



**North Liberty City Council
Regular Session
May 23, 2023**



City Administrator Memo



To **Mayor and City Council**
 From **Ryan Heiar, City Administrator**
 Date **May 19, 2023**
 Re **City Council Agenda May 23, 2023**

Consent Agenda

The following items are on the consent agenda and included in the packet:

- City Council Minutes (05/09/23)
- Claims
- Liquor License Renewals
 - Mosley's
 - LD Express
- Pay Application #10, Dubuque Street, Phase 1 Project, All American Concrete, Inc., \$96,575.97
- Change Order #6, Dubuque Street, Phase 1 Project, All American Concrete, Inc., \$20,687.04
- Pay Application #4, City Hall Project, City Construction, \$822,077.30

Meetings & Events

Tuesday, May 23 at 6:30p.m.
City Council

Tuesday, Jun 6 at 6:30p.m.
Planning Commission

Thursday, Jun 8 at 7:00p.m.
Parks & Recreation Commission

Tuesday, Jun 13 at 6:30p.m.
City Council

Centennial Park Next Stage

Shive Hattery will be at Tuesday's meeting to present a phasing plan for the construction of the Centennial Park: Next Stage Project. Staff, partners at the CVB and the Shive Hattery design team, have developed a phasing plan since the City was not awarded Destination Iowa funds. Phase 1 of the plan includes the Centennial Center and Stage, at a cost of \$8.8 million. Staff

Centennial Park: Next Stage, Phase 1	
Estimated Project Expenses	
Centennial Center & Stage	\$ 8,800,000
Potential Funding Source	
Destination Iowa	\$ -
Enhance Iowa+	\$ 1,000,000
ARPA	\$ 1,000,000
Franchise Fees*	\$ 2,000,000
Bond	\$ 3,500,000
Fundraising/Naming Rights	\$ 1,300,000
	\$ 8,800,000
<i>+Application to be submitted</i>	
<i>*requires a rate increase</i>	

is proposing to move forward with the design of Phase 1 at a cost of \$805,000 (includes supplemental fees & construction administration). The chart above identifies a tentative financing plan for Phase 1, which includes a grant request from the state (Enhance Iowa/CAT) and funds derived from the community capital campaign and naming rights opportunities.

Owen Skelley Field Naming Agreement

At the March 28 meeting, the City Council agreed to rename the Babe Ruth Baseball Field to Owen Skelley Field, subject to a naming agreement. Since that time, staff has been working with the Big-O Foundation on an agreement, of which the final draft is included in the packet. The agreement's Exhibit A is the Foundation's initial proposal that identifies the various events and programming the group intends to host at Owen Skelley Field to highlight and support mental health awareness. In addition, the agreement includes a clause outlining support for field enhancements and a five-year term that can be extended upon approval. Staff recommends approval of the agreement with the Big-O Foundation.

Penn Meadows Park Parking Lot Project

The agenda includes a public hearing followed by a resolution approving the plans and specifications for the parking lot project. In summary, this project will revitalize and expand parking on the north side of Penn Meadows Park, improve connectivity and accessibility throughout the area, relocate the existing mid-block trail crossing on Penn Street, replace the sidewalks along Penn Street with an 8' pedestrian path, and improve drainage and stormwater quality in the area.

The estimated cost of the project is \$1.85 million and is expected to begin after the completion of the summer baseball/softball leagues. Staff recommends approval of the plans and specification.

FY23 Budget Amendment

Each year, cities are required to amend their budgets to provide additional spending authority in cases where expenses are greater than budgeted. Amendments are not required for revenues; however, staff has included revenue projections within the amendment. Included in the packet is the budget amendment summary, with notes explaining the additional revenues and expenses projected for FY23. The proposed amendment will not have significant impacts on operating fund balances. Staff recommends approval of the amendment.

Easements

Included in the packet are permanent easement agreements from Liberty View Mall LLC and LL Pelling in favor of the City of North Liberty for the installation and maintenance of sidewalks, traffic lights, and associated equipment opposite Saratoga as extended across W. Penn Street. The easements were negotiated by Pratt Real Estate Management, Inc. at no cost to the City. The installation of traffic signals, which will be completed by the

developer, will remove traffic and use-related restrictions in place on the development of Solomon's Entertainment District and Solomon's Landing. Staff recommends approval of the easements.

Fox Run Pond Park Trail Project

The FY24 budget includes \$413k in funding for improvements at the Fox Run Pond Park, located at the intersection of Pheasant Lane and Scales Bend Road. Planned improvements include a new playground and the installation of trails within the park. Staff is recommending approval of the proposal from Shive Hattery in the amount of \$37k for design and construction management of the trail. The trail will increase connectivity to the public right-of-way as well as into the neighborhood. The estimated project cost is \$247k, funded with hotel/motel and franchise fee dollars.

Forevergreen Road Signalization Projects

The FY24 budget includes signalization projects at the intersections of FGR and Kansas Avenue, and FGR and Jones Boulevard. Signals are already warranted at both intersections and with the planned development in the area the need for improvements will continue to increase. Staff recommends approval of the proposal from Shive Hattery for design and construction management of signals at these intersection in the amount of \$202k. The total project cost is estimated to be \$1.562 million.

Urban Renewal Plan Amendment

From time to time, the City's Urban Renewal Plan is required to be updated to include upcoming projects that are funded with TIF dollars and/or are included in an urban renewal area. This proposed update includes the potential for an incentive agreement with Brandon Pratt for the Solomons Land Entertainment district (not to exceed \$7.5 million) and the potential acquisition of parkland, east of the newly constructed Jones Boulevard extension (not to exceed \$3 million). To be clear, the plan amendment does not approve either of these projects/agreements; rather, this amendment simply allows the City to enter into agreements pertaining to these projects in the future. Staff recommends approval of the resolution setting the public hearing for June 27.

Reimbursement Resolution

As the City proceeds to condemnation for the aforementioned park ground, it must be prepared to pay for the land. Like most of the projects the City completes, a reimbursement resolution is required so that the City can borrow in the future for funds expended in the near term. Staff recommends approval of the reimbursement resolution.

Twopoint2, LLC & Vantage Point Properties, LLC Zoning Map Amendment, Third & Final Reading

Twopoint2, LLC and Vantage Point Properties, LLC rezoning request to C-2-A PAD Highway Commercial District Planned Area Development – west side of Ranshaw Way approximately 280 feet south of West Cherry Street. Road – would facilitate rehabilitation of the property for multiple tenants with the upcoming relocation of A2Z Plumbing to its new location on 240th Street. The primary reason for the PAD is to allow flexibility related to design.

Staff recognizes that design requirements for greenfield developments are effective, but strict design compliance when redeveloping properties can be a challenge, particularly when they were built prior to current standards. The virtual good neighbor meeting on March 21 was attended by a couple of people outside of the applicant and City staff. No objections have been received. The Planning Commission unanimously recommended approval of the request at its April 18 meeting. Staff also recommends approval of the rezoning.

Zoning Ordinance Amendment, Third & Final Reading

This staff-initiated Ordinance would modify the preliminary site plan review regulations to include approval standards, which are absent from the current Code. The approval standards would include a consistency review with the comprehensive plan and any adopted land use policies. Staff asserts the adoption of Connected Tomorrow is a directive to align proposed development with the comprehensive plan. This would be a critical component of the preliminary site plan review process considering the temporary Moratorium Ordinance on site plans inconsistent with the 2023 Future Land Use Map expires on May 1, 2023. Also included is the authority to require easements for access to public utilities and to allow emergency access on private developments during the construction site plan review process. The Planning Commission unanimously recommended approval at its April 18 meeting. Staff recommends approval of the Ordinance.

Communications Advisory Commission Ordinance, Second Reading

Included in the packet is a memo from Communications Director Nick Bergus outlining a number of anticipated and recommended changes within the structure of the Communications Department. Since the inception of the Department, which was originally labeled Telecommunications, responsibilities have evolved as legislation, policy

and roles have changed. Today's Communication Department does much more than communicate with our residents; rather, they are fully engaged within the community through event planning, outreach programming, economic development work and more. With the creation and implementation of programs such as Neighborhood Ambassadors, and the Youth Council, which provides a more robust opportunities for engagement and participation, the Communications Advisory Commission is no longer the most efficient and best use of the resident's or staff's time. As such, staff is recommending approval of an ordinance that will decommission Communications Advisory Commission.

City Initiated Zoning Map Amendments (4), Second Reading

During its meeting on April 25, the City Council tabled four proposed rezoning actions because of errors in how they were published on the agenda. The incorrect information contained in the agenda from the 25th is not corrected simply by tabling the items, so while they cannot be acted upon, those four rezonings are still set for this meeting. To properly (and permanently) dispose of the faulty items, the Council should move to table the items held over from the previous meeting indefinitely. From there, the City Council can consider the four ordinances that have been properly published on this agenda.

The four City-initiated rezonings are being proposed to achieve consistency with the new Comprehensive Plan - Connected to Tomorrow - which was adopted by City Council on February 28, 2023. The adoption of Connected to Tomorrow is a directive to align the Zoning Ordinance and Map with the comprehensive plan. To quote the Plan, "Policymakers, most notably the City Council and Planning and Zoning Commission, will help set the course to realize this plan. These are the bodies to create and administer the policies that shape development in North Liberty. The plan should be a reliable guide to help with decisions related to large-scale policies and individual projects." Staff has elected to initiate consistency rezonings based on geographic areas. Staff utilized Table 3.4: Land Use Compatibility on page 47 of Connected to Tomorrow and the existing use of the property, if any, in its determination of the appropriate zoning district. Notice (certified and regular mail) of the Planning Commission and City Council public hearings were sent to the property owner(s) listed in public records. The property owner representing Random Commercial Properties, LLC at 250 Ranshaw Way expressed concern over the rezoning from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District at the Planning Commission public hearing. The Planning Commission unanimously recommended approval of all four requests at its April 18 meeting. Staff also recommends approval of the rezonings.



Agenda



CITY COUNCIL

May 23, 2023

6:30 p.m.

Regular Session

Council Chambers

1 Quail Creek Circle

1. Call to order
2. Roll call
3. Approval of the Agenda
4. Consent Agenda
 - A. City Council Minutes, Regular Session, May 9, 2023
 - B. Claims
 - C. Liquor License Renewal, Mosleys
 - D. Liquor License Renewal, LD Express
 - E. City Hall Project, Pay Application Number 4, \$822,077.30, City Construction
 - F. Dubuque Street Project, Change Order Number 6, All American Concrete, Inc., \$20,687.04
 - G. Dubuque Street Project, Pay Application Number 10, All American Concrete, \$46,575.97
5. Public Comment
6. Engineer Report
7. City Administrator Report
8. Mayor Report
 - A. National Gun Violence Awareness Day Proclamation
9. Council Reports
10. Centennial Park Next Stage
 - A. Shive-Hattery Presentation
 - B. Resolution Number 2023-53, A Resolution approving the Services Agreement between the City of North Liberty and Shive-Hattery, Inc. for Centennial Park Next Stage Phase One Project

11. Big O Foundation Naming Rights
 - A. Resolution Number 2023-54, A Resolution approving the Naming Rights Agreement between the City of North Liberty and the Big O Foundation for the Babe Ruth Field at Penn Meadows Park

12. Penn Meadows Park North Parking Lot Project
 - A. Public Hearing regarding proposed plans, specifications, and estimate of cost
 - B. Resolution Number 2023-55, A Resolution finally approving and confirming Plans, Specifications, and Estimate of Cost for the Penn Meadows Park North Parking Lot Project

13. FY 23 Budget Amendment
 - A. Public Hearing regarding proposed budget amendment
 - B. Resolution Number 2023-56, A Resolution Amending the Current Budget for the Fiscal Year ending June 30, 2023

14. LL Pelling Easement
 - A. Resolution Number 2023-57, A Resolution approving the Public Easement Agreement between L. L. Pelling Company, Incorporated and the City of North Liberty, Iowa

15. Liberty View Mall Easement
 - A. Resolution Number 2023-58, A Resolution approving the Permanent Landscape, Lighting, Traffic Signal, and Sidewalk Easement Agreement between Liberty View Mall, LLC and the City of North Liberty, Iowa

16. Fox Run Trail Project
 - A. Resolution Number 2023-59, A Resolution approving the Services Agreement between the City of North Liberty and Shive-Hattery, Inc. for the Fox Fun Pond Trail Improvements Project

17. Forevergreen Road Signalization Project
 - A. Resolution Number 2023-60, A Resolution approving the Services Agreement between the City of North Liberty and Shive-Hattery, Inc. for the Forevergreen Road Signalization Project

18. Urban Renewal Plan Amendment
 - A. Resolution Number 2023-61, A Resolution setting date for public hearing on Urban Renewal Plan Amendment

19. Park Land Acquisition
 - A. Resolution Number 2023-62, A Resolution relating to the financing of proposed projects to be undertaken by the City of North Liberty, Iowa establishing compliance with reimbursement bond regulations under the Internal Revenue Code

20. Twopoint2, LLC and Vantage Point Properties, LLC Zoning Map Amendment
 - A. Third consideration and adoption of Ordinance Number 2023-06, An Ordinance amending the Zoning Map District Designation for Certain Property Located in North Liberty, Iowa from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development

21. Zoning Code Ordinance Amendment
 - A. Third consideration and adoption of Ordinance Number 2023-11, An Ordinance amending Chapter 165 of the North Liberty Code of Ordinances regarding Preliminary Site Plan Approval Standards and Access Easement Requirements for Utility and Emergency Vehicles

22. Communications Advisory Commission Ordinance Repeal
 - A. Second consideration of Ordinance Number 2023-12, An Ordinance repealing Chapter 25 of the North Liberty Code of Ordinances, Communications Advisory Commission

23. City Initiated Zoning Map Amendment on property owned by 160-965, LLC
 - A. Second consideration of Ordinance Number 2023-14, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District

24. City Initiated Zoning Map Amendment on property owned by Mackin Estates, LLC
 - A. Second consideration of Ordinance Number 2023-15, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District

25. City Initiated Zoning Map Amendment on property owned by Random Commercial Properties, LLC
 - A. Second consideration of Ordinance Number 2023-16, An Ordinance amending the Zoning Map Designation for Certain Property Located in North

Liberty, Iowa from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District

26. City Initiated Zoning Map Amendment on property owned by Stephen M. & Debra B. Carneol
 - A. Second consideration of Ordinance Number 2023-17, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-1-B Higher-Intensity Commercial District
27. Old Business
28. New Business
29. Adjournment



Consent Agenda

City Council
May 9, 2023
Regular Session

Call to order

Mayor Chris Hoffman called the May 9, 2023, Regular Session of the North Liberty City Council to order at 6:30 p.m. in the Council Chambers, 1 Quail Creek Circle. Councilors present: Ashley Bermel, RaQuishia Harrington, Erek Sittig, Brent Smith, and Brian Wayson; absent: none.

Others present: Ryan Heiar, Tracey Mulcahey, Grant Lientz, Ryan Rusnak, Kevin Trom, Jeff Kellbach, Josey Bathke, Josiah Bilskemper, Nick Bergus, and other interested parties.

Approval of the Agenda

Harrington moved; Wayson seconded to approve the agenda. The vote was all ayes. Agenda approved.

Consent Agenda

Harrington moved, Smith seconded to approve the Consent Agenda including the City Council Minutes, Regular Session, April 25, 2023, Pay Application Number 7 for the Pool Heater Project to Tricon General Construction, acceptance of the Pool Heater Project, and the attached list of claims. The vote was all ayes. Consent Agenda approved.

Public Comment

No public comments were offered.

City Engineer Report

City Engineer Trom reported that the Library Project is substantially complete. The Ranshaw Paved Shoulders Project will start right after Memorial Day. The project is estimated to take four to five days of work plus time after for installation of pavement markings. The Streets Department will post signs the week before the project. The Penn Meadows Park North Parking Lot 100% review with staff meeting happened today. The public hearing will be on May 23. The bid opening is scheduled for June 7, contract awarded at the first meeting in June. Construction is expected to start right after July 4. The West Penn Street Project 50% submittal was completed last week. The staff review meeting is next week. Shive-Hattery is working with staff on the Centennial Park Next Stage Project for phasing of construction. The council discussed the report with Trom.

City Administrator Report

City Administrator Heiar reported that at the May 23 City Council meeting, Shive-Hattery will be presenting phasing options and financing information. Staff will provide an update on fundraising. The council will be asked to consider moving forward with Phase 1. Heiar updated on the Penn Meadows Park North Parking Lot Project. He reported that social service grant applications are out for completion and submission.

Mayor Report

Mayor Hoffman proclaimed Bike Month and Bike to Work Week. Nick Bergus presented information on the proclamation. Mayor Hoffman proclaimed Older Americans Month. Jeff Kellbach and Josey Bathke accepted the proclamation and offered additional information on the proclamation.

Council Reports

Councilor Wayson reported on the Emergency Management meeting. He reported that SBA loans remain available at the Coralville Library through May 17. Councilor Smith updated on his attendance at the Better Together 2030 Board meeting. He thanked the Mayor for his help in training at the Cedar Rapids Fire Department. Smith reported that the Fire Department staffing plan change resulted in the saving of a life in a recent fire. Councilor Bermel thanked NLPD and NLFD for hosting visits from community elementary kids. Councilor Sittig attended the affordable housing highlights event. HTFJC announced the largest round of grant funding available ever of \$1.75 million. Sittig attended the DVIP groundbreaking. He reported that long-time resident Don Lund passed away last month.

2023A Bond Sale

Bermel moved, Sittig seconded to approve Resolution Number 2023-50, A Resolution authorizing and approving a Loan Agreement, providing for the issuance of \$9,435,000 General Obligation Corporate Purpose Bonds, Series 2023A, and providing for the levy of taxes to pay the same. The vote was: ayes – Sittig, Wayson, Harrington, Smith, Bermel; nays – none. Motion carried.

Assessment Resolution

Harrington moved, Smith seconded to approve Resolution Number 2023-51, A Resolution assessing delinquent amounts owed to the City of North Liberty, Iowa to individual property taxes. The vote was: ayes – Smith, Wayson, Harrington, Sittig, Bermel; nays – none. Motion carried.

Parking Resolution

Harrington moved, Sittig seconded to approve Resolution Number 2023-52, A Resolution approving parking control devices in the City of North Liberty, Iowa. The vote was: ayes– Bermel, Wayson, Smith, Sittig, Harrington; nays – none. Motion carried.

Communications Advisory Commission Ordinance Repeal

At 6:53 p.m., Mayor Hoffman opened the Public Hearing regarding proposed ordinance amendment. No oral or written comments were received. The public hearing was closed at 6:53 p.m.

Harrington moved, Wayson seconded to approve the first consideration of Ordinance Number 2023-12, An Ordinance repealing Chapter 25 of the North Liberty Code of Ordinances, Communications Advisory Commission. After discussion, the vote was: ayes – Sittig, Smith, Bermel, Harrington, Wayson; nays – none. Motion carried.

City Initiated Zoning Map Amendments (Tabled at April 25, 2023 meeting)

Sittig moved, Harrington seconded to table the following ordinances indefinitely; first consideration of Ordinance Number 2023-07, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District; first consideration of Ordinance Number 2023-08, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-1-B General Commercial District; first consideration of Ordinance Number 2023-09, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District; and first consideration of Ordinance Number 2023-10, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District. After discussion, the vote was: ayes- Harrington, Wayson, Bermel, Sittig, Smith; nays – none. Motion carried.

City Initiated Zoning Map Amendment on property owned by 160-965, LLC

Rusnak presented the amendment and Commission recommendations. The Commission unanimously recommends approval.

At 6:59 p.m., Mayor Hoffman opened the public hearing regarding proposed zoning amendment. No oral or written comments were received. The public hearing was closed at 6:59 p.m.

Smith moved, Wayson seconded to approve the first consideration of Ordinance Number 2023-14, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District. The vote was: ayes- Wayson, Smith, Harrington, Bermel; nays – none; abstain – Sittig. Motion carried.

City Initiated Zoning Map Amendment on property owned by Mackin Estates, LLC

Rusnak presented the amendment and Commission recommendations. The Commission unanimously recommends approval.

At 7:01 p.m., Mayor Hoffman opened the public hearing regarding proposed zoning amendment. No oral or written comments were received. The public hearing was closed at 7:01 p.m.

Harrington moved, Bermel seconded to approve the first consideration of Ordinance Number 2023-15, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District. The vote was: ayes- Wayson, Bermel, Sittig, Smith, Harrington; nays – none. Motion carried.

City Initiated Zoning Map Amendment on property owned by Random Commercial Properties, LLC

Rusnak presented the amendment and Commission recommendations. The Commission unanimously recommends approval.

At 7:02 p.m., Mayor Hoffman opened the public hearing regarding proposed zoning amendment. No oral or written comments were received. The public hearing was closed at 7:02 p.m.

Wayson moved, Harrington seconded to approve the first consideration of Ordinance Number 2023-16, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District. The vote was: ayes – Wayson, Harrington, Smith, Sittig, Bermel; nays – none. Motion carried.

City Initiated Zoning Map Amendment on property owned by Stephen M. & Debra B. Carneol

Rusnak presented the amendment and Commission recommendations. The Commission unanimously recommends approval. The Council discussed the application with staff.

At 7:04 p.m., Mayor Hoffman opened the public hearing regarding proposed zoning amendment. No oral or written comments were received. The public hearing was closed at 7:04 p.m.

Harrington moved, Sittig seconded to approve the first consideration of Ordinance Number 2023-17, An Ordinance amending the Zoning Map Designation for Certain Property Located in North Liberty, Iowa from I-1 Light Industrial District to C-1-B Higher-Intensity Commercial District. The vote was: ayes – Sittig, Smith, Harrington, Wayson, Bermel; nays – none. Motion carried.

Twopoint2, LLC and Vantage Point Properties, LLC Zoning Map Amendment

Harrington moved, Smith seconded to approve the second consideration of Ordinance Number 2023-06, An Ordinance amending the Zoning Map District Designation for Certain Property Located in North Liberty, Iowa from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development. The vote was: ayes – Harrington, Smith, Wayson, Sittig, Bermel; nays – none. Motion carried.

Zoning Code Ordinance Amendment

Harrington moved, Wayson seconded to approve the second consideration of Ordinance Number 2023-11, An Ordinance amending Chapter 165 of the North Liberty Code of Ordinances regarding Preliminary Site Plan Approval Standards and Access Easement Requirements for Utility and Emergency Vehicles. The vote was: ayes – Smith, Sittig, Bermel, Wayson, Harrington; nays – none. Motion carried.

Mayor Hoffman recognized Josey Bathke as the Chair of the Planning Commission.

Old Business

No old business was offered.

New Business

Councilor Wayson reminded all that Remarkable Rigs is on Saturday, and it is time for residents to apply for City Commissions.

Adjournment

Harrington moved; Wayson seconded to adjourn at 7:07 p.m. The vote was all ayes. Meeting adjourned.

CITY OF NORTH LIBERTY

By: _____
Chris Hoffman, Mayor

Attest: _____
Tracey Mulcahey, City Clerk



State of Iowa

Alcoholic Beverages Division

Applicant

NAME OF LEGAL ENTITY	NAME OF BUSINESS(DBA)	BUSINESS		
Iowa Hickory LLC	Mosley's	(319) 471-2577		
ADDRESS OF PREMISES	PREMISES SUITE/APT NUMBER	CITY	COUNTY	ZIP
125 E. Zeller St.		North Liberty	Johnson	52317
MAILING ADDRESS	CITY	STATE	ZIP	
125 E. Zeller St.	North Liberty	Iowa	52317	

Contact Person

NAME	PHONE	EMAIL
Sean Keller	(319) 471-2577	sean.keller7@gmail.com

License Information

LICENSE NUMBER	LICENSE/PERMIT TYPE	TERM	STATUS
LC0044512	Class C Retail Alcohol License	12 Month	Submitted to Local Authority
EFFECTIVE DATE	EXPIRATION DATE	LAST DAY OF BUSINESS	
June 1, 2023	May 31, 2024		
SUB-PERMITS			
Class C Retail Alcohol License			



State of Iowa

Alcoholic Beverages Division

PRIVILEGES

Outdoor Service

Status of Business

BUSINESS TYPE

Limited Liability Company

Ownership

• Individual Owners

NAME	CITY	STATE	ZIP	POSITION	% OF OWNERSHIP	U.S. CITIZEN
Matthew Swift	Iowa City	Iowa	52240	Owner	47.05	Yes
Sean Keller	NORTH LIBERTY	Iowa	52317	Owner	52.95	Yes

Insurance Company Information

INSURANCE COMPANY

Society Insurance

POLICY EFFECTIVE DATE

June 1, 2023

POLICY EXPIRATION DATE

June 1, 2024

DRAM CANCEL DATE

OUTDOOR SERVICE EFFECTIVE DATE

OUTDOOR SERVICE EXPIRATION DATE

BOND EFFECTIVE DATE

TEMP TRANSFER EFFECTIVE DATE

TEMP TRANSFER EXPIRATION DATE



State of Iowa ABD approval statement from the following county department

Legal Name of Applicant: _____

Name of Business (DBA): _____

Address of Business: _____

Business Phone: _____

Email: _____


State of Iowa ABD License #: _____

Johnson County Health Department:

The above referenced business possesses a valid Johnson County Public Health food license.

Name: _____

Title: _____ **Date:** _____

Signature:  _____



North Liberty Police Department

340 N Main St•PO Box 77•North Liberty, Iowa•52317•(319) 626-5724/Fax: 5743

April 12, 2023

Liquor License Check

Business: Mosley's
125 E. Zeller Street
North Liberty, IA 52317

Owners: Sean Keller (DOB: 1979)
Matthew Swift (DOB: 1982)

The North Liberty Police Department does not have any documented contacts with the owner(s) or premise in conflict with their liquor license.

I recommend the license be granted.

This record check was conducted by Sergeant Mitch Seymour.





State of Iowa

Alcoholic Beverages Division

Applicant

NAME OF LEGAL ENTITY	NAME OF BUSINESS(DBA)	BUSINESS		
LIBERTY DOORS, INC.	LD Express	(319) 626-6100		
ADDRESS OF PREMISES	PREMISES SUITE/APT NUMBER	CITY	COUNTY	ZIP
900 West Penn StreetPenn		North Liberty	Johnson	52317
MAILING ADDRESS	CITY	STATE	ZIP	
900 West Penn StreetPenn	North Liberty	Iowa	52317	

Contact Person

NAME	PHONE	EMAIL
Rick Streb	(319) 626-6100	rick@libertydoors.com

License Information

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

TENTATIVE EFFECTIVE DATE	TENTATIVE EXPIRATION DATE	LAST DAY OF BUSINESS
May 15, 2023	May 14, 2024	

SUB-PERMITS

Class B Retail Alcohol License

PRIVILEGES



Status of Business

BUSINESS TYPE

Corporation

Ownership

• Individual Owners

NAME	CITY	STATE	ZIP	POSITION	% OF OWNERSHIP	U.S. CITIZEN
Todd Streb	North Liberty	Iowa	52317	VP	48.99	Yes
Rick Streb	North Liberty	Iowa	52317	President	48.99	Yes
Thomas Streb	North Liberty	Iowa	52317	owner	1.01	Yes
Linda Streb	North Liberty	Iowa	52317	owner	1.01	Yes

Insurance Company Information

INSURANCE COMPANY

POLICY EFFECTIVE DATE

POLICY EXPIRATION DATE

DRAM CANCEL DATE

OUTDOOR SERVICE EFFECTIVE DATE

OUTDOOR SERVICE EXPIRATION DATE

BOND EFFECTIVE DATE

TEMP TRANSFER EFFECTIVE DATE

TEMP TRANSFER EXPIRATION DATE



North Liberty Police Department

340 N Main St•PO Box 77•North Liberty, Iowa•52317•(319) 626-5724/Fax: 5743

April 12, 2023

Liquor License Check

Business: LD Express
900 W. Penn St.
North Liberty, IA 52317

Owners:

1. Rick Streb (DOB: 1960)
2. Todd Streb (DOB: 1974)
3. Thomas Streb (DOB: 1939)
4. Linda Streb (DOB: 1939)

The North Liberty Police Department does not have any documented contacts with the owners or premise in conflict with their liquor license.

I recommend the license be granted.

This record check was conducted by Sergeant Mitch Seymour.





State of Iowa ABD approval statement from the following county department

Legal Name of Applicant: Liberty Doors Inc

Name of Business (DBA): LD Express

Address of Business: 900 W Penn St North Liberty, IA 52317

Business Phone: 319-626-2621

Email: rick@libertydoors.com

State of Iowa ABD License #: BC0021554

Johnson County Health Department:

The above referenced business possesses a valid Johnson County Public Health food license.

Name: Rob Thul

Title: EH Manager Date: 4/7/23

Signature: 

North Liberty Fire Department

Occupancy: **LD Express / Liberty Doors & Hardware**

Occupancy ID: **LIBE05**

Address: **900 W Penn ST North Liberty IA 52317**

Inspection Type: **Liquor License Inspection**

Inspection Date: **5/2/2023**

By: Humston, Tina (01-2406)

Time In: **15:01**

Time Out: **15:42**

Authorized Date: **05/10/2023**

By: Hardin, Bryan E (01-1022)

Next Inspection Date: **No Inspection Scheduled**



Form: General Fire
Inspection Checklist 1.3

Inspection Description:

ORDER TO COMPLY:

You must correct the violations noted upon receipt of this notice. An inspection to determine compliance with this Notice will be conducted on or after 30 days from the date of inspection.

This initial and the first re-inspection are at no charge. If subsequent re-inspections are needed to ensure compliance, you will be charged the current fee schedule.

If you fail to comply with this notice, you may be liable for the penalties provided for by law for such violations.

Inspection Topics:

Fire Extinguishers

Fire Extinguisher Monthly Inspection - Initial & Date Tag

NFPA 10: Standard for Portable Fire Extinguishers, 2013 Edition, Section 7.2.1.2 Fire extinguishers and Class D extinguishing agents shall be visually inspected at intervals not exceeding 31 days. Documentation of the visual inspection shall be recorded on the backside of the inspection tag (Date & Initials) or on a log book.

Status: **FAIL**

Notes: Extinguisher near live bait needs monthly inspection.



Fire Alarm System

Manual Pull Station Accessible & Unobstructed

907.4.2.6 Unobstructed and unobscured. Manual fire alarm boxes shall be accessible, unobstructed, unobscured and visible at all times.

Status: FAIL

Notes: Storage in front of emergency stop button for the gas station. Maintain clear path to and around the emergency stop & phone.



Combustible, General & Outside Storage

Oily Rags Stored in Approved Containers

304.3.1 Spontaneous ignition. Materials susceptible to spontaneous ignition, such as oily rags, shall be stored in a listed disposal container. Contents of such containers shall be removed and disposed of daily.

Status: FAIL

Notes: No approved disposal container on site for oily rags. Rags used for cleaning grease, cooking equipment and hood need to be stored in a non-combustible container with lid.



Additional Time Spent on Inspection:

Category	Start Date / Time	End Date / Time
----------	-------------------	-----------------

Notes: No Additional time recorded

Total Additional Time: 0 minutes

Inspection Time: 41 minutes

Total Time: 41 minutes

Summary:

Overall Result: Correction Notice Issued

Inspector Notes: Note: Only the space associated with the liquor license was inspected.

Closing Notes:

Above is the results of your Fire Inspection conducted by the North Liberty Fire Department Department. If you have any questions, please feel free to contact Fire Marshal Bryan Hardin at (319) 626-5709. If you had any violations, please reply back when all corrections are made so we may close out your inspection. Thank you for your time and attention.

Inspector:

Name: Humston, Tina
Rank: Captain
Work Phone(s): None on file
Email(s): thumston@northlibertyiowa.org
Humston, Tina:



Signed on: 05/02/2023 16:43

Signature

Date

Representative Signature:

Signature

Date

APPLICATION AND CERTIFICATION FOR PAYMENT

AIA DOCUMENT G702

PAGE 1 OF 5 PAGES

TO OWNER:
 City of North Liberty
 3 Quail Creek Circle
 North Liberty, IA 52317
 FROM CONTRACTOR:
 City Construction
 2346 Mormon Trek Blvd. Suite 2500
 Iowa City, IA 52246

PROJECT:
 North Liberty City Hall
 360 North Main Street
 North Liberty, IA 52317
 VIA ARCHITECT:
 Shive-Hattery, Inc.
 2839 Northgate Drive
 Iowa City, IA 52245

APPLICATION NO: 4
 PERIOD TO: 05/09/23
 PROJECT NOS: 1-159
 CONTRACT DATE: 09/14/22

Distribution to:

<input checked="" type="checkbox"/>	OWNER
<input checked="" type="checkbox"/>	ARCHITECT
<input type="checkbox"/>	CONTRACTOR
<input type="checkbox"/>	
<input type="checkbox"/>	

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. Continuation Sheet, AIA Document G703, is attached.

1 ORIGINAL CONTRACT SUM	\$	9,389,509.00
2 Net change by Change Orders	\$	0.00
3 CONTRACT SUM TO DATE (Line 1 ± 2)	\$	9,389,509.00
4 TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$	2,623,938.76
5. RETAINAGE:		
a. 5 % of Completed Work (Column D + E on G703)	\$	113,799.44
b. 5 % of Stored Material (Column F on G703)	\$	17,397.50
Total Retainage (Lines 5a + 5b or Total in Column I of G703)	\$	131,196.94
6. TOTAL EARNED LESS RETAINAGE (Line 4 Less Line 5 Total)	\$	2,492,741.82
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT (Line 6 from prior Certificate)	\$	1,670,664.52
8. CURRENT PAYMENT DUE	\$	822,077.30
9. BALANCE TO FINISH, INCLUDING RETAINAGE (Line 3 less Line 6)	\$	6,896,767.18

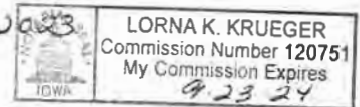
CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$0.00	\$0.00
Total approved this Month	\$0.00	\$0.00
TOTALS	\$0.00	\$0.00
NET CHANGES by Change Order	\$0.00	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR: City Construction

By: [Signature] Date: 5/9/23

State of: Iowa
 Subscribed and sworn to before me this 9th day of May, 2023.
 Notary Public: Lorna K Krueger
 My Commission expires: September 23, 2024



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising the application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED\$ 822,077.30

(Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT: Natalie Oppedal Date: May 18, 2023

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

Date of Issuance:	Effective Date: 5/23/23
Owner: City of North Liberty	Owner's Contract No.: N/A
Contractor: All American Concrete, Inc.	Contractor's Project No.: N/A
Engineer: Shive-Hattery, Inc.	Engineer's Project No.: 1201070
Project: Dubuque Street Phase 1	Contract Name: -



The Contract is modified as follows upon execution of this Change Order:

Description:

- 1) Per the contract documents, Contractor met the requirements of substantial completion of Project Phases 1-3 by August 12, 2022 and is entitled to receive Incentive Payment, **1 LS at \$10,000.00**
- 2) Per the contract documents, Contractor met the requirements of substantial completion of the full project by November 18, 2022 and is entitled to receive Incentive Payment, **1 LS \$30,000.00**
- 3) Per the contract documents, Contractor exceeded 120 working days allowed for achieving substantial completion of project and is subject to liquidated of \$2,000 per calendar day for 9.5 days, 9.5 Days at (\$2,000) per day = **(\$19,000.00)**
- 4) Four tons of lava rock mulch was leftover from the project and shall become property of the City with a labor and installation deduction to the associated project unit price, 4 TON at (\$78.24) per TON = **(\$312.96)**

Attachments: *AACI COR 14, COR 13*

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES
Original Contract Price: <u>\$ 2,341,680.00</u>	Original Contract Times: Substantial Completion: <u>120 Working Days</u> Ready for Final Payment: <u>20 Working Days</u>
Increase from previously approved Change Order No.:(n/a) <u>\$88,996.24</u>	Increase from previously approved Change Orders: Substantial Completion: <u>N/A</u> Ready for Final Payment: _____
Contract Price prior to this Change Order: <u>\$2,430,676.24</u>	Contract Times prior to this Change Order: Substantial Completion: <u>120 Working Days</u> Ready for Final Payment: <u>20 Working Days</u>
Increase of this Change Order: <u>\$20,687.04</u>	Increase of this Change Order: Substantial Completion: <u>0</u> Ready for Final Payment: <u>0</u>
Contract Price incorporating this Change Order: <u>\$2,426,798.28</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>120 Working Days</u> Ready for Final Payment: <u>20 Working Days</u>

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By: <u></u>	By: _____	By: <u></u>
Engineer	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: <u>Project Engineer</u>	Title: _____	Title: <u>Vice President</u>
Date: <u>5/16/23</u>	Date: _____	Date: <u>5/16/2023</u>

PAYMENT APPLICATION

TO: City of North Liberty, Iowa 3 Quail Creek Circle North Liberty, Iowa 52317 Attn:	PROJECT NAME AND LOCATION: Dubuque St. Phase 1--N.Liberty Dubuque Street Phase 1 North Liberty, Iowa 52317	APPLICATION # 10 PERIOD THRU: 05/16/2023 PROJECT #s: DATE OF CONTRACT: 01/27/2022	Distribution to: <input type="checkbox"/> OWNER <input type="checkbox"/> ARCHITECT <input type="checkbox"/> CONTRACTOR <input type="checkbox"/> <input type="checkbox"/>
FROM: All American Concrete, Inc. 1489 Highway 6 West Liberty, IA. 52776	ARCHITECT: Shive Hattery, Inc. 2839 Northgate Drive Iowa City, Iowa 52245		
FOR: Dubuque St. Phase 1			

CONTRACTOR'S SUMMARY OF WORK

Application is made for payment as shown below.
Continuation Page is attached.

1. CONTRACT AMOUNT	2,341,680.00
2. SUM OF ALL CHANGE ORDERS	109,683.28
3. CURRENT CONTRACT AMOUNT (Line 1 +/- 2)	2,451,363.28
4. TOTAL COMPLETED AND STORED (Column G on Continuation Page)	2,534,326.93
5. RETAINAGE:	
a. 5.00% of Completed Work (Columns D + E on Continuation Page)	124,993.76
b. 5.00% of Material Stored (Column F on Continuation Page)	1,722.59
Total Retainage (Line 5a + 5b or Column I on Continuation Page)	126,716.35
6. TOTAL COMPLETED AND STORED LESS RETAINAGE (Line 4 minus Line 5 Total)	2,407,610.58
7. LESS PREVIOUS PAYMENT APPLICATIONS	2,361,034.61
8. PAYMENT DUE	46,575.97
9. BALANCE TO COMPLETION (Line 3 minus Line 6)	43,752.71

SUMMARY OF CHANGE ORDERS	ADDITIONS	DEDUCTIONS
Total changes approved in previous months	\$88,996.24	\$0.00
Total approved this month	\$20,687.04	\$0.00
TOTALS	\$109,683.28	\$0.00
NET CHANGES	\$109,683.28	

Contractor's signature below is his assurance to Owner, concerning the payment herein applied for, that: (1) the Work has been performed as required in the Contract Documents, (2) all sums previously paid to Contractor under the Contract have been used to pay Contractor's costs for labor, materials and other obligations under the Contract for Work previously paid for, and (3) Contractor is legally entitled to this payment.

CONTRACTOR: All American Concrete, Inc.
 By: Jodi Simon Date: 5-16-23
 State of: Iowa County of: Muscatine

Subscribed and sworn to before me this 16th day of May 2023
 Notary Public: Nicole Polito
 My Commission Expires: 10/17/25



ARCHITECT'S CERTIFICATION

Architect's signature below is his assurance to Owner, concerning the payment herein applied for, that: (1) Architect has inspected the Work represented by this Application, (2) such Work has been completed to the extent indicated in this Application, and the quality of workmanship and materials conforms with the Contract Documents, (3) this Application for Payment accurately states the amount of Work completed and payment due therefor, and (4) Architect knows of no reason why payment should not be made.

CERTIFIED AMOUNT..... \$46,575.97

(If the certified amount is different from the payment due, you should attach an explanation. Initial all the figures that are changed to match the certified amount.)

ARCHITECT: [Signature] Date: 5/17/2023

Neither this Application nor payment applied for herein is assignable or negotiable. Payment shall be made only to Contractor, and is without prejudice to any rights of Owner or Contractor under the Contract Documents or otherwise.



Mayor Report



PROCLAMATION

National Gun Violence Awareness Day

WHEREAS, every day, more than 120 Americans are killed by gun violence and more than 200 are shot and wounded, with an average of more than 17,000 gun homicides every year; and

WHEREAS, Americans are 26 times more likely to die by gun homicide than people in other high-income countries; and

WHEREAS, IOWA has 323 gun deaths every year, with a rate of 10 deaths per 100,000 people, a crisis that costs the state \$4.2 billion each year, of which \$53 million is paid by taxpayers. IOWA has the 41st highest rate of gun deaths in the US; and

WHEREAS, gun homicides and assaults are concentrated in cities, with more than half of all firearm related gun deaths in the nation occurring in 127 cities; and

WHEREAS, cities across the nation, including in North Liberty, are working to end the senseless violence with evidence-based solutions; and

WHEREAS, protecting public safety in the communities they serve is mayors' highest responsibility; and

WHEREAS, support for the Second Amendment rights of law-abiding citizens goes hand-in-hand with keeping guns away from people with dangerous histories; and

WHEREAS, mayors and law enforcement officers –in partnership with local violence intervention activists and resources –know their communities best, are the most familiar with local criminal activity and how to address it, and are best positioned to understand how to keep their citizens safe; and

WHEREAS, gun violence prevention is more important than ever as we see an increase in firearm homicides, and nonfatal shootings across the country, increased calls to domestic violence hotlines, and an increase in city gun violence;

WHEREAS, in January 2013, Hadiya Pendleton was tragically shot and killed at age 15; and on June 2, 2023 to recognize the 26th birthday of Hadiya Pendleton (born: June 2, 1997), people across the United States will recognize National Gun Violence Awareness Day and wear orange in tribute to - (1) Hadiya Pendleton and other victims of gun violence; and (2) the loved ones of those victims; and

WHEREAS, the idea was inspired by a group of Hadiya's friends, who asked their classmates to commemorate her life by wearing orange; they chose this color because hunters wear orange to announce themselves to other hunters when out in the woods, and orange is a color that symbolizes the value of human life; and

WHEREAS, anyone can join this campaign by pledging to wear orange on June 2nd, the first Friday in June in 2023, to help raise awareness about gun violence; and

WHEREAS, by wearing orange on June 2, 2023 Americans will raise awareness about gun violence and honor the lives of gun violence victims and survivors; and

WHEREAS, we renew our commitment to reduce gun violence and pledge to do all we can to keep firearms out of the hands of people who should not have access to them, and encourage responsible gun ownership to help keep our families and communities safe.

Now, therefore, be it resolved that I, Chris Hoffman, Mayor of North Liberty, do hereby proclaim the first Friday in June, June 2, 2023, as
National Gun Violence Awareness Day

in the City of North Liberty. I encourage all citizens to support their local communities' efforts to prevent the tragic effects of gun violence and to honor and value human lives.

Mayor Chris Hoffman

Signed in North Liberty, Iowa
this 23rd day of May, 2023



Centennial Park Next Stage

Centennial Park Master Planning Update

June-August 2022 Master Planning Update completed for Centennial Park

Proposed Phasing Plan:

Phase 1 Centennial Center with exterior public restrooms

Phase 2 Splash Pad, Picnic Shelter, Playground Expansion, East Parking Expansion

Phase 3 Open Air Pavilion, Expanded Paved Area, Extend Power and Site Lighting To South

Phase 4 Honor Garden & North Parking Expansion

Phases 2-4 can be completed in any order.







PHASE 1



0 40 80 160
SCALE IN FEET





PHASE 3





Preliminary Project Schedule – Phase 1

Milestone

Final Programming & Schematic Design & Owner Review

Design Development & Owner Review

Construction Documents & Owner Review

Bid Opening

Award Construction Contract

Begin Construction

Substantial Completion

Soft Opening of Event Center

Estimated Project Cost \$8.8 million

Date

June thru Mid-August 2023

September thru November 2023

Mid-Dec. 2023 thru Mid-March 2024

Early May 2024

Mid-May 2024

July 2024

~September 2025

~October 2025





AIA[®] Document B101[®] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Fifteenth day of May in the year Two Thousand Twenty-Three
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of North Liberty
3 Quail Creek Circle
P.O. Box 77
North Liberty, Iowa 52317
Phone: 319-626-5700

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

Shive-Hattery, Inc.
2839 Northgate Drive
Iowa City, Iowa 52245
Phone: 319-354-3040

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

NL Centennial Park Event Complex Phase 1 2112301700
North Liberty, Iowa

The Owner and Architect 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.

TABLE OF ARTICLES

1 INITIAL INFORMATION
2 ARCHITECT'S RESPONSIBILITIES
3 SCOPE OF ARCHITECT'S BASIC SERVICES
4 SUPPLEMENTAL AND ADDITIONAL SERVICES
5 OWNER'S RESPONSIBILITIES
6 COST OF THE WORK
7 COPYRIGHTS AND LICENSES
8 CLAIMS AND DISPUTES
9 TERMINATION OR SUSPENSION
10 MISCELLANEOUS PROVISIONS
11 COMPENSATION
12 SPECIAL TERMS AND CONDITIONS
13 SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Design and construction of a new event center facility to be located in Centennial Park.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The event center is proposed to be approximately 13,000 square feet, including the exterior stage space, with accompanying site design. This project will be limited to site and utility improvements required for the new event center. The target occupancy for a seated event is 300. The remainder of master plan amenities will be completed in future phases: splash pad, open pavilion, playground expansion, parking expansion, honor garden and expanded sidewalk/paving and site lighting.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line-item breakdown.)

The total construction budget is \$7.6 million.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Final Programming/Schematic Design: Anticipated duration: 10 weeks
Design Development: Anticipated duration: 10 weeks
Construction Documents: Anticipated duration: 13 weeks
Bidding and Contract Award: Anticipated Duration: 8 weeks

.2 Construction commencement date:

Anticipated July 2024

.3 Substantial Completion date or dates:

Anticipated September 2025

.4 Other milestone dates:

Dates and durations identified in this section are contingent upon decisions made by the Owner and/or Owner's Representatives which may impact the project schedule.

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Competitive Construction Bidding

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™-2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204-2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204-2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Ryan Heiar
3 Quail Creek Circle
P.O. Box 77
North Liberty, Iowa 52317
Phone: 319-626-5711
Email: rheiar@northlibertyiowa.org

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows: N/A
(List name, address, and other contact information.)

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

Justin Widdel
Terracon Consultants, Inc.
2640 12th Street SW
Cedar Rapids, Iowa 52404
Phone: 319-366-8321

.2 Civil Engineer:

By Architect, refer to Article 4

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

Acoustical Consultation, Cost Estimating (DD Only) and Catering Kitchen Design. Refer to Article 1.1.11.1 and Article 4.

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

Jennifer Hoffman, PE
2839 Northgate Drive
Iowa City, Iowa 52245
Phone: 319-248-3376
Email: jhoffman@shive-hattery.com

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

By Architect, refer to Article 4

.2 Mechanical Engineer:

By Architect, refer to Article 4

.3 Electrical Engineer:

By Architect, refer to Article 4

.4 Acoustical Consultation:

Sari Ronnholm
Kvernstoen, Ronnholm & Associates
1917 Coventry Court
St. Paul, MN 55118

.5 Cost Estimating:
Lee Harmsen
Stecker Harmsen Inc.
510 S 17th St #110
Ames, IA 50010

.6 Catering Kitchen Design:
Luke Green
Advanced Foodservice Consulting
6201 South Gateway Drive
Marion, IA 52302

§ 1.1.11.2 Consultants retained under Supplemental Services:

Geotechnical Engineer - See Paragraph 1.1.9.1.

§ 1.1.12 Other Initial Information on which the Agreement is based:

Documents shared with City via email on April 26, 2023; 0421 Ph 1 Scoping redline.pdf, 2023-0421 Centennial COP Phase I concept.pdf and 2023-0421 Ph1 Utility Redline.pdf

Topographic survey and aerial imagery completed in 2022 under prior contract.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change, and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 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.

§ 1.3.1 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.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability:	Each Occurrence	\$1,000,000
	General Aggregate	\$2,000,000

§ 2.5.2 Automobile Liability:	Combined Single Limit	\$1,000,000
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(Paragraph deleted)

§ 2.5.3. Workers' Compensation	Statutory Limits	
	Employee Liability	\$1,000,000

§ 2.5.4 Professional Liability	Each Claim	\$5,000,000
	Aggregate	\$10,000,000

§ 2.5.5 The Architect 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 liability insurance policies result in the same or greater coverage as the coverages require under Sections 2.51 and 2.52, 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.

§ 2.5.6 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.7 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

(Paragraph deleted)

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall 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, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, 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 shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall 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.

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

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the 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 that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall 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) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall 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. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect’s knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect’s Supplemental Services and the Owner’s Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect - Basic Services
§ 4.1.1.2 Multiple preliminary designs	Not Provided
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect – Basic Services
§ 4.1.1.9 Landscape design	Architect – Basic Services

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.10 Architectural interior design	Architect – Basic Services
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Architect’s Consultant – Basic Service
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided -
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility supports services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Architect – Basic Services
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Select Services by Architect and Architect’s Consultant – Basic Services
§ 4.1.1.29 Geotechnical Engineering	Architect’s Consultant - Basic Services
<i>(Row deleted)</i>	
§ 4.1.1.30 Acoustical	Architect’s Consultant – Basic Services
<i>(Row deleted)</i>	
§ 4.1.1.31 Material Testing	Architect
§ 4.1.1.32 Construction Staking	Architect
§ 4.1.1.33 Architectural Exterior and Interior Renderings	Architect
§ 4.1.1.34 Audio/Visual systems design	Architect’s Consultant - Basic Services

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)

§ 4.1.2.1.1 Programming

Meet with City staff to develop final program of spaces for use in schematic design.

§ 4.1.1.1.2 Civil Engineering / Landscape Design / Storm Water Pollution Prevention Plan (SWPPP)

Services include developing a site design including site layout plans, grading plans, utility plans, construction details and technical specifications necessary for bidding and construction. Provide landscaping services to prepare site restoration plans, planting plans and technical specifications necessary for bidding and construction. Prepare Storm Water Pollution Prevention Plan for construction phase activities in accordance with Iowa Department of Natural Resources NPDES requirements.

§ 4.1.1.1.3 Detailed cost estimating beyond that required in Section 6.3:

Construction cost estimating by third party at completion of DD phase.

Init.

§ 4.1.1.1.4 Furniture, furnishings, and equipment design:

Shive-Hattery services related to furniture limited to development of furniture layout concept and design of infrastructure to support. Foodservice design consultant will provide catering kitchen design assistance.

§ 4.1.1.1.5 Geotechnical Engineering:

Proposed building borings (3 total) will be set at 20-foot depth. Proposed site borings (2 total) will be set at 10-foot depth. Report will be provided including boring logs, analysis of soil properties and recommendations.

§ 4.1.1.1.6 Acoustical Consultation:

Acoustical Consultation - Acoustical design services for the event space and lobby including design review and room acoustics and sound isolation assessment and recommendations.

§ 4.1.1.1.7 Material Testing

Hourly Estimated. Materials testing includes concrete, steel, and compaction.

§ 4.1.1.1.8 Construction Staking

Hourly Estimated. Construction Staking; Set site benchmark, building gridlines, storm sewer & sanitary sewer structures & stakes for PCC pavement.

§ 4.1.1.1.9 Architectural Exterior and Interior Renderings:

Prepare one set of select interior and exterior renderings during design with imagery quality similar to City Hall and 2022 master planning.

§ 4.1.1.1.10 Architect's A/V consultant will provide A/V systems design specific to the main event space and the outdoor stage.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.2.2.1 Furniture, furnishings, and equipment design. Owner to coordinate with Owners Consultant for furniture design and procurement.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample, and similar submittals of the Contractor
- .2 The Architect will visit the site during construction once every two (2) weeks.
- .3 One (1) visit to the site by the Architect during construction.
- .4 One (1) inspection for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .5 One (1) inspection for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within 29 months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, beyond those detailed in Section 4.1.2.1 which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise, the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 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 shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering, and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and 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 Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of 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 filing of a complaint or other appropriate demand for 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 proceeding 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.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

Litigation in a court of competent jurisdiction
(Paragraphs deleted)

If the Owner and Architect 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, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 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 in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

(Paragraphs deleted)

Services rendered, and all expenses reasonably incurred by the Architect in connection with the Termination, including but not limited to demobilization, reassignment of personnel, associated overhead costs and all other expenses directly resulting from termination. In addition, the Owner shall pay the architect 15% of the fee for any remaining unperformed services for the current phase or upcoming phase (if current phase is 90% or greater complete) for lost overhead and profit.

.2 Licensing Fee: Fifteen percent (15%) of the Compensation from Section 11.1.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement 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 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement 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 Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum
 - Architect’s Basic Services: \$721,500 (Lump Sum)
 - Reimbursable Expenses: \$22,500 (As Incurred, Estimated Fee)

(Paragraphs deleted)

Reimbursable expenses will be invoiced on an "as incurred" fee basis at our Standard Hourly Fee Schedule in effect at the time the expense is incurred. We anticipate reimbursables expenses will be document printing, mileage, NPDES fees, etc.

§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

- Geotechnical Engineering: \$6,300 (Lump Sum)
- Materials Testing & Construction Staking: \$46,000 (Hourly, Estimated Fee*)
- Architectural Exterior & Interior Renderings: \$8,000 (Hourly, Estimated Fee*)

*Hourly, Estimate Fee: Architect will perform the scope of services on an hourly rate fee basis at our Standard Hourly Fee Schedule if effect at the time services is performed. Should the fee amount be exceeded, Architect will work with the Owner to negotiate additional scope of services and compensation. See attached 2023 Standard Hourly Fee Schedule.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:

(Insert amount of, or basis for, compensation.)

Architect’s Standard Hourly Fee Schedule if effect at the time services is performed.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus ten percent (10%).

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Pre-Design – Geotechnical Engineering	\$6,300
Schematic Design (Includes Final Programming)	\$127,500
Design Development Phase	\$184,700
Construction Documents Phase	\$205,000
Procurement Phase	\$31,000
Construction Phase	\$167,000
<hr/>	
Total Basic Compensation	\$721,500

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner’s most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner’s budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect’s consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect’s consultants’ normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Architect’s Standard Hourly Fee Schedule if effect at the time services is performed.
(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect’s consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner’s prior written approval, the Architect’s consultants’ expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect’s consultants;

- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10%) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

N/A

§ 11.10 **Payments to the Architect**

§ 11.10.1 **Initial Payments**

§ 11.10.1.1 An initial payment of zero (\$0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of zero (\$0) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 **Progress Payments**

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

(Insert rate of monthly or annual interest agreed upon.)

1.5% monthly compounded or the maximum interest rate allowed by law, whichever is lesser.

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

Architect is an equal employment opportunity employer and will not discriminate against any employee or applicant for employment because of race, creed, color, religion, sex, marital status, national origin, age (18 or older), ancestry, gender identity, sexual orientation, veteran, status, physical or mental handicap, unless related to performance of the job with or without accommodation.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .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.)

(Paragraphs deleted)
May 15, 2023

(Paragraph deleted)
AIA Document A201 – 2017, General Conditions of the Contract for Construction

- .3 Exhibits: Shive-Hattery’s 2023 Standard Hourly Fee Schedule

(Paragraphs deleted)
This Agreement entered into as of the day and year first written above.

OWNER *(Signature)*
Ryan Heiar, City Administrator
(Printed name and title)

ARCHITECT *(Signature)*
Jennifer Hoffman, PE, Project Manager
(Printed name, title, and license number, if required)

AIA[®] Document E203[®] – 2013

Building Information Modeling and Digital Data Exhibit

This Exhibit dated the Fifteenth day of May in the year Two Thousand Twenty-Three is incorporated into the agreement (the "Agreement") between the Parties for the following Project:

(Name and location or address of the Project)

North Liberty Centennial Park Event Complex Phase I 2112301700
North Liberty, Iowa

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA
- 3 DIGITAL DATA PROTOCOLS
- 4 BUILDING INFORMATION MODELING PROTOCOLS
- 5 OTHER TERMS AND CONDITIONS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 This Exhibit provides for the establishment of protocols for the development, use, transmission, and exchange of Digital Data for the Project. If Building Information Modeling will be utilized, this Exhibit also provides for the establishment of the protocols necessary to implement the use of Building Information Modeling on the Project, including protocols that establish the expected Level of Development for Model Elements at various milestones of the Project, and the associated Authorized Uses of the Building Information Models.

§ 1.2 The Parties agree to incorporate this Exhibit into their agreements with any other Project Participants that may develop or make use of Digital Data on the Project. Prior to transmitting or allowing access to Digital Data, a Party may require any Project Participant to provide reasonable evidence that it has incorporated this Exhibit into its agreement for the Project and agreed to the most recent Project specific versions of AIA Document G201TM–2013, Project Digital Data Protocol Form and AIA Document G202TM–2013, Project Building Information Modeling Protocol Form.

§ 1.2.1 The Parties agree that each of the Project Participants utilizing Digital Data on the Project is an intended third-party beneficiary of the Section 1.2 obligation to incorporate this Exhibit into agreements with other Project Participants, and any rights and defenses associated with the enforcement of that obligation. This Exhibit does not create any third-party beneficiary rights other than those expressly identified in this Section 1.2.1.

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.

This document is intended to be incorporated into an agreement between the parties and used in conjunction with AIA Documents G201TM–2013, Project Digital Data Protocol Form, and G202TM–2013, Building Information Modeling Protocol Form. It is anticipated that other Project Participants will incorporate a project specific E203–2013 into their agreements, and that the Parties and other Project Participants will set forth the agreed-upon protocols in AIA Documents G201–2013 and G202–2013.

§ 1.3 Adjustments to the Agreement

§ 1.3.1 If a Party believes that protocols established pursuant to Sections 3.2 or 4.5 and memorialized in AIA Documents G201–2013 and G202–2013, will result in a change in the Party's scope of work or services warranting an adjustment in compensation, contract sum, schedule or contract time, the Party shall notify the other Party. Failure to provide notice as required in this Section 1.3 shall result in a Party's waiver of any claims for adjustments in compensation, contract sum, schedule, or contract time as a result of the established protocols.

§ 1.3.2 Upon such notice, the Parties shall discuss and negotiate revisions to the protocols or discuss and negotiate any adjustments in compensation, contract sum, schedule or contract time in accordance with the terms of the Agreement.

§ 1.3.3 Notice required under this Section 1.3 shall be provided within thirty days of receipt of the protocols, unless otherwise
(Paragraphs deleted)
indicated.

§ 1.4 Definitions

§ 1.4.1 **Building Information Model.** A Building Information Model is a digital representation of the Project, or a portion of the Project, and is referred to in this Exhibit as the "Model," which term may be used herein to describe a Model Element, a single model or multiple models used in the aggregate, as well as other data sets identified in AIA Document G202–2013, Project Building Information Modeling Protocol Form.

§ 1.4.2 **Building Information Modeling.** Building Information Modeling or Modeling means the process used to create the Model.

§ 1.4.3 **Model Element.** A Model Element is a portion of the Model representing a component, system or assembly within a building or building site.

§ 1.4.4 **Level of Development.** The Level of Development (LOD) describes the minimum dimensional, spatial, quantitative, qualitative, and other data included in a Model Element to support the Authorized Uses associated with such LOD.

§ 1.4.5 **Authorized Uses.** The term "Authorized Uses" refers to the permitted uses of Digital Data authorized in the Digital Data and/or Building Information Modeling protocols established pursuant to the terms of this Exhibit.

§ 1.4.6 **Model Element Author.** The Model Element Author is the entity (or individual) responsible for managing and coordinating the development of a specific Model Element to the LOD required for an identified Project milestone, regardless of who is responsible for providing the content in the Model Element. Model Element Authors are to be identified in Section 3.3, Model Element Table, of AIA Document G202–2013.

§ 1.4.7 **Digital Data.** Digital Data is information, including communications, drawings, specifications and designs, created or stored for the Project in digital form. Unless otherwise stated, the term Digital Data includes the Model.

§ 1.4.8 **Confidential Digital Data.** Confidential Digital Data is Digital Data containing confidential or business proprietary information that the transmitting party designates and clearly marks as "confidential."

§ 1.4.9 **Written or In Writing.** In addition to any definition in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written" or "in writing" shall mean any communication prepared and sent using a transmission method set forth in this Exhibit, or the protocols developed pursuant to this Exhibit, that permits the recipient to print the communication.

§ 1.4.10 **Written Notice.** In addition to any terms in the Agreement to which this Exhibit is attached, for purposes of this Exhibit and the Agreement, "written notice" shall be deemed to have been duly served if transmitted electronically to an address provided in this Exhibit or the Agreement using a transmission method set forth in this Exhibit that permits the recipient to print the communication.

§ 1.4.11 **Party and Parties.** The terms "Party" and "Parties" refer to the signing parties to the Agreement.

§ 1.4.12 **Project Participant.** A Project Participant is an entity (or individual) providing services, work, equipment, or materials on the Project and includes the Parties.

ARTICLE 2 TRANSMISSION AND OWNERSHIP OF DIGITAL DATA

§ 2.1 The transmission of Digital Data constitutes a warranty by the Party transmitting Digital Data to the Party receiving Digital Data that the transmitting Party is the copyright owner of the Digital Data, or otherwise has permission to transmit the Digital Data for its use on the Project in accordance with the Authorized Uses of Digital Data established pursuant to the terms of this Exhibit.

§ 2.2 If a Party transmits Confidential Digital Data, the transmission of such Confidential Digital Data constitutes a warranty to the Party receiving such Confidential Digital Data that the transmitting Party is authorized to transmit the Confidential Digital Data. If a Party receives Confidential Digital Data, the receiving Party shall keep the Confidential Digital Data strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 2.2.1.

§ 2.2.1 The receiving Party may disclose Confidential Digital Data as required by law or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity. The receiving Party may also disclose the Confidential Digital Data to its employees, consultants or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of Confidential Digital Data as set forth in this Exhibit.

§ 2.3 By transmitting Digital Data, the transmitting Party does not convey any ownership right in the Digital Data or in the software used to generate the Digital Data. Unless otherwise granted in a separate license, the receiving Party's right to use, modify, or further transmit Digital Data is specifically limited to designing, constructing, using, maintaining, altering, and adding to the Project consistent with the terms of this Exhibit, and nothing contained in this Exhibit conveys any other right to use the Digital Data.

§ 2.4 Where a provision in this Article 2 conflicts with a provision in the Agreement into which this Exhibit is incorporated, the provision in this Article 2 shall prevail.

ARTICLE 3 DIGITAL DATA PROTOCOLS

§ 3.1 **Anticipated Types of Digital Data.** The anticipated types of Digital Data to be used on the Project are as follows: *(Indicate below the information on the Project that shall be created and shared in a digital format. If the Parties indicate that Building Information Modeling will be utilized on the Project, the Parties shall also complete Article 4.)*

Anticipated Digital Data	Applicability to the Project <i>(Indicate Applicable or Not Applicable)</i>	Location of Detailed Description <i>(Section 3.1.1 below or in an attachment to this exhibit and identified below)</i>
Project Agreements and Modifications	Applicable	3.1.1.1
Project communications	Applicable	3.1.1.2
Architect's pre-construction submittals	Applicable	3.1.1.3
Contract Documents	Applicable	3.1.1.4
Contractor's submittals	Applicable	3.1.1.5
Subcontractor's submittals	Applicable	3.1.1.6
Modifications	Applicable	3.1.1.7
Project payment documents	Applicable	3.1.1.8
Notices and claims	Applicable	3.1.1.9
Building Information Modeling	Not Applicable	Not Applicable
Contractor As-Built Documents	Applicable	3.1.1.10
Architectural Exterior and Interior Renderings	Applicable	3.1.1.11

§ 3.1.1 Insert a detailed description of the anticipated Digital Data identified in Section 3.1, if not further described in an attachment to this Exhibit.

§3.1.1.1 Project Agreement and Amendments including AIA based forms for exhibits and modifications will be distributed for either wet signature or parties to wet sign, scan, and return.

§3.1.1.2 Project communications including meetings agendas, minutes, on-going and correspondence via e-mail.

§3.1.1.3 Design milestone review sets including drawings and specifications in PDF format.

§3.1.1.4 Contract Documents will be provided to Owner for use in PDF and CAD format.

§3.1.1.5 Project data, shop drawings and submittals will be submitted in electronic format via Newforma as outlined in the specifications. Newforma platform provided by Slive-Hattery.

§3.1.1.6 See 3.1.1.5.

§3.1.1.7 Forms associated with modifications to the agreements of contract documents including proposal request, construction change directives and change orders via Newforma.

§3.1.1.8 Forms associated with Architect's invoices will be issued in PDF format.

§3.1.1.9 File associated with claims between the Owner and Contractors.

§3.1.1.10 Files prepared by the Contractor to record and communicate layout, materials and locations as constructed, showing deviations for as-designed documents and change documents issued by the Architect and approved by the Owner. This will be issued by the architect in PDF format.

§3.1.1.11 High-resolution renderings shall be provided in jpeg or similar format.

§ 3.2 As soon as practical following execution of the Agreement, the Parties shall further describe the uses of Digital Data and establish necessary protocols governing the transmission and Authorized Uses of Digital Data, in consultation with the other Project Participants that are expected to utilize Digital Data on the Project.

§ 3.2.1 Unless another Project Participant is identified below, the Architect shall prepare and distribute to the other Project Participants Digital Data protocols for review, revision, and approval.

(If a Project Participant other than the Architect shall be responsible for preparing draft and final Digital Data protocols, identify that Project Participant.)

§ 3.2.2 The agreed upon Digital Data protocols shall be set forth in AIA Document G201–2013 and each Project Participant shall memorialize their agreement in writing to such Digital Data protocols.

§ 3.2.3 The Parties, together with the other Project Participants, shall review and, if necessary, revise the Digital Data protocols at appropriate intervals as required by the conditions of the Project.

§ 3.3 The Parties shall transmit, use, store and archive Digital Data in accordance with the Digital Data protocols set forth in the latest version of AIA Document G201–2013 agreed to by the Project Participants.

§ 3.4 Unauthorized Use

§ 3.4.1 Prior to Establishment of Digital Data Protocols

If a Party receives Digital Data prior to the agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, that Party is not authorized to use or rely on the Digital Data. Any use of, or reliance on, such Digital Data is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents, and employees.

§ 3.4.2 Following Establishment of Digital Data Protocols

Following agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, if a Party uses Digital Data inconsistent with the Authorized Uses identified in the Digital Data protocols, that use shall be at the sole risk of the Party using the Digital Data.

§ 3.5 Digital Data Management

§ 3.5.1 Centralized electronic document management system use on the Project shall be:

(Check the appropriate box. If the Parties do not check one of the boxes below, the default selection shall be that the Parties will not utilize a centralized electronic document management system on the Project.)

(Paragraph deleted)

The Parties do not intend to use a centralized electronic document management system on the Project.

§ 3.5.2 If the Project Participants intend to utilize a centralized electronic document management system on the Project, the Project Participants identified in Section 3.5.3 shall be responsible for managing and maintaining such system. The Project Participants responsible for managing and maintaining the centralized electronic document management system shall facilitate the establishment of protocols for transmission, use, storage and archiving of the centralized Digital Data and assist the Project Participants identified in Section 3.2.1 above in preparing Digital Data protocols. Upon agreement to, and documentation of, the Digital Data protocols in AIA Document G201–2013, the Project Participants identified in Section 3.5.3 shall manage and maintain the centralized electronic document management system consistent with the management protocols set forth in the latest version of G201–2013 approved by the Project Participants.

§ 3.5.3 Unless responsibility is assigned to another Project Participant, the Architect shall be responsible for managing and maintaining the centralized electronic document management system. If the responsibility for management and maintenance will be assigned to another Project Participant at an identified Project milestone, indicate below the Project Participant who shall assume that responsibility, and the Project milestone.

(Identify the Project Participant responsible for management and maintenance only if the Parties intend to utilize a centralized electronic document management system on the Project.)

Responsible Project Participant	Project Milestone
N/A	

ARTICLE 4 BUILDING INFORMATION MODELING PROTOCOLS

§ 4.1 If the Parties indicate in Section 3.1 that Building Information Modeling will be used on the Project, specify below the extent to which the Parties intend to utilize Building Information Modeling and identify the provisions of this Article 4 governing such use:

The Parties shall utilize Building Information Modeling on the Project for the sole purpose of fulfilling the obligations set forth in the Agreement without an expectation that the Model will be relied upon by the other Project Participants. Unless otherwise agreed in writing, any use of, transmission of, or reliance on the Model is at the receiving Party’s sole risk. The remaining sections of this Article 4 shall have no force or effect.

§ 4.2 Anticipated Building Information Modeling Scope. Indicate below the portions of the Project for which Modeling will be used and the anticipated Project Participant responsible for that Modeling.

Project Portion for Modeling	Responsible Project Participant
N/A	

§ 4.3 Anticipated Model Authorized Uses. Indicate below the anticipated Authorized Uses of the Model for the Project, which Authorized Uses will be agreed upon by the Project Participants and further described for each LOD in AIA Document G202–2013.

§ 4.4 Ancillary Modeling Activities. Indicate additional Modeling activities agreed upon by the Parties, but not to be included in AIA Document G202–2013, if any.

(Describe any Modeling activities, such as renderings, animations, performance simulations, or other similar use, including the anticipated amount and scope of any such Modeling activities.)

Architectural Exterior and Interior Renderings – See Paragraph 3.1.1.11

§ 4.5 **Modeling Protocols.** As soon as practical following execution of the Agreement, the Parties shall, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, further describe the Authorized Uses of the Model and establish necessary protocols governing the development of the Model utilizing AIA Document G202–2013.

§ 4.5.1 The Modeling protocols shall address the following:

- .1 Identification of the Model Element Authors;
- .2 Definition of the various LOD for the Model Elements and the associated Authorized Uses for each defined LOD;
- .3 Identification of the required LOD of each Model Element at each identified Project milestone;
- .4 Identification of the construction classification systems to be used on the Project;
- .5 The process by which Project Participants will exchange and share the Model at intervals not reflected in Section 3.3, Model Element Table, of AIA Document G202–2013;
- .6 The process by which the Project Participants will identify, coordinate and resolve changes to the Model;
- .7 Details regarding any anticipated as-designed or as-constructed Authorized Uses for the Model, if required on the Project;
- .8 Anticipated Authorized Uses for facilities management or otherwise, following completion of the Project; and
- .9 Other topics to be addressed by the Modeling protocols: *(Identify additional topics to be addressed by the Modeling Protocols.)*

§ 4.5.2 Unless responsibility is assigned to another Project Participant identified below, the Architect shall prepare and distribute Modeling protocols to the other Project Participants for review, revision and approval.
(If a Project Participant other than the Architect shall be responsible for preparing draft and final Modeling protocols, identify that Project Participant.)

N/A

§ 4.5.3 The agreed upon Modeling protocols shall be set forth in AIA Document G202–2013 and each Project Participant shall memorialize their agreement in writing to such Modeling protocols.

§ 4.5.4 The Parties, together with the other Project Participants, shall review, and if necessary, revise the Modeling protocols at appropriate intervals as required by the conditions of the Project.

§ 4.6 The Parties shall develop, use and rely on the Model in accordance with the Modeling protocols set forth in the latest version of AIA Document G202–2013, which document shall be included in or attached to the Model in a manner clearly accessible to the Project Participants.

§ 4.7 **Unauthorized Use**

§ 4.7.1 **Prior to Establishment of Modeling Protocols**

If a Party receives any Model prior to the agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, that Party is not authorized to use, transmit, or rely on the Model. Any use, transmission or reliance is at that Party's sole risk and without liability to the other Party and its contractors, consultants, agents and employees.

§ 4.7.2 **Following Establishment of Modeling Protocols**

Following agreement to, and documentation of, the Modeling protocols in AIA Document G202–2013, if a Party uses or relies on the Model inconsistent with the Authorized Uses identified in the Modeling protocols, such use or reliance shall be at the sole risk of the Party using or relying on the Model. A Party may rely on the Model Element only to the extent consistent with the minimum data required for the identified LOD, even if the content of a specific Model Element includes data that exceeds the minimum data required for the identified LOD.

§ 4.8 Model Management

§ 4.8.1 The requirements for managing the Model include the duties set forth in this Section 4.8. Unless assigned to another Project Participant, the Architect shall manage the Model from the inception of the Project. If the responsibility for Model management will be assigned to another Project Participant, or change at an identified Project milestone, indicate below the identity of the Project Participant who will assume that responsibility, and the Project milestone.

Responsible Project Participant	Project Milestone
N/A	

§ 4.8.2 **Model Management Protocol Establishment.** The Project Participant responsible for managing the Model, in consultation with the other Project Participants that are expected to utilize Building Information Modeling on the Project, shall facilitate the establishment and revision of Model management protocols, including the following:

- .1 Model origin point, coordinate system, precision, file formats and units
- .2 Model file storage location(s)
- .3 Processes for transferring and accessing Model files
- .4 Naming conventions
- .5 Processes for aggregating Model files from varying software platforms
- .6 Model access rights
- .7 Identification of design coordination and clash detection procedures.
- .8 Model security requirements
- .9 Other: *(Identify additional Model management protocols to be addressed.)*

§ 4.8.3 **Ongoing Responsibilities.** The Project Participant responsible for managing the Model shall do so consistent with the Model management protocols, which shall also include the following ongoing responsibilities:

- .1 Collect incoming Models:
 - .1 Coordinate submission and exchange of Models
 - .2 Create and maintain a log of Models received
 - .3 Review Model files for consistency with Sections 4.8.2.1 through 4.8.2.5
 - .4 Maintain a record copy of each Model file received
- .2 Aggregate Model files and make them available for Authorized Uses
- .3 Maintain Model Archives and backups consistent with the requirements of Section 4.8.4 below
- .4 Manage Model access rights

(Paragraphs deleted)

§ 4.8.4 **Model Archives.** The individual or entity responsible for Model management as set forth in this Section 4.8 shall compile a Model Archive at the end of each Project milestone and shall preserve it without alteration as a record of Model completion as of that Project milestone.

§ 4.8.4.1 Additional Model Archive requirements, if any, are as follows: N/A

§ 4.8.4.2 The procedures for storing and preserving the Model(s) upon final completion of the Project are as follows: N/A

§ 4.9 **Post-Construction Model.** The services associated with providing a Model for post-construction use shall only be required if specifically designated in the table below as a Party's responsibility.

(Designate below any anticipated post-construction Model and related requirements, the Project Participant responsible for creating or adapting the Model to achieve such uses, and the location of a detailed description of the anticipated scope of services to create or adapt the Model as necessary to achieve such uses.)

Post-Construction Model	Applicability to Project <i>(Applicable or Not Applicable)</i>	Responsible Project Participant	Location of Detailed Description of Requirements and Services <i>(Section 4.10 below or in an attachment to this exhibit and identified below)</i>
§ 4.9.1 Remodeling	N/A		
§ 4.9.2 Wayfinding and Mapping	N/A		
§ 4.9.3 Asset/FF & E Management	N/A		

§ 4.9.4	Energy Management	N/A		
§ 4.9.5	Space Management	N/A		
§ 4.9.6	Maintenance Management	N/A		

(Row deleted)

§ 4.10 Insert a detailed description of the requirements for each Post-Construction Model identified in Section 4.9 and the anticipated services necessary to create each Post-Construction Model, if not further described in an attachment to this Exhibit.

ARTICLE 5 OTHER TERMS AND CONDITIONS

Other terms and conditions related to the transmission and use of Digital Data are as follows:

None



AIA[®] Document A201[®] – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

North Liberty Centennial Park Event Complex Phase I 2112301700
North Liberty, Iowa

THE OWNER:

(Name, legal status and address)

City of North Liberty
3 Quail Creek Circle
P.O. Box 77
North Liberty, Iowa 52317

THE ARCHITECT:

(Name, legal status and address)

Shive-Hattery, Inc.
2839 Northgate Drive
Iowa City, Iowa 52245

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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.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503[™], Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

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

§ 1.1.2 The Contract

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

§ 1.1.3 The Work

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

§ 1.1.4 The Project

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

§ 1.1.5 The Drawings

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

§ 1.1.6 The Specifications

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

§ 1.1.7 Instruments of Service

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

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

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

§ 1.2.1.1 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.

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

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

§ 1.3 Capitalization

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

§ 1.4 Interpretation

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

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and 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.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, 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 the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, 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 if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 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.

§ 1.7 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.

§ 1.8 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.

ARTICLE 2 OWNER

§ 2.1 General

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

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

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon 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 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon 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 only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

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

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

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

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

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

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

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 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 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 9.5.1, 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 Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. 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 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

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

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

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

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

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

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

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

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

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

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

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

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

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

§ 3.5 Warranty

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

§ 3.5.2 All material, equipment, or other special 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 9.8.4.

§ 3.6 Taxes

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

§ 3.7 Permits, Fees, Notices and Compliance with Laws

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

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

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

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for,

performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

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

§ 3.8.2 Unless otherwise provided in the Contract Documents,

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

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

§ 3.9 Superintendent

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

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

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

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 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 contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not

be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

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

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

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

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

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

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

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

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

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

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

deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

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

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

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

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

§ 3.14 Cutting and Patching

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

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

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

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

§ 3.16 Access to Work

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

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for 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.

§ 3.18 Indemnification

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

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

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

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

§ 4.2 Administration of the Contract

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

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or

for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and 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.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

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

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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

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

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

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

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

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

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

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

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

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

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

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

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

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

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

§ 5.3 Subcontractual Relations

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

§ 5.4 Contingent Assignment of Subcontracts

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

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

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

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

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

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The 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.

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

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

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors

shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

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

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

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

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

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

§ 6.3 Owner's Right to Clean Up

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

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

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

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

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

§ 7.2 Change Orders

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

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

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract

Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

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

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

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

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

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

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

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

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

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

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

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. 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. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

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

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

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

§ 8.2 Progress and Completion

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

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by labor disputes, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) 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.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum 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, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

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

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or 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.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 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.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; 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.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in 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.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's 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. 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 listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a

Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance 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 the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .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.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, 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.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by

any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. 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 anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in 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.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 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 the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 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.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** 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 the Contract Documents, 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 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.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner 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 the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and

Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance required by the Contract Documents, 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.

§ 11.3 Waivers of Subrogation

§ 11.3.1 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 the 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 11.3.1 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.

§ 11.3.2 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 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no

other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any 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. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, 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 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of 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.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 13.5 Interest

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

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 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, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and 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 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 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 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 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 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 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 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those 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 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

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

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

STANDARD HOURLY FEE SCHEDULE

Effective January 1, 2023 to December 31, 2023

PROFESSIONAL STAFF:

Grade 1	\$104.00
Grade 2	\$124.00
Grade 3	\$138.00
Grade 4	\$154.00
Grade 5	\$172.00
Grade 6	\$185.00
Grade 7	\$202.00
Grade 8	\$221.00
Grade 9	\$240.00

TECHNICAL STAFF:

Grade 1	\$ 73.00
Grade 2	\$ 89.00
Grade 3	\$102.00
Grade 4	\$110.00
Grade 5	\$123.00
Grade 6	\$141.00
Grade 7	\$157.00

ADMIN STAFF: \$ 71.00

SURVEY STAFF:

One Person	\$158.00
Two Person	\$245.00
One Person with ATV	\$183.00
Two Person with ATV	\$270.00
Drone Surveyor (Video or Photogrammetry)	\$195.00
Drone Surveyor (Thermography)	\$360.00
Reality Capture Processing	\$161.00
Hydrographic Survey Crew (Two Person)	\$311.00
Scanning Surveyor	\$215.00
Surveyor with Two Scanners	\$295.00
Surveyor with Three Scanners	\$375.00
Ground Penetrating Radar	\$160.00

REIMBURSABLE EXPENSES:

TRAVEL

Mileage- Car/Truck	\$0.65/ Mile
Mileage- Survey Trucks	\$0.75/ Mile
Lodging, Meals	Cost + 10%
Airfare	Cost + 10%
Car Rental	Cost + 10%

IN-HOUSE SERVICES

Prints/Plots:

Bond	\$.30/Sq. Ft.
Mylar	\$.75/Sq. Ft.
Photo-gloss	\$.90/Sq. Ft.
Color Bond	\$.60/Sq. Ft.
Foam Core Mounting	\$ 13.00

OUTSIDE SERVICES

Aerial Photogrammetry	Cost + 10%
Professional Services	Cost + 10%
Prints/Plots/Photos	Cost + 10%
Deliveries	Cost + 10%

Color Prints:

Letter Size	\$ 1.00
Legal Size	\$ 2.00

Resolution No. 2023-53

**RESOLUTION APPROVING SERVICES AGREEMENT
BETWEEN THE CITY OF NORTH LIBERTY AND SHIVE-
HATTERY, INC. FOR THE CENTENNIAL PARK NEXT STAGE
PHASE ONE PROJECT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

WHEREAS, the development of facilities and infrastructure at Centennial Park is a goal of the City Council;

WHEREAS, construction of the improvements would be completed in phases comprised of an approximately 13,000 square foot event center with exterior stage in phase 1, and other projects done in future phases including splash pad, open pavilion, playground expansion, parking expansion, honor garden, expanded sidewalk/paving and site lighting;

WHEREAS, Shive-Hattery, Inc. has presented a proposal for services relating to this phase of the project; and

NOW, THEREFORE, BE IT RESOLVED that the agreement presented by Shive-Hattery is approved for services relating to the Centennial Park Next Stage Project at a lump sum of \$721,500, other fees estimated at \$22,500, supplemental services including Geotechnical Engineering, \$6,300 (lump sum), Materials Testing and Construction Staking \$46,000 (hourly, estimated fee), and Architectural Exterior & Interior Renderings \$8,000 (hourly, estimated fees) are hereby approved as set forth therein.

BE IT FURTHER RESOLVED that the City Administrator is hereby authorized and ordered to execute the agreement with said engineering firm for the scope of work.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



Big O Foundation Naming Rights

NAMING RIGHTS AGREEMENT – THE BIG “O” FOUNDATION AND CITY OF NORTH LIBERTY

This Naming Rights Agreement (the “Agreement”) is entered into by and between The Big “O” Foundation (the “Sponsor”), an Iowa non-profit corporation, located at 1565 Ironwood Lane, North Liberty, Iowa, and the City of North Liberty (“North Liberty” or the “City”), an Iowa municipal corporation located at 3 Quail Creek Cir., North Liberty, IA 52317. Sponsor and North Liberty are individually each a “Party” to this Agreement, and may be collectively described as “the Parties.”

RECITALS

WHEREAS, North Liberty’s Facility Naming Policy establishes certain criteria and guiding principles to be followed in the naming and renaming of City facilities; and

WHEREAS, the City’s Facility Naming Policy provides that persons, groups, or organizations having a significant, positive cultural or social impact on the community are appropriate or suitable for consideration in the naming and renaming of public facilities; and

WHEREAS, North Liberty has determined that Sponsor is such an organization by reason of its continuing mission to serve and support children, teenagers and their families that are facing mental health challenges; and

WHEREAS, Sponsor has submitted a written proposal to the City wherein, in exchange for temporary naming rights to Babe Ruth Field (the “Facility”) situated in the Southwestern corner of Penn Meadows Park, Sponsor will host several public events and install signage at the Facility related to its mission, and will also provide additional funding to the City to offset the costs of future enhancements and/or maintenance of the Facility, and for such other public purposes appurtenant to said Facility as the City may from time to time elect; and

WHEREAS, the City finds that granting temporary naming rights of the Facility to Sponsor in accordance with Sponsor’s submitted proposal is consistent with the City’s Facility Naming Policy; and

WHEREAS, both Parties wish to reduce their agreement to writing,

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL OBLIGATIONS AND PROMISES CONTAINED HEREIN, AND FOR OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH IS HEREBY ACKNOWLEDGED, THE PARTIES AGREE AS FOLLOWS:

1. **Purpose.** The parties enter into this Agreement for the purpose of promoting the health and well-being of North Liberty residents through youth programming and contributions toward funding or maintaining public improvements for the City, and as consideration to promote the Sponsor’s mission of expanding awareness of and access to mental health resources and crisis counseling for youth.
2. **Facility.** The Parties agree that Babe Ruth Field at Penn Meadows Park in the City of North Liberty, Iowa, shall be referred to as the “Owen Skelley Field” (the “Name”) during the term of this Agreement. The name shall be displayed on the Facility as determined by and in the sole discretion of the City Administrator for the City of North Liberty and in consultation with Sponsor. The Facility shall be referred to in publications and communications originating from the City by said Name during the term of this Agreement.
3. **Term.** This Agreement shall have a term of five (5) years, and commence upon July 1, 2023 and expire upon June 30, 2028, unless extended in writing by the parties upon approval by the City. This Agreement may be terminated, with or without cause, only by the City.
4. **Public Improvement Project Contribution.** On or before July 1, 2024 the Parties will, together, identify one or more public improvement projects appropriate to and in keeping with Sponsor’s mission of improving awareness of and access to mental health resources and crisis counseling for area youth. Sponsor agrees to provide funding or other resources at Sponsor’s discretion, not to exceed Five Thousand Dollars (\$5,000.00), to facilitate the implementation and/or maintenance of some portion or all of such public improvements as may be identified and agreed upon by the Parties.
5. **Public Events.** Sponsor agrees to host such outings and tournaments (“Events”) at or involving the Facility as set forth in the Proposed Events section of its written proposal, which is attached hereto as Exhibit A. Such Events shall be held annually during the Term of this Agreement. Sponsor shall be responsible for coordinating with the City of North Liberty’s Recreation Department to reserve the Facility and such other related fields as may be necessary for the Events.
6. **Signage.** Sponsor agrees to and is hereby permitted to install signage at the Facility as described in Exhibit A for the Term of this Agreement at its own expense, including two “988 Hotline” signs in the outfield, and one or more “The Big O Foundation” and “I’m Glad You Stayed Project” signs featuring QR Codes for each organization in each of the dugouts. The size, location, style, and quantity of such signage shall be subject to approval by the City Administrator prior to its installation. Additional signage of similar character may be installed subject to the approval of the City Administrator.

7. **Execution of Instruments.** The Parties agree to promptly execute whatever documents may be necessary to give full effect to their obligations under this Agreement.
8. **Incorporation of Recitals.** The recital paragraphs appearing at the beginning of this Agreement are substantive portions hereof and are incorporated by this reference herein.
9. **Captions/Titles.** The paragraph titles, headings, and/or captions set forth in this Agreement have been employed solely as a means of reference and convenience. Such designations shall not affect the interpretation or construction of this Agreement and shall not define, limit, extend, or otherwise describe the scope of the Agreement or the intent of any provisions hereof. Such designations are not substantive.
10. **Acknowledgment of Understanding.** The Parties acknowledge that they have read the foregoing Agreement, understand its terms, and freely and voluntarily execute the Agreement.
11. **Notice.** Any and all notices permitted or required to be given hereunder shall be sent to the address first set forth above, or such other address as may be provided, and deemed duly given: (a) upon actual delivery, if delivery is by hand; or (b) by electronic mail provided that such notice is contemporaneously provided in written hard copy to the receiving party's legal department.

[Remainder of this page intentionally left blank]

SPONSOR

By: _____

Date: _____

CITY OF NORTH LIBERTY, IOWA

By: _____

Chris Hoffman, Mayor

ATTEST: _____

Tracey Mulcahey, City Clerk

STATE OF IOWA, JOHNSON COUNTY: ss

On this ____ day of _____, 2023, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Chris Hoffman and Tracey Mulcahey, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of North Liberty, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the municipal corporation; and that the instrument was signed and sealed on behalf of the municipal corporation by the authority of its City Council, as contained in Resolution No. _____ of the City Council on the ____ day of _____, 2023; and that Chris Hoffman and Tracey Mulcahey acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it and by them voluntarily executed.

Notary Public in and for the State of Iowa

To: North Liberty City Council
Re: Penn Meadows Babe Ruth Baseball Field Renaming
Date: October 19, 2022

Owen's Story

Owen Skelley and his family moved to North Liberty, IA in 2015. From the moment they became community members Owen continued his involvement in youth baseball. First, through the Tigers Baseball organization in North Liberty, and then through Perfect Game, Sticks, Diamond Dreams and Liberty High School Baseball. Owen's love of sports, especially baseball was very important and rewarding to him. He was always striving to get better and was a dedicated team member.

On March 3, 2022 Owen Skelley ended his life after a two year battle with mental illness. Owen battled silently, never wanting to burden his family and friends with his struggles. Even through his mental health battle he could always pick someone up when they were feeling down regardless of the mood he was in. Improving and building up others was his highest priority. He was full of life, love, and generosity. He was always concerned about the well-being of others and strived to be inclusive. Owen's death devastated so many, but one positive from this tragedy is that it has brought our community together. Friends, family, and The Big O Foundation have made it their mission to keep Owen's memory alive and to support and educate others about mental health and suicide.

About The Big O Foundation

The mission of The Big O Foundation is to serve and support children, teenagers and their families that are facing mental health challenges. We share Owen's story to spread mental health education, draw our community together, and support the welfare of local youth. Our resources are used to keep Owen's light shining by giving back to the community and spread awareness about mental illness and suicide. The Big O Foundation is in final approval to become a 501(c)(3) tax exempt charitable organization

Proposal

The Big O Foundation would like to propose that the Penn Meadows Babe Ruth Baseball Field be renamed to the "Owen Skelley Field". In partnership with the City of North Liberty, local organizations and businesses, The Big O Foundation will use the venue to tell Owen's story, provide mental health education and resources to youth & their families and live out the foundation mission.

Our Why

Owen's love for baseball is undeniable and we want to honor his life, and love for bringing people together. The Owen Skelley Field would give older youth and high school teams a venue to practice, play and host tournaments. The city currently doesn't have another 13/14U field, other than Liberty High School where scheduling is limited. Most important, this field would

allow The Big O Foundation to spread the word about mental health awareness by supporting physical activity, displaying mental health resources at and around the field, hosting mental health awareness events, and creating a sense of belonging and inclusivity.

Proposed Events

OS14 You Matter 9th Grade Outing

Working with local schools, we will partner with Liberty High School to host an inaugural 9th grade baseball outing. This one-day event will take place at the existing "Babe Ruth Field" on a select Saturday in early June of 2023. Eight area teams will be invited, selecting games according to each school's attendance to help maintain competitive balance. This will not be a tournament, but a day of head-to-head baseball. The overall goal will be to educate, inform and reduce mental health stigma. We want to educate players and attendees on the signs and symptoms of mental illness, inform them of what resources are available and reduce the stigma associated with mental illness. All of this will be done through the lens of baseball.

OS14 14U Baseball Tourney

Partnering with Diamond Dreams & NLCBS, the OS14 Foundation will host a 2-day 14U USSSA baseball tournament. We plan to host in late-May or early June. Much of the scheduling will be dependent upon Liberty High and NLCBS scheduling. The total number of teams allowed will greatly depend upon access to other nearby full-size fields. The "Babe Ruth" field will be the primary field. The overall goal will be to educate, inform and reduce mental health stigma. We want to educate players and attendees on the signs and symptoms of mental illness, inform them of what resources are available and reduce the stigma associated with mental illness. All of this will be done through the lens of baseball.

OS14 Softball Tournament

The Foundation will attempt to partner with a proven tournament coordinator to establish a softball tournament at Penn Meadows. Using the "Babe Ruth" field as a hub for operations we will utilize the other 6-8 fields to play games. Our timetable for this event will be later in July, possibly early August. The goal will be consistent with our other events; educate, inform, and reduce mental health stigma. We want to educate players and attendees on the signs and symptoms of mental illness, inform them of what resources are available and reduce the stigma associated with mental illness.

Signage on the Field and Surrounding Area

We feel it's important to have signage and visual reminders around the field to share The Big O Foundation mission and to promote mental health awareness. The signage will be funded by The Big O Foundation and made by AlphaGraphics. Some ideas include:

- At least two large 988 Hotline Signs in the outfield

- The Big O Foundation and I'm Glad You Stayed Project QR codes in the dugouts, near the stands, and if approved by the City of North Liberty – in bathroom stall, on light pole and any other equipment near the field.

Additional Funding

The Big O Foundation and the Skelley Family would like to offer financial assistance to fund future field projects and enhancements as recommended by the City of North Liberty and approved by our board. The city has done a great job revitalizing the Babe Ruth Baseball Field and we would like to offer our support to continue enhancements.

Thank you for your time and consideration! We're grateful for the support the North Liberty community has given the Skelley Family and The Big O Foundation. We would like to continue to give back to the community.

Resolution No. 2023-54

**RESOLUTION APPROVING NAMING RIGHTS AGREEMENT
BETWEEN THE CITY OF NORTH LIBERTY AND THE BIG O
FOUNDATION FOR THE BABE RUTH FIELD AT PENN
MEADOWS PARK**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

WHEREAS, the City Council of North Liberty has adopted a facilities naming policy; and

WHEREAS, the Big O Foundation has submitted a proposal consistent with that policy for the renaming of Babe Ruth Field at Penn Meadows Park; and

WHEREAS, the Big O Foundation and the City have reduced the proposal for naming rights to a written agreement;

NOW, THEREFORE, BE IT RESOLVED that the agreement presented by the Big O Foundation is approved for naming rights of certain facilities at Penn Meadows Park.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized and ordered to execute the naming rights agreement.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

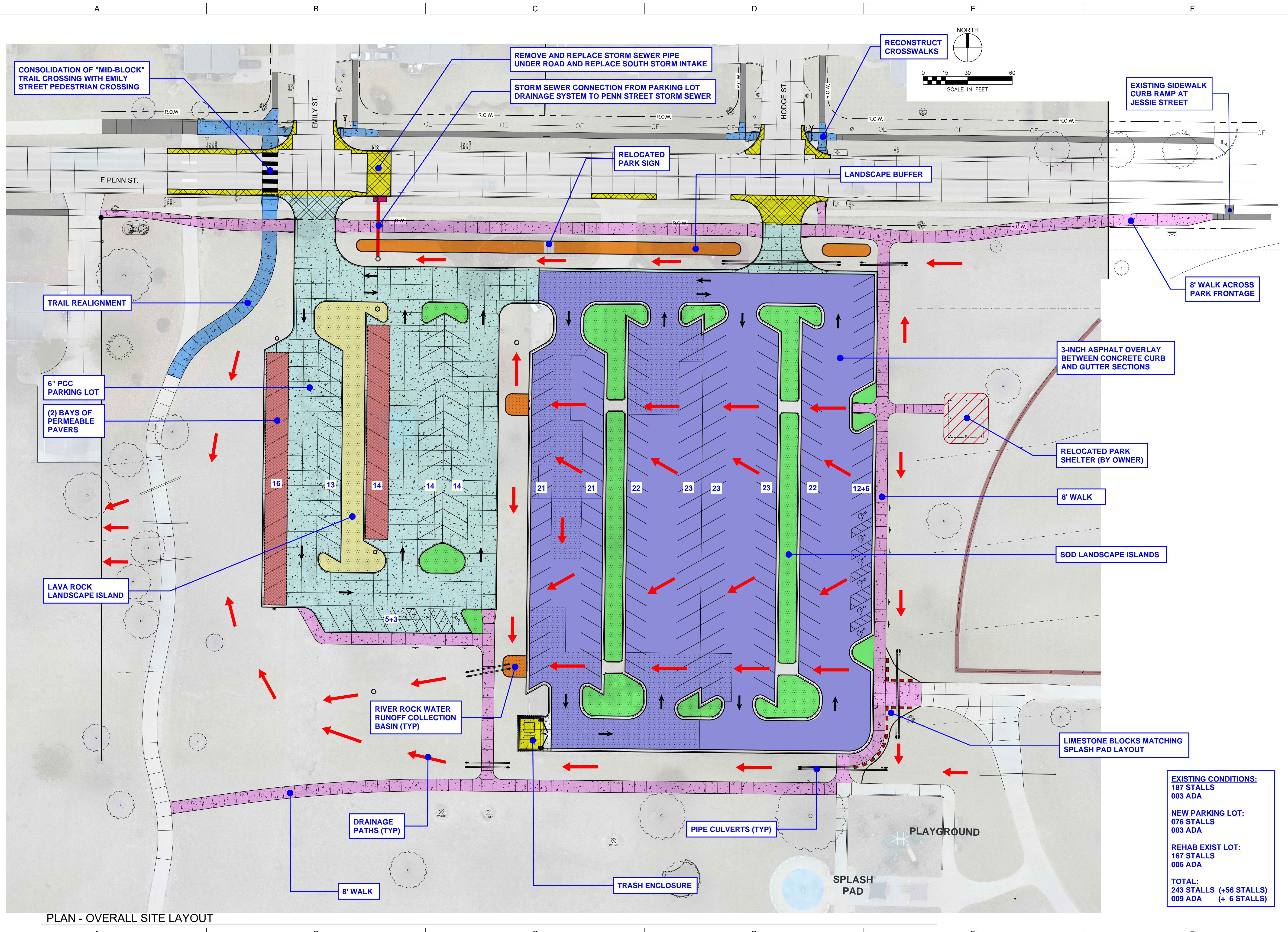
ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



Penn Meadows North Parking Lot Project



CONSOLIDATION OF "MID-BLOCK" TRAIL CROSSING WITH EMILY STREET PEDESTRIAN CROSSING

REMOVE AND REPLACE STORM SEWER PIPE UNDER ROAD AND REPLACE SOUTH STORM INTAKE
 STORM SEWER CONNECTION FROM PARKING LOT DRAINAGE SYSTEM TO PENN STREET STORM SEWER

RECONSTRUCT CROSSWALKS

EXISTING SIDEWALK CURB RAMP AT JESSIE STREET

RELOCATED PARK SIGN

LANDSCAPE BUFFER

8' WALK ACROSS PARK FRONTAGE

TRAIL REALIGNMENT

3-INCH ASPHALT OVERLAY BETWEEN CONCRETE CURB AND GUTTER SECTIONS

6" PCC PARKING LOT
 (2) BAYS OF PERMEABLE PAVERS

RELOCATED PARK SHELTER (BY OWNER)

8' WALK

LAVA ROCK LANDSCAPE ISLAND

SOD LANDSCAPE ISLANDS

RIVER ROCK WATER RUNOFF COLLECTION BASIN (TYP)

LIMESTONE BLOCKS MATCHING SPLASH PAD LAYOUT

DRAINAGE PATHS (TYP)

PIPE CULVERTS (TYP)

8' WALK

TRASH ENCLOSURE

EXISTING CONDITIONS:
 187 STALLS
 003 ADA

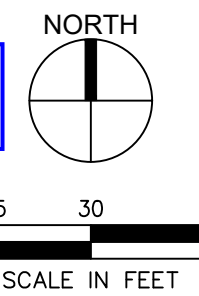
NEW PARKING LOT:
 076 STALLS
 003 ADA

REHAB EXIST LOT:
 167 STALLS
 006 ADA

TOTAL:
 243 STALLS (+56 STALLS)
 009 ADA (+ 6 STALLS)

PLAYGROUND

SPLASH PAD



PLAN - OVERALL SITE LAYOUT

DRAWN BY	APPROVED BY	ISSUED FOR	ISSUE DATE	PROJECT NUMBER	FIELD BOOK
NCR	JOB	REVIEW	05/09/2023	2112200820	

P:\Projects\2112200820\2112200820.dwg
 Plot Date: 5/11/2023 7:58:49 AM

Resolution No. 2023-55

RESOLUTION FINALLY APPROVING AND CONFIRMING PLANS, SPECIFICATIONS, AND ESTIMATE OF COST FOR THE PENN MEADOWS PARK NORTH PARKING LOT PROJECT

WHEREAS, the City Council of the City of North Liberty, Iowa, has heretofore given preliminary approval to the plans, specifications, and estimate of cost (the "Contract Documents") for the proposed Penn Meadows Park North Parking Lot Project (the "Project"), as described in the notice of hearing on the Contract Documents for the Project and the taking of bids therefor; and

WHEREAS, a hearing has been held on the Contract Documents on May 23, 2023;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of North Liberty, Iowa, as follows:

Section 1. The City Council will receive bids for the Project on June 7, 2023 at 10:00 a.m. At such time and place the City Clerk will open such bids received and announce the results thereof. The City Council will consider bids received at the City Council meeting to be held on June 13, 2023 at 6:30 p.m. in Council Chambers at 1 Quail Creek Circle, North Liberty, Iowa.

Section 2. The City Clerk is hereby authorized and directed to give notice of the hearing and taking of bids by publication as required by law, which publication shall be made not less than 4 and not more than 45 days prior to the date for receipt of bids and not less than 4 and not more than 20 days prior to the date of the said hearing.

Section 3. "Pursuant to Section 1.150-2 of the Income Tax Regulations (the "Regulations") of the Internal Revenue Service, the City declares (a) that it intends to undertake the Project, (b) that other than (i) expenditures to be paid or reimbursed from sources other than the issuance of bonds, notes or other obligations (the "Bonds"), or (ii) expenditures made not earlier than 60 days prior to the date of this Resolution or a previous intent resolution of the City, or (iii) expenditures amounting to the lesser of \$100,000 or 5% of the proceeds of the Bonds, or (iv) expenditures constituting preliminary expenditures as defined in Section 1.150-2(f)(2) of the Regulations, no expenditures for the Project have heretofore been made by the City and no expenditures will be made by the City until after the date of this Resolution or a prior intent resolution of the City, and (c) that the City reasonably expects to reimburse the expenditures made for costs of the City out of the proceeds of the Bonds. This declaration is a declaration of official intent adopted pursuant to Section 1.150-2 of the Regulations.

Section 4. The Contract Documents referred to in the preamble hereof are hereby finally approved, and the prior action of the City Council giving preliminary approval is hereby finally confirmed, and the Project, as provided for in the Contract Documents, is necessary and desirable.

Section 5. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



FY 23 Budget Amendment

NOTICE OF PUBLIC HEARING - AMENDMENT OF CURRENT BUDGET

City of NORTH LIBERTY
Fiscal Year July 1, 2022 - June 30, 2023

The City of NORTH LIBERTY will conduct a public hearing for the purpose of amending the current budget for fiscal year ending June 30, 2023

Meeting Date/Time: 5/23/2023 06:30 PM

Contact: Tracey Mulcahey

Phone: (319) 626-5712

Meeting Location: Council Chambers, 1 Quail Creek Circle

There will be no increase in taxes. Any residents or taxpayers will be heard for or against the proposed amendment at the time and place specified above. A detailed statement of: additional receipts, cash balances on hand at the close of the preceding fiscal year, and proposed disbursements, both past and anticipated, will be available at the hearing. Budget amendments are subject to protest. If protest petition requirements are met, the State Appeal Board will hold a local hearing. For more information, consult <https://dom.iowa.gov/local-gov-appeals>.

REVENUES & OTHER FINANCING SOURCES		Total Budget as Certified or Last Amended	Current Amendment	Total Budget After Current Amendment
Taxes Levied on Property	1	12,073,848	0	12,073,848
Less: Uncollected Delinquent Taxes - Levy Year	2	0	0	0
Net Current Property Tax	3	12,073,848	0	12,073,848
Delinquent Property Tax Revenue	4	0	0	0
TIF Revenues	5	4,793,215	0	4,793,215
Other City Taxes	6	803,240	0	803,240
Licenses & Permits	7	699,250	0	699,250
Use of Money & Property	8	151,000	0	151,000
Intergovernmental	9	3,441,864	1,457,923	4,899,787
Charges for Service	10	13,004,222	0	13,004,222
Special Assessments	11	0	0	0
Miscellaneous	12	1,702,100	382,000	2,084,100
Other Financing Sources	13	15,262,000	0	15,262,000
Transfers In	14	14,300,091	1,665,854	15,965,945
Total Revenues & Other Sources	15	66,230,830	3,505,777	69,736,607
EXPENDITURES & OTHER FINANCING USES				
Public Safety	16	5,649,009	552,053	6,201,062
Public Works	17	4,159,380	228,748	4,388,128
Health and Social Services	18	150,000	0	150,000
Culture and Recreation	19	5,671,384	214,768	5,886,152
Community and Economic Development	20	1,642,400	245,700	1,888,100
General Government	21	2,291,185	128,803	2,419,988
Debt Service	22	6,928,137	887,378	7,815,515
Capital Projects	23	18,552,000	2,070,000	20,622,000
Total Government Activities Expenditures	24	45,043,495	4,327,450	49,370,945
Business Type/Enterprise	25	8,254,197	560,153	8,814,350
Total Gov Activities & Business Expenditures	26	53,297,692	4,887,603	58,185,295
Transfers Out	27	14,300,091	1,665,854	15,965,945
Total Expenditures/Transfers Out	28	67,597,783	6,553,457	74,151,240
Excess Revenues & Other Sources Over (Under) Expenditures/Transfers Out	29	-1,366,953	-3,047,680	-4,414,633
Beginning Fund Balance July 1, 2022	30	10,555,679	10,100,684	20,656,363
Ending Fund Balance June 30, 2023	31	9,188,726	7,053,004	16,241,730

Explanation of Changes: Property, liability, and other general insurance cost increases significantly above budgeted projection, three new firefighters (SAFER funded), increased electric/gas costs, projects crossing over fiscal years, damages covered by insurance, maintenance not budgeted, credit card fees, increased worker's compensation costs above budgeted, housing rehabilitation project expenses, reimbursed overtime pay, Federal grant received, unbudgeted interest payment on 2022A Bond, MBR damage repairs, sludge hauling contract, purchase of police car (unmarked), fire truck purchase (cross over fiscal years), community center building maintenance, ongoing costs of NWERP implementation (cross over fiscal years), refunds paid out, engineering fees, sidewalk repairs, increased cost of chemicals for pool, water, and wastewater, unexpected, unbudgeted expenses and revenues.

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Summary of Comments on FY 23 North Liberty Budget Amendment with comments.pdf

Page: 1

- Number: 1 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:46:30 PM
Federal funds for streets project

- Number: 2 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:47:21 PM
Insurance proceeds, developer fees, other miscellaneous revenues

- Number: 3 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:50:25 PM
Additional budgeted transfers from resolution approved in 2022.

- Number: 4 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:50:49 PM
Three new firefighters, new police car, reimbursed overtimes, insurance expenses, additional gas and electric costs

- Number: 5 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:50:52 PM
Insurance costs, overtime for tough winter, utility costs, other unexpected expenses.

- Number: 6 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:50:20 PM
Insurance covered projects, additional insurance costs, overtime for holiday coverage, utility costs.

- Number: 7 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:51:36 PM
Housing rehabilitation program, additional engineering expenses.

- Number: 8 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:52:21 PM
NWERP implementation carryover costs, increased insurance costs, Ranshaw House utility costs.

- Number: 9 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:52:53 PM
2022A Bond Interest payment, bond closing fees for issuance of two bonds in this fiscal year.

- Number: 10 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:53:15 PM
Projects that crossed over fiscal years.

- Number: 11 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:53:58 PM
Additional insurance costs, chemical expenses, utility costs, projects covered by insurance.

- Number: 12 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:54:27 PM
Transfers according to the resolution approved in late 2022.

- Number: 13 Author: tmulcahey Subject: Sticky Note Date: 5/3/2023 5:54:46 PM
Updated per the audit.

Resolution No. 2023-56

**A RESOLUTION AMENDING THE CURRENT BUDGET FOR THE
FISCAL YEAR ENDING JUNE 30, 2023**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

WHEREAS, The City Council of North Liberty in Johnson County met on May 23, 2023 at the place and hour set in the notice, a copy of which accompanies this certificate and is certified as to publication;

WHEREAS, upon taking up the proposed amendment, it was considered and taxpayers were heard for and against the amendment;

WHEREAS, The Council after hearing all taxpayers wishing to be heard and considering the statements made by them gave final consideration to the proposed amendment to the budget and modifications proposed at the hearing, if any.

WHEREAS, one additional transfer is needed to facilitate the purchase of an additional police car in the current fiscal year, \$25,000 should be transferred from the General Fund to the Equipment Revolving Fund;

NOW, THEREFORE, BE IT RESOLVED that the City Council does hereby authorize the amendment to the budget including the transfer for the fiscal year ending June 30, 2023.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



LL Pelling Easement

Prepared by and after recording return to:	Ryan J. Prahm Pugh Hagan Prahm PLC	425 E. Oakdale Blvd., Suite 201 Coralville, IA 52241	Phone FAX	(319) 351-2028 (319) 351-1102
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PUBLIC EASEMENT AGREEMENT

THIS PUBLIC EASEMENT AGREEMENT, made and entered into by and between L. L. Pelling Company, Incorporated, an Iowa corporation ("Grantor"), which expression shall include its successors in interest and assigns, and the City of North Liberty, Iowa ("City"), which expression shall include its successors in interest and assigns and agreed and consented to by Brett Finnegan as set forth below.

WITNESSETH:

It is hereby agreed as follows:

For the sum of \$1.00 plus other valuable consideration, the receipt of which is hereby acknowledged, Grantor hereby grants and conveys to the City an exclusive permanent easement for the purposes of installation, replacement, maintenance and use of traffic lights, installing landscaping, lighting, traffic signals, sidewalks and extending utility services, under, over, through and across the areas designated as "Traffic Control Easement" on Exhibit "A-1" and Exhibit "A-2" attached hereto and incorporated herein by reference, hereafter collectively described as "Easement Area."

Grantor further grants to the City:

1. The right of grading said Easement Area for the full width thereof, and to extend the cuts and fills for such grading into and onto said lands along and outside of the said Easement Area to such extent as the City may find reasonably necessary.

2. The right from time to time to excavate as reasonably necessary and to trim, cut down and clear away any and all trees and brush on said Easement Area and also to trim, cut down and clear away any trees on either side of said Easement Area which now or hereafter in the opinion of the City may be a hazard to said Easement Area, or which may interfere with the exercise of the City's rights hereunder in any manner.

3. The City shall promptly backfill any trench made by it, and repair any damages caused by the City within the Easement Area. The City shall indemnify Grantor against unreasonable loss or damage to Grantor's property which may occur in the negligent exercise of the easement rights by the City. Except as expressly provided herein, the City shall have no responsibility for maintaining the

Easement Area.

4. Grantor reserves the right to use said Easement Area for purposes which will not interfere with the City's full enjoyment of the rights hereby granted; provided that the Grantor shall not erect or construct any building, fence, retaining wall, or other structure, plant any trees, landscaping, pave the property, drill or operate any well, or construct any reservoir or other obstruction on said Easement Area. Any such improvement placed in the Easement Area, with or without City approval, may be removed by the City without compensation or replacement.

5. The City shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described, including but not limited to the right to remove any unauthorized obstructions or structures placed or erected on the Easement Area.

6. Grantor does hereby covenant with the City that it is lawfully seized and possessed of the real estate above described, and Grantor has a good and lawful right to convey it, or any part thereof.

7. Nothing in this agreement shall be construed to impose a requirement on the Grantor to construct the improvements at issue herein. City shall not be deemed to be acting as Grantor's agent during the construction of the improvements.

8. That the Grantor acknowledges that possession of the Easement Area is the essence of this Agreement and the Grantor does hereby grant the City immediate possession of said Easement Area.

9. That the Grantor states and warrants that there is no known well, solid waste disposal site, hazardous substances or underground storage tanks, private burial sites, or private sewage disposal system on the Easement Area.

10. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land and with the title to the land.

11. That this written Easement Agreement shall be fully binding upon the parties hereto. No waiver, change, modification or amendment of this Agreement shall be binding upon the Grantor or the City unless in writing and signed by both parties. Notwithstanding, the Grantor agrees to minor modifications of Exhibit A as may be deemed necessary by the City of North Liberty, Iowa. The waiver by either party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision or of any other provision or condition in this Agreement.

12. This Easement Agreement is intended to set forth all of the commitments, responsibilities and obligations as between the Grantor and the City in connection with the easement rights granted herein. Accordingly, the terms of this Agreement supersede and replace all prior oral negotiations and written documentation provided to facilitate negotiation of the easement rights granted herein.

Dated this 29 day of March 2023.

GRANTOR:
L. L. Pelling Company, Incorporated, an Iowa corporation

By: Brett Finnegan
Brett Finnegan, President



STATE OF IOWA, COUNTY OF JOHNSON) ss:

This instrument was acknowledged before me on this 29 day of March 2023 Brett Finnegan, President of L. L. Pelling Company, Incorporated.

Natasha Poe
Notary Public in and for said State

CITY:
CITY OF NORTH LIBERTY, IOWA

By: _____
Chris Hoffman, Mayor

ATTEST:

By: _____
Tracey Mulcahey, City Clerk

STATE OF IOWA, COUNTY OF JOHNSON) ss:

On this ____ day of _____, 2023 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Chris Hoffman and Tracey Mulcahey, to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of North Liberty, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and the instrument was signed and sealed on behalf of the corporation by authority of its City Council, and the said Mayor and City Clerk did acknowledge the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public in and for said State

EXHIBITS A-1 and A-2
To Public Easement Agreement
(see attached)

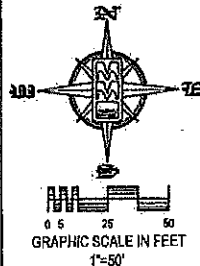
LOCATION: A PORTION OF THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 60 NORTH, RANGE 7 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, NORTH LIBERTY, JOHNSON COUNTY, IOWA.	SURVEY REQUESTED BY: BEN HUR CONSTRUCTION CO. 2191 LEMAY FERRY ROAD, SUITE 200 LOUIS, MO 63125
LAND SURVEYOR: RICHARD R. NOWOTNY P.L.S. MMS CONSULTANTS INC. 1917 SOUTH GILBERT STREET IOWA CITY, IOWA, 52240 PHONE: 319-351-8282	PROPRIETOR OR OWNER: L.L. PELUNG CO PO BOX 230 NORTH LIBERTY, IOWA 52317-0230
DOCUMENT RETURN INFORMATION: LAND SURVEYOR	DATE OF SURVEY: 12-01-2022

FOR COUNTY RECORDER'S USE

EASEMENT EXHIBIT

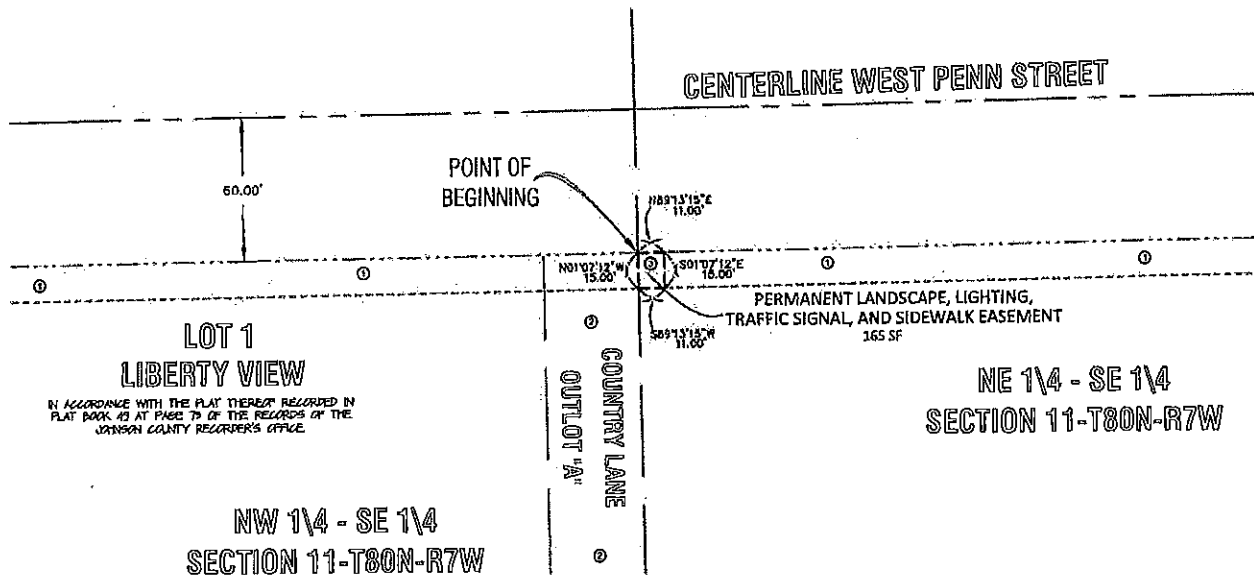
PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT NORTH LIBERTY, JOHNSON COUNTY, IOWA

LEGEND AND NOTES	
●	PROPERTY CORNER(S), FOUND (as noted)
○	PROPERTY CORNERS SET (5/8" Iron Pk w/ yellow, plastic LS Cap embossed with "MMS")
⊗	CUT "X"
—	PROPERTY &/or BOUNDARY LINES
- - -	CONGRESSIONAL SECTION LINES
- - -	RIGHT-OF-WAY LINES
- - -	CENTER LINES
- - -	LOT LINES, INTERNAL
- - -	LOT LINES, PLATTED OR BY DEED
- - -	EASEMENT LINES, WIDTH & PURPOSE NOTED
- - -	EXISTING EASEMENT LINES, PURPOSE NOTED
- - -	RECORDED DIMENSIONS
- - -	MEASURED DIMENSIONS
- - -	CURVE SEGMENT NUMBER
(R)	RECORDED
(M)	MEASURED
(M)	MEASURED
C22-1	



NOTE:
ALL BEARINGS ARE BASED ON IOWA STATE PLANE COORDINATES (SOUTH ZONE), LIBRARY CALDRATION USING THE IOWA REAL TIME NETWORK (RTN). THE DISTANCES SHOWN ON THE PLAT ARE GROUND DISTANCES AND NOT GRID DISTANCES.

EASEMENT IDENTIFICATION TABLE	
LABEL	DESCRIPTION
①	EXISTING 50' WIDE UTILITY EASEMENT
②	EXISTING 40' ACCESS & UTILITY EASEMENT
③	PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT



DESCRIPTION - PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT

Beginning at the Northeast Corner of Outlot "A" of Liberty View, to North Liberty, Iowa, in accordance with the Plat thereof Recorded in Plat Book 49 at Page 73 of the Records of the Johnson County Recorder's Office; Thence N89°13'15"E, along the South Right-of-Way Line of West Penn Street, 11.00 feet; Thence S01°07'12"E, 15.00 feet; Thence S89°13'15"W, 11.00 feet, to a Point on the East Line of said Outlot "A"; Thence N01°07'12"W, along said East Line, 15.00 feet, to the Point of Beginning. Said Permanent Landscape, Lighting, Traffic Signal, and Sidewalk Easement contains 165 square feet, and is subject to easements and restrictions of record.

SEAL

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

Richard R. Nowotny 3-9 2023
RICHARD R. NOWOTNY
P.L.S. Iowa Lic. No. 17918
My license renewal date is December 31, 2023

Pages or sheets covered by this seal: _____

Project No.	IC 11689-001
Sheet No.	of 1
Drawn by	RLW
Checked by	RRN
Designated by	KLB
Field Book No.	1354
Scale	1"=50'
Date	02-28-2023
MMS CONSULTANTS, INC. NORTH LIBERTY JOHNSON COUNTY IOWA	

EASEMENT EXHIBIT
PERMANENT LANDSCAPE,
LIGHTING, TRAFFIC SIGNAL,
AND SIDEWALK EASEMENT

Date	Revision
03-07-2023	PER PEN REVIEW - RLW
03-08-2023	PER CITY REVIEW - RLW

www.mmsconsultants.net
1917 S. GILBERT ST.
IOWA CITY, IOWA 52240
(319) 351-8282



Resolution No. 2023-57

A RESOLUTION APPROVING THE PUBLIC EASEMENT AGREEMENT BETWEEN L. L. PELLING COMPANY, INCORPORATED AND THE CITY OF NORTH LIBERTY, IOWA

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

WHEREAS, the terms and conditions for the installation, replacement, maintenance and use of traffic lights, installing landscaping, lighting, traffic signals and extending utility services under, over, through and across property owned by L. L. Pelling Company Incorporated have been set forth in an Agreement between the City of North Liberty and L. L. Pelling Company, Incorporated., and

WHEREAS, it is the parties' desire to agree and establish, in writing, their understanding regarding said agreement.

NOW, THEREFORE, BE IT RESOLVED that that the Public Easement Agreement between the City of North Liberty and L. L. Pelling Company, Incorporated is approved.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute said agreement.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



Liberty View Mall Easement

Prepared by and Return to:
Grant D. Lientz, 3 Quail Creek Circle, P.O. Box 77, North Liberty, IA 52317 319-626-5767

PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL AND SIDEWALK EASEMENT

THIS, made and entered into by and between Liberty View Mall, LLC, an Iowa limited liability company, ("Grantor"), which expression shall include its successors in interest and assigns, and the City of North Liberty, Iowa ("Grantee"), which expression shall include its successors in interest and assigns and agreed and consented to by Solon State Bank ("Lender") as set forth below.

WITNESSETH:

It is hereby agreed as follows:

For the sum of \$1.00 plus other valuable consideration, the receipt of which is hereby acknowledged, Grantor hereby grants and conveys to the Grantee an exclusive permanent easement for the purposes of installation, replacement, maintenance and use of traffic lights, installing landscaping, lighting, traffic signals, sidewalks and extending utility services, under, over, through and across the areas designated as "Permanent Landscape, Lighting, Traffic Signal, and Sidewalk Easement" on Exhibit "A-1" and Exhibit "A-2" attached hereto and incorporated herein by reference, hereafter collectively described as "Easement Area."

Grantor further grants to the Grantee:

1. The right of grading said Easement Area for the full width thereof, and to extend the cuts and fills for such grading into and onto said lands along and outside of the said Easement Area to such extent as the Grantee may find reasonably necessary.
2. The right from time to time to excavate as reasonably necessary and to trim, cut down and clear away any and all trees and brush on said Easement Area and also to trim, cut down and clear away any trees on either side of said Easement Area which now or hereafter in the opinion of the Grantee may be a hazard to said Easement Area, or which may interfere with the exercise of the Grantee's rights hereunder in any manner.
3. The Grantee shall promptly backfill any trench made by it, and repair any damages caused by the Grantee within the Easement Area. The Grantee shall indemnify Grantor against unreasonable loss or damage to Grantor's property which may occur in the negligent exercise of the easement rights by the Grantee. Except as expressly provided herein, the Grantee shall have no

responsibility for maintaining the Easement Area.

4. Grantor reserves the right to use said Easement Area for purposes which will not interfere with the Grantee's full enjoyment of the rights hereby granted; provided that the Grantor shall not erect or construct any building, fence, retaining wall, or other structure, plant any trees, landscaping, pave the property, drill or operate any well, or construct any reservoir or other obstruction on said Easement Area. Any such improvement placed in the Easement Area, with or without Grantee approval, may be removed by the Grantee without compensation or replacement.

5. The Grantee shall have the right of access to the Easement Area and have all rights of ingress and egress reasonably necessary for the use and enjoyment of the Easement Area as herein described, including but not limited to the right to remove any unauthorized obstructions or structures placed or erected on the Easement Area.

6. Grantor does hereby covenant with the Grantee that it is lawfully seized and possessed of the real estate above described, and Grantor has a good and lawful right to convey it, or any part thereof.

7. Nothing in this agreement shall be construed to impose a requirement on the Grantor to construct the improvements at issue herein. Grantee shall not be deemed to be acting as Grantor's agent during the construction of the improvements.

8. That the Grantor acknowledges that possession of the Easement Area is the essence of this Agreement and the Grantor does hereby grant the Grantee immediate possession of said Easement Area.

9. That the Grantor states and warrants that there is no known well, solid waste disposal site, hazardous substances or underground storage tanks, private burial sites, or private sewage disposal system on the Easement Area.


10. The provisions hereof shall inure to the benefit of and bind the successors and assigns of the respective parties hereto, and all covenants shall apply to and run with the land and with the title to the land.

11. That this written Easement Agreement shall be fully binding upon the parties hereto. No waiver, change, modification or amendment of this Agreement shall be binding upon the Grantor or the Grantee unless in writing and signed by both parties. Notwithstanding, the Grantor agrees to minor modifications of Exhibit A as may be deemed necessary by the City of North Liberty, Iowa. The waiver by either party of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision or of any other provision or condition in this Agreement.

12. This Easement Agreement is intended to set forth all of the commitments, responsibilities and obligations as between the Grantor and the Grantee in connection with the easement rights granted herein. Accordingly, the terms of this Agreement supersede and replace all prior oral negotiations and written documentation provided to facilitate negotiation of the easement rights granted herein.

Dated this 27 day of MARCH 2023.

GRANTOR:
Liberty View Mall, LLC

By: 
Lien Vu, Manager

STATE OF IOWA, JOHNSON COUNTY, ss.

This record was acknowledged before me on the 27th day of March 2023, by Lien Vu,
Manager of Liberty View Mall, LLC.




Notary Public in and for the State of Iowa

CITY OF NORTH LIBERTY, IOWA

By: _____
Chris Hoffman, Mayor

ATTEST:

By: _____
Tracey Mulcahey, City Clerk

STATE OF IOWA, COUNTY OF JOHNSON) ss:

On this ____ day of _____, 2023 before me, the undersigned, a Notary Public in and for said County and State, personally appeared Chris Hoffman and Tracey Mulcahey, to me personally known, who being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of North Liberty, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and the instrument was signed and sealed on behalf of the corporation by authority of its City Council, and the said Mayor and City Clerk did acknowledge the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

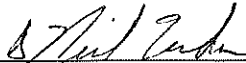
Notary Public in and for said State

BP W

CONSENT OF MORTGAGEE


The undersigned, being the holder of a certain Mortgage on the real property described in the instrument of record in Book 5547, Page 451 in the Johnson County Recorder's Office, Johnson County, Iowa, which real property is subject to the attached easement Agreement, and Solon State Bank hereby consents to the easements granted in the Easement Agreement and hereby subordinates its Mortgage to the Easement Agreement and the easements therein described.

Solon State Bank

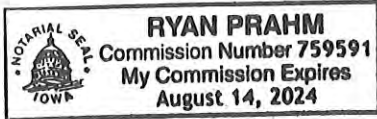
By: 
Neil Erusha, President

STATE OF IOWA, JOHNSON COUNTY, ss.

This record was acknowledged before me on the 20th day of March 2023, by Neil Erusha, President of Solon State Bank.



Notary Public in and for the State of Iowa



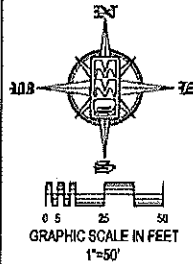
LOCATION: A PORTION OF LOT 1 OF LIBERTY VIEW, LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 80 NORTH, RANGE 7 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, NORTH LIBERTY, JOHNSON COUNTY, IOWA.	SURVEY REQUESTED BY: BEN HUR CONSTRUCTION CO. 2491 LEMAY FERRY ROAD, SUITE 200 LOUIS, MO 65325
LAND SURVEYOR: RICHARD R. NOWOTNY P.L.S. MMS CONSULTANTS INC 1917 SOUTH GILBERT STREET IOWA CITY, IOWA, 52240 PHONE: 319-351-6282	PROPRIETOR OR OWNER: LIBERTY VIEW MALL LLC 1898 BROWN DEER RD CORALVILLE, IOWA 52241
DOCUMENT RETURN INFORMATION: LAND SURVEYOR	DATE OF SURVEY: 12-01-2022

FOR COUNTY RECORDER'S USE

EASEMENT EXHIBIT

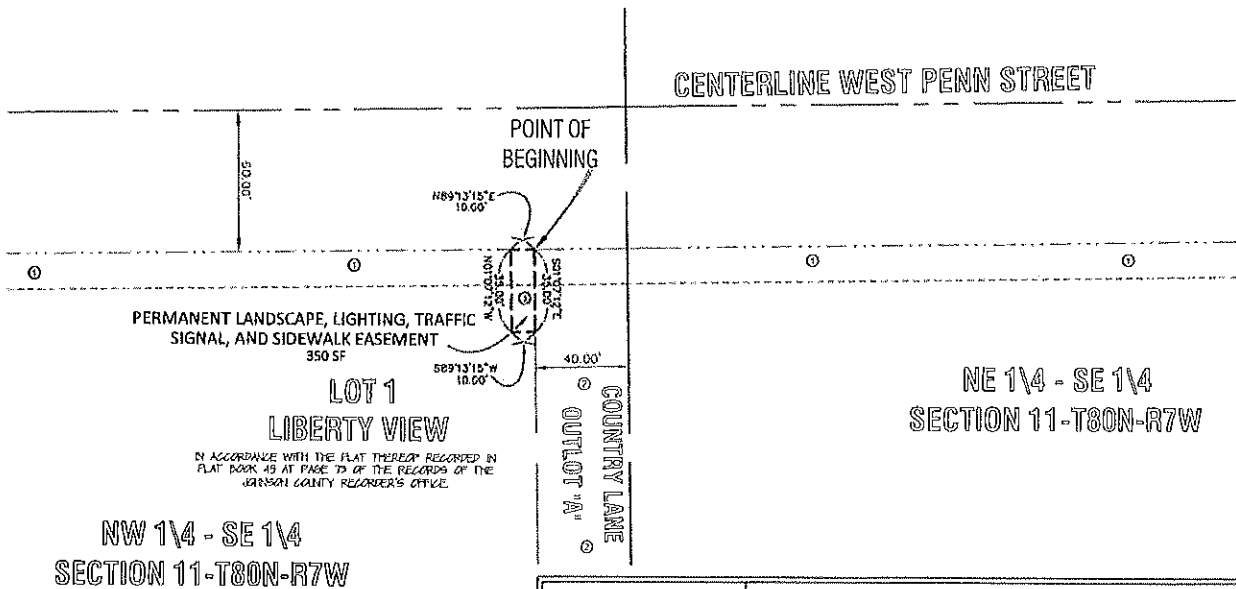
PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT NORTH LIBERTY, JOHNSON COUNTY, IOWA

LEGEND AND NOTES	
	PROPERTY CORNER(S), FOUND (as noted)
	PROPERTY CORNERS SET (5/8" Iron Pin w/ yellow, plastic LS Cap embossed with "MMS")
	CUT "X"
	PROPERTY &/or BOUNDARY LINES
	CONGRESSIONAL SECTION LINES
	RIGHT-OF-WAY LINES
	CENTER LINES
	LOT LINES, INTERNAL
	LOT LINES, PLATTED OR BY DEED
	EASEMENT LINES, WIDTH & PURPOSE NOTED
	EXISTING EASEMENT LINES, PURPOSE NOTED
	RECORDED DIMENSIONS
	MEASURED DIMENSIONS
	CURVE SEGMENT NUMBER



NOTE:
 ALL BEARINGS ARE BASED ON IOWA STATE PLANE COORDINATES (SOUTH ZONE), LIBRARY CALIBRATION USING THE IOWA REAL TIME NETWORK (RTN). THE DISTANCES SHOWN ON THE PLAT ARE GROUND DISTANCES AND NOT GRID DISTANCES.

EASEMENT IDENTIFICATION TABLE	
LABEL	DESCRIPTION
①	EXISTING 150' WIDE UTILITY EASEMENT
②	EXISTING 40' ACCESS & UTILITY EASEMENT
③	PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT



DESCRIPTION - PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT

Beginning at the Northeast Corner of Lot 1 of Liberty View to North Liberty, Iowa, in accordance with the Plat thereof Recorded in Plat Book 49 at Page 73 of the Records of the Johnson County recorder's Office; Thence S01°07'12"E, along the East Line of said Lot 1, a distance of 35.00 feet; Thence S89°13'15"W, 10.00 feet; Thence N01°07'12"W, 35.00 feet, to a Point on the North Line of said Lot 1; Thence N89°13'15"E, 10.00 feet, to the Point of Beginning Said Permanent Landscape, Lighting, Traffic Signal, and Sidewalk Easement contains 350 square feet, and is subject to easements and restrictions of record.

RICHARD R. NOWOTNY
P.L.S. Iowa Lic. No. 17916

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

Richard R. Nowotny 2-9-2023
 RICHARD R. NOWOTNY
 P.L.S. Iowa Lic. No. 17916
 My license renewal date is December 31, 2023

Pages or sheets covered by this seal: 1

MMS CONSULTANTS, INC.
 NORTH LIBERTY
 JOHNSON COUNTY
 IOWA

Date: 02-28-2023
 Designed by: KJB
 Drawn by: RLW
 Checked by: RLW
 Project No: 1
 IC: 11689-001

EASEMENT EXHIBIT

PERMANENT LANDSCAPE,
 LIGHTING, TRAFFIC SIGNAL, AND
 SIDEWALK EASEMENT

Date: 02-07-2023 PER PLAN REVIEW - RLW
 02-08-2023 PER CITY REVIEW - RLW

**CIVIL ENGINEERS
 LAND PLANNERS
 LAND SURVEYORS
 LANDSCAPE ARCHITECTS
 ENVIRONMENTAL SPECIALISTS**

1917 S. GILBERT ST.
 IOWA CITY, IOWA 52240
 (319) 351-6282
 WWW.MMSCONSULTANTS.NET

W

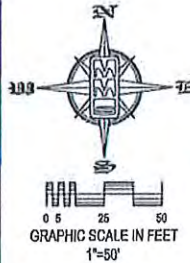
LOCATION: A PORTION OF OUTLOT "A" OF LIBERTY VIEW, LOCATED IN THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 11, TOWNSHIP 80 NORTH, RANGE 7 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, NORTH LIBERTY, JOHNSON COUNTY, IOWA	SURVEY REQUESTED BY: BEN HUR CONSTRUCTION CO. 2191 LEMAY FERRY ROAD, SUITE 200 LOUIS, MO 63125
LAND SURVEYOR: RICHARD R. NOWOTNY P.L.S MMS CONSULTANTS INC 1917 SOUTH GILBERT STREET IOWA CITY, IOWA, 52240 PHONE: 319-351-8282	PROPRIETOR OR OWNER: LIBERTY VIEW MALL LLC 1898 BROWN DEER ROAD CORALVILLE, IOWA 52241
DOCUMENT RETURN INFORMATION: LAND SURVEYOR	DATE OF SURVEY: 12-01-2022

FOR COUNTY RECORDER'S USE

EASEMENT EXHIBIT

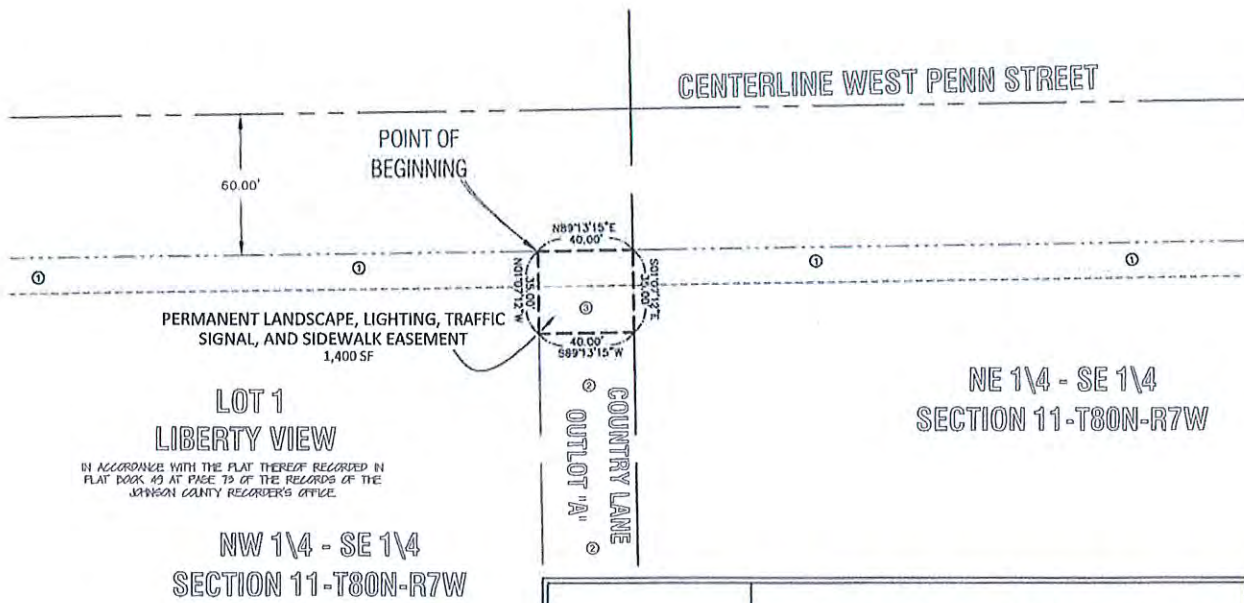
PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT NORTH LIBERTY, JOHNSON COUNTY, IOWA

LEGEND AND NOTES	
●	PROPERTY CORNER(S), FOUND (as noted)
○	PROPERTY CORNERS SET (5/8" Iron Pin w/ yellow, plastic LS Cap embossed with "MMS")
⊗	CUT "X"
—	PROPERTY &/or BOUNDARY LINES
—	CONGRESSIONAL SECTION LINES
—	RIGHT-OF-WAY LINES
—	CENTER LINES
—	LOT LINES, INTERNAL
—	LOT LINES, PLATTED OR BY DEED
—	EASEMENT LINES, WIDTH & PURPOSE NOTED
—	EXISTING EASEMENT LINES, PURPOSE NOTED
—	RECORDED DIMENSIONS
—	MEASURED DIMENSIONS
—	CURVE SEGMENT NUMBER
(R)	RECORDED DIMENSIONS
(M)	MEASURED DIMENSIONS
C22-1	CURVE SEGMENT NUMBER



NOTE:
ALL BEARINGS ARE BASED ON IOWA STATE PLANE COORDINATES (SOUTH ZONE), LIBRARY CALIBRATION USING THE IOWA REAL TIME NETWORK (RTN). THE DISTANCES SHOWN ON THE PLAT ARE GROUND DISTANCES AND NOT GRID DISTANCES.

EASEMENT IDENTIFICATION TABLE	
LABEL	DESCRIPTION
①	EXISTING 50' WIDE UTILITY EASEMENT
②	EXISTING AD ACCESS & UTILITY EASEMENT
③	PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT



DESCRIPTION - PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT

Beginning at the Northwest Corner of Outlot "A" of Liberty View, to North Liberty, Iowa, in accordance with the Plat thereof Recorded in Plat Book 49 at Page 73 of the Records of the Johnson County Recorder's Office; Thence N89°13'15"E, along the North Line of said Outlot "A", 40.00 feet, to the Northeast Corner thereof; Thence S01°07'12"E, along the East Line of said Outlot "A", 35.00 feet; Thence S89°13'15"W, 40.00 feet; Thence N01°07'12"W, 35.00 feet, to the Point of Beginning. Said Permanent Landscape, Lighting, Traffic Signal, and Sidewalk Easement contains 1,400 square feet, and is subject to easements and restrictions of record.

SEAL

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

Richard R. Nowotny 2-9-2023
RICHARD R. NOWOTNY
P.L.S. Iowa Lic. No. 17916
My license renewal date is December 31, 20 23

Pages or sheets covered by this seal:

EASEMENT EXHIBIT	
PERMANENT LANDSCAPE, LIGHTING, TRAFFIC SIGNAL, AND SIDEWALK EASEMENT	
NORTH LIBERTY JOHNSON COUNTY IOWA	
MMS CONSULTANTS, INC.	
Date:	02-28-2023
Designed by:	KJB
Drawn by:	RLW
Checked by:	RRN
Product No.:	IC 11689-001
Scale:	1"=50'
Sheet No.:	1
of:	1

Date	Revision
03-07-2023	PER RRN REVIEW - RLW
03-08-2023	PER CRT REVIEW - RLW

CIVIL ENGINEERS
LAND PLANNERS
LAND SURVEYORS
LANDSCAPE ARCHITECTS
ENVIRONMENTAL SPECIALISTS

1917 S. GILBERT ST.
IOWA CITY, IOWA 52240
(319) 351-8282
www.mmsconsultants.net



RR *W*

Resolution No. 2023-58

**A RESOLUTION APPROVING THE PERMANENT LANDSCAPE,
LIGHTING, TRAFFIC SIGNAL AND SIDEWALK EASEMENT
AGREEMENT BETWEEN LIBERTY VIEW MALL, LLC AND THE
CITY OF NORTH LIBERTY, IOWA**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

WHEREAS, the terms and conditions for the installation, replacement, maintenance and use of traffic lights, installing landscaping, lighting, traffic signals and extending utility services under, over, through and across property owned by Liberty View Mall, LLC have been set forth in an Agreement between the City of North Liberty and Liberty View Mall, LLC, and

WHEREAS, it is the parties' desire to agree and establish, in writing, their understanding regarding said agreement.

NOW, THEREFORE, BE IT RESOLVED that that the Public Easement Agreement between the City of North Liberty and Liberty View Mall, LLC is approved.

BE IT FURTHER RESOLVED that the Mayor and City Clerk are hereby authorized to execute said agreement.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



Fox Run Trail Project

PROPOSAL FOR SERVICES

TO: City of North Liberty

ATTN: Mr. Ryan Heiar, City Administrator
P.O. Box 77
North Liberty, Iowa 52317

PROJECT NAME: Fox Run Pond Trail Improvements

DATE: May 12, 2023

PROJECT DESCRIPTION: Design, bidding, and construction phase services for Fox Run Pond Trail improvements. The improvements generally consist of a six-foot wide PCC trail around the pond, a thickened edge concrete border around a playground (to be installed under separate contract), and ADA playground area ramp. Exhibits of the project location, concept improvements and concept phase project cost opinion are included with this proposal as attachments. The Concept Phase cost opinion for this project is \$247,000.

The undersigned Client and Shive-Hattery, Inc. (S-H) agree as follows:

SCOPE OF SERVICES: S-H will provide the following professional services:

1. **Design Phase:** Design phase shall include the following services.
 - a. Surveying and Base Mapping: We will provide a topographical survey. Right-of-way, easements and property boundary shall be included. The field survey will be used as the base map for the design plans.
 - b. Design Services: We will provide design services for the project. The scope of the design is generally as shown on the attached concept phase drawing exhibit. The design process/approach will include regular meetings with City staff.
 - e. Construction Documents: Construction documents will consist of preparing complete plans for public bidding and construction. The package will be reviewed and approved by City staff prior to authorization for public hearing and distribution to bidders.
 - f. Cost Opinion: We will prepare opinions of probable construction costs for the project. Updated cost opinions will be prepared and reviewed with City staff as a deliverable with each preliminary and final design phase submittal package.
 - g. Project Manual: We will prepare a project manual including bidding documents, construction contract, and technical project specifications for the project.
2. **Bidding Phase:** Services include preparation of bid documents, distribution of contract documents to potential bidders, providing clarification of documents and answering contractor questions, issuing addenda as needed, attending bid opening, preparing tabulation of bids, and providing recommendation to the Owner regarding award of contract.



3. **Construction Phase:** Services include the following based upon an estimated two-month construction period.
 - a. Prepare and distribute construction contract and Notice to Proceed.
 - b. Review form of contract, bonds, and insurance.
 - c. Schedule and facilitate a preconstruction meeting to communicate schedule and the administrative details of the project.
 - d. Provide construction observation at appropriate intervals to determine if the work is proceeding in general conformance with the contract documents.
 - e. Provide materials testing including subgrade compaction and concrete testing.
 - f. Provide construction staking.
 - g. Facilitate and participate in construction progress meetings.
 - h. Review contractor submittals. Issue clarifications and authorize changes to the contract documents. Negotiate and prepare change orders as needed.
 - i. Review payment applications and provide recommendation to Owner for payment.
 - j. Provide final review of work to determine if work has been completed satisfactorily. Prepare list of deficient items to the contractor as needed. Review final payment application, bonds, and provide recommendation to Owner for final acceptance.
 - k. Prepare Construction Record Drawings as provided by the Contractor and submit to the Owner.

CLIENT RESPONSIBILITIES: It will be your responsibility to provide the following:

1. Participation at design review meetings and review of design phase submittals. Provide authorization to proceed with final design and bid letting.
2. Provide easement and/or acquisition services as needed.
3. Schedule and conduct informational meeting(s) with property owners and the public as deemed necessary.
4. Provide daily construction observation services to monitor progress of the project and provide on-site communications with the Contractor, engineer, and adjacent property owners.

SCHEDULE: We will begin our services immediately after execution of this Agreement. The services will be completed in a timely manner. We understand the project schedule goal is for bidding to occur winter 2023 and construction to begin spring 2024.

COMPENSATION: We will provide the Scope of Services for the following fee:

Design & Bidding Phase	\$ 23,000	Lump Sum
Construction Phase	\$ 12,500	Hourly (estimated)
Reimbursable Expenses	\$ <u>1,500</u>	As incurred (estimated)
Total	\$ 37,000	

We will not proceed with Bidding or Construction Phase services until authorized by the City.

ADDITIONAL SERVICES: Additional services requested that are not included in the Scope of Services will be provided at standard hourly rates such as preparation of easement or acquisition documents.

AGREEMENT: This proposal shall become the Agreement for Services when signed and dated by both parties. The attached **STANDARD TERMS AND CONDITIONS** are made a part of this proposal and Agreement for Services. Please return a signed copy to us.

ACKNOWLEDGEMENT OF OFFER AND ACCEPTANCE:

Proposal accepted and work is authorized to proceed:

THE CITY OF NORTH LIBERY, IOWA

SHIVE-HATTERY, INC.

BY: _____



Josiah D. Bilskemper, P.E.
Project Manager

TITLE: _____

DATE ACCEPTED: _____

JDB/mas

- Enc.: Standard Terms and Conditions
- Fox Run Pond Trail Concept Improvements Exhibit
- Fox Run Pond Trail Cost Opinion Exhibit
- Preliminary Schedule

STANDARD TERMS AND CONDITIONS

PARTIES

"S-H" or "Shive-Hattery" shall mean Shive-Hattery, Inc. or Shive-Hattery A/E Services, P.C. or Studio951 a Division of Shive-Hattery or EPOCH a Division of Shive-Hattery or Shive-Hattery New Jersey, Inc. or WSM, a Division of Shive-Hattery, Inc. or KdG, a Division of Shive-Hattery, Inc. and "CLIENT" shall mean the person or entity executing this Agreement with "S-H."

LIMITATION OF LIABILITY AND WAIVER OF CERTAIN DAMAGES

The CLIENT agrees, to the fullest extent of the law, to limit the liability of S-H, its officers, directors, shareholders, employees, agents, subconsultants, affiliated companies, and any of them, to the CLIENT and any person or entity claiming by or through the CLIENT, for any and all claims, damages, liabilities, losses, costs, and expenses including reasonable attorneys' fees, experts' fees, or any other legal costs, in any way related to the Project or Agreement from any cause(s) to an amount that shall not exceed Five Million Dollars (5,000,000). The parties intend that this limitation of liability apply to any and all liability or cause of action, claim, theory of recovery, or remedy however alleged or arising, including but not limited to negligence, errors or omissions, strict liability, breach of contract or warranty, express, implied or equitable indemnity and all other claims, which except for the limitation of liability above, the CLIENT waives.

CLIENT hereby releases S-H, its officers, directors, shareholders, employees, agents, subconsultants, affiliated companies, and any of them, and none shall be liable to the CLIENT for consequential, special, exemplary, punitive, indirect or incidental losses or damages, including but not limited to loss of use, loss of product, cost of capital, loss of goodwill, lost revenues or loss of profit, interruption of business, down time costs, loss of data, cost of cover, or governmental penalties or fines.

INDEMNIFICATION

Subject to the limitation of liability in this Agreement, S-H agrees to the fullest extent permitted by law, to indemnify and hold harmless the CLIENT, its officers, directors, shareholders, employees, contractors, subcontractors and consultants against all claims, damages, liabilities, losses or costs, including reasonable attorneys' fees, experts' fees, or other legal costs to the extent caused by S-H's negligent performance of service under this Agreement and that of its officers, directors, shareholders, and employees.

The CLIENT agrees to the fullest extent permitted by law, to indemnify and hold harmless S-H, its officers, directors, shareholders, employees, agents, subconsultants, and affiliated companies against all damages, liabilities, losses, costs, and expenses including, reasonable attorneys' fees, expert's fees, and any other legal costs to the extent caused by the acts or omissions of the CLIENT, its employees, agents, contractors, subcontractors, consultants or anyone for whom the CLIENT is legally liable.

HAZARDOUS MATERIALS - INDEMNIFICATION

To the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold S-H, its officers, directors, shareholders, employees, agents, consultants and affiliated companies, and any of them harmless from and against any and all claims, liabilities, losses, costs, or expenses including reasonable attorney's fees, experts' fees and any other legal costs (including without limitation damages to property, injuries or death to persons, fines, or penalties), arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalies, toxic chemicals, liquids, gases, polychlorinated biphenyl, petroleum contaminants, spores, biological toxins, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

STANDARD OF CARE

Services provided by S-H under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances on projects of similar size, complexity, and geographic location as that of the Project. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.

BETTERMENT

The CLIENT recognizes and expects that certain change orders may be required to be issued as the result in whole or part of imprecision, incompleteness, omissions, ambiguities, or inconsistencies in S-H's drawings, specifications, and other design, bidding or construction documentation furnished by S-H or in other professional services performed or furnished by S-H under this Agreement (herein after in this Betterment section referred to as S-H Documentation). If a required item or component of the Project is omitted from S-H's Documentation, the CLIENT is responsible for paying all costs required to add such item or component to the extent that such item or component would have been required and included in the original S-H Documentation. In no event will S-H be responsible for costs or expense that provides betterment or upgrades or enhances the value of the Project.



RIGHT OF ENTRY

The CLIENT shall provide for entry for the employees, agents and subcontractors of S-H and for all necessary equipment. While S-H shall take reasonable precautions to minimize any damage to property, it is understood by the CLIENT that in the normal course of the project some damages may occur, the cost of correction of which is not a part of this Agreement.

PAYMENT

Unless otherwise provided herein, invoices will be prepared in accordance with S-H's standard invoicing practices then in effect and will be submitted to CLIENT each month and at the completion of the work on the project. Invoices are due and payable upon receipt by the CLIENT. If the CLIENT does not make payment within thirty (30) days after the date the invoice was mailed to the CLIENT, then the amount(s) due S-H shall bear interest due from the date of mailing at the lesser interest rate of 1.5% per month compounded or the maximum interest rate allowed by law. In the event that S-H files or takes any action, or incurs any costs, for the collection of amounts due it from the client, S-H shall be entitled to recover its entire cost for attorney fees and other collection expenses related to the collection of amounts due it under this Agreement. Any failure to comply with this term shall be grounds for a default termination.

TERMINATION

Either party may terminate this Agreement for convenience or for default by providing written notice to the other party. If the termination is for default, the non-terminating party may cure the default before the effective date of the termination and the termination for default will not be effective. The termination for convenience and for default, if the default is not cured, shall be effective seven (7) days after receipt of written notice by the non-terminating party. In the event that this Agreement is terminated for the convenience of either party or terminated by S-H for the default of the CLIENT, then S-H shall be paid for services performed to the termination effective date, including reimbursable expenses due, and termination expenses attributable to the termination. In the event the CLIENT terminates the Agreement for the default of S-H and S-H does not cure the default, then S-H shall be paid for services performed to the termination notice date, including reimbursable expenses due, but shall not be paid for services performed after the termination notice date and shall not be paid termination expenses. Termination expenses shall include expenses reasonably incurred by S-H in connection with the termination of the Agreement or services, including, but not limited to, closing out Project records, termination of subconsultants and other persons or entities whose services were retained for the Project, and all other expenses directly resulting from the termination.

INFORMATION PROVIDED BY OTHERS

S-H shall indicate to the CLIENT the information needed for rendering of services hereunder. The CLIENT shall provide to S-H such information, including electronic media, as is available to the CLIENT and the CLIENT's consultants and contractors, and S-H shall be entitled to rely upon the accuracy and completeness thereof. The CLIENT recognizes that it is difficult for S-H to assure the accuracy, completeness and sufficiency of such client-furnished information, either because it is provided by others or because of errors or omissions which may have occurred in assembling the information the CLIENT is providing. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless S-H, its officers, directors, shareholders, employees, agents, subconsultants and affiliated companies, and any of them, from and against any and all claims, liabilities, losses, costs, expenses (including reasonable attorneys' fees, experts' fees, and any other legal costs) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the CLIENT.

UNDERGROUND UTILITIES

Information for location of underground utilities may come from the CLIENT, third parties, and/or research performed by S-H or its subcontractors. S-H will use the standard of care defined in this Agreement in providing this service. The information that S-H must rely on from various utilities and other records may be inaccurate or incomplete. Therefore, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless S-H, its officers, directors, shareholders, employees agents, subconsultants, affiliated companies, and any of them for all claims, losses, costs and damages arising out of the location of underground utilities provided or any information related to underground utilities by S-H under this Agreement.

CONTRACTOR MATTERS

CLIENT agrees that S-H shall not be responsible for the acts or omissions of the CLIENT's contractor, or subcontractors, their employees, agents, consultants, suppliers or arising from contractor's or subcontractors' work, their employees, agents, consultants, suppliers or other entities that are responsible for performing work that is not in conformance with the construction Contract Documents, if any, prepared by S-H under this Agreement. S-H shall not have responsibility for means, methods, techniques, sequences, and progress of construction of the contractor, subcontractors, agents, employees, agents, consultants, or other entities. In addition, CLIENT agrees that S-H is not responsible for safety at the project site and that safety during construction is for the CLIENT to address in the contract between the CLIENT and contractor.

SHOP DRAWING REVIEW

If, as part of this Agreement S-H reviews and approves Contractor submittals, such as shop drawings, product data, samples and other data, as required by S-H, these reviews and approvals shall be only for the limited purpose of checking for conformance with

the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. S-H's review shall be conducted with reasonable promptness while allowing sufficient time in S-H's judgment to permit adequate review. Review of a specific item shall not indicate that S-H has reviewed the entire assembly of which the item is a component. S-H shall not be responsible for any deviations from the contract documents not brought to the attention of S-H in writing by the Contractor. S-H shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

OPINIONS OF PROBABLE COST

If, as part of this Agreement S-H is providing opinions of probable construction cost, the CLIENT understands that S-H has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that S-H's opinions of probable construction costs are to be made on the basis of S-H's qualifications and experience. S-H makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

CONSTRUCTION OBSERVATION

If, as part of this Agreement S-H is providing construction observation services, S-H shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. Unless otherwise specified in the Agreement, the CLIENT has not retained S-H to make detailed inspections or to provide exhaustive or continuous project review and observation services. S-H does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, its subcontractors, employees, agents, consultants, suppliers or any other entities furnishing materials or performing any work on the project.

S-H shall advise the CLIENT if S-H observes that the contractor is not performing in general conformance of Contract Documents. CLIENT shall determine if work of contractor should be stopped to resolve any problems.

OTHER SERVICES

The CLIENT may direct S-H to provide other services including, but not limited to, any additional services identified in S-H's proposal. If S-H agrees to provide these services, then the schedule shall be reasonably adjusted to allow S-H to provide these services. Compensation for such services shall be at S-H's Standard Hourly Fee Schedule in effect at the time the work is performed unless there is a written Amendment to Agreement that contains an alternative compensation provision.

OWNERSHIP & REUSE OF INSTRUMENTS OF SERVICE

All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by S-H as instruments of service shall remain the property of S-H. The CLIENT shall not reuse or make any modifications to the plans and specifications without the prior written authorization of S-H. The CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless S-H its officers, directors, shareholders, employees, agents, subconsultants and affiliated companies, and any of them from any and all claims, losses, costs or damages of any nature whatsoever arising out of, resulting from or in any way related to any unauthorized reuse or modifications of the construction documents by the CLIENT or any person or entity that acquires or obtains the plans and specifications from or through the CLIENT without the written authorization of S-H.

DISPUTE RESOLUTION

If a dispute arises between S-H and CLIENT, the executives of the parties having authority to resolve the dispute shall meet within thirty (30) days of the notification of the dispute to resolve the dispute. If the dispute is not resolved within such thirty (30) day time period, CLIENT and S-H agree to submit to non-binding mediation prior to commencement of any litigation and that non-binding mediation is a precondition to any litigation. Any costs incurred directly for a mediator, shall be shared equally between the parties involved in the mediation.

EXCUSABLE EVENTS

S-H shall not be responsible or liable to CLIENT or CLIENT's contractors, consultants, or other agents for any of the following events or circumstances, or the resulting delay in S-H's services, additional costs and expenses in S-H's performance of its services, or other effects in S-H's services, stemming in whole or part from such events and circumstances (collectively, "Excusable Events" or, singularly, an "Excusable Event"): a change in law, building code or applicable standards; actions or inactions by a governmental authority; the presence or encounter of hazardous or toxic materials on the Project; war (declared or undeclared) or other armed conflict; terrorism; sabotage; vandalism; riot or other civil disturbance; blockade or embargos; explosion; abnormal weather; unanticipated or unknown site conditions; epidemic or pandemic (including but not limited to COVID-19), delays or other effects arising from government-mandated or government-recommended quarantines, closure of business, access, or travel; strike or labor dispute, lockout, work slowdown or stoppage; accident; act of God; failure of any governmental or other regulatory authority to act in a timely manner; acts or omissions by CLIENT or by any CLIENT's contractors, consultants or agents of any level on the project (including, without limitation, failure of the CLIENT to furnish timely

information or approve or disapprove of S-H's services or work product promptly, delays in the work caused by CLIENT, CLIENT's suspension, breach or default of this Agreement, or delays caused by faulty performance by the CLIENT or by CLIENT's contractors, consultants, or agents of any level); or any delays or events outside the reasonable control of S-H. When an Excusable Event occurs, the CLIENT agrees S-H is not responsible for any actual or claimed damages incurred by CLIENT or CLIENT's contractors, consultants, or agents, S-H shall not be deemed to be in default of this Agreement, and S-H shall be entitled to a change order to equitably increase and extend S-H's time for performance of its services, as well as equitably increase the contract sum to compensate S-H for its increased labor, expenses, and other costs to perform its services, due to the Excusable Event.

ASSIGNMENT

Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party.

SEVERABILITY, SURVIVAL AND WAIVER

Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the CLIENT and S-H shall survive the completion of the services hereunder and the termination of this Agreement. The failure of a party to insist upon strict compliance of any term hereof shall not constitute a waiver by that party of its rights to insist upon strict compliance at a subsequent date.

GOVERNING LAW

This Agreement shall be governed pursuant to the laws in the state of the locale of the S-H office address written in this Agreement.

EQUAL EMPLOYMENT OPPORTUNITY

It is the policy of S-H to provide equal employment opportunities for all. S-H enforces the following acts and amendments as presented by Federal government or State governments: Title VII of the Civil Rights Act of 1965, Age Discrimination in Employment ACT (ADEA), Americans With Disabilities Act (ADA), Iowa Civil Rights Act of 1965, and Illinois Human Rights Act [775ILCS 5]. S-H will not discriminate against any employee or applicant because of race, creed, color, religion, sex, national origin, gender identity, sexual orientation, marital status, ancestry, veteran status, or physical or mental handicap, unless related to performance of the job with or without accommodation.

COMPLETE AGREEMENT

This Agreement constitutes the entire and integrated agreement between the CLIENT and S-H and supersedes all prior negotiations, representations and agreements, whether oral or written. In the event the CLIENT issues a Purchase Order of which this Agreement becomes a part, or the CLIENT and S-H otherwise execute or enter into a contract into which this Agreement is incorporated, the parties expressly agree that, to the extent the terms of this Agreement conflict with or are otherwise inconsistent with such Purchase Order, or any other contract, this Agreement shall supersede and override the terms of the aforementioned documents, and this Agreement shall solely govern in those regards.

ACCEPTANCE

Wet signatures, digital signatures, electronic signatures or acceptance communicated by mail or e-mail from one party to another, are deemed acceptable for binding the parties to the Agreement. The CLIENT representative accepting this Agreement warrants that he or she is authorized to enter into this Agreement on behalf of the CLIENT.

FOX RUN POND TRAIL
CONCEPT PHASE - MAY 10, 2023

PLAYGROUND SURFACE AND
EQUIPMENT BY OTHERS

6' WIDE, THICKENED EDGE PCC,
PLAYGROUND SURROUND
WITH ADA ENTRY RAMP

CONNECT TO ALL EXISTING
SIDEWALK SPURS (TYP)

WOOD DUCK CT

PHEASANT LN

SCALES BEND RD

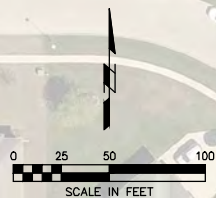
FOX VALLEY DR

6' WIDE PCC SIDEWALK (TYP)

6" PERFORATED TILE

(3) NYLOPLAST
AREA DRAINS

FOX RUN DR



FOX RUN POND TRAIL

OPINION OF ANTICIPATED CONSTRUCTION COSTS

Concept Phase - 05/12/2023

DESCRIPTION: Six-foot wide trail within Fox Run Park including walk connections, thickened edge border around playground with ADA ramp, drainage improvements and miscellaneous related components.

ITEM	DESCRIPTION	UNIT	QUANTITY	UNIT COST	EXTENDED COST
1	EXCAVATION, CL 10, ROADWAY AND BORROW	CY	700	\$ 16	\$ 11,200
2	TOPSOIL, STRIP, SALVAGE, SPREAD	CY	700	\$ 16	\$ 11,200
3	SIDEWALK, P.C. CONCRETE, 6 IN.	SY	1,150	\$ 80	\$ 92,000
4	PLAYGROUND BORDER & ADA RAMP	LS	1	\$ 20,000	\$ 20,000
5	NYLOPLAST STORM INTAKES	EA	3	\$ 1,500	\$ 4,500
6	6" PERFORATED DRAIN TILE	LF	350	\$ 30	\$ 10,500
7	SUBDRAIN OUTLET	EA	1	\$ 500	\$ 500
8	EROSION CONTROL AND SEEDING	ACRE	1	\$ 9,000	\$ 9,000
9	MOBILIZATION (10%)	LS	1	\$ 16,000	\$ 16,000
10	CONTINGENCY (20%)	LS	1	\$ 35,000	\$ 35,000

Opinion of Probable Construction Cost \$ 210,000
 Engineering, Legal, Administration (18%) \$ 37,000

*** Opinion of Project Cost - Total \$ 247,000**

* Does not include costs for easements and/or acquisitions

NL Fox Run Pond Trail Improvements
Preliminary Project Schedule – 05 / 12 / 23

<u>Milestone</u>	<u>Date</u>
Approve Proposal	May 23, 2023
Survey and Base Mapping Complete	June 27, 2023
50% Submittal (Plans / Costs)	Aug. 7, 2023
Owner Review Meeting	Aug. 14, 2023
Final Submittal (Plans / Specs / Costs)	Sept. 18, 2023
Final Owner Review Meeting	Sept. 25, 2023
Public Hearing	Oct. 10, 2023
Issue Documents for Bids	Oct. 12, 2023
Receive Bids	Nov. 2, 2023
Award	Nov. 14, 2023
Pre-Construction Meeting	April 2024 (TBD)
Substantial Completion	June 2024 (TBD)
Fall Seeding Target	Sept. 1, 2023 (+/-)
Final Completion / Seeding Acceptance	Nov. 2024 (TBD)

*Easements and acquisitions are unknown at this time



Resolution No. 2023-59

**RESOLUTION APPROVING SERVICES AGREEMENT
BETWEEN THE CITY OF NORTH LIBERTY AND SHIVE-
HATTERY, INC. FOR THE FOX RUN POND TRAIL
IMPROVEMENTS PROJECT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

WHEREAS, the Fox Run Pond Trail Improvements Project was identified in the City's Capital Improvements Plan;

WHEREAS, construction of the improvements would include a six-foot wide PCC trail around the pond, a thickened edge concrete border around a playground, and ADA playground area ramp;

WHEREAS, Shive-Hattery, Inc. has presented a proposal for services relating to this project; and

NOW, THEREFORE, BE IT RESOLVED that the agreement presented by Shive-Hattery is approved for services relating to the Centennial Park Next Stage Project at a lump sum of \$23,000 plus other fees estimated to an estimated maximum of \$37,000 is hereby approved as set forth therein.

BE IT FURTHER RESOLVED that the City Administrator is hereby authorized and ordered to execute the agreement with said engineering firm for the scope of work.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



Forevergreen Road Signalization Project

PROPOSAL FOR SERVICES

TO: City of North Liberty

ATTN: Mr. Ryan Heiar, City Administrator
P.O. Box 77
North Liberty, Iowa 52317

PROJECT NAME: Forevergreen Road Signalization Improvements

DATE: May 11, 2023

PROJECT DESCRIPTION: Design, bidding, and construction phase services for Forevergreen Road Signalization improvements. The improvements generally consist of traffic signals at the Forevergreen Road/Kansas and Forevergreen Road/Jones intersections, trail and sidewalk connections, and Jones Boulevard turn lane. Exhibits of the project locations, concept improvements and concept phase project cost opinion are included with this proposal as attachments. The Concept Phase cost opinion for this project is \$1,562,000.

The undersigned Client and Shive-Hattery, Inc. (S-H) agree as follows:

SCOPE OF SERVICES: S-H will provide the following professional services:

1. **Design Phase:** Design phase shall include the following services.
 - a. Surveying and Base Mapping: We will provide a topographical survey. Right-of-way and existing easements shall be included. The field survey will be used as the base map for the design plans.
 - b. Design Services: We will provide design services for the improvement project including traffic control plans, traffic signal design, communication fiber from Kansas to the I380 interchange ramp, fiber from the new UIHC entrance to Jones Boulevard and preparation of initial signal timings. The scope of the design is generally as shown on the concept phase drawing exhibit included as an attachment. The design process/approach will include regular meetings with City staff.
 - c. Permitting and Coordination:
 - 1) We will prepare and submit a DNR NPDES permit application.
 - 2) We will prepare and submit a DOT traffic control device application.
 - 3) We will prepare and submit a DOT work within right-of-way permit application.
 - 4) We will coordinate the locations of the improvements with City of Coralville staff.
 - e. Construction Documents: Construction documents will consist of preparing complete plans for public bidding and construction. The package will be reviewed and approved by City staff prior to authorization for public hearing and distribution to bidders.
 - f. Cost Opinion: We will prepare opinions of probable construction costs for the project. Updated cost opinions will be prepared and reviewed with City staff as a deliverable with each preliminary and final design phase submittal package.
 - g. Project Manual: We will prepare a project manual including bidding documents, construction contract, and technical project specifications for the project.



2. **Bidding Phase:** Services include preparation of bid documents, distribution of contract documents to potential bidders, providing clarification of documents and answering contractor questions, issuing addenda as needed, attending bid opening, preparing tabulation of bids, and providing recommendation to the Owner regarding award of contract.
3. **Construction Phase:** Services include the following based upon an estimated six-month construction period.
 - a. Prepare and distribute construction contract and Notice to Proceed.
 - b. Review form of contract, bonds, and insurance.
 - c. Schedule and facilitate a preconstruction meeting to communicate schedule and the administrative details of the project.
 - d. Provide construction observation at appropriate intervals to determine if the work is proceeding in general conformance with the contract documents.
 - e. Provide materials testing including subgrade compaction and concrete testing.
 - f. Provide construction staking.
 - g. Facilitate and participate in construction progress meetings.
 - h. Review contractor submittals. Issue clarifications and authorize changes to the contract documents. Negotiate and prepare change orders as needed.
 - i. Review payment applications and provide recommendation to Owner for payment.
 - j. Provide final review of work to determine if work has been completed satisfactorily. Prepare list of deficient items to the contractor as needed. Review final payment application, bonds, and provide recommendation to Owner for final acceptance.
 - k. Prepare Construction Record Drawings as provided by the Contractor and submit to the Owner.

CLIENT RESPONSIBILITIES: It will be your responsibility to provide the following:

1. Participation at design review meetings and review of design phase submittals. Provide authorization to proceed with final design and bid letting.
2. Provide easement and/or acquisition services as needed.
3. Schedule and conduct informational meeting(s) with property owners and the public as deemed necessary.
4. Provide daily construction observation services to monitor progress of the project and provide on-site communications with the Contractor, engineer, and adjacent property owners.

SCHEDULE: We will begin our services immediately after execution of this Agreement. The services will be completed in a timely manner. We understand the project schedule goal is for bidding to occur winter 2023 and construction to begin spring 2024.

COMPENSATION: We will provide the Scope of Services for the following fee:

Design & Bidding Phase	\$ 136,000	Lump Sum
Construction Phase	\$ 59,000	Hourly (estimated)
Reimbursable Expenses	\$ <u>7,000</u>	As incurred (estimated)
Total	\$ 202,000	

We will not proceed with Bidding or Construction Phase services until authorized by the City.

ADDITIONAL SERVICES: Additional services requested that are not included in the Scope of Services will be provided at standard hourly rates such as preparation of easement or acquisition documents.

AGREEMENT: This proposal shall become the Agreement for Services when signed and dated by both parties. The attached **STANDARD TERMS AND CONDITIONS** are made a part of this proposal and Agreement for Services. Please return a signed copy to us.

ACKNOWLEDGEMENT OF OFFER AND ACCEPTANCE:

Proposal accepted and work is authorized to proceed:

THE CITY OF NORTH LIBERY, IOWA

SHIVE-HATTERY, INC.

BY: _____



TITLE: _____

Michael J. Janecek, P.E.
Project Manager

DATE ACCEPTED: _____

MJJ/mas

- Encs.: Standard Terms and Conditions
 Forevergreen Signalization Concept Improvements Exhibit
 Forevergreen Signalization Cost Opinion Exhibit
 Preliminary Schedule

STANDARD TERMS AND CONDITIONS

PARTIES

"S-H" or "Shive-Hattery" shall mean Shive-Hattery, Inc. or Shive-Hattery A/E Services, P.C. or Studio951 a Division of Shive-Hattery or EPOCH a Division of Shive-Hattery or Shive-Hattery New Jersey, Inc. or WSM, a Division of Shive-Hattery, Inc. or KdG, a Division of Shive-Hattery, Inc. and "CLIENT" shall mean the person or entity executing this Agreement with "S-H."

LIMITATION OF LIABILITY AND WAIVER OF CERTAIN DAMAGES

The CLIENT agrees, to the fullest extent of the law, to limit the liability of S-H, its officers, directors, shareholders, employees, agents, subconsultants, affiliated companies, and any of them, to the CLIENT and any person or entity claiming by or through the CLIENT, for any and all claims, damages, liabilities, losses, costs, and expenses including reasonable attorneys' fees, experts' fees, or any other legal costs, in any way related to the Project or Agreement from any cause(s) to an amount that shall not exceed Five Million Dollars (5,000,000). The parties intend that this limitation of liability apply to any and all liability or cause of action, claim, theory of recovery, or remedy however alleged or arising, including but not limited to negligence, errors or omissions, strict liability, breach of contract or warranty, express, implied or equitable indemnity and all other claims, which except for the limitation of liability above, the CLIENT waives.

CLIENT hereby releases S-H, its officers, directors, shareholders, employees, agents, subconsultants, affiliated companies, and any of them, and none shall be liable to the CLIENT for consequential, special, exemplary, punitive, indirect or incidental losses or damages, including but not limited to loss of use, loss of product, cost of capital, loss of goodwill, lost revenues or loss of profit, interruption of business, down time costs, loss of data, cost of cover, or governmental penalties or fines.

INDEMNIFICATION

Subject to the limitation of liability in this Agreement, S-H agrees to the fullest extent permitted by law, to indemnify and hold harmless the CLIENT, its officers, directors, shareholders, employees, contractors, subcontractors and consultants against all claims, damages, liabilities, losses or costs, including reasonable attorneys' fees, experts' fees, or other legal costs to the extent caused by S-H's negligent performance of service under this Agreement and that of its officers, directors, shareholders, and employees.

The CLIENT agrees to the fullest extent permitted by law, to indemnify and hold harmless S-H, its officers, directors, shareholders, employees, agents, subconsultants, and affiliated companies against all damages, liabilities, losses, costs, and expenses including, reasonable attorneys' fees, expert's fees, and any other legal costs to the extent caused by the acts or omissions of the CLIENT, its employees, agents, contractors, subcontractors, consultants or anyone for whom the CLIENT is legally liable.

HAZARDOUS MATERIALS - INDEMNIFICATION

To the fullest extent permitted by law, CLIENT agrees to defend, indemnify, and hold S-H, its officers, directors, shareholders, employees, agents, consultants and affiliated companies, and any of them harmless from and against any and all claims, liabilities, losses, costs, or expenses including reasonable attorney's fees, experts' fees and any other legal costs (including without limitation damages to property, injuries or death to persons, fines, or penalties), arising out of, or resulting from the discharge, escape, release, or saturation of smoke, vapors, soot, fumes, acids, alkalies, toxic chemicals, liquids, gases, polychlorinated biphenyl, petroleum contaminants, spores, biological toxins, or any other materials, irritants, contaminants, or pollutants in or into the atmosphere, or on, onto, upon, in, or into the surface or subsurface of soil, water, or watercourses, objects, or any tangible or intangible matter, whether sudden or not.

STANDARD OF CARE

Services provided by S-H under this Agreement will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances on projects of similar size, complexity, and geographic location as that of the Project. Nothing in this Agreement is intended to create, nor shall it be construed to create, a fiduciary duty owed by either party to the other party.

BETTERMENT

The CLIENT recognizes and expects that certain change orders may be required to be issued as the result in whole or part of imprecision, incompleteness, omissions, ambiguities, or inconsistencies in S-H's drawings, specifications, and other design, bidding or construction documentation furnished by S-H or in other professional services performed or furnished by S-H under this Agreement (herein after in this Betterment section referred to as S-H Documentation). If a required item or component of the Project is omitted from S-H's Documentation, the CLIENT is responsible for paying all costs required to add such item or component to the extent that such item or component would have been required and included in the original S-H Documentation. In no event will S-H be responsible for costs or expense that provides betterment or upgrades or enhances the value of the Project.



RIGHT OF ENTRY

The CLIENT shall provide for entry for the employees, agents and subcontractors of S-H and for all necessary equipment. While S-H shall take reasonable precautions to minimize any damage to property, it is understood by the CLIENT that in the normal course of the project some damages may occur, the cost of correction of which is not a part of this Agreement.

PAYMENT

Unless otherwise provided herein, invoices will be prepared in accordance with S-H's standard invoicing practices then in effect and will be submitted to CLIENT each month and at the completion of the work on the project. Invoices are due and payable upon receipt by the CLIENT. If the CLIENT does not make payment within thirty (30) days after the date the invoice was mailed to the CLIENT, then the amount(s) due S-H shall bear interest due from the date of mailing at the lesser interest rate of 1.5% per month compounded or the maximum interest rate allowed by law. In the event that S-H files or takes any action, or incurs any costs, for the collection of amounts due it from the client, S-H shall be entitled to recover its entire cost for attorney fees and other collection expenses related to the collection of amounts due it under this Agreement. Any failure to comply with this term shall be grounds for a default termination.

TERMINATION

Either party may terminate this Agreement for convenience or for default by providing written notice to the other party. If the termination is for default, the non-terminating party may cure the default before the effective date of the termination and the termination for default will not be effective. The termination for convenience and for default, if the default is not cured, shall be effective seven (7) days after receipt of written notice by the non-terminating party. In the event that this Agreement is terminated for the convenience of either party or terminated by S-H for the default of the CLIENT, then S-H shall be paid for services performed to the termination effective date, including reimbursable expenses due, and termination expenses attributable to the termination. In the event the CLIENT terminates the Agreement for the default of S-H and S-H does not cure the default, then S-H shall be paid for services performed to the termination notice date, including reimbursable expenses due, but shall not be paid for services performed after the termination notice date and shall not be paid termination expenses. Termination expenses shall include expenses reasonably incurred by S-H in connection with the termination of the Agreement or services, including, but not limited to, closing out Project records, termination of subconsultants and other persons or entities whose services were retained for the Project, and all other expenses directly resulting from the termination.

INFORMATION PROVIDED BY OTHERS

S-H shall indicate to the CLIENT the information needed for rendering of services hereunder. The CLIENT shall provide to S-H such information, including electronic media, as is available to the CLIENT and the CLIENT's consultants and contractors, and S-H shall be entitled to rely upon the accuracy and completeness thereof. The CLIENT recognizes that it is difficult for S-H to assure the accuracy, completeness and sufficiency of such client-furnished information, either because it is provided by others or because of errors or omissions which may have occurred in assembling the information the CLIENT is providing. Accordingly, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless S-H, its officers, directors, shareholders, employees, agents, subconsultants and affiliated companies, and any of them, from and against any and all claims, liabilities, losses, costs, expenses (including reasonable attorneys' fees, experts' fees, and any other legal costs) for injury or loss arising or allegedly arising from errors, omissions or inaccuracies in documents or other information provided by the CLIENT.

UNDERGROUND UTILITIES

Information for location of underground utilities may come from the CLIENT, third parties, and/or research performed by S-H or its subcontractors. S-H will use the standard of care defined in this Agreement in providing this service. The information that S-H must rely on from various utilities and other records may be inaccurate or incomplete. Therefore, the CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold harmless S-H, its officers, directors, shareholders, employees agents, subconsultants, affiliated companies, and any of them for all claims, losses, costs and damages arising out of the location of underground utilities provided or any information related to underground utilities by S-H under this Agreement.

CONTRACTOR MATTERS

CLIENT agrees that S-H shall not be responsible for the acts or omissions of the CLIENT's contractor, or subcontractors, their employees, agents, consultants, suppliers or arising from contractor's or subcontractors' work, their employees, agents, consultants, suppliers or other entities that are responsible for performing work that is not in conformance with the construction Contract Documents, if any, prepared by S-H under this Agreement. S-H shall not have responsibility for means, methods, techniques, sequences, and progress of construction of the contractor, subcontractors, agents, employees, agents, consultants, or other entities. In addition, CLIENT agrees that S-H is not responsible for safety at the project site and that safety during construction is for the CLIENT to address in the contract between the CLIENT and contractor.

SHOP DRAWING REVIEW

If, as part of this Agreement S-H reviews and approves Contractor submittals, such as shop drawings, product data, samples and other data, as required by S-H, these reviews and approvals shall be only for the limited purpose of checking for conformance with

the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor. S-H's review shall be conducted with reasonable promptness while allowing sufficient time in S-H's judgment to permit adequate review. Review of a specific item shall not indicate that S-H has reviewed the entire assembly of which the item is a component. S-H shall not be responsible for any deviations from the contract documents not brought to the attention of S-H in writing by the Contractor. S-H shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

OPINIONS OF PROBABLE COST

If, as part of this Agreement S-H is providing opinions of probable construction cost, the CLIENT understands that S-H has no control over costs or the price of labor, equipment or materials, or over the Contractor's method of pricing, and that S-H's opinions of probable construction costs are to be made on the basis of S-H's qualifications and experience. S-H makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

CONSTRUCTION OBSERVATION

If, as part of this Agreement S-H is providing construction observation services, S-H shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. Unless otherwise specified in the Agreement, the CLIENT has not retained S-H to make detailed inspections or to provide exhaustive or continuous project review and observation services. S-H does not guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, its subcontractors, employees, agents, consultants, suppliers or any other entities furnishing materials or performing any work on the project.

S-H shall advise the CLIENT if S-H observes that the contractor is not performing in general conformance of Contract Documents. CLIENT shall determine if work of contractor should be stopped to resolve any problems.

OTHER SERVICES

The CLIENT may direct S-H to provide other services including, but not limited to, any additional services identified in S-H's proposal. If S-H agrees to provide these services, then the schedule shall be reasonably adjusted to allow S-H to provide these services. Compensation for such services shall be at S-H's Standard Hourly Fee Schedule in effect at the time the work is performed unless there is a written Amendment to Agreement that contains an alternative compensation provision.

OWNERSHIP & REUSE OF INSTRUMENTS OF SERVICE

All reports, plans, specifications, field data and notes and other documents, including all documents on electronic media, prepared by S-H as instruments of service shall remain the property of S-H. The CLIENT shall not reuse or make any modifications to the plans and specifications without the prior written authorization of S-H. The CLIENT agrees, to the fullest extent permitted by law, to defend, indemnify and hold harmless S-H its officers, directors, shareholders, employees, agents, subconsultants and affiliated companies, and any of them from any and all claims, losses, costs or damages of any nature whatsoever arising out of, resulting from or in any way related to any unauthorized reuse or modifications of the construction documents by the CLIENT or any person or entity that acquires or obtains the plans and specifications from or through the CLIENT without the written authorization of S-H.

DISPUTE RESOLUTION

If a dispute arises between S-H and CLIENT, the executives of the parties having authority to resolve the dispute shall meet within thirty (30) days of the notification of the dispute to resolve the dispute. If the dispute is not resolved within such thirty (30) day time period, CLIENT and S-H agree to submit to non-binding mediation prior to commencement of any litigation and that non-binding mediation is a precondition to any litigation. Any costs incurred directly for a mediator, shall be shared equally between the parties involved in the mediation.

EXCUSABLE EVENTS

S-H shall not be responsible or liable to CLIENT or CLIENT's contractors, consultants, or other agents for any of the following events or circumstances, or the resulting delay in S-H's services, additional costs and expenses in S-H's performance of its services, or other effects in S-H's services, stemming in whole or part from such events and circumstances (collectively, "Excusable Events" or, singularly, an "Excusable Event"): a change in law, building code or applicable standards; actions or inactions by a governmental authority; the presence or encounter of hazardous or toxic materials on the Project; war (declared or undeclared) or other armed conflict; terrorism; sabotage; vandalism; riot or other civil disturbance; blockade or embargos; explosion; abnormal weather; unanticipated or unknown site conditions; epidemic or pandemic (including but not limited to COVID-19), delays or other effects arising from government-mandated or government-recommended quarantines, closure of business, access, or travel; strike or labor dispute, lockout, work slowdown or stoppage; accident; act of God; failure of any governmental or other regulatory authority to act in a timely manner; acts or omissions by CLIENT or by any CLIENT's contractors, consultants or agents of any level on the project (including, without limitation, failure of the CLIENT to furnish timely

information or approve or disapprove of S-H's services or work product promptly, delays in the work caused by CLIENT, CLIENT's suspension, breach or default of this Agreement, or delays caused by faulty performance by the CLIENT or by CLIENT's contractors, consultants, or agents of any level); or any delays or events outside the reasonable control of S-H. When an Excusable Event occurs, the CLIENT agrees S-H is not responsible for any actual or claimed damages incurred by CLIENT or CLIENT's contractors, consultants, or agents, S-H shall not be deemed to be in default of this Agreement, and S-H shall be entitled to a change order to equitably increase and extend S-H's time for performance of its services, as well as equitably increase the contract sum to compensate S-H for its increased labor, expenses, and other costs to perform its services, due to the Excusable Event.

ASSIGNMENT

Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party.

SEVERABILITY, SURVIVAL AND WAIVER

Any provision of this Agreement later held to be unenforceable for any reason shall be deemed void, and all remaining provisions shall continue in full force and effect. All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating responsibility or liability between the CLIENT and S-H shall survive the completion of the services hereunder and the termination of this Agreement. The failure of a party to insist upon strict compliance of any term hereof shall not constitute a waiver by that party of its rights to insist upon strict compliance at a subsequent date.

GOVERNING LAW

This Agreement shall be governed pursuant to the laws in the state of the locale of the S-H office address written in this Agreement.

EQUAL EMPLOYMENT OPPORTUNITY

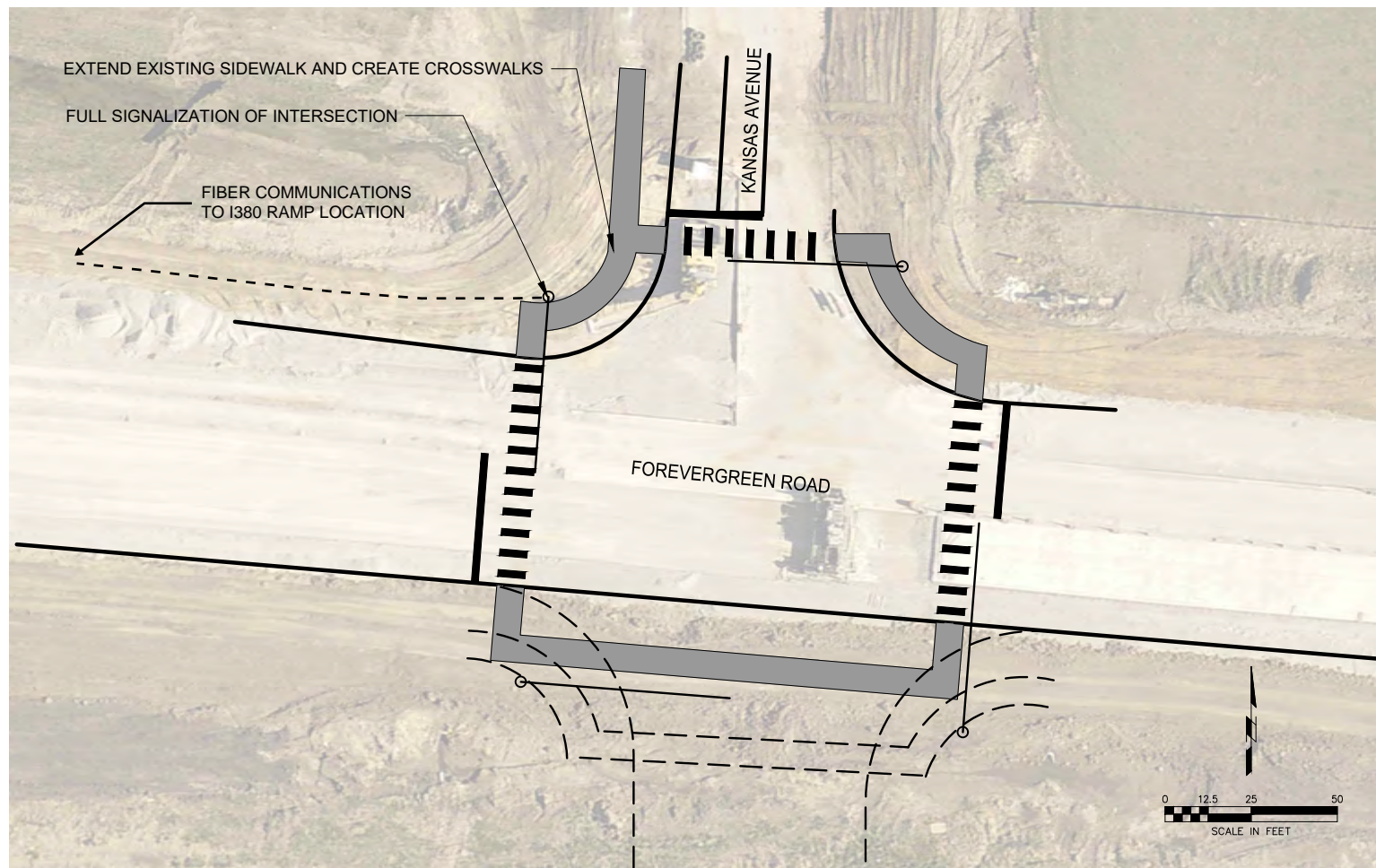
It is the policy of S-H to provide equal employment opportunities for all. S-H enforces the following acts and amendments as presented by Federal government or State governments: Title VII of the Civil Rights Act of 1965, Age Discrimination in Employment ACT (ADEA), Americans With Disabilities Act (ADA), Iowa Civil Rights Act of 1965, and Illinois Human Rights Act [775ILCS 5]. S-H will not discriminate against any employee or applicant because of race, creed, color, religion, sex, national origin, gender identity, sexual orientation, marital status, ancestry, veteran status, or physical or mental handicap, unless related to performance of the job with or without accommodation.

COMPLETE AGREEMENT

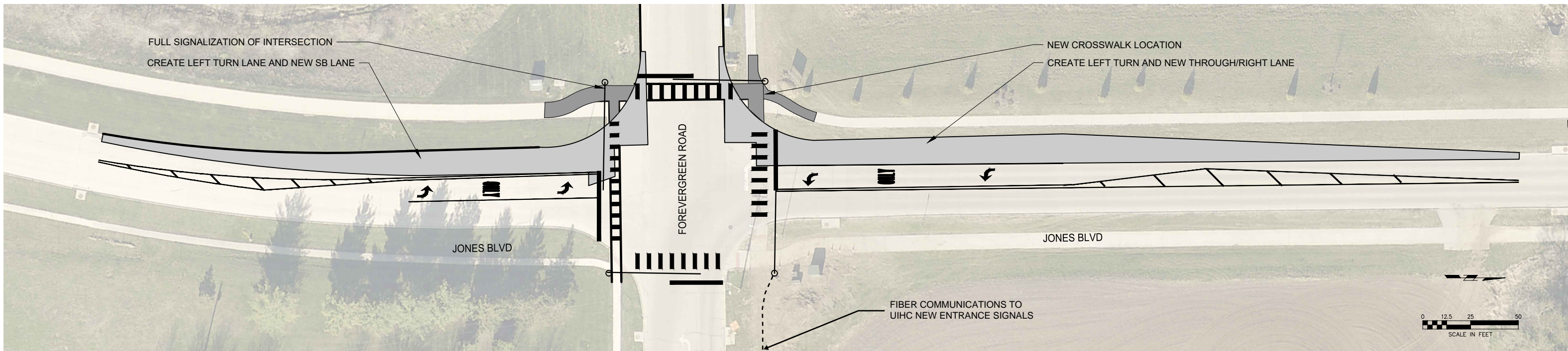
This Agreement constitutes the entire and integrated agreement between the CLIENT and S-H and supersedes all prior negotiations, representations and agreements, whether oral or written. In the event the CLIENT issues a Purchase Order of which this Agreement becomes a part, or the CLIENT and S-H otherwise execute or enter into a contract into which this Agreement is incorporated, the parties expressly agree that, to the extent the terms of this Agreement conflict with or are otherwise inconsistent with such Purchase Order, or any other contract, this Agreement shall supersede and override the terms of the aforementioned documents, and this Agreement shall solely govern in those regards.

ACCEPTANCE

Wet signatures, digital signatures, electronic signatures or acceptance communicated by mail or e-mail from one party to another, are deemed acceptable for binding the parties to the Agreement. The CLIENT representative accepting this Agreement warrants that he or she is authorized to enter into this Agreement on behalf of the CLIENT.



LOCATION A: KANSAS AVENUE AT FOREVERGREEN ROAD



LOCATION B: JONES BOULEVARD AT FOREVERGREEN ROAD

FOREVERGREEN ROAD SIGNALIZATION

2/21/2023



FOREVERGREEN ROAD SIGNALIZATION
OPINION OF ANTICIPATED CONSTRUCTION COSTS
Concept Phase - 05/11/2023

DESCRIPTION: Traffic signalization of the Kansas Avenue & Jones Blvd / Forevergreen Road intersections including crosswalks and sidewalk connections. Also includes Jones Boulevard turn lane improvements.

ITEM	DESCRIPTION	UNIT	DIV 1 (Kansas)	DIV 2 (Jones)	TOTAL QTY	UNIT COST	EXTENDED COST
1	EXCAVATION, CL 10, ROADWAY AND BORROW	CY	100	400	500	\$ 20	\$ 10,000
2	TOPSOIL, STRIP, SALVAGE, SPREAD	CY	70	140	210	\$ 20	\$ 4,200
3	MODIFIED SUBBASE	CY	20	200	220	\$ 50	\$ 11,000
4	PCC PAVEMENT, CL C, CL 3 DUR, 9 IN.	SY	0	960	960	\$ 100	\$ 96,000
5	REMOVAL OF CONCRETE	SY	0	250	250	\$ 15	\$ 3,750
6	CURB GRINDING	EA	6	0	6	\$ 500	\$ 3,000
7	SIDEWALK, P.C. CONCRETE, 6 IN.	SY	305	100	405	\$ 80	\$ 32,400
8	DETECTABLE WARNING PANELS	SF	96	64	160	\$ 100	\$ 16,000
9	15" RCP STORM PIPE	LF	0	15	15	\$ 75	\$ 1,125
10	REMOVAL OF STRUCTURES	EA	0	1	1	\$ 500	\$ 500
11	SW-509	EA	0	1	1	\$ 7,500	\$ 7,500
12	6" SUBDRAIN	LF	0	700	700	\$ 15	\$ 10,500
13	SUBDRAIN OUTLET	EA	0	2	2	\$ 500	\$ 1,000
14	PAVEMENT MARKINGS & SIGNAGE	LS	0	1	1	\$ 28,000	\$ 28,000
15	TRAFFIC SIGNALS (INC PED BUTTONS & CONTROLLER)	EA	1	1	2	\$ 362,500	\$ 725,000
16	FIBER OPTIC COMMUNICATION	LF	1,050	2,000	3,050	\$ 12	\$ 36,600
17	FIBER HANDHOLES	EA	2	2	4	\$ 2,500	\$ 10,000
18	TRAFFIC CONTROL	LS	0.5	0.5	1	\$ 46,000	\$ 46,000
19	EROSION CONTROL AND SEEDING	ACRE	0.1	0.2	0.3	\$ 15,000	\$ 4,500
20	MOBILIZATION (8%)	LS	0.5	0.5	1	\$ 84,000	\$ 84,000
21	CONTINGENCY (20%)	LS	0.5	0.5	1	\$ 226,000	\$ 226,000

Sub-Total Construction \$ 1,358,000
Engineering, Legal, Administration (15%) \$ 204,000

***TOTAL \$ 1,562,000**

*Does not include costs for easements and acquisitions.

NL Forevergreen Road Signalization Improvements
Preliminary Project Schedule – 5/11/23

<u>Milestone</u>	<u>Date</u>
Approve Proposal	May 23, 2023
Survey & Base Mapping Complete	June 13, 2023
50% Submittal (Plans/specs/costs)	July 17, 2023
Staff review mtg	July 24, 2023
95% Submittal (Plans/specs/costs)	Sept 13, 2023
Staff review mtg	Sept 20, 2023
Final Submittal (Plans/specs/costs)	Oct 11, 2023
Final staff review mtg	Oct 18, 2023
Issue Documents for Bids	Nov 7, 2023
Public Hearing	Nov 28, 2023
Receive bids	Dec 5, 2023
Award	Dec 12, 2023
Pre-Construction Meeting	Jan 2024
Substantial Completion**	Sept 2024
Final Completion	Oct 2024

*Easements and acquisitions are unknown at this time

**Traffic signal submittal/procurement dependent



Resolution No. 2023-60

**RESOLUTION APPROVING SERVICES AGREEMENT
BETWEEN THE CITY OF NORTH LIBERTY AND SHIVE-
HATTERY, INC. FOR THE FOREVERGREEN ROAD
SIGNALIZATION IMPROVEMENTS PROJECT**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

WHEREAS, the Forevergreen Road Signalization Improvements Project was identified in the City's Capital Improvements Plan;

WHEREAS, construction of the improvements would consist of traffic signals at the Forevergreen Road/Kansas and Forevergreen Road/Jones intersections, trail and sidewalk connections, and Jones Boulevard turn lane;

WHEREAS, Shive-Hattery, Inc. has presented a proposal for services relating to this project; and

NOW, THEREFORE, BE IT RESOLVED that the agreement presented by Shive-Hattery is approved for services relating to the Centennial Park Next Stage Project at a lump sum of \$136,000 plus other fees estimated to an estimated maximum of \$202,000 is hereby approved as set forth therein.

BE IT FURTHER RESOLVED that the City Administrator is hereby authorized and ordered to execute the agreement with said engineering firm for the scope of work.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



Urban Renewal Plan Amendment

SET DATE FOR HEARING ON URBAN RENEWAL PLAN AMENDMENT

421033-90

North Liberty, Iowa

May 23, 2023

The City Council of the City of North Liberty, Iowa, met on May 23, 2023, at _____ p.m., at the _____, in the City, for the purpose of setting a date for a public hearing on a proposed urban renewal plan amendment. The Mayor presided and the roll being called, the following members of the Council were present and absent:

Present: _____

Absent: _____.

The Mayor announced that an amendment to the urban renewal plan for the North Liberty Urban Renewal Area had been prepared, and that it was now necessary to set a date for a public hearing on the proposed amendment to the urban renewal plan. Accordingly, Council Member _____ moved the adoption of the following resolution entitled "Resolution setting date for a public hearing on urban renewal plan amendment," and the motion was seconded by Council Member _____. Following due consideration, the Mayor put the question on the motion and the roll being called, the following named Council Members voted:

Ayes: _____

Nays: _____.

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

Resolution No. 2023-61

RESOLUTION SETTING DATE FOR PUBLIC HEARING ON URBAN RENEWAL PLAN AMENDMENT

WHEREAS, the City Council of the City of North Liberty, Iowa (the "City") by resolution previously established the North Liberty Urban Renewal Area (the "Urban Renewal Area") and adopted an urban renewal plan (the "Plan") for the governance of initiatives and projects therein; and

WHEREAS, an amendment to the Plan has been prepared which would facilitate the undertaking of new urban renewal projects in the Urban Renewal Area consisting of (1) using tax increment financing to pay the costs of acquiring land for the development of a new City park thereon; and (2) providing tax increment financing support to Lion Development Group, LLC in connection with the development of an entertainment district; and

WHEREAS, and it is now necessary that a date be set for a public hearing on that plan amendment;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of North Liberty, Iowa, as follows:

Section 1. The City Council will meet at the Council Chambers, North Liberty, Iowa, on June 27, 2023, at 6:30 p.m., at which time and place it will hold a public hearing on the proposed amendment to the Plan for the Urban Renewal Area.

Section 2. The City Clerk shall publish notice of said hearing, the same being in the form attached hereto, which publication shall be made in a legal newspaper of general circulation in the City, which publication shall be not less than four (4) and not more than twenty (20) days before the date set for hearing.

Section 3. Pursuant to Section 403.5 of the Code of Iowa, the City Administrator and the Assistant City Administrator are hereby designated as the City's representatives in connection with the consultation process which is required under that section of the urban renewal law.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

NOTICE OF PUBLIC HEARING ON PROPOSED URBAN RENEWAL PLAN AMENDMENT

Notice Is Hereby Given: That at 6:30p.m., at the Council Chambers, North Liberty, Iowa, on June 27, 2023, the City Council of the City of North Liberty, Iowa, will hold a public hearing on the question of amending the urban renewal plan for the North Liberty Urban Renewal Area (the "Urban Renewal Area") to facilitate the undertaking of new urban renewal projects in the Urban Renewal Area consisting of consisting of (1) using tax increment financing to pay the costs of acquiring land for the development of a new City park thereon; and (2) providing tax increment financing support to Lion Development Group, LLC in connection with the development of an entertainment district. A copy of the amendment is on file for public inspection in the office of the City Clerk.

At said hearing any interested person may file written objections or comments and may be heard orally with respect to the subject matters of the hearing.

Tracey Mulcahey
City Clerk

•••••

On motion and vote the meeting adjourned.

CHRIS HOFFMAN, MAYOR

Attest:

TRACEY MULCAHEY, CITY CLERK

STATE OF IOWA
JOHNSON COUNTY
CITY OF NORTH LIBERTY

SS:

I, the undersigned, City Clerk of the City of North Liberty do hereby certify that pursuant to the resolution of its City Council fixing a date of public hearing on a proposed urban renewal plan amendment, the notice, of which the printed slip attached to the publisher's affidavit hereto attached is a true and complete copy, was published on the date and in the newspaper specified in such affidavit, which newspaper has a general circulation in the City, and copies were sent to the county and school district.

WITNESS my hand this ___ day of _____, 2023.

TRACEY MULCAHEY, CITY CLERK

(Attach here publisher's affidavit of publication of notice.)

(PLEASE NOTE: This certificate must not be dated until the publication has been made and you have reviewed it to be sure that the notice was published on the date indicated in the attached affidavit.)

STATE OF IOWA
JOHNSON COUNTY
CITY OF NORTH LIBERTY

SS:

I, the undersigned, City Clerk of the City of North Liberty, Iowa do hereby certify that as such I have in my possession or have access to the complete corporate records of the City and of its officers; and that I have carefully compared the transcript hereto attached with the aforesaid records and that the attached is a true, correct and complete copy of the corporate records relating to the action taken by the City Council preliminary to and in connection with setting a date for public hearing on an urban renewal plan amendment.

WITNESS my hand this ___ day of _____, 2023.

TRACEY MULCAHEY, CITY CLERK

CITY OF NORTH LIBERTY, IOWA

URBAN RENEWAL PLAN AMENDMENT
NORTH LIBERTY URBAN RENEWAL AREA

June, 2023

The Urban Renewal Plan (the “Plan”) for the North Liberty Urban Renewal Area (the “Urban Renewal Area”) of the City of North Liberty, Iowa (the “City”) is being amended for the purpose of identifying new urban renewal projects to be undertaken therein.

1) Identification of Projects. By virtue of this amendment, the list of authorized urban renewal projects in the Plan is hereby amended to include the following project descriptions:

A.

Name of Project: Westside Community Park Land Acquisition Project

Date of Council Approval of the Project: June 27, 2023

Description of Project and Project Site: The Westside Community Park Land Acquisition Project (the “Park Land Acquisition Project”) will consist of the acquisition of certain real property by the City (the “Park Property”) situated in the Urban Renewal Area and more particularly described as follows:

That part of the Northwest Quarter of Section 12, Township 80 North, Range 7 West of the 5th P.M., North Liberty, Johnson County, Iowa, described as follows: Beginning at the southwest corner of Lot 108, Inter-City Industrial Park, Part Two (Final Plat recorded in Plat Book 32, Page 64 at the Johnson County Recorder’s Office); thence North 89°51’43” East 1712.06 feet along the south line of said Inter-City Industrial Park, Part Two (assumed bearing for this description only) to a point of curvature; thence 182.34 feet along the arc of a 410.28 foot radius curve concave northwesterly (chord bearing North 77°07’46” East 180.84 feet), said arc being along Lot 103 of said Inter-City Industrial Park, Part Two; thence South 0°06’26” East 619.57 feet; thence South 89°51’43” West 2122.33 feet to a point of intersection with the west line of said Northwest Quarter; thence North 0°02’28” West 843.30 feet along said west line; Area: 40.64 acres.

A new park will be developed on the Park Property in the future to serve the North Liberty community.

It is anticipated that the completed Park Land Acquisition Project will have a positive impact on commerce, tourism and economic development in the Urban Renewal Area through the provision of enhanced recreational amenities.

Description of Use of TIF for the Project: It is anticipated that the City will pay for the Park Land Acquisition Project with either borrowed funds and/or the proceeds of an internal advance of City funds on-hand. In any case, the City’s obligations (the “Obligations”) will be repaid with incremental property tax revenues derived from the Urban Renewal Area. It is anticipated that the City’s use of incremental property tax revenues for the Park Land Acquisition Project will not exceed \$3,000,000, plus any interest expense incurred by the City on the Obligations.

B.

Name of Project: Solomon’s Landing Entertainment District Development Project

Date of Council Approval of Project: June 27, 2023

Description of Program: Lion Development Group, LLC (the “Developer”) has proposed to undertake the development of an entertainment district (the “Entertainment District Project”) on certain real property (the “Entertainment District Property”) in the Urban Renewal Area more particularly described as:

RESUBDIVISION OF LOTS 19, 20, 21 AND OUTLOT "E" OF SOLOMON'S LANDING - PART ONE TO NORTH LIBERTY, IOWA IN ACCORDANCE WITH THE PLAT THEREOF RECORDED IN PLAT BOOK 66 AT PAGE 88 OF THE RECORDS OF THE JOHNSON COUNTY RECORDER'S OFFICE, SAID RESULTANT TRACT CONTAINS 8.82 ACRES AND IS SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD.

The Entertainment District Project will consist of the construction a 33,000 square-foot indoor recreation and sports center; and the construction of a 33,000 square-foot fun center that will include a bowling alley, an arcade, ax throwing space, billiards, shuffle board and a restaurant. It is anticipated that the Entertainment District Project will also include the future development of additional sports, recreation and entertainment amenities, restaurants and coffee shops.

It has been requested that the City provide tax increment financing assistance to the Developer in support of the efforts to complete, operate, and maintain the Entertainment District Project.

The costs incurred by the City in providing tax increment financing assistance to the Developer will include legal and administrative fees (the “Admin Fees”) in an amount not to exceed \$20,000.

Description of Use of TIF for the Project: The City intends to enter into a Development Agreement with the Developer with respect to the construction and use of the completed Entertainment District Project and to provide annual appropriation economic development payments (the “Payments”) to the Developer thereunder. The Payments will be funded with incremental property tax revenues to be derived from the Entertainment District Property. It is anticipated that the City’s total commitment of

incremental property tax revenues with respect to the Entertainment Complex Project will not exceed \$7,500,000, plus the Admin Fees.

2) Required Financial Information. The following information is provided in accordance with the requirements of Section 403.17 of the Code of Iowa:

Constitutional debt limit of the City:	<u>\$102,709,296</u>
Outstanding general obligation debt of the City:	\$ <u>38,595,000</u>
Proposed debt to be incurred in area to be added in connection with this June, 2023 Amendment*:	\$ <u>10,500,000</u>

*It is anticipated that some or all of the debt incurred hereunder will be subject to annual appropriation by the City Council.



Park Land Acquisition

ADOPT FEDERAL REIMBURSEMENT
RESOLUTION

421033-92

North Liberty, Iowa

May 23, 2023

The City Council of the City of North Liberty, Iowa, met on May 23, 2023, at _____
o'clock ____m., at the _____, North Liberty, Iowa.

The meeting was called to order by the Mayor, and the roll was called showing the
following Council Members present and absent:

Present: _____

Absent: _____.

The City Clerk reported that, in order to preserve the City's eligibility to issue tax exempt
bonds for the acquisition of land for new municipal park development, it would be necessary for
the City Council to adopt a resolution declaring the Council's intent to expend current cash on-
hand and to later reimburse those expenses from the proceeds of a bond issue. Council
Member _____ introduced the resolution next hereinafter set out, related to
financing the project, and moved its adoption, seconded by Council Member _____.
After due consideration and discussion, the Mayor put the question upon the adoption of said
resolution, and the roll being called, the following Council Members voted:

Ayes: _____

Nays: _____.

Whereupon, the Mayor declared the resolution duly adopted as hereinafter set out.

••••

At the conclusion of the meeting, and upon motion and vote, the City Council adjourned.

CHRIS HOFFMAN, MAYOR

Attest:

TRACEY MULCAHEY, CITY CLERK

Resolution No. 2023-62

RESOLUTION RELATING TO THE FINANCING OF PROPOSED PROJECTS TO BE UNDERTAKEN BY THE CITY OF NORTH LIBERTY, IOWA; ESTABLISHING COMPLIANCE WITH REIMBURSEMENT BOND REGULATIONS UNDER THE INTERNAL REVENUE CODE

BE IT RESOLVED by the City Council (the "Council") of the City of North Liberty, Iowa (the "City"), as follows:

Section 1. Recitals.

(a) The Internal Revenue Service has issued Section 1.150-2 of the Income Tax Regulations (the "Regulations") dealing with the issuance of bonds, all or a portion of the proceeds of which are to be used to reimburse the City for project expenditures made by the City prior to the date of issuance.

(b) The Regulations generally require that the City make a prior declaration of its official intent to reimburse itself for such prior expenditures out of the proceeds of a subsequently issued borrowing and that the borrowing occur and the reimbursement allocation be made from the proceeds of such borrowing within a certain period after the payment of the expenditure or the date the projects are placed in service; and

(c) The City desires to comply with requirements of the Regulations with respect to certain projects hereinafter identified.

Section 2. Official Intent Declaration.

(a) The City proposes to undertake the following projects and to make original expenditures with respect thereto prior to the issuance of bonds, notes or other obligations (the "Bonds") and reasonably expects to issue the Bonds for such projects in the maximum principal amount shown below:

<u>Project</u>	<u>Maximum Amount of Bonds Expected to be Issued for Project</u>
Land acquisition for new municipal park development	\$3,000,000

(b) Other than (i) expenditures to be paid or reimbursed from sources other than the Bonds or (ii) expenditures made not earlier than sixty days prior to the date of this Resolution or (iii) expenditures amounting to the lesser of \$100,000 or 5% of the proceeds of the Bonds or (iv) expenditures constituting preliminary expenditures as defined in Section 1.150-2(f)(2) of the Regulations, no

expenditures for the projects have heretofore been made by the City for which the City will seek reimbursement from the proceeds of the Bonds.

(c) This declaration is a declaration of official intent adopted pursuant to Section 1.150-2 of the Regulations.

Section 3. Budgetary Matters.

As of the date hereof, there are no City funds reserved, allocated on a long term basis or otherwise set aside (or reasonably expected to be reserved, allocated on a long term basis or otherwise set aside) to provide permanent financing for the expenditures related to the projects, other than pursuant to the issuance of the Bonds. This resolution, therefore, is determined to be consistent with the City's budgetary and financial circumstances as they exist or are reasonably foreseeable on the date hereof, all within the meaning and content of the Regulations.

Section 4. Reimbursement Allocations.

The City's financial officer shall be responsible for making the "reimbursement allocations" described in the Regulations, being generally the transfer of the appropriate amount of proceeds of the Bonds to reimburse the source of temporary financing used by the City to make payment of the prior costs of the project. Each allocation shall be evidenced by an entry on the official books and records of the City maintained for the Bonds, shall specifically identify the actual prior expenditure being reimbursed or, in the case of reimbursement of a fund or account, the fund or account from which the expenditure was paid, and shall be effective to relieve the proceeds of the Bonds from any restriction under the bond resolution or other relevant legal documents for the Bonds, and under any applicable state statute, which would apply to the unspent proceeds of the Bonds.

Section 5. Repealer.

All resolutions, parts of resolutions, or actions of the City Council in conflict herewith are hereby repealed, to the extent of such conflict.

APPROVED AND ADOPTED this 23rd day of May, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK



**Twopoint2, LLC and
Vantage Point Properties,
LLC Zoning Map
Amendment**



April 18, 2023

Chris Hoffman, Mayor
City of North Liberty
3 Quail Creek Circle
North Liberty IA 52317

Re: Request of Twopoint2, LLC and Vantage Point Properties, LLC for a zoning map amendment (rezoning) on approximately 5.23 acres on property located on the west side of North Highway 965/Ranshaw Way approximately 280 feet south of West Cherry Street. The rezoning would be from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development. The purpose of the request is to rehabilitate the southeast portion of the property and waive some of the Zoning Ordinance design standards.

Mayor Hoffman:

The North Liberty Planning Commission considered the above-referenced request at its April 18, 2023 meeting. The Planning Commission took the following action:

Findings:

1. The rezoning request from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code; and
2. The site plan would achieve consistency with North Liberty Code of Ordinances Section 165.05(2) entitled, "Preliminary Site Plan Review", and other Code of Ordinance requirements.

Recommendation:

The Planning Commission accepted the two listed findings and forwards the request for zoning map amendment (rezoning) from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development on approximately 5.23 acres to the City Council with a recommendation for approval.

The vote for approval was 4-0.

Josey Bathke, Chairperson
City of North Liberty Planning Commission



To **City of North Liberty Planning Commission**
From **Ryan Rusnak, AICP**
Date **April 14, 2023**
Re **Request of Twopoint2, LLC and Vantage Point Properties, LLC for a zoning map amendment (rezoning) on approximately 5.23 acres on property located on the west side of North Highway 965/Ranshaw Way approximately 280 feet south of West Cherry Street. The rezoning would be from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development. The purpose of the request is to rehabilitate the southeast portion of the property and waive some of the Zoning Ordinance design standards.**

North Liberty City staff has reviewed the subject submission, and offer comments presented in this memo. The staff review team includes the following personnel:

- Ryan Heiar, City Administrator
- Tracey Mulcahey, Assistant City Administrator
- Grant Lientz, City Attorney
- Tom Palmer, City Building Official
- Kevin Trom, City Engineer
- Ryan Rusnak, Planning Director

1. Request Summary:

The request proposes to rehabilitate the property for multiple tenants. The primary reason for the rezoning is to waive some of the Ordinance Design Standards.

2. Current and Proposed Zoning:

Current and Proposed Zoning

C-2-A Highway Commercial District Planned Area Development.

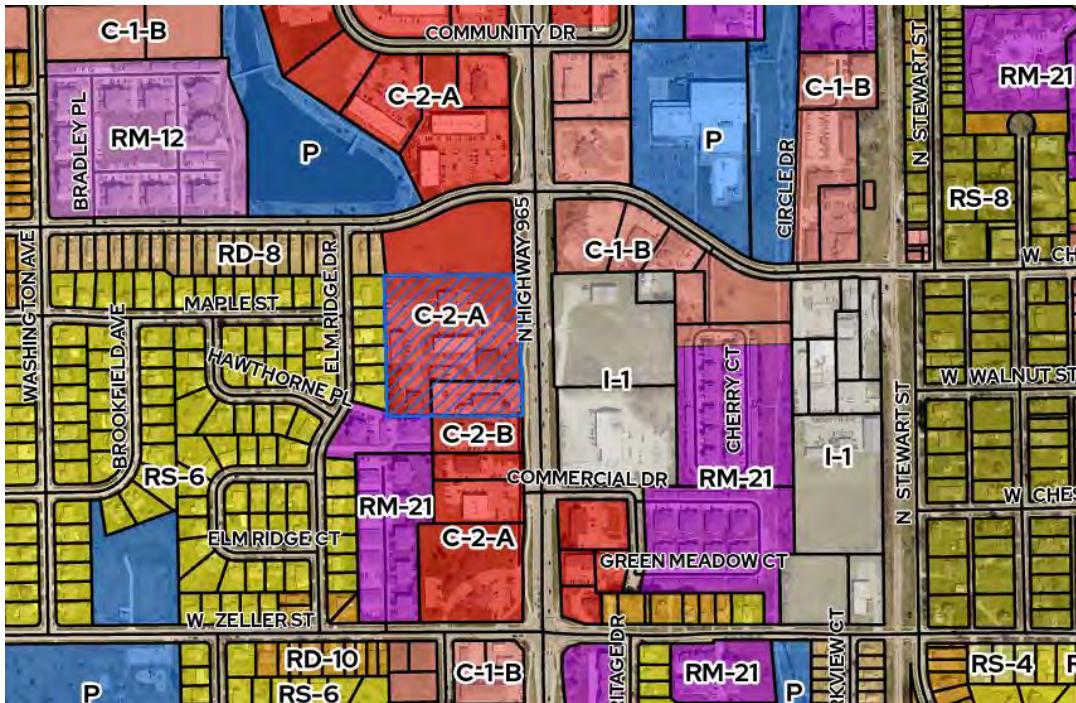
C-2-A Highway Commercial District. The C-2-A District is intended to provide for those commercial uses which may take particular advantage of a highway location and/or due to size or other nuisance constraints may be incompatible with the predominantly retail uses permitted in the C-1-A and C-1-B Commercial Districts, and whose service area is not confined to any one neighborhood or community.

Proposed Zoning

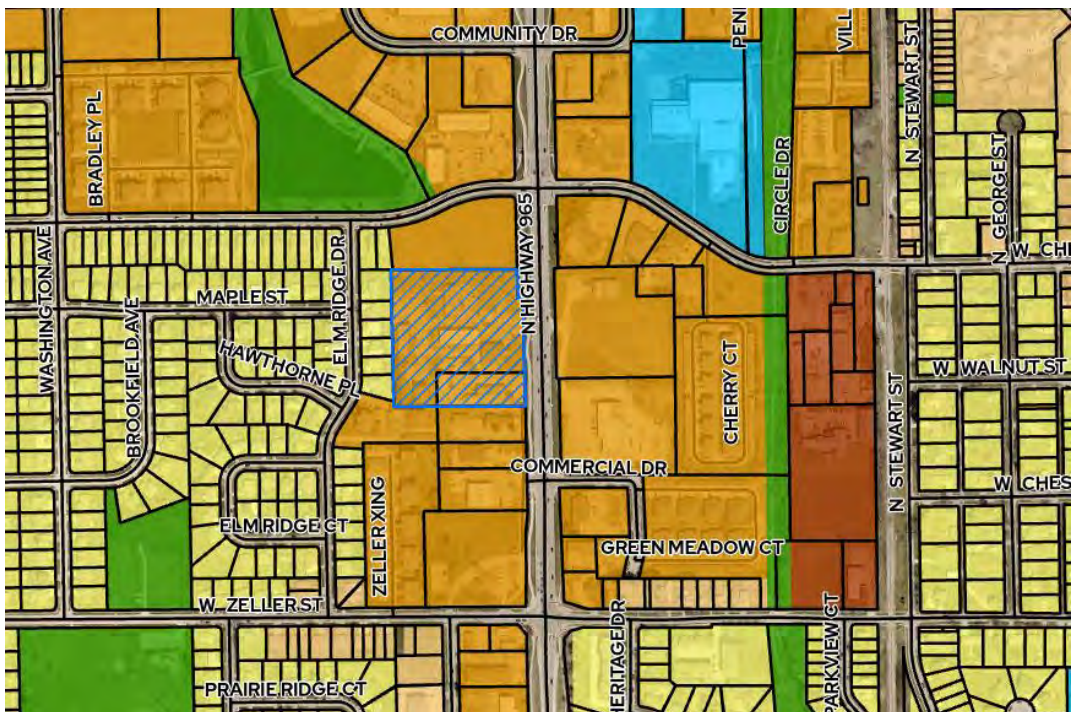
PAD Planned Area Development Overlay District.

The PAD District is intended to encourage innovation and flexibility in planning the development of land so development is compatible with the site's physical and environmental characteristics. This district allows for flexibility in district requirements. The Planned Area Development District provides an opportunity for the development of a mixture of uses and housing types in a coordinated manner. The intent of the underlying district shall guide the development. It is incumbent upon the person proposing the PAD to justify the project, and any variations from the underlying zone district.

A planned area development that will contain uses not permitted in the zoning district in which it is to be located will require a change of zoning and shall be accompanied by an application for a zoning amendment, except that any residential use shall be considered a permitted use and shall be governed by density, design and other requirements of the planned area development permit.



3. Consistency with Comprehensive Plan:
Land Use Plan designation: Urban High Intensity.



Urban High Intensity Description

These areas have increased economic activity and a higher frequency of diverse and complementary uses. High-intensity areas include more urban services with a horizontal and vertical mix of high-density residential uses and community to regional commercial uses of compatible densities and scales.

Residential

Developments have more focus on non-residential buildings but still offer residential uses ranging from townhomes and apartments. Mixing residential with commercial uses on the same site is encouraged when feasible from a design and market capitalization standpoint.

Form and Features

- » Aggregate development density at 14+ units per acre at sites with direct access to major arterial and collector streets. Development should avoid the creation of isolated multi-family development.
- » Edges of UHI residential developments transition to lower intensity uses or buffer from industrial/commercial uses through design, landscaping, and buffering.

Non-Residential

More prevalent and focus in the UHI district that can include larger offices, medical buildings, commercial, and larger institutional uses such as places of worship, community centers, and indoor recreation.

Relevant Connected to Tomorrow Sections

Section 2 Vision & Goals

Relevant Land Use Tomorrow Guiding Development Principles:

- Be commerce ready to support a range of enterprises.

4. Public Input:

A virtual good neighbor meeting was held on March 21, 2023. A couple of people outside of City staff of the applicant attended and just had general questions about the proposal. No formal objections have been received.

5. Analysis of the Request

Section 165.09 of the Zoning Ordinance sets for the approval standards for zoning maps amendments.

- D. Approval Standards. The Planning Commission recommendation and the City Council decision on any zoning text or map amendment is a matter of legislative discretion that is not controlled by any particular standard. However, in making their recommendation and decision, the Plan Commission and the City Council must consider the following standards. The approval of amendments is based on a balancing of these standards (staff commentary in italics).

- (1) Map Amendments.
- (a) The consistency of the proposed amendment with the Comprehensive Plan and any adopted land use policies.
It is staff's opinion that the zoning map amendment would achieve consistency with the Comprehensive Plan and adopted land use policies.
- (b) The compatibility with the zoning of nearby property.
It is staff's opinion that the proposed zoning would be compatible with the area.
- (c) The compatibility with established neighborhood character.
It is staff's opinion that the proposed zonings would be compatible with established neighborhood character.
- (d) The extent to which the proposed amendment promotes the public health, safety, and welfare of the City.
It is staff's opinion that the proposed zonings would promote the public health, safety, and welfare of the City.
- (e) The suitability of the property for the purposes for which it is presently zoned, i.e., the feasibility of developing the property in question for one or more of the uses permitted under the existing zoning classification.
It is staff's opinion that this is a specific case warranting flexibility from the Zoning Ordinance.
- (f) The extent to which the proposed amendment creates nonconformities.
It is staff's opinion that the proposed zoning would not create any nonconformities.

Section 165.05(2) of the North Liberty Code of Ordinances entitled, "Preliminary Site Review" sets forth the approval standards (Ordinance language in *italics* and staff analysis in **bold**).

Generally, the plan is to rehabilitate the southeast portion of the property for new users. The property was developed at a time when current design standards regarding masonry were not applicable.

- *Date, north arrow and graphic scale.* **Provided.**
- *The property owner's name and description of proposed development.* **Provided.**
- *A vicinity sketch showing the location of the property and other properties within 1,000 feet of it.* **Provided.**
- *Property boundary lines, dimensions, and total area.* **Provided.**
- *Contour lines at intervals of not more than five feet, City datum. If substantial topographic change is proposed, the existing topography shall be illustrated on a separate map and the proposed finished topography shown on the site plan.* **Provided.**
- *The location of existing streets, sidewalks, easements, utilities, drainage courses.* **Provided.**
- *The total square feet of building floor area, both individually and collectively.* **Provided.**

- *All structures and major features shall be fully dimensioned including distance between structures, distance between driveways, parking areas, property lines and building height. **Provided.***
- *Off-street parking areas, ingress and egress to the property, number of parking spaces proposed, number of parking spaces required by this code and type of surfacing. **Provided.***
- *Pedestrian walkways with special consideration given to pedestrian safety. **Provided.***
- *Trash and refuse enclosures. **Provided.***
- *The general drainage pattern and location of storm water detention features. **Provided.***
- *The general location, type and size of landscaping and ground cover illustrated in color perspective. **Provided.***
- *A rendering, elevation or photo of the proposed development. **Provided.***

6. Additional Considerations:

New commercial developments are expensive considering land and building costs. These costs ultimately get passed on to tenants, which lease the space. There is a smaller portion of the business community which is willing and/or able to least at those rates.

It is easy to see the ultimate type of development because the applicant rehabilitated the adjacent development to the north.



The PAD waivers requested are as follows:

- Building setback waiver to allow a 0' setback to the common property line.
- Waiver from the 60% masonry requirement.
- Waiver from the trash enclosure and recycling enclosure as it will be incorporated into the design of the building.
- Allow for shared parking with the property to the north.

7. Staff Recommendation:

Findings:

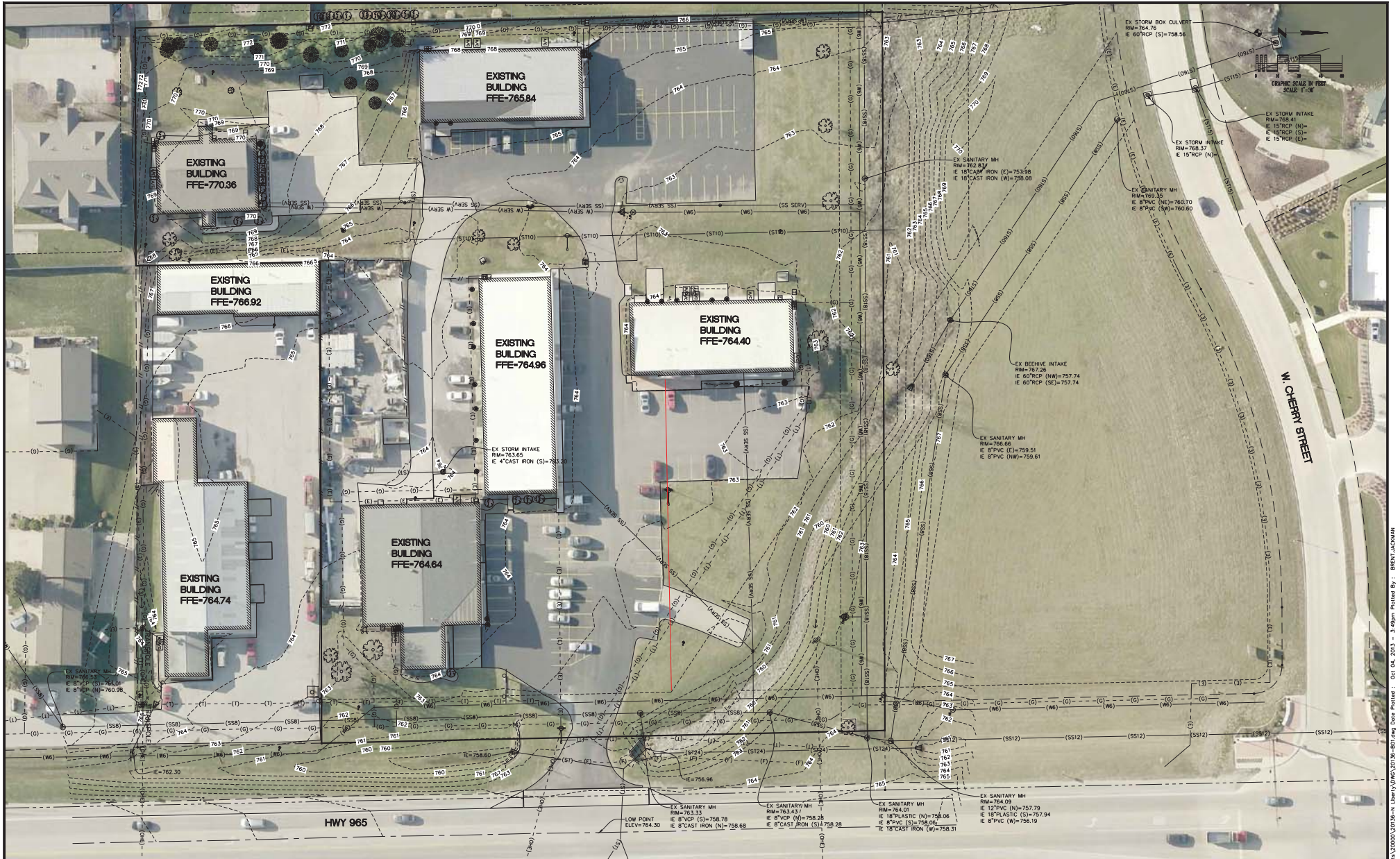
1. The rezoning request from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code; and
2. The site plan would achieve consistency with North Liberty Code of Ordinances Section 165.05(2) entitled, "Preliminary Site Plan Review", and other Code of Ordinance requirements.

Recommendation:

Staff recommends the Planning Commission accept the two listed findings and forward the request for zoning map amendment (rezoning) from C-2-A Highway Commercial District to C-2-A PAD Highway Commercial District Planned Area Development on approximately 5.23 acres to the City Council with a recommendation for approval.

Suggested motion:

I move that the Planning Commission accept the two listed findings and forward the zoning map amendment to the City Council with a recommendation for approval.



DRAWN BY: DAS				
CHECKED BY: BWJ				
APPROVED BY: XXX				
DATE: 10/03/13				
FIELD BOOK: XXX	NO.	REVISION DESCRIPTION	APPROVED	DATE

HALL & HALL ENGINEERS, INC.
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 PHONE: 515-335-5888 FAX: 515-335-1955

CIVIL ENGINEERING • LANDSCAPE ARCHITECTURE
 LAND SURVEYING AND DEVELOPMENT PLANNING

JDS DEVELOPMENT
 HWY 965
 NORTH LIBERTY, IOWA

TOPOGRAPHIC SURVEY AND BOUNDARY

PROJECT NO: 20136

SHEET 1 OF 1

CAD File: L:\Projects\20000\20136-N_Liberty\DWG\20136-1801.dwg Date Plotted: 01/04/2013 3:49pm Plotted By: BRETT JACKMAN

DRAWINGS FOR PROPOSED IMPROVEMENTS FRONTAGE ROAD AND LOT RESURFACING NORTH LIBERTY PLAZA, NORTH LIBERTY, JOHNSON COUNTY, IOWA

LEGAL DESCRIPTION

175 N HIGHWAY 965 (PARCEL ID# 0612376002) AND 165 N HIGHWAY 965 (PARCEL ID# 0612385001), NORTH LIBERTY, JOHNSON COUNTY, IOWA.

NOTE:

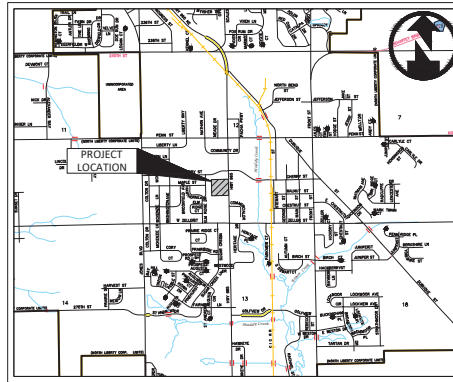
THE PROPOSED IMPROVEMENTS INCLUDED IN THESE DRAWINGS HAVE BEEN DESIGNED IN ACCORDANCE WITH CITY OF NORTH LIBERTY REQUIREMENTS AND THE IOWA STATEWIDE URBAN DESIGN AND SPECIFICATIONS (SUDAS), LATEST ADDITION, UNLESS NOTED OTHERWISE ON THE PLANS.

GIVEN THIS PROPERTY WAS BUILT AND SUBDIVIDED IN A HISTORIC ERA, THE DEVELOPER REQUESTS A VARIANCE TO THE FOLLOWING:

ZONING CODE 168.03 - BUILDING SETBACK-EXISTING, NONCONFORMING BUILDING SETBACK BETWEEN EXISTING PARCELS WHICH DIVIDE BETWEEN THE SINGLE OWNER. EXISTING SETBACK IS ZERO (0) FEET. VARIANCE TO ALLOW ZERO FEET SETBACK OF EXISTING AND NEW CONSTRUCTION.

ZONING CODE 169.10 B - 60% REQUIREMENT FOR SPECIFIC WALL ELEVATION MATERIALS. GIVEN THE LOCATION OF EXISTING BUILDINGS AND IN PLACE EXTERIOR CONDITIONS, REQUEST TO REVIEW THE IMPROVEMENTS AS A WHOLE WITH PRIORITY PLACED ON PEDESTRIAN AND VEHICULAR VANTAGE POINTS. VARIANCE FOR FACADE MATERIALS EXTENDED TO TRASH ENCLOSURE WHICH IS TO BE INCORPORATED INTO A WALL WITH REQUESTED VARIANCE PER ELEVATION PLAN.

ZONING CODE 169.01 - CONSIDERATION FOR OVERFLOW PARKING SHARED IN COMMON WITH EXISTING COMMERCIAL SITE TO NORTH WHICH IS CURRENTLY OVER PARKED TO CODE. ADDITIONAL NEW PARKING CAN BE LOCATED BEHIND BUILDING 2 NEW CONSTRUCTION.



CITY OF NORTH LIBERTY, IOWA

SHEET INDEX	
C0.00	COVER SHEET
CIVIL	
C0.01	LEGEND AND GENERAL NOTES
C0.02	GENERAL NOTES
C1.00	EXISTING CONDITIONS AND REMOVALS PLAN
C2.00	SITE & EROSION CONTROL PLAN - FRONTAGE ROAD
C3.00	PAVEMENT PLAN - FRONTAGE ROAD
C4.00	SITE & EROSION CONTROL PLAN - LOT RESURFACING
C5.00	PAVEMENT PLAN - LOT RESURFACING

APPLICANT INFORMATION

OWNER/APPLICANT:
JEFF SCHWEITZER
VANTAGE POINT PROPERTIES
PHONE: 319-621-2335
EMAIL: JEFF@NORTHLIBERTYPLAZA.COM

PROJECT INFORMATION

CONTACT PERSON:
BRIAN BOELK
AXIOM CONSULTANTS, LLC
60 E. COURT STREET, UNIT 3
IOWA CITY, IOWA 52240-3833
PHONE: 319-519-6220
EMAIL: BBOELK@AXIOM-CON.COM

UTILITY CONTACTS

<p>ALLIANT ENERGY CONTACT NAME: ALLIANT ENERGY FIELD ENGINEER CONTACT PHONE: 800-255-4268 CONTACT EMAIL: LOCATE_IPL@ALLIANTENERGY.COM</p>	<p>SOUTH SLOPE TELEPHONE CONTACT NAME: BRIAN FRESE CONTACT PHONE: 319-227-7111 CONTACT EMAIL: BRIAN@SOUTHSLOPE.COM</p>
<p>LINN COUNTY RECORDER CONTACT NAME: JOHNA NUNEMAKER CONTACT PHONE: 319-377-1587 CONTACT EMAIL: NUNEMAKER@LINNCOUNTYREC.COM</p>	<p>MEDIACOM IOWA CITY CONTACT NAME: CARL NORTON CONTACT PHONE: 319-594-6201 CONTACT EMAIL: CNORTON@MEDIACOMCC.COM</p>
<p>MIDAMERICAN - GAS CONTACT NAME: CARSON HEMPHILL CONTACT PHONE: 319-341-4461 CONTACT EMAIL: CRHEMPHILL@MIDAMERICAN.COM</p>	<p>UNIVERSITY OF IOWA CONTACT NAME: CHRIS HATLAND CONTACT PHONE: CONTACT EMAIL: CHRIS-HATLAND@UIOWA.EDU</p>
<p>CITY OF NORTH LIBERTY CONTACT NAME: TOM PALMER CONTACT PHONE: 319-626-5736 CONTACT EMAIL: TPALMER@NORTHLIBERTY.ORG</p>	<p>WINDSTREAM COMMUNICATIONS CONTACT NAME: LOCATE DESK CONTACT PHONE: 800-289-1901 CONTACT EMAIL: LOCATE.DESK@WINDSTREAM.COM</p>



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.

BRIAN A. BOELK, P.E.
LICENSE NUMBER 16503. DATE _____

MY LICENSE RENEWAL DATE IS DECEMBER 31, 2022.

PAGES OR SHEETS COVERED BY THIS SEAL: ALL PLAN SHEETS

CITY APPROVAL

BY: _____ DATE: _____



REV.	DESCRIPTION OF CHANGES	DATE
1	CITY SUBMITTAL	03-30-2023

DRAWING LOG

PROJECT NAME: NORTH LIBERTY PLAZA
CITY: NORTH LIBERTY, IA
CLIENT NAME: VANTAGE POINT PROPERTIES

NOT FOR CONSTRUCTION

SHEET NAME: COVER SHEET
PROJECT NO: 220113
SHEET NUMBER: BOELK

C0.00

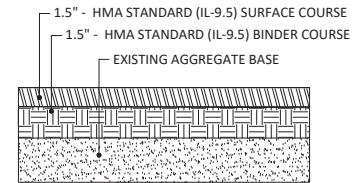


PAVING PLAN KEY NOTES:

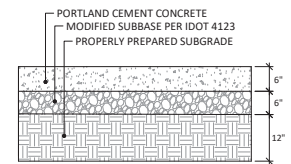
- (A) MATCH EXISTING ADJACENT PAVEMENT
- (B) SAWCUT AND REMOVE EXISTING PAVEMENT PER LIMITS OF PROPOSED PAVEMENT
- (C) INSTALL 6" STANDARD CURB

GENERAL NOTES:

1. JOINTING PLAN TO BE SUBMITTED BY PAVING CONTRACTOR FOR ENGINEER REVIEW PRIOR TO PLACEMENT.
 2. SEE SUDAS SECTION 7010 FOR ADDITIONAL CONCRETE PAVING REQUIREMENTS
- GT = GUTTER
 TS = TOP OF SLAB
 TC = TOP OF CURB
 FG = FINISHED GRADE
 EX = EXISTING GRADE
3. ASSUME STANDARD 6" CURB UNLESS NOTED OTHERWISE.



ACC PAVEMENT RESURFACE DETAIL 1
NOT TO SCALE



STANDARD DUTY PAVEMENT SECTION - DEISING ALTERNATE 2
NOT TO SCALE



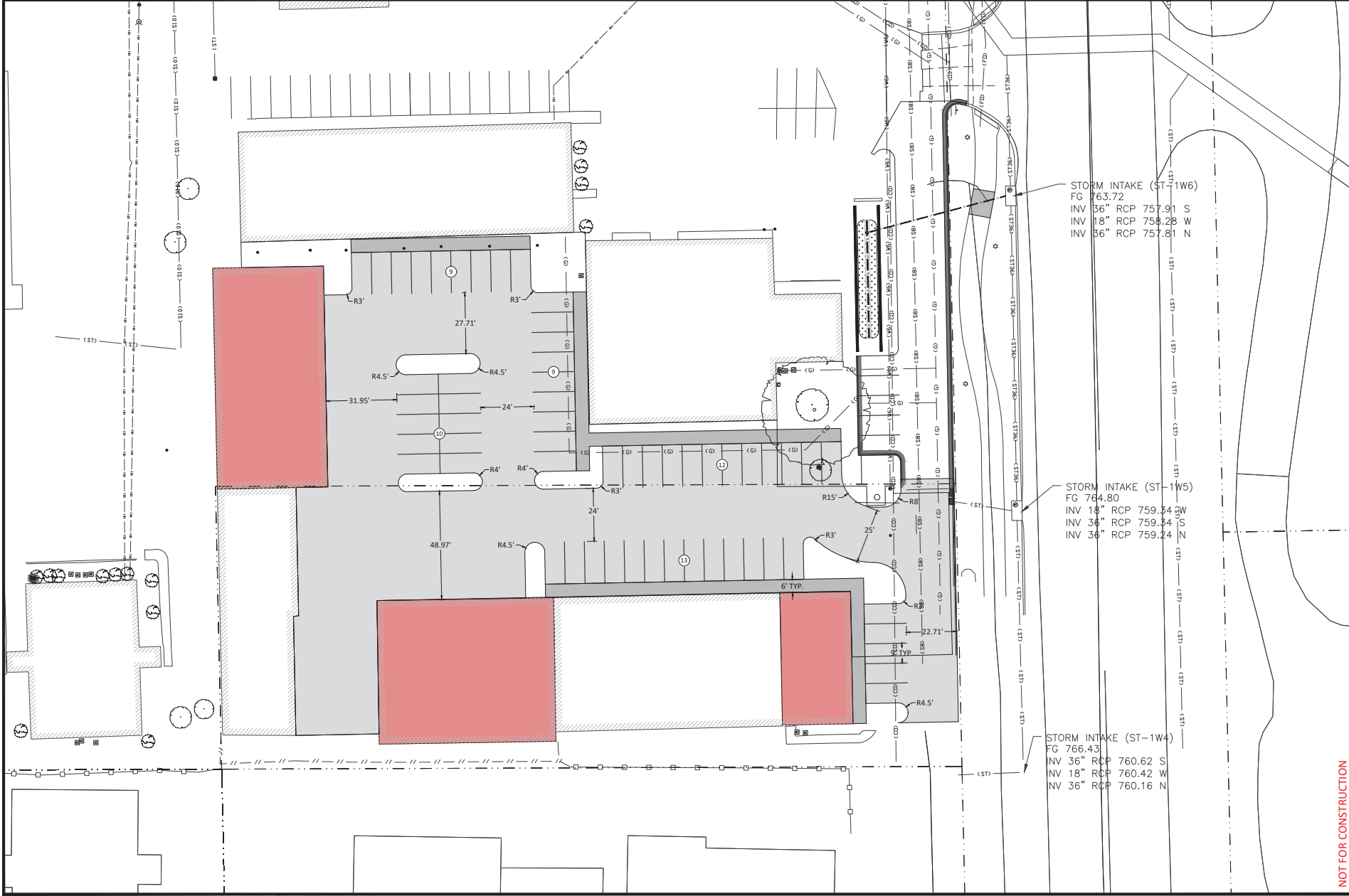
DRAWING LOG	
REV.	DESCRIPTION OF CHANGES
1	CITY SUBMITTAL
	DATE: 01-10-2023

PROJECT NAME: NORTH LIBERTY PLAZA
 CLIENT NAME: NORTH LIBERTY, IA
 VANTAGE POINT PROPERTIES

SHEET NAME: PAVEMENT PLAN
 PROJECT NO: 220113
 DESIGN PROFESSIONAL: BOELK

C5.00

NOT FOR CONSTRUCTION



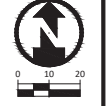
Apr 14, 2023 - 4:38pm s:\PROJECTS\2022\220113 - js - north liberty plaza\05 design\civil\survey\Concepts\220113 - Concept B.dwg

NOT FOR CONSTRUCTION

SHEET NAME:
 CONCEPT B
 PROJECT NO.:
 220113
 SHEET NUMBER:
 1 OF 1

PROJECT NAME:
 NORTH LIBERTY PLAZA
 CLIENT NAME:
 NORTH LIBERTY, IA
 VANTAGE POINT PROPERTIES

REV.	DESCRIPTION OF CHANGES	DATE



ENGINEER:

 WWW.AXIOM-CONS.COM | (515) 519-6220

REVISIONS

Rev #	Date	Description

VANTAGE ARCHITECTS
 4800 BOWLING ST., SW, STE 100
 CEDAR RAPIDS, IA 52404
 319-382-7176 (PHONE)
 319-382-7177 (FAX)
 WWW.VANTAGEARCH.COM

POINT BUILDERS
 4800 BOWLING ST., SW, STE 100
 CEDAR RAPIDS, IA 52404
 319-382-7176 (PHONE)
 319-382-7177 (FAX)
 WWW.POINTBUILDERS.COM

NORTH LIBERTY PLAZA
 165 HIGHWAY 965
 NORTH LIBERTY, IOWA

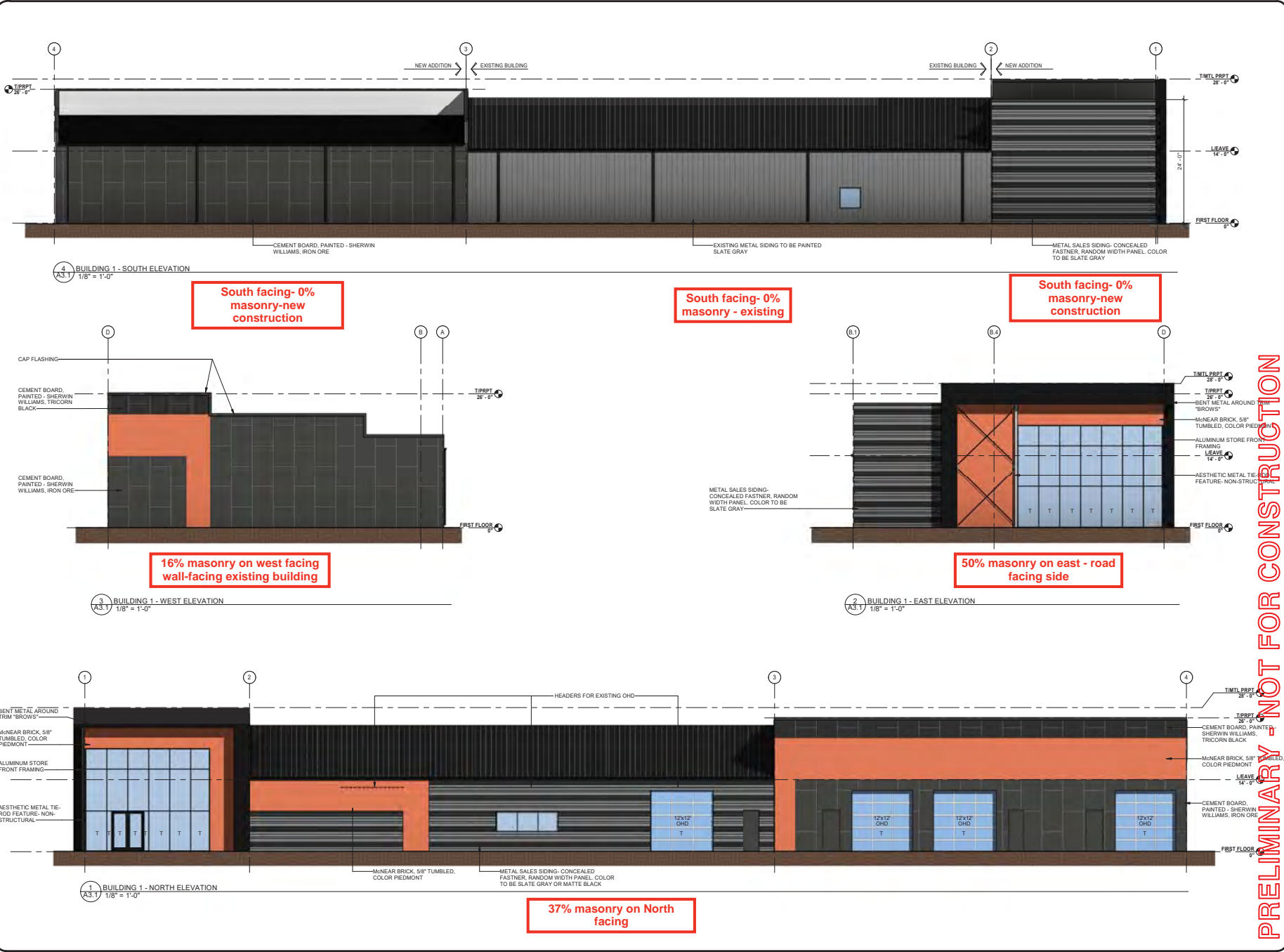
SCHEMATIC

DATE	JOB NO.	CHECKED
02-22-2023	GA-0151	

BUILDING 1 ELEVATIONS

SHEET
 A3.1

PRELIMINARY - NOT FOR CONSTRUCTION



REVISIONS		
Rev #	Date	Description

VANTAGE ARCHITECTS
 4800 BOWLING ST., SW, STE 100
 CEDAR RAPIDS, IA 52404
 319-8827178 (phone)
 www.vantagearch.com

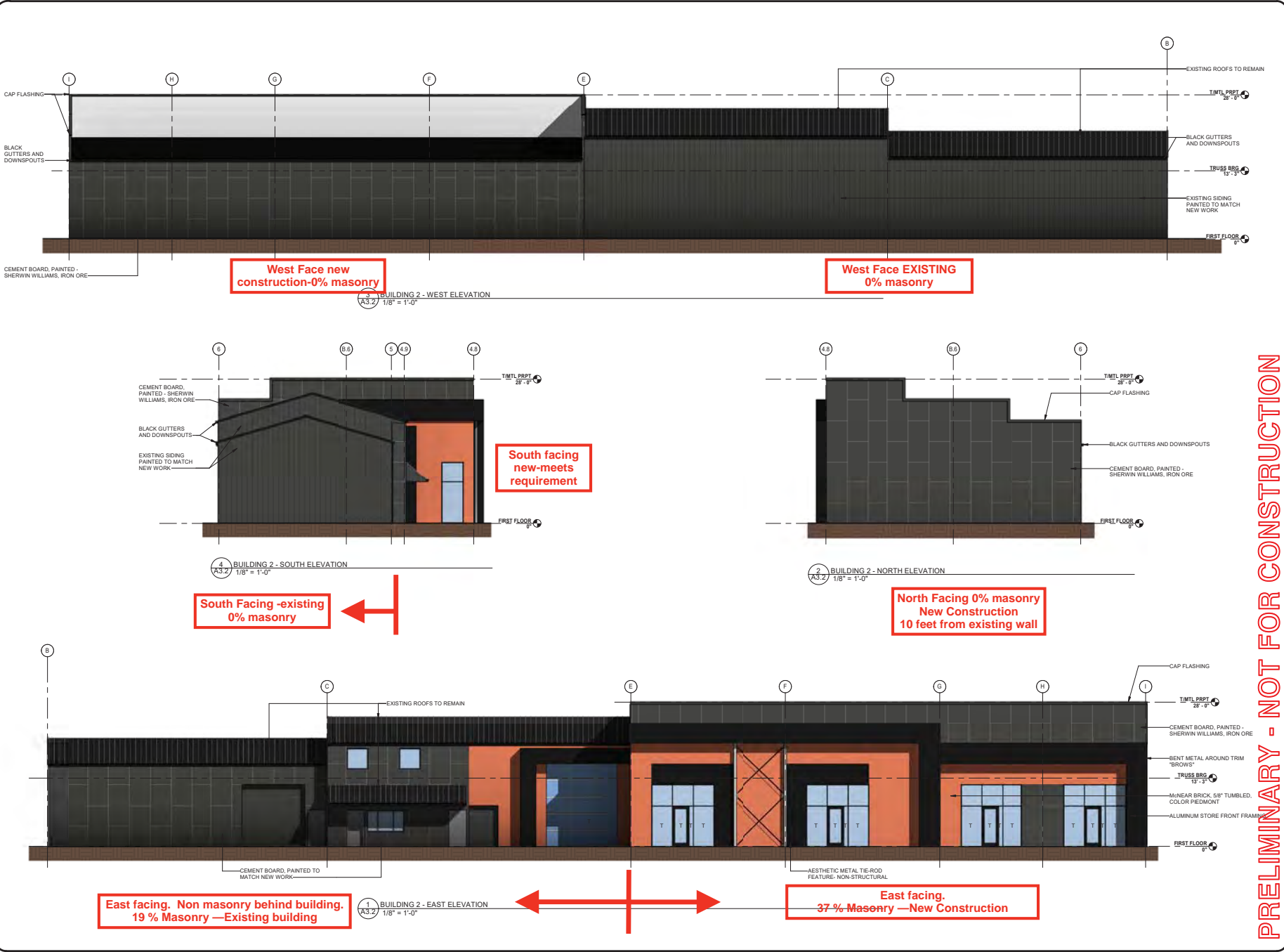
POINT BUILDERS
 THE VANTAGE GROUP
 4800 BOWLING ST., SW, STE 100 CEDAR RAPIDS, IA 52404
 VOICE 319844-5003 FAX 319298-9212

NORTH LIBERTY PLAZA
 165 HIGHWAY 965
 NORTH LIBERTY, IOWA

SCHEMATIC

DESIGN Author	CHECKED Checker
DATE 02-22-2023	JOB NO. GA-0151
BUILDING 2 ELEVATIONS	
SHEET A3.2	

PRELIMINARY - NOT FOR CONSTRUCTION



Ordinance No. 2023-06

AN ORDINANCE AMENDING THE ZONING MAP DISTRICT DESIGNATION FOR CERTAIN PROPERTY LOCATED IN NORTH LIBERTY, IOWA FROM C-2-A HIGHWAY COMMERCIAL DISTRICT TO C-2-A PAD HIGHWAY COMMERCIAL PLANNED AREA DEVELOPMENT DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. AMENDMENT. The Official Zoning Map incorporated in Chapter 168.01(2) of the North Liberty Code of Ordinances is hereby amended by designating the zoning district for 5.23 acres, more or less, as C-2-A PAD Highway Commercial Planned Area Development District for property particularly described as follows:

Lot 1 Karrar's Second Subdivision, North Liberty, Iowa, according to the Plat thereof recorded in Book 33, Page 228, Plat Records of Johnson County, Iowa Recorder, AND Lot 1, Karrar's Third Addition, North Liberty, Iowa, according to the Plat thereof recorded in Book 34, Page 161, Plat Records of Johnson County, Iowa Recorder;

SECTION 2. CONDITIONS IMPOSED. At the April 18, 2023 meeting the Planning Commission accepted the listed finding and forwarded the request for a zoning map amendment to the City Council with a recommendation for approval with no conditions.

SECTION 3. ZONING MAP. It is hereby authorized and directed that the Zoning Map of the City of North Liberty, Iowa, be changed to conform to this amendment upon final passage, approval and publication of this ordinance as provided by law.

SECTION 4. RECORDATION. The City Clerk is hereby authorized and directed to record this ordinance at the Johnson County Recorder's office upon final passage and approval.

SECTION 5. REPEALER. All Ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on April 25, 2023.
Second reading on May 9, 2023.
Third and final reading on _____.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:
I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. 2023-06 in *The Gazette* on the ____ of _____, 2023.

TRACEY MULCAHEY, CITY CLERK



Zoning Code Ordinance Amendment



April 18, 2023

Chris Hoffman, Mayor
City of North Liberty
3 Quail Creek Circle
North Liberty IA 52317

Re: Request of the City of North Liberty for an Ordinance amending Chapter 165 of the North Liberty Code of Ordinances regarding preliminary site plan approval standards and access easement requirements for utility and emergency vehicles.

Mayor Hoffman:

The North Liberty Planning Commission considered the above-referenced request at its April 18, 2023 meeting. The Planning Commission took the following action:

Finding:

1. The proposed Ordinance would create clear approval standards for preliminary site plans and add a requirement for necessary easements during the construction review process.

Recommendation:

The Planning Commission accepted the listed finding and forwards the request for the Ordinance amendment to the City Council with a recommendation for approval. The vote for approval was 4-0.

Josey Bathke, Chairperson
City of North Liberty Planning Commission



To **City of North Liberty Planning Commission**
From **Ryan Rusnak, AICP**
Date **April 14, 2023**
Re **Request of the City of North Liberty for an Ordinance amending Chapter 165 of the North Liberty Code of Ordinances regarding preliminary site plan approval standards and access easement requirements for utility and emergency vehicles.**

North Liberty City staff has reviewed the subject submission, and offer comments presented in this memo. The staff review team includes the following personnel:

Ryan Heiar, City Administrator
Tracey Mulcahey, Assistant City Administrator
Grant Lientz, City Attorney
Tom Palmer, City Building Official
Kevin Trom, City Engineer
Ryan Rusnak, Planning Director

1. Request Summary:

This Ordinance modifies the preliminary site plan review regulations to include approval standards, which are absent from the current Code. The approval standards would include a consistency review with the comprehensive plan and any adopted land use policies. Staff asserts the adoption of Connected Tomorrow is a directive to align proposed development with the comprehensive plan. This would be a critical component of the preliminary site plan review process considering the temporary Moratorium Ordinance on site plans inconsistent with the 2023 Future Land Use Map expires at the end of May 2023.

Also included is the authority to require easements for access to public utilities and to allow emergency access on private developments during the construction site plan review process.

2. Public Input:

No public input has been received.

3. Staff Recommendation:

Finding:

1. The proposed Ordinance would create clear approval standards for preliminary site plans and add a requirement for necessary easements during the construction review process.

Recommendation:

Staff recommends the Planning Commission accept the listed finding and forward the Ordinance amendment to the City Council with a recommendation for approval.

Suggested Motion:

I move that the Planning Commission accept the listed finding and forward the Ordinance amendment to the City Council with a recommendation for approval.

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 165 OF THE NORTH LIBERTY CODE OF ORDINANCES REGARDING PRELIMINARY SITE PLAN APPROVAL STANDARDS AND ACCESS EASEMENT REQUIREMENTS FOR UTILITY AND EMERGENCY VEHICLES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. RENUMBERING OF ORDINANCE. Subparagraphs E and F of Paragraph 2 of Chapter 165.05 of the North Liberty Code of Ordinances are re-lettered to subparagraphs F and G, respectively.

SECTION 2. AMENDMENT OF ZONING ORDINANCE. The following new subparagraph E is inserted into Paragraph 2 of the North Liberty Code of Ordinances immediately prior to subparagraph F:

- E. Approval Standards. The Planning Commission's recommendation to the City Council and the City Council's decision to approve or disapprove a preliminary site plan shall be informed by the preliminary site plan's adherence to the following standards:
- (1) The consistency of the preliminary site plan with all adopted ordinances and regulations.
 - (2) The consistency of the proposed land use with the Comprehensive Plan and any adopted land use policies. The submission of a preliminary site plan which proposes one or more uses inconsistent with the City's Future Land Use Map creates a rebuttable presumption that said use or uses are inharmonious with surrounding properties and incompatible with orderly development and redevelopment.

SECTION 3. AMENDMENT OF ZONING ORDINANCE. Paragraph 3(D) of Chapter 165.05 of the North Liberty Code of Ordinances, entitled Extension of Public Utilities, is amended to read as follows:

- D. Extension of public utilities and services, dedication of right-of-way. The petitioner may, as a condition of the construction site plan approval, be required to install public utilities, including (but not limited to) water lines, storm sewer, sanitary sewer, street paving, fire hydrants, and such other utilities as applicable to properly serve the proposed development, to provide easements for the ingress and egress of public utility and emergency vehicles, and to dedicate right-of-way to accommodate motorized and nonmotorized transportation, parking, and utility requirements. Where required as a condition of a construction site plan approval, utilities shall be constructed in accordance with construction standards as

established by resolution of the City Council for those portions within the public right-of-way and to be dedicated to the City, and may be required to be constructed to the same specifications for those undedicated portions where said utilities may have a direct effect on the future safety, proper functioning, and maintenance of those portions to be dedicated.

SECTION 4. AMENDMENT OF ZONING ORDINANCE. Paragraph 3(F) of Chapter 165.05 of the North Liberty Code of Ordinances, entitled Modifications, is amended to read as follows:

- F. Modifications. The development shall be substantially in conformance with the approved construction site plan. Amended construction site plans shall be submitted to the Code Official for determination if the amendment can be approved administratively or if the amendment requires review by the Planning Commission and approval by City Council in accordance with Section 165.05(2)(~~EE~~).

SECTION 5. REPEALER. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the Ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on _____, 2023.

Second reading on _____, 2023.

Third and final reading on _____, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. _____ in the Cedar Rapids *Gazette* on the ____ day of _____, 2023.

TRACEY MULCAHEY, CITY CLERK

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 165 OF THE NORTH LIBERTY CODE OF ORDINANCES REGARDING PRELIMINARY SITE PLAN APPROVAL STANDARDS AND ACCESS EASEMENT REQUIREMENTS FOR UTILITY AND EMERGENCY VEHICLES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. RENUMBERING OF ORDINANCE. Subparagraphs E and F of Paragraph 2 of Chapter 165.05 of the North Liberty Code of Ordinances are re-lettered to subparagraphs F and G, respectively.

SECTION 2. AMENDMENT OF ZONING ORDINANCE. The following new subparagraph E is inserted into Paragraph 2 of the North Liberty Code of Ordinances immediately prior to subparagraph F:

- E. Approval Standards. The Planning Commission's recommendation to the City Council and the City Council's decision to approve or disapprove a preliminary site plan shall be informed by the preliminary site plan's adherence to the following standards:
- (1) The consistency of the preliminary site plan with all adopted ordinances and regulations.
 - (2) The consistency of the proposed land use with the Comprehensive Plan and any adopted land use policies. The submission of a preliminary site plan which proposes one or more uses inconsistent with the City's Future Land Use Map creates a rebuttable presumption that said use or uses are inharmonious with surrounding properties and incompatible with orderly development and redevelopment.

SECTION 3. AMENDMENT OF ZONING ORDINANCE. Paragraph 3(D) of Chapter 165.05 of the North Liberty Code of Ordinances, entitled Extension of Public Utilities, is amended to read as follows:

- D. Extension of public utilities and services, dedication of right-of-way. The petitioner may, as a condition of the construction site plan approval, be required to install public utilities, including (but not limited to) water lines, storm sewer, sanitary sewer, street paving, fire hydrants, and such other utilities as applicable to properly serve the proposed development, to provide easements for the ingress and egress of public utility and emergency vehicles, and to dedicate right-of-way to accommodate motorized and nonmotorized transportation, parking, and utility requirements. Where required as a condition of a construction site plan approval, utilities shall be constructed in accordance with construction standards as

established by resolution of the City Council for those portions within the public right-of-way and to be dedicated to the City, and may be required to be constructed to the same specifications for those undedicated portions where said utilities may have a direct effect on the future safety, proper functioning, and maintenance of those portions to be dedicated.

SECTION 4. AMENDMENT OF ZONING ORDINANCE. Paragraph 3(F) of Chapter 165.05 of the North Liberty Code of Ordinances, entitled Modifications, is amended to read as follows:

F. Modifications. The development shall be substantially in conformance with the approved construction site plan. Amended construction site plans shall be submitted to the Code Official for determination if the amendment can be approved administratively or if the amendment requires review by the Planning Commission and approval by City Council in accordance with Section 165.05(2)(F).

SECTION 5. REPEALER. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the Ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on _____, 2023.

Second reading on _____, 2023.

Third and final reading on _____, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. _____ in the Cedar Rapids Gazette on the ____ day of _____, 2023.

TRACEY MULCAHEY, CITY CLERK

Ordinance No. 2023-11

AN ORDINANCE AMENDING CHAPTER 165 OF THE NORTH LIBERTY CODE OF ORDINANCES REGARDING PRELIMINARY SITE PLAN APPROVAL STANDARDS AND ACCESS EASEMENT REQUIREMENTS FOR UTILITY AND EMERGENCY VEHICLES

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. RENUMBERING OF ORDINANCE. Subparagraphs E and F of Paragraph 2 of Chapter 165.05 of the North Liberty Code of Ordinances are re-lettered to subparagraphs F and G, respectively.

SECTION 2. AMENDMENT OF ZONING ORDINANCE. The following new subparagraph E is inserted into Paragraph 2 of the North Liberty Code of Ordinances immediately prior to subparagraph F:

E. Approval Standards. The Planning Commission's recommendation to the City Council and the City Council's decision to approve or disapprove a preliminary site plan shall be informed by the preliminary site plan's adherence to the following standards:

- (1) The consistency of the preliminary site plan with all adopted ordinances and regulations.
- (2) The consistency of the proposed land use with the Comprehensive Plan and any adopted land use policies. The submission of a preliminary site plan which proposes one or more uses inconsistent with the City's Future Land Use Map creates a rebuttable presumption that said use or uses are inharmonious with surrounding properties and incompatible with orderly development and redevelopment.

SECTION 3. AMENDMENT OF ZONING ORDINANCE. Paragraph 3(D) of Chapter 165.05 of the North Liberty Code of Ordinances, entitled Extension of Public Utilities, is amended to read as follows:

D. Extension of public utilities and services, dedication of right-of-way. The petitioner may, as a condition of the construction site plan approval, be required to install public utilities, including (but not limited to) water lines, storm sewer, sanitary sewer, street paving, fire hydrants, and such other utilities as applicable to properly

serve the proposed development, to provide easements for the ingress and egress of public utility and emergency vehicles, and to dedicate right-of-way to accommodate motorized and nonmotorized transportation, parking, and utility requirements. Where required as a condition of a construction site plan approval, utilities shall be constructed in accordance with construction standards as established by resolution of the City Council for those portions within the public right-of-way and to be dedicated to the City, and may be required to be constructed to the same specifications for those undedicated portions where said utilities may have a direct effect on the future safety, proper functioning, and maintenance of those portions to be dedicated.

SECTION 4. AMENDMENT OF ZONING ORDINANCE. Paragraph 3(F) of Chapter 165.05 of the North Liberty Code of Ordinances, entitled Modifications, is amended to read as follows:

F. Modifications. The development shall be substantially in conformance with the approved construction site plan. Amended construction site plans shall be submitted to the Code Official for determination if the amendment can be approved administratively or if the amendment requires review by the Planning Commission and approval by City Council in accordance with Section 165.05(2)(F).

SECTION 5. REPEALER. All Ordinances and parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the Ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on April 25, 2023.

Second reading on May 9, 2023.

Third and final reading on _____, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. 2023-11 in the Cedar Rapids Gazette on the ____ day of _____, 2023.

TRACEY MULCAHEY, CITY CLERK



**Communications Advisory
Commission Ordinance
Repeal**



To **Communications Advisory Commission**
CC **City Administrator Ryan Heiar**
From **Communications Director Nick Bergus**
Date **March 28, 2023**
Re **Upcoming Department Changes**

Over the years, our department has been known by several names – NLTV, Telecommunications and currently Communications – with changes reflecting the way our responsibilities had grown with the City of North Liberty and changed with the demands of the community.

Beginning July 1, 2023, we will shift again, renaming the department Community Relations, in acknowledgement of the full scope of our services and responsibilities.

Along with the name change, we will see additional changes:

Jillian Miller will be promoted to Assistant Director of Community Relations. Her new title reflects her increased responsibility, and comes with expanded oversight of community events, sponsorship and additional economic development work.

NLTV will cease cablecasting video programming. As part of its public, education and government channel mission, NLTV currently offers playback of public meetings and programs provided by the public. Video on demand services like YouTube have drastically reduced the use of the cable channel platform by both viewers and producers, and for the past several years, the public access portion of the channel has been primarily religious services. Other local access channels have ceased operations, and messages on the channel asking for viewers to let us know if they're watching resulted in no contacts. Cablecasting requires staff to spend time scheduling and managing media, and this time will be shifted from upkeep to other tasks. We will continue to livestream and record public meetings and to maintain the community bulletin board, which will continue to be cablecast as long as it remains reasonable. We intend to notify current producers of our intent by May 1 so they have ample time to notify any regular viewers.

The Communications Advisory Commission will be decommissioned, pending City Council action. Like the department, the commission's role has changed over the years, including rewriting of the ordinance in 2016. With the winding down of cablecast operations, and initiatives like our Youth Council and Neighborhood Ambassadors providing sounding boards, the role of the commission has become further diminished. We would welcome the involvement of the commissioners in a variety of ways, including serving as Neighborhood Ambassadors, on other city commissions and on event and initiative committees.

Other changes are expected in the months that follow, including:

Hiring a full-time Special Event Assistant. This new position, expected in late 2023, will report to Jillian Miller and be tasked with leading new and existing public programming and management of a new facility at Centennial Park, which is expected to be operational in 2025.

Staff moving to new city hall on Cherry Street. Nick, Jillian and Derek are slated to move to the new civic campus building in the spring of 2024. Micah will remain based at the Community Center to lead and support outreach and equity initiatives there.

While these changes will impact how we work, where we work and what we're called, it will leave untouched the most important things:

Our community-building work. The changes reflect, rather than define, the role the department plays in the community. Outreach, engagement, transparency and explanation remain the core of what we do.

Our culture of collaboration. We value working within the team, across departments, and with external stakeholders to strengthen neighborhoods and the community. Great ideas can come from anywhere, and working together builds buy in and is necessary for success.

The importance of the work we do. Helping member of the community feel connected to each other and the local government builds a more resilient community that feels safe and can solve its problems together.

Ordinance No. 2023-12

**AN ACT REPEALING CHAPTER 25 OF THE NORTH LIBERTY
CODE OF ORDINANCES, COMMUNICATIONS ADVISORY
COMMISSION**

WHEREAS, the City of North Liberty created a Communications Advisory Commission for the purpose of advising, assisting and overseeing the communications efforts of the City; and

WHEREAS, predating its current form, this body was commissioned as a Telecommunications Commission to negotiate and oversee local cable franchise agreements and a volunteer-run public, education and government access channel to empower local voices through locally produced media; and

WHEREAS, the City of North Liberty is grateful for the many contributions of its residents to the both commissions since their inception; and

WHEREAS, the Commission, in its various forms, has successfully led or overseen various initiatives advancing community engagement, access to City information and other community-strengthening programs; and

WHEREAS, the scope of duties of the City's Telecommunications and then Communications Department has been expanded in subsequent years to meet the needs of the City in effectively communicating with City residents through a wide variety of programming and media; and

WHEREAS, the City has launched Youth Council and Neighborhood Ambassador Initiatives, among other programs, to help the City residents stay informed and engaged with local events; and

WHEREAS, the City has created an Outreach and Equity Coordinator position to help ensure that the City's programming and messages are readily available to all of its residents; and

WHEREAS, the robust and effective citizen engagement made possible by the evolution of the City's Communications Department and its professional

administration of the programs described above has diminished the need for the City's Communications Advisory Commission.

BE IT THEREFORE ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. REPEALER. Chapter 25 of the City of North liberty Code of Ordinances, entitled Communications Advisory Commission, is hereby repealed.

SECTION 2. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 3. WHEN EFFECTIVE. This ordinance shall be in effect beginning July 1, 2023.

First reading on May 9, 2023.

Second reading on _____, 2023.

Third and final reading on _____, 2023.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. 2023-12 in the Cedar Rapids Gazette on the ____ day of _____, 2023.

TRACEY MULCAHEY, CITY CLERK



**City Initiated Zoning Map
Amendment on Property
owned by 160-965, LLC**



April 18, 2023

Chris Hoffman, Mayor
City of North Liberty
3 Quail Creek Circle
North Liberty IA 52317

Re: Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately 3.69 acres, from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on property located at the northeast corner of North Highway 965/Ranshaw Way and Commercial Drive (Also Known As 160 North Highway 965/Ranshaw Way).

Mayor Hoffman:

The North Liberty Planning Commission considered the above-referenced request at its April 18, 2023 meeting. The Planning Commission took the following action:

Finding:

1. The rezoning request from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

The Planning Commission accepted the listed finding and forwards the request for zoning map amendment (rezoning) from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on approximately 3.69 acres to the City Council with a recommendation for approval.

The vote for approval was 4-0.

Josey Bathke, Chairperson
City of North Liberty Planning Commission



To **City of North Liberty Planning Commission**
From **Ryan Rusnak, AICP**
Date **April 14, 2023**
Re **Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately 3.69 acres, from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on property located at the northeast corner of North Highway 965/Ranshaw Way and Commercial Drive (Also Known As 160 North Highway 965/Ranshaw Way).**

North Liberty City staff has reviewed the subject submission, and offer comments presented in this memo. The staff review team includes the following personnel:

Ryan Heiar, City Administrator
Tracey Mulcahey, Assistant City Administrator
Grant Lientz, City Attorney
Tom Palmer, City Building Official
Kevin Trom, City Engineer
Ryan Rusnak, Planning Director

1. Request Summary:

This is a City-initiated rezoning to achieve consistency with the new Comprehensive Plan Connected to Tomorrow, which was adopted by City Council on February 28, 2023.

Section 165.09(2) of the North Liberty Code of Ordinances reads, "Initiation. The City or a property owner in the City, or person expressly authorized in writing by the property owner, may propose a zoning text or map amendment."

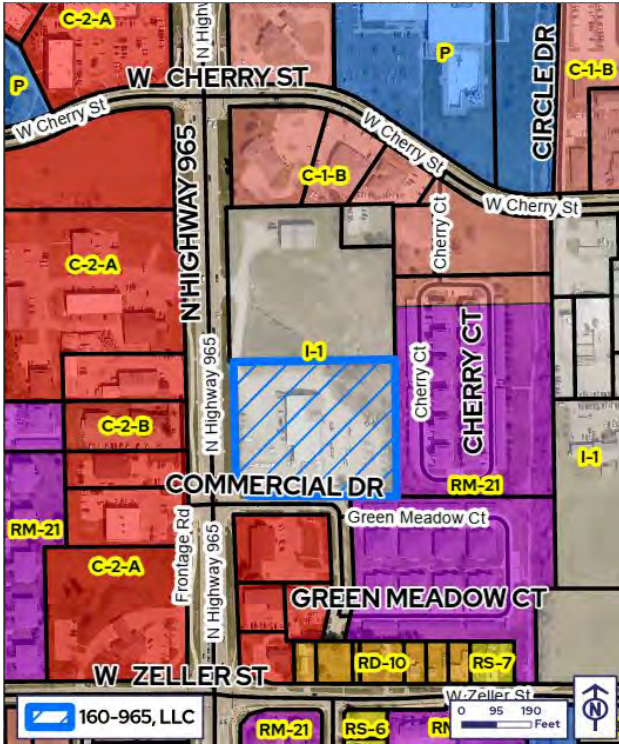
2. Current and Proposed Zoning:

Current Zoning

I-1 Light Industrial District. The I-1 District is intended to provide for the development of modern landscaped light-industrial and commercial establishments which have negligible impacts upon areas outside of the zoned district, and seek a hazard-and nuisance-free environment. The district is intended to provide for manufacture, assembly, fabrication, storage, and/or processing of goods listed for the location of compatible uses.

Proposed Zoning

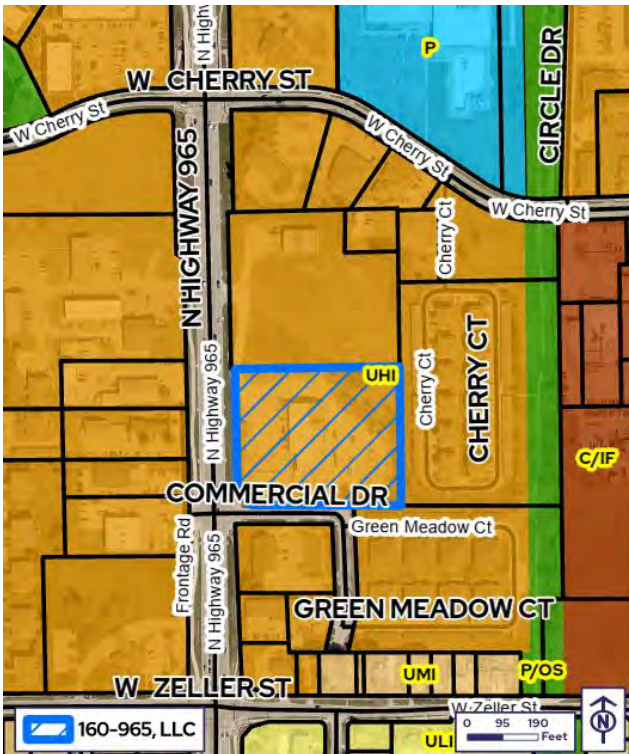
C-3 Higher-Intensity Commercial District. The C-3 District is intended to accommodate higher-intensity commercial development that serves both local and regional markets. The C-3 District addresses medium and large-scale development that may generate considerable traffic and typically requires significant off-street parking. Higher density residential uses are also allowed to facilitate a mixed-use orientation where appropriate.



3. Comprehensive Plan

Future Land Use Map designation

UHI Urban High Intensity. The current I-1 zoning is not consistent with the UHI Land Use designation, however, the C-3 zoning would be consistent with UHI.



Urban High Intensity Description

These areas have increased economic activity and a higher frequency of diverse and complementary uses. High-intensity areas include more urban services with a horizontal and vertical mix of high-density residential uses and community to regional commercial uses of compatible densities and scales.

Residential

Developments have more focus on non-residential buildings but still offer residential uses ranging from townhomes and apartments. Mixing residential with commercial uses on the same site is encouraged when feasible from a design and market capitalization standpoint.

Form and Features

- » Aggregate development density at 14+ units per acre at sites with direct access to major arterial and collector streets. Development should avoid the creation of isolated multi-family development.
- » Edges of UHI residential developments transition to lower intensity uses or buffer from industrial/commercial uses through design, landscaping, and buffering.

Non-Residential

More prevalent and focus in the UHI district that can include larger offices, medical buildings, commercial, and larger institutional uses such as places of worship, community centers, and indoor recreation.

4. Public Input:

Good neighbor meetings are not required with City-initiated rezonings. Mailed notice (certified and regular) of the proposed rezoning was sent to the property owner listed in public records.

5. Analysis of the Request

Figure 3.4 within Connected to Tomorrow was utilized to determine which zoning district would be compatible with the Future Land Use Map.

Figure 3.4: Land Use Compatibility

TRADITIONAL LAND USES	AGRICULTURE (AG)	URBAN RESERVE (UR)	URBAN LOW INTENSITY (ULI)	URBAN MEDIUM INTENSITY (UMI)	URBAN HIGH INTENSITY (UHI)	COMMERCIAL/ INDUSTRIAL FLEX (FLX)	PUBLIC AND SEMI PUBLIC (PUB)	PARK AND OPEN SPACE (P, OS)
Agriculture	●	●						○
Rural residential		●						
Low-density residential			●	○				
Medium-density residential			●	●				
High-density residential				●	●	○		
Rural commercial		●						
Neighborhood commercial			○	●	●	●		
Community commercial				○	●	●		
Regional commercial					○	●		
Low/medium intensity office			○	●	●	●		
High-intensity office				○	●	●		
Limited industrial		○				●		
Heavy industrial						○		
Parks and civic uses	●	●	●	●	●	○	●	●
Major public/civic facilities					○	○	●	○
Residential density range (du/A*)	≤40	≤40	3-8	7-14	14+	14+	NA	NA

● Permitted ○ Permitted with special review
*Dwelling Units per Acre

The C-3 zoning was selected because it is the highest intensity commercial district.

Section 165.09 of the Zoning Ordinance sets for the approval standards for zoning maps amendments.

D. Approval Standards. The Planning Commission recommendation and the City Council decision on any zoning text or map amendment is a matter of legislative discretion that is not controlled by any particular standard. However, in making their recommendation and decision, the Plan Commission and the City Council must consider the following standards. The approval of amendments is based on a balancing of these standards (staff commentary in italics).

(1) Map Amendments.

(a) The consistency of the proposed amendment with the Comprehensive Plan and any adopted land use policies.

It is staff's opinion that the zoning map amendment would achieve consistency with the Comprehensive Plan and adopted land use policies.

(b) The compatibility with the zoning of nearby property.

It is staff's opinion that the proposed zoning would be compatible with the area.

(c) The compatibility with established neighborhood character.

It is staff's opinion that the proposed zoning would be compatible with established neighborhood character.

(d) The extent to which the proposed amendment promotes the public health, safety, and welfare of the City.

It is staff's opinion that the proposed zoning would promote the public health, safety, and welfare of the City.

(e) The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one or more of the uses permitted under the existing zoning classification.

There are several permitted uses listed in the I-1 district. However, a consistency review of any use with the Comprehensive Plan must be performed. For example, a retail goods establishment is listed as a permitted use within the I-1 District. That use would be appropriate if developed in accordance with commercial design standards.

(f) The extent to which the proposed amendment creates nonconformities.

It is staff's opinion that the proposed zoning would not create any nonconformities.

6. Additional Considerations:

The development and adoption of Connected to Tomorrow was a yearlong effort, which was the result of substantial input. The Plan identifies a shared vision and set of goals for the community based on a series of public discussions and community needs. Much like the 2013 plan, the 2022 comprehensive plan serves three primary roles:

- A Shared Vision for the Future. Comprehensive planning provides an opportunity for residents to create a shared vision for their community. Residents and City Staff identified issues and opportunities for North Liberty's land use, infrastructure, public facilities, natural resources, and more. These findings create a vision and set public priorities.
- Guidance for Decision-Makers. The plan serves as a guide for City Staff, the Planning Commission, City Council, and other City boards and commissions as they set policy, make public investments, and deliberate land use decisions.
- Legal Basis for Land Use Regulations. The Code of Iowa allows cities to adopt land use regulations, such as zoning and subdivision ordinances, to promote the "health, safety, morals or general welfare of the community." These regulations govern how to develop land within the city and its extraterritorial jurisdiction. Land use regulations recognize that people live cooperatively and have certain responsibilities to coordinate and harmonize private property uses. Connected to Tomorrow provides a legal basis for these regulations.

The adoption of Connected to Tomorrow is a directive to align the Zoning Ordinance and Map with the comprehensive plan. To quote the Plan, "Policymakers, most notably the City Council and Planning and Zoning Commission, will help set the course to realize this plan. These are the bodies to create and administer the policies that shape development in North Liberty. The plan should be a reliable guide to help with decisions related to large-scale policies and individual projects."

7. Staff Recommendation:

Finding:

1. The rezoning request from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

Staff recommends the Planning Commission accept the listed finding and forward the request for zoning map amendment (rezoning) from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on approximately 3.69 acres to the City Council with a recommendation for approval.

Suggested motion:

I move that the Planning Commission accept the listed finding and forward the zoning map amendment to the City Council with a recommendation for approval.

Ordinance No. 2023-14

AN ORDINANCE AMENDING THE ZONING MAP DISTRICT DESIGNATION FOR CERTAIN PROPERTY LOCATED IN NORTH LIBERTY, IOWA FROM I-1 LIGHT INDUSTRIAL DISTRICT TO C-3 HIGHER-INTENSITY COMMERCIAL DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. AMENDMENT. The Official Zoning Map incorporated in Chapter 168.01(2) of the North Liberty Code of Ordinances is hereby amended by designating the zoning district for 3.69 acres, more or less, as C-3 Higher-Intensity Commercial District for property particularly described as follows:

The property subject to the rezoning is part of the Southwest Quarter of the Southeast Quarter of Section 12, Township 80 North, Range 7 West of the 5th Principal Meridian, Johnson County, Iowa and is more particularly described as follows: Commencing at the Southwest corner of said Southeast Quarter, thence N01°15'30"W, 534.38 feet along the West line of the Southeast Quarter of said Section; thence N88°44'30"E, 79.69 feet to the point of beginning; which is a point on the east right-of-way line of Old U.S. Highway 218; thence N01°19'48"W, 363.52 feet along said right-of-way; thence N88°59'51"E, 450.85 feet; thence S0°46'13"E, 372.47 feet; thence N89°51'23"W, 447.35 feet to the point of beginning. Excepting therefrom all public rights-of-way;

SECTION 2. CONDITIONS IMPOSED. At the April 18, 2023, meeting the Planning Commission accepted the listed finding and forwarded the request for a zoning map amendment to the City Council with a recommendation for approval with no conditions.

SECTION 3. ZONING MAP. It is hereby authorized and directed that the Zoning Map of the City of North Liberty, Iowa, be changed to conform to this amendment upon final passage, approval and publication of this ordinance as provided by law.

SECTION 4. RECORDATION. The City Clerk is hereby authorized and directed to record this ordinance at the Johnson County Recorder's office upon final passage and approval.

SECTION 5. REPEALER. All Ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on May 9, 2023.

Second reading on _____.

Third and final reading on _____.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. 2023-14 in *The Gazette* on the ____ of _____, 2023.

TRACEY MULCAHEY, CITY CLERK



**City Initiated Zoning Map
Amendment on Property
owned by Mackin Estates,
LLC**



April 18, 2023

Chris Hoffman, Mayor
City of North Liberty
3 Quail Creek Circle
North Liberty IA 52317

Re: Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately .40 acres, from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District on property located at the northwest corner of North Front Street and West Zeller Street (Also Known As 20 West Zeller Street).

Mayor Hoffman:

The North Liberty Planning Commission considered the above-referenced request at its April 18, 2023 meeting. The Planning Commission took the following action:

Finding:

1. The rezoning request from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

The Planning Commission accepted the listed finding and forwards the request for zoning map amendment (rezoning) from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District on .40 acres to the City Council with a recommendation for approval.

The vote for approval was 4-0.

Josey Bathke, Chairperson
City of North Liberty Planning Commission



To **City of North Liberty Planning Commission**
From **Ryan Rusnak, AICP**
Date **April 14, 2023**
Re **Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately .40 acres, from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District on property located at the northwest corner of North Front Street and West Zeller Street (Also Known As 20 West Zeller Street).**

North Liberty City staff has reviewed the subject submission, and offer comments presented in this memo. The staff review team includes the following personnel:

Ryan Heiar, City Administrator
Tracey Mulcahey, Assistant City Administrator
Grant Lientz, City Attorney
Tom Palmer, City Building Official
Kevin Trom, City Engineer
Ryan Rusnak, Planning Director

1. Request Summary:

This is a City-initiated rezoning to achieve consistency with the new Comprehensive Plan Connected to Tomorrow, which was adopted by City Council on February 28, 2023.

Section 165.09(2) of the North Liberty Code of Ordinances reads, "Initiation. The City or a property owner in the City, or person expressly authorized in writing by the property owner, may propose a zoning text or map amendment."

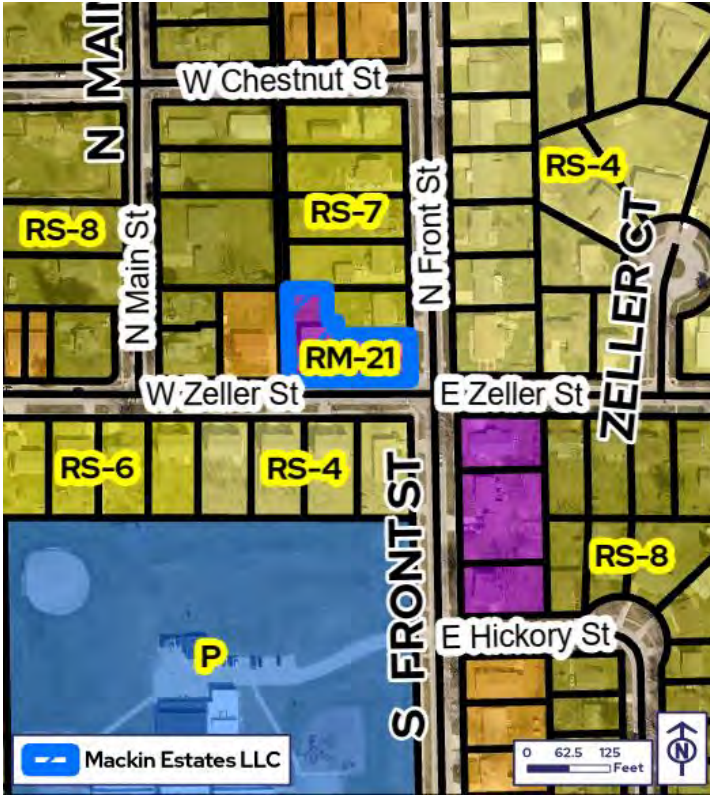
2. Current and Proposed Zoning:

Current Zoning

RM-21 Multi-Unit Residence District. The RM-21 District is intended to provide and maintain high-density, multiple-unit housing residential neighborhoods. Limited non-residential uses that are compatible with the surrounding residential neighborhoods may be permitted in the RM-21 District.

Proposed Zoning

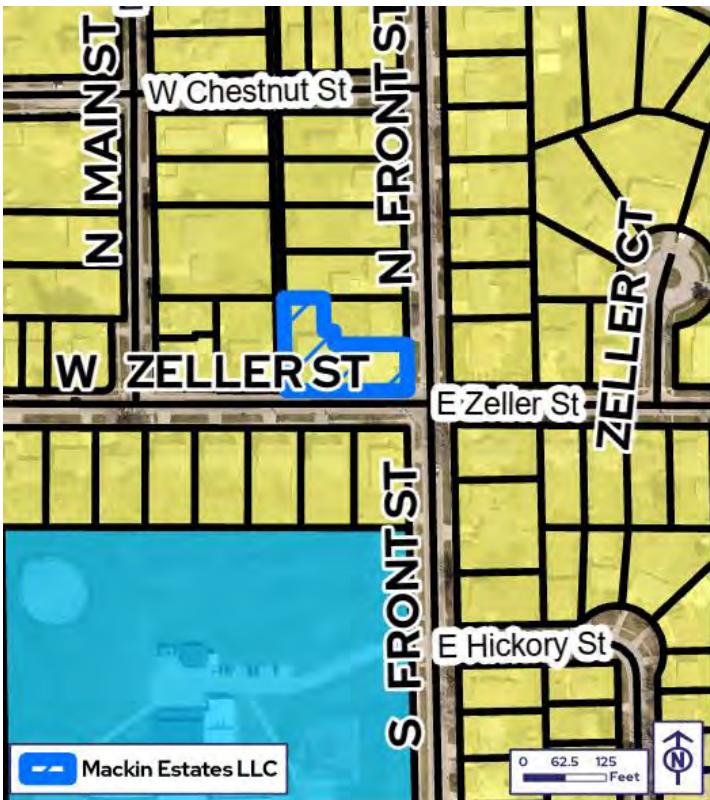
RM-12 Multi-Unit Residence District. The RM-12 District is intended to provide and maintain medium-density, multiple-unit housing residential neighborhoods. Limited non-residential uses that are compatible with the surrounding residential neighborhoods may be permitted in the RM-12 District.



3. Comprehensive Plan

Future Land Use Map designation

ULI Urban Low Intensity. The current RM-21 zoning is not consistent with the ULI Land Use designation, however, the RM-12 zoning would be consistent with ULI.



Urban Low Intensity Description

An efficient, walkable pattern of lower-density development. Compared to denser areas, ULI has more space and separation of uses, with farther distances between destinations and fewer shared amenities. Low-intensity areas can include a horizontal mix of primarily residential and limited non-residential uses at compatible lower densities and scales.

Residential

Emphasis on single-family detached and attached residential developments. Attached housing projects may primarily be at transition areas between arterial or collector streets, small scale commercial uses, and higher intensity districts.

Form and Features

- » General aggregate development density of 3 to 8 units per acre. Lot sizes can vary within developments to provide different housing types.
- » A framework of streets and open space should create neighborhoods and multiple access points for all types of transportation.
- » Open spaces, streets, and trail connections integrate with the larger community.

4. Public Input:

Good neighbor meetings are not required with City-initiated rezonings. Mailed notice (certified and regular) of the proposed rezoning was sent to the property owner listed in public records.

5. Analysis of the Request

Figure 3.4 within Connected to Tomorrow was utilized to determine which zoning district would be compatible with the Future Land Use Map.

Figure 3.4: Land Use Compatibility

TRADITIONAL LAND USES	AGRICULTURE (AG)	URBAN RESERVE (UR)	URBAN LOW INTENSITY (ULI)	URBAN MEDIUM INTENSITY (UMI)	URBAN HIGH INTENSITY (UHI)	COMMERCIAL/ INDUSTRIAL FLEX (FLX)	PUBLIC AND SEMI PUBLIC (PUB)	PARK AND OPEN SPACE (P, OS)
Agriculture	●	●						○
Rural residential		●						
Low-density residential			●	○				
Medium-density residential			●		○			
High-density residential			●	●	●	○		
Rural commercial		●						
Neighborhood commercial			○	●	●	●		
Community commercial				○	●	●		
Regional commercial					○	●		
Low/medium intensity office			○	●	●	●		
High-intensity office				○	●	●		
Limited industrial		○				●		
Heavy industrial						○		
Parks and civic uses	●	●	●	●	●	○	●	●
Major public/civic facilities						○	●	○
Residential density range (du/A*)	≤40	≤40	3-8	7-14	14+	14+	NA	NA

● Permitted ○ Permitted with special review
*Dwelling Units per Acre

The RM-12 zoning was selected due to current number of (four) residential units on the property (12 units x .40 acres = 4.8 units).

Section 165.09 of the Zoning Ordinance sets for the approval standards for zoning maps amendments.

D. Approval Standards. The Planning Commission recommendation and the City Council decision on any zoning text or map amendment is a matter of legislative discretion that is not controlled by any particular standard. However, in making their recommendation and decision, the Plan Commission and the City Council must consider the following standards. The approval of amendments is based on a balancing of these standards (staff commentary in italics).

(1) Map Amendments.

(a) The consistency of the proposed amendment with the Comprehensive Plan and any adopted land use policies.

It is staff's opinion that the zoning map amendment would achieve consistency with the Comprehensive Plan and adopted land use policies.

(b) The compatibility with the zoning of nearby property.

It is staff's opinion that the proposed zoning would be compatible with the area.

(c) The compatibility with established neighborhood character.

It is staff's opinion that the proposed zoning would be compatible with established neighborhood character.

(d) The extent to which the proposed amendment promotes the public health, safety, and welfare of the City.

It is staff's opinion that the proposed zoning would promote the public health, safety, and welfare of the City.

(e) The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one or more of the uses permitted under the existing zoning classification.

The RM-21 District permits residential development at 21 units per acre. This is too dense based on the size of the property and the character of the area.

(f) The extent to which the proposed amendment creates nonconformities.

It is staff's opinion that the proposed zoning would not create any nonconformities.

6. Additional Considerations:

The development and adoption of Connected to Tomorrow was a yearlong effort, which was the result of substantial input. The Plan identifies a shared vision and set of goals for the community based on a series of public discussions and community needs. Much like the 2013 plan, the 2022 comprehensive plan serves three primary roles:

- A Shared Vision for the Future. Comprehensive planning provides an opportunity for residents to create a shared vision for their community. Residents and City Staff identified issues and opportunities for North Liberty's land use, infrastructure, public facilities, natural resources, and more. These findings create a vision and set public priorities.
- Guidance for Decision-Makers. The plan serves as a guide for City Staff, the Planning Commission, City Council, and other City boards and commissions as they set policy, make public investments, and deliberate land use decisions.
- Legal Basis for Land Use Regulations. The Code of Iowa allows cities to adopt land use regulations, such as zoning and subdivision ordinances, to promote the "health, safety, morals or general welfare of the community." These regulations govern how to develop land within the city and its extraterritorial jurisdiction. Land use regulations recognize that people live cooperatively and have certain responsibilities to coordinate and harmonize private property uses. Connected to Tomorrow provides a legal basis for these regulations.

The adoption of Connected to Tomorrow is a directive to align the Zoning Ordinance and Map with the comprehensive plan. To quote the Plan, "Policymakers, most notably the City Council and Planning and Zoning Commission, will help set the course to realize this plan. These are the bodies to create and administer the policies that shape development in North Liberty. The plan should be a reliable guide to help with decisions related to large-scale policies and individual projects."

7. Staff Recommendation:

Finding:

1. The rezoning request from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

Staff recommends the Planning Commission accept the listed finding and forward the request for zoning map amendment (rezoning) from RM-21 Multi-Unit Residence District to RM-12 Multi-Unit Residence District on .40 acres to the City Council with a recommendation for approval.

Suggested motion:

I move that the Planning Commission accept the listed finding and forward the zoning map amendment to the City Council with a recommendation for approval.

Ordinance No. 2023-15

AN ORDINANCE AMENDING THE ZONING MAP DISTRICT DESIGNATION FOR CERTAIN PROPERTY LOCATED IN NORTH LIBERTY, IOWA FROM RM-21 MULTI-UNIT RESIDENCE DISTRICT TO RM-12 MULTI-UNIT RESIDENCE DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. AMENDMENT. The Official Zoning Map incorporated in Chapter 168.01(2) of the North Liberty Code of Ordinances is hereby amended by designating the zoning district for 0.40 acres, more or less, as RM-12 Multi-Unit Residence District for property particularly described as follows:

All of Lots B and C, and that part of Lot A described as follows: Commencing at the southwest corner of Lot A, thence east 15 feet, thence north 20 feet to a point 15 feet east of the west boundary of Lot A, thence west 15 feet to the west boundary of said Lot A, thence south 20 feet to the point of beginning, all in the resubdivision of Lots 1, 2 and 3 of Block 1 of Original Town of North Liberty, Iowa, according to the plat thereof recorded in Plat Book 10, Page 30, Plat Records of Johnson County, Iowa;

SECTION 2. CONDITIONS IMPOSED. At the April 18, 2023 meeting the Planning Commission accepted the listed finding and forwarded the request for a zoning map amendment to the City Council with a recommendation for approval with no conditions.

SECTION 3. ZONING MAP. It is hereby authorized and directed that the Zoning Map of the City of North Liberty, Iowa, be changed to conform to this amendment upon final passage, approval and publication of this ordinance as provided by law.

SECTION 4. RECORDATION. The City Clerk is hereby authorized and directed to record this ordinance at the Johnson County Recorder's office upon final passage and approval.

SECTION 5. REPEALER. All Ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on May 9, 2023.

Second reading on _____.

Third and final reading on _____.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. 2023-15 in *The Gazette* on the ____ of _____, 2023.

TRACEY MULCAHEY, CITY CLERK



**City Initiated Zoning Map
Amendment on Property
owned by Random
Commercial Properties,
LLC**



April 18, 2023

Chris Hoffman, Mayor
City of North Liberty
3 Quail Creek Circle
North Liberty IA 52317

Re: Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately 4.0 acres, from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on property located on the east side of North Highway 965/Ranshaw Way approximately 275 feet south of West Cherry Street (Also Known As 250 North Highway 965/Ranshaw Way).

Mayor Hoffman:

The North Liberty Planning Commission considered the above-referenced request at its April 18, 2023 meeting. The Planning Commission took the following action:

Finding:

1. The rezoning request from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

The Planning Commission accepted the listed finding and forwards the request for zoning map amendment (rezoning) from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on approximately 4.0 acres to the City Council with a recommendation for approval.

The vote for approval was 4-0.

Josey Bathke, Chairperson
City of North Liberty Planning Commission



To **City of North Liberty Planning Commission**
From **Ryan Rusnak, AICP**
Date **April 14, 2023**
Re **Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately 4.0 acres, from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on property located on the east side of North Highway 965/Ranshaw Way approximately 275 feet south of West Cherry Street (Also Known As 250 North Highway 965/Ranshaw Way).**

North Liberty City staff has reviewed the subject submission, and offer comments presented in this memo. The staff review team includes the following personnel:

Ryan Heiar, City Administrator
Tracey Mulcahey, Assistant City Administrator
Grant Lientz, City Attorney
Tom Palmer, City Building Official
Kevin Trom, City Engineer
Ryan Rusnak, Planning Director

1. Request Summary:

This is a City-initiated rezoning to achieve consistency with the new Comprehensive Plan Connected to Tomorrow, which was adopted by City Council on February 28, 2023.

Section 165.09(2) of the North Liberty Code of Ordinances reads, "Initiation. The City or a property owner in the City, or person expressly authorized in writing by the property owner, may propose a zoning text or map amendment."

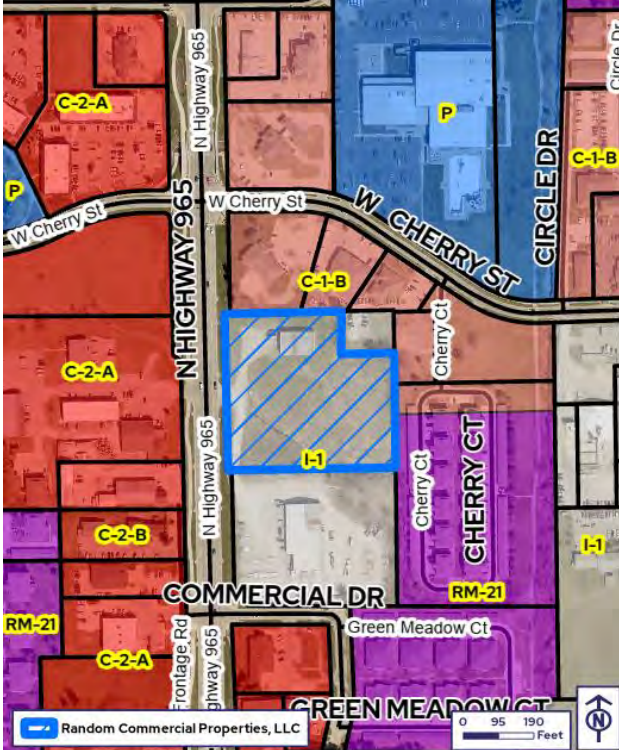
2. Current and Proposed Zoning:

Current Zoning

I-1 Light Industrial District. The I-1 District is intended to provide for the development of modern landscaped light-industrial and commercial establishments which have negligible impacts upon areas outside of the zoned district, and seek a hazard-and nuisance-free environment. The district is intended to provide for manufacture, assembly, fabrication, storage, and/or processing of goods listed for the location of compatible uses.

Proposed Zoning

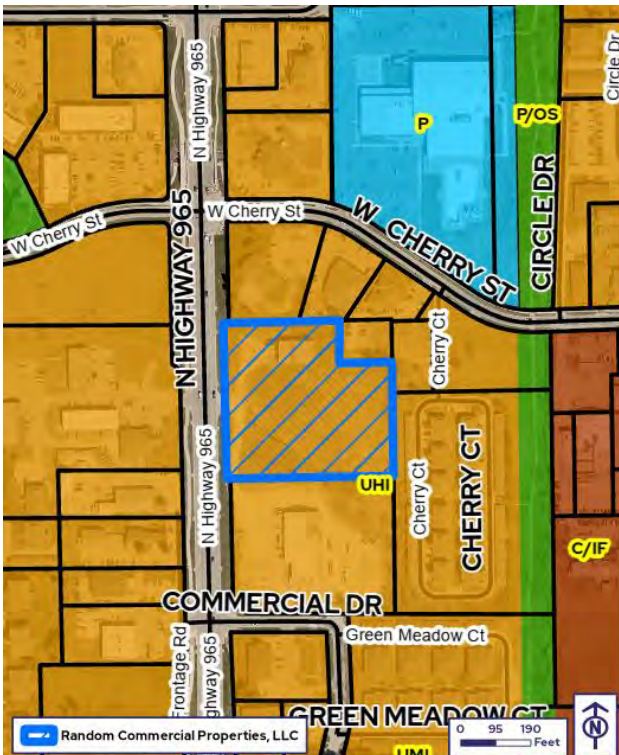
C-3 Higher-Intensity Commercial District. The C-3 District is intended to accommodate higher-intensity commercial development that serves both local and regional markets. The C-3 District addresses medium and large-scale development that may generate considerable traffic and typically requires significant off-street parking. Higher density residential uses are also allowed to facilitate a mixed-use orientation where appropriate.



3. Comprehensive Plan

Future Land Use Map designation

UHI Urban High Intensity. The current I-1 zoning is not consistent with the UHI Land Use designation, however, the C-3 zoning would be consistent with UHI.



Urban High Intensity Description

These areas have increased economic activity and a higher frequency of diverse and complementary uses. High-intensity areas include more urban services with a horizontal and vertical mix of high-density residential uses and community to regional commercial uses of compatible densities and scales.

Residential

Developments have more focus on non-residential buildings but still offer residential uses ranging from townhomes and apartments. Mixing residential with commercial uses on the same site is encouraged when feasible from a design and market capitalization standpoint.

Form and Features

- » Aggregate development density at 14+ units per acre at sites with direct access to major arterial and collector streets. Development should avoid the creation of isolated multi-family development.
- » Edges of UHI residential developments transition to lower intensity uses or buffer from industrial/commercial uses through design, landscaping, and buffering.

Non-Residential

More prevalent and focus in the UHI district that can include larger offices, medical buildings, commercial, and larger institutional uses such as places of worship, community centers, and indoor recreation.

4. Public Input:

Good neighbor meetings are not required with City-initiated rezonings. Mailed notice (certified and regular) of the proposed rezoning was sent to the property owner listed in public records.

Figure 3.4: Land Use Compatibility

TRADITIONAL LAND USES	AGRICULTURE (AG)	URBAN RESERVE (UR)	URBAN LOW INTENSITY (ULI)	URBAN MEDIUM INTENSITY (UMI)	URBAN HIGH INTENSITY (UHI)	COMMERCIAL/ INDUSTRIAL FLEX (FLX)	PUBLIC AND SEMI PUBLIC (PUB)	PARK AND OPEN SPACE (P, OS)
Agriculture	●	●						○
Rural residential		●						
Low-density residential			●	○				
Medium-density residential			●	●	○			
High-density residential				●	●	○		
Rural commercial		●						
Neighborhood commercial			○	●	●	●		
Community commercial				○	●	●		
Regional commercial					○	●		
Low/medium intensity office			○	○	●	●		
High-intensity office				○	●	●		
Limited industrial		○			●	●		
Heavy industrial						○		
Parks and civic uses	●	●	●	●	●	○	●	●
Major public/civic facilities					○		●	○
Residential density range (du/A*)	≤40	≤40	3-8	7-14	14+	14+	NA	NA

● Permitted ○ Permitted with special review
*Dwelling Units per Acre

The C-3 zoning was selected because it is the highest intensity commercial district.

Section 165.09 of the Zoning Ordinance sets for the approval standards for zoning maps amendments.

D. Approval Standards. The Planning Commission recommendation and the City Council decision on any zoning text or map amendment is a matter of legislative discretion that is not controlled by any particular standard. However, in making their recommendation and decision, the Plan Commission and the City Council must consider the following standards. The approval of amendments is based on a balancing of these standards (staff commentary in italics).

(1) Map Amendments.

(a) The consistency of the proposed amendment with the Comprehensive Plan and any adopted land use policies.

It is staff's opinion that the zoning map amendment would achieve consistency with the Comprehensive Plan and adopted land use policies.

(b) The compatibility with the zoning of nearby property.

It is staff's opinion that the proposed zoning would be compatible with the area.

(c) The compatibility with established neighborhood character.

It is staff's opinion that the proposed zoning would be compatible with established neighborhood character.

(d) The extent to which the proposed amendment promotes the public health, safety, and welfare of the City.

It is staff's opinion that the proposed zoning would promote the public health, safety, and welfare of the City.

(e) The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one or more of the uses permitted under the existing zoning classification.

There are several permitted uses listed in the I-1 district. However, a consistency review of any use with the Comprehensive Plan must be performed. For example, a retail goods establishment is listed as a permitted use within the I-1 District. That use would be appropriate if developed in accordance with commercial design standards.

(f) The extent to which the proposed amendment creates nonconformities.

It is staff's opinion that the proposed zoning would not create any nonconformities.

6. Additional Considerations:

The development and adoption of Connected to Tomorrow was a yearlong effort, which was the result of substantial input. The Plan identifies a shared vision and set of goals for the community based on a series of public discussions and community needs. Much like the 2013 plan, the 2022 comprehensive plan serves three primary roles:

- A Shared Vision for the Future. Comprehensive planning provides an opportunity for residents to create a shared vision for their community. Residents and City Staff identified issues and opportunities for North Liberty's land use, infrastructure, public facilities, natural resources, and more. These findings create a vision and set public priorities.
- Guidance for Decision-Makers. The plan serves as a guide for City Staff, the Planning Commission, City Council, and other City boards and commissions as they set policy, make public investments, and deliberate land use decisions.
- Legal Basis for Land Use Regulations. The Code of Iowa allows cities to adopt land use regulations, such as zoning and subdivision ordinances, to promote the "health, safety, morals or general welfare of the community." These regulations govern how to develop land within the city and its extraterritorial jurisdiction. Land use regulations recognize that people live cooperatively and have certain responsibilities to coordinate and harmonize private property uses. Connected to Tomorrow provides a legal basis for these regulations.

The adoption of Connected to Tomorrow is a directive to align the Zoning Ordinance and Map with the comprehensive plan. To quote the Plan, "Policymakers, most notably the City Council and Planning and Zoning Commission, will help set the course to realize this plan. These are the bodies to create and administer the policies that shape development in North Liberty. The plan should be a reliable guide to help with decisions related to large-scale policies and individual projects."

7. Staff Recommendation:

Finding:

1. The rezoning request from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

Staff recommends the Planning Commission accept the listed finding and forward the request for zoning map amendment (rezoning) from I-1 Light Industrial District to C-3 Higher-Intensity Commercial District on approximately 4.0 acres to the City Council with a recommendation for approval.

Suggested motion:

I move that the Planning Commission accept the listed finding and forward the zoning map amendment to the City Council with a recommendation for approval.

Ordinance No. 2023-16

AN ORDINANCE AMENDING THE ZONING MAP DISTRICT DESIGNATION FOR CERTAIN PROPERTY LOCATED IN NORTH LIBERTY, IOWA FROM I-1 LIGHT INDUSTRIAL DISTRICT TO C-3 HIGHER-INTENSITY COMMERCIAL DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. AMENDMENT. The Official Zoning Map incorporated in Chapter 168.01(2) of the North Liberty Code of Ordinances is hereby amended by designating the zoning district for 4.0 acres, more or less, as C-3 Higher-Intensity Commercial District for property particularly described as follows:

Lot 1, Lindner First Addition, North Liberty, Johnson County, Iowa according to the plat thereof recorded in Book 32, Page 329, Plat Records of Johnson County, Iowa;

SECTION 2. CONDITIONS IMPOSED. At the April 18, 2023, meeting the Planning Commission accepted the listed finding and forwarded the request for a zoning map amendment to the City Council with a recommendation for approval with no conditions.

SECTION 3. ZONING MAP. It is hereby authorized and directed that the Zoning Map of the City of North Liberty, Iowa, be changed to conform to this amendment upon final passage, approval and publication of this ordinance as provided by law.

SECTION 4. RECORDATION. The City Clerk is hereby authorized and directed to record this ordinance at the Johnson County Recorder's office upon final passage and approval.

SECTION 5. REPEALER. All Ordinances and parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on May 9, 2023.
Second reading on _____.
Third and final reading on _____.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:

I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. 2023-16 in *The Gazette* on the ____ of _____, 2023.

TRACEY MULCAHEY, CITY CLERK



**City Initiated Zoning Map
Amendment on Property
owned by Stephen M. &
Debra B. Carneol**



April 18, 2023

Chris Hoffman, Mayor
City of North Liberty
3 Quail Creek Circle
North Liberty IA 52317

Re: Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately .37 acres, from I-1 Light Industrial District to C-1-B General Commercial District on property located south of West Cherry Street approximately 300 feet east of North Highway 965/Ranshaw Way (Also Known As 445 West Cherry Street).

Mayor Hoffman:

The North Liberty Planning Commission considered the above-referenced request at its April 18, 2023 meeting. The Planning Commission took the following action:

Finding:

1. The rezoning request from I-1 Light Industrial District to C-1-B General Commercial District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

The Planning Commission accepted the listed finding and forwards the request for zoning map amendment (rezoning) from I-1 Light Industrial District to C-1-B General Commercial District on approximately .37 acres to the City Council with a recommendation for approval.

The vote for approval was 4-0.

Josey Bathke, Chairperson
City of North Liberty Planning Commission



To **City of North Liberty Planning Commission**
From **Ryan Rusnak, AICP**
Date **April 14, 2023**
Re **Request of the City of North Liberty for a zoning map amendment (rezoning) on approximately .37 acres, from I-1 Light Industrial District to C-1-B General Commercial District on property located south of West Cherry Street approximately 300 feet east of North Highway 965/Ranshaw Way (Also Known As 445 West Cherry Street).**

North Liberty City staff has reviewed the subject submission, and offer comments presented in this memo. The staff review team includes the following personnel:

Ryan Heiar, City Administrator
Tracey Mulcahey, Assistant City Administrator
Grant Lientz, City Attorney
Tom Palmer, City Building Official
Kevin Trom, City Engineer
Ryan Rusnak, Planning Director

1. Request Summary:

This is a City-initiated rezoning to achieve consistency with the new Comprehensive Plan Connected to Tomorrow, which was adopted by City Council on February 28, 2023.

Section 165.09(2) of the North Liberty Code of Ordinances reads, "Initiation. The City or a property owner in the City, or person expressly authorized in writing by the property owner, may propose a zoning text or map amendment."

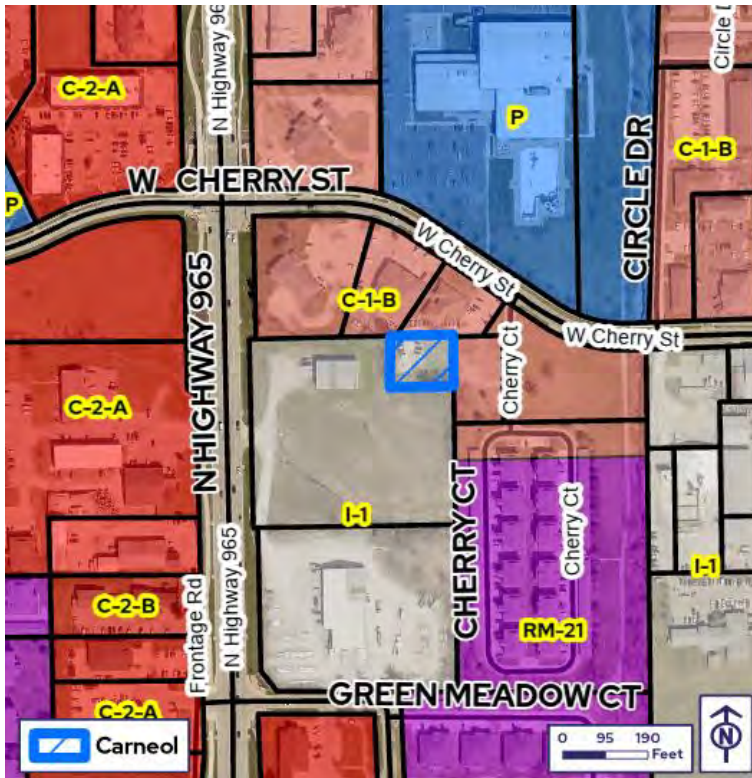
2. Current and Proposed Zoning:

Current Zoning

I-1 Light Industrial District. The I-1 District is intended to provide for the development of modern landscaped light-industrial and commercial establishments which have negligible impacts upon areas outside of the zoned district, and seek a hazard-and nuisance-free environment. The district is intended to provide for manufacture, assembly, fabrication, storage, and/or processing of goods listed for the location of compatible uses.

Proposed Zoning

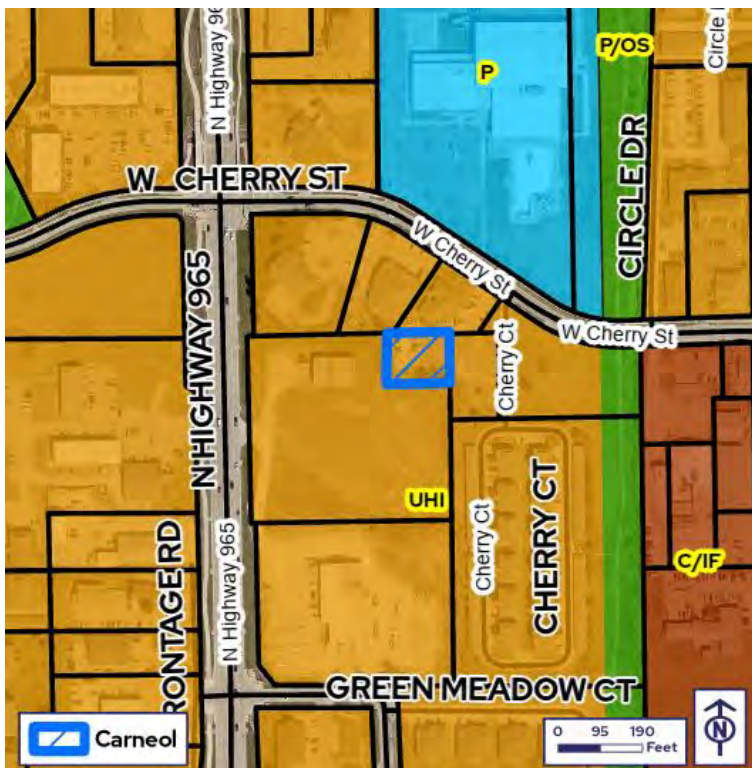
C-1-B General Commercial District. The C-1-B District is intended to provide for the uses established under the C-1-A Central Commercial District and other commercial uses which due to space requirements and the nature of operations are not suitable for location within a compact central commercial center. Setback and yard requirements are greater than under the C-1-A Central Commercial District.



3. Comprehensive Plan

Future Land Use Map designation

UHI Urban High Intensity. The current I-1 zoning is not consistent with the UHI Land Use designation, however, the C-1-B zoning would be consistent with UHI.



Urban High Intensity Description

These areas have increased economic activity and a higher frequency of diverse and complementary uses. High-intensity areas include more urban services with a horizontal and vertical mix of high-density residential uses and community to regional commercial uses of compatible densities and scales.

Residential

Developments have more focus on non-residential buildings but still offer residential uses ranging from townhomes and apartments. Mixing residential with commercial uses on the same site is encouraged when feasible from a design and market capitalization standpoint.

Form and Features

- » Aggregate development density at 14+ units per acre at sites with direct access to major arterial and collector streets. Development should avoid the creation of isolated multi-family development.
- » Edges of UHI residential developments transition to lower intensity uses or buffer from industrial/commercial uses through design, landscaping, and buffering.

Non-Residential

More prevalent and focus in the UHI district that can include larger offices, medical buildings, commercial, and larger institutional uses such as places of worship, community centers, and indoor recreation.

4. Public Input:

Good neighbor meetings are not required with City-initiated rezonings. Mailed notice (certified and regular) of the proposed rezoning was sent to the property owner listed in public records.

Figure 3.4: Land Use Compatibility

TRADITIONAL LAND USES	AGRICULTURE (AG)	URBAN RESERVE (UR)	URBAN LOW INTENSITY (ULI)	URBAN MEDIUM INTENSITY (UMI)	URBAN HIGH INTENSITY (UHI)	COMMERCIAL/ INDUSTRIAL FLEX (FLX)	PUBLIC AND SEMI PUBLIC (PUB)	PARK AND OPEN SPACE (P, OS)
Agriculture	●	●						○
Rural residential		●						
Low-density residential			●	○				
Medium-density residential			●	●	○			
High-density residential				●	●	○		
Rural commercial		●						
Neighborhood commercial			○	●	●	●		
Community commercial				○	●	●		
Regional commercial					○	●		
Low/medium intensity office			○	○	●	●		
High-intensity office				○	●	●		
Limited industrial		○			●	●		
Heavy industrial						○		
Parks and civic uses	●	●	●	●	●	○	●	●
Major public/civic facilities					○			○
Residential density range (du/A*)	≤40	≤40	3-8	7-14	14+	14+	NA	NA

● Permitted ○ Permitted with special review
*Dwelling Units per Acre

The C-1-B zoning was selected due to the adjacent property under common ownership (North Liberty Dental) being zoned C-1-B.

Section 165.09 of the Zoning Ordinance sets for the approval standards for zoning maps amendments.

D. Approval Standards. The Planning Commission recommendation and the City Council decision on any zoning text or map amendment is a matter of legislative discretion that is not controlled by any particular standard. However, in making their recommendation and decision, the Plan Commission and the City Council must consider the following standards. The approval of amendments is based on a balancing of these standards (staff commentary in italics).

(1) Map Amendments.

(a) The consistency of the proposed amendment with the Comprehensive Plan and any adopted land use policies.

It is staff's opinion that the zoning map amendment would achieve consistency with the Comprehensive Plan and adopted land use policies.

(b) The compatibility with the zoning of nearby property.

It is staff's opinion that the proposed zoning would be compatible with the area.

(c) The compatibility with established neighborhood character.

It is staff's opinion that the proposed zoning would be compatible with established neighborhood character.

(d) The extent to which the proposed amendment promotes the public health, safety, and welfare of the City.

It is staff's opinion that the proposed zoning would promote the public health, safety, and welfare of the City.

(e) The suitability of the property for the purposes for which it is presently zoned, i.e. the feasibility of developing the property in question for one or more of the uses permitted under the existing zoning classification.

There are several permitted uses listed in the I-1 district. However, a consistency review of any use with the Comprehensive Plan must be performed. For example, a retail goods establishment is listed as a permitted use within the I-1 District. That use would be appropriate if developed in accordance with commercial design standards.

(f) The extent to which the proposed amendment creates nonconformities.

It is staff's opinion that the proposed zoning would not create any nonconformities.

6. Additional Considerations:

The development and adoption of Connected to Tomorrow was a yearlong effort, which was the result of substantial input. The Plan identifies a shared vision and set of goals for the community based on a series of public discussions and community needs. Much like the 2013 plan, the 2022 comprehensive plan serves three primary roles:

- A Shared Vision for the Future. Comprehensive planning provides an opportunity for residents to create a shared vision for their community. Residents and City Staff identified issues and opportunities for North Liberty's land use, infrastructure, public facilities, natural resources, and more. These findings create a vision and set public priorities.
- Guidance for Decision-Makers. The plan serves as a guide for City Staff, the Planning Commission, City Council, and other City boards and commissions as they set policy, make public investments, and deliberate land use decisions.
- Legal Basis for Land Use Regulations. The Code of Iowa allows cities to adopt land use regulations, such as zoning and subdivision ordinances, to promote the "health, safety, morals or general welfare of the community." These regulations govern how to develop land within the city and its extraterritorial jurisdiction. Land use regulations recognize that people live cooperatively and have certain responsibilities to coordinate and harmonize private property uses. Connected to Tomorrow provides a legal basis for these regulations.

The adoption of Connected to Tomorrow is a directive to align the Zoning Ordinance and Map with the comprehensive plan. To quote the Plan, "Policymakers, most notably the City Council and Planning and Zoning Commission, will help set the course to realize this plan. These are the bodies to create and administer the policies that shape development in North Liberty. The plan should be a reliable guide to help with decisions related to large-scale policies and individual projects."

7. Staff Recommendation:

Finding:

1. The rezoning request from I-1 Light Industrial District to C-1-B General Commercial District would achieve consistency with the approval standards enumerated in Section 165.09 of the Zoning Code.

Recommendation:

Staff recommends the Planning Commission accept the listed finding and forward the request for zoning map amendment (rezoning) from I-1 Light Industrial District to C-1-B General Commercial District on approximately .37 acres to the City Council with a recommendation for approval.

Suggested motion:

I move that the Planning Commission accept the listed finding and forward the zoning map amendment to the City Council with a recommendation for approval.

Ordinance No. 2023-17

AN ORDINANCE AMENDING THE ZONING MAP DISTRICT DESIGNATION FOR CERTAIN PROPERTY LOCATED IN NORTH LIBERTY, IOWA FROM I-1 LIGHT INDUSTRIAL DISTRICT TO C-1-B GENERAL COMMERCIAL DISTRICT

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NORTH LIBERTY, IOWA:

SECTION 1. AMENDMENT. The Official Zoning Map incorporated in Chapter 168.01(2) of the North Liberty Code of Ordinances is hereby amended by designating the zoning district for 0.37 acres, more or less, as C-1-B General Commercial District for property particularly described as follows:

Lot 2, Lindner First Addition, North Liberty, Johnson County, Iowa according to the plat thereof recorded in Book 32, Page 329, Plat Records of Johnson County, Iowa;

SECTION 2. CONDITIONS IMPOSED. At the April 18, 2023, meeting the Planning Commission accepted the listed finding and forwarded the request for a zoning map amendment to the City Council with a recommendation for approval with no conditions.

SECTION 3. ZONING MAP. It is hereby authorized and directed that the Zoning Map of the City of North Liberty, Iowa, be changed to conform to this amendment upon final passage, approval and publication of this ordinance as provided by law.

SECTION 4. RECORDATION. The City Clerk is hereby authorized and directed to record this ordinance at the Johnson County Recorder's office upon final passage and approval.

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SECTION 6. SCRIVENER'S ERROR. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the City Clerk or the Clerk's designee without further public hearing.

SECTION 7. SEVERABILITY. If any section, provision or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 8. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

First reading on May 9, 2023.
Second reading on _____.
Third and final reading on _____.

CITY OF NORTH LIBERTY:

CHRIS HOFFMAN, MAYOR

ATTEST:
I, Tracey Mulcahey, City Clerk of the City of North Liberty, hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings, the above was adopted.

TRACEY MULCAHEY, CITY CLERK

I certify that the forgoing was published as Ordinance No. 2023-17 in *The Gazette* on the ____ of _____, 2023.

TRACEY MULCAHEY, CITY CLERK



Additional Information



To North Liberty Mayor and City Council Members
CC Ryan Heiar, City Administrator
From Brian Platz, Fire Chief
Date May 18th, 2023
Re Fire Department Report to Council – May 2023

In sticking with last month's theme, I'd like to introduce you to several very important additions to the North Liberty Fire Department. These items were included in the current capital outlay portion of the fire department budget.

First, you allotted \$42,000 for the department to create two training facility projects. First, a 40' long metal shipping container was purchased and set on the hill at the wastewater treatment facility. Several welders, parents of two of our firefighters, volunteered their time to fabricate protective panels within the container. This was coordinated by our own Training Officer, Captain Tina Humston, who attended a course on how to fabricate shipping containers into fire service training facilities. This container will allow us to start controlled fires, used for fire behavior training. Largely allowing personnel to better understand fire dynamics and experience a hot environment before being subjected to it in the field.

Once the buildout of the burn container was completed, we turned our attention to receiving four, 40' shipping containers that were placed and stacked on each other. These containers are positioned at the public works campus just west of the streets department. We then utilized a local contractor to cut, weld and fabricate windows, doors, stairs, walls, and high point anchors to create a 1600 square foot (non-burn) training facility. This facility will allow us to teach and practice foundation level skills to include hose deployment, search, laddering, window removal, ventilation, etc.

Both facilities are game changers for the fire department as they provide a realistic place to train firefighters. We're seeing the facility at the public works campus used multiple times each week and our training hours have increased exponentially. This additional training is reflected in our actions, which translates to increased operational efficiency. We can already see the results of your investment.

Lastly, you provided \$75,000 to replace our aging SCBA compressor and fill station. This system was over 20 years old and needed repair multiple times each year. After researching our options, we purchased a Revolve Air brand system. As the title indicates, two SCBA cylinders are placed on a turnstile. Once this turnstile is turned and activated (filling with air), two additional SCBA cylinders can be placed on the turnstile. Once the original two are filled, the rack is turned again, and the next cylinders start filling. The system is fully automated and has decreased our filling time considerably. In fact, during a recent training session, 17 cylinders were depleted, and it took less than 30 minutes to refill all of them. This would have taken more than two hours with the old system.

Thank you for supporting these very important additions to your fire department.



Burn facility at the wastewater treatment location.



Burn facility at the wastewater treatment location.



Training facility at the public works campus.



Impromptu crew level training at the public works facility.



New Revolve Air compressor and fill station.