



AGENDA
REGULAR MEETING OF THE
WINDSOR HEIGHTS CITY COUNCIL
Monday, October 4, 2021 - 6:00 PM
WINDSOR HEIGHTS COUNCIL CHAMBERS - 1133 66th ST

Notice to the Public: If you would like the supporting documents and information, please call City Hall by noon the day of the meeting. Copies of City Council Agendas are free to the public. In consideration of all, if you have a cell phone, please turn it off or put it on silent ring. The use of obscene and vulgar language, hate speech, racial slurs, slanderous comments, and any other disruptive behavior during the Council meeting will not be tolerated and the offender may be barred by the presiding officer from further comment before the Council during the meeting and/or removed from the meeting.

1. **Call to Order/Roll Call/Pledge of Allegiance**
2. **Approval of the Agenda**
3. **Public Hearing:**
 - A. Public Hearing on Proposed Amendment to the Windsor Heights Consolidated Urban Renewal Area
 - B. Consideration of Resolution No. 2021-36 - A Resolution to Approve Urban Renewal Plan Amendment for the Windsor Heights Consolidated Urban Renewal Area
 - C. Consideration of Resolution No. 2021-37 - A Resolution Setting a Date of Meeting at Which it is Proposed to Approve a Development Agreement With Charles I. Colby and Ruth Colby National Development Trust, Including Annual Appropriation Tax Increment Payments
4. **Public Forum:** This is time set aside for comments from the public on topics of City business other than those listed on the agenda. No action may be taken. Please come to the podium, state your name and address for the record and keep your comments to no more than 5 minutes.
5. **Consent Agenda:** Any item on the Consent Agenda may be removed for separate consideration.
 - A. Approve Minutes of the Regular Council Meeting on September 20, 2021
 - B. Approve Payment of Claims
6. **New Business:**
 - A. Consideration of 69th Street Traffic Calming Options
 - B. Consideration of Request from Mr. Dan Bredbeck
 - C. Consideration of Change Order No. 20 - University Avenue Improvements Project
 - D. Consideration of Pay Request No. 13 - University Avenue Improvements Project
 - E. Consider Approval of Lease Amendment Extending Lease for the Radio Tower Owned by RACOM at the Public Safety Facility through December 31, 2045, Contingent upon the Polk County Board of Supervisors Approving Termination of the Current 28E and

The agenda was posted on the official bulletin boards, posted to www.windsorheights.org, and city social media platforms in compliance with the requirements of city ordinances and the open meetings law.

Waiving all Fees

7. **Reports:**

- A. Mayor and Council Reports and Committee Updates
- B. Administration Report

8. **Adjourn**

The agenda was posted on the official bulletin boards, posted to www.windsorheights.org, and city social media platforms in compliance with the requirements of city ordinances and the open meetings law.



**STAFF REPORT
CITY COUNCIL**

October 4, 2021

TO: CITY COUNCIL

FROM: Dennis Durham, City Administrator

SUBJECT: Public Hearing on Proposed Amendment to the Windsor Heights Consolidated Urban Renewal Area

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

1. Hold Hrg Approve UR Amend no adds (Windsor Heights-14 2021)

HEARING AND APPROVAL OF 2021
AMENDMENT TO THE WINDSOR
HEIGHTS CONSOLIDATED URBAN
RENEWAL AREA

503155-14

Windsor Heights, Iowa

October 4, 2021

The City Council of the City of Windsor Heights, Iowa, met on October 4, 2021, at 6:00 o'clock p.m., at the Council Chambers, 1133 66th Street, in the City for the purpose of conducting 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 City Council investigated and found that notice of the intention of the City Council to conduct a public hearing on the urban renewal plan amendment had been published according to law and as directed by the City Council and that this is the time and place at which the City Council shall receive oral or written objections from any resident or property owner of the City. All written objections, statements, and evidence heretofore filed were reported to the City Council, and all oral objections, statements, and all other exhibits presented were considered.

The following named persons presented oral objections, statements, or evidence as summarized below; filed written objections or statements, copies of which are attached hereto; or presented other exhibits, copies of which are attached hereto:

(Here list all persons presenting written or oral statements or evidence and summarize each presentation.)

There being no further objections, comments, or evidence offered, the Mayor announced the hearing closed.

Council Member _____ moved the adoption of a resolution entitled "Resolution to Approve Urban Renewal Plan Amendment for the Windsor Heights Consolidated Urban Renewal Area," seconded by Council Member _____. After 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 and signed approval thereto.

RESOLUTION NO. _____

Resolution to Approve Urban Renewal Plan Amendment for the Windsor Heights Consolidated Urban Renewal Area

WHEREAS, as a preliminary step to exercising the authority conferred upon Iowa cities by Chapter 403 of the Code of Iowa (the “Urban Renewal Law”), a municipality must adopt a resolution finding that one or more slums, blighted or economic development areas exist in the municipality and that the rehabilitation, conservation, redevelopment, development or a combination thereof, of such area or areas is necessary in the interest of the public health, safety or welfare of the residents of the municipality; and

WHEREAS, this City Council of the City of Windsor Heights, Iowa (the “City”), by prior resolution established the Windsor Heights Consolidated Urban Renewal Area (the “Urban Renewal Area”) and adopted an urban renewal plan (the “Plan”) for the governance of projects and initiatives therein; and

WHEREAS, an amendment (the “Amendment”) to the Plan has been prepared which would facilitate the undertaking of a new urban renewal project in the Urban Renewal Area consisting of providing tax increment financing support to the Charles I. Colby and Ruth Colby National Development Trust in connection with the demolition of an existing building on and the site preparation of certain real property necessary for the construction and operation of an Aldi grocery store thereon; and

WHEREAS, notice of a public hearing by the City Council on the proposed Amendment was heretofore given in strict compliance with the provisions of Chapter 403 of the Code of Iowa, and the Council has conducted said hearing on October 4, 2021; and

WHEREAS, copies of the Amendment, notice of public hearing and notice of a consultation meeting with respect to the Amendment were mailed to Polk County, the Des Moines Independent Community School District, and the West Des Moines Community School District; the consultation meeting was held on the ____ day of _____, 2021; and responses to any comments or recommendations received following the consultation meeting were made as required by law;

NOW, THEREFORE, It Is Resolved by the City Council of the City of Windsor Heights, Iowa, as follows:

Section 1. The Amendment, attached hereto and made a part hereof, is hereby in all respects approved.

Section 2. It is hereby determined by this City Council as follows:

A. The activities proposed under the Amendment conform to the general plan for the development of the City;

B. The initiatives and projects proposed under the Amendment are necessary and appropriate to facilitate the proper growth and development of the City in accordance with sound planning standards and local community objectives; and

C. It is not anticipated that families will be displaced as a result of the City's undertakings under the Amendment. Should such issues arise with future projects, then the City will ensure that a feasible method exists to carry out any relocations without undue hardship to the displaced and into safe, decent, affordable and sanitary housing.

Section 3. All resolutions or parts thereof in conflict herewith are hereby repealed, to the extent of such conflict.

Passed and approved October 4, 2021.

Mayor

Attest:

City Clerk

(Attach copy of the urban renewal plan amendment to this resolution.)

• • • •

Upon motion and vote, the meeting adjourned.

Mayor

Attest:

City Clerk

STATE OF IOWA
POLK COUNTY
CITY OF WINDSOR HEIGHTS

SS:

I, the undersigned, do hereby certify that I am the duly appointed, qualified and acting City Clerk of the City of Windsor Heights, Iowa and 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 approving the urban renewal plan amendment for the Windsor Heights Consolidated Urban Renewal Area in the City of Windsor Heights, Iowa.

WITNESS MY HAND this ____ day of _____, 2021.

City Clerk



**STAFF REPORT
CITY COUNCIL**

October 4, 2021

TO: CITY COUNCIL

FROM: Dennis Durham, City Administrator

SUBJECT: Consideration of Resolution No. 2021-36 - A Resolution to Approve Urban
Renewal Plan Amendment for the Windsor Heights Consolidated Urban Renewal
Area

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

1. UR Plan Amend (Windsor Heights #14 2021)

CITY OF WINDSOR HEIGHTS, IOWA
URBAN RENEWAL PLAN AMENDMENT
WINDSOR HEIGHTS CONSOLIDATED URBAN RENEWAL AREA

October, 2021

The Urban Renewal Plan (the “Plan”) for the Windsor Heights Consolidated Urban Renewal Area (the “Urban Renewal Area”) is being amended for the purpose of identifying a new urban renewal project to be undertaken in the Urban Renewal Area.

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:

Name of Project: Charles I. Colby and Ruth Colby National Development Trust Redevelopment Project

Name of Urban Renewal Area: Windsor Heights Consolidated Urban Renewal Area

Date of Council Approval of the Project: October 4, 2021

Description of the Project and Project Location: The Charles I. Colby and Ruth Colby National Development Trust (the “Developer”) has proposed to undertake the demolition of an existing building on and the site preparation (the “Redevelopment Project”) of the Apple Valley Shopping Center Property (the “Redevelopment Property”) situated in the Urban Renewal Area necessary for the construction and operation of an Aldi grocery store (the “Grocery Store”) thereon.

It has been requested that the City provide tax increment financing assistance to the Developer in support of the efforts to complete the Redevelopment 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 the estimated amount of \$8,000.

Description of Use of TIF for the Project: The City intends to enter into a Development Agreement with the Developer with respect to the Redevelopment 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 Redevelopment Property. It is anticipated that the City’s total commitment of incremental property tax revenues with respect to the Redevelopment Project will not exceed \$600,000, 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>\$ 23,833,579</u>
Outstanding general obligation debt of the City:	<u>\$ 15,650,000</u>
Proposed debt to be incurred in connection with May, 2021 Amendment*:	<u>\$ 608,000</u>

*It is anticipated that some or all of the debt incurred hereunder may be made subject to annual appropriation by the City Council.



**STAFF REPORT
CITY COUNCIL**

October 4, 2021

TO: CITY COUNCIL

FROM: Dennis Durham, City Administrator

SUBJECT: Consideration of Resolution No. 2021-37 - A Resolution Setting a Date of Meeting at Which it is Proposed to Approve a Development Agreement With Charles I. Colby and Ruth Colby National Development Trust, Including Annual Appropriation Tax Increment Payments

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

1. Aldi TIF Rebate Analysis 09242021
2. Aldi TIF Rebate Analysis Spreadsheet 09242021
3. Set Date Dev Agmt AA (Windsor Heights-14 2021)
4. Development Agreement Colby (Windsor Heights #14 2021)



MEMORANDUM

To: Mayor Dave Burgess, Mayor Pro-Tem Mike Jones,
Councilor Joseph Jones, Councilor Threase Harms,
Councilor Susan Skeries, Councilor Mike Loffredo

From: City Administrator Dennis Durham

Subject: Aldi TIF Rebate Financial Analysis

Date: September 24, 2021

The City's financial advisor, Independent Public Advisors, has completed a financial analysis of the TIF Rebate Request received from Colby Trust for the proposed Aldi project. The attached spreadsheet shows the anticipated TIF revenue to be received from construction of a new Aldi's Grocery Store. Please note:

- FY21/22 (current) TIF revenue generated from the Apple Valley Shopping Center parcel is \$37,174.
- FY22/23 (next fiscal year) TIF revenue is projected to be \$38,393 from the Apple Valley Shopping Center parcel.
- FY23/24 (after demolition/before new store is complete) TIF revenue is expected to be \$0 for this parcel.
- When the store is complete and a new valuation is set (\$2.8 million), TIF revenue to be generated from the new Aldi's Grocery Store is projected to be \$85,318. The City will receive \$46,393 and a TIF Rebate of \$38,925 will be provided to Colby Trust.
- The TIF Rebate will expire in June 2034 resulting in a total rebate of \$600,000 over 10 years.
- When the TIF Rebate expires, the City's TIF will retain the entire \$120,349 in revenue from the development – 3.2 times the current TIF revenue generated from the property.

In addition to the financial benefits to the community, a new Aldi's grocery store will offer a new niche grocery option for residents of Windsor Heights and neighboring communities, create new job opportunities and new tax base, provide economic stability (a long-term versus short-term business presence), strengthen the City's TIF revenue base and protect against a future rise in vacancy rates, serve as a traffic generator to our commercial hub, be a positive impact on housing prices, and contribute to LOST revenues.

CITY OF WINDSOR HEIGHTS, IOWA

Rebate Analysis (7100 University)

Sept 22, 2021

Growth Assumptions	
Tax Rates	0.00%
Valuations	3.50%

Yellow denotes current TIF revenue schedule.

Purple denotes temporary loss of valuation at demolition (See note 1).

White denotes revenue received over the course of the fiscal year.

LN#	Fiscal Year Ending:	Actual 06/30/20	Estimated 06/30/21	Projected 06/30/22	Projected 06/30/23	Projected 06/30/24	Projected 06/30/25	Projected 06/30/26	Projected 06/30/27	Projected 06/30/28	Projected 06/30/29
TAX RATES:											
1	Windsor Heights City:	\$13.71759	\$12.15997	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654
2	Windsor Heights Ag:	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000
3	Des Moines Schools:	16.01326	16.07959	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554
4	West Des Moines Schools:	10.49553	10.50604	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435
5	Broadlawns Hospital	2.77513	2.67405	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740
6	Sanitary Sewer District:	0.42000	0.39000	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720
7	Polk County:	6.60788	6.61398	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781
8	Polk County Ag:	0.03689	0.03502	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486
9	Polk County Assessor:	0.25455	0.24836	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192
10	DM Area Regional Transit:	0.95000	0.95000	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563
11	Des Moines CC:	0.65249	0.63533	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789
12	State of Iowa:	0.00280	0.00270	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260
CONSOLIDATED RATES:											
14	City/WDM Schools/Sanitary:	35.91286	34.21545	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620
VALUATION:											
15		0%	0%	0%	0%	0%	0%	3.50%	3.50%	3.50%	3.50%
16	7100 University:	1,140,000	1,220,000	1,220,000	1,260,000	-	2,800,000	2,898,000	2,999,430	3,104,410	3,213,064
17	Commercial Rollback:	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%
18	TOTAL (Taxable):	1,026,000	1,098,000	1,098,000	1,134,000	-	2,520,000	2,608,200	2,699,487	2,793,969	2,891,758
Rebate Value:											
20	Assessed Value:						2,800,000	2,898,000	2,999,430	3,104,410	3,213,064
21	Less Base:						(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)
22	Net Value:						1,540,000	1,638,000	1,739,430	1,844,410	1,953,064
23	Net Taxable Value:						1,386,000	1,474,200	1,565,487	1,659,969	1,757,758
TAX REVENUE:											
24		\$ 36,847	\$ 37,569	\$ 37,174	\$ 38,393	\$ -	\$ 85,318	\$ 88,304	\$ 91,394	\$ 94,593	\$ 97,904
25	100.00% Rebate:	-	-	-	-	-	(38,925)	(49,911)	(53,001)	(56,200)	(59,511)
26	Net City Revenue:	\$ 36,847	\$ 37,569	\$ 37,174	\$ 38,393	\$ -	\$ 46,393	\$ 38,393	\$ 38,393	\$ 38,393	\$ 38,393

Notes:

1. Demolition December 2021 may result in little to no value at the 1/1/22 valuation date, thus no valuation is assumed in FY24.
2. Valuation growth is assumed at 3.5%, which is slightly conservative compared to the average 5 year annual growth in City-wide valuation of 3.79%.
3. The FY 25 payment is 100% less 8,000 admin costs.
4. The final payment in FY34 is adjusted to less than 100% rebate so that total rebate does not exceed \$600,000.
5. Rebate is calculated using the January 1, 2021 value (\$1.26 million) as the base value.

CITY OF WINDSOR HEIGHTS, IOWA

Rebate Analysis (7100 University)

Sept 22, 2021

Growth Assumptions

Tax Rates 0.00%

Valuations 3.50%

LN#	Fiscal Year Ending:	Projected 06/30/30	Projected 06/30/31	Projected 06/30/32	Projected 06/30/33	Projected 06/30/34	Projected 06/30/35	Projected 06/30/36	Projected 06/30/37	Projected 06/30/38	Projected 06/30/39
TAX RATES:											
1	Windsor Heights City:	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654	\$12.08654
2	Windsor Heights Ag:	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000	0.00000
3	Des Moines Schools:	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554	12.82554
4	West Des Moines Schools:	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435	10.51435
5	Broadlawns Hospital	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740	2.57740
6	Sanitary Sewer District:	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720	0.38720
7	Polk County:	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781	6.44781
8	Polk County Ag:	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486	0.03486
9	Polk County Assessor:	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192	0.19192
10	DM Area Regional Transit:	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563	0.93563
11	Des Moines CC:	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789	0.67789
12	State of Iowa:	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260	0.00260
13	CONSOLIDATED RATES:										
14	City/WDM Schools/Sanitary:	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620	33.85620
15	VALUATION:	3.50%	3.50%	3.50%	3.50%	3.50%	3.50%	3.50%	3.50%	3.50%	3.50%
16	7100 University:	3,325,522	3,441,915	3,562,382	3,687,065	3,816,113	3,949,677	4,087,915	4,230,992	4,379,077	4,532,345
17	Commercial Rollback:	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%	90.0000%
18	TOTAL (Taxable):	2,992,969	3,097,723	3,206,144	3,318,359	3,434,501	3,554,709	3,679,124	3,807,893	3,941,169	4,079,110
19	Rebate Value:										
20	Assessed Value:	3,325,522	3,441,915	3,562,382	3,687,065	3,816,113	3,949,677	4,087,915	4,230,992	4,379,077	4,532,345
21	Less Base:	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)	(1,260,000)
22	Net Value:	2,065,522	2,181,915	2,302,382	2,427,065	2,556,113	2,689,677	2,827,915	2,970,992	3,119,077	3,272,345
23	Net Taxable Value:	1,858,969	1,963,723	2,072,144	2,184,359	2,300,501	2,420,709	2,545,124	2,673,893	2,807,169	2,945,110
24	TAX REVENUE:	\$ 101,331	\$ 104,877	\$ 108,548	\$ 112,347	\$ 116,279	\$ 120,349	\$ 124,561	\$ 128,921	\$ 133,433	\$ 138,103
25	100.00% Rebate:	(62,938)	(66,484)	(70,155)	(73,954)	(68,921)	-	-	-	-	-
26	Net City Revenue:	\$ 38,393	\$ 38,393	\$ 38,393	\$ 38,393	\$ 47,358	\$ 120,349	\$ 124,561	\$ 128,921	\$ 133,433	\$ 138,103

SET DATE FOR HEARING ON
DEVELOPMENT AGREEMENT AND
TAX INCREMENT PAYMENTS

(Charles I. Colby and Ruth Colby National
Development Trust)

503155-14

Windsor Heights, Iowa

October 4, 2021

The City Council of the City of Windsor Heights, Iowa, met on October 4, 2021, at 6:00 o'clock, p.m., at the Council Chambers, 1133 66th Street, in the City, pursuant to the rules of the Council.

The Mayor presided and the roll was called, showing members present and absent as follows:

Present: _____

Absent: _____.

Council Member _____ introduced the resolution next hereinafter set out and moved its adoption, seconded by Council Member _____; and after due consideration thereof by the City Council, the Mayor put the question upon the adoption of said resolution, and the roll being called, the following named Council Members voted:

Ayes: _____

Nays: _____.

Whereupon, the Mayor declared said resolution duly adopted, as follows:

RESOLUTION NO. _____

Resolution Setting a Date of Meeting at Which it is Proposed to Approve a Development Agreement With Charles I. Colby and Ruth Colby National Development Trust, Including Annual Appropriation Tax Increment Payments

WHEREAS, the City of Windsor Heights, Iowa (the “City”), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the Windsor Heights Consolidated Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, this City Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa, which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal of and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, the City proposes to enter into a certain development agreement (the “Development Agreement”) with Charles I. Colby and Ruth Colby National Development Trust (the “Developer”) in connection with the demolition of an existing building on and the site preparation of certain real property necessary for the construction and operation of an Aldi grocery store thereon; and

WHEREAS, under the Development Agreement the City would provide financial incentives to the Developer in the form of annual appropriation incremental property tax payments in an amount not to exceed \$600,000 under the authority of Section 403.9(1) of the Code of Iowa; and

WHEREAS, it is necessary to set a date for a public hearing on the Development Agreement, pursuant to Section 403.9 of the Code of Iowa;

NOW THEREFORE, It Is Resolved by the City Council of the City of Windsor Heights, Iowa, as follows:

Section 1. This City Council shall meet on October 18, 2021, at _____ o’clock _____.m., at the _____, in the City, at which time and place proceedings will be instituted and action taken to approve the Development Agreement and to authorize the annual appropriation incremental property tax payments.

Section 2. The City Clerk is hereby directed to give notice of the proposed action, the time when and place where said meeting will be held, by publication at least once not less than four (4) and not more than twenty (20) days before the date of said meeting in a legal newspaper of general circulation in the City. Said notice shall be in substantially the following form:

NOTICE OF MEETING FOR APPROVAL OF DEVELOPMENT AGREEMENT
WITH CHARLES I. COLBY AND RUTH COLBY NATIONAL
DEVELOPMENT TRUST AND AUTHORIZATION OF ANNUAL
APPROPRIATION TAX INCREMENT PAYMENTS

The City Council of the City of Windsor Heights, Iowa, will meet at the _____, on October 18, 2021, at _____ o'clock ____m., at which time and place proceedings will be instituted and action taken to approve a Development Agreement (the "Agreement") between the City and Charles I. Colby and Ruth Colby National Development Trust (the "Developer") in connection with the demolition of an existing building on and the site preparation of certain real property in the Windsor Heights Consolidated Urban Renewal Area necessary for the construction and operation of an Aldi grocery store thereon, which Agreement provides for certain financial incentives in the form of incremental property tax payments to the Developer in a total amount not exceeding \$600,000 as authorized by Section 403.9 of the Code of Iowa.

The commitment of the City to make incremental property tax payments to the Developer under the Agreement will not be a general obligation of the City, but such payments will be payable solely and only from incremental property tax revenues generated within the Windsor Heights Consolidated Urban Renewal Area. Some or all of the payments under the Agreement may be made subject to annual appropriation by the City Council.

At the meeting, the City Council will receive oral or written objections from any resident or property owner of the City. Thereafter, the City Council may, at the meeting or at an adjournment thereof, take additional action to approve the Agreement or may abandon the proposal.

This notice is given by order of the City Council of Windsor Heights, Iowa, in accordance with Section 403.9 of the Code of Iowa.

Travis Cooke
City Clerk

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved October 4, 2021.

Mayor

Attest:

City Clerk

• • • •

On motion and vote the meeting adjourned.

Mayor

Attest:

City Clerk

STATE OF IOWA
COUNTY OF POLK
CITY OF WINDSOR HEIGHTS

I, the undersigned, City Clerk of the City of Windsor Heights, hereby certify that the foregoing is a true and correct copy of the minutes of the Council of the City relating to the adoption of a resolution to fix a date of meeting at which it is proposed to take action to approve a Development Agreement.

I do further certify that the notice of hearing, to which the printed slip attached to the publisher's original 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.

WITNESS MY HAND this ____ day of _____, 2021.

City Clerk

(Attach here the publisher's original affidavit with clipping of the notice as published.)

(PLEASE NOTE: Do not sign and date this certificate until you have checked a copy of the published notice and have verified that it was published on the date indicated in the publisher's affidavit.)

DEVELOPMENT AGREEMENT

This Development Agreement is entered into between the City of Windsor Heights, Iowa (the “City”) and Charles I. Colby and Ruth Colby National Development Trust (the “Developer”) as of _____, 2021 (the “Commencement Date”).

WHEREAS, the City has established the Windsor Heights Consolidated Urban Renewal Area (the “Urban Renewal Area”), and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the Developer owns certain real property which is situated in the City, lies within the Urban Renewal Area and is more specifically described on Exhibit A hereto (the “Redevelopment Property”); and

WHEREAS, the Developer has proposed to undertake the demolition of an existing building (the “Existing Building”) on and the site preparation of the Redevelopment Property (the “Demolition and Site Preparation Project”) necessary for the construction and operation of an Aldi grocery store (the “Grocery Store”) thereon; and

WHEREAS, the Developer has proposed to convey the Redevelopment Property to Aldi, Inc. under a certain ground lease (the “Ground Lease”) in order to facilitate the construction of the Grocery Store thereon; and

WHEREAS, the base valuation of the Redevelopment Property for purposes of calculating Incremental Property Tax Revenues, as herein defined, under this Agreement and Section 403.19 of the Code of Iowa is \$_____ (the “Base Valuation”); and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

A. Developer’s Covenants

1. Grocery Store Development. The Developer hereby acknowledges that failure by Aldi, Inc. to build the Grocery Store on the Redevelopment Property by December 31, 2023 will be an Event of Default under Section A.6 of this Agreement.

2. Demolition and Site Preparation Project. The Developer agrees to cause the completion of the Demolition and Site Preparation Project on the Redevelopment Property in accordance with the timeline and specifications set forth on Exhibit B hereto. The Demolition and Site Preparation Project shall minimally include the demolition of the Existing Building, the removal of all debris related to the demolition of the Existing Building, the necessary soil and environmental testing, the grading, compaction, concrete, sidewalks, lighting, landscaping and any site preparation work necessary for the construction of the Grocery Store on the Redevelopment Property.

3. Demolition and Site Preparation Costs Documentation. Upon completion of the Demolition and Site Preparation Project, the Developer agrees to provide documentation (the “Costs Documentation”) detailing the costs (the “Demolition and Site Preparation Costs”) incurred by the Developer or the Grocery Store in the completion thereof, including invoices and such other documentation as is reasonably requested by the City, confirming that such Demolition and Site Preparation Costs detailed in such Costs Documentation were in fact incurred in the construction of the Demolition and Site Preparation Project and that such Demolition and Site Preparation Costs are of an amount reasonably to have been expected with respect to the Demolition and Site Preparation Project. The Developer will include a cover page in the form attached hereto as Exhibit C with its submittal of the Costs Documentation.

The Demolition and Site Preparation Costs may include costs relating to demolition of the Existing Building, the removal of debris related to such demolition, costs of grading the Redevelopment Property, costs of environmental and soil testing, concrete, landscaping, sidewalks, exterior lighting, management fee not to exceed 2% of the Demolition and Site Preparation Costs, interest expense and other costs of financing, and other reasonably related soft and hard costs of carrying out the Demolition and Site Preparation Project.

4. Property Tax Payment Certification. The Developer agrees to certify to the City by no later than October 15 of each year during the Term, as hereinafter defined, commencing October 15 of the year in which the new valuation from the grocery store on any portion of the Redevelopment Property is determined by the Polk County Assessor and placed upon the property tax rolls, an amount (the “Developer’s Estimate”) equal to the estimated Incremental Property Tax Revenues, as hereinafter defined, anticipated to be paid in the fiscal year immediately following such certification with respect to the taxable valuation of the Redevelopment Property factored by one hundred percent (100%) (the “Annual Percentage”). The first such certification made hereunder shall be hereinafter referred to as the “Triggering Certification”. In submitting each such Developer’s Estimate, the Developer will complete and submit the worksheet (the “Worksheet”) attached hereto as Exhibit D. The City reserves the right to review and request revisions to each such Developer’s Estimate to ensure the accuracy of the figures submitted. The Triggering Certification must be made by no later than October 15, 2024.

For purposes of this Agreement, Incremental Property Tax Revenues are calculated by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with respect to taxation of the Redevelopment Property; (2) subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the taxable valuation of the Redevelopment Property, as shown on the property tax rolls of Polk County, above and beyond that of the Base Valuation; and (4) deducting any property tax credits which shall be available with respect to the incremental valuation of the Redevelopment Property.

Upon request, the City staff shall provide reasonable assistance to the Developer in completing the worksheet(s) required under this Section A.4.

5. Property Taxes.

A. Payment of Taxes. The Developer agrees to make or ensure timely payment of all property taxes for which the Developer is responsible under the laws of the State of Iowa as they come due with respect to the Redevelopment Property throughout the Term, as hereinafter defined, and upon request, to submit to the City a receipt or cancelled check in evidence of each such payment.

B. Taxability of Property. The Developer shall not, during the Term, as hereinafter defined, cause or voluntarily permit the Redevelopment Property or the completed Development Project to become exempt from property taxation whether through the application for property tax exemption or abatement, the sale or leasing of such property to an entity that is exempt from property taxation or through any other means.

6. Default Provisions.

A. Events of Default. The following shall be “Events of Default” under this Agreement, and the term “Event of Default” shall mean, whenever it is used in this Agreement (unless otherwise provided), any one or more of the following events:

- I. Failure by the Developer to enter into the Ground Lease pursuant to the terms and conditions of this Agreement.
- II. Failure by Aldi, Inc. to build the Grocery Store by December 31, 2023, pursuant to the terms and conditions of this Agreement.
- III. Failure by the Developer to complete construction of the Demolition and Site Preparation Project pursuant to the terms and conditions of this Agreement.
- IV. Failure by the Developer to ensure timely payment of property taxes when due and owing.
- V. Failure by the Developer to timely submit a Developer’s Estimate during the Term of this Agreement.
- VI. Failure by the Developer to observe or perform any material covenant on its part, to be observed or performed hereunder.

B. Notice and Remedies. Whenever any Event of Default described in this Agreement occurs, the City shall provide written notice to the Developer describing the cause of the default and the steps that must be taken by the Developer in order to cure the default. The Developer shall have thirty (30) days after receipt of the notice to cure the default or to provide assurances satisfactory to City that the default will be cured as soon as reasonably possible. If the Developer fails to cure the default or provide assurances, City shall then have the right to:

- I. Withhold the Payments under Section B.2 of this Agreement; or
- II. Terminate this Agreement.

7. Legal and Administrative Costs. The Company hereby acknowledges that the City will cover the initial payment of legal fees and administrative costs (the “Actual Admin Costs”) incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the necessary amendment to the Urban Renewal Area. Furthermore, the Company agrees that the City shall withhold an amount (the “Admin Withholding Amount”) equal to the lesser of (1) \$8,000 or (2) the Actual Admin Costs from the initial Payments, as hereinafter set forth, in order to recover some or all of the Actual Admin Costs.

B. City’s Obligations

1. Review of Cost Documentation. The City staff will review the Costs Documentation upon receipt from the Developer. If the City determines the costs set forth in the Costs Documentation are costs reasonably incurred in the construction of the Demolition and Site Preparation Project, the City shall record a summary of the date, amount and nature of the costs on the Summary of Accepted Demolition and Site Preparation Costs attached hereto as Exhibit E, and such summary shall be the official record of the Demolition and Site Preparation Costs for purposes of tallying the Maximum Payment Total, as defined in Section B.2 of this Agreement.

If the City determines the Demolition and Site Preparation Costs set forth in the Demolition and Site Preparation Costs Documentation are not costs reasonably incurred in the construction of the Demolition and Site Preparation Project, the City shall notify the Developer of such determination within fifteen (15) days of such determination in order to allow an opportunity for the Developer to cure the noted deficiencies.

2. Payments. In recognition of the Developer’s obligations set out above, the City agrees to make twenty (20) semiannual economic development tax increment payments (the “Payments” and, individually, each a “Payment”) to the Developer during the Term, as hereinafter defined, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments (the “Maximum Payment Total”) shall not exceed the lesser of (i) the Accepted Demolition and Site Preparation Costs, or (ii) \$600,000. The Payments shall be funded from the incremental valuation of the Redevelopment Property for a period not in excess of ten (10) fiscal year, commencing in the first year of the Payments. All Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City but shall be made solely and only from the Annual Percentage of Incremental Property Tax Revenues received by the City from the Polk County Treasurer attributable to the taxable valuation of the Redevelopment Property.

Prior to funding any Payments under this Agreement, the City will first withhold from the Incremental Property Tax Revenues an amount equal to the Admin Withholding Amount. Once an amount equal to the Admin Withholding Amount has been withheld by the City, the Payments shall be made as set forth herein.

The Payments will be made on December 1 and June 1 of each fiscal year following an affirmative appropriation decision as provided for under Section B.3 below, beginning on December 1 of the fiscal year immediately succeeding the year in which the Triggering

Certification is made, and continuing for a period of a total of ten (10) fiscal years, provided, however, that no Payments will be made after the sooner of (i) the date on which the aggregate sum of Payments made hereunder equals the Maximum Payment Total; or (ii) June 1, 2035.

For example, assuming the Triggering Certification is made October 15, 2024 and all appropriation determinations are approved affirmatively by the City Council under Section B.3 below, then Payments will be made on each December 1 and June 1, beginning December 1, 2025, and continuing through and including the sooner of June 1, 2035 or the date on which the aggregate sum of Payments made hereunder equals the Maximum Payment Total.

3. Annual Appropriation. The Payments shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term, as hereinafter defined, of this Agreement, beginning in the fiscal year in which the Triggering Certification is filed, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payments due in the following fiscal year, an amount (the “Appropriated Amount”) of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Developer’s Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payments scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payments or to seek damages relative thereto or to compel the funding of such Payments in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year’s Payments shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Developer’s Estimate as called for in Section A.4 above, provided however that no Payment shall be made after June 1, 2035.

4. Payment Amounts. The aggregate Payments to be made in a fiscal year shall not exceed an amount equal to the corresponding Appropriated Amount (for example, for the Payments due on December 1, 2022 and on June 1, 2023, the aggregate maximum amount of such Payments would be determined by the Appropriated Amount determined for certification by December 1, 2021). Furthermore, the amount of each such Payment shall not exceed the amount of Incremental Property Tax Revenues (excluding allocations of “back-fill” or “make-up” payments from the State of Iowa for property tax credits or roll-back) actually received by the City from the Polk County Treasurer attributable to the taxable incremental valuation of the Redevelopment Property in the six (6) months immediately preceding such Payment due date.

5. Certification of Payment Obligation. In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section B.3 above, then the City Clerk will certify by December 1 of each such year to the Polk County Auditor an amount equal to the most recently obligated Appropriated Amount.

C. Administrative Provisions

1. Amendment and Assignment. Neither party may cause this Agreement to be amended, assigned, assumed, sold or otherwise transferred without the prior written consent of the

other party. However, the City hereby gives its permission that the Developer's rights to receive the Payments hereunder may be assigned by the Developer to a private lender, as security on a credit facility taken with respect to the Demolition and Site Preparation Project, without further action on the part of the City.

2. Successors. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. Term. The term (the "Term") of this Agreement shall commence on the Commencement Date and end on June 1, 2035 or on such earlier date upon which the aggregate sum of Payments made to the Developer equals the Maximum Payment Total.

4. Choice of Law. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

The City and the Developer have caused this Agreement to be signed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF WINDSOR HEIGHTS, IOWA

By: _____
Mayor

Attest:

City Clerk

CHARLES I. COLBY AND RUTH
COLBY NATIONAL DEVELOPMENT
TRUST

By: _____
_____, Trustee

By: _____
_____, Trustee

By: _____
_____, Trustee

EXHIBIT A
LEGAL DESCRIPTION OF THE REDEVELOPMENT PROPERTY

A tract of land in the NE 1/4 of Section 3, Township 78 North, Range 25 West of the 5th P.M., said tract also being part of Lot 2 ASHWORTH, an Official Plat, City of Windsor Heights, Polk County, Iowa, more particularly described as follows:

Commencing as a point of reference on the South Right-of-Way line of University Avenue, said point being 50.00 feet South of the NE corner of Section 3-78-25; thence S90°00'00"W, 88.60 feet along said Right-of-way to a point; thence S00°00'00"W, 7.00 feet along said Right-of-Way to a point; thence S90°00'00"W, 50.00 feet along said Right-of-Way to a point; thence N00°00'00"E, 7.00 feet along said Right-of-Way to a point; thence S90°00'00"W, 107.20 feet along said Right-of-Way to the point of beginning; thence S00°00'00"W, 260.00 feet to a point; thence S90°00'00"W, 440.89 feet to a point; thence Northerly along a curve to the left having a radius of 314.40 feet an arc distance of 115.59 feet to a point of tangency; thence N00°00'00" E, 140.00 feet to a point on the south Right-of-Way line of University Avenue; thence N90°00'00"00" E, 12.50 feet along said Right-of-Way to a point; thence N00°00'00"E, 7.00 feet along said Right-of-Way to a point; thence N90°00'00"E, 407.38 feet along said Right-of-Way to the point of beginning.

Locally known as 7100 University Avenue, Windsor Heights, Iowa

EXHIBIT B
TIMELINE AND SPECIFICATIONS OF DEMOLITION AND SITE PREPARATION PROJECT

1) Demolition of the existing building on the Premises, including:

Single Mobilization and demobilization of equipment to and from site
Obtain the demolition permits
Filing the 10-day NESHAP notification
Demolition, removal, and disposal of the strip mall building
Removal and disposal of the building foundation, floors and footing
Removal and disposal of the designated sidewalk around the building
Removal and disposal of the light poles including bases and footings

Completion Date: Approximately March 2022

2) Site preparation

Geotechnical studies, civil engineering, soil testing, compaction, site grading, utility installation, parking area, curbing and parking area lighting.

Completion Date: Approximately July 2022, not including parking area improvements.

3) Road reconstruction

Repair Apple Valley Drive following completion of the building.

Completion Date: Upon project completion on or before July 2023

EXHIBIT C
**FORM OF COVER PAGE FOR DEMOLITION AND SITE
PREPARATION PROJECT COSTS DOCUMENTATION**

Date submitted: _____

Submitted by: _____

Contact information: _____

Index of Invoices/Statements Attached to substantive request:

I, the undersigned hereby certify that the costs shown on the documents referred in the index above are legitimate costs reasonably incurred in the undertaking of the Demolition and Site Preparation Project.

CHARLES I. COLBY AND RUTH COLBY
NATIONAL DEVELOPMENT TRUST

By: _____
Trustee

Reviewed and accepted by the City of Windsor Heights, Iowa this _____ day of _____,
20__.

By: _____
City Administrator

EXHIBIT D
DEVELOPER'S ESTIMATE WORKSHEET

- (1) Date of Preparation: October ____, 20__.
- (2) Assessed Taxable Valuation of Redevelopment Property as of January 1, 20__:
\$_____.
- (3) Base Taxable Valuation of Redevelopment Property (as of January 1, 2021):
\$_____.
- (4) Incremental Taxable Valuation of Redevelopment Property (2 minus 3):
\$_____ (the "TIF Value").
- (5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):
\$_____ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).
\$_____ x \$_____/1000 = \$_____ (the "Developer's Estimate")

EXHIBIT F
SUMMARY OF ACCEPTED DEMOLITION AND SITE PREPARATION COSTS

Date of Cost	Amount of Cost	Nature of Cost	Date Accepted by City

City of Windsor Heights Regular Council Meeting Minutes
Monday, September 20, 2021 – 6:00 PM

1. **Call to Order/Roll Call/Pledge of Allegiance:** Mayor Burges called the meeting to order at 6:00 PM. Present: Susan Skeries, Mike Loffredo, Mike Jones, and Threase Harms. Absent: Joseph Jones. Others present: City Administrator Dennis Durham, City Clerk Travis Cooke, Public Safety Director Chad McCluskey, Public Works Director Dalton Jacobus, City Engineer Justin Ernst, and City Attorney Erin Clanton.
2. **Approval of the Agenda:** Motion by Harms to approve the agenda. Seconded by Skeries. Motion passed 4-0.
3. **Public Hearing:** None.
4. **Public Forum:** Dan Bredbeck, 1201 64th Street spoke in opposition to the slope of the driveway approach installed at his property.
5. **Consent Agenda:** Motion by Harms to approve the consent agenda items A-D. Seconded by Skeries. Motion passed 4-0.
 - A. Approve Minutes of the Regular Council Meeting on September 7, 2021
 - B. Approve Payment of Claims
 - C. Approve Budget Reports
 - D. Approve Liquor License - Kathmandu Restaurant - 7229 Apple Valley Drive
6. **New Business:**
 - A. Consideration of Third Amendment to Land Purchase Agreement - Casey's Marketing Company: Motion by Harms to approve the amendment. Seconded by Skeries. Motion passed 4-0.
 - B. Consideration of Memorandum of Understanding for the Central Iowa Code Consortium (CICC): Motion by Harms to approve the memorandum of understanding. Seconded by Loffredo. Motion passed 4-0.
 - C. Consideration of Resolution No. 2021-35 - A Resolution By the Windsor Heights City Council Requesting an Amendment to the Polk County Multi-Jurisdictional Hazard Mitigation Plan: Motion by Harms to approve Resolution No. 2021-35. Seconded by Loffredo. Motion passed 4-0. Note: Individual projects listed in the plan have not been fully considered by the Council.
 - D. Consideration of Flood Insurance Renewal: Motion by Loffredo to approve the flood insurance renewal. Seconded by Harms. Motion passed 4-0.
 - E. Consideration of Pay Request No. 14 - College Drive Improvement Project in the Amount of \$10,807.20: Motion by Loffredo to approve Pay Request No. 14. Seconded by Harms. Motion passed 4-0.
 - F. Consideration of Pay Request No. 15 - 2020 Streets Improvements Project

(Allison and 69th Streets) in the Amount of \$10,207.04: Motion by Skeries to approve Pay Request No. 15. Seconded by Harms. Motion passed 4-0.

7. **Reports:**

- A. Mayor and Council Reports and Committee Updates: Harms: MAC updates; Public Safety Committee updates; Administrator evaluation process. Attended Iowa League of Cities conference. Thank you to Fire Department for giving tours to visitors. Mike Jones: Bravo updates. Loffredo: 69th Street traffic calming options on the next agenda. Skeries: attended the Iowa League of Cities Conference; economic development meeting upcoming.
- B. Administration Reports: Dennis asked Chief McCluskey to give an update on the condominium fire. McCluskey recognized Firefighters Foreman, Jones, and Fleming along with Police Officers Davison and Clingan.

Public Safety Report: Given.

Public Works Report: Given.

Communications/Recreation Coordinator Report: Given.

8. **Adjourn:** Motion by Skeries to adjourn the meeting at 7:16 PM. Seconded by Harms. Motion passed 4-0.

Dave Burgess, Mayor

Travis Cooke, City Clerk



STAFF REPORT
CITY COUNCIL
October 4, 2021

TO: CITY COUNCIL
FROM: Rachelle Swisher, Finance Director
SUBJECT: Approve Payment of Claims

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

1. CLAIMS LIST

VENDOR NAME	REFERENCE	AMOUNT	VENDOR TOTAL	CHECK#	CHECK DATE
911 CUSTOM	MEYER BALLISTIC VEST		1,060.00	52907	9/29/21
AFLAC WORLD WIDE HEADQUARTERS	AFLAC ACC-PRETX		616.08	52832	9/17/21
AMERITAS LIFE INS. CORP.	VISION INS	269.72		52831	9/17/21
AMERITAS LIFE INS. CORP.	LIFE INSURANCE	2,937.28	3,207.00	52908	9/29/21
ANIMAL RESCUE LEAGUE OF IOWA	ARL INTAKES X3		375.00	52909	9/29/21
ARDICK EQUIP. CO. INC.	SIGNS		83.75	52910	9/29/21
AUREON IT	DELL OPTIPLEX COMPUTER TRAVIS		2,027.50	52911	9/29/21
BAKER ELECTRIC INC.	FD ELECTRIC WORK GEAR EXTRACTO		940.00	52912	9/29/21
BITUMINOUS MATERIALS	CSS-1		105.00	52913	9/29/21
BOUND TREE MEDICAL LLC	EMS SUPPLIES		169.23	52914	9/29/21
BRAUCHT, JUDY	OCTOBER PENSION		1,138.38	52915	9/29/21
CENTURY LINK	TELEPHONE		350.32	52916	9/29/21
CITIBOT INC	MONTHLY SERVICE CONTRACT		450.00	52917	9/29/21
CITY OF DES MOINES	FY21 SISTER CITY CONTRIBUTION		106.82	52918	9/29/21
CLIVE POWER EQUIP.	HEDGE TRIMMER PARTS/SERVICE		150.06	52919	9/29/21
COOK PLUMBING CORP	FD WATER LINES FOR EXTRACTOR		950.00	52920	9/29/21
COOKE, TRAVIS	SEPT MILEAGE		190.00	52921	9/29/21
DES MOINES REGISTER	NEWSPAPER		34.00	52922	9/29/21
DURHAM, DENNIS	SEPT CELL PHONE		50.00	52923	9/29/21
ELDER CORPORATION	CONTRACTOR PAY REQUEST #13		387,752.29	52924	9/29/21
ELECTRICAL ENG. & EQ.	PAVILION ELECTRIC REPAIRS		67.26	52925	9/29/21
FEDERAL TAX DEPOSIT	FED/FICA TAX		23,804.64	3112	9/17/21
FIRE SERVICE TRAINING BUREAU	DUMERMUTH INSTRUCTION CERT		50.00	52926	9/29/21
GALLS INC	CLOTHING ALLOWANCE		1,083.89	52927	9/29/21
GOODRICH, WILLIAM	SEPT CELL PHONE		50.00	52928	9/29/21
GRIMES ASPHALT & PAVING	PATCHING MATERIAL		64.35	52929	9/29/21
HARTJEN, KELLE	STORMWATER REIMBURSEMENT PROGR		75.00	52930	9/29/21
HOME DEPOT CREDIT SERVICES	CEC WATER FILTER/AIR FRESHENER		190.60	52931	9/29/21
HY-VEE ACCOUNTS RECEIVABLE	MOVIES IN THE PARK		19.96	52932	9/29/21
ICMA RETIREMENT TRUST	ICMA	852.83		3110	9/17/21
ICMA RETIREMENT TRUST	CITY CONTRIBUTION	1,584.06	2,436.89	3118	9/17/21
IOWA DOT	PD MOBILE PRINTER PAPER		155.52	52933	9/29/21
IOWA LAW ENFORCEMENT ACADEMY	BOWERS FIREARMS INSTRUCTOR SCH		625.00	52934	9/29/21
IOWA WORKFORCE DEV.	Q3 UNEMPLOYMENT INSURANC		983.40	3119	9/17/21
IPERS	PROTECT IPERS		26,451.76	3109	9/17/21
ISOLVED BENEFIT SERVICES	HRA FEES		4,794.51	3145	9/29/21
KABEL BUSINESS SERVICES	FLEX - BENEFITS		1,092.31	3113	9/17/21
JACOBUS, DALTON	SEPT CELL PHONE		50.00	52935	9/29/21
JAK RESCUE	EMS LIFT DEVICE		440.00	52936	9/29/21
JOHNSON, KYLE	SEPT CELL PHONE		50.00	52937	9/29/21
KARL CHEVROLET	7220 SIREN/LIGHT REPAIRS		992.95	52938	9/29/21
LEAF	PD COPIER	173.20		52939	9/29/21
LEAF	COPIER CONTRACT	227.66	400.86	52962	9/29/21
LOWE'S	LION'S PARK		199.10	52940	9/29/21
MCCLUSKEY, CHAD	SEPT CELL PHONE		50.00	52941	9/29/21
MEDIACOM BUSINESS	INTERNET		570.00	52942	9/29/21
MEYER, DEREK	SEPT CELL PHONE		50.00	52943	9/29/21
MIDAMERICAN ENERGY	1133 66TH ST	1,026.16		3126	9/28/21
MIDAMERICAN ENERGY	1145 66TH ST	206.11		3127	9/28/21
MIDAMERICAN ENERGY	6900 SCHOOL ST STAGE	157.66		3128	9/28/21
MIDAMERICAN ENERGY	6900 SCHOOL ST	22.23		3129	9/28/21
MIDAMERICAN ENERGY	6900 SCHOOL ST CEC	1,302.97		3130	9/28/21
MIDAMERICAN ENERGY	7001 UNIV AVE	22.91		3131	9/28/21
MIDAMERICAN ENERGY	6300 UNIV AVE	26.47		3132	9/28/21

VENDOR NAME	REFERENCE	AMOUNT	VENDOR TOTAL	CHECK#	CHECK DATE
MIDAMERICAN ENERGY	7116 UNIV AVE	22.22		3133	9/28/21
MIDAMERICAN ENERGY	6800 SCHOOL ST	196.85		3134	9/28/21
MIDAMERICAN ENERGY	6800 SCHOOL ST	30.10		3135	9/28/21
MIDAMERICAN ENERGY	1601 73RD ST	13.69		3136	9/28/21
MIDAMERICAN ENERGY	951 73RD ST	18.01		3137	9/28/21
MIDAMERICAN ENERGY	1140 73RD ST	21.91		3138	9/28/21
MIDAMERICAN ENERGY	6440 HICKMAN ROAD	71.49		3139	9/28/21
MIDAMERICAN ENERGY	6410 HICKMAN RD	25.27		3140	9/28/21
MIDAMERICAN ENERGY	6540 UNIV AVE	109.16		3141	9/28/21
MIDAMERICAN ENERGY	6739 UNIV AVE	112.94		3142	9/28/21
MIDAMERICAN ENERGY	801 73RD ST	26.22		3143	9/28/21
MIDAMERICAN ENERGY	2227 63RD ST	26.02	3,438.39	3144	9/28/21
NISSEN, ANDREW	SEPT CELL PHONE		50.00	52944	9/29/21
PEARSON, ROB	SEPT CELL PHONE		50.00	52945	9/29/21
PURCHASE POWER	POSTAGE		208.99	52946	9/29/21
QUEEN OF CLEAN, LLC	9/5-9/12 CEC CLEANING		820.00	52947	9/29/21
RACOM CORPORATION	FINAL INVOICE		1,285.41	52948	9/29/21
DES MOINES REGISTER	PUBLICATIONS		982.26	52949	9/29/21
SAM'S CLUB DIRECT	FD STATION SUPPLIES		56.82	52950	9/29/21
SELECTIVE INSURANCE CO	FLOOD INSURANCE		15,950.00	52951	9/29/21
STANDARD INSURANCE COMPANY	LIFE INS		1,738.73	52952	9/29/21
STAPLES	CITY HALL COPIER PAPER		308.65	52953	9/29/21
Strauss Security Solutions	DOG PARK LOCKS		70.56	52954	9/29/21
SWISHER, RACHELLE	SEPT CELL PHONE		50.00	52955	9/29/21
Witmer Public Safety Group	CLOTHING ALLOWANCE		168.72	52956	9/29/21
TREASURER STATE OF IOWA	STATE TAX		7,890.00	3111	9/17/21
TUCKER, WHITNEY	SEPT CELL PHONE		50.00	52957	9/29/21
ULINE	6' RUBBER PARKING STOP		609.38	52958	9/29/21
UNITYPOINT OCC MED SIOUX CITY	DOT DRUG TESTING		126.00	52959	9/29/21
VERIZON WIRELESS	CELL PHONES		581.33	3146	9/29/21
WRIGHT OUTDOOR SOLUTIONS	ARBORIST CONSULT FEE SUNSET TE		350.00	52960	9/29/21
ZOOM VIDEO COMMUNICATIONS	PS ZOOM SUBSCRIPTION		149.90	52961	9/29/21

=====

Accounts Payable Total 499,438.57

Payroll Checks

001	GENERAL	56,746.91
110	ROAD USE TAX	8,019.82
740	STORM WATER	449.99

Total Paid On: 9/17/21 65,216.72

=====

Total Payroll Paid 65,216.72

=====

Report Total 564,655.29

=====

**CLAIMS REPORT
CLAIMS FUND SUMMARY****Payroll Checks: 9/15/2021 - 9/29/2021**

FUND	NAME	AMOUNT
001	GENERAL	141,592.42
110	ROAD USE TAX	19,157.07
112	EMPLOYEE BENEFITS	12,163.98
113	POLICE PENSION	1,138.38
314	UNIVERSITY AVE ST PROJECT	387,752.29
350	CAPITAL EQUIPMENT FUND	2,027.50
610	SEWER	40.01
740	STORM WATER	783.64

	TOTAL FUNDS	564,655.29



STAFF REPORT
CITY COUNCIL
October 4, 2021

TO: CITY COUNCIL
FROM: Travis Cooke, City Clerk
SUBJECT: Consideration of 69th Street Traffic Calming Options

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

None



STAFF REPORT
CITY COUNCIL
October 4, 2021

TO: CITY COUNCIL
FROM: Dennis Durham, City Administrator
SUBJECT: Consideration of Request from Mr. Dan Bredbeck

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

None



**STAFF REPORT
CITY COUNCIL**

October 4, 2021

TO: CITY COUNCIL

FROM: Dalton Jacobus, Public Works Director
Justin Ernst, City Engineer

SUBJECT: Consideration of Change Order No. 20 - University Avenue Improvements Project

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

1. CO 20 Letter
2. Change Order 20
3. Staff Report from Dalton Jacobus
4. Staff Report from Rachelle Swisher



**BOLTON
& MENK**

Real People. Real Solutions.

September 28, 2021

Dennis Durham
City Administrator
1145 66th Street, Suite 1
Windsor Heights, Iowa 50324

RE: University Avenue Improvements Project
Windsor Heights, Iowa
Change Order 20

Enclosed is Change Order No. 20 for additional work on the University Avenue Improvements project. The additional work includes the removal and replacement of a water meter vault at the northwest corner of 63rd Street and University.

The meter vault is in the church driveway off University Avenue. The top is also part of the sidewalk through the driveway, which need to be replaced to meet ADA. The vault top was discovered and damaged during the removal efforts of what was thought to be sidewalk and driveway removal and replacement.

If you have any questions or comments, please contact me at 515-259-9190.

Sincerely,

Bolton & Menk, Inc.

Justin Ernst, P.E.
Project Manager

Enclosure

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

CHANGE ORDER

No. 020

PROJECT: University Avenue Improvements

OWNER: City of Windsor Heights

ENGINEER'S Project No.: A13.114724

CONTRACTOR: Elder Corp

ENGINEER: Bolton & Menk, Inc.

You are directed to make the following changes in the Contract Documents.

Description:

Water meter vault top removal and replacement

\$44,850.00

Reason for Change Order:

Damaged water meter vault top at 63rd Street and University Avenue

Attachments: N/A

RECOMMENDED:

By: _____
Engineer (Authorized Signature)

Date: _____

APPROVED:

By: _____
Owner (Authorized Signature)

Date: _____

ACCEPTED:

By: _____
Contractor (Authorized Signature)

Date: _____

EJCDC No. 1910C8-B (1990 Edition)

Prepared by the Engineers Joint Contract Documents Committee and endorsed by The Associated General Contractors of America.

CHANGE ORDER

INSTRUCTIONS

A. GENERAL INFORMATION

This document was developed to provide a uniform format for handling contract changes that affect Contract Price or Contract Times. Changes that have been initiated by a Work Change Directive must be incorporated into a subsequent Change Order if they affect Contract Price or Times.

Changes that affect Contract Price or Contract Times should be promptly covered by a Change Order. The practice of accumulating change order items to reduce the administrative burden may lead to unnecessary disputes.

If Milestones have been listed, any effect of a Change Order thereon should be addressed.

For supplemental instructions and monitor changes not involving a change in the Contract Price or Contract Times, a Field Order may be used.

B. COMPLETING THE CHANGE ORDER FORM

Engineer initiates the form, including a description of the changes involved and attachment based upon documents and proposals submitted by Contractor, or requests from Owner, or both.

Once Engineer has completed and signed the form, all copies should be sent to Contractor for approval. After approval by Contractor, all copies should be sent to Owner for approval. Engineer should make distribution of executed copies after approval by Owner.

If a change only applies to Contract Price or to Contract Times, cross out the part of the tabulation that does not apply.



TO: Dennis Durham, City Administrator, City of Windsor Heights
FROM: Dalton Jacobus, Director of Public Works, City of Windsor Heights
RE: University Avenue Reconstruction – C.O. #20
DATE: 4 October 2021

There is a water meter vault in Windsor Height Presbyterian Church's south driveway onto University Avenue. This vault itself is owned by the City of Clive. There is a DMWW owned water meter, a DMWW water main, a Clive water meter, and a Clive water main located in this vault.

As part of the design for the University Ave project, Bolton and Menk surveyed the existing utilities in the roadway. The vault was not properly located during the design phase and was not called out on the construction plan. BMI sent these construction plans to Clive and DMWW to review for accuracy on their infrastructure in our ROW and no one called out this meter pit. The area was called out on the plans as a normal driveway approach and sidewalk replacement.

BMI marked out removal limits in this area in early September. On September 8th, Elder Corp began demolition in the area. As they began demo work at this location, they discovered that instead of being a typical sidewalk and driveway approach as it was called out on the plans, it was a roughly 25'x10'x7' vault.

The vault has been extensively damaged from the demolition on September 8th and must be repaired. The cost to repair the vault is \$48,500.

We have requested that the City Attorney review agreements between DMWW and the City of Clive, our design contract with BMI, the construction administration contract with BMI, the construction contract with Elder Corp, and any relevant state statutes to provide a legal opinion on who is responsible for the cost of this repair. It is my intention that the City will be refunded the cost of repairing this infrastructure.

To avoid delays similar to those incurred when CenturyLink failed to properly locate its underground infrastructure in 2020 and to keep progress moving on the University Avenue project, I am proposing that we pay for this change order and then seek reimbursement of costs when we have identified fault.



TO: Dennis Durham, City Administrator, City of Windsor Heights
FROM: Rachelle Swisher, Finance Director, City of Windsor Heights
RE: University Avenue Reconstruction – C.O. #20
DATE: 4 October 2021

Per your request, I have reviewed the budget of the University Avenue project. The project is currently under budget. The cost of \$48,500 to repair the vault will not have an impact on the project budget. It is my recommendation to pay for the cost of the repair and then seek reimbursement of the cost, which will be returned to the project budget once received.



STAFF REPORT
CITY COUNCIL
October 4, 2021

TO: CITY COUNCIL
FROM: Justin Ernst, City Engineer
SUBJECT: Consideration of Pay Request No. 13 - University Avenue Improvements Project

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

1. University Pay Estimate 13



Real People. Real Solutions.

430 E Grand Avenue
Suite 101
Des Moines, IA 50309

Ph: (515) 259-9190
Fax: (515) 233-4430
Bolton-Menk.com

September 24, 2021

Dennis Durham
City Administrator
1145 66th Street, Suite 1
Windsor Heights, Iowa 50324

RE: University Avenue Improvements Project
Windsor Heights, Iowa
Contractor Pay Request No. 13

Enclosed are three (3) copies of Pay Request No. 13 for work completed on the University Avenue Improvements project for work completed through September 3, 2021, under the contract between the City of Windsor Heights and Elder Corp. We have checked the pay request and recommend payment to Elder Corp in the amount of \$387,752.29.

Upon approval of Pay Request No. 13, please sign all copies of Pay Request No. 13 in the space provided. Return one executed copy of the pay estimate to our office and one executed copy of the pay request to Elder Corp with payment.

If you have any questions or comments, please contact me at 515-259-9190.

Sincerely,

Bolton & Menk, Inc.

Justin Ernst, P.E.
Project Manager

Enclosure

**University Avenue
City of Windsor Heights, Iowa
Windsor Heights, Iowa**

AMOUNT BID PLUS APPROVED CHANGE ORDERS

TOTAL, COMPLETED WORK TO DATE

RETAINED PERCENTAGE (3%)
-----------------------	------

TOTAL AMOUNT OF OTHER PAYMENTS OR (DEDUCTIONS)

NET AMOUNT DUE TO CONTRACTOR TO DATE

TOTAL AMOUNT PAID ON PREVIOUS ESTIMATES

PAY CONTRACTOR AS ESTIMATE NO.

DISTRIBUTION:

CONTRACTOR (1)

OWNER (1)

ENGINEER (1)

BONDING CO. (1)

\$6,889,293.45

\$4,864,576.91

\$145,937.31

\$0.00

\$4,718,639.60

\$4,330,887.31

\$387,752.29

I hereby certify that, to the best of my knowledge and belief, all items quantities and prices of work and material shown on this Estimate are correct and that all work has been performed in full accordance with the terms and conditions of the Contract for this project between the Owner and the undersigned Contractor, and as amended by any authorized changes, and that the foregoing is a true and correct statement of the contract amount for the period covered by this Estimate.

Contractor: Elder Corporation
5088 E University Avenue
Pleasant Hill, IA 50327

By Jim Mackey Sr. Pm
Name Title

Date 9/14/2021

ENGINEER: BOLTON & MENK, INC., 430 E Grand Avenue, Ste 101, Des Moines, IA 50309

By Justin Enal, PROJECT ENGINEER

Date 9-24-2021

OWNER:

By _____

Name	Title
------	-------

And _____

Name	Title
------	-------

Partial Pay Estimate No.:

13

University Avenue

City of Windsor Heights, Iowa

Windsor Heights, Iowa

BMI PROJECT NO.A13.114724 WORK COMPLETED THROUGH DATE SEPTEMBER 3, 2021

ITEM NO.	SUDAS REF NO.	ITEM	UNIT PRICE	AS BID		PREVIOUS ESTIMATE		COMPLETED TO DATE	
				ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT
1	0	CLEARING AND GRUBBING	\$172.00	29 UNIT	\$4,988.00	29.00 UNIT	\$4,988.00	29.00 UNIT	\$4,988.00
2	0	EXCAVATION, CLASS 10, ROADWAY AND BORROW	\$52.00	2949 CY	\$153,348.00	2875.50 CY	\$149,526.00	2,875.50 CY	\$149,526.00
3	0	TOPSOIL, FURNISH AND SPREAD	\$37.00	1300 CY	\$48,100.00	1165.80 CY	\$43,134.60	1,165.80 CY	\$43,134.60
4	0	SPECIAL COMPACTION OF SUBGRADE	\$6,100.00	16.22 STA	\$98,942.00	5.56 STA	\$33,916.00	5.56 STA	\$33,916.00
5	0	MODIFIED SUBBASE	\$54.00	2200 CY	\$118,800.00	2174.90 CY	\$117,444.60	2,174.90 CY	\$117,444.60
6	0	SHOULDER FINISHING, EARTH	\$600.00	32.5 STA	\$19,500.00	23.14 STA	\$13,884.00	23.14 STA	\$13,884.00
7	0	PATCHES, FULL-DEPTH REPAIR	\$118.00	4237.3 SY	\$500,001.40	1311.60	\$154,768.80	1,701.30 SY	\$200,753.40
8	0	PATCHES BY COUNT (REPAIR)	\$270.00	29 EACH	\$7,830.00	17.00 EACH	\$4,590.00	20.00 EACH	\$5,400.00
9	0	REMOVAL OF CURB	\$3,200.00	0.9 STA	\$2,880.00	0.70 STA	\$2,240.00	0.70 STA	\$2,240.00
10	0	PAVEMENT SCARIFICATION	\$6.50	1873.3 SY	\$12,176.45	0.00 SY	\$0.00	0.00 SY	\$0.00
11	0	STANDARD OR SLIP FORM PORTLAND CEMENT CONCRETE PAVEMENT, CLASS (\$73.00	11722 SY	\$855,720.60	11171.50 SY	\$815,519.50	11,171.50 SY	\$815,519.50
12	0	MEDIAN, P.C. CONCRETE, 6 IN	\$129.00	13 SY	\$1,677.00	0.00 SY	\$0.00	13.00 SY	\$1,677.00
13	0	PORTLAND CEMENT CONCRETE PAVEMENT SAMPLES	\$7,900.00	1 LS	\$7,900.00	0.00 LS	\$0.00	0.62 LS	\$4,900.00
14	0	HOT MIX ASPHALT STANDARD TRAFFIC, SURFACE COURSE, 1/2 IN. MIX, FRICTI	\$58.00	1392.2 TON	\$80,747.60	0.00 TON	\$0.00	0.00 TON	\$0.00
15	0	ASPHALT BINDER, PG 64-22S, STANDARD TRAFFIC	\$510.00	84 TON	\$42,840.00	0.00 TON	\$0.00	0.00 TON	\$0.00
16	0	TEMPORARY PAVEMENT	\$90.00	500 SY	\$45,000.00	569.70 SY	\$51,273.00	569.70 SY	\$51,273.00
17	0	REMOVAL OF CONCRETE FOOTINGS OF LIGHT POLES	\$214.00	68 EACH	\$14,552.00	13.00 EACH	\$2,782.00	47.00 EACH	\$10,058.00
18	0	REMOVAL OF LIGHT POLES	\$720.00	46 EACH	\$33,120.00	21.00 EACH	\$15,120.00	43.00 EACH	\$30,960.00
19	0	MODULAR BLOCK RETAINING WALL	\$84.00	150 SF	\$12,600.00	150.00 SF	\$12,600.00	150.00 SF	\$12,600.00
20	0	MANHOLE, STORM SEWER, SW-401, 48 IN	\$2,700.00	10 EACH	\$27,000.00	6.00 EACH	\$16,200.00	6.00 EACH	\$16,200.00
21	0	MANHOLE, STORM SEWER, SW-401, 60 IN	\$4,200.00	7 EACH	\$29,400.00	6.00 EACH	\$25,200.00	6.00 EACH	\$25,200.00
22	0	MANHOLE, STORM SEWER, SW-401, 72 IN	\$5,400.00	1 EACH	\$5,400.00	1.00 EACH	\$5,400.00	1.00 EACH	\$5,400.00
23	0	INTAKE, SW-501	\$2,500.00	3 EACH	\$7,500.00	3.00 EACH	\$7,500.00	3.00 EACH	\$7,500.00
24	0	INTAKE, SW-503	\$4,000.00	2 EACH	\$8,000.00	1.00 EACH	\$4,000.00	1.00 EACH	\$4,000.00
25	0	INTAKE, SW-505	\$3,900.00	16 EACH	\$62,400.00	13.00 EACH	\$50,700.00	15.00 EACH	\$58,500.00
26	0	INTAKE, SW-506	\$7,800.00	3 EACH	\$23,400.00	3.00 EACH	\$23,400.00	3.00 EACH	\$23,400.00
27	0	MANHOLE ADJUSTMENT, MINOR	\$1,100.00	57 EACH	\$62,700.00	13.00 EACH	\$14,300.00	14.00 EACH	\$15,400.00
28	0	MANHOLE ADJUSTMENT, MAJOR	\$3,100.00	7 EACH	\$21,700.00	11.00 EACH	\$34,100.00	11.00 EACH	\$34,100.00
29	0	CONNECTION TO EXISTING MANHOLE	\$1,900.00	2 EACH	\$3,800.00	2.00 EACH	\$3,800.00	2.00 EACH	\$3,800.00
30	0	CONNECTION TO EXISTING INTAKE	\$1,900.00	1 EACH	\$1,900.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
31	0	SUBDRAIN, PERFORATED PLASTIC PIPE, 4 IN. DIA.	\$16.50	3483 LF	\$57,469.50	2578.00 LF	\$42,537.00	2,590.00 LF	\$42,735.00
32	0	SUBDRAIN, PERFORATED PLASTIC PIPE, 6 IN. DIA.	\$52.00	38 LF	\$1,976.00	0.00 LF	\$0.00	0.00 LF	\$0.00
33	0	SUBDRAIN, PVC, STANDARD, NON-PERFORATED, 6 IN	\$48.00	17 LF	\$816.00	45.00 LF	\$2,160.00	45.00 LF	\$2,160.00
34	0	SUBDRAIN RISER, 6 IN., AS PER PLAN	\$670.00	13 EACH	\$8,710.00	4.00 EACH	\$2,680.00	4.00 EACH	\$2,680.00
35	0	SUBDRAIN OUTLET, DR-303	\$440.00	13 EACH	\$5,720.00	15.00 EACH	\$6,600.00	15.00 EACH	\$6,600.00
36	0	STORM SEWER GRAVITY MAIN, TRENCHED, POLYVINYL CHLORIDE PIPE (PVC), 8	\$45.00	16 LF	\$720.00	0.00 LF	\$0.00	0.00 LF	\$0.00
37	0	STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP)	\$79.00	155 LF	\$12,245.00	30.00 LF	\$2,370.00	30.00 LF	\$2,370.00
38	0	STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP)	\$81.00	1003 LF	\$81,243.00	350.00 LF	\$28,350.00	353.00 LF	\$28,593.00
39	0	STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP)	\$92.00	367 LF	\$33,764.00	213.00 LF	\$19,596.00	216.00 LF	\$19,872.00
40	0	STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP)	\$78.00	32 LF	\$2,496.00	10.00 LF	\$780.00	10.00 LF	\$780.00
41	0	STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP)	\$87.00	330 LF	\$28,710.00	272.60 LF	\$23,716.20	272.60 LF	\$23,716.20
42	0	STORM SEWER GRAVITY MAIN, TRENCHED, REINFORCED CONCRETE PIPE (RCP)	\$119.00	334 LF	\$39,746.00	282.00 LF	\$33,558.00	282.00 LF	\$33,558.00
43	0	REMOVE STORM SEWER PIPE LESS THAN OR EQUAL TO 36 IN.	\$29.00	1714 LF	\$49,706.00	1319.00 LF	\$38,251.00	1,329.00 LF	\$38,541.00
44	0	STORM, SEWER ABANDONMENT, FILL AND PLUG, LESS THAN OR EQUAL TO 36	\$26.50	403 LF	\$10,679.50	63.00 LF	\$1,669.50	63.00 LF	\$1,669.50

Partial Pay Estimate No.:

13

University Avenue

City of Windsor Heights, Iowa

Windsor Heights, Iowa

BMI PROJECT NO.A13.114724 WORK COMPLETED THROUGH DATE SEPTEMBER 3, 2021

ITEM NO.	SUDAS REF NO.	ITEM	UNIT PRICE	AS BID		PREVIOUS ESTIMATE		COMPLETED TO DATE	
				ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT
45	0	EROSION OF STONE	\$83.00	6 TON	\$498.00	0.00 TON	\$0.00	0.00 TON	\$0.00
46	0	REMOVAL OF PAVEMENT	\$10.75	14151 SY	\$152,123.25	14411.50 SY	\$154,923.63	15,246.80 SY	\$163,903.10
47	0	REMOVAL OF INTAKES AND UTILITY ACCESSES	\$920.00	44 EACH	\$40,480.00	28.00 EACH	\$25,760.00	30.00 EACH	\$27,600.00
48	0	REMOVAL OF SIDEWALK	\$8.00	3201.3 SY	\$25,610.40	2355.40 SY	\$18,843.20	2,493.30 SY	\$19,946.40
49	0	SIDEWALK, P.C. CONCRETE, 4 IN	\$45.00	1543.7 SY	\$69,466.50	815.80 SY	\$36,711.00	1,180.80 SY	\$53,136.00
50	0	SIDEWALK, P.C. CONCRETE, 6 IN	\$43.00	386.3 SY	\$16,610.90	225.30 SY	\$9,687.90	225.30 SY	\$9,687.90
51	0	SIDEWALK, REINFORCED P.C. CONCRETE, 6 IN	\$64.00	38 SY	\$2,432.00	18.60 SY	\$1,190.40	38.00 SY	\$2,432.00
52	0	DETECTABLE WARNINGS	\$86.00	855 SF	\$73,530.00	606.05 SF	\$52,120.30	666.45 SF	\$57,314.70
53	0	CURB AND GUTTER, P.C. CONCRETE, 2.0 FT	\$36.00	4621.4 LF	\$166,370.40	3276.60 LF	\$117,957.60	4,098.30 LF	\$147,538.80
54	0	DRIVEWAY, P.C. CONCRETE, 6 IN	\$25.50	743.7 SY	\$18,964.35	657.30 SY	\$16,761.15	798.70 SY	\$20,366.85
55	0	REMOVAL OF PAVED DRIVEWAY	\$18.50	530.3 SY	\$9,810.55	386.00 SY	\$7,141.00	502.00 SY	\$9,287.00
56	0	LIGHTING POLES	\$7,900.00	36 EACH	\$284,400.00	28.00 EACH	\$221,200.00	28.00 EACH	\$221,200.00
57	0	REMOVE AND REINSTALL SIGN AS PER PLAN	\$158.00	27 EACH	\$4,266.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
58	0	REMOVAL OF TYPE A SIGN ASSEMBLY	\$105.00	33 EACH	\$3,465.00	1.00 EACH	\$105.00	1.00 EACH	\$105.00
59	0	PERFORATED SQUARE STEEL TUBE POSTS	\$16.00	260 LF	\$4,160.00	0.00 LF	\$0.00	0.00 LF	\$0.00
60	0	PERFORATED SQUARE STEEL TUBE POST ANCHOR, BREAK-AWAY SOIL INSTALL	\$53.00	26 EACH	\$1,378.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
61	0	TYPE A SIGNS, SHEET ALUMINUM	\$10.50	241 SF	\$2,530.50	43.00 SF	\$451.50	43.00 SF	\$451.50
62	0	TRAFFIC SIGNALIZATION	\$525,522.05	1 LS	\$525,522.05	0.74 LS	\$388,360.79	0.85 LS	\$446,693.74
63	0	PAINTED PAVEMENT MARKINGS, DURABLE	\$142.00	236.3 STA	\$33,554.60	26.90 STA	\$3,819.80	26.90 STA	\$3,819.80
64	0	PAINTED SYMBOLS AND LEGENDS, DURABLE	\$147.00	61 EACH	\$8,967.00	3.00 EACH	\$441.00	3.00 EACH	\$441.00
65	0	TRAFFIC CONTROL	\$33,014.40	1 LS	\$33,014.40	0.95 LS	\$31,484.50	0.95 LS	\$31,484.50
66	0	TEMPORARY LANE SEPARATOR SYSTEM	\$10.50	3895 LF	\$40,897.50	520.00 LF	\$5,460.00	520.00 LF	\$5,460.00
67	0	PORTABLE DYNAMIC MESSAGE SIGN (PDMS)	\$84.00	200 CDAY	\$16,800.00	192.00 CDAY	\$16,128.00	192.00 CDAY	\$16,128.00
68	0	MOBILIZATION	\$688,588.15	1 LS	\$688,588.15	0.98 LS	\$674,300.00	0.98 LS	\$674,300.00
69	0	REPLACEMENT OF UNSUITABLE BACKFILL MATERIAL	\$35.00	300 CY	\$10,500.00	0.00 CY	\$0.00	0.00 CY	\$0.00
70	0	WATER SERVICE CURB STOP AND BOX, WATER SERVICE CURB STOP AND BOX	\$2,800.00	20 EACH	\$56,000.00	1.00 EACH	\$2,800.00	7.00 EACH	\$19,600.00
71	0	VALVE BOX EXTENSION OR ADJUSTMENT	\$480.00	40 EACH	\$19,200.00	12.00 EACH	\$5,760.00	12.00 EACH	\$5,760.00
72	0	('CUBIC YARDS' ITEM) ENGINEERED SOIL MIX (BIOCELLS)	\$70.00	25 CY	\$1,750.00	0.00 CY	\$0.00	0.00 CY	\$0.00
73	0	('CUBIC YARDS' ITEM) STRUCTURAL SOIL MIX	\$260.00	315 CY	\$81,900.00	201.00 CY	\$52,260.00	291.00 CY	\$75,660.00
74	0	('CUBIC YARDS' ITEM) TOPSOIL COMPOST AMENDED (PLANTING BEDS)	\$61.00	500 CY	\$30,500.00	0.00 CY	\$0.00	127.00 CY	\$7,747.00
75	0	('EACH' ITEM) 10 INCH WATERMAIN ALTERATION- BUS SHELTER	\$7,300.00	1 EACH	\$7,300.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
76	0	('EACH' ITEM) 6 FOOT BENCH	\$2,600.00	8 EACH	\$20,800.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
77	0	('EACH' ITEM) BIKE RACK	\$1,100.00	12 EACH	\$13,200.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
78	0	('EACH' ITEM) BULBS	\$2.00	1334 EACH	\$2,668.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
79	0	('EACH' ITEM) CHARGING STATION	\$2,700.00	3 EACH	\$8,100.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
80	0	('EACH' ITEM) COLUMN MONUMENT	\$34,000.00	2 EACH	\$68,000.00	1.00 EACH	\$34,000.00	1.00 EACH	\$34,000.00
81	0	('EACH' ITEM) ENTRY MONUMENT	\$45,000.00	2 EACH	\$90,000.00	0.90 EACH	\$40,500.00	0.90 EACH	\$40,500.00
82	0	('EACH' ITEM) GFCI (INCL. PEDESTAL AND ENCLOSURE)	\$600.00	19 EACH	\$11,400.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
83	0	('EACH' ITEM) HH-1	\$740.00	5 EACH	\$3,700.00	1.00 EACH	\$740.00	1.00 EACH	\$740.00
84	0	('EACH' ITEM) HH-2	\$710.00	10 EACH	\$7,100.00	1.00 EACH	\$710.00	1.00 EACH	\$710.00
85	0	('EACH' ITEM) LITTER RECEPTACLE	\$2,100.00	7 EACH	\$14,700.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
86	0	('EACH' ITEM) NYLOPLAST DRAIN BASIN 12 INCH (BIOCELLS)	\$1,400.00	2 EACH	\$2,800.00	2.00 EACH	\$2,800.00	2.00 EACH	\$2,800.00
87	0	('EACH' ITEM) PERENNIAL GROUND COVER (1 GALLON)	\$9.50	1764 EACH	\$16,758.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
88	0	('EACH' ITEM) POLE BASE FOOTING (TYPES S1 S2 S3 & S4 FIXTURES)	\$3,500.00	36 EACH	\$126,000.00	23.00 EACH	\$80,500.00	37.00 EACH	\$129,500.00
89	0	('EACH' ITEM) RECYCLING RECEPTACLE	\$2,400.00	7 EACH	\$16,800.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
90	0	('EACH' ITEM) REFINISH EXISTING TRAFFIC SIGNAL POLES & ARMS	\$13,000.00	4 EACH	\$52,000.00	4.00 EACH	\$52,000.00	4.00 EACH	\$52,000.00
91	0	('EACH' ITEM) REINFORCED MONOLITHIC CONCRETE FOREBAY (BIOCELLS)	\$6,300.00	2 EACH	\$12,600.00	1.00 EACH	\$6,300.00	1.00 EACH	\$6,300.00
92	0	('EACH' ITEM) RELOCATE HYDRANT ASSEMBLY	\$4,100.00	4 EACH	\$16,400.00	5.00 EACH	\$20,500.00	5.00 EACH	\$20,500.00
93	0	('EACH' ITEM) REMOVE AND REPLACE HYDRANT ASSEMBLY	\$8,400.00	2 EACH	\$16,800.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
94	0	('EACH' ITEM) SIGN UPLIGHTS (TYPE S5 FIXTURE)	\$1,400.00	8 EACH	\$11,200.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
95	0	('EACH' ITEM) SINGLE HEAD RDWY LIGHT (TYPE S6 FIXTURE)	\$620.00	12 EACH	\$7,440.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
96	0	('EACH' ITEM) STONE BLOCK BENCH	\$1,800.00	19 EACH	\$34,200.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00

Partial Pay Estimate No.:

13

University Avenue

City of Windsor Heights, Iowa

Windsor Heights, Iowa

BMI PROJECT NO.A13.114724 WORK COMPLETED THROUGH DATE SEPTEMBER 3, 2021

ITEM NO.	SUDAS REF NO.	ITEM	UNIT PRICE	AS BID		PREVIOUS ESTIMATE		COMPLETED TO DATE	
				ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT	ESTIMATED QUANTITY	ESTIMATED AMOUNT
97	0	('EACH' ITEM) STONE BLOCK CUBE	\$1,100.00	27 EACH	\$29,700.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
98	0	('EACH' ITEM) TREE GRATE AND FRAME	\$3,200.00	15 EACH	\$48,000.00	0.00 EACH	\$0.00	7.00 EACH	\$22,400.00
99	0	('EACH' ITEM) TYPE 1 WATERMAIN ALTERATION	\$6,100.00	4 EACH	\$24,400.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
100	0	('EACH' ITEM) TYPE 3 WATERMAIN ALTERATION	\$7,300.00	1 EACH	\$7,300.00	1.00 EACH	\$7,300.00	1.00 EACH	\$7,300.00
101	0	('EACH' ITEM) WATER SERVICE CURB STOP & BOX ADJUSTMENT	\$2,800.00	20 EACH	\$56,000.00	1.00 EACH	\$2,800.00	1.00 EACH	\$2,800.00
102	0	('EACH' ITEM)WAYFINDING SIGN KIOSK	\$11,000.00	3 EACH	\$33,000.00	1.50 EACH	\$16,500.00	1.50 EACH	\$16,500.00
103	0	('LINEAR FEET' ITEM) #10 AWG CU	\$2.50	1629 LF	\$4,072.50	0.00 LF	\$0.00	0.00 LF	\$0.00
104	0	('LINEAR FEET' ITEM) #2 AWG CU	\$5.25	4005 LF	\$21,026.25	0.00 LF	\$0.00	0.00 LF	\$0.00
105	0	('LINEAR FEET' ITEM) #3 AWG CU	\$4.75	3360 LF	\$15,960.00	3360.00 LF	\$15,960.00	3,360.00 LF	\$15,960.00
106	0	('LINEAR FEET' ITEM) #4 AWG CU	\$4.75	7599 LF	\$36,095.25	7440.00 LF	\$35,340.00	7,440.00 LF	\$35,340.00
107	0	('LINEAR FEET' ITEM) #6 AWG CU	\$4.25	9106 LF	\$38,700.50	900.00 LF	\$3,825.00	900.00 LF	\$3,825.00
108	0	('LINEAR FEET' ITEM) #8 AWG CU	\$4.00	26580 LF	\$106,320.00	10340.00 LF	\$41,360.00	10,340.00 LF	\$41,360.00
109	0	('LINEAR FEET' ITEM) CONCRETE BAND 8 INCH WIDTH	\$87.00	360 LF	\$31,320.00	79.00 LF	\$6,873.00	225.50 LF	\$19,618.50
110	0	('LINEAR FEET' ITEM) LIMESTONE EDGER	\$26.50	600 LF	\$15,900.00	0.00 LF	\$0.00	0.00 LF	\$0.00
111	0	('LINEAR FEET' ITEM) TRENCHING CONDUIT	\$12.25	19553 LF	\$239,524.25	6965.00 LF	\$85,321.25	8,265.00 LF	\$101,246.25
112	0	('SQUARE YARDS' ITEM) CONCRETE UNIT PAVERS	\$247.00	325 SY	\$80,275.00	64.50 SY	\$15,931.50	171.70 SY	\$42,409.90
113	0	('TONS' ITEM) FOUNDATION ROCK	\$77.00	10 TON	\$770.00	0.00 TON	\$0.00	0.00 TON	\$0.00
114	0	('TONS' ITEM) NO. 57 STONE (AGGREGATE CHAMBER)	\$90.00	16 TON	\$1,440.00	0.00 TON	\$0.00	0.00 TON	\$0.00
115	0	('TONS' ITEM) NO. 8 STONE (CHOCKER LAYER)	\$77.00	3 TON	\$231.00	0.00 TON	\$0.00	0.00 TON	\$0.00
116	0	MULCHING	\$2,100.00	1.6 ACRE	\$3,360.00	1.24 ACRE	\$2,604.00	1.24 ACRE	\$2,604.00
117	0	SEEDING AND FERTILIZING (URBAN)	\$1,000.00	1.6 ACRE	\$1,600.00	0.69 ACRE	\$690.00	0.69 ACRE	\$690.00
118	0	SLOPE PROTECTION, WOOD EXCELSIOR MAT	\$9.50	115 SQ	\$1,092.50	0.00 SQ	\$0.00	0.00 SQ	\$0.00
119	0	STABILIZED CONSTRUCTION ENTRANCE, EC-303	\$76.00	300 LF	\$22,800.00	170.00 LF	\$12,920.00	170.00 LF	\$12,920.00
120	0	PERIMETER AND SLOP SEDIMENT CONTROL DEVICE, 9 IN. DIA.	\$2.00	5540 LF	\$11,080.00	1200.00 LF	\$2,400.00	1,200.00 LF	\$2,400.00
121	0	REMOVAL OF PERIMETER AND SLOPE SEDIMENT CONTROL DEVICE	\$0.50	5540 LF	\$2,770.00	0.00 LF	\$0.00	0.00 LF	\$0.00
122	0	OPEN-THROAT CURB INTAKE SEDIMENT FILTER, EC-602	\$10.50	20 LF	\$210.00	12.00 LF	\$126.00	12.00 LF	\$126.00
123	0	MAINTENANCE OF OPEN-THROAT CURB INTAKE SEDIMENT FILTER	\$26.50	4 EACH	\$106.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
124	0	REMOVAL OF OPEN-THROAT CURB INTAKE SEDIMENT FILTER	\$26.50	4 EACH	\$106.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
125	0	GRATE INTAKE SEDIMENT FILTER BAG	\$205.00	43 EACH	\$8,815.00	34.00 EACH	\$6,970.00	34.00 EACH	\$6,970.00
126	0	MAINTENANCE OF GRATE INTAKE SEDIMENT FILTER BAG	\$26.50	43 EACH	\$1,139.50	0.00 EACH	\$0.00	0.00 EACH	\$0.00
127	0	REMOVAL OF GRATE INTAKE SEDIMENT FILTER BAG	\$10.50	43 EACH	\$451.50	0.00 EACH	\$0.00	0.00 EACH	\$0.00
128	0	MOBILIZATION, EROSION CONTROL	\$500.00	10 EACH	\$5,000.00	6.00 EACH	\$3,000.00	6.00 EACH	\$3,000.00
129	0	MOBILIZATION, EMERGENCY EROSIONS CONTROL	\$1,000.00	1 EACH	\$1,000.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
130	0	SHRUBS	\$48.00	53 EACH	\$2,544.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
131	0	TREES	\$470.00	48 EACH	\$22,560.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
132	0	MODIFIED SUBBASE	\$60.00	630 CY	\$37,800.00	674.00 CY	\$40,440.00	697.30 CY	\$41,838.00
133	0	RECREATIONAL TRAIL, PORTLAND CEMENT CONCRETE, 6 IN	\$51.00	4525.1 SY	\$230,780.10	4167.30 SY	\$212,532.30	4,343.90 SY	\$221,538.90
8001	0	SUBGRADE STABILIZATION MATERIAL, POLYMER GIRD	\$3.85	722 SY	\$2,779.70	1790.90 SY	\$6,894.97	1,790.90 SY	\$6,894.97
8002	0	PAINTED PAVEMENT MARKINGS, WATERBORNE OR SOLVENT-BASED	\$75.00	27.82 STA	\$2,086.50	64.42 STA	\$4,831.50	64.42 STA	\$4,831.50
8003	0	SAW PAVEMENT (FULL DEPTH)	\$4.05	800 LF	\$3,240.00	1236.00 LF	\$5,005.80	1,236.00 LF	\$5,005.80
8004	0	LOCATE TRAFFIC SIGNALS	\$836.00	1 LS	\$836.00	1.00 LS	\$836.00	1.00 LS	\$836.00
8005	0	TEMPORARY TRAFFIC CONTROL FOR WINTER SHUTDOWN	\$5,390.00	1 LS	\$5,390.00	1.00 LS	\$5,390.00	1.00 LS	\$5,390.00
8006	0	TEMPORARY TRAFFIC CONTROL WINTER MAINTENANCE	\$385.00	3 EACH	\$1,155.00	0.00 EACH	\$0.00	0.00 EACH	\$0.00
8007	0	PAVEMENT MARKINGS REMOVED	\$800.00	0.5 STA	\$400.00	0.50 STA	\$400.00	0.50 STA	\$400.00
8008	0	TRAFFIC SIGNAL INTERCONNECTION	\$60,767.30	1 LS	\$60,767.30	0.00 LS	\$0.00	0.00 LS	\$0.00
8009	0	HYDRANT AND TEE REMOVAL	\$5,900.00	1 LS	\$5,900.00	1.00 LS	\$5,900.00	1.00 LS	\$5,900.00
8999	0	STOCKPILED MATERIAL	\$32,310.00	1 LS	\$32,310.00	1.00 LS	\$32,310.00	1.00 LS	\$32,310.00
TOTAL AMOUNT:					\$6,889,293.45		\$4,464,832.28		\$4,864,576.91



**STAFF REPORT
CITY COUNCIL**

October 4, 2021

TO: CITY COUNCIL

FROM: Chad McCluskey, Public Safety Director

SUBJECT: Consider Approval of Lease Amendment Extending Lease for the Radio Tower Owned by RACOM at the Public Safety Facility through December 31, 2045, Contingent upon the Polk County Board of Supervisors Approving Termination of the Current 28E and Waiving all Fees

GENERAL INFORMATION

SUMMARY

ATTACHMENTS

1. 2021 10 04 Racom Tower Lease Amendment

ITEM # _____
DATE: October 4, 2021

COUNCIL ACTION FORM

AGENDA ITEM: CONSIDER APPROVAL OF LEASE AMENDMENT EXTENDING LEASE FOR THE RADIO TOWER OWNED BY RACOM AT THE PUBLIC SAFETY FACILITY THROUGH DECEMBER 31, 2045, CONTINGENT UPON THE POLK COUNTY BOARD OF SUPERVISORS APPROVING TERMINATION OF THE CURRENT 28E AND WAIVING ALL FEES.

HISTORY:

On May 6, 2013, the City of Windsor Heights entered a lease agreement with Racom Corporation for a radio tower located in the northeast corner of the public safety facility parking lot. The tower was necessary to ensure adequate radio coverage, for the Racom system, when the City entered into an agreement with Polk County and other agencies for radio and dispatching services. The original agreement expired December 31, 2018; however, the original lease included two (2) additional six (6) year renewal terms. After fulfilling the two renewal terms, the agreement would expire on December 31, 2030.

During the transition of our emergency dispatching to Westcom, the City of Windsor Heights elected not to enter a new / extended 28E with Polk County, ending in 2030. Instead, the City of Windsor Heights remains under the original 28E agreement, which expires June 30, 2024. Section 5 of the 28E with Polk County reads, in part, *“Termination for Convenience: If the Subscriber determines that it is in its best interest to terminate this contract, it will provide Polk County 13 months’ notice of the termination in writing. In the event that the Subscriber elects to terminate this contract for convenience it will pay Polk County the present value of the user access fees from the termination date through June 30, 2024, discounted 5%.”*

Notice was given of our intent to terminate the 28E on October 31, 2019, but a final date was not given due to the ongoing process to move to Westcom. The move took place on September 22, 2021, at 10:00 am, so there would be thirty-three (33) months of user fees left through June 30, 2024, at a rate of \$23.97 per radio, with a total of 53 radios – for a total monthly user fee of \$1270.41, or a total of \$41,923.53 through June 30, 2024. With the 5% discount, the expense incurred to the City of Windsor Heights for termination of the 28E would be approximately \$39,827.35.

Throughout this process, Polk County has expressed the willingness to waive all termination fees in lieu of the City of Windsor Heights and Racom coming to an agreement on an extension of the lease for the radio tower located at the public safety facility. Mike Miller, the owner of Racom, and Chief McCluskey came to an agreement for a recommendation of a fifteen (15) year extension to the current lease, with a new termination date of December 31, 2045.

The extension of the current radio tower lease benefits both the City of Windsor Heights and Racom Corporation, and as such it is recommended Council consider approval of the extension.

BUDGET IMPACT:

Approval of the lease extension will save the City of Windsor Heights approximately \$39,827.35 in user access fees under the current 28E agreement with Polk County. There are no costs incurred by the City as a result of this lease extension.

RECOMMENDATION:

Staff recommends approval of the Racom Tower Lease Amendment as proposed, to terminate on December 31, 2045, contingent upon the Polk County Board of Supervisors approving termination of the current 28e and waiving all fees.

Chad McCluskey

From: John R. Norris <John.Norris@polkcountyiowa.gov>
Sent: Wednesday, September 29, 2021 11:58 AM
To: Frank Marasco
Cc: Robert Brownell; Chad McCluskey
Subject: RE: Lease Agreement



**WINDSOR
HEIGHTS**
the heart of it all

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Sorry Chad, I know we are close to the Noon hour. I've been tied up in mtgs all morning.

It is our intent to get the ending of the 28E without penalty on the agenda next week or the following week at the latest.

This is also based on Racom's assurance Polk County will not have any responsibility to pay future access fees for the WH radios.

John

From: Frank Marasco <Frank.Marasco@polkcountyiowa.gov>
Sent: Tuesday, September 28, 2021 3:17 PM
To: John R. Norris <John.Norris@polkcountyiowa.gov>
Cc: Robert Brownell <Robert.Brownell@polkcountyiowa.gov>; Chad McCluskey <cmcccluskey@windsorheights.org>
Subject: FW: Lease Agreement

John – attached is the updated lease agreement between WH and Racom extending tower lease to 2045. Director McCluskey, cc'd on this email, would like to submit by noon tomorrow in order to meet the deadline for WH Council to vote on this item. WH just needs confirmation from you that they will be released from the 28E agreement without any penalty. I mentioned, if approved, the earliest the resolution would go before the BOS would be next Tuesday, but I believe if you confirm this is the intent of the County we can continue to expedite the process and put this behind us.

From: Chad McCluskey <cmcccluskey@windsorheights.org>
Sent: Tuesday, September 28, 2021 3:12 PM
To: Frank Marasco <Frank.Marasco@polkcountyiowa.gov>
Subject: Lease Agreement

Chad McCluskey, MBA / FBI NA Session 279

Public Safety Director | Chief of Police and Fire Services
Windsor Heights Police and Fire Department
[1133 66th Street, Windsor Heights, Iowa 50324](#)
Phone: 515.277.4453 | Dispatch: 515.286.3632
Email: cmcccluskey@windsorheights.org
Secure Email: eric.mccluskey@leo.gov
[Website](#) | [Facebook](#) | [Twitter](#) | [Nixel](#)

Site: Directly east of 1133 66th Street, Windsor Heights, Iowa

**AMENDMENT TO LEASE AGREEMENT BETWEEN
RACOM AND THE CITY OF WINDSOR HEIGHTS**

THIS LEASE AGREEMENT **AMENDMENT** (the "Lease Amendment") is effective this _____ day of October 2021 between the CITY OF WINDSOR HEIGHTS, IOWA, its successors, and assigns ("Landlord"), and RACOM Corporation, an Iowa corporation, its successors, and assigns ("Tenant").

This amendment shall affect only section 2 and section 5 of the original LEASE AGREEMENT executed on May 6, 2013 (the "Original Lease"), between Landlord and Tenant. This amendment is created in lieu of assessment of all penalties, fees, fines, or additional payments related to Windsor Heights electing to terminate the current 28E with Polk County for dispatching services and Windsor Heights moving emergency communications to Westcom. Upon execution of this agreement, RACOM agrees to release all financial liability involving the City of Windsor Heights.

2. Initial Term Amendment

Section 2 of the Original Lease is hereby replaced with the following language:

"The Lease Amendment shall commence on the Effective Date as first written above and automatically *terminate at midnight on December 31, 2045.*"

5. Renewal Amendment

Section 5 of the Original Lease is hereby replaced with the following language:

"If Tenant shall remain in possession of the Premises at the expiration of this Lease Amendment without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of the Original Lease."

All remaining sections of the Original Lease not included above shall remain the same. No other changes or modifications to the Original Lease document not outlined in this document, in writing, have been made or agreed upon by either party.

LANDLORD: City of Windsor Heights

By: _____
Dave Burgess, Mayor

Attest:

By: _____
Travis Cooke, City Clerk

TENANT: RACOM Corporation

By: _____
Mike Miller, President

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ of October, 2021, before me, a Notary Public in and for the State of Iowa, personally appeared Dave Burgess and Travis Cooke, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Clerk respectively of the City of Windsor Heights, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument was signed and sealed on behalf of the corporation, by authority of its City Council and that Dave Burgess and Travis Cooke acknowledged the execution of the instrument to be their voluntary act and the voluntary act and deed of the corporation, by it voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the State of Iowa

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this _____ of October, 2021, before me, a Notary Public in and for the State of Iowa, personally appeared MIKE MILLER, to me personally known, and who, being by me duly sworn, did say that he is the PRESIDENT of RACOM CORPORATION, an Iowa corporation; that the seal affixed to the foregoing instrument was signed and sealed on behalf of the corporation, and that MIKE MILLER acknowledged the execution of the instrument to be his voluntary act and the voluntary act and deed of the corporation, by it voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

NOTARY PUBLIC in and for the State of Iowa

Site: Directly east of 1133 66th Street, Windsor Heights, Iowa

LEASE AGREEMENT

THIS LEASE AGREEMENT is effective this 6th day of May, 2013 between the CITY OF WINDSOR HEIGHTS, IOWA, its successors and assigns ("Landlord"), and RACOM Corporation, an Iowa corporation, its successors and assigns ("Tenant").

1. Leased Property and Premises:

(a) Subject to the terms and conditions as set forth herein, Landlord hereby leases to Tenant certain space on the real property directly east of 1133 66th Street, Windsor Heights, Iowa, legally described as PARCEL B BK 10322 PG 609 BEG 124.72F S OF NE COR THN SLY 374.45F TO SE COR W 81.64F NLY 374.7F E 79.93F TO POB LOT 2 COOPER PLACE (the "Property"), sufficient for placement of Antenna Facilities (as defined below). The location and orientation of Tenant's space on Landlord's Property, together with all necessary space and easements on the Property for access and utilities, is generally described and depicted in the attached Exhibit A (collectively referred to hereinafter as the "Premises"). A survey of the Premises, as agreed upon by the parties, shall become part of Exhibit A and incorporated herein, and shall constitute the determinative legal description of the Premises. The Premises is located at City Hall, 1133 66th Street, Windsor Heights, Polk County, Iowa 50324.

(b) During the term of this Lease, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Premises from all applicable government and/or regulatory entities (the "Governmental Approvals") including appointing Tenant as agent for all conditional-use permit applications and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, variances, conditional-use permits, perform surveys, soil tests, and other engineering procedures on, under and over the Property, necessary to determine that Tenant's use of the Property and Premises will be compatible with Tenant's engineering specifications, system design, operations and Governmental Approvals.

2. Initial Term.

The Initial Term of this Lease shall commence on the Effective Date as first written above and terminate at midnight on December 31, 2018. The Initial Term may be extended pursuant to, and in accordance with, Paragraph 5 below.

3. Permitted Use.

The Premises may be used by Tenant for the transmission and reception of wireless communication signals and for the construction, maintenance, repair or replacement of related facilities, antennas, equipment, equipment cabinets and/or buildings and related activities. The Tenant's use of the facilities by shall be limited to supporting the Polk County Regional Public Safety Radio system. Use of the facilities to provide wireless communication for any other private or public entity shall be prohibited unless the Tenant obtains written approval from the Landlord. Tenant shall obtain, at Tenant's expense, all Governmental Approvals and may (prior to or after the Effective Date hereof) obtain a title report, perform environmental and other surveys, soil tests, and other engineering procedures on, under and over the Property, necessary to determine that Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations and Governmental Approvals. Landlord agrees to reasonably cooperate with Tenant (at no cost to Landlord), when required, to perform such procedures or obtain Governmental Approvals. If necessary, Tenant has the right to immediately terminate this Lease if Tenant notifies Landlord of unacceptable results of any title report, Governmental Approvals, environmental survey or soil tests prior to Tenant's installation of the Antenna Facilities (as defined below) on the Premises.

4. Rent.

(a) Throughout the initial term of this Lease, Tenant shall pay no annual rent. In lieu of rent and in consideration of the installation of this communications equipment on the Premises, Tenant agrees to provide the following benefits to the Landlord:

- 1) Phase 1 will provide Simulcast VHF paging for the Windsor Heights Fire Department and other agencies dispatched by Polk County Communications.
- 2) Phase 2 will provide P25 technology for the City of Windsor Heights and other agencies dispatched by Polk County Communications.

5. Renewal.

Tenant shall have the right to extend this Lease for two (2) additional, six (6) year terms ("Renewal Term"). Each Renewal Term shall be on the same terms and conditions as set forth herein. This Lease shall automatically renew for the Renewal Term unless Tenant shall notify Landlord, in writing, of Tenant's intention not to renew this Lease, at least sixty (60) days prior to the expiration of the Term or any Renewal Term. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

6. Interference.

Tenant shall not use the Premises in any way that interferes with the use of the Property by Landlord, or tenants or licensees of Landlord with rights to the Property, subject to Tenant's rights under this Lease, including without limitation, non-interference. Such interference shall be deemed a material breach by the Tenant, who shall, upon written notice from the Landlord, be responsible for terminating said interference or for taking action to terminate said interference within thirty (30) days of sending of the written notice. In the event any such interference does not cease within the thirty (30) day period following the written notice, the parties acknowledge that continuing interference may cause irreparable injury, and therefore, the Landlord shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

At no time shall the Tenant's operations result in any interference with, or impairment, or diminution in the quality of the Public Safety Communications system or any other communication system of Landlord, as it exists on the Effective Date or as it may be modified in the future. Landlord shall provide Tenant with written notice and specifications of any proposed modification prior to the installation in order to facilitate Tenant's mitigation of potential interference. Tenant agrees to change, correct or modify its equipment immediately upon written notification of a problem, to assure the quality of the Landlord's systems. If such problem is not cured or mitigated (at Tenant's expense) within 24 hours of receipt of such written notice, Tenant shall immediately cease use of its communications system, or portion thereof causing such interference, until such time as the interference is cured. If the Tenant fails to correct the problem and/or continues to operate its system with interference to Landlord's systems, then Landlord may terminate this Agreement, subject to the provisions of Paragraph 8.

Tenant acknowledges that Landlord may be required to maintain the Premises during the term of this Lease. Tenant agrees, in its sole discretion, to move or otherwise protect its equipment during such maintenance. In addition, Tenant acknowledges that the maintenance of the tower may cause interference with Tenant's use of the Property. Landlord shall provide Tenant with written notice prior to said maintenance in order to facilitate Tenant's mitigation of potential interference and to facilitate Tenant's covering or removal of equipment for the period of time necessary for the maintenance.

7. Improvements; Utilities; Access.

(a) Tenant shall have the right, at its expense, to maintain on the Premises improvements, personal property, monopole and facilities, including electronic equipment shelters, antennae, receiving and transmitting equipment, and all other related equipment that supports the Permitted Use provided for in Paragraph 3 above (collectively the "Antenna Facilities"), which are configured generally as set forth in Exhibit A and shall be installed and configured in compliance with all local, state and federal laws and regulations. Tenant shall have the right to replace or upgrade the Antenna Facilities at any time during the Term of this Lease. Additional improvements to the Premises, exclusive of any replacements or upgrades as set forth above, must be submitted to the Landlord, c/o City Administrator, for review and consent prior to initiation of the improvement. Consent shall not be unreasonably conditioned or delayed; however, Landlord reserves the right, in its sole discretion, to withhold consent and any consent shall be subject to negotiation of additional rent for the additional improvements. Zoning requirements for replacing or upgrading the Antenna Facilities, if any, must be met through normal procedures. The Tenant is responsible for obtaining any required regulatory approvals for all improvements to the Premises. Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. The Antenna Facilities shall remain the exclusive property of Tenant. Upon termination of this Lease, Tenant shall remove its Antenna Facilities, base transceiver station and any other of Tenant's equipment associated with its use of the Premises, at Tenant's expense, and shall restore the surface area of the Premises to its original condition or as near to its original condition as is reasonably practicable. *The Tenant shall at all times keep its work area cleared of rubbish, refuse and other debris and in a neat, clean and safe condition. Upon completion of any portion of any of the construction or maintenance, Tenant shall promptly remove all rubbish, refuse and other debris and all of its equipment and surplus material. Surplus material and material not in use at the site shall not be stored at the site. If the Tenant fails to do so, City may perform such work at Tenant's expense.*

(b) Tenant, at its expense, may use any and all appropriate means of restricting access to the Antenna Facilities, including, the construction of a fence which construction and placement of the fence shall be coordinated by Tenant with Landlord so as not to interfere with Landlord's or Tenant's use of the Property. In addition, the means of restricting access, including fence material selection, shall be subject to the approval of the Landlord and shall comply with all local, state and federal laws and regulations.

(c) Tenant shall pay any additional utility charges due to Tenant's use; however, the Landlord agrees to pay the expense of supplying electricity to the Antenna Facilities. Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Premises (including, but not limited to the installation of emergency power generators). Landlord hereby grants an easement to place any utilities on, or to bring utilities across, the Property in order to service the Premises and the Antenna Facilities. All utilities shall be buried including cables associated with radio communications once the cables meet the ground. In the event Tenant is required to bring in an emergency generator or other equipment, screening requirements will be maintained in such a manner as to blend in with the surrounding environment.

(d) As partial consideration for benefits provided under this Lease, Landlord hereby grants Tenant an easement ("Easement") for ingress, egress, and access (including access as described in Paragraph 1) to the Premises adequate to service the Premises and the Antenna Facilities at all times during the Term of this Lease or any Renewal Term. Upon prior written notice, Landlord shall have the right, at Landlord's sole expense, to relocate the Easement to Tenant, provided such new location shall not materially interfere with Tenant's operations. Any Easement provided hereunder shall have the same term as this Lease.

(e) Tenant shall not use the Premises in any way that interferes with the use of the Property by Landlord, or tenants or licensees of Landlord with rights to the Property, subject to Tenant's rights under this Lease, including without limitation, non-interference. Subject to and without waiving the foregoing, Tenant

shall have 24-hours-a-day, 7-days-a-week access to the Premises at all times during the Term of this Lease and any renewal period of said Lease.

(f) In the event of a natural or manmade disaster, in order to protect the health, welfare and safety of the community, as determined in Tenant's sole discretion, Tenant may erect additional telecommunications facilities and install additional equipment on a temporary basis on the Premises to assure continuation of public safety telecommunication services. *Restoration of P25 radio communications shall be given the highest priority in the event that P25 services and the Tenant's telecommunication services are interrupted at the same time, unless otherwise agreed to by the Landlord and the Tenant at the time of restoration.*

8. Termination.

Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(a) upon thirty (30) days written notice by either party, if the other party defaults and fails to cure such default within that thirty (30) day period, or such longer period as the parties mutually agree may be required to complete a cure commenced within that thirty (30) day period;

(b) upon ninety (90) days written notice by Tenant, if it is unable to obtain, maintain, or otherwise forfeits or cancels any license, permit or Governmental Approval necessary to the construction and/or operation of the Antenna Facilities or Tenant's business;

(c) upon ninety (90) days written notice by Tenant, if the Premises are or become unacceptable under Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong;

(d) immediately upon written notice of either party, if the Premises or the Antenna Facilities are destroyed or damaged. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction. Nothing contained in this Lease shall require the Landlord to restore the Premises after such damage or destruction;

(e) at the time title of the Property transfers to a condemning authority, pursuant to a taking of all or a portion of the Property sufficient in Tenant's determination to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

9. Taxes.

Tenant shall pay any personal property taxes assessed on, or any portion of such taxes attributable to, the Antenna Facilities.

10. Insurance and Subrogation.

(a) Tenant will provide Commercial General Liability Insurance in an aggregate amount of two million dollars (\$2,000,000) and name Landlord as an additional insured on the policy or policies. Tenant may satisfy this requirement by obtaining appropriate endorsement to any master policy of liability insurance Tenant may maintain.

(b) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first

party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other.

11. Hold Harmless and Waiver of Liability.

Tenant agrees to hold Landlord harmless from claims arising from the installation, use, maintenance, repair or removal of the Antenna Facilities, except for claims arising from the gross negligence or intentional acts of Landlord, its employees, agents or independent contractors.

LANDLORD SHALL NOT BE RESPONSIBLE OR LIABLE TO TENANT FOR ANY LOSS OR DAMAGE ARISING FROM ANY CLAIM TO THE EXTENT SUCH LOSS OR DAMAGE: (I) IS ATTRIBUTABLE TO ANY ACTS OR OMISSIONS OF OTHER LICENSEES OR TOWER USERS OCCUPYING THE ANTENNA FACILITIES, OR (II) IS DUE TO VANDALISM, OR (III) ARISES FROM STRUCTURAL OR POWER FAILURES, OR (IV) ARISES FROM THE DESTRUCTION OR DAMAGE TO THE ANTENNA FACILITIES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, IN NO EVENT SHALL LANDLORD OR TENANT BE LIABLE TO THE OTHER FOR, AND LANDLORD AND TENANT EACH HEREBY WAIVE THE RIGHT TO RECOVER INCIDENTAL, CONSEQUENTIAL (INCLUDING LOST PROFITS, LOSS OF USE OR LOSS OF BUSINESS OPPORTUNITY), PUNITIVE, EXEMPLARY AND SIMILAR DAMAGES.

12. Notices.

All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Tenant, to:
RACOM
201 West State
Marshalltown, IA 50158
Attn: Mike Miller
Phone: 888-752-1067
Email: Mike.Miller@racom.net

If to Landlord, to:
City Administrator
City of Windsor Heights, Iowa
1133 66th Street
Windsor Heights, IA 50324
Phone: 515-279-3662
Email: jfiegeschuh@windsorheights.org

13. Quiet Enjoyment. Title and Authority.

Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute this Lease; and (ii) it has good unencumbered title to the Premises free and clear of any liens or mortgages, except those which will not interfere with Tenant's right to or use of the Premises.

14. Environmental Laws.

Tenant represents, warrants and agrees that it will conduct its activities on the Property in compliance with all applicable environmental laws. Landlord represents, warrants and agrees that it has in the past and will in the

future conduct its activities on the Property in compliance with all applicable environmental laws and that the Property is free of hazardous substances as of the date of this Lease.

Landlord shall be responsible for, and shall promptly conduct any investigation and remediation as required by any environmental laws or common law, of all spills or other releases of hazardous substance, not caused by Tenant, that have occurred or which may occur on the Property. Tenant shall be responsible for its proportionate share of the costs, if any, which arise from Tenant's activities on the Premises.

Tenant agrees to defend, indemnify and hold Landlord harmless from and against any and all claims, causes of action, demands and liability including, but not limited to, damages, costs, expenses, assessments, penalties, fines, losses, judgments and attorney's fees that Landlord may suffer due to the existence or discovery of any hazardous substance on the Property or the migration of any hazardous substance to other properties or release into the environment arising solely from Tenant's activities on the Property. Tenant shall be responsible for its proportionate share of the environmental costs, if any, which arise from Tenant's activities on the Premises.

The indemnifications in this section specifically include, without limitation, costs incurred in connection with any investigation of site conditions or any cleanup, remedial, removal or restoration work required by any governmental authority.

The Tenant understands and agrees that flammable or hazardous substances, including but not limited to explosives, petroleum products, paint, solvents and resins are not allowed to be stored on the premises without the express written permission of the City. In the event written permission to store the preceding substances is granted by the City, the Tenant agrees to dispose such substances at their expense in a legal manner.

15. Assignment.

Tenant may assign this Lease only upon consent of Landlord, which consent shall not be unreasonably withheld, delayed or conditioned.

16. Successors and Assigns.

This Lease shall run with the Property and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

17. Removal of Antenna Facilities.

If within ninety (90) days after termination of this Lease (whether because of expiration of the Term or for any other reason), Tenant has not removed the Antenna Facilities, then at such time the Antenna Facilities will automatically become the property of and will be owned by Landlord, without any further action by either Landlord or Tenant. This Paragraph shall take precedence over any provisions of this Lease to the contrary.

18. Miscellaneous.

(a) The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorney's fees and court costs, including appeals, if any.

(b) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by both parties.

(c) If Tenant is represented by a real estate broker in this transaction, Tenant shall be fully responsible for any fee due such broker, and shall hold the Landlord harmless from any claims for commissions by such broker.

(d) Each party agrees to cooperate with the other in executing any documents necessary to protect its rights or use of the Premises. A Memorandum of Lease may be recorded in place of this Lease, by either party.

(e) This Lease shall be construed in accordance with the laws of the State of Iowa.

(f) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties intend that the provisions of this Lease be enforced to the fullest extent permitted by applicable law. Accordingly, the parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

(g) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

(h) The submission of this document for examination does not constitute an offer to lease or a reservation of or option for the Premises and shall become effective only upon execution by both Tenant and Landlord.

(i) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

19. Collocation.

Tenant acknowledges that additional antenna or transmission facilities may from time to time be placed by private or public entities on the Premises. Landlord does not guarantee to Tenant subsequent non-interference with Tenant's communications operations. Landlord does expect any collocater to make all reasonable efforts to mitigate the interference. If Tenant's use of the Premises is materially affected by the collocation, Tenant may terminate this Lease.

Signatures appear on the following page.

LANDLORD:

City of Windsor Heights

By: Jerry Sullivan
Jerry Sullivan, Mayor

Attest:

By: Jeff Fiegenschuh
Jeff Fiegenschuh, City Administrator

TENANT:

RACOM Corporation

By: Mike Miller
Mike Miller, President

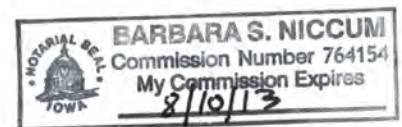
ACKNOWLEDGEMENT

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 6th day of May 2013, before me, a Notary Public in and for the State of Iowa, personally appeared Jerry Sullivan and Jeff Fiegenschuh, to me personally known, and who, being by me duly sworn, did say that they are the Mayor and City Administrator respectively of the City of Windsor Heights, Iowa, a municipal corporation; that the seal affixed to the foregoing instrument was signed and sealed on behalf of the corporation, by authority of its City Council and that Jerry Sullivan and Jeff Fiegenschuh acknowledged the execution of the instrument to be their voluntary act and the voluntary act and deed of the corporation, by it voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Barbara S. Niccum
NOTARY PUBLIC in and for the State of Iowa



STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this 9 day of May 2013, before me, a Notary Public in and for the State of Iowa, personally appeared MIKE MILLER, to me personally known, and who, being by me duly sworn, did say that he is the PRESIDENT of RACOM CORPORATION, an Iowa corporation; that the seal affixed to the foregoing instrument was signed and sealed on behalf of the corporation, and that MIKE MILLER acknowledged the execution of the instrument to be his voluntary act and the voluntary act and deed of the corporation, by it voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

Mary Wertzberger
NOTARY PUBLIC in and for the State of Iowa

