iowa: thence South $43^{\circ}49'15''$ West 243.15 feet along the Northwesterly line of South Washington Street to the Northeast line of the Wapello County Historical Society Property (also known as the Amtrak Depot); thence South $45^{\circ}52'00''$ East 77.60 feet along the Northeast line of said property to the most Easterly corner thereof and to the point of beginning for this description; thence South $42^{\circ}39'55''$ East 92.71 feet along the Southwesterly line of the former Chicago Rock Island and Pacific Railroad and now known as River Drive; thence South $40^{\circ}21'25''$ East 65.21 feet along said Southwesterly line; thence Southerly 211.10 feet along a 795.79 foot radius curve concave Southwesterly, having a chord bearing South $32^{\circ}47'30''$ East 210.49 feet to the Northwest line of Vacated South Court Street (by Ord. 253); thence South $43^{\circ}42'15''$ West 15.93 feet along said Northwest line of Vacated South Court Street; thence North $44^{\circ}54'30''$ West 363.88 feet to the most Southerly corner of the Wapello County Historical Society property as described in Deed Book 454 on page 47; thence North $45^{\circ}08'00''$ East 68.91 feet along the Southeast line of said property to the Point of Beginning, containing 0.44 acres and subject to any and all easements and/ or restrictions of record. The bearings used in this description are based on State Plane coordinates using G.P.S.

AND

A part of Out Lot Number Thirteen (13) of the Original Plat of the Town of Louisville, now the City of Ottumwa, Wapello County, Iowa; also a part of the Vacated South Washington Street, vacated by Ordinance Number 253, dated February 25, 1887 and also, a part of the South Half of the Southeast Quarter (SE $\frac{1}{4}$) of Section 24, Township 72 North, Range 14 West of the 5th P.M., in the City of Ottumwa, Wapello County, Iowa, being more particularly described as follows, to-wit:

Commencing at the most Northerly corner of the intersection of South Washington Street and West Main Street in the said City of Ottumwa, Wapello County, Iowa, said

point also being the most Southerly corner of Block 25 of the said Original Plat; thence South 45°08 1 4011 West along the Northwesterly line of the said South Washington Street, a distance of 235.50 feet to a point that is 12.00 feet Southwest of the Original Deed described centerline of the former Keokuk, Des Moines & Minnesota Railroad Company, a corporation, said point also being the Point of Beginning of the tract of land herein described; thence continuing South 45°08 1 4011 West along the said Northwesterly line of South Washington Street, a distance of 8.00 feet; thence South 44°32 1 4011 East along the Northeasterly line of the vacated part of South Washington Street as vacated by said Ordinance Number 253 and this line extended, a distance of 77.60 feet; thence South 46°27 1 2011 West, a distance of 68.91 feet; thence North 43°34 1 3011 West, a distance of 329.58 feet; thence North 46°27 1 2011 East a distance of 71.40 feet to a point that is 12.00 feet Southwest of the said Original Deed described centerline of the former Keokuk, Des Moines Minnesota Railroad Company, a corporation; thence South 44° 32 1 4011 East, & a distance of 251.84 feet to the Point of Beginning, containing 23,817 square feet more or less and being subject to an easement for ingress and egress and for maintenance and repair of all existing public and private utilities located within the above described tract of land.

In determining the above description bearings the Northwest line of South Court Street in the said City of Ottumwa was assumed to bear North 45° 00' East.

[legal description to be confirmed by abstract]

together with any easements and servient estates appurtenant thereto and subject to any (i) zoning restrictions, (ii) easements of record, (iii) restrictive covenants of record, and (iv) rights to coal, oil, gas, casinghead gas and all ores and minerals on the Property reserved to Burlington Northern Railroad Company and its successors and assigns (the "Property").

2. **Purchase Price.** The Purchase Price shall be \$480,000 (the "Purchase Price"). The Buyer shall pay the Purchase Price by cash or wire transfer on the Closing Date with proper adjustments as provided in this agreement.

3. **Closing and Possession.**

- a. Closing shall occur on a date mutually agreed to between the parties on or before August 17, 2022 (the "Closing Date").
- b. Seller shall give Buyer possession of the Property ("Possession") on the Closing Date; provided, however, that the Seller and Buyer agree to enter into a lease agreement as of the Closing Date with respect to the garage on the Property and area adjoining the garage, which lease agreement shall provide for a 12-month lease term during which Seller may use the garage and adjoining space for storage.
- c. This transaction shall be considered closed upon (i) the filing of all title transfer documents, and (ii) Seller's receipt of all funds due from Buyer under this agreement ("Closing").

4. **Real Estate Taxes.**

- a. Seller shall pay all real estate taxes that are due and payable as of the date of Possession and constitute a lien against the Property, including any unpaid real estate taxes for any prior years.
 - b. Seller shall also pay the prorated share of real estate taxes, based upon the Closing Date, for the fiscal year in which Possession is given (due and payable in the subsequent fiscal year). Buyer shall be given a credit for such proration at Closing based upon the last known actual net real estate taxes payable according to public record.
 - c. The Seller shall pay all special assessments which are a lien on the Property as of the Closing Date. The Buyer shall pay all other special assessments.
 - d. Buyer shall pay all subsequent real estate taxes.
5. **Closing Costs.** At the time of Closing, the following costs shall be paid as follows:
- a. Seller shall pay the following costs associated with this transaction:
 - i. Seller's attorney's fees or other professional fees incurred by Seller in connection with this transaction.
 - ii. Transfer taxes.
 - iii. Recording fees necessary to cure title defects identified under Section 8(b) of this agreement.
 - iv. 50% of the cost to update and/or create the abstract(s) under section 8(a) of this agreement.
 - b. Buyer shall pay the following costs associated with this transaction:
 - i. The Purchase Price under section 2 of this agreement.
 - ii. Buyer's attorney's fees.
 - iii. 50% of the cost to update and/or create the abstract(s) under section 8(a) of this agreement.
 - iv. Any closing or settlement fee charged by a closing or title agent.
 - v. Buyer's expenses incurred during Buyer's Acquisition Study Period under section 7(b).
 - vi. The recording fee to record the deed transferring title to Buyer.
6. **Fixtures.** Included with the Property shall be all fixtures that integrally belong to, are specifically adapted to, or are a part of the real estate, whether attached or detached.
7. **Condition of Property.**
- a. The Property as of the date of this agreement, including buildings, grounds, and all improvements, will be preserved by the Seller in its present condition until possession, ordinary wear and tear excepted.
 - b. Until the Closing Date ("Buyer Acquisition Study Period"), Buyer may, at Buyer's

expense, perform an acquisition study to determine the suitability of the Property for Buyer's intended use, which study may include, but not be limited to, a physical inspection of the Property by persons of Buyer's choice; Buyer's evaluation of the area of the Property and availability to the Property of sufficient sanitary and storm sewer, gas, water, communication, and electrical utility services; Buyer's evaluation of parking availability, traffic flow, and ingress and egress to and from the Property; Buyer's evaluation of the zoning classification of the Property; Buyer's inspection and review of all agreements, leases, conveyances, encumbrances, restrictive covenants, contracts, or easements affecting the Property in any manner whatsoever; preparation, review, and approval of the Buyer's site and development plans for the Property, if any, by all governing agencies and necessary third parties; and other aspects of the Property pertaining to its use for Buyer's purposes. In the event Buyer is not satisfied for any reason whatsoever with the results of its acquisition study of the Property, then on or before the expiration of the Buyer Acquisition Study Period, Buyer may, in its sole discretion, terminate this agreement by providing written notice to Seller.

- c. Except as otherwise required by this agreement, the Seller shall sell and the Buyer shall accept the Property "as is, where is, with all faults."

8. **Abstract and Title.**

- a. Seller shall provide Buyer with any abstracts of title in its possession for the Property promptly following acceptance of this Agreement. Buyer shall cause abstract(s) of title to the Property to be updated and/or created continued to within 30 days of the Closing Date and deliver it to Buyer's attorney for examination at least 10 days prior to the Closing Date. The cost of the abstract update and/or creation shall be paid at Closing, as specified in section 5 of this agreement.
- b. The abstract shall show marketable title in Seller in conformity with this agreement, Iowa law, and the title standards of the Iowa State Bar Association. Seller shall make every reasonable effort to promptly perfect title. If Closing is delayed due to Seller's inability to provide marketable title, either party may terminate this agreement by giving 10 calendar days written notice to the other party.
- c. The abstract shall become the property of Buyer on the Closing Date.

9. **Deed.** Seller shall convey the Property to Buyer by warranty deed, free and clear of all liens, restrictions, and encumbrances except as permitted by this agreement.

10. **Lease Agreements.**

- a. Seller represents and warrants to Buyer that there are no lease or occupancy agreements concerning the Property, EXCEPT as disclosed to Buyer in writing at least sixty (60) calendar days prior to the Closing Date AND EXCEPT: (i) that certain amended and substituted lease agreement between Seller and National Railroad Passenger Corporation dated as of April 9, 1997, as amended most recently by a third amendment executed on or about April 6, 2017 (the "Amtrak Lease") and (ii) that certain lease dated May 24, 2022 between Seller and George Allen

Construction Company (the "George Allen Construction Company Lease"). Seller shall obtain written consent from National Railroad Passenger Corporation to the assignment and assumption of the Amtrak Lease. Further, the Seller shall obtain written consent from George Allen Construction Company to the assignment and assumption of the George Allen Construction Company Lease.

- b. At Closing, Seller shall assign the Amtrak Lease to Buyer, and Buyer shall assume the same. Further, at Closing, Seller shall assign and Buyer shall assume any other lease or occupancy agreements concerning the Property acceptable to Buyer, in its sole and absolute discretion. Any lease or occupancy agreements not approved by Buyer shall be terminated by Seller prior to Closing.

11. **Approval of Court.** If the Property is an asset of an estate, trust, or conservatorship, this Agreement is contingent upon Court approval unless Court approval is not required under Iowa law and title standards of the Iowa State Bar Association. If the sale of the Property is subject to Court approval, the fiduciary shall promptly submit this Agreement for such approval. If this Agreement is not so approved by sixty (60) calendar days prior to the Closing Date, either party may declare this Agreement null and void, and all payments made hereunder shall be made to Buyer.

12. **Use of Purchase Price.** Seller agrees that at time of settlement, funds of the Purchase Price may be used to pay taxes, other liens, and to acquire outstanding interests, if any, prior to the proceeds being paid to Seller.

13. **Remedies.**

- a. If Buyer breaches, repudiates, or otherwise fails to timely perform this agreement, Seller may, as its sole remedy, terminate this agreement by written notice to Buyer.
- b. If Seller breaches, repudiates, or otherwise fails to timely perform this agreement, Buyer may elect, as its sole remedy, to terminate this agreement by written notice to Seller.
- c. The prevailing party in any dispute arising out of this agreement shall be entitled to obtain judgment for its reasonable costs and attorney fees.

14. **Notice.** For a notice under this agreement to be valid, it must be in writing and must be delivered either (i) in person, (ii) via certified mail to the address noted below, or (iii) via email if the receiving party consents to receiving notice via email. All notices shall be effective upon receipt.

If to the Seller:

Wapello County Historical Society
ATTN: President
700 Farm Credit Drive
Ottumwa, Iowa 52501

If to the Buyer:

City of Ottumwa, Iowa
ATTN: City Administrator
105 E. Third Street
Ottumwa, IA 52501

15. **Time of the Essence.** In the performance of each part of this agreement, time shall be of the essence.

16. **Choice of Law.** All claims relating to this agreement shall be governed by the laws

of the State of Iowa without regard to principles of conflicts of law.

17. **Forum.** The sole and exclusive jurisdiction for any action arising from or relating to this agreement shall be in the state courts located in Wapello County, Iowa.

18. **Assignment.** Neither party may transfer to any other person (i) any discretion granted under this agreement, (ii) any right under this agreement, (iii) any remedy under this agreement, or (iv) any obligation imposed under this agreement.

19. **Survival.** This agreement shall survive the Closing.

20. **Entire Agreement.** This agreement constitutes the entire understanding between the parties with respect to the subject matter of this agreement and supersedes all other agreements, whether written or oral, between the parties.

21. **Modification and Waiver.** No amendment of this agreement will be effective unless it is in writing and signed by both parties. No waiver under this agreement will be effective unless it is in writing and signed by the party granting the waiver.

22. **Severability.** The parties agree that if a dispute between the parties arises out of this agreement, they would want the court to interpret this agreement as follows:

- a. With respect to any provision that it holds to be unenforceable, by modifying that provision to the minimum extent necessary to make it enforceable or, if that modification is not permitted by law, by disregarding that provision;
- b. If an unenforceable provision is modified or disregarded in accordance with this section, by holding that the rest of this agreement will remain in effect;
- c. By holding that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable; and
- d. If modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this agreement, by holding the entire agreement unenforceable.

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

24. **Inspection of Private Sewage Disposal System.** Seller represents and warrants to Buyer that the Property is not served by a private sewage disposal system, and there are no known private sewage disposal systems on the property.

25. **Counterpart and Electronic Signatures.** This agreement may be executed in two or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. Facsimile and PDF signatures are as effective as original signatures.

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

The parties are signing this agreement as of the date stated in the introductory clause.

SELLER:
WAPELLO COUNTY HISTORICAL
SOCIETY

BUYER:
CITY OF OTTUMWA, IOWA

By: Thomas J. Leinhausen
Print Name: Thomas J. Leinhausen

By: Richard W. Johnson
Richard W. Johnson, Mayor

Its: president

By: Christina Reinhard
Christina Reinhard, City Clerk

By: Joella Duprey
Print Name: Joella Duprey
Treasurer

02047814-2 10981-1022

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of: Jul 5, 2022

Planning & Development
Department

Zach Simonson
Prepared By
Zach Simonson
Department Head



City Administrator Approval

AGENDA TITLE: RESOLUTION NO. 187-2022: RESOLUTION APPROVING A REAL ESTATE GIFT AGREEMENT WITH WELLS FARGO BANK NA FOR THE PROPERTY LOCATED AT 422 S FERRY

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt Resolution No. 187-2022

DISCUSSION: The property at 422 S Ferry was condemned and demolished by the City of Ottumwa. Wells Fargo Bank NA is the current property owner and seeks to donate the property to the City. This resolution approves a gift agreement to accept the property at no cost. The property is suitable for developing housing according to the Vacant Lot Policy.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

RESOLUTION NO. 187-2022

RESOLUTION APPROVING A REAL ESTATE GIFT AGREEMENT WITH WELLS FARGO BANK NA FOR THE PROPERTY LOCATED AT 422 S FERRY

WHEREAS, Wells Fargo Bank NA has proposed a real estate gift agreement to transfer the property located at 422 S Ferry to the City of Ottumwa; and

WHEREAS, the property at 422 S Ferry is legally described as follows:

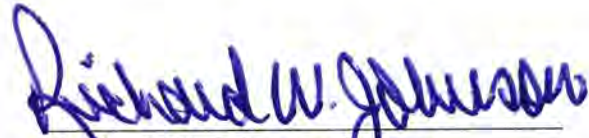
Lot 70 in Williams Park Addition to the City of Ottumwa, Wapello County, Iowa

WHEREAS the lot at 422 S Ferry is suitable for development of housing pursuant to the City's Vacant Lot Policy.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Ottumwa, Iowa that:

The City Council does hereby approve the real estate agreement with Wells Fargo Bank NA for the property located at 422 S Ferry.

Dated this 5th day of July, 2022.


Richard W. Johnson, Mayor

Attest:


Chris Reinhard, City Clerk

REAL ESTATE GIFT AGREEMENT

This Real Estate Gift Agreement ("Agreement") is entered into this 13 day of May, 2022, by and between the City of Ottumwa, a municipality in the State of Iowa ("Buyer"), and Wells Fargo Bank, National Association, not in its individual or banking capacity, but solely as Trustee on behalf of the Lake Country Mortgage Loan Trust 2005-HE1 ("Seller").

The Seller agrees to convey and the Buyer agrees to accept the following described real estate upon the following terms and conditions:

1. **PROPERTY DESCRIPTION.** The Property is generally located at 422 S. Ferry in the City of Ottumwa and is legally described as:

Lot 70 in Williams Park Addition to the City of Ottumwa, Wapello County, Iowa

LEGAL DESCRIPTION TO BE VERIFIED UPON UPDATE OF ABSTRACT

with any easements and appurtenant servient estates, subject to the following, as may be acceptable to Buyer: (a) any zoning and other ordinances; (b) any covenants of record; and (c) any easements of record for public utilities, roads and highways.

2. **PRICE.** No cash consideration shall be paid by Buyer to Seller for the Property, but both parties acknowledge receipt of valuable consideration from this transaction resulting from Buyer's intended use and possession of the Property.
3. **CLOSING COSTS.** Seller shall pay for (i) the cost of the abstract update and (ii) all documentary transfer taxes, if any. Buyer shall pay for (i) all costs to review the abstract and (ii) all recording fees related to the transfer of the Property. Seller and Buyer shall each be responsible for the cost of their own respective attorneys' fees and related transactional expenses.
4. **REAL ESTATE TAXES.**
 - a. Seller shall pay all real estate taxes that are due and payable as of the date of Closing and constitute a lien against the Property, including any unpaid real estate taxes for any prior years.
 - b. Seller shall also pay the prorated share of real estate taxes, based upon the Closing Date, for the fiscal year in which Possession is given (due and payable in the subsequent fiscal year). Seller shall provide the amount of such proration, based upon the last known actual net real estate taxes

payable according to public record, at Closing by cash or check to Buyer.
c. Buyer shall pay all subsequent real estate taxes.

5. **SPECIAL ASSESSMENTS.** All special assessments that constitute a lien on the Property shall be paid by Buyer.
6. **RISK OF LOSS AND INSURANCE.** Seller shall bear the risk of loss or damage to the Property prior to Closing. Seller agrees to maintain existing insurance on the Property, if any, and Buyer may purchase additional insurance. In the event of substantial damage or destruction to the Property prior to Closing, this Agreement shall be null and void; provided, however, Buyer shall have the option to complete the Closing and receive insurance proceeds regardless of the extent of damages. The Property shall be deemed substantially damaged or destroyed if it cannot be restored to its present condition on or before the Closing Date.
7. **INSPECTION PERIOD.** Buyer may, within thirty (30) days of execution of this Agreement, at Buyer's sole expense, enter the Property and conduct such reasonable inspection and testing of the Property as it, in its sole discretion, deems necessary. If, during this period, Buyer notifies Seller in writing that the Property is not acceptable based on information learned from Buyer's inspection, then Buyer may declare this Agreement void.
8. **POSSESSION/CLOSING.** If the parties timely perform all obligations herein, closing and possession shall be on a date acceptable to both parties, but in no event later than August 5, 2022 ("Closing Date" or "Closing"). Possession of the property ("Possession") shall be delivered to the Buyer on the Closing Date. This transaction shall be considered "Closed" upon the delivery to Buyer of a duly executed General Warranty Deed for the Property. All parties and individual signatories hereto further agree to make, execute and deliver such further and additional documents as may be reasonably requested by the other party for the purpose of accomplishing the transfer herein contemplated.
9. **LEASES.** Seller represents and warrants to Buyer that there are no lease or occupancy agreements concerning the Property, except as disclosed to Buyer in writing at least thirty (30) calendar days prior to the Closing Date. If there are any lease or occupancy agreements concerning the Property, Seller shall terminate such agreements prior to Closing, unless Buyer has previously consented in writing to assume any such agreements (in which case, Seller shall assign to the Buyer those the agreements consented to by Buyer).
10. **ABSTRACT AND TITLE.** Buyer, at Seller's expense, shall promptly obtain an abstract of title to the Property continued through the date of this Agreement, and deliver it to Buyer's counsel for examination. The abstract shall show merchantable title in Seller in conformity with this agreement, Iowa law and Title Standards of the Iowa State Bar Association. The abstract shall become the

property of Buyer following Closing. Seller shall pay the costs of any additional abstracting and title work due to any act or omission of Seller, including transfers by, or the death of, Seller or its assignees.

11. **SURVEY AND PLATTING.** Buyer may cause a survey of the Property to be made prior to the closing. If the survey shows an encroachment on the Property or if any improvements located on the Property encroach on lands of others, the encroachment shall be treated as a title defect. If platting is required, Seller shall pay the costs thereof. If platting is required but is not approved by local government, then this Agreement is void and all monies paid by Buyer to Seller shall be immediately refunded to Buyer.
12. **DEED.** Upon Closing, Seller shall convey the Property to Buyer by General Warranty Deed, free and clear of all liens and encumbrances with the exception of special assessments as described in paragraph 5 above.
13. **CONDITION OF PROPERTY.** The Property as of the date of this Agreement will be preserved by the Seller in its present condition until Closing, ordinary wear and tear excepted.
14. **REMEDIES OF THE PARTIES.**
 - a. If Buyer fails to timely perform this Agreement, Seller may forfeit it as provided in the Iowa Code.
 - b. If Seller fails to timely perform this Agreement, Buyer has the right to declare the Agreement null and void.
 - c. Buyer and Seller also are entitled to utilize any and all other remedies or actions at law or in equity available to them and shall be entitled to obtain judgment for costs and attorney fees as permitted by law.
15. **BINDING ON SUCCESSORS IN INTEREST.** This Agreement shall apply to and bind the successors in interest of the parties.
16. **FURTHER ASSURANCES.** The parties hereby agree to execute and deliver such additional documents and to take such further action as may become necessary or desirable to fully carry out the provisions and intent of this Agreement.
17. **SEVERABILITY.** In the event one or more of the provisions contained in this Agreement shall for any reason be held invalid, illegal or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect the validity, legality or enforceability of any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein, provided that this Agreement as so modified preserves the basic intent of the parties.

18. **COUNTERPARTS.** This Agreement may be executed in any number of counterparts, which counterparts when taken together shall constitute one and the same Agreement.
19. **APPROVAL OF COURT.** If the sale of the Property is subject to Court approval, the fiduciary shall promptly submit this contract for such approval. If this Agreement is not so approved, it shall be void.
20. **JOINT TENANCY/JOINDER BY SELLER'S SPOUSE.**
- a. If, immediately preceding acceptance of the offer, the Property is held in joint tenancy with full rights of survivorship, and the joint tenancy is not later destroyed by operation of law or by acts of the Seller, then the proceeds of this sale, and any continuing or recaptured rights of Seller in the Property, shall belong to Seller and Seller's joint tenant as joint tenants with full rights of survivorship and not as tenants in common; and Buyer, in the event of death of Seller or Seller's joint tenant, agrees to pay any balance of the price due Seller under this Agreement to the surviving joint tenant and to accept a deed from the surviving joint tenant.
 - b. Seller's spouse, if not a title holder immediately preceding acceptance, executes this Agreement only to relinquish any rights of dower, homestead, and distributive share or in compliance with Section 561.13 of the Code of Iowa and agrees to execute the deed for this purpose.
21. **CONSTRUCTION.** Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.
22. **GENERAL PROVISIONS.** In the performance of each part of this Agreement, time shall be of the essence. Failure to promptly assert rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. This Agreement shall survive closing. This Agreement contains the entire agreement of the parties and shall not be amended except by written instrument duly signed by Seller and Buyer. Paragraph headings are for convenience of reference and shall not limit or affect the meaning of this Agreement.
23. **NO REAL ESTATE AGENT OR BROKER.** Neither party has used the services of a real estate agent or broker in connection with this transaction. Each party shall hold the other party harmless from any claim by any real estate agent or broker for any commission arising from this transaction.
24. **CERTIFICATION.** Buyer and Seller each certifies that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law,

order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.

25. **INSPECTION OF PRIVATE SEWAGE DISPOSAL SYSTEM.** Seller represents and warrants to Buyer that either (1) the Property is not served by a private sewage disposal system, and there are no known private sewage disposal systems on the property or (2) that the Property is served by a private sewage disposal system and that Seller will pay for and obtain all required inspections of such system required by law prior to Closing.
26. **APPROVAL.** This Agreement is not valid unless approved by the City Council of the City of Ottumwa, Iowa. Signature by the Mayor and City Clerk shall serve as evidence of such approval.

BUYER

CITY OF OTTUMWA

By: Richard W. Johnson
Mayor Richard W. Johnson

By: Christine Reinhard
City Clerk Christina Reinhard

SELLER

NewRez LLC, f/k/a New Penn Financial, LLC d/b/a Shellpoint Mortgage Servicing, as servicer for Wells Fargo Bank, National Association, not in its individual or banking capacity, but solely as Trustee on behalf of the Lake Country Mortgage Loan Trust 2005-HE1

Michael Welborn
By: Michael Welborn

Its: REO Supervisor

CITY OF OTTUMWA
Staff Summary

**** ACTION ITEM ****

Council Meeting of : Jul 5, 2022

Philip Rath

Prepared By

Administration

Department

Department Head



City Administrator Approval

AGENDA TITLE: Ordinance No. 3198-2022: Proposed Ordinance to Repeal and Replace Chapter 7 of the City Code

Public hearing required if this box is checked.

RECOMMENDATION: Pass and adopt the second reading of Ordinance No. 3198-2022

DISCUSSION: On January 18, 2022 the City Council held a public hearing to gather input from the community regarding a potential revision to the animal ordinance as requested by a previous petition calling for the end of breed specific legislation. Since that meeting staff and council members have continued to receive input and feedback from the community and the coalition. Although there is dissent regarding breed specific language in the revised ordinance, there is general consensus the revision improves the environment for animals. The first reading passed 4-1 and has been moved to the second reading.

Source of Funds:

Budgeted Item: Budget Amendment Needed:

ORDINANCE NO. 3198-2022

**AN ORDINANCE REPEALING AND REPLACING CHAPTER 7,
ANIMALS AND FOWL, OF THE MUNICIPAL CODE OF THE CITY OF
OTTUMWA.**

WHEREAS, the Ottumwa City Code defines pit bull terriers as dangerous animals and prohibits their keeping within the city limits; and

WHEREAS, the City of Ottumwa has not allowed pit bull terriers within the city limits since 2003; and

WHEREAS, petitions were presented to the City in 2010 and 2012 requesting removal of the ban on pit bull terriers from the City Code, and the City Council chose not to amend the ordinance at the time; and

WHEREAS, a petition was presented to the City in 2021 again requesting removal of the ban on pit bull terriers from the City Code; and

WHEREAS, the City Council has received public comment both in support and opposition of the pit bull terrier ban, the Council has held a work session on revisions to Chapter 7 of the City Code, and has carefully considered all information presented related to this item; and

WHEREAS, the City Council of the City of Ottumwa FINDS that the current ban on pit bull terriers within the City of Ottumwa should remain in place due to the following:

1. There are pit bull terriers being kept within the city limits in spite of the ban, and the City Council does not want to encourage or reward this unlawful behavior; and
2. The concerns and fears surrounding the danger that pit bull terriers pose to the community at large have not significantly changed since the ban was originally put in place; and
3. The community service officer has reported that there have been 16 pit bull terrier related charges issued in the first five months of 2022.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF OTTUMWA, IOWA, THAT:

SECTION ONE. Chapter 7, Animals and Fowl, of the municipal code of the City of Ottumwa is hereby amended by repealing Chapter 7 in its entirety and enacting the following in lieu thereof:

Chapter 7 ANIMALS AND FOWL

ARTICLE I. IN GENERAL

Sec. 7-1. Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandon means the voluntary relinquishment of possession of an animal by the owner, with the intention of terminating ownership without vesting it in any other person. To abandon shall include any of the following:

- (a) For the owner or keeper to leave any animal without demonstrated or apparent intent to recover or to resume custody.
- (b) To leave an animal for more than twelve (12) hours without providing adequate food, water, and shelter for the duration of the absence.
- (c) To turn out or release an animal.

Adequate food means fresh, nutritious food suitable for the species provided continuously or at suitable intervals in a sanitary manner in quantities sufficient to allow for normal growth or maintain good health and body weight in an animal considering its age and condition.

Adequate protection from the elements means a protected area, in addition to a doghouse or similar structure, that provides shade from the sun and protection from wind, rain, snow, and extremes of hot and cold.

Adequate shelter means a dog house or similar structure, for each animal chained, tethered, penned or otherwise restrained or confined outdoors, suitable for the species, age, condition and size of the animal; that has solid sides, floor and top that do not leak air or moisture and a cover over the doorway which keeps the doghouse or structure dry and allows the animal unlimited access and egress from the doghouse or structure; is clean, safe, enables the animal to be clean and dry and protects the animal from injury, rain, sleet, snow, hail, direct sunlight, the adverse effects of heat or cold, physical suffering, and impairment of health; is large enough for the animal to stand up, lie down and stretch comfortably and make all other normal bodily movements in a comfortable, normal position for the animal. A carrier or crate is not adequate shelter.

Animal means any live (or dead where applicable) domestic vertebrate creature, male or female, and including dogs and cats, fowl and reptiles kept as pets except wild or dangerous animals as hereinafter defined.

Animal control shelter means a facility which is used, but is not limited to, housing or containing dogs or cats, or both and which is owned, operated, or maintained by an incorporated humane society, animal welfare society, society for the prevention of cruelty to animals, or other nonprofit organization devoted to the welfare, protection, and humane treatment of such animals.

At heel means under the voice control and within fifteen (15) feet of the owner or person in custody of the animal.

At-large means any licensed or unlicensed animal found off the premises of its owner and not under the control of a person physically capable of controlling the animal, and not on a leash sixteen (16) feet or less in length.

Behavior consultation means a consultation with a professional that has expertise in dog behavior with the intent to help the owner and the dog address the aggressive behavior displayed by the dog.

Bite means any puncture, laceration, abrasion, scratch or other break in the skin of a human being, or other animal where applicable.

Cat means any male or female animal of the family Felidae, genus Felis, species catus, whether neutered or not.

Chicken (Gallus domesticus) means a domesticated fowl.

City pound or dog pound means a facility for the prevention of cruelty to animals operated by the state, a municipal corporation, or other political subdivision of the state for the purpose of impounding or harboring seized stray, homeless, abandoned, or unwanted dogs, cats, or other animals; or a facility operated for such a purpose under a contract with any municipal corporation or incorporated society.

Community service officer means a person appointed by and under the direction of the chief of police to enforce the provisions of this chapter.

Dangerous animal means and includes any animal which is not naturally tamed or gentle; or which is of a wild nature or disposition; or which is capable of killing or inflicting serious injury upon human beings and having known tendencies, individually or as a species, to do so; or which, because of its size or other characteristics, would constitute a danger to human life or property if it is not kept or maintained in a safe manner or in secure quarters, including, but not limited to, the following animals, which shall be deemed as dangerous per se:

Bears, wolves, wolf hybrid dogs, foxes, coyotes, lions, tigers, jaguars, leopards, cougars, panthers, lynxes, cheetahs, bobcats, elephants, bison, badgers, wolverines, weasels, skunks, raccoons, members of the primate family, scorpions, poisonous or venomous snakes, poisonous or venomous spiders, poisonous or venomous reptiles, and other poisonous or venomous animals, alligators, crocodiles, anacondas, pythons, boa constrictors, piranhas, sharks, pit bull terriers, any crossbreed of such animals which have similar characteristics to the animals specified herein.

Dart means the process whereby a drug of a sedative nature is delivered to and injected into an animal by means of a projectile shot from a rifle or gun, for the purpose of subduing or rendering an animal unconscious for capture.

Department shall mean the Administrative Services Department

Dog means any member of the canine species.

Domestic animal means any animal of a species that normally is bred, raised, and is accustomed to live in or about human habitation. Domesticated animals include, but are not limited to, pets such as dogs or cats. The term shall not include animals owned by the police department, animals in a zoo, or livestock.

Fowl means any of various birds of the order Galliformes, including but not limited to domesticated chickens, ducks, geese, turkeys, or pheasants.

Hearing Ear dog means any dog owned by a deaf or partially deaf person, and which has been properly trained to aid its owner.

High risk animal means any animal that satisfies one or more of the following:

- (a) Chases or approaches a person, domestic animal, fowl, or livestock in an apparent attitude of attack, or
- (b) Attacks a person, domestic animal, fowl, or livestock, or
- (c) Bites, harms, or attempts to bite or harm a person, domestic fowl, or livestock; and
- (d) Has been trained to fight other domestic animals; or
- (e) Has been trained as a guard dog for people or property.
- (f) This definition shall not apply to law enforcement canines.

An animal provoked to an attitude of self-defense, or assumes a defensive attitude in protection of its owner's property shall not summarily be proposed to be a high risk animal. The city administrator or their designee may take various factors into consideration when determining whether an animal meets this definition. These factors include, but are not limited to, whether the animal was provoked, or whether the animal was acting to protect itself, its owner, or its owner's property.

Hybrid means any offspring produced by breeding a domestic cat or domestic dog to an animal listed as a dangerous animal per se.

Identification tag means a rabies vaccination tag for cats and dogs and a city license tag for dogs.

In heat means a female animal during the active state of estrus.

Injury means any visible or documented bodily injury not constituting "Serious Injury" as defined herein.

Irresponsible animal owner means any animal owner that has:

- (a) Been convicted or pled guilty three times or more for separate incidents that occurred in any twelve (12) month period concerning:
 - (1) An animal at large;
 - (2) An animal disturbing the peace;
 - (3) An unlicensed animal;
 - (4) An excessive number of animals; or
 - (5) Unsanitary premises due to animals.
- (b) Been convicted or pled guilty two times or more for separate incidents concerning:
 - (1) Animal neglect;
 - (2) Keeping animals covered by section 7-27 without obtaining a license; or

(3) An animal declared a vicious animal.

(c) Or, been convicted of or pled guilty to:

(1) Animal abuse; or

(2) Animal torture.

Kennel means any premises wherein any person engages in the business of boarding, breeding, buying, letting for hire or training of dogs or cats and which is required to be licensed by the state for such purpose.

Licensed kennel cat and/or dog means cats and/or dogs kept or raised in a state or federal licensed kennel solely for the purpose of show, breeding, boarding or sale and kept under constant restraint.

Livestock means an animal belonging to the bovine, caprine, equine, ovine, or porcine species, ostriches, rheas, emus, farm deer or poultry.

Neutered shall mean the same as “neutered,” “altered,” and “spayed,” and refers to a procedure that has been performed by a veterinarian on an animal, male or female, that renders it incapable of bearing offspring.

Owner means any person who owns, keeps, harbors, feeds or knowingly permits an animal to remain on or about any premises owned or occupied by that person. If such person is a minor, then “owner” means the parents or custodial parent or guardian of such person.

Pit bull terrier means (1) an American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Bull Terrier breed of dog; (2) any dog displaying the majority of physical traits of any one or more of the breed of American Pit Bull Terrier, Staffordshire Bull Terrier, or American Staffordshire Bull Terrier (more so than any other breed), or (3) a dog which conforms to the standards established by the American Kennel Club or United Kennel Club for any of the above breeds. The A.K.C. and U.K.C. standards for the above breeds are on file in the office of the administrative authority.

Proper enclosure of a potentially dangerous animal means, while on the owner's property, a potentially dangerous animal is securely confined indoors, or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the animal from escaping. Such pen or structure shall have secure sides and secure top to prevent the animal from escaping over, under, or through the structure, and shall also provide adequate food, adequate water, adequate shelter and adequate protection from the elements.

Provocation; without provocation. See section 7-21(b) and (c).

Seeing Eye dog means any dog owned by a blind or partially blind person and which has been trained to aid its owner.

Serious injury means a bodily injury that does any of the following:

(a) Creates a substantial risk of death;

(b) Causes serious permanent disfigurement;

(c) Causes protracted loss or impairment of the function of any bodily member or organ.

Service animal means a dog that is a working animal, not a pet, which is individually trained to do work or perform tasks for people with disabilities. The work or tasks a dog has been trained to provide must be directly related to the person's disability. The crime deterrent effects of an animal's presence and the provision of emotional support, well-being or companionship do not constitute work or tasks for the purposes of this definition.

Stray means any animal at-large.

Threatened animal means an animal that is abused as provided in section 7-4.

Vicious animal means and includes any animal which bites or harms:

- (a) A person or persons and the bite or harm causes bleeding or noticeable and documented injury to the person; or
- (b) A domestic animal, fowl, or livestock such that the domestic animal, fowl, or livestock is significantly injured, requires medical attention, is maimed, or killed.

An animal provoked to an attitude of self-defense, or assumes a defensive attitude in protection of its owner's property shall not summarily be proposed to be a vicious animal. The city administrator or their designee may take various factors into consideration when determining whether an animal meets this definition. These factors include, but are not limited to, whether the animal was provoked, or whether the animal was acting to protect itself, its owner, or its owner's property.

Wild animal means any live (or dead where applicable) vertebrate creature, male or female, not defined as an "animal" above or "dangerous animal" above.

Sec. 7-2. Enforcement of chapter.

The chief of police shall be responsible for the enforcement of the provisions of this chapter. However:

- (a) The city council may contract with another governmental entity or a nonprofit or not for pecuniary profit organization to operate the city pound for the purpose of impounding animals as required by this chapter, which said contract may provide for the delegation of such of the powers and duties herein granted to the chief of police as the city council deems necessary to carry out the purposes of this chapter.
- (b) The chief of police may appoint community service officers who shall assist in enforcing the provisions of this chapter and perform such other duties as is required. A community service officer shall have police powers necessary to discharge the duties of this chapter and to enforce its provisions.

Sec. 7-3. Interference while performing duties.

No person shall knowingly interfere with, hinder or obstruct the chief of police, a peace officer, a community service officer, or any other person authorized to perform duties under this chapter while engaged in the performance of their duties under this chapter. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-4. Cruelty to animals.

The following acts shall constitute abuse of animals, and shall subject the owner or other person in control of the animal to the penalty provisions of state law and this Code:

- (a) Failure to provide the animal unlimited access to adequate food, adequate water and easy access to adequate shelter and adequate protection from the elements.
- (b) Beating, tormenting, overloading or overworking an animal.
- (c) Permitting or encouraging any combat between animals, or between animals and humans.
- (d) Abandoning any animal, unless to an animal control shelter as defined herein.
- (e) Exposing any known poisonous material, drug, legal or illegal, with the intent of allowing or encouraging the material to be eaten by any bird, fowl or domesticated animal.
- (f) Failure to maintain sanitary conditions where animals are kept.
- (g) Harboring or owning any sick, diseased or injured animal without procuring veterinary care for said animal.
- (h) Maintaining an animal in such conditions and hygiene that the animal is unable to walk or move normally, conduct routine bodily functions, or stay clean, and free of disease and parasites.
- (i) Leaving any animal in a standing or parked vehicle, on a vehicle, tethered or confined for a length of time that could result in danger to or death of an animal. If the community service officer determines that such an animal is in immediate danger, the community service officer or designee may remove the animal by whatever reasonable means is necessary without liability, for the purpose of taking the animal into protective custody.
- (j) Intentionally injuring, maiming, disfiguring, mutilating or destroying an animal by any means that causes pain or suffering.
- (k) Overload or overwork a domestic animal or fowl or any other animal under the person's care, custody, and/or control.

State law reference(s)—Livestock neglect, I.C.A. § 717.2; animal neglect, I.C.A. § 717B.3; animal torture, I.C.A. § 717B.3A.

Sec. 7-5. Sanitation of premises.

All structures, pens, coops or yards wherein animals, domestic or wild, are confined shall be maintained in a clean and sanitary condition at all times, devoid of vermin and free from offensive odors. The chief of police or designee may, at any time, inspect or cause to be inspected any structure or premises, and issue any such order as may be necessary to enforce the provisions of this section, and any other relevant or pertinent rule, regulation of the board of health of the city, or any health provisions of this Code. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-6. Animal traps.

No person may set traps in the city for the purpose of apprehending wild or domesticated animals. This section does not prohibit:

- (a) Trapping mice, rats or other household vermin;
- (b) The setting of traps to destroy moles and other underground pests so long as the traps used may be triggered only by subsurface action; or
- (c) The setting of traps in the line of duty by a community service officer, or with written permission from and supervision by a community service officer, or licensed pest control operators.

Sec. 7-7. Abandonment of animals.

No owner of an animal shall abandon such animal, unless transferred to another person, entity, or surrendered to a licensed animal control shelter.

State law reference(s)—Abandonment of cats and dogs - penalties, I.C.A. § 717B.8.

Sec. 7-8. Injury to animals.

- (a) The operator of any vehicle which strikes a domestic animal shall stop at once and render such assistance as may be possible and shall immediately report such injury or death to the animal's owner; in the event the owner cannot be ascertained or located, the report shall be made to the police department.
- (b) All employees within the departments of public works, building and code enforcement, water pollution control, parks, fire and police are responsible for picking up dead animals, whether domestic or wild, found by that employee on streets, on public rights-of-way, and found at large in parks or on other public property. The police department will be notified of any injured animals found and will be responsible for taking such action as deemed necessary to protect or dispose of said animal. In the event a dead animal found on city property is wearing any type of identifying tag, the police department will be notified to attempt contact with the owner. City employees are not responsible for picking up dead animals on private property.

Sec. 7-9. Domesticated farm animals prohibited.

- (a) No horse, jack, mule, donkey, burro, pony, cow, bull, calf, steer, goat, sheep, lama, swine, turkey, ducks, geese, roosters or other livestock shall be kept on any city lot or in any dwelling or part thereof, or pastured or enclosed on the same lot or premises with a dwelling. However, no more than six adult rabbits and six adult female chickens (hens) may be kept within the city limits pursuant to all permit rules and regulations which shall be approved by resolution of the city council and/or by city ordinance.
- (b) Subsection (a) of this section shall not apply to property annexed to the city, if said conditions contrary to subsection (a) of this section existed on said property at that time, except that said prohibited conditions may not be expanded and when they cease to exist

they shall not be renewed. Said subsection (a) of this section shall not apply to property meeting the definition of "farm" as set out in the city's zoning regulations.

- (c) Furthermore, if the conditions on the property as a result of animals being kept are declared a nuisance by a court, they shall cease to exist and be removed. Subsection (a) of this section shall also not apply to dogs, cats, and household pets.
- (d) Urban chicken and rabbit permits.
 - (1) No person shall raise, harbor or keep chickens or rabbits without an urban chicken or rabbit permit, issued by the city.
 - (2) The term "chicken" means a member of the subspecies of Gallus domesticus, a domesticated chicken.
 - (3) The term "rabbit" means a member of the subspecies of lagomorpha leporidae, a domesticated rabbit.
 - (4) To obtain an urban chicken or rabbit permit, an applicant must submit a completed application on a form provided by the city accompanied by the permit fee.
 - (5) Within 30 days of submission of the application, the police chief or designee shall issue the urban chicken or rabbit permit if the applicant meets the requirements of this provision and the policy adopted by city council resolution or deny the application. If the application is denied, the police chief or designee shall state the reasons in writing.
 - (6) The urban chicken or rabbit permit shall be valid for three years and may not be sold, transferred or assigned.
 - (7) The police chief or designee may revoke a chicken or rabbit permit as provided in the policy adopted by council resolution.
 - (8) Appeals of the decision to deny or revoke a permit under this section are to the city administrator or designee and must be filed within ten days of the decision.
 - (9) Additional requirements, including permit fees, shall be adopted by resolution.
 - (10) Violation of this subsection or the terms of the urban chicken or rabbit permit are punishable by a municipal infraction with a civil penalty of \$250.00 for first violation, \$500.00 for the second violation and \$750.00 for third and subsequent violations.

Sec. 7-10. Hogpens.

- (a) No person shall keep or maintain within the city any hogpen or enclosures wherein swine are kept and fed by the owner, lessee or occupant of any property therein, save and except such pens as may be used for the purpose of commerce only. All such pens shall be kept clean; and the owner, lessee, or manager thereof shall see that the same do not become a nuisance in any respect.
- (b) Subsection (a) of this section shall not apply to property annexed to the city on February 13, 1975, if said conditions contrary to subsection (a) of this section existed on said property at that time, except that said prohibited conditions may not be expanded and when they cease to exist they shall not be renewed. Furthermore, if said prohibited conditions are declared a nuisance by a court, they shall cease to exist and be removed.

Sec. 7-11. Restraint of animals.

All animals shall be kept at heel or restrained by the owners thereof from running at-large. Dogs shall be restrained in city park ground, in cemeteries, on city rights-of-way, city levee ground and on any public property.

Sec. 7-12. Enabling animals to leave premises of owner.

It shall be unlawful for any person, except the owner or his agent, employee or immediate family to open any gate or door on any premises or otherwise entice or enable any animal to leave said premises.

Sec. 7-13. Hitching animals.

(a) It shall be unlawful for any person, without the consent of the owner or occupant of the premises, to fasten any horse or other animal to any fence or tree or to any boxing placed around any tree or to any fire hydrant, lamppost, fence, parking meter or sign within the city.

(b) It shall be unlawful for any person to tether an animal in the following manner:

(1) Using a tether that is less than ten feet (10') or more than fifty (50') feet in length;

(2) Using a tether that does not have swivels on both ends as to prevent twisting and tangling;

(3) Using a tether that contains chain links more than one-quarter of an inch thick or that has weights attached;

(4) Using a tether that exceeds one-eighth (1/8) of the dog's weight; or with a collar made of metal or chain, excluding the buckle, or using a collar, even if made of cloth, designed to continue to tighten, such as a slip lead or noose, when pulled tightly.

(5) No person shall allow an animal to be tethered between the hours of 10 p.m. and 6 a.m.

(6) No person shall allow an animal to have access to a public sidewalk or street while tethered.

(7) No person shall allow an animal to be tethered to a utility pole, parking meter, building, structure, fence, sign, tree, bush, bench, newspaper or advertising rack or other object on public property.

(8) No person shall allow an animal to be tethered in extreme weather or in an unsafe location. An unsafe location includes, but is not limited to, near a fence whereby the animal could asphyxiate itself if it jumped over the fence or on a deck whereby the animal could asphyxiate itself if it jumped off of the deck.

(9) No person shall allow an animal to be tethered in a manner that allows it to become entangled with another tethered animal.

Sec. 7-14. Animals on sidewalks, grassed areas.

No person shall, while leading, riding or driving any animal, including but not limited to horses, any team or any beast of any kind through the city, permit the same to go upon private property without the owner or occupant's permission or upon any sidewalk or parked margin (commonly called "the parking") of any street or upon any public improved ground, park or grassplot, upon the city trail system, the city park pedestrian and bicycle trail system, the levee

system, city cemeteries or any pedestrian bridge without the express permission of the city. This section shall not apply to dogs and cats.

Sec. 7-15. Animals in food establishment.

No owner shall permit or allow his animal to be in any building, store, restaurant or tavern where food or food products are sold, prepared or dispensed to people other than the owners of said establishments.

Sec. 7-16. Exceptions to sections 7-14, and 7-15.

The provisions of sections 7-14 and 7-15 shall not apply to Seeing Eye dogs, Hearing Ear dogs or service animals as defined by section 7-1, and as required by state and federal law.

Sec. 7-17. Animals not permitted to damage or defile premises.

No owner shall allow or permit his animal to damage or defile public property or the private property of another. Solid waste deposited by an animal on the surfaced portion of public streets and on sidewalks, or other public grounds, and private property shall be immediately removed by the owner of the animal.

Sec. 7-18. Noisy animals.

- (a) No owner shall permit or allow his animal to annoy or disturb reasonable persons by excessive or continuous barking, whining, howling, yelping, braying or the emitting of other loud noises. For purposes of this section, "continuous" shall mean a period of twenty minutes or longer.
- (b) The burden is upon the owner of such animal to maintain quiet.
- (c) Exceptions to this section are farm animals in permitted zones, commercial pet facilities, animal welfare facilities, veterinary hospitals, or grooming parlors otherwise in compliance with this Code, including, but not limited to those who can substantiate that such animal noise was caused by an injury or illness of the animal or by willful trespass, torment, or abuse of the animal on its property by others.

Sec. 7-19. Number of animals restricted.

No person shall keep dogs, cats or other animals in such numbers or in such a manner that their presence shall disturb the peace and comfort of any reasonable person or cause a nuisance, unsanitary premises, a menace or detriment to public health; or the owner is unable or unwilling to provide proper care for the animals as required by this chapter.

Sec. 7-20. Chasing of vehicles.

No owner shall allow or permit his animal to run after or chase persons, bicycles, automobiles or other vehicles.

Sec. 7-21. Animals which bite.

- (a) No animal shall attack, bite, attempt to bite or belligerently pursue any person or other animal without provocation.

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- (b) Provocation shall include the:
- (1) Defense of the property of the owner.
 - (2) Defense of the person of the owner or his immediate family.
 - (3) Defense of the animal itself where subjected to attacks, torture, torment, mishandling or other actions that could reasonably cause such a violent reaction by the animal.
- (c) Provocation shall not include:
- (1) The mere act of entering the premises or dwelling, other buildings or other property of the owner or occupant thereof with either actual or implied consent of the owner or occupant thereof to so enter.
 - (2) Any other action by a person or animal that would not be reasonably deemed to cause such a violent reaction.
- (d) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-22. Confining dogs.

- (a) *Shelter.*
- (1) All dogs shall have continuous access to a structurally sound, moisture-proof and windproof shelter large enough to keep the dog reasonably clean and dry.
 - (2) A shelter which does not protect the dog from temperature extremes or precipitation, or which does not provide adequate ventilation or drainage, shall not comply with this section.
 - (3) A dog's shelter and bedding and other accessible space shall be maintained in a manner which minimizes the risk of the dog contracting disease, being injured or becoming infested with parasites.
 - (4) No animal, excluding livestock, shall be kept or confined on property that does not have on it an occupied dwelling or structure, except a person may keep an animal on property contiguous to property having on it an occupied dwelling or structure if such properties are owned or controlled by the same person; however, a person may keep an animal on the premises of an unoccupied business for safety and security purposes.
 - (5) No animal shall be kept or confined in or at a placarded property as defined by section 20-3 of this Code.
- (b) *Nutrition.*
- (1) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with clean, fresh, potable water adequate for the dog's size, age, and physical condition. This water supply shall be either free flowing or provided in a removable receptacle that is weighted or secured to prevent tipping.
 - (2) It shall be unlawful for any person keeping or harboring any dog to fail, refuse or neglect to provide such dog with wholesome foodstuff suitable for the dog's physical condition and age and in sufficient quantities to maintain an adequate level of nutrition for the dog.

(c) *Exercise.*

- (1) The enclosure or confinement area for dog shall encompass sufficient usable space to keep the animal in good condition.
- (2) When a dog is confined by means of a tether and cable run, the trolley system shall be configured to allow access to the maximum available exercise area; however, no tether and cable run shall be placed in such a location as will permit the dog to pass onto, over or across any of the public sidewalks, streets or alleys within the incorporated limits of the city.
- (3) When a dog is confined outside by means of an enclosure or an electronic containment device, the following minimum space requirement shall be met:
 - a. *Large dog.* For a dog that is larger than 20 inches at the withers or that weighs more than 50 pounds, the minimum confinement area per dog is 100 square feet.
 - b. *Medium dog.* For a dog that is larger than 12 inches at the withers and up to 20 inches at the withers or that weighs over 20 pounds and up to 50 pounds, the minimum confinement area per dog is 80 square feet.
 - c. *Small dog.* For a dog that is 12 inches or less at the withers or that weighs 20 pounds or less, the minimum confinement area is 50 square feet.

(d) *Penalty.*

- (1) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

ARTICLE II. IMPOUNDMENT AND DISTRAINT

Sec. 7-23. Persons finding animals at-large.

It shall be lawful for any person who finds an animal at-large on public or private property to seize and hold the animal. Any persons so seizing and holding an animal may restrain the animal on their premises by an adequate protective fence or by leash, cord or chain that does not allow the animal to go beyond their real property line. The person seizing and holding the animal shall immediately notify the police department and shall be responsible for the humane treatment of the animal while it is under that person's custody until picked up by the community service officer. If the animal is unclaimed by its owner after five days, the person who found the animal may claim the animal after paying the appropriate fees.

Sec. 7-24. Impoundment generally.

- (a) The chief of police or community service officer, in their stead, will impound animals found running at-large.
- (b) Any dog or cat or other animal at-large in the city shall be taken by the community service officer and impounded at the animal control shelter and there confined in a humane manner.

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- (c) Upon the impounding of any animal, the owner, if known, shall be notified of such impoundment by telephone or by a door tag or by a letter mailed to the known owner at his last known address. Registry of impounded dogs shall be available for inspection during reasonable hours by the public, which said registry shall show date and manner of notice, if any. Notice shall be deemed given upon telephone contact with owner or attaching a door tag to the owner's residence or by depositing the notice in the U.S. mail.
- (d) With proper identification, the owner, their agent, employee or member of their immediate family, of an impounded animal shall be entitled to resume possession of such animal, before the lapse of the five-day time limit set out in subsection (e) of this section unless the animal is required to be kept for the ten-day period as set out in section 7-25(e), on the following conditions:
- (1) The owner shall present proof of purchase of current city dog license tag if reclaiming a dog and show proof of current rabies vaccination if reclaiming a dog or cat, or the owner must obtain such vaccination; and
 - (2) The owner must pay the impoundment fee and all veterinary fees reasonably incurred by the city for the care of his animal. Fees for impoundment and care of an impounded animal shall be set by city council resolution and may be revised as necessary.
- (e) It shall be the duty of the animal control shelter to keep all such animals so impounded for a period of five days after the owner has been notified as provided in subsection (c) of this section unless the owner redeems and reclaims said animal before the lapse of five days. If after five days following notice to the owner of the impounding of the owner's animal, or if the owner is unknown, then five days after the impoundment of such animal, the animal has not been claimed and redeemed as provided in this section, the animal control shelter shall update the city of the status of the animal. Following this period, said unclaimed animal shall become the property of the city and may be given by the city to an organization or governmental entity operating an animal control shelter, if the city is not operating the shelter, and may be humanely destroyed or placed for adoption.
- (f) Any animal which appears to be suffering from rabies or other disease communicable to humans when impounded shall be confined in the animal control shelter or a veterinary hospital or clinic for a period of not less than ten days from impoundment, and said animal, or its carcass if it dies, shall be subject to such reasonable medical or pathological tests as the veterinarian or community service officer shall recommend, which tests, if any, shall be conducted at the expense of the owner. If an animal is determined to be infected with rabies, it shall be destroyed or disposed of as directed by the chief of police or the community service officer; if not so infected with rabies, it may be reclaimed by the owner and if not shall become city property and said organization or governmental entity operating the animal control shelter may place it for adoption, or it may be disposed of by humane means.
- (g) No person may claim or redeem any animal as provided in subsection (d) of this section or section 7-25 until the fees and charges as required by subsection (d)(2) of this section are paid and the animal is currently licensed and vaccinated as required herein.
- (h) From time to time there may be established by resolution of the city council, a schedule of fees to defray the costs of caring for impounded animals. Failure or refusal by the owner of an impounded animal to pay such fees shall constitute a violation of this section.

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- (i) This section shall not apply to high risk, dangerous, or vicious animals as provided in this chapter.

Sec. 7-25. Impoundment of infected animals.

- (a) It shall be the duty of the owner of any animal or any person having knowledge of such animal having rabies or attacking, belligerently pursuing, or biting any person in the city to promptly report such fact to the community service officer.
- (b) It shall be the duty of every veterinarian in the city to report to the community service officer any diagnosis of rabies in an animal made by the community service officer or under their supervision.
- (c) It shall be the duty of every physician or nurse to immediately inform the community service officer of the name and address of any person treated for bites inflicted by an animal, together with such other information as will assist in the prevention of rabies or other disease, and the identification and apprehension of the biting animal.
- (d) The community service officer shall report all instances reported to them pursuant to the requirements of subsections (a) and (b) of this section to the chief of police of the city.
- (e) Upon demand by a peace officer or the community service officer, the owner shall forthwith surrender any animal which has bitten, attacked or belligerently pursued any person for supervised quarantine in the animal control shelter or veterinary hospital or clinic at the expense of the owner. The animal shall remain confined for a minimum period of ten days under the observation of a licensed veterinarian.
- (f) When evidence is presented that such animal is currently inoculated against rabies, the community service officer, at their discretion, may give written order to confine the animal in the home of its owner, or in such a manner so as to prohibit the animal from coming into contact with or biting any other person or animal, for a minimum of ten days; provided, however, that the owner is willing to comply with the terms of the order, and the owner has the means to adequately confine said animal. The owner shall comply with said order until written release from the required quarantine is obtained from the community service officer.
- (g) Any animal which has bitten, attacked or belligerently pursued any person if deemed necessary by a peace officer or the community service officer shall be examined by a licensed veterinarian, and a written report of the animal's clinical condition shall be forwarded to the community service officer within 24 hours.
- (h) At the end of the confinement period, the veterinarian shall reexamine the animal and submit to the community service officer a written report of the animal's final clinical condition, recommending whether or not the quarantine should be terminated.
- (i) No owner of any animal known to have bitten or caused a skin abrasion upon any person shall euthanize, sell, give away, or transport from this city or otherwise dispose of such animal, until written release from the required quarantine for such animal is obtained from the community service officer.

Sec. 7-26. Control of disease outbreak.

Whenever it becomes necessary to safeguard the public from the dangers of hydrophobia or rabies, the mayor, if they deem it necessary, shall issue a proclamation ordering every owner of an animal to confine the same securely on the owner's premises at all times, for such period as deemed necessary.

State law reference(s)—City may provide additional measures for restriction of dogs for control of rabies, I.C.A. § 351.41.

ARTICLE III. LICENSING AND VACCINATION

Sec. 7-27. License required.

The owner of any dog four months old or over, except dogs kept in kennels for the purpose of breeding and sale or in shelter care facilities licensed by the state, shall be responsible for applying for and acquiring a license for such dog as of January 1 of each year.

Sec. 7-28. Application.

- (a) The owner of any dog for which a license is required shall, on or before January 31 of each year, apply in writing on forms provided by the city clerk for a license for each dog owned by the applicant, which application form shall be signed by the owner. The application shall show the breed, sex, age, color, approximate weight, markings, whether the dog is spayed or neutered, and name of the dog and the address and telephone number of the owner.
- (b) Applications for a license for dogs over which ownership is acquired after January 31 or which dog has reached the age of four months shall be made within one month from the date of acquisition, or within one month after the dog reaches the age of four months.
- (c) No dog shall be licensed hereunder unless there is submitted by the owner evidence that the dog has a current rabies vaccination certificate as required by section 7-34 and the certificate of vaccination has been signed by a licensed veterinarian.

Sec. 7-29. Exemptions.

- (a) The license fees hereinafter provided shall not apply to dogs owned by nonresidents temporarily within the city for a period of not more than 30 days, but shall apply to the dogs of any owner becoming a resident of the city within 30 days after establishing such residence.

Sec. 7-30. License fee.

An individual dog license fee per calendar year or fraction thereof shall be adopted by council resolution. The head of the family shall be liable for payment of the license fee on any dog owned, harbored or kept by any member of the family. A penalty, as set by council resolution, shall be added to the license fee if not paid prior to February.

Sec. 7-31. Issuance of tags.

When a dog is registered for licensing, a record of the breed, color, name of dog and name of owner, together with the number of the license issued, shall be made of record in the city clerk's office. The city clerk, police department, animal control shelter, or veterinarians shall issue a license tag for each dog licensed, and such license tag shall be securely fixed to a suitable collar or harness on each dog licensed and worn by such dog at all times. A list of issued licenses shall be turned into the city clerk monthly to be compiled into an inclusive list of licensed dogs.

Sec. 7-32. Tag not transferable.

The dog tags required by this article shall not be transferable from one dog to another, and no refund shall be made on any dog license fee because of the death of the dog or by reason of the owner leaving the city before the expiration of the license period.

Sec. 7-33. Duplicate tag.

Upon the filing of an affidavit that the license tag has been lost or destroyed, the owner may obtain another tag on the payment of \$1.00. The city clerk shall keep a proper record of the issuance of duplicate tags.

Sec. 7-34. Rabies vaccination required for dogs and cats.

The owner of all dogs and cats four months old or older shall obtain a current rabies vaccination for such animal from a licensed veterinarian and obtain a tag evidencing the same. Said vaccination tag shall be attached to a substantial collar or harness on the animal by the owner and shall at all times be kept on the animal for which the vaccination was given.

Sec. 7-35. Revocation of License.

Every license shall be subject to revocation for any violation of the provisions of this chapter or of any other pertinent ordinance of the city, or of any statute or regulation of the state of Iowa pertaining hereto. Notice of such revocation shall be given in writing, delivered personally or by regular mail to the holder of such permit.

Sec. 7-36. Appeal.

The city administrator may hear and determine any matter pertaining to the issuance or revocation of a license, as herein provided, upon application or request to so do by the applicant or license holder. An appeal under this article shall be filed with the city clerk in writing within twenty days of the denial or revocation of a license.

Sec. 7-37. Removal of Animals.

If animals or fowl are found being kept without a permit or license having been issued, the community service officer shall be authorized to immediately impound the animals or fowl. The owner of the impounded animals or fowl shall be responsible for all impound and boarding fees. In the event of the revocation of any permit or license, as herein provided, the holder of

such permit shall remove all animals or fowl from the premises concerned within fifteen days after receipt of notice or revocation, as by this chapter provided; subject to the condition, however; that in the event application shall be made to the city administrator for determination as to the matter of revocation of any such permit, the period of time for removal of such animals or fowl shall be extended until ten days after affirmation of the revocation by the city administrator if such affirmation be granted.

ARTICLE IV. ANIMAL CONTROL

Sec. 7-38. Disposition of Vicious or High Risk Animals.

- (a) Any animal suspected of being or previously determined to be vicious or high risk shall be seized by a community service officer and impounded in the animal shelter. In the event the animal cannot be caught by a community service officer without exposing the officer or citizens to danger or personal injury, a peace officer or community service officer is authorized to humanely destroy the animal. This section shall not apply to a vicious animal which is housed or otherwise kept outside the limits of the city, which is brought into the city for the sole purpose of receiving medical care in a bona fide, licensed veterinarian hospital or clinic for treatment.
- (b) An animal suspected of being high risk may be reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presentation of proof to the chief of police or their designee of compliance with the requirements of this article, with the exception of the spay and neuter requirement.
- (c) An animal suspected of being vicious may be reclaimed by the owner of the animal upon:
 - (1) Payment of impounding fees,
 - (2) Presenting proof to the chief of police that the animal shall be relocated outside the corporate limits of Ottumwa, and
 - (3) Signing an agreement with the city that authorizes seizure and immediate disposition of the animal in accordance with law and without further notice, in the event the animal, while considered vicious, is subsequently returned to any place within the corporate limits of Ottumwa.
- (d) If an owner refuses the community service officer entry upon property to view or seize an animal suspected of being vicious or high risk, the officer may request a search warrant through the city attorney or their designee from a judge or magistrate. Such requests shall detail the reason why the warrant is necessary and why the community service officer has reason to believe a violation of this article exists.
- (e) Any animal previously determined to be a vicious animal which is seized or impounded within the city shall be disposed of in accordance with law without any further notice to the owner, if any.

Sec. 7-39. Determination of a High Risk or Vicious Animal.

The determination of a high risk or vicious animal shall be in accordance with the following procedures:

- (a) The community service officer or peace officer, upon investigation of an incident alleging a bite or attack in violation of Section 7-21 may deem the animal(s) involved in the violation high risk or vicious. The chief of police or their designee shall issue a written notice to the owner that the owner's animal has been deemed high risk or vicious, as applicable. The owner of the animal deemed high risk or vicious may appeal the decision within ten days, as provided below.
- (b) The owner of the animal may redeem the animal as provided in this chapter, as applicable. The animal shall be considered high risk or vicious (as applicable), pending the outcome of an administrative appeal as provided herein.
- (c) Appeal. The owner whose animal is deemed to be high risk or vicious may appeal the determination to the city administrator within ten days from the date of the decision. The city administrator shall schedule a hearing within seven days from the receipt of the notice. The appeal shall stay the decision of the chief of police or their designee unless the city administrator directs otherwise. At the public hearing, the city administrator or their designee shall serve as hearing officer. The applicant shall have the opportunity to present evidence or arguments the applicant may have as to why the decision of chief of police or their designee appealed from should not be approved by the city administrator. The city administrator shall render a written decision on the appeal within seven days after the hearing. The findings of the city administrator or the city administrator's designee as hearing officer shall be conclusive. The parties may extend the time limits set forth herein by mutual agreement.
- (d) The determination of an animal to be high risk or vicious shall become permanent if no administrative appeal is sought, or if administrative appeal proceeding results in affirming the high risk or viscous determination.

Sec. 7-40. High Risk Animals.

It shall be unlawful for any person to own, keep, or harbor a high risk animal within the city limits unless the high risk animal is kept in accordance with this article. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-41. Regulation of Keeping High Risk Animals.

- (a) All owners of high risk animals, as defined in subsection 7-1, whether licensed or unlicensed, are required to keep such animal:
 - (1) From running at large;
 - (2) From going into the streets and other public or private place within the city unless muzzled, on a leash six (6) feet or less in length, and under the control of an individual eighteen (18) years of age or older;
 - (3) From being leashed to an inanimate object such as trees, posts, and buildings;

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- (4) Under control as to prevent such animal from attacking or injuring persons, domestic animals, fowl, or livestock lawfully on the premises of the owner.
- (b) While on the owner's property a high risk animal must be securely confined indoors or in a securely enclosed and locked pen or structure, suitable to prevent the entry of young children and designed to prevent the high risk animal from escaping. Such pen or structure must have minimum dimensions of five feet by ten feet (5' x 10') with height of six feet (6'), and must have secure sides and be capped if need be. The enclosure must also provide the high risk animal protection from the elements. Warning signs must be placed on all sides of the property and at least two feet (2') from any entrance to the property. The warning signs must say "Dangerous Dog" or similar language adequate to warn those approaching.
- (c) If the high risk animal owner lives in rental property, the high risk animal owner must obtain the landlord's written permission to keep a high risk animal on the premises.
- (d) A community service officer or peace officer may, in his or her discretion, prior to the high risk animal's authorized use, inspect the securely enclosed locked pens, signage, and structures.
- (e) A high risk animal's owner must receive an annual certificate of registration or license from the Police Department of the City of Ottumwa. The certificate or license will be issued upon the owner establishing to the satisfaction of the Department that it has met the following criteria:
- (1) The owner or caretaker of the high risk animal must be eighteen (18) years of age or older and has the physical ability to control the animal.
 - (2) The owner presents a certificate of insurance issued by an insurance company licensed to do business in the State of Iowa providing personal liability insurance as in a homeowner's policy, with a minimum liability amount of \$100,000.00 for the injury or death of any person, for damage to property of others and for acts of negligence by the owner or his or her agents. The certificate shall require notice to the city, in conformity with general city standards for certificates of insurance, if the underlying policy of insurance is cancelled for any reason. In lieu of such a certificate, a copy of a current homeowner's policy designating these requirements shall be sufficient proof of insurance for purposes of this subsection. If a certificate of insurance or policy is not immediately available, a binder indicating the coverage may be accepted for up to thirty (30) days subsequent to the determination that a dog is high risk; however, if after thirty (30) days a certificate of insurance or a policy has not been submitted or the insurance coverage is cancelled, the animal shall be deemed unregistered or unlicensed and subject to immediate impoundment or removal from the corporate limits of the city.
 - (3) The high risk animal has a current rabies vaccination at the owner's expense.
 - (4) The high risk animal has been spayed or neutered by a veterinarian at the owner's expense.
 - (5) The high risk animal has been microchipped by a veterinarian at the owner's expense. The data attached to the microchip must be kept current.

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- (6) The high risk animal has been photographed for identification purposes.
 - (7) If the high risk animal is a dog, a current license issued through the city.
 - (8) The owner has a proper enclosure to prevent the entry of any person or animal and the escape of said high risk animal.
- (f) The owner of a high risk animal, as defined in subsection 7-1, shall have ten (10) days to comply with the provisions of this section once said animal satisfies the elements of subsection 7-1.
 - (g) The owner or caretaker of a high risk dog shall immediately notify the Police Department if the dog is on the loose, is unconfined, has attacked another animal, has attacked a human being, has died or has been sold or given away. If a high risk dog has been sold or given away, the former owner or caretaker shall immediately notify the Police Department of the identity and address of the new owner or caretaker.
 - (h) The owner of the high risk dog shall be required to successfully complete a Behavior Consultation at the owner's expense within sixty (60) days after receiving notification declaring the dog "high risk." The owner shall be required to provide written documentation proving successful completion of the Behavior Consultation to the Police Department including a certification or receipt bearing the name of the consultant and the dates of the consultation.
 - (i) An owner or caretaker of any dog declared high risk found to be in violation of this code, is willfully in violation or is unable to meet the requirements of this chapter, shall be automatically escalated to a classification of a dangerous dog and ordered to confine the animal according to the provisions of 7-43. Failure to abide by this section shall result in an additional order in writing to safely remove the dog from the city or humanely destroy the animal within ten (10) days.
 - (j) The owner of a high risk dog shall be denied a permit for the dog to enter any public park or park designated as a dog park in the City of Ottumwa.
 - (k) The owner of a high risk dog may request to have the declaration reconsidered by the city administrator and police chief after a minimum of one year. If it is determined that there have been no further violations of this chapter, confinement precautions have been taken, and proper training has occurred, the declaration of high risk may be removed.

Sec. 7-42. Impoundment of High Risk Animals.

- (a) The community service officer or their designee shall immediately seize and impound any high risk animal if:
 - (1) The animal is not licensed as required by section 7-41; or
 - (2) The owner does not secure the animal in a proper enclosure; or
 - (3) The animal is outside the proper enclosure and not under physical restraint of a responsible person eighteen (18) years or older by a leash no longer than six (6) feet or not muzzled.
- (b) Impoundment and Disposition

First Offense: The first time a high risk animal is seized under this section it may be reclaimed by the owner of the animal upon payment of impoundment and boarding fees, and presentation of proof to the community service officer that the requirements of this chapter have been met. An animal not reclaimed within five (5) days may be disposed of as provided under section 7-24, and the owner is liable to the city for costs incurred in confining and disposing of the animal.

Second Offense: The second time a high risk animal is seized under this section it may be reclaimed by the owner upon payment of impounding and boarding fees, and presentation of proof, which shall include a signed affidavit from the person taking custody of the animal, to the community service officer that the animal will be removed from the City. An animal not reclaimed within five (5) days may be disposed of as provided under section 7-24, and the owner is liable to the city for costs incurred in confining and disposing of the animal.

Third Offense: The third time a high risk animal is seized under this section it shall be euthanized and the owner shall be liable to the city for the costs incurred in confining and disposing of the animal.

- (c) Any animal believed by the police chief, the chief's designee, or the community service officer to be a high risk animal shall be impounded, at the owner's expense, until such time as a final resolution is reached or until such time the animal is reclaimed by the owner of the animal upon payment of impounding and boarding fees, and presentation of proof to the community service officer that the requirements of this chapter will have been met.

Sec. 7-43. Keeping of Dangerous Animals Prohibited – Exceptions and Regulations.

- (a) It shall be unlawful for any person to keep, shelter, or harbor for any purpose within the city a dangerous animal or dangerous animal hybrid, as defined in section 7-1, except for the following:
 - (1) Service animals as defined by section 7-1, and as required by state and federal law.
 - (2) in a public zoo, bona fide educational or medical institution, museum, or other place where they are kept as live specimens for the public to view, or for the purpose of instruction or study;
 - (3) for exhibition to the public by circus, carnival, exhibit, show or pet shop;
 - (4) in a bona fide, licensed veterinarian hospital for treatment;
 - (5) at an animal control center where such animals have been impounded and until such animals may be removed from the city limits in a safe manner or humanely disposed of in accordance with any applicable law.
- (b) Every person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal in accordance with this section shall report such fact to the Ottumwa Police Department and to the community service officer, along with the following information:
 - (1) The name of the species of any such animal;

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- (2) The number of any such animals kept on the premises.
 - (3) A physical description of any such animal, including any pet name to which it might respond;
 - (4) The location of any such animal or animals within the city, including the location of the cage or place of confinement upon in said premises wherein said animal or animals are kept;
 - (5) In the case of dangerous animals that are poisonous or venomous, the location of the nearest source of anti-venom for that species.
- (c) Every person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal shall at all times keep such animals securely confined within a cage or other enclosure as defined in Section 7-41(b).
 - (d) No person, firm, or corporation owning, keeping, sheltering, or harboring a dangerous animal shall permit or allow such animal to enter upon or traverse any public property, park property, public right-of-way, or the property of another, except when such animal is being transported while caged or confined.
 - (e) In the event that a dangerous animal is found at large and unattended upon public property, park property, public right-of-way, or the property of someone other than its owner, such animal may, in the discretion of the city administrator or the city administrator's designee, or the chief of police, be destroyed if it cannot be confined or captured, thereby creating a hazard to life or property. The City, its officers and employees shall be under no duty to attempt to confine or capture a dangerous animal found at large, no shall it have the duty to notify the owner of such animal prior to its destruction.
 - (f) Any animal believed by the police chief, their designee, or the community service officer to be a dangerous animal shall be impounded, at the owner's expense, until the dangerous determination becomes final resulting from administrative procedures as provided herein or until the animal is reclaimed by the owner of the animal in accordance with the provisions of this chapter.
 - (g) Appeal. The owner whose animal is deemed to be dangerous may appeal the determination to the city administrator within ten days from the date of the decision. The city administrator shall schedule a hearing within seven days from the receipt of the notice. The appeal shall stay the decision of the city employee unless the city administrator directs otherwise. At the public hearing, the applicant shall have the opportunity to present evidence or arguments the applicant may have as to why the action of employee appealed from should not be approved by the city administrator. The city administrator shall render a written decision on the appeal within seven days after the hearing. The findings of the city administrator or the city administrator's designee as hearing officer shall be conclusive. The parties may extend the time limits set forth herein by mutual agreement.
 - (h) The determination of an animal to be dangerous shall become permanent if no administrative appeal is sought, or if administrative appeal proceeding results in affirming the dangerous determination.

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- (i) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-44. Vicious Animals - Duty of Owner.

- (a) It shall be unlawful for any person to own, keep, or harbor a vicious animal within the city. All owners of vicious animals, whether licensed or unlicensed, as defined in subsection 7-1 are required to microchip and remove the animal from the city limits within ten (10) days of the determination of the community service officer or community service officer's designee that the animal is vicious. Alternatively, the owner may authorize the euthanasia of the animal. If the owner refuses to remove the animal from the city or authorize the euthanasia of the animal, the City shall euthanize the animal at the owner's expense. This chapter shall not apply to dogs owned by a law enforcement agency or other federal, state, or local government agencies.
- (b) The police chief, their designee, or the community service officer, may cause the animal to be impounded and destroyed without notice to the owner if the animal has previously been removed from the city as a vicious animal and is found within the city. If the animal has actually bitten or attacked a person, a domestic animal, fowl, or livestock the community service officer may send the head of the animal to an appropriate facility for the purpose of determining if it was rabid. The cost of the transportation and the report shall become an obligation of the owner and the City may seek reimbursement in any lawful manner.
- (c) Subsequent to the summary destruction of any animal, the community service officer shall make a reasonable effort to determine whether persons have had any contact with the destroyed animal and, where appropriate, advise them of any unfavorable report concerning the animal's condition.
- (d) Any animal believed by the police chief, their designee, or the community service officer to be a vicious animal shall be impounded, at the owner's expense, until the vicious determination becomes the final resulting from administrative procedures as provided herein or until the animal is reclaimed by the owner of the animal in accordance with the provisions of this chapter.
- (e) A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-45. Community Service Officer Notification.

- (a) Owners or caretakers of high risk or vicious animals shall notify the Ottumwa Police Department, and the community service officer of the following:
 - (1) Immediate notification upon the escape of a high-risk or vicious animal, if the animal is on the loose, or if the animal is unconfined;
 - (2) Immediate notification if a high risk or vicious animal has attacked a human being, domestic animal, fowl, or livestock.

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- (3) Notification within twenty-four (24) hours if the animal has been sold or has been given away and the owner or caretaker shall also provide the community service officer of the community service officer's designee with the name, address, and telephone number of the new owner or caretaker of the high risk or vicious animal;
 - (4) Notification within five (5) business days if the animal has died or been euthanized.
- (b) Failure to comply with the provisions of this section shall be unlawful. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.

Sec. 7-46. Irresponsible Animal Owners.

- (a) The determination of an "irresponsible animal owner" shall be in accordance with the following procedures:
- (1) The police chief, their designee, or the community service officer, upon being satisfied that an owner is an irresponsible animal owner, shall cause to be served upon the owner a written notice of said determination.
 - (2) The written notice shall contain:
 - a. A finding that the owner is an irresponsible animal owner;
 - b. A description of the acts relied upon in determining the owner is an irresponsible animal owner;
 - c. A copy of this section of the municipal code and the definition of "irresponsible animal owner" under section 7-1; and
 - d. A statement advising the owner of the right to request a hearing as provided by subsection (4) within a stated time which shall be reasonable under the circumstances.
 - (3) Notice. Notice shall be by personal service or by certified mail to the owner.
 - (4) Request for hearing and appeal. Any owner advised that the owner is declared an irresponsible animal owner may have, upon request, a hearing before the city administrator and with the officials making said determination as to whether the owner is an irresponsible animal owner. A request for a hearing must be made in writing and delivered to the office of the city administrator or the city administrator's designee within the time stated in the notice or it will be conclusively presumed that the owner is an irresponsible animal owner.
- (b) The city administrator or the city administrator's designee will act as the hearing officer. At the conclusion of the hearing or within three (3) days thereafter, the hearing officer shall render a written decision as to whether the owner is an irresponsible animal owner. An appeal from this decision may be had by filing a written notice with the hearing officer. This appeal will be heard before the city council at a time and place fixed by the council. The findings of the council shall be conclusive.

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- (c) If an owner is declared to be an irresponsible animal owner the owner shall be banned from having animals within the city limits of the City of Ottumwa. A violation of this section is a simple misdemeanor resulting in a minimum fine of \$100.00.
 - (d) The police chief, their designee, or the community service officer shall cause any animal to be impounded if an owner has been declared an irresponsible animal owner and is found to have an animal within the city.
 - (e) The police chief or the community service officer may order the destruction or adoption of any animals impounded under this section.
 - (f) A person who has been declared to be an irresponsible animal owner may request to have the declaration reconsidered by the city administrator and police chief after a minimum of five years. If the person can demonstrate that they are able to appropriately care for an animal, the declaration of irresponsible animal owner may be removed.

ARTICLE V. ENFORCEMENT

Sec. 7-47. Failure to license or vaccinate.

Any person who fails to license or vaccinate any animal as required by this chapter shall be guilty of a municipal infraction and shall be subject to a fine not to exceed that amount allowed by section 1-53.

Sec. 7-48. Penalties.

Except where hereinabove provided otherwise, the violation of any provision of this chapter shall be charged as a municipal infraction with a civil penalty of \$250.00 for first violation, \$500.00 for the second violation and \$750.00 for third and subsequent violations. Each day any violation of any provision of this chapter shall continue shall be considered a separate offense.

Sec. 7-49. Duty to Investigate.

The community service officer or their designee shall promptly investigate all reported cases of neglect, injury, or cruelty and shall take action as necessary, provided a violation of the Ottumwa City Municipal Code or state law is present.

Sec. 7-50. Entry onto Property.

The following steps may be taken to make entry onto or gain entry into private property for the purposes of enforcement of this code:

- (a) If the animal is located outside the residence, the animal shall be removed and impounded if the animal is in imminent danger or further injury may occur. A search warrant shall be obtained pursuant to 7-38 unless exigent circumstances exist including but not limited to the degree of imminent danger to the animal, i.e. whether in the opinion of the veterinarian the animal will suffer serious injury or death if care or

treatment are delayed and there is insufficient time to secure consent from the owner or caretaker or to obtain a search warrant. Notification of impoundment shall be given to the owner or caretaker in person or in writing upon removal of the animal.

- (b) If the animal is located outside the residence, but is not in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the owner or caretaker. Failure to comply with the corrective measures shall result in the animal being removed from the residence and impounded at the animal shelter or veterinarian. Notification of impoundment shall be given to the caretaker in person or in writing upon removing the animal.
- (c) If the animal is located within the residence, a search warrant shall be obtained to gain legal entry into the residence and the animal shall be removed and impounded at the animal shelter or veterinarian if the animal is in imminent danger or further injury may occur. Notification of impoundment shall be given to the owner or caretaker in person or in writing upon removal of the animal.
- (d) If the animal is located within the residence, a search warrant shall be obtained to gain legal entry into the residence. If said animal is found not to be in imminent danger or further injury will not occur to the animal, corrective measures may be placed upon the owner or caretaker. Failure to comply with said corrective measures shall result in the animal being removed from the residence and impounded at the animal shelter or veterinarian upon service of an additional search warrant. Notification of impoundment shall be given to the owner or caretaker in person or in writing upon removing said animal.

SECTION TWO. Severability. If any section, subsection, sentence, clause, phrase or portion of this Ordinance be held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portion hereof.

SECTION THREE. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION FOUR. Effective. This Ordinance shall be in full force and effect, from and after its passage, adoption, and approval and publication as required by law, unless a subsequent effective date is set out hereinabove.

SECTION FIVE. When this ordinance is in effect, it shall automatically supplement, amend, and become a part of the said Code of Ordinance (Municipal Code) of the City of Ottumwa, Iowa.

PASSED on its first consideration the 21 day of June, 2022.

PASSED on its second consideration the 5th day of July, 2022.

Requirement of consideration and vote at two (2) prior Council meetings suspended the _____ day of _____, 2022.

APPROVED this _____ day of _____, 2022.

CITY OF OTTUMWA, IOWA

By: _____

Richard W. Johnson, Mayor

_____ No action taken by Mayor.

_____ Vetoed this _____ day of _____, 2022

Richard W. Johnson, Mayor

_____ Repassed and adopted over the veto this _____ day of _____, 2022.

_____ Veto affirmed this _____ day of _____, 2022 by failure of vote taken to repass.

_____ Veto affirmed no timely vote taken to repass over veto.

ATTEST:

Chris Reinhard, City Clerk



CITY OF
OTTUMWA

Citizen Input Request Form

July 5th

Council Meeting Date

Name: Kathy Caldwell

Address: 15100 Greenwood Dr.

Item No. to Address: BSL - City Signage
(Agenda will be provided to complete this section)

If you are addressing the Council on an item not listed on the agenda, briefly explain the item you wish to speak on:

The Mayor will invite you to address the City Council at the appropriate time. When called upon by the Mayor, step to the microphone and please state your name for the record. Comments are to be directly germane to City business, operations, or an item listed on this agenda. Remarks shall not be personalized and will be limited to three minutes or less. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments not directly germane to City business, operations, or an item listed on the agenda, as determined by the Mayor, will be ruled out of order. If you are addressing an item not listed on the agenda the Council will not take any action on the item due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department for response, if relevant.



CITY OF
OTTUMWA

Citizen Input Request Form

7-5-2022

Council Meeting Date

Name: Michael Heruville

Address: 423 Apuroose

Item No. to Address: Animal Control
(Agenda will be provided to complete this section)

If you are addressing the Council on an item not listed on the agenda, briefly explain the item you wish to speak on:

Pitbull ordinance & language

The Mayor will invite you to address the City Council at the appropriate time. When called upon by the Mayor, step to the microphone and please state your name for the record. Comments are to be directly germane to City business, operations, or an item listed on this agenda. Remarks shall not be personalized and will be limited to three minutes or less. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments not directly germane to City business, operations, or an item listed on the agenda, as determined by the Mayor, will be ruled out of order. If you are addressing an item not listed on the agenda the Council will not take any action on the item due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department for response, if relevant.



CITY OF
OTTUMWA

Citizen Input Request Form

7.5.2022

Council Meeting Date

Name: Sandra Trejo-Wirfs

Address: 1506 N. Van Buren Ave

Item No. to Address: Request to add name to a city St.
(Agenda will be provided to complete this section)

If you are addressing the Council on an item not listed on the agenda, briefly explain the item you wish to speak on:

Petition to add Sister Irene Nunoz to an existent city street.

The Mayor will invite you to address the City Council at the appropriate time. When called upon by the Mayor, step to the microphone and please state your name for the record. Comments are to be directly germane to City business, operations, or an item listed on this agenda. Remarks shall not be personalized and will be limited to three minutes or less. The City Clerk shall keep the time and notify the Mayor when the allotted time limit has been reached. Comments not directly germane to City business, operations, or an item listed on the agenda, as determined by the Mayor, will be ruled out of order. If you are addressing an item not listed on the agenda the Council will not take any action on the item due to requirements of the Open Meetings Law. Pertinent questions, comments or suggestions may be referred to the appropriate department for response, if relevant.