

Agenda Packet

NORFOLK CITY COUNCIL MEETING

Monday, April 3, 2023
5:30 p.m.

Created 3/30/2023 2:05 PM

**NOTICE OF MEETING
CITY OF NORFOLK, NEBRASKA**

NOTICE IS HEREBY GIVEN that a meeting of the City Council of the City of Norfolk, Nebraska, will be held at 5:30 p.m. on Monday, April 3, 2023, in the Council Chambers, 309 N. 5th St., Norfolk, Nebraska, which meeting will be open to the public.

The Mayor and City Council reserve the right to adjourn into closed session as per Section 84-1410 of the Nebraska Revised Statutes.

An agenda for such meeting, kept continually current, is available at the office of the City Clerk, 309 N 5th St, Norfolk Nebraska, during normal business hours.

Individuals requiring physical or sensory accommodations, who desire to attend or participate, please contact the City Clerk's office at (402) 844-2000 no later than 4:30 p.m. on the Friday preceding the meeting.



Brianna Duerst
City Clerk

Publish (March 29, 2023)
1 P.O.P.



AGENDA
NORFOLK CITY COUNCIL MEETING

April 03, 2023

In accordance with Section 84-1412 sub-section eight (8) of the Reissue Revised Statutes of the State of Nebraska 1943, as amended, one copy of all reproducible written material to be discussed is available to the public at this meeting for examination and copying. The Mayor and City Council reserve the right to adjourn into closed session as per Section 84-1410 of the Nebraska Revised Statutes.

CALL TO ORDER

1. 5:30 p.m. - call meeting to order
2. Inform the public about the location of the Open Meetings Act posted in the Council Chambers and accessible to members of the public
3. Moment of silence/Pledge of Allegiance to the flag of the United States of America
4. Roll call

RECOMMENDED ACTIONS

5. Approval of consent agenda. **Motion**
All items in the consent agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event the item will be removed from the consent agenda and considered separately.
6. Approval of full agenda. **Motion**

CONSENT AGENDA

7. Consideration of approval of the minutes of the March 20, 2023 City Council meeting. **Motion**
8. March sales tax report (January sales) **Motion**
9. Consideration of approval to authorize an application for Site and Building Development Funds to be submitted to the Nebraska Department of Economic Development requesting \$300,000 on behalf of Milk Specialties, and authorizing the Mayor and City staff to execute any documents necessary to effectuate the grant. **Motion**
10. Consideration of approval of an agreement with Norfolk Golden Girls, Inc., a Nebraska Nonprofit Corporation, utilizing City's softball fields to hold a softball tournament Friday through Sunday, June 2-4, 2023. **Motion**

11. Consideration of approval of an agreement with Young Men's Christian Association of Norfolk, Nebraska, a Nebraska Nonprofit Corporation, allowing the 8-lane swimming pool located in AquaVenture Water Park be used for swim team practices from May 27, 2023 through August 4, 2023. **Motion**
12. Consideration of approval of an agreement with Downtown Norfolk Association, Inc., a Nebraska Nonprofit Corporation, allowing them to utilize Riverpoint Square and closed portions of the adjacent alley, South 3rd Street, and Vehicle Parking District Lot F to host a farmers market in downtown Norfolk on Tuesdays and Thursdays, from June 6, 2023 to September 28, 2023, and on Saturdays from May 27, 2023 to October 28, 2023. **Motion**
13. Consideration of approval of an agreement with Downtown Norfolk Association, Inc., a Nebraska Nonprofit Corporation, to utilize Riverpoint Square for a Cinco de Mayo celebration which may include, but not be limited to, a music performance concert, pageants, beer garden, and food vendors on Friday, May 5, 2023. **Motion**
14. Consideration of approval of a Special Designated Liquor License for Downtown Norfolk Association, to serve beer, wine and distilled spirits at Riverpoint Square, 307 W Norfolk Ave, on May 5, 2023, from 4:00 p.m. to 11:00 p.m. for a Cinco de Mayo celebration. **Motion**
15. Consideration of approval of an agreement with RAR Enterprises, LLC, a Nebraska Limited Liability Company, to close a portion of 4th Street between Norfolk Avenue and Madison Avenue, to host an outdoor concert event which may include live music performances, the sale of alcohol and food vendors, on Saturday, June 3, 2023. **Motion**
16. Consideration of approval of a Special Designated Liquor License for RAR Enterprises, LLC, dba The Office Bar, to serve beer, wine and distilled spirits outside of 120 S 4th Street, from 12:00 p.m. to 12:00 a.m. for an outdoor live music event on June 3, 2023. **Motion**
17. Consideration of Resolution No. 2023-17 approving the final plat of Northeast Nebraska Federal Credit Union's Addition. **Resolution 2023-17**
18. Consideration of approval to purchase 33 Hewlett Packard replacement desktop computers, 2 Hewlett Packard replacement laptop computers, associated maintenance agreements, and peripherals from OneNeck IT Solutions with the lowest bid of \$37,625.00. **Motion**
19. Consideration of approval to purchase 26 Microsoft Surface Pro replacement tablets, associated maintenance agreements, and peripherals off the Omnia Partners Public Sector purchasing contract from Insight Public Sector for a total of \$61,104.06. **Motion**

- 20. Consideration of approval to participate in the five new national opioid settlements reached with Teva, Allergan, CVS, Walgreens, and Walmart related to prescription opiates and authorize the Mayor to sign the Settlement Participation Forms for each of the five settlements. **Motion**
- 21. Consideration of approval of all bills on file. **Motion**

SPECIAL PRESENTATIONS

- 22. Proclamation for April 2023 as "Fair Housing Month".

REGULAR AGENDA

- 23. Consideration of Ordinance No. 5825 approving an amendment to Section 4-4 of the Official City Code to include an exception for the keeping of hens, bantam hens, or ducks with a valid permit and to more clearly define livestock as it relates to the keeping of livestock within the city; to amend Section 4-6 of the Code to address at-large chickens or ducks; to enact Section 27-295 of the City Code to allow the keeping of hens, bantam hens, or ducks in residential districts with a valid permit. This Ordinance passed on first reading at the March 6, 2023 City Council meeting and on second reading at the March 20, 2023 City Council meeting. **Ordinance No. 5825**
- 24. Consideration of Ordinance No. 5826 approving an amendment to Section 2-5 of the Official City Code to include a permit fee for keeping hens, bantam hens and/or ducks in the City. This Ordinance passed on first reading at the March 6, 2023 City Council meeting and on second reading at the March 20, 2023 City Council meeting. **Ordinance No. 5826**
- 25. Consideration of approval of an agreement with Spohn Ranch, through a Sourcewell Contract, to design, develop, and integrate a pump track at the Norfolk Skate Park for a total amount not to exceed \$101,592. **Motion**
- 26. Consideration of approval of an Interlocal Agreement between Madison County and the City of Norfolk for completion of Asphaltic Concrete Paving Project M-451(222B) described as Omaha Avenue Overlay. **Motion**
- 27. Consideration of Ordinance No. 5830 creating the Norfolk Parks and Recreation Board to advise on all parks belonging to the City and all recreational activities financially supported by the City. **Ordinance No. 5830**

STAFF MEMORANDUM
NORFOLK CITY COUNCIL MEETING
April 03, 2023

CALL TO ORDER

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4. Roll call

RECOMMENDED ACTIONS

5. Approval of consent agenda. **Motion**
All items in the consent agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event the item will be removed from the consent agenda and considered separately.
6. Approval of full agenda. **Motion**

CONSENT AGENDA

7. Consideration of approval of the minutes of the March 20, 2023 City Council meeting. **Motion**

See Enclosure 7.
8. March sales tax report (January sales) **Motion**

March sales tax receipts (January sales) are \$823,190.27. The City's sales tax receipts are up \$41,921.46 or 5.37% from last March. Motor vehicle sales tax was up \$9,407.57 and consumers use tax was up \$1,331.80. The remaining increase was in other sales tax. Fiscal year to date sales tax receipts are \$377,529.87 or 6.85% more than budgeted. Included in the agenda packet is a sales tax comparison by month.

See Enclosure 8.

9. Consideration of approval to authorize an application for Site and Building Development Funds to be submitted to the Nebraska Department of Economic Development requesting \$300,000 on behalf of Milk Specialties, and authorizing the Mayor and City staff to execute any documents necessary to effectuate the grant. **Motion**

The State of Nebraska Department of Economic Development has invited the City of Norfolk to apply for \$300,000 in Site and Building Development Funds on behalf of Milk Specialties Company. The project involves an expansion to the existing footprint to include a 14,000 square foot dryer building and a 9,200 square foot liquid processing warehouse. The project is expected to create 29 jobs. The expansion will include new equipment for milk drying operations with an expected volume of more than 2,000,000 lbs. of raw milk per day sourced from area producers. Matching dollars for the project will be provided by Milk Specialties Company.

10. Consideration of approval of an agreement with Norfolk Golden Girls, Inc., a Nebraska Nonprofit Corporation, utilizing City's softball fields to hold a softball tournament Friday through Sunday, June 2-4, 2023. **Motion**

See Enclosure 10.

11. Consideration of approval of an agreement with Young Men's Christian Association of Norfolk, Nebraska, a Nebraska Nonprofit Corporation, allowing the 8-lane swimming pool located in AquaVenture Water Park be used for swim team practices from May 27, 2023 through August 4, 2023. **Motion**

See Enclosure 11.

12. Consideration of approval of an agreement with Downtown Norfolk Association, Inc., a Nebraska Nonprofit Corporation, allowing them to utilize Riverpoint Square and closed portions of the adjacent alley, South 3rd Street, and Vehicle Parking District Lot F to host a farmers market in downtown Norfolk on Tuesdays and Thursdays, from June 6, 2023 to September 28, 2023, and on Saturdays from May 27, 2023 to October 28, 2023. **Motion**

See Enclosure 12.

13. Consideration of approval of an agreement with Downtown Norfolk Association, Inc., a Nebraska Nonprofit Corporation, to utilize Riverpoint Square for a Cinco de Mayo celebration which may include, but not be limited to, a music performance concert, pageants, beer garden, and food vendors on Friday, May 5, 2023. **Motion**

See Enclosure 13.

14. Consideration of approval of a Special Designated Liquor License for Downtown Norfolk Association, to serve beer, wine and distilled spirits at Riverpoint Square, 307 W Norfolk Ave, on May 5, 2023, from 4:00 p.m. to 11:00 p.m. for a Cinco de Mayo celebration. **Motion**

See Enclosure 14.

15. Consideration of approval of an agreement with RAR Enterprises, LLC, a Nebraska Limited Liability Company, to close a portion of 4th Street between Norfolk Avenue and Madison Avenue, to host an outdoor concert event which may include live music performances, the sale of alcohol and food vendors, on Saturday, June 3, 2023. **Motion**

See Enclosure 15.

16. Consideration of approval of a Special Designated Liquor License for RAR Enterprises, LLC, dba The Office Bar, to serve beer, wine and distilled spirits outside of 120 S 4th Street, from 12:00 p.m. to 12:00 a.m. for an outdoor live music event on June 3, 2023. **Motion**

See Enclosure 16.

17. Consideration of Resolution No. 2023-17 approving the final plat of Northeast Nebraska Federal Credit Union's Addition. **Resolution 2023-17**

See Enclosure 17.

18. Consideration of approval to purchase 33 Hewlett Packard replacement desktop computers, 2 Hewlett Packard replacement laptop computers, associated maintenance agreements, and peripherals from OneNeck IT Solutions with the lowest bid of \$37,625.00. **Motion**

This is a budgeted expense for the current fiscal year. Total amount budgeted across all divisions is \$75,550.

See Enclosure 18.

19. Consideration of approval to purchase 26 Microsoft Surface Pro replacement tablets, associated maintenance agreements, and peripherals off the Omnia Partners Public Sector purchasing contract from Insight Public Sector for a total of \$61,104.06. **Motion**

This is a budgeted expense for the current fiscal year. Total amount budgeted across all divisions is \$77,100.

See Enclosure 19.

20. Consideration of approval to participate in the five new national opioid settlements reached with Teva, Allergan, CVS, Walgreens, and Walmart related to prescription opiates and authorize the Mayor to sign the Settlement Participation Forms for each of the five settlements. **Motion**

On December 20, 2021 the City entered into settlement participation agreements for the manufacturer (Janssen Pharmaceuticals, Inc.) and the three largest pharmaceutical opioid distributors (McKesson, Cardinal Health and AmerisourceBergen). Under the manufacturer's settlement agreement Norfolk expects to receive maximum payments of \$20,527.97 through 2031. The City has received \$12,765.54 so far under this agreement. Under the distributor's agreement Norfolk expects to receive maximum payments of \$83,999.94 through 2038. The City has received \$8499.28 so far under this agreement.

Under the new national opioid settlement agreements, the City can expect to receive the following maximum total amounts in annual payments:

- \$15,541.51 under the Teva agreement through 2035
- \$9251.93 under the Allergan agreement through 2029
- \$20,471.90 under the CVS agreement through 2032
- \$22,265.91 under the Walgreens agreement through 2037
- \$11,593.89 under the Walmart agreement in 2023

Included in the agenda packets is a memo from the National Opioids Settlements Implementation Administrator to Nebraska political subdivisions explaining how to participate in the five new national opioid settlements along with the Settlement Participation Forms for each of the five new settlements.

Staff recommend approval.

See Enclosure 20.

21. Consideration of approval of all bills on file. **Motion**

SPECIAL PRESENTATIONS

22. Proclamation for April 2023 as "Fair Housing Month".

See Enclosure 22.

REGULAR AGENDA

23. Consideration of Ordinance No. 5825 approving an amendment to Section 4-4 of the Official City Code to include an exception for the keeping of hens, bantam hens, or ducks with a valid permit and to more clearly define livestock as it relates to the keeping of livestock within the city; to amend Section 4-6 of the Code to address at-large chickens or ducks; to enact Section 27-295 of the City Code to allow the keeping of hens, bantam hens, or ducks in residential districts with a valid permit. This Ordinance passed on first reading at the March 6, 2023 City Council meeting and on second reading at the March 20, 2023 City Council meeting. **Ordinance No. 5825**

See Enclosure 23.

24. Consideration of Ordinance No. 5826 approving an amendment to Section 2-5 of the Official City Code to include a permit fee for keeping hens, bantam hens and/or ducks in the City. This Ordinance passed on first reading at the March 6, 2023 City Council meeting and on second reading at the March 20, 2023 City Council meeting. **Ordinance No. 5826**

See Enclosure 24.

25. Consideration of approval of an agreement with Spohn Ranch, through a Sourcewell Contract, to design, develop, and integrate a pump track at the Norfolk Skate Park for a total amount not to exceed \$101,592. **Motion**

This is a request for approval of the Spohn Ranch agreement using the Sourcewell contract and state bid pricing for the pump track project as part of the original design in the space just south and adjacent to the existing skate park. This project is a donation from the Lee W. DeKarske Estate in the amount of \$114,201.82. The current agreement amount is \$101,592 with contingency funds available. All remaining funds will be used for site improvements including irrigation and shade structures.

See Enclosure 25.

26. Consideration of approval of an Interlocal Agreement between Madison County and the City of Norfolk for completion of Asphaltic Concrete Paving Project M-451(222B) described as Omaha Avenue Overlay. **Motion**

This agreement provides for roadway improvements on Omaha Avenue from 25th Street to 37th Street, and Omaha Avenue from 800 feet east of 45th Street to 45th Street and south on 45th Street one quarter mile to the City Limits with asphalt concrete overlay. This agreement outlines the shared construction costs of the roadway improvements, which are estimated at \$575,000.00.

The agreement further outlines that Madison County and the City of Norfolk are responsible for 100% of the engineering costs on their respective portion of Omaha Avenue. Staff recommend approval.

See Enclosure 26.

27. Consideration of Ordinance No. 5830 creating the Norfolk Parks and Recreation Board to advise on all parks belonging to the City and all recreational activities financially supported by the City.

Ordinance No. 5830

This is a request to approve a Parks and Recreation Board that was originally established as the Parks Board in 1917. The Parks Board was abolished in July of 1979 and the Parks and Recreation Board was created at that time. The Parks and Recreation Board was then abolished in December of 1980. No board has been created since 1980. There was no discussion in the minutes or any rationale given as to why they abolished the board in 1980. The Parks and Recreation Board is needed to provide recommendations for priorities that meet the needs of the community. They will be a voice for the community. We are seeking direction as staff to prioritize our projects and needs throughout the whole community. Parks and Recreation boards can be found in Omaha, Kearney, Fremont, Nebraska City, Lincoln and Columbus. The Parks and Recreation board will not have budget approval, but rather provide recommendations for our priorities. The board can advocate for community driven concerns and provide rational solutions.

We conducted a discussion with City Council on March 20th, with suggestions to clarify the advisory level of the board, remove employ staff and develop an approval process for council. These changes were taken to the Culture and Recreation subcommittee on March 27th and approved to move forward with these changes.

See Enclosure 27.

CITY OF NORFOLK, NEBRASKA

The Mayor and City Council of the City of Norfolk, Nebraska met in regular session in the Council Chambers, 309 North 5th Street, Norfolk, Nebraska on the 20th day of March, 2023, beginning at 5:30 p.m.

Following a moment of silence and the Pledge of Allegiance to the flag of the United States of America, Mayor Josh Moenning called the meeting to order. Roll call found the following Councilmembers present: Corey Granquist, Frank Arens, Justin Webb, Andrew McCarthy, Thad Murren, Justin Snorton, Shane Clausen and Kory Hildebrand. Nays: None. Absent: None.

Staff members present were: City Administrator Andy Colvin, City Attorney Danielle Myers-Noelle, City Clerk Brianna Duerst, Finance Officer Randy Gates, Administrative Secretary Bethene Hoff, Public Works Director Steve Rames, Assistant City Engineer Anna Allen, Director of Administrative Services Lyle Lutt, Parks and Recreation Director Nathan Powell, Water and Sewer Director Chad Roberts, Fire Chief Tim Wragge, Housing Director Gary Bretschneider, Economic Development Director Candice Alder, Communications Manager Nick Stevenson, Administrative Assistants Kylee Soderberg, Jen Olson and Stacey Hansen, City Planner Val Grimes, and Police Chief Don Miller.

The Mayor presided and the City Clerk recorded the proceedings.

The Mayor informed the public about the location of the current copy of the Open Meetings Act posted in the City Council Chambers and accessible to members of the public.

Notice of the meeting was given in advance thereof by publication in the Norfolk Daily News, Norfolk, Nebraska, the designated method of giving notice, as shown by affidavit of publication.

Notice was given to the Mayor and all members of the Council and a copy of their acknowledgement of receipt of notice and agenda is attached to the minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public.

Agenda Motions

Councilmember Hildebrand moved, seconded by Councilmember Clausen to approve the consent agenda with Item #18 and Item #30 moved to the regular agenda and a correction to the date on the March 9, 2023 City Council work session minutes. Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None.

Councilmember McCarthy moved, seconded by Councilmember Snorton to adopt the full agenda with Item #37 moved to the last item on the agenda. Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None.

Consent Agenda Items Approved

Minutes of the March 6, 2023 City Council meeting

Minutes of the March 9, 2023 Work Session meeting

Keno comparison report for February 2023

Norfolk Football Club, a Nebraska Nonprofit Corporation, agreement allowing the use of the multi-purpose fields and green space in City's parks, excluding Veterans Memorial Park, for youth soccer practice and training from March 23, 2023 through December 31, 2023

Norfolk Soccer Club, Inc., a Nebraska Nonprofit Corporation, agreement allowing practice on the multi-purpose fields and green space in City's parks, excluding Veterans Memorial Park, for their 2023 soccer season from April 1, 2023 through November 1, 2023

Premier Companies, L.L.C., a Nebraska Limited Liability Company, agreement allowing the use of Norfolk Pedal Park and Embrace Field (green space immediately north of and adjacent to Norfolk Pedal Park) to host a spring event to include but not limited to Mario Kart racing with little trikes on the bicycle track and relay races in the grass, on Friday, April 28, 2023

Norfolk Post 16 of The American Legion at Norfolk, Nebraska, a Chartered Unit of the Nebraska American Legion and its National Organization, agreement allowing the baseball field in Veterans Memorial Park to be used for baseball practice, clinics, camps and games (not including tournaments) for the summer baseball season and post season from May 1, 2023 through August 31, 2023

Northeast Community College, a Political Subdivision of the State of Nebraska, agreement allowing the use of the baseball field at Veterans Memorial Park for baseball practice, clinics, camps and games (not including tournaments) from the date of this agreement through June 30, 2023

Northeast Community College, a Political Subdivision of the State of Nebraska, agreement allowing the use of City's facilities for softball games, practice, clinics, and camps from the date of this agreement through June 30, 2023

Northeast Community College, a Political Subdivision of the State of Nebraska, agreement allowing soccer games to be held at Memorial Field and to hold soccer practices, clinics, and camps at both Memorial Field and other multipurpose fields and green space from the date of this agreement through June 30, 2023

Special Designated Liquor Licenses requested by Downtown Norfolk Association, to serve beer at 303 W Norfolk Avenue (Riverpoint Square), for a Family Music Concert Series from 5:30 p.m. to 11:00 p.m. on the following dates: June 2, 2023, with an alternate date of June 9, 2023; June 23, 2023, with an alternate date of June 30, 2023; July 21, 2023, with an alternate date of July 28, 2023; and August 18, 2023, with an alternate date of August 25, 2023

Advertise for bids for the Sanitary Sewer Replacement Monroe Avenue to Logan Street project

Low bid for the outdoor warning siren project submitted by Federal Signal Corp for a lump sum amount of \$91,836.69

Purchase a sewer crawler camera for \$37,824.74 from Deep Trekker Inc. for the Sewer Division

Certified Testing Services, Inc. testing services contract for the Concrete Improvements FY 2022-2023 project for an amount not to exceed \$15,500.00

Certified Testing Services, Inc. testing services contract for the Library Story Walk Trail project for an amount not to exceed \$2,500.00

Certified Testing Services, Inc. testing services contract for the W. Michigan Avenue and 8th St. Street and Utility project for an amount not to exceed \$54,500.00

Certified Testing Services, Inc. testing services contract for the Paving District No. 520 (Walters' East Knolls 14th Addition) project for an amount not to exceed \$5,000.00

BankFirst Permanent easement agreement allowing for the placement of communication lines

Robert E. Dover, Ann B. Dover, Thomas E. Dover II, and Marilyn K. Dover permanent easement agreement allowing for the placement of communication lines

Westgate of Norfolk LLC permanent easement agreement allowing for the placement of communication lines

Norfolk Iron & Metal Co. water project easement agreement for the Northeast Industrial Utility Extension project for \$2,871.00

Norfolk Iron & Metal Co. water project easement agreement for the Northeast Industrial Utility Extension project for \$2,871.00

Bills in the amount of \$1,829,894.56

Special Presentations

The Mayor proclaimed March 12-18, 2023 as Girl Scout Week.

The Mayor proclaimed March 23, 2023 as Noon Kiwanis Day.

Alcohol beverages occupation tax and Police Station Expansion

Public input and discussion to receive potential Council recommendation, if necessary, regarding an occupation tax on alcoholic beverages and possible special election for the police station

expansion.

City Administrator Andy Colvin said we are attempting to hone down community priorities after the failed sales tax issue in November and noted the Police Station expansion rose the top of the priority list, and we are looking at creative ways to fund the project. At the last Council meeting, there was discussion on a potential 3% occupation tax on alcoholic beverages. This discussion is an opportunity to follow up, get additional input and provide direction.

Moening said at the last Council meeting, there was also discussion on potential funding for street repairs, more specifically a lodging tax. From that conversation, it appeared there was no desire to continue discussion on that option. Further, at the Council work session, there was discussion on working within the current budget on needed street repairs. We are further narrowing this discussion to take more public input on a potential special election and occupation tax on alcoholic beverages as a way to help finance Police Station expansion.

Kim Davis, 310 Oak Street, asked how much taxing alcohol at 3% would produce and how long the tax would need to be collected. Davis noted collections on citations could cover the cost.

Finance Officer Randy Gates said the estimated revenue is approximately \$733,000 per year, which would be enough to the pay debt service on a bond with an average interest rate of 4% over 20 years to pay for what we're anticipating the Police Station expansion to cost.

City Attorney Danielle Myers-Noelle noted that, when referring to citations, the money collected goes to public school and does not come back to the city.

Jim McKenzie, 1412 Longhorn Drive, asked, regarding the potential occupation tax, if the intent is to let citizens vote on it or if it will be decided by Council vote. Myers-Noelle noted that, because we are anticipating we will exceed \$700,000 as provided in state statute, the occupation tax question would be included in the ballot.

McKenzie said, while he is supportive of completing the police station expansion project as soon as possible, there are more than sufficient funds to pay for the expansion without a new tax, including undesignated ARPA funds, unallocated Council Priority Dollars, landscaping funds, and increased sales tax receipts. These dollars together total \$2.8 million. McKenzie said the project could be paid for within the existing budget with existing funds, and he is confused as to why there is a need for an additional tax when we have existing funds to pay for the project. McKenzie questioned what would happen if the bond and occupation tax is not passed by voters and would suggest having two questions on the ballot, one for the bond and a separate question for the occupation tax. That way if the citizens approve the bond issuance, but not the new tax, the project could proceed within the existing budget.

Moening discussed the difficulty of accomplishing both street repairs and the Police Station expansion within the existing budget as there is a limited amount of discretionary funds.

McKenzie said there needs to be a deep dive into the city's budget. The city has been collecting more revenue, where is it going? Need to claw some money back out and use for streets.

Councilmember Clausen said he feels we could do one or the other by using current revenue – Police Station expansion or street repairs. It depends on how aggressive we want to get on street repairs. Additional revenues are what grew the beginning fund balance. Unless we reduce the emergency fund dramatically, we will need to cut tremendous amounts of service. Council Priority Dollars were previously tied up in Parks Department payroll and payment of the Administration building. While those dollars have now been freed up, Clausen feels those funds are better served for street repairs instead of paying off a bond. To do both within the existing budget would change the scope on what we want to do with street repairs.

McKenzie noted he is not personally entirely opposed to occupation tax; his concern is where do we tighten our belt to try to live within our means? McKenzie sees unnecessary spending across the budget and areas where we can be more frugal.

Olivia Matteo, no address provided, said if there is not enough money to do both street repairs and Police Station expansion, the priority should be street repairs and then revisit police expansion. Matteo would suggest looking at phases for police expansion since there is not enough money up front and would like to look at different options on how to stretch out Police Station expansion and focus on roads that impact everyone.

Soshia Bohn, no address provided, asked if there was a comparison of where the 3% occupation tax came from and how other communities use funds collected through an occupation tax. Moenning said, currently there is no occupation tax in Norfolk. There had been previously to help pay for the Memorial Field and Aquaventure project. The bond for that project was paid off earlier than anticipated and the occupation tax was removed. As far as what other communities do, it is a wide variety of how those funds are used to pay for different city projects. Norfolk is probably in the minority in not imposing some sort of food and beverage or lodging occupation tax. Bohn said she believes both road repairs and the Police Station are very necessary. Finding ways to do both is vital.

Brad Brooks, 2204 Highland Drive, said when the increased sales tax and bond issue was up for election, if the projects hadn't been lumped together, the two things people he spoke to really wanted were the Police Department and streets. Now there are more roadblocks on the two things the community said they wanted done. There will be some tough decisions that have to be made, but something must be done.

McKenzie would like to see Council commit to putting a certain number of dollars annually into street repairs, so citizens are aware there will be money going into street repairs if the occupation tax is approved. McKenzie feels if the message isn't right to the citizens and they see this as just an extra tax, we pass up an opportunity again.

Moenning said he likes the idea of a specialized tax on just alcohol instead of taxing all food and beverages. We are trying to find reasonable ways to more immediately get these projects done. Moenning said since January and February, we have been collecting citizen surveys and Police and Streets have risen to top of the priority list. An occupation tax has rated first as the potential funding mechanisms to get these projects done. As part of this discussion, we have seen more

requests besides just Police and streets including the Senior Citizens Center and Childcare. We have to be mindful that the city and council has to weigh all of these different priorities and decide within the budgetary process what can be dedicated where and the timelines to accelerate getting the work done.

Councilmember Clausen said that with citizens input from the last meeting, it was decided not to do any sort of new taxes for street repairs and noted how important it is to have citizens share their input.

Parks and Recreation Board creation

Discussion regarding the creation of a Norfolk Parks and Recreation Board to assist with the management, care, and use of Norfolk's parks.

Parks and Recreation Director Nathan Powell said the city had a Parks and Recreation Board until 1980. Since then, we have lost citizen engagement and there has been no discussion regarding a board that staff can find. A Parks Board was originally established in 1917. The Parks Board was abolished in July of 1979, and the Parks and Recreation Board was created at that time. The Parks and Recreation Board was then abolished in December of 1980. There was no discussion in the minutes or any rationale given as to why they abolished the board in 1980. The Parks and Recreation Board is needed to provide recommendations for priorities that meet the needs of the community. They will be a voice for the community. We are seeking direction as staff to prioritize our projects and needs throughout the whole community. Parks and Recreation boards can be found in Omaha, Kearney, Fremont and Columbus. The Parks and Recreation board will not have budget approval, but rather provide recommendations for our priorities. The board can advocate for community driven concerns and provide rational solutions that are not political.

A first draft of an ordinance has been put together by staff. It was written following state statute, which allows a semi-independent board where Council makes the ultimate decisions. Powell reviewed the budget process and policies. The board would meet once per month and would consist of six members. Per state statute, there must be a minimum of three members, anything higher than that has to be divisible by three.

Councilmember Hildebrand asked about the role of the Culture & Recreation subcommittee. Hildebrand said he is not sure six members will be enough to make sure everyone's interest is accommodated.

Councilmember Webb said he sees this as an advisory board that leads to community involvement and transparency, but wants to ensure there is nothing to circumvent the City Council. Webb would like to see the board made up of the general citizens and not private sports groups.

City Attorney Myers-Noelle said how the current draft of the ordinance is written is heavily geared to the way state statute reads. If elected officials want this board to serve as advisory board, where all final decisions come to Council, that can clearly be defined within the

ordinance.

City Administrator Colvin said this is a good way to create another advisory board to the council and would be good for the community. Colvin would suggest having nine board members, keeping in mind this would be a volunteer board of citizens, and he would anticipate monthly, evening meetings.

Jim McKenzie, 1412 Longhorn Drive, said there is nothing in ordinance as written that says the board would be an advisory board. The ordinance says the board shall have charge of all parks and establishes the responsibilities of the board to have charge of all parks owned by the city and establish rules for the management, care, and use. This ordinance, as written, does not provide for an advisory board and gives the board a tremendous amount of power over the parks.

City Attorney Danielle Myers-Noelle said that when putting together the draft ordinance, the language was directly pulled from statute. This is why we decided to have this conversation tonight on what council wants to see. The intent was not to move the ordinance forward in this exact form, but to just start the conversation. Staff can certainly look at other models and move forward.

Olivia Matteo said that if this board is set up as an advisory board, need to relook at the duties and needs of parks department staff, types of personnel and job descriptions. Matteo feels community engagement and information provided is lacking. Citizens want to interact with directors of departments. Want more information to engage.

Tim Ernst, no address provided, discussed the need to clean up Taha Zouka Park and Skyview Lake. Ernst feels the board would be alright as long as they are not paid.

Next steps – take to subcommittee, take information given and adjust model and discuss at subcommittee level to bring back to Council.

NNSWC budget, fiscal year ended 9-30-2023

A townhall meeting was held to receive comments on the Northeast Nebraska Solid Waste Coalition (NNSWC) budget and rates for the fiscal year ending September 30, 2023. Finance Officer Randy Gates provided the Mayor and City Council with information.

According to the NNSWC interlocal agreement, a townhall meeting is held in the three largest communities each year to review the Coalition's proposed budget and rates. Included in the agenda package is a proposed budget for the fiscal year ending September 30, 2023 that leaves rates unchanged at \$24 per ton.

Balance forward increases \$1,199,878 going from \$7,172,468 last year to \$8,372,346 this year primarily due to normal operations of the Coalition.

Use fees decrease \$115,512 or 3,76% due to a 4,813 ton decrease in budgeted tonnage for

regular waste. With tipping fees at \$24.00 per ton, budgeted use fees are \$2,955,331. Interest income increases \$50,000 due to an increase in budgeted interest rate from 0.15% last year to 1% this year.

Personnel costs increase \$958 or 0.96%. Personnel costs include a 6% cost of living adjustment and normal merit increase. This increase is partially offset by hiring a part-time scale clerk at a lower pay grade than the previous scale clerk. Disposal fees increase \$71,949 or 6.19% due to an increase in fee to Waste Connections. Other professional fees decrease \$28,319 due to a decrease in the fee for groundwater monitoring. This year's capital outlay is \$4,207,200 and consists of: \$3,831,200 for engineering and construction of cell 6, \$11,000 for installation of deep well pumps, and \$365,000 for vertical and lateral permit modifications.

Also included in the agenda packet is the Closure/Post Closure Care Fund budget. The transfer from the operating fund increases \$94,880 or 24.77% from \$383,120 last year to \$478,000 this year. Total funds available for closure/post closure increase 9.76% from \$10,525,996 last year to \$11,553,716 this year.

Approximately half of the increase is due to interest earnings and half is due to current year funding.

Public Hearings and Related Items

Public Hearing

(Planer zone change, 1600 South 5th Street)

A public hearing was held to consider a zone change from I-1 (Light Industrial District) to R-1 (Single Family Residential District) on property addressed as 1600 South 5th Street at the request of Eugene C. and Jennifer Planer. City Planner Valerie Grimes provided information to the Mayor and City Council. The previous owner of the property was granted a conditional use permit (CUP) for a watchman/caretaker for the business located on the property. The previous owner passed away and the CUP was void as it was a personal privilege to the applicant. The current owner applied for a watchman/caretaker CUP that was denied by the Planning Commission. A few days following the denial of the CUP, a fire occurred at the business, and it is no longer operating. The request is to now change the zoning on the remaining residential structure. The property is adjacent to the railroad tracks and I-2 zoning. Therefore, if the residential zoning passes, per code, an affidavit will be filed that the bufferyard will be the responsibility of this property. The bufferyard requirement is 100' and covers the entire lot, so if anything were to happen to the structure, nothing may be built on the lot making it unusable as residential.

On March 7, 2023, the Norfolk Planning Commission held a public hearing regarding the Planer zone change request. The City Clerk read the Planning Commission's recommendation for approval into the record.

No one else appeared either in favor of or in opposition to the zone change and the Mayor declared the hearing closed.

Ordinance No. 5828

(Planer zone change, 1600 South 5th Street)

Councilmember Arens introduced, seconded by Councilmember Hildebrand, Ordinance No. 5828 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Ordinance No. 5828 passed on first reading.

Councilmember Granquist moved, seconded by Councilmember Arens, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule requiring reading on three different days was suspended for consideration of said ordinance.

Thereafter Councilmember Granquist moved, seconded by Councilmember Arens, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Mayor then stated the question "Shall Ordinance No. 5828 be passed and adopted?"

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 5828 as required by law.

Public Hearing

(Valley Drive Properties, LLC zone change

(1/8 mile southeast of the E. Norfolk Avenue and South Victory Road roundabout)

A public hearing was held to consider a zone change from I-1 (Light Industrial District) and C-1 (Local Business District) to I-1 (Light Industrial District) on property generally located 1/8 mile southeast of the E. Norfolk Avenue and S. Victory Road roundabout at the request of Valley Drive Properties, LLC (Kelby Herman). City Planner Valerie Grimes provided information to the Mayor and City Council. The property has two zoning districts on one parcel with floodplain running diagonally through the property from northeast to southwest. The floodplain covers approximately one third of the parcel. If the I-1 zoning is approved, once a building permit is pulled, the required 40-foot bufferyard will kick in on sides adjacent to residentially zoned parcels.

Kelby Herman, 1005 Darrus Drive, Valley Drive Properties, applicant, said the intention is to build a storage facility with both commercial and personal storage. The drainage swale will be relocated to the east side of the property. I-1 was chosen for the request as it is the lowest intensity zoning district that outright permits storage of non-hazardous materials. Proper screening will be completed with trees and/or fencing.

Councilmember Granquist asked about the possibility of going to a less intense zoning district and obtaining a conditional use permit. Grimes explained that we could go down in intensity on the zoning and have the applicant request a conditional use permit to operate the storage facility. Grimes noted that with a CUP, more conditions could be added relating to landscaping, screening, and number of units, but also noted that in a less intense zoning district, the bufferyard requirements are reduced.

On March 7, 2023, the Norfolk Planning Commission held a public hearing regarding the zone change request. The City Clerk read the Planning Commission's recommendation for approval into the record.

No one else appeared either in favor of or in opposition to the zone change and the Mayor declared the hearing closed.

Ordinance No. 5829

(Valley Drive Properties, LLC zone change

(1/8 mile southeast of the East Norfolk Avenue and S. Victory Road roundabout)

Councilmember Arens introduced, seconded by Councilmember Murren, Ordinance No. 5829 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand.
Nays: None. Absent: None. Ordinance No. 5829 passed on first reading.

Councilmember Granquist moved, seconded by Councilmember McCarthy, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand.
Nays: None. Absent: None. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule requiring reading on three different days was suspended for consideration of said ordinance.

Thereafter Councilmember Granquist moved, seconded by Councilmember McCarthy, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Mayor then stated the question "Shall Ordinance No. 5829 be passed and adopted?"

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 5829 as required by law.

Regular Agenda Items

Resolution 2023-15

(declare intent to incur indebtedness, Computer Aided Dispatch and Records Management)

Councilmember Granquist introduced, seconded by Councilmember Arens, Resolution No. 2023-15, declaring the City's official intent under Internal Revenue Code regulations to incur indebtedness which includes reimbursement of expenditures for Computer Aided Dispatch and Records Management Software.

Finance Officer Randy Gates provided information to elected officials. IRS regulations require an intent resolution if the City expends funds more than 60 days in advance of debt issuance. A contract with Central Square was approved at the March 6, 2023 Council meeting to upgrade the current Computer Aided Dispatch and Records Management Software. A portion of the contract will be funded with Wireless 911 funds, and the remaining portion will be funded with Public Safety Tax Anticipation Bonds. The maximum principal amount of debt expected to be issued is \$155,000.

Jim McKenzie, 1412 Longhorn Drive, questioned if the \$155,000 expense is something that could just be paid for instead of paying interest on a bond.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Resolution No. 2023-15 was adopted.

Resolution 2023-16

(benefit to Vehicle Parking District if parking lot property sold)

Councilmember McCarthy introduced, seconded by Councilmember Murren, Resolution No. 2023-16, authorizing that in the event that the City exercises a first right of refusal on the property located at "the West 22 feet of Lot 5, and all of Lots 6, 7 & 8, Block 4, Original Town of Norfolk, Madison County, Nebraska" use will be for the benefit of the Vehicle Off-Street Parking District No. 1 (VPD) or its successor.

Economic Development Director Candice Alder provided information to elected officials. This Resolution is at the request of the members of the Vehicle Off-Street Parking District No. 1 (VPD) relating to the sale of the parking lot immediately north of the Kensington to HCI Real Estate Company. The resolution provides that, if any future owner sells the property to a third party for use other than a parking lot for a hotel, or the lot comes back into the possession of the

City, any funds received or the lot itself will be designated for the benefit of the VPD or its successor. The purchase agreement for the lot to HCI Real Estate Company for \$1 was approved by the City Council on March 6, 2023 and a request was made by the VPD to move forward with the drafting of a resolution outlining the future benefits (if exercised) to the VPD.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Resolution No. 2023-16 was adopted.

Ordinance No. 5821

(allow operation of golf car vehicles on city streets)

Councilmember McCarthy introduced, seconded by Councilmember Clausen, Ordinance No. 5821 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO ENACT CHAPTER 24, ARTICLE XII, OF THE OFFICIAL CITY CODE TO ALLOW THE OPERATION OF GOLF CAR VEHICLES ON CITY STREETS AND HIGHWAYS AND SETTING FORTH THE PROVISIONS UNDER WHICH GOLF CAR VEHICLES MAY BE OPERATED and moved that the ordinance be passed on third reading. Said ordinance was then read into the record by title by the City Clerk.

Ordinance No. 5821 passed on first reading at the February 21, 2023 City Council meeting and second reading at the March 6, 2023 meeting.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Clausen and Hildebrand. Nays: Snorton. Absent: None. Ordinance No. 5821 passed on third reading. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance, and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 5821 as required by law.

Ordinance No. 5825

(City Code amendment, keeping of hens, bantam hens or ducks)

Councilmember Granquist introduced, seconded by Councilmember Clausen, Ordinance No. 5825 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 4-4 OF THE OFFICIAL CITY CODE TO INCLUDE AN EXCEPTION FOR THE KEEPING OF HENS, BANTAM HENS, OR DUCKS WITH A VALID PERMIT AND TO MORE CLEARLY DEFINE LIVESTOCK AS IT RELATES TO THE KEEPING OF LIVESTOCK WITHIN THE CITY; TO AMEND SECTION 4-6 OF THE CODE TO ADDRESS AT-LARGE CHICKENS OR DUCKS; TO ENACT SECTION 27-295 OF THE CITY CODE TO ALLOW THE KEEPING OF HENS, BANTAM HENS, OR DUCKS IN RESIDENTIAL DISTRICTS WITH A VALID PERMIT and moved that the ordinance be passed on second reading. Said ordinance was then read into the record by title by the City Clerk.

Ordinance No. 5825 passed on first reading at the March 6, 2023 City Council meeting.

Roll call: Ayes: Webb, McCarthy, Murren, Snorton, and Clausen. Nays: Granquist, Arens and Hildebrand. Absent: None. Ordinance No. 5825 passed on second reading.

Ordinance No. 5826

(amend fee schedule, permit fee for keeping of hens, bantam hens or ducks)

Councilmember McCarthy introduced, seconded by Councilmember Snorton, Ordinance No. 5826 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 2-5 OF THE OFFICIAL CITY CODE TO INCLUDE A PERMIT FEE FOR KEEPING HENS, BANTAM HENS AND/OR DUCKS IN THE CITY and moved that the ordinance be passed on second reading. Said ordinance was then read into the record by title by the City Clerk.

Ordinance No. 5826 was passed on first reading at the March 6, 2023 City Council meeting.

Roll call: Ayes: Arens, Webb, McCarthy, Murren, Snorton and Clausen. Nays: Granquist and Hildebrand. Absent: None. Ordinance No. 5826 passed on second reading.

McLaury Engineering Letter Agreement Amendment #2

(West Michigan Avenue and 8th Street reconstruction project)

Councilmember McCarthy moved, seconded by Councilmember Clausen, for approval of a Letter Agreement Amendment #2 for construction engineering services with McLaury Engineering for the West Michigan Avenue and 8th Street reconstruction project for an amount not to exceed \$127,300.14.

On August 5, 2019 the Mayor and City Council approved a \$43,000.00 contract with McLaury Engineering, Inc. for a reconstruction of W. Michigan Avenue and 8th Street. On May 17, 2021 the Mayor and City Council approved a \$168,200.00 design services contract. The construction engineering services contract includes construction staking and observation. Staff recommend approval of a construction engineering services contract with McLaury Engineering for \$127,300.14.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand. Nays: None. Absent: None. Motion approved.

Public Comment Period

Kara Kratochvil, Women's Empowering Life Line (WELL), said there is a need in the community for 24/7 childcare. Childcare availability is an important priority for growth, and they need the city's financial support to support the urgent need in our community. The WELL has set out to open a childcare facility and have applied for LB840 funds. The building they are looking to purchase can accommodate 200 children. With the 24/7 care model, they would intend to serve 300 children.

Economic Development Director Candice Alder said that the WELL's LB840 application has been presented to Economic Development subcommittee, who requested that additional due diligence be done by the WELL. At that point, the application will be brought to the full council for consideration. The application/request has not yet been awarded and is still in the process.

Hildebrand said he has heard different scenarios and a lot of overwhelming concern, particularly on how to keep the facility staffed. Kratochvil said since they will be non-profit, everything will go back to the staff. They will be able to offer better wages and benefits to attract employees.

Soshia Bohn, WELL, said with the current childcare shortage and no facilities operating 24 hours, people cannot find childcare. Without addressing childcare, the community will remain stagnant. The lack of evening and overnight childcare likely contributes to a negative impact on employers. Bohn will be asking this topic come to the next agenda for discussion.

Hildebrand asked if the WELL has reached out to large employers in the community about their willingness to donate to get things going. Kratochvil said they are trying and are still waiting to hear back on a lot.

Danielle Wockenfuss, 712 S 8th Street, discussed her personal struggle with childcare needs and noted the childcare issue impacts everyone in the community. As a citizen, she is asking to be heard and noted there is a desperate need for childcare in the community.

Dony Larson, WELL Executive Director, said the organization has been searching for a childcare property for years. When they heard the Northern Hills Daycare was closed and the building was sold, WELL staff reached out to the seller multiple times. Mission of seller is Ukrainian refugees. Money tied up in the property takes away from helping his mission, so is not interested in leasing the property.

Jim McKenzie, 1412 Longhorn Drive, said he would like the public comment session to happen more often and would encourage elected officials to have the public comment period on at least a monthly basis, if not every meeting. McKenzie noted there are swirls of controversy and people are uncomfortable. Norfolk needs to come together, and he would encourage more open sessions.

Closed Session

Councilmember Hildebrand moved, seconded by Councilmember Snorton to adjourn from regular session and convene into executive session at 8:12 p.m. to discuss the evaluation of the job performance of an individual when he has not requested such an evaluation take place during a public meeting.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand.
Nays: None. Absent: None. Motion carried.

Councilmember Murren moved, seconded by Councilmember Arens to adjourn from executive session at 10:05 p.m. and reconvene into regular session.

Roll call: Ayes: Granquist, Arens, Webb, McCarthy, Murren, Snorton, Clausen and Hildebrand.
Nays: None. Absent: None.

Mayor Moenning restated for the record that the only item discussed during the executive session was for the purpose to prevent the needless injury to the reputation of an individual to evaluate the job performance of an individual when he has not requested such an evaluation take place during a public meeting.

There being no further business, the Mayor declared the meeting adjourned at 10:06 p.m.

Josh Moenning
Mayor

ATTEST:

Brianna Duerst
City Clerk

(S E A L)

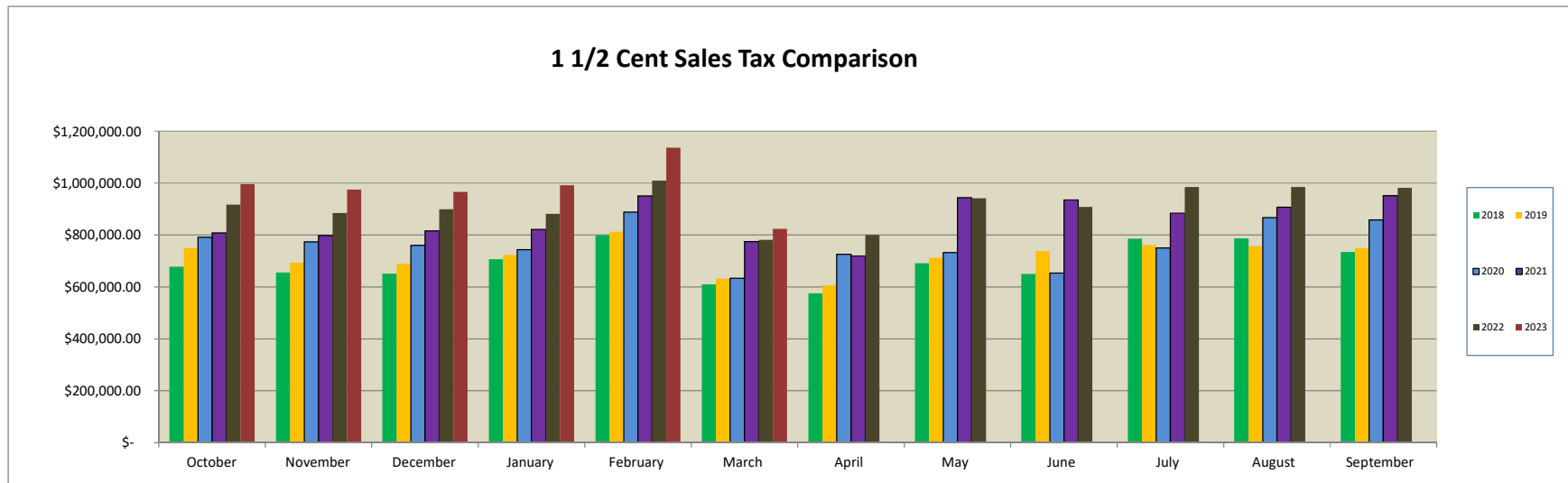
I, the undersigned Clerk, hereby certify that the foregoing is the full, true and correct original document of proceedings of Monday, March 20, 2023, were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to the meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Brianna Duerst
City Clerk

(S E A L)

CITY OF NORFOLK
1 1/2 CENT SALES TAX COMPARISON
2018 - 2023

PAYMENT DATE	2022						2023		CHANGE 2022 TO 2023			BUDGET VARIANCE	
	2018	2019	2020	2021	2022	2023	BUDGET						
October	\$ 678,401.87	\$ 749,907.08	\$ 791,667.22	\$ 807,699.88	\$ 916,869.52	\$ 995,864.82	\$ 939,668.43	\$ 78,995.30	8.62%	\$ 56,196.39	5.98%		
November	\$ 654,681.26	\$ 693,592.86	\$ 773,622.59	\$ 798,022.46	\$ 884,430.97	\$ 974,723.28	\$ 907,229.88	\$ 80,292.31	10.21%	\$ 67,493.40	7.44%		
December	\$ 651,260.81	\$ 688,673.25	\$ 760,004.07	\$ 815,440.55	\$ 899,492.96	\$ 965,286.05	\$ 922,291.87	\$ 65,793.09	7.31%	\$ 42,994.18	4.66%		
January	\$ 705,769.95	\$ 722,650.88	\$ 743,508.54	\$ 821,520.19	\$ 881,000.94	\$ 991,455.26	\$ 903,799.85	\$ 110,454.32	12.54%	\$ 87,655.41	9.70%		
February	\$ 799,180.83	\$ 812,345.69	\$ 887,425.53	\$ 950,153.16	\$ 1,009,091.07	\$ 1,135,957.92	\$ 1,031,889.98	\$ 126,866.85	12.57%	\$ 104,067.94	10.09%		
March	\$ 610,326.58	\$ 632,492.20	\$ 633,342.26	\$ 774,090.95	\$ 781,268.81	\$ 823,190.27	\$ 804,067.72	\$ 41,921.46	5.37%	\$ 19,122.55	2.38%		
April	\$ 575,250.20	\$ 606,371.26	\$ 725,373.93	\$ 719,690.10	\$ 800,199.17	\$ -	\$ 822,998.08	\$ -	0.00%	\$ -	0.00%		
May	\$ 690,707.66	\$ 712,360.98	\$ 733,041.40	\$ 943,475.10	\$ 941,437.19	\$ -	\$ 966,326.78	\$ -	0.00%	\$ -	0.00%		
June	\$ 649,735.86	\$ 738,010.16	\$ 653,114.23	\$ 935,611.73	\$ 907,696.57	\$ -	\$ 959,455.98	\$ -	0.00%	\$ -	0.00%		
July	\$ 785,104.37	\$ 761,157.69	\$ 750,322.72	\$ 883,844.67	\$ 985,039.55	\$ -	\$ 907,688.92	\$ -	0.00%	\$ -	0.00%		
August	\$ 786,723.11	\$ 756,686.77	\$ 866,997.21	\$ 907,083.35	\$ 984,190.94	\$ -	\$ 930,927.60	\$ -	0.00%	\$ -	0.00%		
September	\$ 734,838.03	\$ 748,664.90	\$ 857,175.30	\$ 951,421.42	\$ 981,225.96	\$ -	\$ 975,265.67	\$ -	0.00%	\$ -	0.00%		
TOTALS	\$8,321,980.52	\$8,622,913.72	\$9,175,595.00	\$ 10,308,053.56	\$ 10,971,943.65	\$ 5,886,477.60	\$ 11,071,610.76	\$ 514,323.33	9.57%	\$ 377,529.87	6.85%		



AGREEMENT

This Agreement is made and entered into the _____ day of _____, 2023, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "CITY", and Norfolk Golden Girls, Inc., a Nebraska Nonprofit Corporation, hereinafter referred to as "GOLDEN GIRLS", WITNESSETH:

WHEREAS, CITY is the owner of softball fields in various CITY parks in Norfolk, Nebraska; and

WHEREAS, GOLDEN GIRLS are desirous of utilizing CITY's softball fields to hold a softball tournament Friday thru Sunday, June 2-4, 2023; and

WHEREAS, CITY is desirous of allowing GOLDEN GIRLS to hold said softball tournament in CITY's parks.

NOW, THEREFORE, in consideration of the foregoing recitals, and the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. FACILITY. CITY shall allow GOLDEN GIRLS to utilize CITY's softball fields Friday thru Sunday, June 2-4, 2023, to hold a softball tournament. CITY's parks and recreation director shall designate which softball fields are to be used by GOLDEN GIRLS. GOLDEN GIRLS' use of the softball fields shall be exclusive for the dates set forth in this paragraph.

2. FEES. GOLDEN GIRLS shall pay a fee to CITY in an amount equal to five percent (5%) of total tournament registration fees for the use of the softball fields in CITY's parks for the tournament June 2-4, 2023. Said usage fee shall be paid to CITY at the Norfolk City Clerk's Office, 309 North 5th Street, Norfolk, Nebraska, by 4:30 p.m. on May 30, 2023.

3. LIABILITY. GOLDEN GIRLS shall provide CITY with a certificate of general liability insurance in the following minimum amounts:

General Aggregate	\$2,000,000
a. Bodily Injury/Property Damage	\$1,000,000 each occurrence
b. Personal Injury Damage	\$1,000,000 each occurrence
c. Contractual Liability	\$1,000,000 each occurrence
d. Products Liability & Completed Operations	\$1,000,000 each occurrence
e. Fire Damage	\$ 100,000 any one fire
f. Medical Expense	\$ 5,000 any one person

In addition, GOLDEN GIRLS shall name CITY as an additional insured. The policy issued shall cover all activities sponsored by GOLDEN GIRLS while using CITY's softball fields with no exclusions. If possible and financially feasible, GOLDEN GIRLS shall endeavor to have GOLDEN GIRLS' insurance policy provide coverage for issues related to COVID-19, novel coronavirus, or similar issues. GOLDEN GIRLS' insurance shall be the primary insurance coverage for GOLDEN GIRLS' event. GOLDEN GIRLS agrees to be responsible for any damages or claim of loss not covered by GOLDEN GIRLS' insurance. A certificate of insurance

shall be filed with the City Clerk's office upon execution of this Agreement. In the event the certificate of insurance is not filed by May 23, 2023, then (1) GOLDEN GIRLS shall pay a late fee to CITY in the amount of \$75.00, and (2) this Agreement shall be voidable at the option of CITY's risk manager.

4. HOLD HARMLESS/INDEMNIFICATION. GOLDEN GIRLS agrees to save, hold harmless, indemnify and defend CITY, its representatives, agents and employees from any loss or damage or claim of loss by GOLDEN GIRLS, or by any tournament participant or their parent or guardian, or any third party from damage or claim of damage that arises from any of the activities authorized or undertaken as provided in this Agreement and for any loss to CITY that results from GOLDEN GIRLS failing to perform its obligations under this Agreement or engaging in any activity not authorized by this Agreement. The parties acknowledge and agree that these indemnification and hold harmless provisions specifically include, but are not limited to, any claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees for any COVID-19, novel coronavirus, or related issues.

5. RELEASES. In the event that GOLDEN GIRLS obtains Releases for participation in GOLDEN GIRLS' event while utilizing CITY's facilities under the terms of this Agreement, said Releases shall include a provision releasing CITY from the same liability and in the same manner that is afforded to other entities being released.

6. VOLUNTEERS. Any volunteers that access CITY's softball facilities as part of this Agreement are GOLDEN GIRLS' volunteers and GOLDEN GIRLS shall be responsible for any insurance coverage or liability related to or stemming from GOLDEN GIRLS' volunteers.

7. ADVERTISING. GOLDEN GIRLS shall not erect any advertising signs at CITY's softball facilities, except that GOLDEN GIRLS shall be allowed to display banners on the fence as recognition for players and sponsors during their games. Said banners shall be held on by clips and shall be removed by GOLDEN GIRLS at the end of each game.

8. NO SIGNS ALONG STATE HIGHWAY. Pursuant to Nebraska Administrative Code Title 410, Chapter 3, GOLDEN GIRLS shall not place signs advertising GOLDEN GIRLS' event on property adjacent to any state highway.

9. TOURNAMENT FENCING. GOLDEN GIRLS shall be allowed to have temporary outfield fencing to follow ASA rules during the tournament on such fields as designated by CITY's parks and recreation director.

10. RAFFLES. GOLDEN GIRLS agrees that any raffles on the premises shall be conducted in full compliance with the applicable Nebraska Statutes.

11. CONCESSIONS. CITY provides concessions at Ta-Ha-Zouka Park. CITY will make its own determination as to whether to provide concessions for GOLDEN GIRLS' softball games. GOLDEN GIRLS are prohibited from selling or participating in the sale of any concessions, including but not limited to tailgating, and GOLDEN GIRLS shall prohibit participants and spectators from participating in the sale of concessions, including but not limited

to tailgating. GOLDEN GIRLS shall not receive any profit from concession sales. Further, GOLDEN GIRLS shall be responsible for assuring that no coolers, outside food, or outside beverages (except for water) are brought into Ta-Ha-Zouka Park by spectators when concessions are being sold by CITY.

12. ALCOHOL. GOLDEN GIRLS shall be responsible for making sure that no alcohol is allowed on the premises pursuant to Section 3-11 of CITY's Official Code.

13. TOBACCO. GOLDEN GIRLS shall be responsible for compliance with CITY's tobacco policy set forth in CITY's Official Code which precludes tobacco use on or within 20 feet of any bleachers located in a city park.

14. DIRECTED HEALTH MEASURES. GOLDEN GIRLS agrees to comply with any and all Directed Health Measures issued by the Governor of the State of Nebraska and to comply with the most current and updated Directed Health Measures of all local, state, and federal health agencies as they relate to activities authorized in this Agreement.

15. CANCELLATIONS. Notwithstanding any other provision of this Agreement, City retains the right at any time to cancel any activities scheduled on City property due to inclement weather or for any other reason. CITY shall not be responsible for any loss to GOLDEN GIRLS resulting from CITY's cancellation of GOLDEN GIRLS' activities.

16. UNADDRESSED ISSUES. Issues related to the use of CITY's softball facilities not addressed in this Agreement may be approved by CITY at the discretion of CITY's parks and recreation director upon request of GOLDEN GIRLS.

17. AUTHORITY TO SIGN AGREEMENT. The individuals signing this Agreement represent that they are authorized to sign on behalf of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement in duplicate the day and year first above written. This Agreement may be executed in counterparts. Each such counterpart, executed in duplicate, shall be deemed an original hereof and all such executed counterparts shall together be one and the same instrument.

CITY OF NORFOLK, NEBRASKA,
Municipal Corporation

ATTEST:

Brianna Duerst, City Clerk

Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

NORFOLK GOLDEN GIRLS, INC.,
A Nebraska Nonprofit Corporation

By _____
Printed Name: _____
Title: _____

By _____
Printed Name: _____
Title: _____

AGREEMENT

This Agreement is made and entered into the _____ day of _____, 2023, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as “CITY”, and Young Men’s Christian Association of Norfolk, Nebraska, a Nebraska Nonprofit Corporation, hereinafter referred to as “YMCA”, WITNESSETH:

WHEREAS, CITY is the owner of an 8-lane swimming pool located in AquaVenture Water Park at 715 South 1st Street in Norfolk, Nebraska; and

WHEREAS, YMCA is desirous of utilizing CITY’s 8-lane swimming pool for swim team practices; and

WHEREAS, CITY is desirous of allowing YMCA to utilize its 8-lane swimming pool for swim team practices while reserving CITY’s right to utilize 2 lanes of the swimming pool for CITY’s use for staff training purposes.

NOW, THEREFORE, in consideration of the foregoing recitals, and the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. FACILITY/TERM. CITY shall allow YMCA to utilize its 8-lane swimming pool located at AquaVenture Water Park for swim team practices from 6:45 a.m. to 9:15 a.m. May 27, 2023 through August 4, 2023. If the 8-lane swimming pool is available and CITY staffing is available earlier than May 27, 2023, and/or later than August 4, 2023, then CITY, at the discretion of its assistant director-recreation, may allow YMCA to utilize the pool before May 27, 2023, and/or after August 4, 2023, at such times as approved by CITY’s assistant director-recreation. YMCA’s use of CITY’s swimming pool is subject to CITY’s use of a portion of the pool for staff training as addressed in this Agreement. While utilizing CITY’s pool under the terms of this Agreement, YMCA shall also have access to the locker rooms and/or family restrooms at AquaVenture Water Park and use of CITY’s lane ropes, starting blocks, and flags.

2. CITY STAFF TRAINING. CITY reserves the right to utilize 2 lanes of the 8-lane swimming pool for CITY staff training purposes. CITY’s assistant director-recreation shall give YMCA’s swimming coach at least 24 hours advance notice of CITY’s intent to utilize 2 lanes of the swimming pool.

3. ACCESS. YMCA shall coordinate the times and dates for use of the swimming pool and access to the swimming pool with CITY’s assistant director-recreation.

4. LIFEGUARD REGULATIONS. CITY will be responsible for compliance with applicable State of Nebraska lifeguard regulations during the time when YMCA is utilizing CITY’s swimming pool.

5. NO SWIMMING WITHOUT LIFEGUARD/OUTSIDE OF PRACTICE TIMES. No swimming is permitted under this Agreement in AquaVenture Water Park by YMCA’s coaches or swim team members 1) without a CITY lifeguard on duty and/or 2) outside of swim team

practice times set forth herein or other times authorized by CITY's assistant director-recreation for swim team practice.

6. INSURANCE. YMCA shall obtain and keep in force for all times during the term of this Agreement a certificate of general liability insurance in the following minimum amounts:

General Aggregate	\$2,000,000
a. Bodily Injury/Property Damage	\$1,000,000 each occurrence
b. Personal Injury Damage	\$1,000,000 each occurrence
c. Contractual Liability	\$1,000,000 each occurrence
d. Products Liability & Completed Operations	\$1,000,000 each occurrence
e. Fire Damage	\$ 100,000 any one fire
f. Medical Expense	\$ 5,000 any one person

In addition, YMCA shall name CITY as an additional insured. The policy issued shall cover all activities sponsored by YMCA while using CITY's facility with no exclusions. If possible and financially feasible, YMCA shall endeavor to have YMCA's insurance policy provide coverage for issues related to COVID-19, novel coronavirus, or similar issues. Said insurance shall be the primary insurance coverage for YMCA's use of CITY's facility. YMCA agrees to be responsible for any damages or claim of loss not covered by YMCA's insurance. A certificate of insurance shall be filed with the Norfolk City Clerk upon execution of this Agreement. In the event the certificate of insurance is not filed by May 5, 2023 then (1) YMCA shall pay a late fee to CITY in the amount of \$75.00, and (2) this Agreement shall be voidable at the option of CITY's risk manager.

7. INDEMNIFICATION AND HOLD HARMLESS. YMCA agrees to save, hold harmless, indemnify and defend CITY, its representatives, agents and employees from any loss or damage or claim of loss by YMCA or any third party from damage or claim of damage that arises from any of the activities authorized or undertaken as provided in this Agreement and for any loss to CITY that results from YMCA failing to perform its obligations under this Agreement or engaging in any activity not authorized by this Agreement. The parties acknowledge and agree that these indemnification and hold harmless provisions specifically include, but are not limited to, any claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees for any COVID-19, novel coronavirus, or related issues.

8. RELEASES. In the event that YMCA obtains Releases for participation in YMCA's events while utilizing CITY's facilities under the terms of this Agreement, said Releases shall include a provision releasing CITY from the same liability and in the same manner that is afforded to other entities being released.

9. CONDITION OF FACILITY. YMCA agrees that each time it exercises the privileges granted by this Agreement, the AquaVenture Water Park facility will be left in the same condition in which it was found immediately prior to their use.

10. USAGE FEE. Upon entry into AquaVenture Water Park for swim team practice, members of YMCA's swim team shall either 1) present a season pass valid for the upcoming swim season or 2) pay a usage fee of \$3.00 each day they use the CITY's 8-lane swimming pool for swim

team practice. Any swim team member not presenting a season pass or payment of the \$3.00 usage fee will not be admitted to the pool for swim team practice.

11. DIRECTED HEALTH MEASURES. YMCA agrees to comply with any and all Directed Health Measures issued by the Governor of the State of Nebraska and to comply with the most current and updated Directed Health Measures of all local, state, and federal health agencies as they relate to activities authorized in this Agreement.

12. CANCELLATIONS. Notwithstanding any other provision of this Agreement, CITY retains the right at any time to cancel any activities scheduled on CITY property due to inclement weather or for any other reason. CITY shall not be responsible for any loss to YMCA resulting from CITY's cancellation of YMCA's activities.

13. AUTHORITY TO SIGN AGREEMENT. The individuals signing this Agreement represent that they are authorized to sign on behalf of the respective parties hereto.

14. SIGNATURES. This Agreement may be executed in any number of counterparts. Each such counterpart shall be deemed an original hereof, and all such executed counterparts shall together be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement in duplicate the day and year first above written. This Agreement may be executed in counterparts. Each such counterpart, executed in duplicate, shall be deemed an original hereof and all such executed counterparts shall together be one and the same instrument.

ATTEST:

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation

Brianna Duerst, City Clerk

By _____
Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

YOUNG MEN'S CHRISTIAN ASSOCIATION OF
NORFOLK, NEBRASKA, A Nebraska Nonprofit
Corporation

By _____
Printed Name: _____
Title: _____

By _____
Printed Name: _____
Title: _____

AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2023, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "CITY", and Downtown Norfolk Association, Inc., a Nebraska Nonprofit Corporation, hereinafter referred to as "ORGANIZER", WITNESSETH:

WHEREAS, ORGANIZER is desirous of utilizing Riverpoint Square, a portion of the adjacent alley, a portion of South 3rd Street, and a portion of Vehicle Parking District Lot F (VPD Lot F) to host a farmers market in downtown Norfolk on Tuesdays and Thursdays, from June 6, 2023 to September 28, 2023, on and Saturdays from May 27, 2023 to October 28, 2023; and

WHEREAS, attached hereto are the following maps:

Exhibit "A" depicting Riverpoint Square, diagonal parking stalls, and portions of VPD Lot F;

Exhibit "B" depicting Riverpoint Square and portions of the alley, South 3rd Street, and VPD Lot F; and

WHEREAS, Section 18-10 of the Official Code of the City of Norfolk, Nebraska states that vending of various goods, services, products or commodities is permitted, however, such vending is conditional upon the vendor first obtaining permission from the Mayor and City Council; and

WHEREAS, CITY is desirous of allowing ORGANIZER to utilize Riverpoint Square, five diagonal parking stalls along 3rd Street, a portion of the adjacent alley, a portion of South 3rd Street, and a portion of VPD Lot F for the farmers market; and

WHEREAS, for the purposes of this Agreement, "Riverpoint Square" shall include the five parking stalls that run along the south side of Riverpoint Square.

NOW, THEREFORE, in consideration of the foregoing recitals, and the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. TERM. The term of this Agreement shall be from May 27, 2023 to October 28, 2023.
2. RIVERPOINT SQUARE. CITY is willing to allow Riverpoint Square located at 301 W. Norfolk Avenue in Norfolk, Nebraska, to be used in conjunction with ORGANIZER's purpose of holding a farmers market from 4:00 p.m. to 7:00 p.m. each Tuesday and Thursday, and from 7:00 a.m. to 12:30 p.m. each Saturday pursuant to the terms of this Agreement.
3. STREET/ALLEY/PARKING LOT CLOSURE. CITY shall allow for the closure of the following areas during the term of this Agreement:

A. From 7:00 a.m. to 7:00 p.m. each Tuesday and Thursday:

- 1) The five (5) southernmost diagonal parking stalls located along the east side of Riverpoint Square.
- 2) The east 65 feet of the north portion of VPD Lot F.
- 3) The five (5) parking stalls that run along the south side of Riverpoint Square.

B. From 7:00 a.m. to 12:30 p.m. each Saturday:

- 1) South 3rd Street from the south line of the intersection of 3rd Street and Norfolk Avenue extending south to the north line of the east/west alley running between Norfolk Avenue and Madison Avenue;
- 2) The east 65 feet of the east/west alley running between Norfolk Avenue and Madison Avenue and between 3rd Street and 4th Street;
and
- 3) The east 65 feet of the north portion of VPD Lot F.

CITY shall erect barricades and/or traffic cones which completely barricade the closed portions of the street, alley, and parking stalls as deemed necessary by the Norfolk Police Division. CITY will allow ORGANIZER to barricade the closed portion of VPD Lot F as set forth in this Agreement.

4. SET UP/CLEAN UP. ORGANIZER shall be allowed to begin setting up for each farmers market at the following times:

- A. Riverpoint Square, closed parking stalls, and closed portion of VPD Lot F at 4:00 p.m. each Tuesday and Thursday.
- B. Riverpoint Square and the closed portions of South 3rd Street, alley, and VPD Lot F at 7:00 am. each Saturday.

ORGANIZER shall be responsible for cleanup and shall complete said cleanup at the conclusion of each farmers market event.

5. VENDING. This Agreement shall serve as permission granted to ORGANIZER as required by Section 18-10 of the City Code for vending in Riverpoint Square during the farmers market events.

6. TRAINING/PERMITS/CERTIFICATION. ORGANIZER shall be responsible for ensuring that all vendors participating in the farmers market have the requisite food training and

certifications required by the laws of the State of Nebraska and the Nebraska Department of Agriculture to enable the vendors to sell their goods and products for public consumption. CITY shall not be responsible for any illness or injury related to the sale of food by vendors for public consumption at a farmers market, nor shall CITY be liable for any vendor's failure to obtain requisite training and/or certifications.

7. HOLES IN CONCRETE. ORGANIZER shall not drill or allow to be drilled any holes in the concrete of Riverpoint Square or the closed portions of South 3rd Street, alley, VPD Lot F, or any adjacent sidewalks.

8. NO PAINT ON CONCRETE. ORGANIZER shall not paint or permanently mark the concrete of any street, alley, parking lot, sidewalk, or Riverpoint Square for this event. In the event that ORGANIZER or its vendors do paint or permanently mark any street, alley, parking lot, sidewalk, or Riverpoint Square, then City shall have the paint or marking removed and the cost thereof shall be paid by ORGANIZER.

9. INSURANCE. ORGANIZER shall provide CITY with a certificate of general liability insurance in the following minimum amounts:

General Aggregate	\$1,000,000
a. Bodily Injury/Property Damage	\$1,000,000 each occurrence
b. Personal Injury Damage	\$1,000,000 each occurrence
c. Contractual Liability	\$1,000,000 each occurrence
d. Products Liability & Completed Operations	\$1,000,000 each occurrence
e. Fire Damage	\$ 100,000 any one fire
f. Medical Expense	\$ 5,000 any one person

The policy issued shall include a farmers market rider and shall cover all activities and vendors sponsored by ORGANIZER for the farmers market with no exclusions. If possible and financially feasible, ORGANIZER shall endeavor to have ORGANIZER's insurance policy provide coverage for issues related to COVID-19, novel coronavirus, or similar issues. In the event there is any exclusion or limitation of ORGANIZER's insurance coverage related to any activity, then the excluded or limited activities shall not be allowed as part of the farmers market. Further, ORGANIZER shall not allow any vendors that are not covered under ORGANIZER's insurance policy to participate in the farmers market.

In addition, ORGANIZER shall name CITY as an additional insured. Said insurance shall be the primary insurance coverage for the farmers market. ORGANIZER agrees to be responsible for any damages or claim of loss not covered by ORGANIZER's insurance or ORGANIZER's vendors' insurance. A certificate of insurance shall be filed with the Norfolk City Clerk upon execution of this Agreement. In the event the certificate of insurance is not filed by May 17, 2023, then this Agreement shall be voidable at the option of CITY's risk manager.

10. HOLD HARMLESS/INDEMNIFICATION. ORGANIZER agrees to save, hold harmless, indemnify and defend CITY, its representatives, agents and employees from any loss or damage or claim of loss by ORGANIZER or any third party from damage or claim of damage

that arises from any of the activities authorized or undertaken as provided in this Agreement and for any loss to CITY that results from ORGANIZER failing to perform its obligations under this Agreement or engaging in any activity not authorized by this Agreement. The parties acknowledge and agree that these indemnification and hold harmless provisions specifically include, but are not limited to, any claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees for any COVID-19, novel coronavirus, or related issues.

11. NO SIGNS ALONG STATE HIGHWAY. Pursuant to Nebraska Administrative Code Title 410, Chapter 3, ORGANIZER shall not place signs advertising ORGANIZER's farmers market on property adjacent to any state highway.

12. DIRECTED HEALTH MEASURES. ORGANIZER agrees to comply with any and all Directed Health Measures issued by the Governor of the State of Nebraska and to comply with the most current and updated Directed Health Measures of all local, state, and federal health agencies as they relate to activities authorized in this Agreement.

13. MANAGEMENT. The parties acknowledge and agree that ORGANIZER shall be solely responsible for the operation and management of Riverpoint Square and the closed portions of the street, alley, and VPD Lot F during the term of this Agreement when the same are being utilized by ORGANIZER for the farmers market. ORGANIZER shall be responsible for operating and managing Riverpoint Square and the closed portions of the street, alley, and VPD Lot F in accordance with all applicable rules and regulations of any governmental entity with jurisdiction over the same including, but not limited to, the most current and updated Directed Health Measures of all local, state, and federal health agencies, and all resolutions and ordinances of CITY (collectively the "Rules"). ORGANIZER represents and covenants to CITY that ORGANIZER is familiar with the Rules and that ORGANIZER shall operate and manage Riverpoint Square and the closed portions of the street, alley, and VPD Lot F in accordance with the Rules. ORGANIZER shall ensure that all individuals utilizing Riverpoint Square and the closed portions of the street, alley, and VPD Lot F for ORGANIZER's farmers market shall conduct themselves in accordance with the Rules.

14. MAINTENANCE. ORGANIZER shall be responsible for maintaining Riverpoint Square and the closed portions of the street, alley, and VPD Lot F in accordance with the Rules so that the same may be utilized for permitted activities hereunder. Such obligation shall include, but not be limited to, all sanitation guidelines and maintenance obligations that are set forth in the Rules. ORGANIZER shall ensure that any guests, invitees, or visitors are those permitted to be in attendance at Riverpoint Square and the closed portions of the street, alley, and VPD Lot F in accordance with the Rules.

15. NO USAGE FEE. ORGANIZER shall pay no usage fee to CITY under this Agreement to access Riverpoint Square and the closed portions of South 3rd Street, alley, and VPD Lot F for the farmers market.

16. CANCELLATION. Notwithstanding any other provision of this Agreement, CITY retains the right at any time to cancel any activities scheduled on CITY property due to inclement

weather or for any other reason. CITY shall not be responsible for any loss to ORGANIZER resulting from CITY's cancellation of ORGANIZER's activities.

17. AUTHORITY TO SIGN AGREEMENT. The individuals signing this Agreement represent that they are authorized to sign on behalf of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement in duplicate the day and year first above written. This Agreement may be executed in counterparts. Each such counterpart, executed in duplicate, shall be deemed an original hereof and all such executed counterparts shall together be one and the same instrument.

ATTEST:

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation

Brianna Duerst, City Clerk

By _____
Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

DOWNTOWN NORFOLK ASSOCIATION, INC.,
A Nebraska Nonprofit Corporation

By _____
Its President *or* Presiding Member of the
Board of Directors
Printed Name: _____

By _____
Title: _____
Printed Name: _____

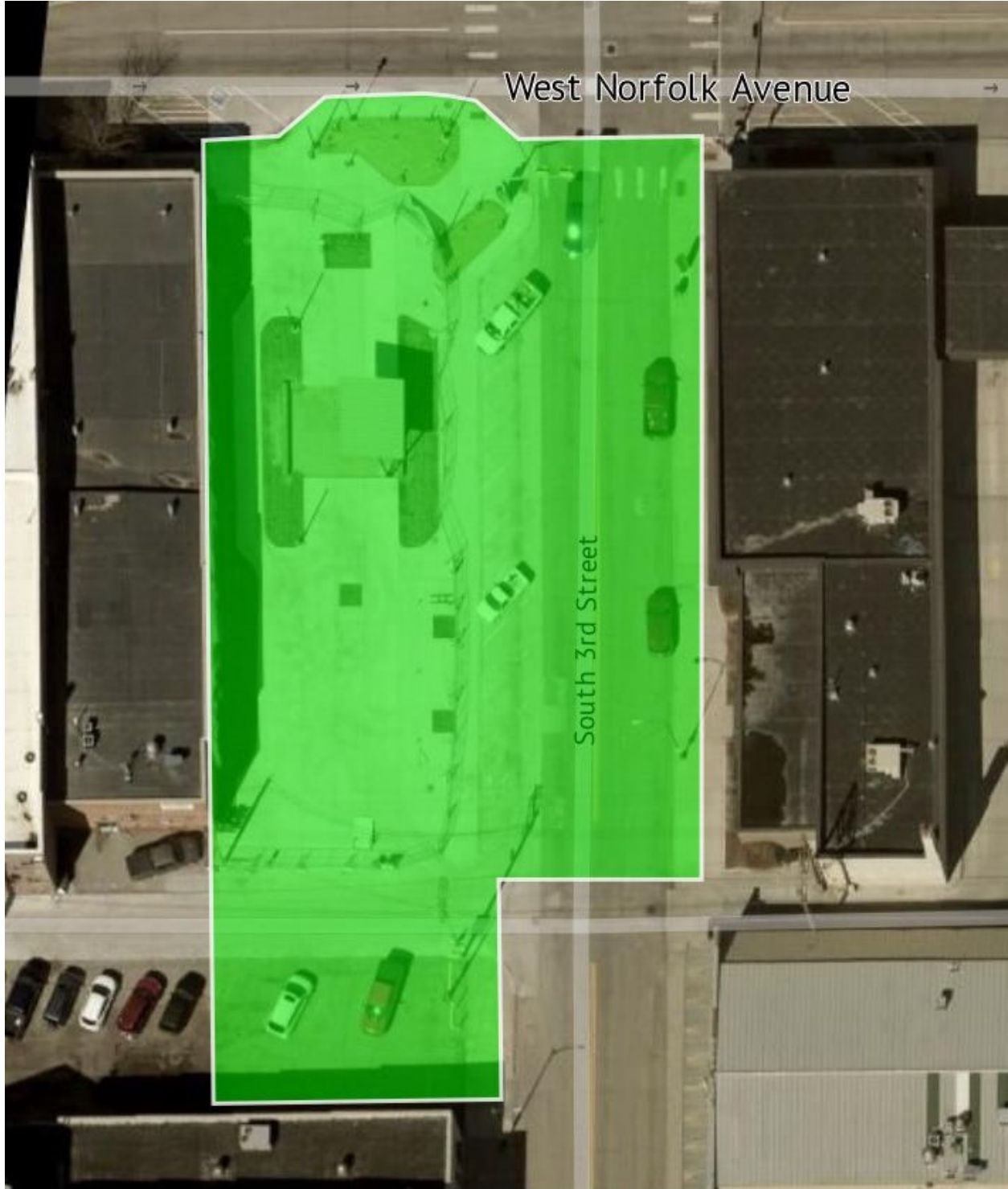
EXHIBIT "A"

(Tuesday and Thursday Farmers Market)



EXHIBIT "B"

(Saturday Farmers Market)



AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2023, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "CITY", and Downtown Norfolk Association, Inc., a Nebraska Nonprofit Corporation, hereinafter referred to as "DOWNTOWN", WITNESSETH:

WHEREAS, DOWNTOWN is desirous of utilizing Riverpoint Square located at 3rd Street and Norfolk Avenue to host a Cinco de Mayo celebration which may include, but not be limited to, a music performance concert, pageants, beer garden, and food vendors; and

WHEREAS, DOWNTOWN has requested that 3rd Street be closed from the south line of the intersection of 3rd Street and Norfolk Avenue extending south to the north line of the east/west alley running between Norfolk Avenue and Madison Avenue for its event; and

WHEREAS, alcohol consumption is prohibited on CITY-owned property by Norfolk City Code Section 3-11 without prior authorization of the Norfolk City Council; and

WHEREAS, Norfolk City Code Section 18-10 prohibits vending in the park without the prior permission of the Mayor and City Council; and

WHEREAS, attached hereto as Exhibit "A" is a map which shows the approximate location of the music stage and beer garden that is contemplated for the event; and

WHEREAS, CITY is desirous of allowing DOWNTOWN to utilize Riverpoint Square and allowing the closure of said portion of 3rd Street as described above for the Cinco de Mayo celebration at DOWNTOWN's request.

NOW, THEREFORE, in consideration of the foregoing recitals, and the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. TERM. This Agreement shall be for the day of Friday, May 5, 2023.
2. RIVERPOINT SQUARE. CITY is willing to allow Riverpoint Square located at 3rd Street and Norfolk Avenue in Norfolk, Nebraska, to be used in conjunction with DOWNTOWN's purpose of holding a Cinco de Mayo celebration which may include, but is not limited to, a music performance concert, pageants, beer garden, and food vendors.
3. STREET CLOSURE. CITY shall allow for the closure of 3rd Street from the south line of the intersection of 3rd Street and Norfolk Avenue extending south to the north line of the east/west alley running between Norfolk Avenue and Madison Avenue from 4:00 p.m. to 12:00 midnight on May 5, 2023. CITY shall allow for the early closure of parking stalls located along the portion of 3rd Street that will be closed for DOWNTOWN's event. The parking stalls may be closed at 3:00 p.m. on the day of the event. CITY shall erect barricades and/or traffic cones

which completely barricade the closed portion of the public street as deemed necessary by the Norfolk Police Division.

4. SET UP/CLEAN UP. DOWNTOWN shall be allowed to begin setting up for its event at Riverpoint Square at 3:00 p.m. and on the closed portion of 3rd Street at 4:00 p.m. on May 5, 2023. DOWNTOWN shall be responsible for cleanup from the event and shall complete said cleanup by midnight on the day of the event.

5. ALCOHOL.

A. Authorization. By approval of this Agreement, CITY's governing body gives the authorization required by Sections 3-11 and 3-13 of CITY's Official Code to DOWNTOWN for alcohol to be served at the following locations:

- 1) in Riverpoint Square located at 3rd Street and Norfolk Avenue,
- 2) on the closed portion of 3rd Street, and
- 3) on the sidewalks adjacent to the east and west sides of the closed portion of 3rd Street,

from 5:00 p.m. until 11:00 p.m. on May 5, 2023, in the area designated as "beer garden" on the attached Exhibit "A".

In addition to this authorization, all necessary liquor licenses shall be obtained.

B. No Alcohol on Sidewalk or Street. Except as set forth in subparagraph A above, this authorization shall not in any way affect the applicability of City Code Section 3-13, which prohibits open containers of alcohol on any adjoining sidewalk or street in the vicinity of Riverpoint Square at 3rd Street and Norfolk Avenue.

C. Strict Compliance. The consumption of alcohol in Riverpoint Square and on the closed portion of 3rd Street (and adjacent sidewalks on 3rd Street) shall be had in strict compliance with the representations made on the liquor license application, a copy of which is attached hereto as Exhibit "B", and pursuant to the terms of any liquor license that is obtained.

6. VENDING. This Agreement shall serve as permission granted to DOWNTOWN as required by Section 18-10 of the City Code for vending in Riverpoint Square and on the closed portion of the street during DOWNTOWN's event so long as DOWNTOWN has obtained the necessary license/permits and complies with the requirements of paragraph 14 herein for the term of this Agreement.

7. TEMPORARY STAGE. CITY shall allow DOWNTOWN to place a temporary stage in Riverpoint Square for its event.

8. HOLES IN CONCRETE. DOWNTOWN shall not drill any holes in the concrete of Riverpoint Square or the sidewalks adjacent to the east and west sides of the closed portion of 3rd Street.

9. NO PAINT ON RIVERPOINT SQUARE/STREET/SIDEWALKS. DOWNTOWN shall not paint any streets, alleys, sidewalks, or Riverpoint Square for its event. In the event that DOWNTOWN does paint or permanently mark any streets, alleys, sidewalks, or Riverpoint Square, then City shall have the paint or marking removed and the cost thereof shall be paid by DOWNTOWN.

10. SECURITY. DOWNTOWN shall, at its own expense, provide adequate security for crowd control for its event as well as for compliance with alcohol possession/consumption laws.

11. COPYRIGHTED MUSIC. DOWNTOWN agrees that it either has or will secure any necessary licenses required for the playing or performance of copyrighted music at the activities being conducted by DOWNTOWN and expressly agrees to hold CITY harmless and indemnify CITY from any cost or liability that may result to CITY as a result of the activities sponsored by DOWNTOWN being held on property owned by CITY.

12. NOISE. In the event that noise complaints related to the music or any other activity related to the event are received by CITY's Police Division, the Police Division shall handle said complaints in the normal course according to its policies and procedures.

13. TEMPORARY TOILETS. DOWNTOWN agrees, at its expense, to provide a sufficient number of temporary toilets to accommodate the number of people expected to attend its event; however, no temporary toilets shall be placed on the street or alley.

14. INSURANCE. DOWNTOWN shall provide CITY with a certificate of general liability insurance in the following minimum amounts:

General Aggregate	\$2,000,000
a. Bodily Injury/Property Damage	\$1,000,000 each occurrence
b. Personal Injury Damage	\$1,000,000 each occurrence
c. Contractual Liability	\$1,000,000 each occurrence
d. Products Liability & Completed Operations	\$1,000,000 each occurrence
e. Fire Damage	\$ 100,000 any one fire
f. Medical Expense	\$ 5,000 any one person
g. Liquor Liability	\$1,000,000 each occurrence

The policy issued shall cover all activities and vendors sponsored by DOWNTOWN for the event with no exclusions. If possible and financially feasible, DOWNTOWN shall endeavor to have DOWNTOWN's insurance policy provide coverage for issues related to COVID-19, novel coronavirus, or similar issues. In the event there is any exclusion or limitation of DOWNTOWN's insurance coverage related to any activity, then the excluded or limited activities shall not be allowed as part of DOWNTOWN's event. Further, DOWNTOWN shall

not allow any vendors that are not covered under DOWNTOWN's insurance policy to participate in the event.

In addition, DOWNTOWN shall name CITY as an additional insured. Said insurance shall be the primary insurance coverage for DOWNTOWN's event (including but not limited to the serving of alcohol on CITY's property during the event). DOWNTOWN agrees to be responsible for any damages or claim of loss not covered by DOWNTOWN's insurance or DOWNTOWN's vendors' insurance. A certificate of insurance shall be filed with the Norfolk City Clerk upon execution of this Agreement. In the event the certificate of insurance is not filed by April 25, 2023, then (1) DOWNTOWN shall pay a late fee to CITY in the amount of \$75.00, and (2) this Agreement shall be voidable at the option of CITY's risk manager.

15. HOLD HARMLESS/INDEMNIFICATION. DOWNTOWN agrees to save, hold harmless, indemnify and defend CITY, its representatives, agents and employees from any loss or damage or claim of loss by DOWNTOWN or any third party from damage or claim of damage that arises from any of the activities authorized or undertaken as provided in this Agreement and for any loss to CITY that results from DOWNTOWN failing to perform its obligations under this Agreement or engaging in any activity not authorized by this Agreement. The parties acknowledge and agree that these indemnification and hold harmless provisions specifically include, but are not limited to, any claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees for any COVID-19, novel coronavirus, or related issues, as well as any issues related to serving alcohol on CITY property.

16. RELEASES. In the event that DOWNTOWN or their vendors obtain Releases for participation in DOWNTOWN's event while utilizing CITY's facilities under the terms of this Agreement, said Releases shall include a provision releasing CITY from the same liability and in the same manner that is afforded to other entities being released.

17. SALES TAX. All concession sales are subject to State and City sales tax. DOWNTOWN or its vendors shall file sales returns and pay the applicable sales tax as required by law.

18. NO SIGNS ALONG STATE HIGHWAY. Pursuant to Nebraska Administrative Code Title 410, Chapter 3, DOWNTOWN shall not place signs advertising DOWNTOWN's event on property adjacent to any state highway.

19. DIRECTED HEALTH MEASURES. DOWNTOWN agrees to comply with any and all Directed Health Measures issued by the Governor of the State of Nebraska and to comply with the most current and updated Directed Health Measures of all local, state, and federal health agencies as they relate to activities authorized in this Agreement.

20. MANAGEMENT. The parties acknowledge and agree that DOWNTOWN shall be solely responsible for the operation and management of Riverpoint Square and the closed portion of the street and sidewalk during the term of this Agreement when the same are being utilized by

DOWNTOWN for DOWNTOWN’s event and related activities. DOWNTOWN shall be responsible for operating and managing Riverpoint Square and the closed portion of the street and sidewalk in accordance with all applicable rules and regulations of any governmental entity with jurisdiction over the same including, but not limited to, the most current and updated Directed Health Measures of all local, state, and federal health agencies, and all resolutions and ordinances of CITY (collectively the “Rules”). DOWNTOWN represents and covenants to CITY that DOWNTOWN is familiar with the Rules and that DOWNTOWN shall operate and manage Riverpoint Square and the closed portion of the street and sidewalk in accordance with the Rules. DOWNTOWN shall ensure that all individuals utilizing Riverpoint Square and the closed portion of the street and sidewalk for DOWNTOWN’s event shall conduct themselves in accordance with the Rules.

21. MAINTENANCE. DOWNTOWN shall be responsible for maintaining Riverpoint Square and the closed portion of the street and sidewalk in accordance with the Rules so that the same may be utilized for permitted activities hereunder. Such obligation shall include, but not be limited to, all sanitation guidelines and maintenance obligations that are set forth in the Rules. DOWNTOWN shall ensure that any guests, invitees, or visitors are those permitted to be in attendance at Riverpoint Square and the closed portion of the street and sidewalk in accordance with the Rules.

22. NO USAGE FEE. DOWNTOWN shall pay no fee to CITY for the use of Riverpoint Square and the closed portion of the street and sidewalk for DOWNTOWN’s event.

23. CANCELLATION. Notwithstanding any other provision of this Agreement, CITY retains the right at any time to cancel any activities scheduled on CITY property due to inclement weather or for any other reason. CITY shall not be responsible for any loss to DOWNTOWN resulting from CITY’s cancellation of DOWNTOWN’s activities.

24. AUTHORITY TO SIGN AGREEMENT. The individuals signing this Agreement represent that they are authorized to sign on behalf of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement in duplicate the day and year first above written. This Agreement may be executed in counterparts. Each such counterpart, executed in duplicate, shall be deemed an original hereof and all such executed counterparts shall together be one and the same instrument.

ATTEST:

Brianna Duerst, City Clerk

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation

By _____
Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

DOWNTOWN NORFOLK ASSOCIATION, INC.,
A Nebraska Nonprofit Corporation

By _____
Its President
Printed Name: _____

By _____
Its Treasurer
Printed Name: _____

EXHIBIT "A"



EXHIBIT "B"

NEBRASKA LIQUOR CONTROL COMMISSION
PHONE: (402) 471-2571
Website: www.lcc.nebraska.gov

Special Designated License
Local Recommendation (Form 200)

Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

Downtown Norfolk Association

Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)

PO Box 504 Norfolk, NE 68701

Retail Liquor License Address or Non-Profit Business Address

47-0639942

Retail License Number or Non-Profit Federal ID #

Consecutive Dates only

May 5

Event Date(s):

Event Start Time(s):

4:00 pm

Event End Time(s):

11pm

Alternate Date: May 12

Alternate Location Building & Address:

Event Building Name: River Point Square (Park)

Event Street Address/City: 307 W Norfolk Ave., Norfolk, NE 68701

Indoor area to be licensed in length & width: ___ X ___

Outdoor area to be licensed in length & width: 120 X 120 (Diagram Form #109 must be attached)

Type of Event: Family Music Concert Series Estimate # of attendees: 500

Type of alcohol to be served: Beer Wine Distilled Spirits
(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: Stephanie Bates Event Contact Phone Number: 402-750-5302

Event Contact Email: info@VisitNorfolkNe.com

*Signature Authorized Representative: [Signature] Printed Name AMY RENTER
I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license

*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:

The local governing body for the City/Village of _____ OR County of _____ approves the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature

Date

REQUEST FOR EXEMPTION WAIVER OF DOUBLE FENCING RULE

RULES AND REGULATIONS CHAPTER 2 - 013 SPECIAL DESIGNATED LICENSES

<https://lcc.nebraska.gov/sites/lcc.nebraska.gov/files/doc/013%20SPECIAL%20DESIGNATED%20LICENSES%20RULES%20%26%20REGS.pdf>

WHY DOUBLE FENCING IS NOT AVAILABLE For festival attendee safety, land locked on all sides
double fencing encroaches on roadway

TYPE OF FENCING TO BE USED Cattle fencing panels

HEIGHT OF FENCING TO BE USED 5 feet

HOW AREA WILL BE PATROLLED Blue Line Security

NUMBER OF SECURITY PERSONNEL 4

EXPECTED NUMBER OF ATTENDEES 500



Form 140
Rev JULY 2021

OUTDOOR AREA DIAGRAM

HOW AREA WILL BE PATROLLED Blue Line Security Services, LLC

- IF APPLICABLE, OUTDOOR AREA MUST BE CONNECTED TO INDOOR AREA IF INDOOR AREA IS TO LICENSED
- MEASUREMENT OF OUTER WALLS OF AREA TO BE LICENSED MUST INCLUDED LENGTH & WIDTH IN FEET
- DOUBLE FENCING IS REQUIRED FOR ALL NON-PROFIT ORGANIZATIONS UNLESS FORM #140 IS FILED WITH THIS FORM AND IS APPROVED BY THE COMMISSION
- RETAILER LIQUOR LICENSE HOLDERS ARE NOT REQUIRED TO DOUBLE FENCE, ALTHOUGH MEASURES NEED TO BE TAKEN TO SECURE THE AREA

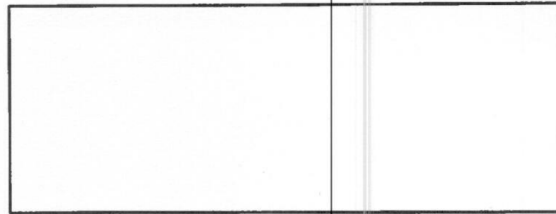
DIAGRAM OF PROPOSED AREA:



Form 109
Rev Nov 2016

**APPLICATION FOR SPECIAL DESIGNATED LICENSE
Non-Profit Applicants ONLY**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov/
Email Applications: michelle.porter@nebraska.gov



This page is required to be completed by Non-Profit applicants only.

**Application for Special Designated License
Under Nebraska Liquor Control Act
Affidavit of Non-Profit Status**

I HEREBY DECLARE THAT THE CORPORATION MAKING APPLICATION FOR A SPECIAL DESIGNATED LICENSE UNDER THE NEBRASKA LIQUOR CONTROL ACT IS EITHER A MUNICIPAL CORPORATION, A FINE ARTS MUSEUM INCORPORATED AS A NONPROFIT CORPORATION, A RELIGIOUS NONPROFIT CORPORATION WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES, A POLITICAL ORGANIZATION WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES, OR ANY OTHER NONPROFIT CORPORATION, THE PURPOSE OF WHICH IS FRATERNAL, CHARITABLE, OR PUBLIC SERVICE AND WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES AS PER §53-124.11(1).

AS SIGNATORY I CONSENT TO THE RELEASE OF ANY DOCUMENTS SUPPORTING THIS DECLARATION AND ANY DOCUMENTS SUPPORTING THIS DECLARATION WILL BE PROVIDED TO THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY AGENT OF THE LIQUOR CONTROL COMMISSION IMMEDIATELY UPON DEMAND. I ALSO CONSENT TO THE INVESTIGATION OF THIS CORPORATE ENTITY TO DETERMINE IT'S NONPROFIT STATUS.

I AGREE TO WAIVE ANY RIGHTS OR CAUSES OF ACTION AGAINST THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY PARTY RELEASING INFORMATION TO THE AFOREMENTIONED PARTIES.

Downtown Norfolk Association
NAME OF CORPORATION

47-0639942
FEDERAL ID NUMBER

[Signature]
SIGNATURE OF TITLE OF CORPORATE OFFICERS
AMY L. RENTER

THE ABOVE INDIVIDUAL STATES THAT THE STATEMENT ABOVE IS TRUE AND CORRECT: IF ANY FALSE STATEMENT IS MADE ON THIS APPLICATION, THE APPLICANT SHALL BE DEEMED GUILTY OF PERJURY AND SUBJECT TO PENALTIES PROVIDED BY LAW. (SEC. §53-131.01) NEBRASKA LIQUOR CONTROL ACT

SUBSCRIBED IN MY PRESENCE AND SWORN TO BEFORE ME THIS 26th DAY OF January, 2023
by Amy Renter



[Signature]
NOTARY PUBLIC SIGNATURE & SEAL
Bethene A. Hoff

FORM 201
REV NOV 2016

**Special Designated License
Local Recommendation (Form 200)**

Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

Downtown Norfolk Association

Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)

PO Box 504 Norfolk, NE 68701

Retail Liquor License Address or Non-Profit Business Address

47-0639942

Retail License Number or Non-Profit Federal ID #

Consecutive Dates only

Event Date(s):

May 5

Event Start Time(s):

4:00 pm

Event End Time(s):

11pm

Alternate Date: May 12

Alternate Location Building & Address:

Event Building Name: River Point Square (Park)

Event Street Address/City: 307 W Norfolk Ave., Norfolk, NE 68701

Indoor area to be licensed in length & width: ___ X ___

Outdoor area to be licensed in length & width: 120 X 120 (Diagram Form #109 must be attached)

Type of Event: Family Music Concert Series Estimate # of attendees: 500

Type of alcohol to be served: Beer Wine Distilled Spirits
(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: Stephanie Bates Event Contact Phone Number: 402-750-5302

Event Contact Email: info@VisitNorfolkNe.com

*Signature Authorized Representative:  Printed Name: AMY RENTER

I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license

*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:

The local governing body for the City/Village of _____ OR County of _____ approves
the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature

Date

REQUEST FOR EXEMPTION WAIVER OF DOUBLE FENCING RULE

RULES AND REGULATIONS CHAPTER 2 - 013 SPECIAL DESIGNATED LICENSES

<https://lcc.nebraska.gov/sites/lcc.nebraska.gov/files/doc/013%20SPECIAL%20DESIGNATED%20LICENSES%20RULES%20%26%20REGS.pdf>

WHY DOUBLE FENCING IS NOT AVAILABLE For festival attendee safety, land locked on all sides
double fencing encroaches on roadway

TYPE OF FENCING TO BE USED Cattle fencing panels

HEIGHT OF FENCING TO BE USED 5 feet

HOW AREA WILL BE PATROLLED Blue Line Security

NUMBER OF SECURITY PERSONNEL 4

EXPECTED NUMBER OF ATTENDEES 500



Form 140
Rev JULY 2021

OUTDOOR AREA DIAGRAM

HOW AREA WILL BE PATROLLED Blue Line Security Services, LLC

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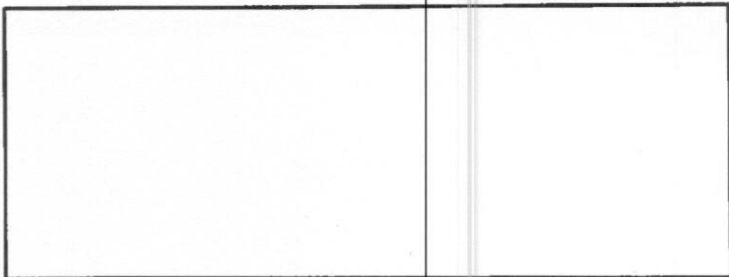
DIAGRAM OF PROPOSED AREA:



Form 109
Rev Nov 2016

**APPLICATION FOR SPECIAL DESIGNATED LICENSE
Non-Profit Applicants ONLY**

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov/
Email Applications: michelle.porter@nebraska.gov



This page is required to be completed by Non-Profit applicants only.

**Application for Special Designated License
Under Nebraska Liquor Control Act
Affidavit of Non-Profit Status**

I HEREBY DECLARE THAT THE CORPORATION MAKING APPLICATION FOR A SPECIAL DESIGNATED LICENSE UNDER THE NEBRASKA LIQUOR CONTROL ACT IS EITHER A MUNICIPAL CORPORATION, A FINE ARTS MUSEUM INCORPORATED AS A NONPROFIT CORPORATION, A RELIGIOUS NONPROFIT CORPORATION WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES, A POLITICAL ORGANIZATION WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES, OR ANY OTHER NONPROFIT CORPORATION, THE PURPOSE OF WHICH IS FRATERNAL, CHARITABLE, OR PUBLIC SERVICE AND WHICH HAS BEEN EXEMPTED FROM THE PAYMENT OF FEDERAL INCOME TAXES AS PER §53-124.11(1).

AS SIGNATORY I CONSENT TO THE RELEASE OF ANY DOCUMENTS SUPPORTING THIS DECLARATION AND ANY DOCUMENTS SUPPORTING THIS DECLARATION WILL BE PROVIDED TO THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY AGENT OF THE LIQUOR CONTROL COMMISSION IMMEDIATELY UPON DEMAND. I ALSO CONSENT TO THE INVESTIGATION OF THIS CORPORATE ENTITY TO DETERMINE IT'S NONPROFIT STATUS.

I AGREE TO WAIVE ANY RIGHTS OR CAUSES OF ACTION AGAINST THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY PARTY RELEASING INFORMATION TO THE AFOREMENTIONED PARTIES.

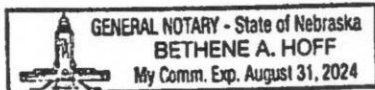
Downtown Norfolk Association
NAME OF CORPORATION

47-0639942
FEDERAL ID NUMBER

[Signature]
SIGNATURE OF TITLE OF CORPORATE OFFICERS
AMY L. RENTER

THE ABOVE INDIVIDUAL STATES THAT THE STATEMENT ABOVE IS TRUE AND CORRECT: IF ANY FALSE STATEMENT IS MADE ON THIS APPLICATION, THE APPLICANT SHALL BE DEEMED GUILTY OF PERJURY AND SUBJECT TO PENALTIES PROVIDED BY LAW. (SEC. §53-131.01) NEBRASKA LIQUOR CONTROL ACT

SUBSCRIBED IN MY PRESENCE AND SWORN TO BEFORE ME THIS 26th DAY OF January, 2023
by Amy Renter



[Signature]
NOTARY PUBLIC SIGNATURE & SEAL
Bethene A. Hoff

AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 2023, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "CITY", and RAR Enterprises, LLC, a Nebraska Limited Liability Company, hereinafter referred to as "OFFICE BAR", WITNESSETH:

WHEREAS, OFFICE BAR is desirous of closing a portion of 4th Street to host a block party event which may include but is not limited to live music performances, the sale of alcohol, and food vendors; and

WHEREAS, OFFICE BAR has requested that 4th Street between Norfolk Avenue and Madison Avenue be closed for its event on Saturday, June 3, 2023; and

WHEREAS, alcohol consumption is prohibited on CITY-owned property by Norfolk City Code Section 3-11 without prior authorization of the Norfolk City Council; and

WHEREAS, attached hereto as Exhibit "A" is a map which shows the beer garden with the approximate location of the music stage, food vendors, and bars that are contemplated for the event; and

WHEREAS, CITY is desirous of allowing the closure of said portion of 4th Street as described above for the block party event at OFFICE BAR's request.

NOW, THEREFORE, in consideration of the foregoing recitals, and the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. TERM. The term of this Agreement shall be for the days of Saturday, June 3, 2023, and Sunday, June 4, 2023.
2. STREET CLOSURE. CITY shall allow for the closure of 4th Street from the south line of Norfolk Avenue to the north line of Madison Avenue from 9:00 a.m. on Saturday, June 3, 2023, to 2:00 a.m. on Sunday, June 4, 2023. CITY shall erect barricades and/or traffic cones which completely barricade the closed portion of the public street as deemed necessary by the Norfolk Police Division.
3. SET UP/CLEAN UP. OFFICE BAR shall be allowed to begin setting up for its event on the closed portion of 4th Street at 9:00 a.m. on June 3, 2023. OFFICE BAR shall be responsible for cleanup from the event and shall complete said cleanup by 2:00 a.m. on June 4, 2023.
4. ALCOHOL.
 - A. Authorization. By approval of this Agreement, CITY's governing body gives the authorization required by Sections 3-11 and 3-13 of CITY's Official Code to OFFICE BAR for alcohol to be served at the following locations:

- 1) on the closed portion of 4th Street, and
- 2) on the sidewalks adjacent to the east and west sides of the closed portion of 4th Street,

from 12:00 noon until 12:00 midnight on June 3, 2023, in the area designated as “beer garden” on the attached Exhibit “A”.

In addition to this authorization, all necessary liquor licenses shall be obtained.

- B. Open Containers of Alcohol. Except as set forth in subparagraph A above, this authorization shall not in any way affect the applicability of City Code Section 3-13, which prohibits open containers of alcohol on any adjoining sidewalk or street in the vicinity of 4th Street between Norfolk Avenue and Madison Avenue.
- C. Strict Compliance. The consumption of alcohol on the closed portion of 4th Street (and adjacent sidewalks on 4th Street) shall be had in strict compliance with the representations made on the liquor license application, a copy of which is attached hereto as Exhibit “B”, and pursuant to the terms of any liquor license that is obtained.

5. TEMPORARY STAGE. CITY shall allow OFFICE BAR to place a temporary stage on the closed portion of 4th Street for its event.

6. NO HOLES IN STREET/SIDEWALK. OFFICE BAR shall not drill any holes in the surface of the closed portion of South 4th Street or any adjacent alleys or sidewalks.

7. NO PAINT ON STREET/SIDEWALKS. OFFICE BAR shall not paint any streets, alleys, or sidewalks for this event. In the event that OFFICE BAR does paint or permanently mark any streets, alleys, or sidewalks, then City shall have the paint or marking removed and the cost thereof shall be paid by OFFICE BAR.

8. DAMAGE. Any damage to CITY property resulting from OFFICE BAR holding its event on the closed portion of 4th Street and adjoining sidewalks will be repaired by CITY and the cost thereof shall be paid by OFFICE BAR.

9. SECURITY. OFFICE BAR shall, at its own expense, provide adequate security for crowd control for its event as well as for compliance with alcohol possession/consumption laws.

10. COPYRIGHTED MUSIC. OFFICE BAR agrees that it either has or will secure any necessary licenses required for the playing or performance of copyrighted music at the activities being conducted by OFFICE BAR and expressly agrees to hold CITY harmless and indemnify CITY from any cost or liability that may result to CITY as a result of the activities sponsored by OFFICE BAR being held on property owned by CITY.

11. NOISE. In the event that noise complaints related to the music or any other activity related to the event are received by CITY’s Police Division, the Police Division shall handle said complaints in the normal course according to its policies and procedures.

12. TEMPORARY TOILETS. OFFICE BAR agrees, at its expense, to provide a sufficient number of temporary toilets to accommodate the number of people expected to attend the event; however, no temporary toilets shall be placed on the street or alley.

13. INSURANCE.

A. OFFICE BAR shall provide CITY with a certificate of general liability insurance in the following minimum amounts:

General Aggregate	\$2,000,000
a. Bodily Injury/Property Damage	\$1,000,000 each occurrence
b. Personal Injury Damage	\$1,000,000 each occurrence
c. Contractual Liability	\$1,000,000 each occurrence
d. Products Liability & Completed Operations	\$1,000,000 each occurrence
e. Fire Damage	\$ 100,000 any one fire
f. Medical Expense	\$ 5,000 any one person
g. Liquor Liability	\$1,000,000 each occurrence

The policy issued shall cover all activities and vendors sponsored by OFFICE BAR for the event with no exclusions. If possible and financially feasible, OFFICE BAR shall endeavor to have OFFICE BAR's insurance policy provide coverage for issues related to COVID-19, novel coronavirus, or similar issues. In the event there is any exclusion or limitation of OFFICE BAR's insurance coverage related to any activity, then the excluded or limited activities shall not be allowed as part of OFFICE BAR's event. Further, OFFICE BAR shall not allow any vendors that are not covered under OFFICE BAR's insurance policy to participate in the event.

B. OFFICE BAR shall name CITY as an additional insured. Said insurance shall be the primary insurance coverage for OFFICE BAR's event (including but not limited to the serving of alcohol on CITY's property during the event) with the exception of activities related to vendors for which insurance is provided by the vendors, in which case the respective vendor's insurance shall be primary and OFFICE BAR's insurance shall be secondary. OFFICE BAR agrees to be responsible for any damages or claim of loss not covered by OFFICE BAR's insurance or OFFICE BAR's vendors' insurance. A certificate of insurance shall be filed with the Norfolk City Clerk upon execution of this Agreement. In the event the certificate of insurance is not filed by May 24, 2023, then (1) OFFICE BAR shall pay a late fee to CITY in the amount of \$75.00, and (2) this Agreement shall be voidable at the option of CITY's risk manager.

C. OFFICE BAR agrees to obtain from all vendors and sponsors of activities accessing the closed street a certificate of insurance showing general liability and products liability coverage in amounts no less than \$1,000,000 per occurrence with a \$1,000,000 aggregate. Said certificates of insurance shall be filed with the City Clerk's office by May 31, 2023.

In the event there are vendors on the closed street from which OFFICE BAR has not obtained a valid certificate of insurance with the coverage amounts set forth herein, then said vendors are not authorized to be vending on the closed street and OFFICE BAR and its insurance carrier shall be responsible for said unauthorized vendors.

14. HOLD HARMLESS/INDEMNIFICATION. OFFICE BAR agrees to save, hold harmless, indemnify and defend CITY, its representatives, agents and employees from any loss or damage or claim of loss by OFFICE BAR or any third party from damage or claim of damage that arises from any of the activities authorized or undertaken as provided in this Agreement and for any loss to CITY that results from OFFICE BAR failing to perform its obligations under this Agreement or engaging in any activity not authorized by this Agreement. The parties acknowledge and agree that these indemnification and hold harmless provisions specifically include, but are not limited to, any claims, damages, or causes of action and all liability, cost or expense specifically including court costs and all reasonable attorney fees for any COVID-19, novel coronavirus, or related issues.

15. STATEMENTS FROM AFFECTED BUSINESSES. OFFICE BAR shall contact each business along South 4th Street that will be affected by the street closure and obtain a signed statement from the business stating they do not object to the street being closed from 9:00 a.m. on June 3, 2023 to 2:00 a.m. on June 4, 2023. OFFICE BAR shall provide said signed statements to the Norfolk City Clerk's office by May 31, 2023. In the event signed statements are not provided for each affected business by May 31, 2023, this Agreement shall be voidable at the option of CITY's risk manager.

16. SALES TAX. All concession sales are subject to State and City sales tax. OFFICE BAR or its vendors shall file sales tax returns and pay the applicable sales tax as required by law.

17. NO SIGNS ALONG STATE HIGHWAY. Pursuant to Nebraska Administrative Code Title 410, Chapter 3, OFFICE BAR shall not place signs advertising OFFICE BAR's event on property adjacent to any state highway.

18. DIRECTED HEALTH MEASURES. OFFICE BAR agrees to comply with any and all Directed Health Measures issued by the Governor of the State of Nebraska and to comply with the most current and updated Directed Health Measures of all local, state, and federal health agencies as they relate to activities authorized in this Agreement.

19. MANAGEMENT. The parties acknowledge and agree that OFFICE BAR shall be solely responsible for the operation and management the closed portion of the street and sidewalk during the term of this Agreement when the same are being utilized by OFFICE BAR for OFFICE BAR's event and related activities. OFFICE BAR shall be responsible for operating and managing the closed portion of the street and sidewalk in accordance with all applicable rules and regulations of any governmental entity with jurisdiction over the same including, but not limited to, the most current and updated Directed Health Measures of all local, state, and federal health agencies, and all resolutions and ordinances of CITY (collectively the "Rules"). OFFICE BAR represents and covenants to CITY that OFFICE BAR is familiar with the Rules and that OFFICE BAR shall operate and manage the closed portion of the street and sidewalk in accordance with the Rules. OFFICE BAR shall ensure that all individuals utilizing the closed

portion of the street and sidewalk for OFFICE BAR's event shall conduct themselves in accordance with the Rules.

20. MAINTENANCE. OFFICE BAR shall be responsible for maintaining the closed portion of the street and sidewalk in accordance with the Rules so that the same may be utilized for permitted activities hereunder. Such obligation shall include, but not be limited to, all sanitation guidelines and maintenance obligations that are set forth in the Rules. OFFICE BAR shall ensure that any guests, invitees, or visitors are those permitted to be in attendance on the closed portion of the street and sidewalk in accordance with the Rules.

21. NO USAGE FEE. OFFICE BAR shall pay no fee to CITY for the use of the closed portion of the street and sidewalk for OFFICE BAR's event.

22. CANCELLATION. Notwithstanding any other provision of this Agreement, CITY retains the right at any time to cancel any activities scheduled on CITY property due to inclement weather or for any other reason. CITY shall not be responsible for any loss to OFFICE BAR resulting from CITY's cancellation of OFFICE BAR's activities.

23. AUTHORITY TO SIGN AGREEMENT. The individuals signing this Agreement represent that they are authorized to sign on behalf of the respective parties hereto.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement in duplicate the day and year first above written. This Agreement may be executed in counterparts. Each such counterpart, executed in duplicate, shall be deemed an original hereof and all such executed counterparts shall together be one and the same instrument.

ATTEST:

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation

Brianna Duerst, City Clerk

By _____
Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

RAR ENTERPRISES, LLC,
A Nebraska Limited Liability Company

By _____
Member
Printed Name: _____

EXHIBIT "A"

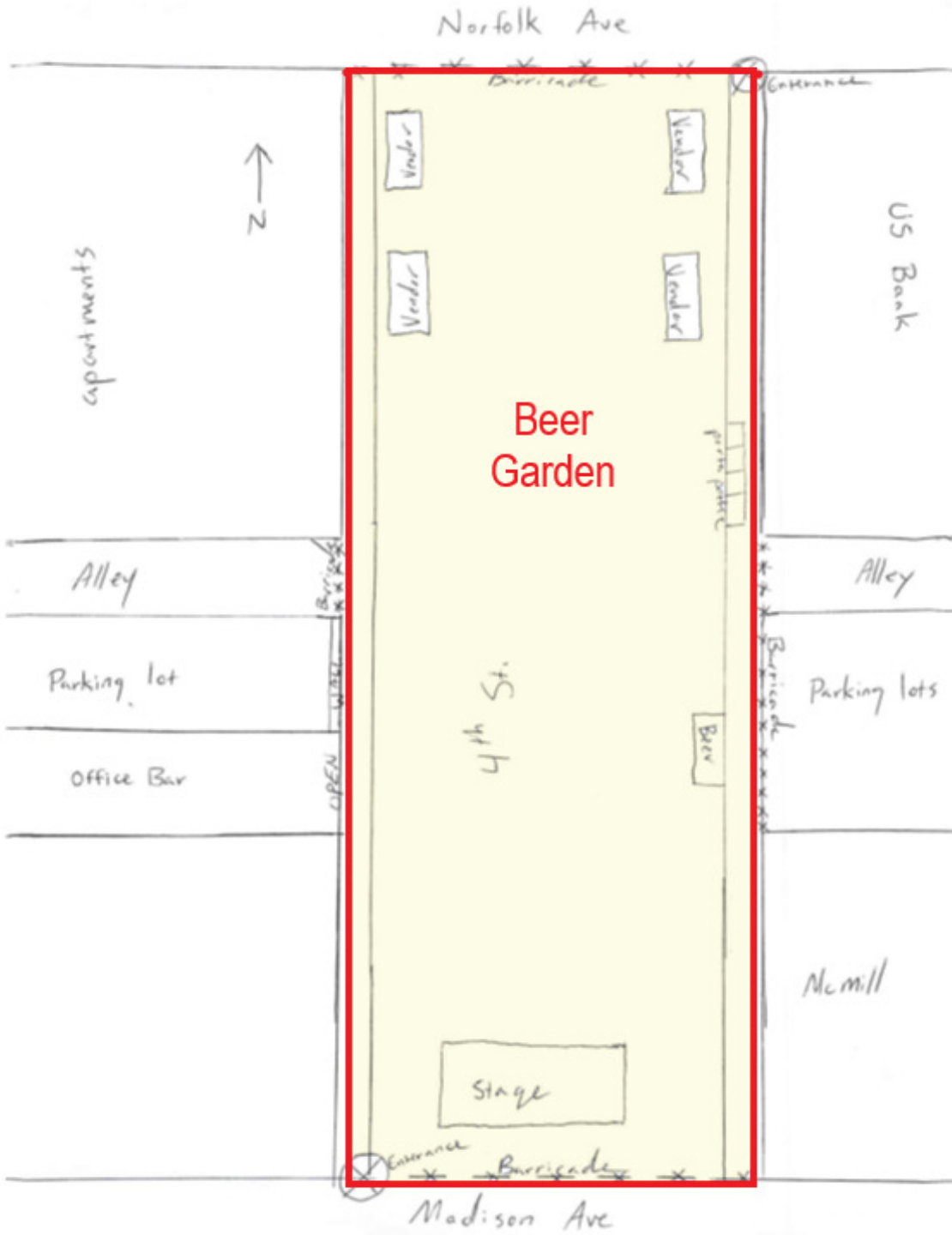


EXHIBIT "B"

NEBRASKA LIQUOR CONTROL COMMISSION
PHONE: (402) 471-2571
Website: www.lcc.nebraska.gov

Special Designated License
Local Recommendation (Form 200)

Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

Office Bar / RAR Enterprises LLC
Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)

120 S. 4th St. Norfolk, NE 68701
Retail Liquor License Address or Non-Profit Business Address

124584
Retail License Number or Non-Profit Federal ID #

Consecutive Dates only
Event Date(s): 10-3-23

Event Start Time(s): 12pm

Event End Time(s): 12am

Alternate Date: 10-24-23

Alternate Location Building & Address: none

Event Building Name: Office Bar

Event Street Address/City: 120 S 4th St

Indoor area to be licensed in length & width: 98' x 22'

Outdoor area to be licensed in length & width: 302' x 62' (Diagram Form #109 must be attached)

Type of Event: Outdoor Live Music Estimate # of attendees: 300

Type of alcohol to be served: Beer Wine Distilled Spirits
(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: Rocco Matteo Event Contact Phone Number: 402-750-7328

Event Contact Email: officebar21@gmail.com

*Signature Authorized Representative: [Signature] Printed Name: Rocco Matteo

I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license
*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:

The local governing body for the City/Village of _____ OR County of _____ approves the issuance of a Special Designated License as requested above. (Only one should be written above)

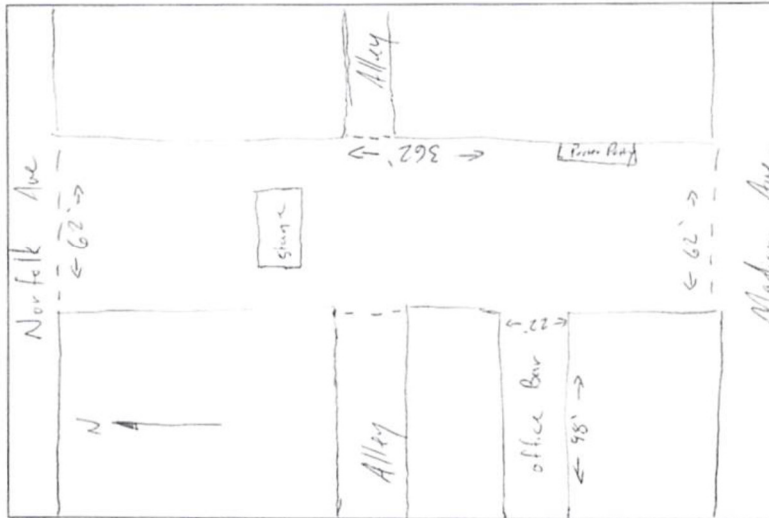
Local Governing Body Authorized Signature _____ Date _____

OUTDOOR AREA DIAGRAM

HOW AREA WILL BE PATROLLED Blue Line

- IF APPLICABLE, OUTDOOR AREA MUST BE CONNECTED TO INDOOR AREA IF INDOOR AREA IS TO LICENSED
- MEASUREMENT OF OUTER WALLS OF AREA TO BE LICENSED MUST INCLUDED LENGTH & WIDTH IN FEET
- DOUBLE FENCING IS REQUIRED FOR ALL NON-PROFIT ORGANIZATIONS UNLESS FORM #140 IS FILED WITH THIS FORM AND IS APPROVED BY THE COMMISSION
- RETAILER LIQUOR LICENSE HOLDERS ARE NOT REQUIRED TO DOUBLE FENCE, ALTHOUGH MEASURES NEED TO BE TAKEN TO SECURE THE AREA

DIAGRAM OF PROPOSED AREA:



Form 109
Rev Nov 2016

**Special Designated License
Local Recommendation (Form 200)**

Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

Office Bar / RAR Enterprises LLC
Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)

120 S. 4th St. Norfolk, NE 68701
Retail Liquor License Address or Non-Profit Business Address

124584
Retail License Number or Non-Profit Federal ID #

6-3-13
Consecutive Dates only
Event Date(s): _____

12pm
Event Start Time(s): _____

12am
Event End Time(s): _____

6-24-13
Alternate Date: _____

NONE
Alternate Location Building & Address: _____

Office Bar
Event Building Name: _____

120 S. 4th St.
Event Street Address/City: _____

98' x 22'
Indoor area to be licensed in length & width: _____

302' x 62' (Diagram Form #109 must be attached)
Outdoor area to be licensed in length & width: _____

Outdoor live music Estimate # of attendees: 500
Type of Event: _____

Beer Wine Distilled Spirits
Type of alcohol to be served: _____

(If not marked, you will not be able to serve this type of alcohol)

Richard Matteo Event Contact Name: _____ Event Contact Phone Number: 402-750-7378

officebar21@gmail.com
Event Contact Email: _____

Richard Matteo Printed Name: Richard Matteo
*Signature Authorized Representative: _____

I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license
*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:

The local governing body for the City/Village of _____ OR County of _____ approves the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature

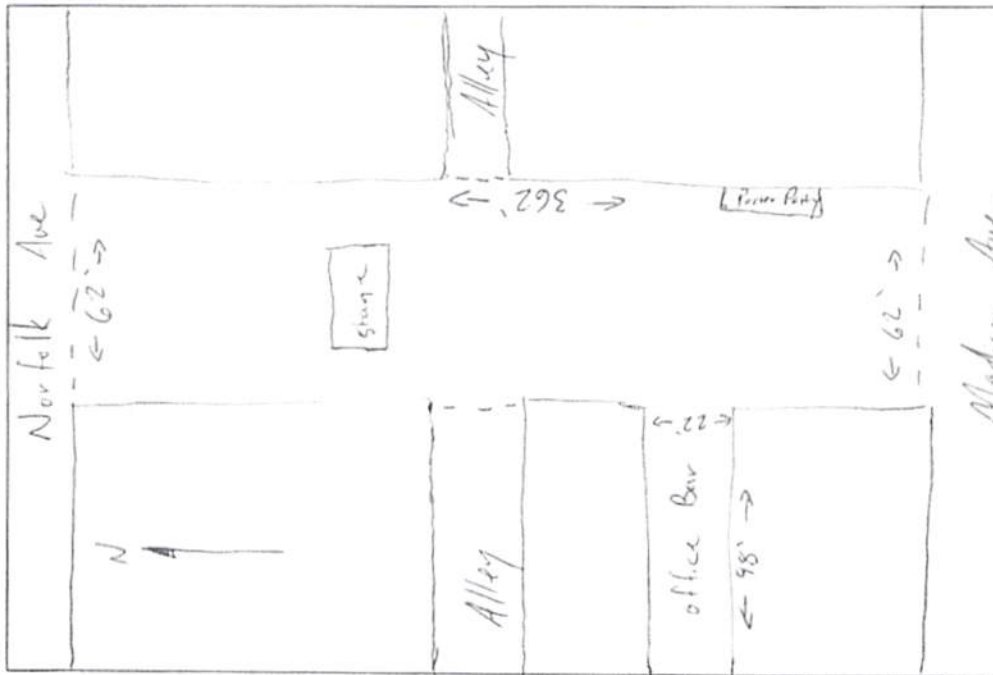
Date

OUTDOOR AREA DIAGRAM

HOW AREA WILL BE PATROLLED Blue Line

- IF APPLICABLE, OUTDOOR AREA MUST BE CONNECTED TO INDOOR AREA IF INDOOR AREA IS TO LICENSED
- MEASUREMENT OF OUTER WALLS OF AREA TO BE LICENSED MUST INCLUDED LENGTH & WIDTH IN FEET
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- RETAILER LIQUOR LICENSE HOLDERS ARE NOT REQUIRED TO DOUBLE FENCE, ALTHOUGH MEASURES NEED TO BE TAKEN TO SECURE THE AREA

DIAGRAM OF PROPOSED AREA:



Form 109
Rev Nov 2016

For Office Use Only	Date Rec'd <u>2-1-23</u>
	Fee \$ <u>310</u> <u>2-1</u>
	Rec'd by <u>EG</u>

SUBDIVISION APPLICATION

Northeast Nebraska Federal Credit Union's Addition to City of Norfolk, Madison County, NE

Name of Subdivision: _____

Preliminary Final

Northeast Nebraska Federal Credit Union - Otte Construction Co. 1137 Riverside Blvd., Norfolk, NE

Applicant: _____

Name	Address
402-375-2180 (Otte Construction Co. - Keith)	kmoje@otteconstruction.com

Phone	Email
-------	-------

*If applicant is an LLC, a copy of the operating agreement must be submitted with the application.

Keith Moje at Otte Construction Co. P. O. Box 396, Wayne, NE

Contact: _____

(other than Applicant)	Name	Address
	402-375-2180	kmoje@otteconstruction.com

Phone	Email
-------	-------

Current Zoning: R-3

General Location/Address: 1137 Riverside Blvd., Norfolk, NE

Legal Description: See attached sheet

Tax ID# 590036270 & 590037145

Property Area, Square Feet and/or Acres: 1.04 Acres

Becky Klassen Digitally signed by Becky Klassen
Date: 2023.01.26 14:45:58 -06'00'

Signature of Owner
Northeast Nebraska Federal Credit Union

Printed Name of Owner

OR

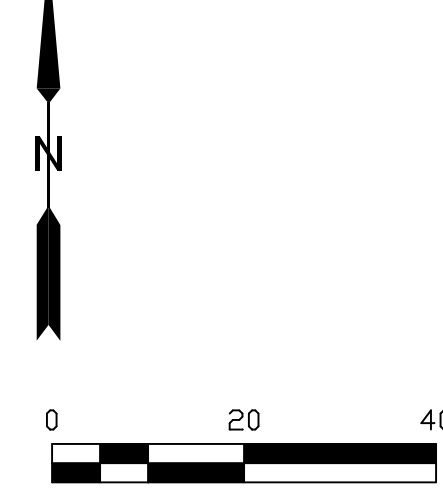
Authorized Agent

Printed Name of Authorized Agent

North 1/4 Corner
Section 22, Twp. 24 N, Rge. 1 W
Found pipe as per Jeffrey Ryan's
2005 survey
54.81' North to PK Nail
216.07' NW to PK Nail
271.20' NW to PK Nail
179.92' NW to PK Nail

Proj. No.
2022-157 Subd

NORTHEAST NEBRASKA FEDERAL CREDIT UNION'S ADDITION
to the City of Norfolk, Madison County, Nebraska

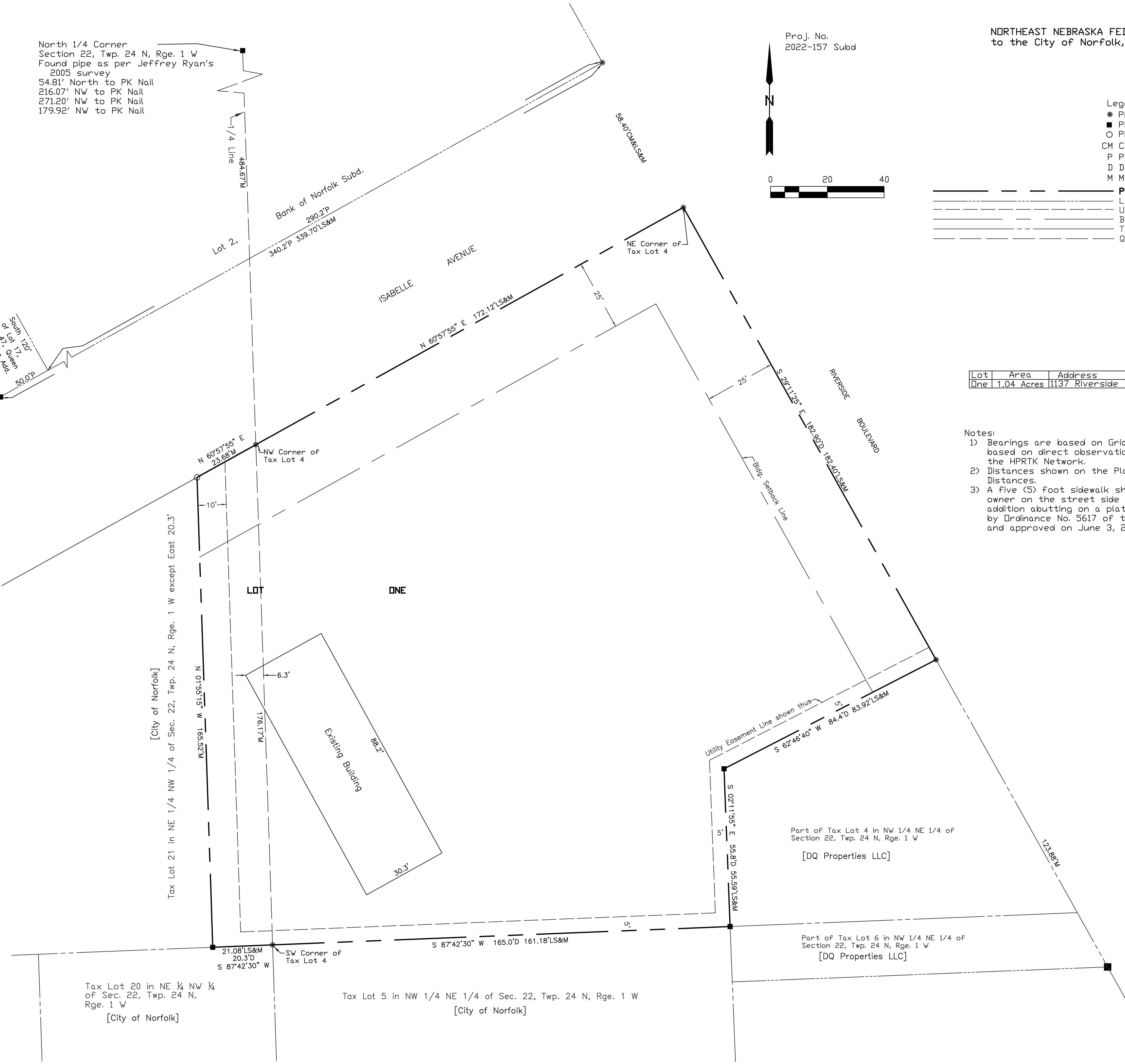


- Legend
- Pin Found
 - Pipe Found
 - Pin Set
 - CM City Map Dist.
 - P Platted Dist.
 - D Deed Dist.
 - M Measured Dist.
- Property Line**
- Lot Line
 - - - Utility Easement Line
 - Building Setback Line
 - Tax Lot Line
 - Quarter Line

Lot	Area	Address
One	1.04 Acres	1137 Riverside Blvd.

Notes:

- 1) Bearings are based on Grid North (US/NAD83/NE Datum) based on direct observation using G.P.S. equipment on the HPRTK Network.
- 2) Distances shown on the Plat are Horizontal Ground Distances.
- 3) A five (5) foot sidewalk shall be constructed by the owner on the street side or sides of each lot in the addition abutting on a platted street as provided for by Drainance No. 5617 of the City of Norfolk passed and approved on June 3, 2019.



Surveyors Statement

I, LaVern F. Schroeder, Registered Land Surveyor in the State of Nebraska, have made a survey of NORTHEAST NEBRASKA FEDERAL CREDIT UNION'S ADDITION to the City of Norfolk, Madison County, Nebraska. Said Addition being a Subdivision of Part of Tax Lot 4 in the Northwest 1/4 of the Northeast 1/4 and part of Tax Lot 21 in the Northeast 1/4 of the Northwest 1/4, all in Section 22, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska; that the Plat attached hereto is the original, accurate, true and correct plat of said NORTHEAST NEBRASKA FEDERAL CREDIT UNION'S ADDITION to the City of Norfolk, Madison County, Nebraska; that said plat accurately and correctly reflects all of the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds in said NORTHEAST NEBRASKA FEDERAL CREDIT UNION'S ADDITION to the City of Norfolk, Madison County, Nebraska, all of which are correctly designated and shown on the attached plat; that I surveyed and platted said NORTHEAST NEBRASKA FEDERAL CREDIT UNION'S ADDITION to the City of Norfolk, Madison County, Nebraska, consisting of Lot One at the instance and request of the owner.

The tract of land comprising said Addition is more particularly described as follows:
Part of Tax Lot 4 lying wholly in the Northwest Quarter of the Northeast Quarter of Section 22, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska, more particularly described as follows: Beginning at the NE corner of said Tax Lot 4; thence Southwesterly along the Southerly R.O.W. of Isabelle Avenue to the NW corner of said Tax Lot 4; thence South to the SW corner of said Tax Lot 4; thence East 165 feet; thence North 55.8 feet; thence Northeasterly 84.4 feet to the Westerly R.O.W. of Riverside Boulevard; thence Northwesterly along said R.O.W., 182.9 feet to the point of beginning.

AND
The East 20.3 feet of Tax Lot 21 in the Northeast 1/4 of the Northwest 1/4 of Section 22, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska

I hereby state that I have executed this instrument on this 22nd day of December, 2022.

LaVern F. Schroeder
Registered Land Surveyor #312

Owners Certificate

I, the undersigned, sole owner of the real estate described in the Surveyors Statement, have caused said real estate to be platted into Lot One, to be known hereinafter as NORTHEAST NEBRASKA FEDERAL CREDIT UNION'S ADDITION to the City of Norfolk, Madison County, Nebraska. Said Addition being a Subdivision of Part of Tax Lot 4 in the Northwest 1/4 of the Northeast 1/4 and part of Tax Lot 21 in the Northeast 1/4 of the Northwest 1/4, all in Section 22, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska; do hereby dedicate the streets, avenues, drives, roads and alleys and other public grounds to the use and benefit of the public and provided further are easements as shown on this plat.

Becky Klassen, Manager/CEO
of Northeast Nebraska
Federal Credit Union

State of Nebraska)
County of Madison)

The foregoing instrument was acknowledged before me this ____ day of _____, 2023, by Becky Klassen, Manager/CEO of Northeast Nebraska Federal Credit Union.

My commission expires: _____ (Signature)

Notary Public (Printed)

APPROVAL

The foregoing and within plat, dedication and instrument was approved by the Planning Commission of the City of Norfolk, Madison County, Nebraska on this ____ day of _____, 2023.

Dan Spray
Chairman

APPROVAL

The foregoing and within plat, dedication and instrument was approved by the Honorable Mayor of the City of Norfolk, Madison County, Nebraska, by resolution duly passed on this ____ day of _____, 2023.

Attest: _____
Brianna Duerst City Clerk
_____ Josh Moenning Mayor

WAIVER

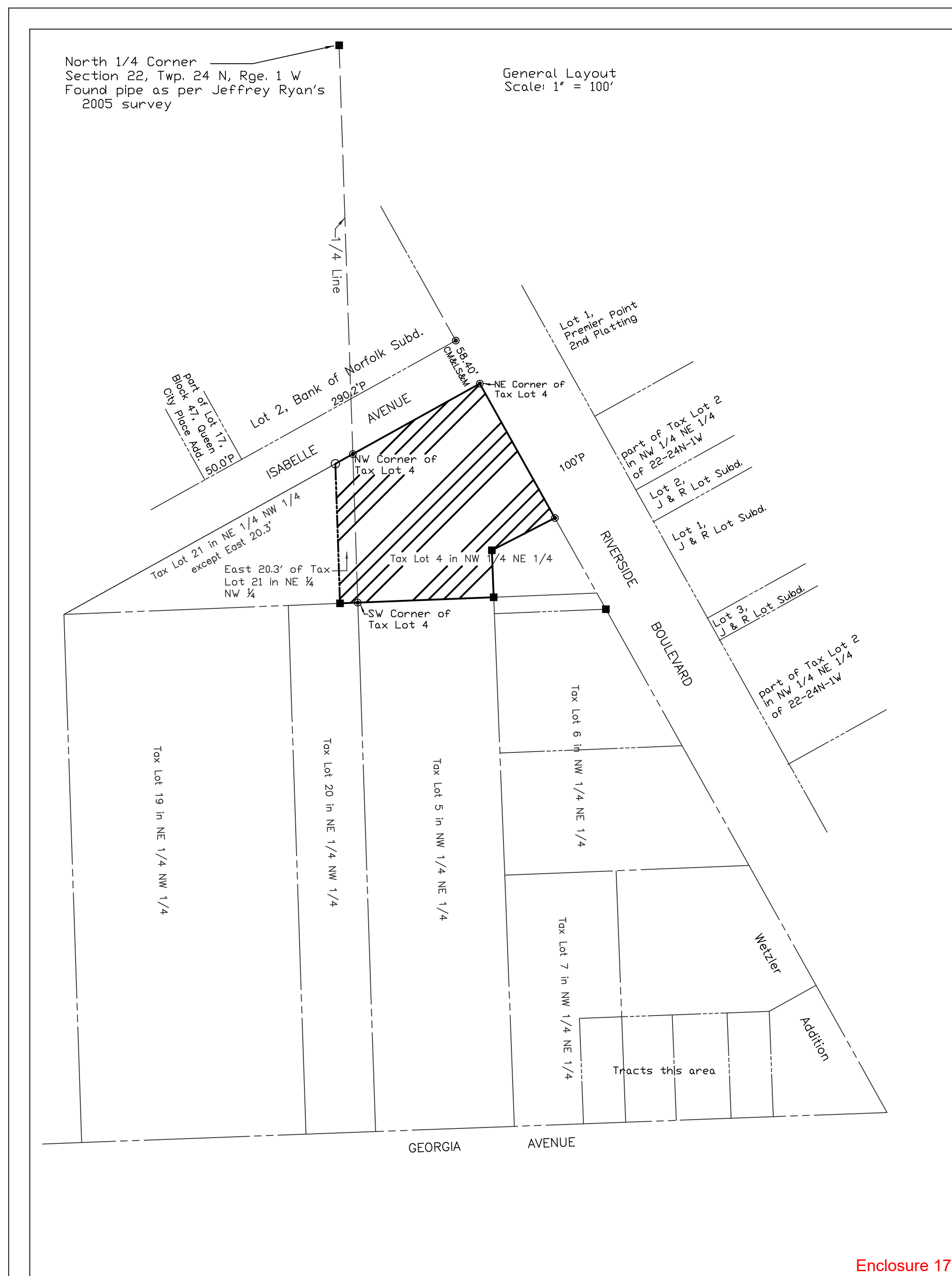
I, Becky Klassen, Manager/CEO of Northeast Nebraska Federal Credit Union, am the owner of the real estate described hereon and hereby waive any right of claims as a result of damages occasioned by the establishment of grades or alterations of the surface.

Becky Klassen, Manager/CEO
of Northeast Nebraska
Federal Credit Union

State of Nebraska)
County of Madison)

This is to certify that this instrument was filed for record by the Register of Deeds Office at ____ M on this ____ day of _____, 2023.

Diane Nykodym
Register of Deeds



March 21, 2023

Honorable Mayor
and
City Council

Dear Mayor and Council:

On March 21, 2023 the Norfolk Planning Commission reviewed the final plat of Northeast Nebraska Federal Credit Union's Addition.

All items required for the final plat approval have been submitted and reviewed by the City Engineer.

The Planning Commission recommends approval of the request with an 8-0 vote.

Sincerely,



Dirk Waite, Vice-Chair
Norfolk Planning Commission

City of Norfolk, 309 N. 5th Street, Norfolk, Nebraska 68701

RESOLUTION NO. 2023-17

WHEREAS, the following described real property is located within the City of Norfolk or within the extraterritorial area in which the City exercises zoning jurisdiction, to wit:

Part of Tax Lot 4 lying wholly in the Northwest Quarter of the Northeast Quarter of Section 22, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska, more particularly described as follows: Beginning at the NE corner of said Tax Lot 4; thence Southwesterly along the Southerly R.O.W. of Isabelle Avenue to the NW corner of said Tax Lot 4; thence South to the SW corner of said Tax Lot 4; thence East 165 feet; thence North 55.8 feet; thence Northeasterly 84.4 feet to the Westerly R.O.W. of Riverside Boulevard; thence Northwesterly along said R.O.W., 182.9 feet to the point of beginning.

AND

The East 20.3 feet of Tax Lot 21 in the Northeast $\frac{1}{4}$ of the Northwest $\frac{1}{4}$ of Section 22, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska

WHEREAS, said property is owned by Northeast Nebraska Federal Credit Union; and

WHEREAS, the owner of the above described property is desirous of platting the property pursuant to the laws of the State of Nebraska and the City of Norfolk; and

WHEREAS, a plat has been prepared in anticipation of platting the above described property.

NOW, THEREFORE, in consideration of the foregoing recitals, the Mayor and City Council of the City of Norfolk, Nebraska, hereby adopt the following Resolution:

BE IT RESOLVED by the Mayor and City Council of the City of Norfolk, Nebraska, that the final plat of Northeast Nebraska Federal Credit Union's Addition

to the City of Norfolk, Madison County, Nebraska, duly made, acknowledged and certified, be and the same are hereby approved and ordered filed and recorded in the office of the Register of Deeds of Madison County, Nebraska.

BE IT FURTHER RESOLVED that the above described property shall hereinafter be legally described as set forth and depicted on the final plat being approved hereunder.

PASSED AND APPROVED this _____ day of _____, 2023.

ATTEST:

Josh Moenning, Mayor

Brianna Duerst, City Clerk

Approved as to form: _____
Danielle Myers-Noelle, City Attorney

Prepared for: City of Norfolk ("Client")

Quote # 147767-3

Bill To

City of Norfolk
 308 W Prospect Ave
 Norfolk, NE 68701
 kbooras@norfolkne.gov
 (402) 844-2000

Ship To

City of Norfolk
 Brad Andersen
 308 W Prospect Ave
 Norfolk, NE 68701
 bandersen@norfolkne.gov
 (402) 844-2123



OneNeck Account Executive

Chris Jansen
 chris.jansen@oneneck.com
 402-390-2827
 Fax 515-334-5757
 Inside Rep: Jessica Shaffer
 jessica.shaffer@oneneck.com
 Solutions Architect: Eric Tekrony

Desktop and Laptop Quote

Expires: 04/14/2023

HP EliteDesk 800 G9 Desktops - 4 Year Active Care Pack

Line #	Part #	Product Description	Qty	Price	Ext. Price
1	68S64UT#ABA	HP Elite Mini 800 G9 Desktop Computer - Intel Core i7 12th Gen i7-12700T Dodeca-core (12 Core) 1.40 GHz - 16 GB RAM DDR5 SDRAM - 512 GB M.2 PCI Express NVMe SSD - Mini PC - Intel Q670 Chip - Windows 11 Pro - Intel UHD Graphics 770 DDR5 SDRAM - English (US)	33	\$974.00	\$32,142.00
2	U18HDE	HP 4 year Active Care Next Business Day Onsite w/Defective Media Retention DT HW Support - Requested	33	\$71.00	\$2,343.00
HP EliteDesk 800 G9 Desktops - 4 Year Active Care Pack Total:					\$34,485.00

HP EliteBook 650 G9 Notebooks - 4 Year Active Care Pack

Line #	Part #	Product Description	Qty	Price	Ext. Price
3	6C0Z7UT#ABA	HP EliteBook 650 G9 15.6" Notebook - Full HD - 1920 x 1080 - Intel Core i7 12th Gen i7-1265U Deca-core (10 Core) - 16 GB Total RAM - 512 GB SSD - Silver - Windows 10 Pro - Intel Iris Xe Graphics - In-plane Switching (IPS) Technology - English Keyboard - F	2	\$1,175.00	\$2,350.00
4	U18J9E	HP 4 year Active Care Next Business Day Response Onsite w/Defective Media Retention NB HW Support - Requested	2	\$160.00	\$320.00
5	J0A2AA#ABA	HP Thunderbolt 120W G4 Dock - 2UK37UT#ABA Replacement	2	\$235.00	\$470.00
HP EliteBook 650 G9 Notebooks - 4 Year Active Care Pack Total:					\$3,140.00

Quote Summary	Amount
HP EliteDesk 800 G9 Desktops - 4 Year Active Care Pack	\$34,485.00
HP EliteBook 650 G9 Notebooks - 4 Year Active Care Pack	\$3,140.00
Total:	\$37,625.00

ACKNOWLEDGEMENT

Confidential - Do Not Distribute.

Prices and delivery terms quoted herein may change due to events which are not within OneNeck’s control, and which by the exercise of reasonable diligence it is unable to prevent, including without limitation: 1) pricing changes by vendors; or 2) manufacturing/delivery delays arising from or related to vendor supply chain logistics. OneNeck will promptly provide you with notice of any such changes that impact your order.

Sales are subject to all applicable taxes. Freight terms, if applicable, are prepay/add all shipping charges. Client certifies that it has read and agrees to the provisions set forth herein and to the terms and conditions of both the Master Reseller Agreement and/or the Master Services Agreement, or its/their equivalent (or, if Client and the Company have not executed any such agreements, the Web-Based Master Reseller and Web-Based Master Services Agreements posted at <https://www.oneneck.com/privacy-and-terms>) and that it intends to be bound to such provisions. The Parties agree that the Master Reseller Agreement or Web-Based Master Reseller Agreement, as applicable (the “Master Reseller Agreement”), shall apply to the software, hardware, and third-party services to be provided by the Company and that the Master Services Agreement or Web-Based Master Services Agreement, as applicable (the “Master Services Agreement”), shall apply to the Services to be performed by the Company.

If Client notifies Company of its intent to finance the purchase of any products listed in the Resale section above (the “Products”) through a third-party entity (“Payer”), Company agrees that, if applicable, Company will accept a purchase order on behalf of Client from Payer, and will invoice Payer for the applicable Products (plus any applicable delivery charges and taxes due). If Payer fails to make payment in full to Company within 30 days of receiving Company’s invoice, Client shall make payment of any amount due and owing within 15 days after receiving notice from Company of nonpayment by Payer. Client agrees to indemnify and hold Company harmless from any claims by Payer related to or arising from the Products and/or in any way related to disputes between Payer and Client.

City of Norfolk ("Client")

Signature

Date

SOLD-TO PARTY 10033493

CITY OF NORFOLK
 309 N 5TH ST
 NORFOLK NE 68701-4092

SHIP-TO

CITY OF NORFOLK
 308 W PROSPECT AVE
 NORFOLK NE 68701-4138

Quotation	
Quotation Number	: 0226063716
Document Date	: 14-MAR-2023
PO Number	:
PO release:	:
Sales Rep	: Kelly Riedel
Email	: KELLY.RIEDEL@INSIGHT.COM
Telephone	:

We deliver according to the following terms:

Payment Terms : Net 30 days
Ship Via : CEVA FREIGHT LLC/LTL
Terms of Delivery: : FOB DESTINATION
Currency : USD

In order for Insight to accept Purchase Orders against this contract and honor the prices on this quote, your agency must be registered with OMNIA Partners Public Sector (formerly U.S. Communities). Our sales teams would be happy to assist you with your registration. Please contact them for assistance -- the registration process takes less than five minutes.

Material	Material Description	Quantity	Unit Price	Extended Price	
S8N-00001	Microsoft Surface Pro 9 for Business - 13" - Core i7 1265U - Evo - 16 GB RAM - 512 GB SSD OMNIA PARTNERS IT PRODUCTS & SERVICES(# 4400006644)	26	1,713.28	44,545.28	
HP3-00002	Microsoft Complete Accident Protection - extended service agreement - 4 years OMNIA PARTNERS IT PRODUCTS & SERVICES(# 4400006644)	26	256.12	6,659.12	
1GK-00001	Microsoft Surface Dock 2 - docking station - Surface Connect - 2 x USB-C - GigE OMNIA PARTNERS IT PRODUCTS & SERVICES(# 4400006644)	23	192.52	4,427.96	
8X8-00061	Microsoft Surface Pro Signature Keyboard - keyboard - with touchpad, accelerometer, Surface Slim Pen 2 storage and charging tray - QWERTY - English - platinum - with Slim Pen 2 OMNIA PARTNERS IT PRODUCTS & SERVICES(# 4400006644)	26	210.45	5,471.70	
				Product Subtotal	54,444.94
				Services Subtotal	6,659.12
				TAX	0.00
				Total	61,104.06

Thank you for choosing Insight. Please contact us with any questions or for additional information about Insight's complete IT solution offering.

Sincerely,

Kelly Riedel

KELLY.RIEDEL@INSIGHT.COM

OMNIA Partners (formerly U.S. Communities) IT Products, Services and Solutions Contract No. 4400006644

Insight Public Sector (IPS) is proud to be a contract holder for the OMNIA Partners Technology Products, Services & Solutions Contract.

This competitively solicited contract is available to participating agencies of OMNIA Partners. OMNIA Partners assists local and state government agencies, school districts (K-12), higher education, and nonprofits in reducing the cost of purchased goods by pooling the purchasing power of public agencies nationwide. This is an optional use program with no minimum volume requirements and no cost to agencies to participate.

Thanks for choosing Insight!

Insight Global Finance has a wide variety of flexible financing options and technology refresh solutions. Contact your Insight representative for an innovative approach to maximizing your technology and developing a strategy to manage your financial options.

This purchase is subject to Insight's online Terms of Sale unless you have a separate purchase agreement signed by you and Insight, in which case, that separate agreement will govern. Insight's online Terms of Sale can be found at the "terms-and-policies" link below.

SOFTWARE AND CLOUD SERVICES PURCHASES: If your purchase contains any software or cloud computing offerings ("Software and Cloud Offerings"), each offering will be subject to the applicable supplier's end user license and use terms ("Supplier Terms") made available by the supplier or which can be found at the "terms-and-policies" link below. By ordering, paying for, receiving or using Software and Cloud Offerings, you agree to be bound by and accept the Supplier Terms unless you and the applicable supplier have a separate agreement which governs.
<https://www.insight.com/terms-and-policies>

New National Opioids Settlements: Teva, Allergan, CVS, Walgreens, and Walmart
Opioids Implementation Administrator
opioidsparticipation@rubris.com

Norfolk city, NE
Reference Number: CL-387730

TO LOCAL POLITICAL SUBDIVISIONS AND SPECIAL DISTRICTS:

THIS PACKAGE CONTAINS DOCUMENTATION TO PARTICIPATE IN THE NEW NATIONAL OPIOID SETTLEMENTS. YOU MUST TAKE ACTION IN ORDER TO PARTICIPATE.

Deadline: April 18, 2023

Five new proposed national opioid settlements (“*New National Opioid Settlements*”) have been reached with **Teva, Allergan, CVS, Walgreens, and Walmart** (“Settling Defendants”). This *Participation Package* is a follow-up communication to the *Notice of National Opioid Settlements* recently received electronically by your subdivision or special district (“subdivision”).

You are receiving this *Participation Package* because Nebraska is participating in the following settlements:

- **Teva**
- **Allergan**
- **CVS**
- **Walgreens**
- **Walmart**

If a state does not participate in a particular Settlement, the subdivisions in that state are not eligible to participate in that Settlement.

This electronic envelope contains:

- *Participation Forms* for Teva, Allergan, CVS, Walgreens, and Walmart, including a release of any claims.

The *Participation Form* for each settlement must be executed, without alteration, and submitted on or before April 18, 2023, in order for your subdivision to be considered for initial participation calculations and payment eligibility.

Based upon subdivision participation forms received on or before April 18th, the subdivision participation rate will be used to determine whether participation for each deal is sufficient for the settlement to move forward and whether a state earns its maximum potential payment under the settlement. If the settlement moves forward, your release will become effective. If a settlement does not move forward, that release will not become effective.

Any subdivision that does not participate cannot directly share in the settlement funds, even if the subdivision's state is settling and other participating subdivisions are sharing in settlement funds. Any subdivision that does not participate may also reduce the amount of money for programs to remediate the opioid crisis in its state.

You are encouraged to discuss the terms and benefits of the *New National Opioid Settlements* with your counsel, your Attorney General's Office, and other contacts within your state. Nebraska is implementing and allocating funds for these new settlements in the same manner as the prior opioid settlements with McKesson, Cardinal, Amerisource, and J&J/Janssen.

Information and documents regarding the *New National Opioid Settlements* and how they are being implemented in your state and how funds will be allocated within your state allocation can be found on the national settlement website at <https://nationalopioidsettlement.com/>. This website will be supplemented as additional documents are created.

How to return signed forms:

There are three methods for returning the executed *Participation Forms* and any supporting documentation to the Implementation Administrator:

- (1) *Electronic Signature via DocuSign*: Executing the *Participation Forms* electronically through DocuSign will return the signed forms to the Implementation Administrator and associate your forms with your subdivision's records. Electronic signature is the most efficient method for returning *Participation Forms*, allowing for more timely participation and the potential to meet higher settlement payment thresholds, and is therefore strongly encouraged.
- (2) *Manual Signature returned via DocuSign*: DocuSign allows forms to be downloaded, signed manually, then uploaded to DocuSign and returned automatically to the Implementation Administrator. Please be sure to complete all fields. As with electronic signature, returning manually signed *Participation Forms* via DocuSign will associate your signed forms with your subdivision's records.
- (3) *Manual Signature returned via electronic mail*: If your subdivision is unable to return executed *Participation Forms* using DocuSign, signed *Participation Forms* may be returned via electronic mail to opioidsparticipation@rubris.com. Please include the name, state, and reference ID of your subdivision in the body of the email and use the subject line Settlement Participation Forms - [Subdivision Name, Subdivision State] - [Reference ID].

Detailed instructions on how to sign and return the *Participation Forms*, including changing the authorized signer, can be found at <https://nationalopioidsettlement.com/>. You may also contact opioidsparticipation@rubris.com.

The sign-on period for subdivisions ends on April 18, 2023.

If you have any questions about executing these forms, please contact your counsel, or the Implementation Administrator at opioidsparticipation@rubris.com.

Thank you,

National Opioids Settlements Implementation Administrator

The Implementation Administrator is retained to provide the settlement notice required by the respective settlement agreements referenced above and to manage the collection of settlement participation forms for each settlement.

EXHIBIT K
Subdivision and Special District Settlement Participation Form

Will your subdivision or special district be signing the settlement participation forms for the Allergan and Teva Settlements at this time?

Yes No

Governmental Entity: Norfolk city	State: NE
Authorized Signatory: Josh Moenning	
Address 1: 309 N 5th Street	
Address 2:	
City, State, Zip: Norfolk	Nebraska 68701
Phone: 402-844-2011	
Email: rgates@norfolkne.gov	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Allergan Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Allergan Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Allergan Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Allergan Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Allergan Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within fourteen (14) days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the MDL Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Allergan Settlement pertaining to Subdivisions and Special Districts as defined therein.
5. By agreeing to the terms of the Allergan Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Allergan Settlement solely for the purposes provided therein.



7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Allergan Settlement.
8. The Governmental Entity has the right to enforce the Allergan Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Allergan Settlement, including, but not limited to, all provisions of **Section V (Release)**, and along with all departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity whether elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist in bringing, or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Allergan Settlement are intended to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Allergan Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Allergan Settlement.
11. In connection with the releases provided for in the Allergan Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Allergan Settlement.

12. Nothing herein is intended to modify in any way the terms of the Allergan Settlement, to which the Governmental Entity hereby agrees. To the extent this Settlement Participation Form is interpreted differently from the Allergan Settlement in any respect, the Allergan Settlement controls.



I have all necessary power and authorization to execute this Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: Josh Moenning

Title: Mayor

Date: _____



Exhibit K
Subdivision and Special District Settlement Participation Form

Governmental Entity: Norfolk city	State: NE
Authorized Signatory: Josh Moenning	
Address 1: 309 N 5th Street	
Address 2:	
City, State, Zip: Norfolk	Nebraska 68701
Phone: 402-844-2011	
Email: rgates@norfolkne.gov	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Agreement dated November 22, 2022 (“*Teva Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Teva Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Teva Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Teva Settlement as provided therein.
2. Following the execution of this Settlement Participation Form, the Governmental Entity shall comply with Section III.B of the Teva Settlement regarding Cessation of Litigation Activities.
3. The Governmental Entity shall, within 14 days of the Reference Date and prior to the filing of the Consent Judgment, file a request to dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in In re National Prescription Opiate Litigation, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
4. The Governmental Entity agrees to the terms of the Teva Settlement pertaining to Subdivisions as defined therein.
5. By agreeing to the terms of the Teva Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
6. The Governmental Entity agrees to use any monies it receives through the Teva Settlement solely for the purposes provided therein.
7. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity’s state where the Consent Judgment is filed for purposes limited to that court’s role as provided in, and for resolving disputes to the extent provided in, the Teva Settlement.



8. The Governmental Entity has the right to enforce the Teva Settlement as provided therein.
9. The Governmental Entity, as a Participating Subdivision or Participating Special District, hereby becomes a Releasor for all purposes in the Teva Settlement, including but not limited to all provisions of Section V (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Teva Settlement are intended by Released Entities and the Governmental Entity to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Teva Settlement shall be a complete bar to any Released Claim.
10. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision or Participating Special District as set forth in the Teva Settlement.
11. In connection with the releases provided for in the Teva Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Teva Settlement.

12. Nothing herein is intended to modify in any way the terms of the Teva Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Teva Settlement in any respect, the Teva Settlement controls.



I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: Josh Moenning

Title: Mayor

Date: _____



EXHIBIT K**Subdivision Participation and Release Form**

Will your subdivision or special district be signing the settlement participation form for the CVS Settlement at this time?

Yes No

Governmental Entity: Norfolk city	State: NE
Authorized Signatory: Josh Moenning	
Address 1: 309 N 5th Street	
Address 2:	
City, State, Zip: Norfolk	Nebraska 68701
Phone: 402-844-2011	
Email: rgates@norfolkne.gov	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 (“*CVS Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the CVS Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the CVS Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the CVS Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
3. The Governmental Entity agrees to the terms of the CVS Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the CVS Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the CVS Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the CVS Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the CVS Settlement.
7. The Governmental Entity has the right to enforce the CVS Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the CVS Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the CVS Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The CVS Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the CVS Settlement.
10. In connection with the releases provided for in the CVS Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the CVS Settlement.



11. Nothing herein is intended to modify in any way the terms of the CVS Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the CVS Settlement in any respect, the CVS Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Josh Moenning

Title: Mayor

Date: _____



EXHIBIT K**Subdivision Participation and Release Form**

Will your subdivision or special district be signing the settlement participation form for the Walgreens Settlement at this time?

Yes No

Governmental Entity: Norfolk city	State: NE
Authorized Signatory: Josh Moenning	
Address 1: 309 N 5th Street	
Address 2:	
City, State, Zip: Norfolk	Nebraska 68701
Phone: 402-844-2011	
Email: rgates@norfolkne.gov	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated December 9, 2022 (“*Walgreens Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Walgreens Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walgreens Settlement, understands that all terms in this Participation and Release Form have the meanings defined therein, and agrees that by executing this Participation and Release Form, the Governmental Entity elects to participate in the Walgreens Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event no later than 14 days after the Reference Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in *In re National Prescription Opiate Litigation*, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal with Prejudice substantially in the form found at <https://nationalopioidsettlement.com>.
3. The Governmental Entity agrees to the terms of the Walgreens Settlement pertaining to Participating Subdivisions as defined therein.
4. By agreeing to the terms of the Walgreens Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walgreens Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walgreens Settlement. The Governmental Entity likewise agrees to arbitrate before the National Arbitration Panel as provided in, and for resolving disputes to the extent otherwise provided in, the Walgreens Settlement.
7. The Governmental Entity has the right to enforce the Walgreens Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walgreens Settlement, including without limitation all provisions of Section XI (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walgreens Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walgreens Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Walgreens Settlement.
10. In connection with the releases provided for in the Walgreens Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walgreens Settlement.



11. Nothing herein is intended to modify in any way the terms of the Walgreens Settlement, to which Governmental Entity hereby agrees. To the extent this Participation and Release Form is interpreted differently from the Walgreens Settlement in any respect, the Walgreens Settlement controls.

I have all necessary power and authorization to execute this Participation and Release Form on behalf of the Governmental Entity.

Signature: _____

Name: Josh Moenning

Title: Mayor

Date: _____



EXHIBIT K

Subdivision Participation Form

Will your subdivision or special district be signing the settlement participation form for the Walmart Settlement at this time?

Yes No

Governmental Entity: Norfolk city		State: NE
Authorized Official: Josh Moenning		
Address 1: 309 N 5th Street		
Address 2:		
City, State, Zip: Norfolk	Nebraska	68701
Phone: 402-844-2011		
Email: rgates@norfolkne.gov		

The governmental entity identified above (“Governmental Entity”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated November 14, 2022 (“Walmart Settlement”), and acting through the undersigned authorized official, hereby elects to participate in the Walmart Settlement, release all Released Claims against all Released Entities, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Walmart Settlement, understands that all terms in this Election and Release have the meanings defined therein, and agrees that by this Election, the Governmental Entity elects to participate in the Walmart Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall promptly, and in any event within 14 days of the Effective Date and prior to the filing of the Consent Judgment, dismiss with prejudice any Released Claims that it has filed. With respect to any Released Claims pending in In re National Prescription Opiate Litigation, MDL No. 2804, the Governmental Entity authorizes the Plaintiffs’ Executive Committee to execute and file on behalf of the Governmental Entity a Stipulation of Dismissal With Prejudice substantially in the form found at <https://nationalopiodsettlement.com/>.
3. The Governmental Entity agrees to the terms of the Walmart Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Walmart Settlement and becoming a Releasor, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date.
5. The Governmental Entity agrees to use any monies it receives through the Walmart Settlement solely for the purposes provided therein.



6. The Governmental Entity submits to the jurisdiction of the court in the Governmental Entity's state where the Consent Judgment is filed for purposes limited to that court's role as provided in, and for resolving disputes to the extent provided in, the Walmart Settlement.
7. The Governmental Entity has the right to enforce the Walmart Settlement as provided therein.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Walmart Settlement, including but not limited to all provisions of Section X (Release), and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Released Entity in any forum whatsoever. The releases provided for in the Walmart Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Released Entities the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release claims. The Walmart Settlement shall be a complete bar to any Released Claim.
9. In connection with the releases provided for in the Walmart Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Walmart Settlement.

10. Nothing herein is intended to modify in any way the terms of the Walmart Settlement, to which Governmental Entity hereby agrees. To the extent this Election and Release is interpreted differently from the Walmart Settlement in any respect, the Walmart Settlement controls.



I have all necessary power and authorization to execute this Election and Release on behalf of the Governmental Entity.

Signature: _____

Name: Josh Moennning

Title: Mayor

Date: _____



FAIR HOUSING PROCLAMATION

WHEREAS, April 11, 2023 marks the 55th anniversary of the passage of the U.S. Fair Housing Law, Title VII of the Civil Rights Act of 1968, as amended, which enunciates a national policy of Fair Housing without regard to race, color creed, national origin, sex, familial status, and handicap, and encourages fair housing opportunities for all citizens; and

WHEREAS, the Norfolk Housing Agency and the Norfolk Housing Development Division of the City of Norfolk, are committed to highlight the Fair Housing Law, Title VII of the Civil Rights Act of 1968, by continuing to address discrimination in our community, to support programs that will educate the public about the right to equal housing opportunities, and to plan partnership efforts with other organizations to help assure every American of their right to fair housing.

NOW, THEREFORE, BE IT RESOLVED, that I, Josh Moenning, Mayor of the City of Norfolk, Nebraska, by the power vested in me, do hereby proclaim April 2023, as:

“FAIR HOUSING MONTH”

MAYOR

April 3, 2023

S E A L

ORDINANCE NO. 5825

AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 4-4 OF THE OFFICIAL CITY CODE TO INCLUDE AN EXCEPTION FOR THE KEEPING OF HENS, BANTAM HENS, OR DUCKS WITH A VALID PERMIT AND TO MORE CLEARLY DEFINE LIVESTOCK AS IT RELATES TO THE KEEPING OF LIVESTOCK WITHIN THE CITY; TO AMEND SECTION 4-6 OF THE CODE TO ADDRESS AT-LARGE CHICKENS OR DUCKS; TO ENACT SECTION 27-295 OF THE CITY CODE TO ALLOW THE KEEPING OF HENS, BANTAM HENS, OR DUCKS IN RESIDENTIAL DISTRICTS WITH A VALID PERMIT; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORFOLK, NEBRASKA:

Section 1. That Section 4-4 of the Official City Code be and the same is hereby amended to read as follows:

Sec. 4-4. Keeping of livestock.

(a) It shall be unlawful for any person to keep or possess livestock upon his or her own premises or the premises of any person or for any person to allow any livestock to be kept on his or her premises within the city unless:

- (1) The livestock is used for agricultural or farming use and complies with all conditions or requirements set forth in Chapter 27, or
- (2) The livestock is used for recreational use in which case the keeping or possession shall comply with all conditions or requirements contained in Chapter 27.
- (3) Hens, bantam hens, or ducks are kept under a valid permit obtained from the city pursuant to Sec. 27-295 of this Code.

(b) Nothing in this section shall preclude (1) the transporting of livestock over roadways located within the city, (2) keeping or possessing livestock on the business premises of a licensed veterinarian, (3) keeping or possessing livestock for sale from a location within the city where livestock sale is allowable, (4) keeping or possessing livestock for a period of up to twenty-four (24) hours immediately prior to slaughter at a location within the city where livestock slaughter is allowable, or (5) a person from riding an animal or driving an animal-drawn vehicle on a roadway so long as the person complies with section 24-4 and subsection (d) as set forth herein.

(c) For purposes of this section, livestock shall mean any horse; mule; donkey; burro; cow; turkey, goose, duck, chicken, pigeon, quail, peafowl, pheasant, emu, ostrich, or other fowl; sheep; pig; or swine; or goat; llama, alpaca, or other camelid; or caribou, reindeer, or other cervine animal; and shall include any dwarf or miniature variety of the same.

(d) Any individuals or organization having a parade, circus, carnival, exposition or display that includes livestock as defined herein shall obtain approval of the city council for their desired activities in addition to paying any fees or obtaining any insurance required by this Code.

Section 2. That Section 4-6 of the Official City Code be and the same is hereby amended to read as follows:

Sec. 4-6. Running at large.

(a) It shall be unlawful for any person who keeps or harbors a dog, cat or other animal to permit it to run at large. "Run at large" shall be construed to mean being off the premises of the person owning or controlling the dog, cat or other animal and roaming at will out of the control of the owner or master thereof.

(b) Any dog, cat or other animal found to be running at large may be impounded as provided for in this chapter, or if the owner of such dog, cat or other animal is determined by the official capturing said animal before such dog, cat or other animal is delivered to the animal pound, and if such dog, cat or other animal properly displays the required license tags and rabies vaccination tag as required under this chapter then such dog, cat or other animal may be delivered to the owner upon said owner's written acceptance of delivery upon a form provided by the police division. If such dog, cat or other animal is, at the discretion of the apprehending official, delivered to the owner, an impoundment fee as set forth in [Section 2-5](#) of this Code shall be paid by the owner to the police division within five (5) days of the return of the dog, cat or other animal, and failure to pay such fee shall constitute a separate violation of this code section.

(c) It shall be unlawful for any person who keeps or harbors chickens or ducks to permit said chickens or ducks to run at large on any of the public ways or upon the property of another. Any chicken or duck found to be running at large may be apprehended by an animal control officer or other city official and delivered to an individual who 1) owns land where chickens or ducks are permitted to be kept, and 2) has an agreement with the city to accept at-large chickens

or ducks for ownership. Upon delivery of the chickens or ducks by the apprehending official to an individual with whom the city has an agreement, the chickens or ducks shall immediately become the property of the person accepting delivery of the at-large chickens or ducks. In the event the chickens or ducks cannot reasonably be delivered to a recipient as set forth herein, the apprehending official may dispose of said chickens or ducks in a manner he or she deems appropriate

Section 3. That Section 27-295 of the Official City Code be and the same is hereby enacted as follows:

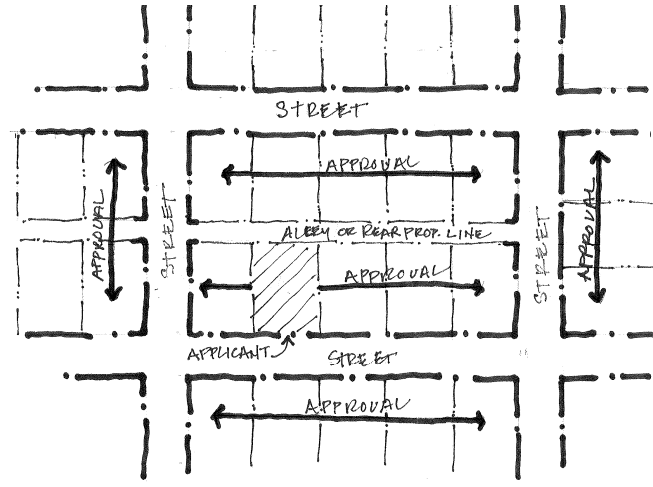
Sec. 27-295. Keeping of backyard chickens and ducks.

The keeping of hens, bantam hens or ducks in residential districts A, R-R, S-R, R-1, R-2, and R-3, only on property consisting of a detached single-family dwelling use, except when larger numbers permitted in A district or permitted under a conditional use permit, is allowed subject to the following:

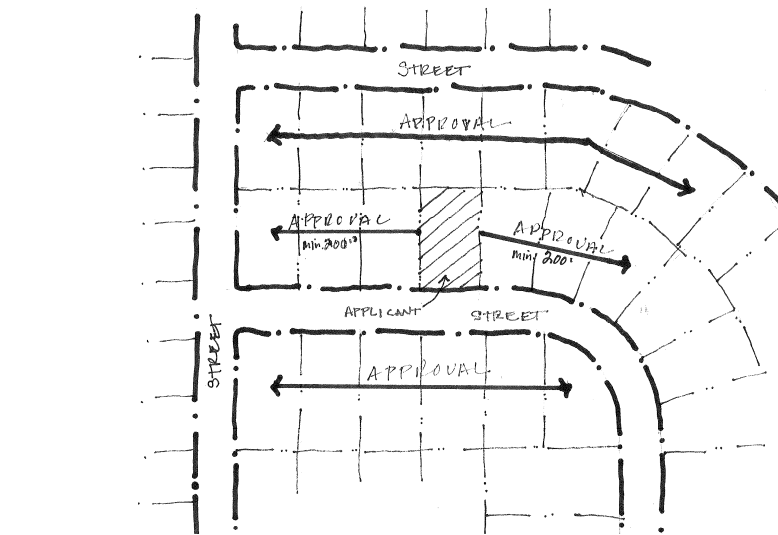
(1) Permit:

- a. Any person who keeps hens, bantam hens or ducks shall obtain a permit from the city through its Planning and Development Department, prior to acquiring the hens, bantams, or ducks. Application shall be made to the Planning and Development Department office and the fee for the permit shall be as set forth in Section 2-5 of this Code.
- b. Permits are valid for the calendar year and shall expire and become invalid on December 31 of the calendar year after the date of issuance unless the permit is issued after December 1 in which case the permit will expire on the second December 31 following the date of issuance; prorating the fee is not allowed. A permit holder who wishes to continue keeping hens, bantam hens or ducks shall obtain a new permit on or before January 1 of the upcoming year. Application for a new permit shall be pursuant to the administrative procedures and requirements that are applicable at the time the person applies for a new permit.
- c. As part of the permit application, the applicant shall collect written approval from a minimum of 75 percent of the property owners, not tenants, within the area described in this section or as otherwise requested by the zoning official if the lot layout does not follow the descriptions in this section. The approval requirements set forth in this section must include approval from all owners of property abutting the applicant's property. The applicant shall use the form, as provided by the city, for the written approvals.
- d. Areas for property owner approval:

- (i) An applicant shall provide written approval from those adjacent and near neighboring property owners described as all properties on the block face, on the rear of the block face, on the block face across the street, and on the end face of each block to the sides as the proposed applicant's property; or



- (ii) If the lot layout of the neighborhood is not in a grid block pattern like described and depicted above, the applicant shall provide written approval from those adjacent and near neighboring property owners described as all properties a minimum of 200 feet from the applicant's property boundaries and directly across the street from and behind those properties 200 feet from the applicant's property boundaries.



- (2) Hereinafter "hens", "bantam hens", and "ducks" will be referenced collectively as "chickens".

(3) Number and size:

- a. No more than a total of four (4) chickens (hens, bantam hens, ducks or any combination of such animals) may be kept on any one (1) parcel as an accessory use to the one primary single-family detached structure.
- b. Each chicken may be up to a maximum of five (5) lbs. in weight.

(4) Use and ownership:

- a. The principal use of the property shall be a detached single-family dwelling.
- b. The permit applicant shall be the owner and resident of the property, or if a rental property then the tenant/lessee shall be the permit applicant with a written consent statement from the property owner.

(5) Setbacks and placement:

- a. A person shall not keep chickens in any location on the property other than in a chicken enclosure in the rear yard.
- b. No chicken enclosure or coop shall be located closer than ten (10) feet to any property line of an adjacent property.
- c. No chicken enclosure or coop shall be located closer than forty (40) feet to any residential structure on another person's property.
- d. No chicken coop shall be located closer than ten (10) feet to any other structure on the permitted lot for fire safety purposes.

(6) Coops and enclosures:

- a. Chickens shall be provided with a covered, fenced, predator-proof coop and/or enclosure that is well-ventilated and designed to be easily accessed for cleaning.
- b. Chickens must be kept in a chicken enclosure at all times.
- c. Chickens shall have access to an outdoor enclosure that is adequately fenced to contain the chickens on the property and to prevent predators from access to the chickens.
- d. Chicken coops shall contain at least four (4) square feet of floor area per chicken.

- e. Chicken enclosures shall provide at least ten (10) square feet of open area per chicken.
- f. No chicken coop and enclosure combined shall exceed ninety (90) square feet of floor area or exceed seven (7) feet in height.
- g. All chicken coops and enclosures shall be constructed and/or repaired to prevent rats, mice, or other rodents from being harbored underneath, within, or within the walls of the coop/enclosure.
- h. All electrical installations shall meet or exceed the applicable National Electrical Code requirements. No temporary wiring (i.e. extension cords, etc.) shall be permitted.

(7) Sanitation:

- a. Coops and enclosures must be kept in a sanitary condition and free from offensive odors to neighboring properties and prevent conditions that are unsanitary or unsafe. Coops and enclosures must be cleaned on a regular basis to prevent the accumulation of waste.
- b. All feed and other items associated with the keeping of chickens that are likely to attract or to become infested with or infected by rats, mice, or other rodents shall be protected so as to prevent rats, mice, or other rodents from gaining access to or coming into contact with the food and other associated items.

(8) Roosters and crowing hens:

- a. No person shall keep roosters or any hens which have developed the rooster-like quality of crowing or making crowing-like sounds.

(9) Slaughtering:

- a. There shall be no slaughtering of chickens outdoors or where the process can be seen by neighbors or the general public.

(10) Running at large:

- a. Any chicken, permitted under this section, shall not be running at large on any of the public ways or upon the property of another.
- b. When a chicken is caught running at large, it shall be addressed pursuant to Sec. 4-6 of this Code.

(11) Search, Examination, Revocation:

- a. A person who has been issued a permit shall freely and voluntarily consent to a search and examination of a chicken coop and enclosure on the permittee's property upon demand by any police officer, code official or zoning official.
- b. If any of the requirements contained in this section are not complied with, the city may revoke any permit granted under this section and/or initiate prosecution of the permit holder and/or any other person violating this Code.

(12) Permit Nontransferable:

- a. Any permit issued under this section shall be a personal privilege granted to the Applicant at the specific location named therein and shall not be subject to transfer. In the event a new tenant leases property for which a permit was previously issued to a prior tenant, the new tenant is required to obtain his/her/their own permit in order to keep chickens on the leased property.

Section 4. That the effective date of this Ordinance shall be from and after its passage, approval and publication in pamphlet form as required by law.

PASSED AND APPROVED this _____ day of _____, 2023.

ATTEST:

Brianna Duerst, City Clerk

Josh Moenning, Mayor

Approved as to form: _____
Danielle Myers-Noelle, City Attorney

ORDINANCE NO. 5826

AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 2-5 OF THE OFFICIAL CITY CODE TO INCLUDE A PERMIT FEE FOR KEEPING HENS, BANTAM HENS AND/OR DUCKS IN THE CITY; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORFOLK, NEBRASKA:

Section 1. That Section 2-5 of the Official City Code be and the same are hereby amended to read as follows:

Sec. 2-5. Schedule of Fees.

(a) As used in this section:

Category 1 group shall mean a group physically located or having its principal place of business physically located within the city and its zoning jurisdiction.

Category 2 group shall mean a group physically located or having its principal place of business physically located outside of the city and its zoning jurisdiction.

In the event the description of any fee appearing in the Schedule of Fees in subsection (b) is inconsistent with the wording of the corresponding Code section, the wording of the Code section shall be deemed to control.

(b) Schedule of Fees:

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Ambulance Fees	Basic life support, non-emergency.	2-2	\$600.00	11/1/2022
Ambulance Fees	Basic life support, emergency.	2-2	\$775.00	11/1/2022
Ambulance Fees	Basic life support, assist only.	2-2	\$100.00	9/1/2015
Ambulance Fees	Advanced life support (1), non-emergency.	2-2	\$700.00	10/1/2019
Ambulance Fees	Advanced life support (1), emergency (one or two ALS interventions).	2-2	\$925.00	11/1/2022
Ambulance Fees	Advanced life support (2), emergency (at least three different medications/procedures).	2-2	\$1,200.00	11/1/2022
Ambulance Fees	Advanced life support, assist only.	2-2	\$250.00	10/1/2019
Ambulance Fees	Specialty care transport (inter-hospital service beyond scope of paramedic).	2-2	\$950.00	10/1/2019
Ambulance Fees	Fee per mile loaded outside Norfolk corporate city limits from 1 to 17 miles. Not including basic life support assistance or advanced life support assistance.	2-2	\$18.00	11/1/2022
Ambulance Fees	Fee per mile loaded outside Norfolk corporate city limits from 18-50 miles. Not including basic life support assistance or advanced life support assistance.	2-2	\$16.00	11/1/2022
Ambulance Fees	Fee per mile loaded outside Norfolk corporate city limits for 50+ miles. Not including basic life support assistance or advanced life support assistance.	2-2	\$14.00	11/1/2022
Blighted Property	Processing fee to declare real property blighted.	2-3	\$100.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Alarm Systems	False alarms (with current permit on file), not including fire alarms, occurring 7-10 times within a permit year, per occurrence.	2.5-5(a)	\$25.00	11/1/2022
Alarm Systems	False alarms (with current permit on file), not including fire alarms, occurring 11-15 times within a permit year, per occurrence.	2.5-5(a)	\$50.00	11/1/2022
Alarm Systems	False alarms (with current permit on file), not including fire alarms, occurring 16-20 times within a permit year, per occurrence.	2.5-5(a)	\$75.00	11/1/2022
Alarm Systems	False alarms (with current permit on file), not including fire alarms, occurring 21 or more times within a permit year, per occurrence.	2.5-5(a)	\$100.00	11/1/2022
Alarm Systems	False alarms (without current permit on file), not including fire alarms, occurring 1-6 times within any 12-month period, per occurrence.	2.5-5(a)	\$25.00	11/1/2022
Alarm Systems	False alarms (without current permit on file), not including fire alarms, occurring 7-10 times within any 12-month period, per occurrence.	2.5-5(a)	\$50.00	11/1/2022
Alarm Systems	False alarms (without current permit on file), not including fire alarms, occurring 11-15 times within any 12-month period, per occurrence.	2.5-5(a)	\$75.00	11/1/2022
Alarm Systems	False alarms (without current permit on file), not including fire alarms, occurring 16-20 times within any 12-month period, per occurrence.	2.5-5(a)	\$100.00	11/1/2022

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Alarm Systems	False alarms (without current permit on file), not including fire alarms, occurring 21 or more times within any 12-month period, per occurrence.	2.5-5(a)	\$125.00	11/1/2022
Alarm Systems	Fire false alarms occurring 7-10 times within a permit year, per occurrence.	2.5-5(b)	\$150.00	
Alarm Systems	Fire false alarms occurring 11-15 times within a permit year, per occurrence.	2.5-5(b)	\$500.00	
Alarm Systems	Fire false alarms occurring 16 or more times within a permit year, per occurrence.	2.5-5(b)	\$630.00	
Alcoholic Beverage Occupation Taxes	Manufacturer of alcohol and spirits.	3-27(a)	\$2,000.00	
Alcoholic Beverage Occupation Taxes	Manufacturer of beer.	3-27(a)	Same as license	
Alcoholic Beverage Occupation Taxes	Manufacturer of wine.	3-27(a)	\$500.00	
Alcoholic Beverage Occupation Taxes	Alcoholic liquors distributor.	3-27(a)	\$1,500.00	
Alcoholic Beverage Occupation Taxes	Beer distributor.	3-27(a)	\$1000.00	
Alcoholic Beverage Occupation Taxes	Retailer of beer only, for consumption on the premises.	3-27(a)	\$200.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Alcoholic Beverage Occupation Taxes	Retailer of beer only, for consumption off the premises.	3-27(a)	\$200.00	
Alcoholic Beverage Occupation Taxes	Retailer of alcoholic liquors for consumption on the premises and off the premises.	3-27(a)	\$600.00	
Alcoholic Beverage Occupation Taxes	Retailer of alcoholic liquors for consumption off the premises.	3-27(a)	\$400.00	
Alcoholic Beverage Occupation Taxes	Retailer of alcoholic liquors for consumption on the premises.	3-27(a)	\$500.00	
Alcoholic Beverage Occupation Taxes	Special designated permit, per day.	3-27(a)	\$80.00	
Alcoholic Beverage Occupation Taxes	Non-beverage user: Class 1.	3-27(a)	\$10.00	
Alcoholic Beverage Occupation Taxes	Non-beverage user: Class 2.	3-27(a)	\$50.00	
Alcoholic Beverage Occupation Taxes	Non-beverage user: Class 3.	3-27(a)	\$100.00	
Alcoholic Beverage Occupation Taxes	Non-beverage user: Class 4.	3-27(a)	\$200.00	
Alcoholic Beverage Occupation Taxes	Non-beverage user: Class 5.	3-27(a)	\$500.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Alcoholic Beverage Occupation Taxes	Catering permit for Class C, D or I licensees.	3-27(a)	\$200.00	
Alcoholic Beverage Occupation Taxes	Bottle club.	3-27(a)	\$500.00	
Animals and Fowl	Animal impoundment fee for returned loose animals.	4-6	\$10.00	
Animals and Fowl	Dog and cat pet licenses.	4-11	Free	
Animals and Fowl	Daily boarding fee, payable along with impoundment fee.	4-25	\$5.00	
Animals and Fowl	First violation per owner or animal, payable along with impoundment fee.	4-25	\$15.00	
Animals and Fowl	Second violation per owner or animal, payable along with impoundment fee.	4-25	\$20.00	
Animals and Fowl	Third violation per owner or animal, payable along with impoundment fee.	4-25	\$30.00	
Bicycles and Scooters	Bicycle registration.	5-2(b)	Free	11/1/2022
Bicycles and Scooters	Duplicate bicycle registration.	5-2(b)	Free	11/1/2022
Bicycles and Scooters	Motor scooter (gas/electric) registration.	5-25(c)	\$5.00	
Bicycles and Scooters	Duplicate scooter (gas/electric) registration.	5-25(c)	\$5.00	
Bicycles and Scooters	Release from impoundment (not inclusive of towing or removal fees).	5-27(c)	\$25.00	
Building (General) Contractor Registration Fees	Issuance of general building contractor's registration (issued in first year of 3-year registration cycle).	6-38 6-40	\$150.00	12/1/2020

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Building (General) Contractor Registration Fees	Issuance of general building contractor's registration (issued in second year of 3-year registration cycle)	6-38 6-40	\$100.00	12/1/2020
Building (General) Contractor Registration Fees	Issuance of general building contractor's registration (issued in third year of 3-year registration cycle).	6-38 6-40	\$50.00	12/1/2020
Building Permit Fees	Building permit fee per finished square foot for new construction and additions: ground floor and above.	6-18 6-162	\$.024	11/1/2022
Building Permit Fees	Building permit fee per square foot for new construction and additions: basement	6-18 6-162	\$0.17	11/1/2022
Building Permit Fees	Building permit fee per finished square foot for new construction and additions: attached garage.	6-18 6-162	\$0.135	11/1/2022
Building Permit Fees	Building permit fee per finished square foot for basement finish or remodel.	6-18 6-162	\$0.20	11/1/2022
Building Permit Fees	Building permit fee per square foot for unfinished and accessory structures: detached garages, accessory buildings, decks and warehouses.	6-18 6-162	\$0.17 up to 100,000 sq. ft. and \$0.01 for each additional sq. ft.	11/1/2022
Building Permit Fees	Building permit fee per foot of height for new communication towers.	6-18 6-162	\$6.00	11/1/2022
Building Permit Fees	Building permit fee per foot of height to co-locate on a tower.	6-18 6-162	\$3.00	11/1/2022
Building Permit Fees	Permit fee to locate a manufactured home in a mobile home park.	6-18 6-162	\$120.00	11/1/2022
Building Permit Fees	Permit fee to install an in-ground swimming pool.	6-18 6-162	\$120.00	11/1/2022
Building Permit Fees	Building permit fee to install a sign from 0-99 sq. ft.	6-18	\$33.50	11/1/2022

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Building Permit Fees	Building permit fee to install a sign from 100-199 sq. ft.	6-18	\$60.50	11/1/2022
Building Permit Fees	Building permit fee to install a sign from 200-300 sq. ft.	6-18	\$120.00	11/1/2022
Building Permit Fees	Demolition permit	6-18 6-162	\$50.00	11/1/2022
Building Permit Fees	Miscellaneous/minimum permit fee.	6-18 6-162	\$33.50	11/1/2022
Building Permit Fees	Permit fee when work commences prior to permit application.	6-18 6-162	Triple normal permit fee	
Building Permit Fees	Re-inspection fee for third and subsequent re-inspection.	6-18 6-162	\$57.75	11/1/2022
Building Code Appeal	Application fee for appeal of a decision of a code official and/or the director of planning and development.	6-18	\$500.00 + publication and court reporter costs	12/1/2020
Electrical Code Appeal	Application fee for appeal of a decision of a code official and/or the director of planning and development	6-18 6-57	\$500.00 + publication and court reporter costs	12/1/2020
Electrical Contractor Registration Fees	First time issuance of State of Nebraska electrical contractor, Class B electrical contractor, Class A master electrician, Class B master electrician, special electrician, or a fire alarm installer's registration (issued in first year of 2-year registration cycle).	6-71	\$125.00	10/3/2016
Electrical Contractor Registration Fees	First time issuance of State of Nebraska electrical contractor, Class B electrical contractor, Class A master electrician, Class B master electrician, special electrician, or a fire alarm installer's registration (issued in second year of 2-year registration cycle).	6-71	\$75.00	12/1/2020

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Electrical Contractor Registration Fees	Renewal issuance of State of Nebraska electrical contractor, Class B electrical contractor, Class A master electrician, Class B master electrician, special electrician, or a fire alarm installer's registration.	6-71	\$100.00	12/1/2020
Electrical Permit Fees	Electrical permit fee based on valuation of work to be completed from \$1.00 - \$1,500.00.	6-94	\$33.50	11/1/2022
Electrical Permit Fees	Electrical permit fee for work valued between \$1,501.00 and \$34,000.00. Permit cost calculated at \$5.00 per each \$500.00 value increase or fraction thereof, plus \$33.50 minimum permit fee.	6-94	\$33.50 (permit) + \$5.00/\$500.00 value increase	11/1/2022
Electrical Permit Fees	Electrical permit fee for work valued at greater than \$34,000.00. Permit cost calculated at \$10.00 per each \$1,000.00 value increase or fraction thereof, after \$34,000.00, plus \$358.50 minimum permit fee.	6-94	\$358.50 (permit) + \$10.00/\$1000.00 value increase	11/1/2022
Electrical Permit Fees	Minimum permit fee.	6-94	\$33.50	11/1/2022
Electrical Permit Fees	Permit fee when work commences prior to permit application.	6-94	Triple normal permit fee	
Electrical Permit Fees	Re-inspection fee for third and subsequent re-inspections.	6-94	\$57.75	11/1/2022
Energy Code Appeal	Application fee for appeal of a decision of a code official and/or the director of planning and development	6-18 6-172	\$500.00 + publication and court reporter costs	12/1/2020
Mechanical Permit Fees	New installation fee, per number of square feet conditioned.	6-107	\$0.0325	11/1/2022

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Mechanical Permit Fees	Heating unit permit fee, under 140,000 BTU.	6-107	\$40.00	11/1/2022
Mechanical Permit Fees	Heating unit permit fee, 141,000 BTU - 499,000 BTU (per unit).	6-107	\$175.00	11/1/2022
Mechanical Permit Fees	Heating unit permit fee, greater than 499,000 BTU (per unit).	6-107	\$290.00	11/1/2022
Mechanical Permit Fees	Cooling unit permit fee, residential (per unit).	6-107	\$35.00	11/1/2022
Mechanical Permit Fees	Cooling unit permit fee, commercial (per ton).	6-107	12.00	11/1/2022
Mechanical Permit Fees	Cooling unit permit fee, industrial chillers (per unit).	6-107	\$830.00	11/1/2022
Mechanical Permit Fees	Miscellaneous installation fee (not requiring new/replacement equipment).	6-107	\$33.50	11/1/2022
Mechanical Permit Fees	Mixing/VAV (variable air volume) boxes.	6-107	\$33.50	11/1/2022
Mechanical Permit Fees	Exhaust fans: (excludes one- and two-family dwellings)	6-107	\$0.075 x exhaust CFM)	11/1/2022
Mechanical Permit Fees	Infrared pipe heating systems or hanging unit heaters permit fee (per unit).	6-107	\$40.00	11/1/2022
Mechanical Permit Fees	Minimum permit fee.	6-107	\$33.50	11/1/2022
Mechanical Permit Fees	Packaged Terminal Air Conditioner (PTAC Unit)	6-107	\$33.50 for first unit plus \$10.00 per each additional unit	11/1/2022
Mechanical Permit Fees	Permit fee when work commences prior to permit application.	6-107	Triple normal permit fee	
Mechanical Permit Fees	Re-inspection fee for third and subsequent re-inspections.	6-107	\$57.75	11/1/2022
Mechanical Contractor Registration Fees	First time issuance of mechanical contractor's 1 year registration.	6-109	\$75.00	10/3/2016

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Mechanical Contractor Registration Fees	Renewal of mechanical contractor's registration, 1 year.	6-109	\$50.00	10/3/2016
Gas Contractor Registration Fees	Original gas contractor's registration.	6-111	\$75.00	
Gas Contractor Registration Fees	Renewal of gas contractor's registration.	6-111	\$50.00	
Mechanical Code Appeal	Application fee for appeal of a decision of a code official and/or the director of planning and development	6-18 6-113	\$500.00 + publication and court reporter costs	12/1/2020
Plumbing Permit Fees	1st trap installation.	6-122	\$11.75	11/1/2022
Plumbing Permit Fees	Additional trap installation fee (per trap).	6-122	\$6.00 plus \$0.0325 per finished square foot	11/1/2022
Plumbing Permit Fees	Installation of 4 inch sanitary sewer line, per 100 feet of line or fraction thereof.	6-122	\$14.00	11/1/2022
Plumbing Permit Fees	Installation of sanitary sewer line greater than 4 inches, per 100 feet of line or fraction thereof.	6-122	\$23.75	11/1/2022
Plumbing Permit Fees	Installation of private water line up to and including 1 inch line, per 100 feet of line or fraction thereof.	6-122	\$14.00	11/1/2022
Plumbing Permit Fees	Installation of private water line greater than 1-inch, per 100 feet of line or fraction thereof.	6-122	\$23.75	11/1/2022
Plumbing Permit Fees	Minimum permit fee.	6-122	\$33.50	11/1/2022
Plumbing Permit Fees	Permit fee when work commences prior to permit application.	6-122	Triple normal fee	3/19/2018
Private Water Line Installation	Re-inspection fee for third and subsequent re-inspection.	6-122	\$57.75	11/1/2022

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Plumbing Code Appeal	Application fee for appeal of a decision of a code official and/or the director of planning and development	6-18 6-124	\$500.00 + publication and court reporter costs	12/1/2020
Plumbing Contractor Registration Fee	Original plumbing contractor's registration.	6-143(a)	\$75.00	
Plumbing Contractor Registration Fee	Renewal of plumbing contractor's registration.	6-143(a)	\$50.00	
Journeyman and Apprentice Plumber's Registration Fees	Original journeyman plumber's registration fee.	6-144(b)	\$50.00	
Journeyman and Apprentice Plumber's Registration Fees	Renewal of journeyman plumber's registration fee.	6-144(b)	\$25.00	
Journeyman and Apprentice Plumber's Registration Fees	Apprentice plumber's registration fee.	6-145	\$10.00	
Well Driller Registration Fees	Well driller's registration fee.	6-146	\$25.00	12/1/2020
Private Wastewater (Septic) System Installer Registration Fees	Private wastewater (septic) system installer's registration fee.	6-146	\$25.00	12/1/2020
One- and Two-Family Dwelling Code Appeal	Application fee for appeal of a decision of a code official and/or the director of planning and development	6-18 6-162	\$500.00 + publication and court reporter costs	12/1/2020

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Property Maintenance	Application fee for appeal of a decision of a code official and/or the director of planning and development.	6-183	\$500.00 + publication and court reporter costs	10/1/2018
Fuel Gas Code Appeal	Application fee for appeal of a decision of a code official and/or the director of planning and development	6-18 6-192	\$500.00 + publication and court reporter costs	12/1/2020
Fireworks	Fireworks stand occupation tax (annually, per permit).	8-5	\$500.00	10/1/2018
Fire Code Permit Fees	L.P.G. tank, 20 - 500 gallon water capacity.	8-28	\$25.00	
Fire Code Permit Fees	L.P.G. tank, 501 - 90,000 gallon water capacity.	8-28	\$35.00	
Fire Code Permit Fees	Flammable and combustible liquid tanks, 50 - 20,000 gallon water capacity.	8-28	\$70.00	
Fire Sprinkler and Suppression Contractor Fees	Initial registration to install fire sprinkler and suppression systems.	8-29	\$75.00	
Fire Code Permit Fees	Annual re-registration to install fire sprinkler and suppression systems.	8-29	\$50.00	
Fire Sprinkler and Suppression Contractor Fees	Fire sprinkler system permit, per head.	8-29	\$1.50	
Fire Sprinkler and Suppression Contractor Fees	Fire suppression system permit, per extinguishing agent discharge point.	8-29	\$3.00	
Fire Alarm Installer Contractor Fees	First time issuance of fire alarm installer contractor 1 year registration.	8-31	\$75.00	10/3/2016

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Fire Alarm Installer Contractor Fees	First time issuance of fire alarm installer contractor 2 year registration.	8-31	\$125.00	10/3/2016
Fire Alarm Installer Contractor Fees	Renewal of fire alarm installer contractor 2 year registration.	8-31	\$100.00	10/3/2016
Fire Alarm Installer Contractor Fees	Fire alarm system permit fee, per initiation and warning device.	8-31	\$2.00	3/19/2018
Fire Code Appeal	Application fee for appeal of a decision of the fire code official	8-45	\$500.00 + publication and court reporter costs	12/1/2020
Garbage and Trash	Typical municipal solid waste, per ton.	10-27(1)	\$78.80	11/1/2022
Garbage and Trash	NNSWC gate fee, per ton.	10-28(a)	\$24.00	
Garbage and Trash	Transfer station inspection fee, per load.	10-28(b)	\$8.00	
Garbage and Trash	Transfer station minimum MSW fee, per vehicle.	10-28(c)	\$12.00	
Garbage and Trash	Transfer station operating fee, per ton.	10-28(c)	\$54.80	11/1/2022
Garbage and Trash	Sale of compost and wood chips (after first 1,000 lbs.), per ton		\$10.00	10/1/2021
Garbage and Trash	Sorting/loading labor, per hour.	10-28(d)	\$40.00	11/4/2013
Garbage and Trash	Handling of items unacceptable for transfer to NNSWC landfill, per item	10-28(d)	\$10.00	6-01-2020
Garbage and Trash	Crematory, single animal.	10-28(d)	\$45.00	11/1/2022
Garbage and Trash	Crematory, multiple animals.	10-28(d)	\$90.00	11/1/2022
Garbage and Trash	Crematory, contraband	10-28(d)	\$90.00	11/1/2022

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Garbage and Trash	Automotive battery, each.	10-28(d)	\$5.00	
Garbage and Trash	Computer/TV monitors, each.	10-28(d)	\$15.00	10/1/2016
Garbage and Trash	Computer system disposal, each.	10-28(d)	\$15.00	
Garbage and Trash	Concrete, clean and un-coated, per ton.	10-28(d)	\$5.00	
Garbage and Trash	Concrete, coated and/or painted, per ton.	10-28(d)	\$5.00	
Garbage and Trash	Construction and demolition, untreated dimensional lumber, per ton.	10-28(d)	\$30.00	
Garbage and Trash	Car tires, each.	10-28(d)	\$5.00	11/1/2022
Garbage and Trash	Hazardous waste.	10-28(d)	Actual costs associated with handling, storage and disposal	
Garbage and Trash	Light truck tires, each.	10-28(d)	\$5.00	11/1/2022
Garbage and Trash	Truck tires/skid loader rubber tracks, each.	10-28(d)	\$15.00	10/6/2014
Garbage and Trash	Implement/racing/skid steer tires, each.	10-28(d)	\$35.00	10/1/2018
Garbage and Trash	Tire with rim, each.	10-28(d)	Twice the stated tire fee	
Garbage and Trash	Appliances, each.	10-30(a)	\$12.00	11/1/2022
Garbage and Trash	Appliances with Freon, each.	10-30(a)	\$35.00	11/1/2022
Garbage and Trash	Yard waste, per 36 gallon bag.	10-30(b)	\$0.60	
Garbage and Trash	Yard waste, per cubic yard.	10-30(b)	\$3.00	10/1/2011
Garbage and Trash	Yard waste, per ton.	10-30(b)	\$19.00	
Garbage and Trash	Yard waste, flat rate for standard size pickup boxes and smaller, each.	10-30(b)	\$3.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Garbage and Trash	Tree waste, per ton.	10-30(c)	\$19.00	
Garbage and Trash	Brush and limbs, flat rate for standard size pickup boxes and smaller, each.	10-30(c)	\$3.00	
Garbage and Trash	Floppy discs, flash drives, small tape back-ups shredding, each.	NA	\$0.50	11/4/2013
Garbage and Trash	Large tape back-ups, phones without batteries shredding, each.	NA	\$1.00	11/4/2013
Garbage and Trash	Hard drives shredding, each.	NA	\$2.00	10/1/2018
Garbage and Trash	Tractor tires/large rubber tractor tracks, each.	NA	\$100.00	10/1/2018
Garbage and Trash	Scale out weighing, one weight from stored weights, one weight is new.	NA	\$10.00	11/1/2022
Garbage and Trash	Scale in weighing, weigh a vehicle in and out.	NA	\$10.00	11/4/2013
Garbage and Trash	Sale of dirt, pickup or small trailer loaded by hand.	NA	\$5.00	11/4/2013
Garbage and Trash	Transfer trailer rent and transportation (within city limits and extraterritorial zoning jurisdiction only), per load.	10-29	\$250.00 plus landfill gate fee	10/1/2016
Health and Sanitation	Public pool operating permit (class B, C, D, E, or F pools).	11-47	\$50.00	10/1/2013
Permits and Business Regulations	Circus, annual fee (not required for non-profit or civic clubs).	13-17(a)	\$500.00	
Permits and Business Regulations	Carnival, daily fee.	13-17(b)	\$50.00	
Permits and Business Regulations	Salvage yard permit annual fee.	13-42(a)	\$50.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Permits and Business Regulations	Antique and used merchandise annual permit.	13-58(a)	\$25.00	
Permits and Business Regulations	Auction permit, annual fee.	13-58(a)	\$25.00	
Permits and Business Regulations	Second hand dealer permit, annual fee.	13-58(a)	\$25.00	
Permits and Business Regulations	Pawnbroker's permit, annual fee.	13-71(b)	\$100.00	11/21/2011
Permits and Business Regulations	Telecommunications occupation tax.	13-80(a)	3% gross receipts	
Permits and Business Regulations	Failure of telephone company to provide statement of quarterly gross receipts subject to occupation tax.	13-82(b)	\$25,000.00	
Permits and Business Regulations	Itinerant merchant, 30-day permit	13-113(a)	\$25.00	2/21/2017
Permits and Business Regulations	Itinerant merchant, 90-day permit	13-113(a)	\$60.00	2/21/2017
Permits and Business Regulations	Itinerant merchant, 180-day permit	13-113(a)	\$125.00	2/21/2017
Permits and Business Regulations	Itinerant merchant, annual permit	13-113(a)	\$250.00	2/21/2017
Permits and Business Regulations	Itinerant merchant (occupation tax), per vehicle.	13-113(a)	\$50.00	2/21/2017
Permits and Business Regulations	Peddler/solicitor, 30-day permit	13-113(b)	\$25.00	2/21/2017
Permits and Business Regulations	Peddler/solicitor, 90-day permit	13-113(b)	\$60.00	2/21/2017

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Permits and Business Regulations	Peddler/solicitor, 180-day permit	13-113(b)	\$125.00	2/21/2017
Permits and Business Regulations	Peddler/solicitor, annual permit	13-113(b)	\$250.00	2/21/2017
Permits and Business Regulations	Peddler/solicitor (occupation tax) per vehicle	13-113(b)	\$5.00	2/21/2017
Permits and Business Regulations	Street vendor/temporary merchant, 30-day permit	13-113(c)	\$25.00	2/21/2017
Permits and Business Regulations	Street vendor/temporary merchant, 90-day permit	13-113(c)	\$60.00	2/21/2017
Permits and Business Regulations	Street vendor/temporary merchant, 180-day permit	13-113(c)	\$125.00	2/21/2017
Permits and Business Regulations	Street vendor/temporary merchant, annual permit	13-113(c)	\$250.00	2/21/2017
Permits and Business Regulations	Street vendor/temporary merchant (occupation tax), per vehicle.	13-113(c)	\$5.00	2/21/2017
Permits and Business Regulations	Appeal of denied itinerant merchant, peddler, solicitor, street vendor, or temporary merchant permit, non-refundable.	13-117	\$100.00	11/21/2011
Permits and Business Regulations	Games of chance (occupation tax).	13-143	5% of gross receipts per quarter	
Permits and Business Regulations	Distributing gambling devices (occupation tax).	13-144	5% of gross receipts per quarter	
Permits and Business Regulations	Gambling device permit fee per location.	13-148	\$10.00	
Permits and Business Regulations	Horse-drawn carriage business license	13-202	\$25.00	11/21/2011

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Permits and Business Regulations	Sidewalk café, annual license/renewal (May 1 through April 30)	13-311	\$250.00	5/6/2019
Permits and Business Regulations	Small wireless facilities, application fee for collocation on existing city pole, per facility (not to exceed \$500 for up to 5 facilities on same application)	13-231(a)	\$100.00	9/8/2020
Permits and Business Regulations	Small wireless facilities, application for installation modification, or replacement of utility pole and collocation of facility thereon, per pole	13-231(a)	\$250.00	9/8/2020
Permits and Business Regulations	Small wireless facilities, use of city's right of way, annually	13-231(b)	Occupation tax levied under Sec. 13-80(a)	9/8/2020
Permits and Business Regulations	Small wireless facilities, collocation of facility on city pole in city's right of way, per pole annually	13-231(b)	\$20.00	9/8/2020
Permits and Business Regulations	Sexually oriented business registration/renewal, annually	13-354(a)	\$250.00	6/7/2021
Permits and Business Regulations	Sexually oriented business manager's registration/renewal, annually	13-354(a)	\$50.00	6/7/2021
Permits and Business Regulations	Sexually oriented business, application fee for initial registration	13-354(b)	\$250.00	6/7/2021
Permits and Business Regulations	Short-term rental license, annually	13-373(e)	\$150.00	6/7/2021
Mobile Homes and Mobiles Home Parks	Mobile home park permit, plus \$1.00 per space.	15-33	\$25.00 + \$1.00 per space	
Nuisances	Administrative weed/litter/drainage fee.	17-16	\$25.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Nuisances	Weed abatement fee.	17-16	Cost as billed by contractor plus \$0.01 per square foot if weeds are controlled by the city	
Nuisances	Litter removal.	17-16	Actual cost of litter removal	
Nuisances	Stagnant water mitigation.	17-16	Actual cost of draining and filling to remove stagnant water	
Nuisances	Graffiti removal.	17-55(c)	Actual cost to remove graffiti	
Response to Large Parties	Large party response fee.	20-8	Actual cost	
Streets and Sidewalks	Sidewalk mobilization fee.	22-23(c)	\$100.00	
Streets and Sidewalks	Construction or repair of sidewalks per square foot.	22-23(c)	\$10.00	
Streets and Sidewalks	Under concrete pavement minimum fee, includes first 2 square yards.	22-68(a)	\$375.00	
Streets and Sidewalks	Under concrete pavement, cost per additional square yard or fraction thereof.	22-68(a)	\$75.00	
Streets and Sidewalks	Under gravel or earth roads minimum fee, includes first 2 square yards.	22-68(a)	\$120.00	
Streets and Sidewalks	Under gravel or earth roads, cost per additional square yard or fraction thereof.	22-68(a)	\$40.00	
Streets and Sidewalks	Concrete paving cuts, cost per foot.	22-68(a)	\$5.00	
Streets and Sidewalks	Concrete paving cuts, minimum fee.	22-68(a)	\$50.00	
Streets and Sidewalks	Sawing and removing curbs, cost per foot.	22-68(a)	\$8.00	
Streets and Sidewalks	Removing curb and gutter, cost per foot.	22-68(a)	\$5.00	
Streets and Sidewalks	Curb removal minimum fee.	22-68(a)	\$100.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Streets and Sidewalks	Curb removal by grinding, permit fee.	22-68(a)	\$15.00	
Streets and Sidewalks	Curb removal by grinding, cost per lineal foot.	22-68(a)	\$11.50	10/1/2019
Streets and Sidewalks	Curb removal by grinding, minimum fee (non-inclusive of permit fee).	22-68(a)	\$100.00	
Streets and Sidewalks	Curb removal by grinding, contractor permit fee.	22-68(a)	\$15.00	
Streets and Sidewalks	Fill material for backfilling, cost per cubic yard.	22-68(a)	\$7.00	
Streets and Sidewalks	Rental price per day: 12 foot barricade with legs.	22-68(b)	\$3.00	
Streets and Sidewalks	Rental price per day: solar lights.	22-68(b)	\$2.00	
Streets and Sidewalks	Rental price per day: plastic drum.	22-68(b)	\$3.50	
Streets and Sidewalks	Replacement fee: each 12 foot barricade.	22-68(b)	\$20.00	
Streets and Sidewalks	Replacement fee: each damaged "A" frame leg.	22-68(b)	\$20.00	
Streets and Sidewalks	Replacement fee: each solar light.	22-68(b)	\$25.00	
Streets and Sidewalks	Replacement fee: each plastic drum.	22-68(b)	\$75.00	
Moving Buildings	Annual building mover's registration.	22-88	\$105.00	10/1/2019
Moving Buildings	Single event building mover's fee.	22-88	\$55.00	10/1/2019
Moving Buildings	Permit to move buildings.	22-98	\$30.00	10/1/2019
Subdivisions	Lot boundary change filing fee.	23-16.1(b)	\$150.00	10/1/2019
Subdivisions	Preliminary plat approval.	23-21	\$300.00	11/1/2022
Subdivisions	Preliminary plat fee per lot.	23-21	\$15.00	10/1/2019
Subdivisions	Final plat approval.	23-21	\$300.00	11/1/2022
Subdivisions	Final plat fee per lot.	23-21	\$10.00	10/1/2019
Subdivisions	Request for a waiver of minimum subdivision improvements.	23-48	\$250.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Traffic	Impounded vehicle storage fee, first day.	24-152(c)	\$25.00	
Traffic	Impounded vehicle storage fee, subsequent days.	24-152(c)	\$5.00	
Traffic	Cost of towing an impounded vehicle.	24-152(c)	Actual cost	
Roll Off Refuse Boxes	Permit for placement on street right of way (10-day permit)	24-284(a)	\$50.00	10/3/2016
Roll Off Refuse Boxes	Permit for placement on street right of way (5-day extension)	24-284(a)	\$25.00	10/3/2016
Utility-type Vehicles	Registration plate and/or decal, annual fee.	24-356(a)(3)	\$50.00	6-01-2020
Utility-type Vehicles	Replacement for lost or damaged registration plate and/or decal.	24-356(a)(3)	\$25.00	6-01-2020
Trees and Shrubbery	Failure to reimburse city for abatement of nuisance, in addition to cost of abatement.	25-2(d)	\$25.00	
Water	Final reading required before new water and/or sewer service.	26-2	\$30.00	
Water	Water and/or sewer service turn on fee for newly constructed residences and businesses.	26-2	\$30.00	
Water	Water system tap fee.	26-11(a)	\$115.00 + materials	10/1/2018
Water	Connection to water system, per front foot of property.	26-11(b)	Average of 5 most recent districts	12/1/2020
Water	Restoration of water service during normal business hours.	26-18	\$30.00	
Water	Restoration of water service outside of normal business hours.	26-18	\$45.00	
Water Rates and Charges	Water usage rate for the first 660 cubic feet of water inside city limits.	26-41(b)	minimum fee for meter size	
Water Rates and Charges	Water usage rate per 100 cubic feet from 660 to 6,660 cubic feet of water inside city limits.	26-41(b)	\$1.61	11/1/2022

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Water Rates and Charges	Water usage rate per 100 cubic feet from 6,660 to 33,660 cubic feet of water inside city limits.	26-41(b)	\$1.29	11/1/2022
Water Rates and Charges	Water usage rater per 100 cubic feet for water usage over 33,660 cubic feet inside city limits.	26-41(b)	\$1.14	11/1/2022
Water Rates and Charges	Water usage rate for the first 660 cubic feet of water outside city limits.	26-41(b)	minimum fee for meter size	
Water Rates and Charges	Water usage rate per 100 cubic feet from 660 to 6,660 cubic feet of water outside city limits.	26-41(b)	\$3.24	11/1/2022
Water Rates and Charges	Water usage rate per 100 cubic feet from 6,660 to 33,660 cubic feet of water outside city limits.	26-41(b)	\$2.60	11/1/2022
Water Rates and Charges	Water usage rater per 100 cubic feet for water usage over 33,660 cubic feet outside city limits.	26-41(b)	\$1.91	11/1/2022
Water Rates and Charges	Minimum charge for 5/8 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$14.32	11/1/2022
Water Rates and Charges	Minimum charge for 3/4 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$15.51	11/1/2022
Water Rates and Charges	Minimum charge for 1 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$18.23	11/1/2022
Water Rates and Charges	Minimum charge for 1 1/2 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$33.32	11/1/2022
Water Rates and Charges	Minimum charge for 2 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$51.54	11/1/2022
Water Rates and Charges	Minimum charge for 3 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$98.05	11/1/2022
Water Rates and Charges	Minimum charge for 4 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$150.85	11/1/2022

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Water Rates and Charges	Minimum charge for 6 inch water meter within city limits, per bi-monthly billing period.	26-41(c)	\$289.12	11/1/2022
Water Rates and Charges	Minimum charge for 5/8 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$28.66	11/1/2022
Water Rates and Charges	Minimum charge for 3/4 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$31.05	11/1/2022
Water Rates and Charges	Minimum charge for 1 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$36.45	11/1/2022
Water Rates and Charges	Minimum charge for 1 1/2 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$66.63	11/1/2022
Water Rates and Charges	Minimum charge for 2 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$103.08	11/1/2022
Water Rates and Charges	Minimum charge for 3 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$196.10	11/1/2022
Water Rates and Charges	Minimum charge for 4 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$301.69	11/1/2022
Water Rates and Charges	Minimum charge for 6 inch water meter outside city limits, per bi-monthly billing period.	26-41(c)	\$578.24	11/1/2022
Water Rates and Charges	Service fee: delinquent charges collected more than once in a 12 month period.	26-46(a)	\$30.00	
Sewers	Connection to, extension or alteration of, existing sewer lines per front foot of property.	26-58(a)	Average of 5 most recent districts	12/1/2020
Sewers	Building sewer application, permit, and inspection fee (building sewer terminated in sewer main).	26-59(b)	\$20.00	12/2/2013
Sewers	Building sewer application, permit, and inspection fee (building sewer terminated in manhole).	26-59(l)	\$20.00	12/2/2013

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Sewers	Appeal of decision of city engineer.	26-64(a)	\$500.00 + publication and court reporter costs	11/4/2013
Sewers	Individual septic/sewage system construction permit filing fee.	26-80	\$25.00	3/19/2018
Water and Sewer Inspection	Inspection of water, sewer or disposal system as a condition of the sale of real estate or for the financing thereof.	26-86(c)	\$50.00	
Wastewater Treatment	Residential and commercial waste water treatment, minimum bi-monthly charge.	26-97(e)	\$30.44	11/1/2022
Wastewater Treatment	Additional charge per 100 cubic feet of waste water over 400 cubic feet of waste water per bi-monthly billing period.	26-97(e)	\$2.60	11/1/2022
Wastewater Treatment	Normal charge, per 1,000,000 gallons, for wastewater of greater strength than normal domestic sewage where BOD is equal or less than 250mg/L, TSS is equal or less than 250mg/L, and TKN is equal to or less than 30 mg/L.	26-97(f)	\$3,228.49	11/1/2022
Wastewater Treatment	Charge for biochemical oxygen demand (BOD) for high strength waste.	26-97(f)	\$0.1913 per pound above 250mg/L	11/1/2022
Wastewater Treatment	Charge for total suspended solids (TSS) for high strength waste.	26-97(f)	\$0.2153 per pound above 250 mg/L	11/1/2022
Wastewater Treatment	Charge for total Kjeldahl nitrogen for high strength waste.	26-97(f)	\$0.6986 per pound above 30 mg/L	11/1/2022
Wastewater Treatment	Minimum charge for mud pit waste disposed of at the wastewater plant's dump station.	26-97(i)	\$190.00, plus transfer station tipping fees established in section 10-28	10/1/2018
Wastewater Treatment	Minimum charge for septic waste.	26-97(i)	\$0.04 per gallon	10/1/2018

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Wastewater Treatment	Sewer reconnection fee, inside normal business hours for users of city sewer and water.	26-99.5	\$30.00	
Wastewater Treatment	Sewer reconnection fee, outside normal business hours for users of city sewer and water.	26-99.5	\$45.00	
Wastewater Treatment	Sewer only customers, second attempt to collect delinquent payment.	26-99.6	\$15.00	
Wastewater Treatment	Sewer only customers, third and subsequent attempts to collect delinquent payment.	26-99.6	\$30.00	
Wastewater Treatment	Exposure and disconnection of sewer.	26-99.6	Actual cost	
Wastewater Treatment	Permit to discharge waste industrial waste into a public sewer.	26-141(c)	\$100.00	
Stormwater	Appeal of decision of city engineer	26-193	\$500.00 + publication costs	(10-1-19)
Stormwater	Stormwater fee for residential customers, per month	26-201	\$2.00	11/1/2022
Stormwater	Stormwater fee for commercial and industrial customers, per month	26-201	\$6.00	11/1/2022
Zoning	Application of appeal to zoning board of adjustment.	27-31(3)	\$500.00 + publication costs	10/1/2013
Zoning	Amendment to zoning district map.	27-38(b)	\$325.00 + publication costs	11/1/2022
Zoning	Conditional use permit.	27-56(2)a 27-380	\$325.00 + publication costs	11/1/2022
Zoning	Permit to keep hens, bantam hens and/or ducks, annual permit or renewal	27-295(1)a	\$15.00	(date of ordinance)
Zoning	Release of a temporary sign removed from public right-of-way and held in the street division's enclosed yard.	27-323(a)4	\$50.00	
Zoning	Post-platting hard surface waiver filing fee.	27-351	\$250.00 + publication costs	
Zoning	Eligible facility permit	27-380	\$300.00	9/8/2020

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Miscellaneous: Administration	Returned check or ACH fee	NA	\$30.00	11/1/2022
Miscellaneous: Baseball fields	Practice and games, annual per team.	NA	\$70.00	10/6/2014
Miscellaneous: Cabin Rentals	Club house daily rental fee.	NA	\$60.00	
Miscellaneous: Cabin Rentals	Club house refundable damage deposit (cash only).	NA	\$100.00	2/19/2013
Miscellaneous: Cabin Rentals	Elkhorn lodge daily rental fee.	NA	\$200.00	2/19/2013
Miscellaneous: Cabin Rentals	Elkhorn lodge refundable damage deposit (cash only).	NA	\$200.00	2/19/2013
Miscellaneous: Cabin Rentals	Shelter house daily rental fee.	NA	\$35.00	
Miscellaneous: Cabin Rentals	Shelter house refundable damage deposit (cash only).	NA	\$100.00	2/19/2013
Miscellaneous: Cabin Rentals	Woodland cabin daily rental fee.	NA	\$45.00	
Miscellaneous: Cabin Rentals	Woodland cabin refundable damage deposit (cash only).	NA	\$100.00	2/19/2013
Miscellaneous: Cross country course	Practice and meets, annual per team	NA	\$40.00	10/6/2014
Miscellaneous: Electric Vehicles	Vehicle charging fee for first 4 hours, flat fee	NA	\$2.00	6/7/2021
Miscellaneous: Electric Vehicles	Vehicle charging fee after first 4 hours, per hour	NA	\$1.00	6/7/2021
Miscellaneous: Fire Department	Copy of a fire report.	NA	\$10.00	
Miscellaneous: Planning & Development Department	Copy of plat, mailed.	NA	\$8.00	11/1/2022
Miscellaneous: Planning & Development Department	Detailed zoning verification questionnaire response	NA	\$50.00	10/1/2011

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Miscellaneous: Planning & Development Department	Detailed code compliance questionnaire response	NA	\$50.00	10/1/2011
Miscellaneous: Fire Department	Special operations/activities.	NA	Actual cost	
Miscellaneous: Fire Department	Subpoenaed copy of a rescue report.	NA	\$10.00	
Miscellaneous: Football/soccer Field	Adult practice Category 1 group, per hour (2 hour minimum)	NA	\$100.00	4/5/2012
Miscellaneous: Football/soccer Field	Adult practice Category 2 group, per hour (2 hour minimum)	NA	\$125.00	4/5/2012
Miscellaneous: Football/soccer Field	Adult game, single Category 1 group	NA	\$750.00	4/5/2012
Miscellaneous: Football/soccer Field	Adult game, single Category 2 group	NA	\$1,000.00	4/5/2012
Miscellaneous: Football/soccer Field	Adult tournament Category 1 group, per day	NA	\$1,000.00	4/5/2012
Miscellaneous: Football/soccer Field	Adult tournament Category 2 group, per day	NA	\$1,250.00	4/5/2012
Miscellaneous: Football/soccer Field	Youth practice, Category 1 group, per hour (2 hour minimum)	NA	\$50.00	4/5/2012
Miscellaneous: Football/soccer Field	Youth practice, Category 2 group, per hour (2 hour minimum)	NA	\$75.00	4/5/2012
Miscellaneous: Football/soccer Field	Youth games outside of regular season, (i.e. tournaments) Category 1 groups	NA	\$250.00	4/5/2012
Miscellaneous: Football/soccer Field	Youth games outside of regular season, (i.e. tournaments) Category 2 groups	NA	\$250.00	4/5/2012

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Miscellaneous: Football/soccer/baseball Field at Veterans Memorial Park	Special event	NA	To be determined by nature of event	10/1/2021
Miscellaneous: Football and Soccer fields (other than Veterans Memorial)	Practice and games, annual per team	NA	\$40.00	10/6/2014
Miscellaneous: Football/soccer Field	Adult, per day (depending upon availability)	NA	\$500.00	4/5/2012
Miscellaneous: Library	Late book fee, per day.	NA	\$0.10	10/1/2011
Miscellaneous: Library	Late DVD fee, per day.	NA	\$.25	
Miscellaneous: Library	Late hotspot fee, per day.	NA	\$1.00	10/1/2018
Miscellaneous: Library	Late audio book fee, per day.	NA	\$0.10	
Miscellaneous: Library	Late CD fee, per day.	NA	\$.25	10/1/2011
Miscellaneous: Library	Late video game fee, per day	NA	\$.25	10/1/2018
Miscellaneous: Library	Late magazine fee, per day	NA	\$.10	10/1/2018
Miscellaneous: Library	Photo copy, each.	NA	\$0.10	
Miscellaneous: Library	Lost materials.	NA	Actual cost of replacement	
Miscellaneous: Library	Genealogy research fee.	NA	\$10.00	
Miscellaneous: Library	Interlibrary loan: microfilm/roll.	NA	\$3.00	
Miscellaneous: Parking	Replacement parking tag	NA	\$25.00	2/3/2014

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Miscellaneous: Parking stall rental	Annual fee	NA	\$80.00	9/8/2020
Miscellaneous: Parking stall rental	Quarterly fee	NA	\$17.50	11-20-2017
Miscellaneous: Parks	Overnight camping in Ta-Ha-Zouka Park, per night	NA	\$24.00	11/1/2022
Miscellaneous: Parks	Overnight camping in Ta-Ha-Zouka Park (primitive), per night	NA	\$16.00	11/1/2022
Miscellaneous: Parks	Reservable picnic shelter	NA	\$35.00	10/1/2011
Miscellaneous: Parks	Reservable stage at Central Park	NA	\$35.00	9/1/2015
Miscellaneous: Parks	Reservable stage at Skyview Park	NA	\$35.00	9/1/2015
Miscellaneous: Police Department	Copy of an accident report, picked up.	NA	\$3.00	
Miscellaneous: Police Department	Copy of an accident report, mailed.	NA	\$4.00	
Miscellaneous: Police Department	Records subpoena.	NA	\$18.00	
Miscellaneous: Police Department	Copy of a video.	NA	\$20.00	
Miscellaneous: Police Department	Copy of a photo.	NA	\$1.00/sheet	
Miscellaneous: Police Department	Criminal history check.	NA	\$5.00	
Miscellaneous: Police Department	Finger printing.	NA	\$10.00	

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Miscellaneous: Police Department	Gun permit (background check).	NA	\$5.00	
Miscellaneous: Police Department	Breath test related to DUI.	NA	\$35.00	
Miscellaneous: Police Department	Blood/urine test related to DUI.	NA	\$155.00	10/1/2013
Miscellaneous: Recreational Programs	Recreation programs	NA	\$0-\$275.00 (To be determined by nature of program)	11/1/2022
Miscellaneous: Recreational Programs	Girls softball, per child.	NA	\$15.00	10/1/2011
Miscellaneous: Recreational Programs	Girls softball, late registration, per child.	NA	\$18.00	10/1/2011
Miscellaneous: Recreational Programs	Kreative Kids per child, per session.	NA	\$20.00	10/1/2011
Miscellaneous: Recreational Programs	Men's basketball, per team.	NA	\$255.00	10/1/2011
Miscellaneous: Recreational Programs	Women's volleyball, per team.	NA	\$160.00	10/1/2011
Miscellaneous: Recreational Programs	Coed volleyball, per team.	NA	\$160.00	10/1/2011
Miscellaneous: Recreational Programs	Summer girl's volleyball, per team.	NA	\$120.00	
Miscellaneous: Recreational Programs	Summer girl's basketball, per team.	NA	\$250.00	
Miscellaneous: Recreational Programs	Men's flag football, per team.	NA	\$220.00	10/1/2011

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Miscellaneous: Recreational Programs	Swimming lessons, per student.	NA	\$45.00	8/15/2016
Miscellaneous: Softball fields	Practice and games, annual per team.	NA	\$70.00	10/6/2014
Miscellaneous: Street Department	Special operations/activities.	NA	Actual cost	
Miscellaneous: Swimming Pool Admissions	AquaVenture Daily admission: youth (age 4-15).	NA	\$6.00	10/1/2012
Miscellaneous: Swimming Pool Admissions	AquaVenture Daily admission: adult (age 16-54).	NA	\$8.00	10/1/2012
Miscellaneous: Swimming Pool Admissions	AquaVenture Daily admission: senior (age 55 & up).	NA	\$7.00	10/1/2012
Miscellaneous: Swimming Pool Admissions	AquaVenture Group daily admission: (maximum 6 people).	NA	\$35.00	2/21/2017
Miscellaneous: Swimming Pool Admissions	Individual season pass: (all ages).	NA	\$100.00	2/21/2017
Miscellaneous: Swimming Pool Admissions	Group season pass (maximum 6 people).	NA	\$220.00	11-20-2017
Miscellaneous: Swimming Pool Admissions	Children 3 and under.	NA	Free	2/21/2017
Miscellaneous: Tennis	Practice and meets, annual per team.	NA	\$40.00	10/6/2014
Miscellaneous: Tournaments	Category 1 group		10% of gate fee or 5% of entry fee	10/6/2014

Category	Description of Fee	Municipal Code Reference	Fee	Date Last Modified
Miscellaneous: Tournaments	Category 2 group		20% of gate fee or 10% of entry fee	10/6/2014

Section 2. That the effective date of this Ordinance shall be from and after its passage, approval and publication in pamphlet form as required by law.

PASSED AND APPROVED this _____ day of _____, 2023.

ATTEST:

Brianna Duerst, City Clerk

Josh Moenning, Mayor

Approved as to form: _____
Danielle Myers-Noelle, City Attorney

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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

Consultation with an attorney is also encouraged with respect to professional licensing requirements in the jurisdiction where the Project is located.

DRAFT AIA® Document A141™ – 2014

Standard Form of Agreement Between Owner and Design-Builder

AGREEMENT made as of the 2nd day of February in the year 2023.
(In words, indicate day, month and year.)

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

City of Norfolk, NE
309 N 5th St
Norfolk, NE 68701

and the Design-Builder:
(Name, legal status, address and other information)

Spohn Ranch, Inc.
6824 S. Centinela Avenue
Los Angeles, CA 90230

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

Norfolk, NE Pump Track

The Owner and Design-Builder agree as follows.

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User Notes:

4/3/2023

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Owner's Criteria

This Agreement is based on the Owner's Criteria set forth in this Section 1.1.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable" or "unknown at time of execution." If the Owner intends to provide a set of design documents, and the requested information is contained in the design documents, identify the design documents and insert "see Owner's design documents" where appropriate.)



§ 1.1.1 The Owner's program for the Project:

Design and develop construction documents for the pump track to be added to the existing skatepark.

« »

§ 1.1.2 The Owner's design requirements for the Project and related documentation:

Integrate the pump track addition to the existing skatepark.

« »

§ 1.1.3 The Project's physical characteristics: The project scope can be found in the attached Sourcewell Contract #112420-SRI, dated 3/23/23.

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

« »

§ 1.1.4 The Owner's anticipated Sustainable Objective for the Project, if any:

N/A

« »

§ 1.1.5 Incentive programs the Owner intends to pursue for the Project, including those related to the Sustainable Objective, and any deadlines for receiving the incentives that are dependent on, or related to, the Design-Builder's services, are as follows:

N/A

« »

§ 1.1.6 The Owner's budget for the Work to be provided by the Design-Builder is set forth below:

\$101,592.00

« »

§ 1.1.7 The Owner's design and construction milestone dates:

.1 Construction Start:

Not later than 9/12/23

.4 Substantial Completion date:

Not later than 10/23/23

§ 1.1.8 The Owner requires the Design-Builder to retain the following Architect, Consultants and Contractors at the Design-Builder's cost:

N/A

.1 Architect

N/A

.2 Consultants

N/A

.3 Contractors

N/A

§ 1.1.9 Additional Owner's Criteria upon which the Agreement is based:

N/A

« »

§ 1.1.10 The Design-Builder shall confirm that the information included in the Owner's Criteria complies with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities.

§ 1.1.10.1 If the Owner's Criteria conflicts with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner of the conflict.

§ 1.1.11 If there is a change in the Owner's Criteria, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 1.1.12 If the Owner and Design-Builder intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Unless otherwise agreed, the parties will use AIA Document E203™-2013 to establish the protocols for the development, use, transmission, and exchange of digital data and building information modeling.

§ 1.2 Project Team

§ 1.2.1 The Owner identifies the following representative in accordance with Section 7.1.1:

Nathan Powell, CPRE | Parks and Recreation Director
City of Norfolk
309 N 5th St, Norfolk, NE 68701
Phone: 402.844.2184

§ 1.2.2 The persons or entities, in addition to the Owner's representative, who are required to review the Design-Builder's Submittals are as follows:
(List name, address and other information.)

« »

§ 1.2.3 The Owner will retain the following consultants and separate contractors:
(List discipline, scope of work, and, if known, identify by name and address.)

§ 1.2.4 The Design-Builder identifies the following representative in accordance with Section 3.1.2:
(List name, address and other information.)

Kirsten Dermer, CEO
Spohn Ranch, Inc.
6824 S. Centinela Avenue
Los Angeles, CA. 90230
626-330-5803
kirsten@spohnranch.com

§ 1.2.5 Neither the Owner’s nor the Design-Builder’s representative shall be changed without ten days’ written notice to the other party.

§ 1.3 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Section 14.3, the method of binding dispute resolution shall be the following:

(Check the appropriate box. If the Owner and Design-Builder do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.)

- Arbitration pursuant to Section 14.4
- Litigation in a court of competent jurisdiction
- Other: (Specify)

<< >>

§ 1.4 Definitions

§ 1.4.1 Design-Build Documents. The Design-Build Documents consist of this Agreement between Owner and Design-Builder and its attached Exhibits (hereinafter, the “Agreement”); other documents listed in this Agreement; and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, including the Design-Build Amendment, (2) a Change Order, or (3) a Change Directive.

§ 1.4.2 The Contract. The Design-Build Documents form the Contract. The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Design-Build Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Design-Builder.

§ 1.4.3 The Work. The term “Work” means the design, construction and related services required to fulfill the Design-Builder’s obligations under the Design-Build Documents, whether completed or partially completed, and includes all labor, materials, equipment and services provided or to be provided by the Design-Builder. The Work may constitute the whole or a part of the Project.

§ 1.4.4 The Project. The Project is the total design and construction of which the Work performed under the Design-Build Documents may be the whole or a part, and may include design and construction by the Owner and by separate contractors.

§ 1.4.5 Instruments of Service. Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Design-Builder, Contractor(s), Architect, and Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, digital models and other similar materials.

§ 1.4.6 Submittal. A Submittal is any submission to the Owner for review and approval demonstrating how the Design-Builder proposes to conform to the Design-Build Documents for those portions of the Work for which the Design-Build Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples. Submittals are not Design-Build Documents unless incorporated into a Modification.

§ 1.4.7 Owner. The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Owner” means the Owner or the Owner’s authorized representative.

§ 1.4.8 Design-Builder. The Design-Builder is the person or entity identified as such in the Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Design-Builder” means the Design-Builder or the Design-Builder’s authorized representative.

§ 1.4.9 Consultant. A Consultant is a person or entity providing professional services for the Design-Builder for all or a portion of the Work, and is referred to throughout the Design-Build Documents as if singular in number. To the extent required by the relevant jurisdiction, the Consultant shall be lawfully licensed to provide the required professional services.

§ 1.4.10 Architect. The Architect is a person or entity providing design services for the Design-Builder for all or a portion of the Work, and is lawfully licensed to practice architecture in the applicable jurisdiction. The Architect is referred to throughout the Design-Build Documents as if singular in number.

§ 1.4.11 Contractor. A Contractor is a person or entity performing all or a portion of the construction, required in connection with the Work, for the Design-Builder. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor is referred to throughout the Design-Build Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

§ 1.4.12 Confidential Information. Confidential Information is information containing confidential or business proprietary information that is clearly marked as “confidential.”

§ 1.4.13 Contract Time. Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, as set forth in the Design-Build Amendment for Substantial Completion of the Work.

§ 1.4.14 Day. The term “day” as used in the Design-Build Documents shall mean calendar day unless otherwise specifically defined.

§ 1.4.15 Contract Sum. The Contract Sum is the amount to be paid to the Design-Builder for performance of the Work after execution of the Design-Build Amendment, as identified in Article A.1 of the Design-Build Amendment.

ARTICLE 2 COMPENSATION AND PROGRESS PAYMENTS

§ 2.1 Compensation for Work Performed Prior To Execution of Design-Build Amendment

§ 2.1.1 Unless otherwise agreed, payments for Work performed prior to Execution of the Design-Build Amendment shall be made monthly. For the Design-Builder's performance of Work prior to the execution of the Design-Build Amendment, the Owner shall compensate the Design-Builder as follows:

N/A

« »

§ 2.1.2 The hourly billing rates for services of the Design-Builder and the Design-Builder's Architect, Consultants and Contractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

N/A

Individual or Position

Rate

§ 2.1.3 Compensation for Reimbursable Expenses Prior To Execution of Design-Build Amendment

§ 2.1.3.1 Reimbursable Expenses are in addition to compensation set forth in Section 2.1.1 and 2.1.2 and include expenses, directly related to the Project, incurred by the Design-Builder and the Design-Builder's Architect, Consultants, and Contractors, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 Postage, handling and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 All taxes levied on professional services and on reimbursable expenses; and
- .9 Other Project-related expenditures, if authorized in advance by the Owner.

§ 2.1.3.2 For Reimbursable Expenses, the compensation shall be the expenses the Design-Builder and the Design-Builder's Architect, Consultants and Contractors incurred, plus an administrative fee of fifteen percent (15 %) of the expenses incurred.

§ 2.1.4 Payments to the Design-Builder Prior To Execution of Design-Build Amendment

§ 2.1.4.1 Payments are due and payable upon presentation of the Design-Builder's invoice. Amounts unpaid 60 (sixty) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Design-Builder.

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

0 %

§ 2.1.4.2 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times for a period of two years following execution of the Design-Build Amendment or termination of this Agreement, whichever occurs first.

§ 2.2 Contract Sum and Payment for Work Performed After Execution of Design-Build Amendment

For the Design-Builder's performance of the Work after execution of the Design-Build Amendment, the Owner shall pay to the Design-Builder the Contract Sum in current funds as agreed in the Design-Build Amendment.

ARTICLE 3 GENERAL REQUIREMENTS OF THE WORK OF THE DESIGN-BUILD CONTRACT

§ 3.1 General

§ 3.1.1 The Design-Builder shall comply with any applicable licensing requirements in the jurisdiction where the Project is located.

§ 3.1.2 The Design-Builder shall designate in writing a representative who is authorized to act on the Design-Builder's behalf with respect to the Project.

§ 3.1.3 The Design-Builder shall perform the Work in accordance with the Design-Build Documents. The Design-Builder shall not be relieved of the obligation to perform the Work in accordance with the Design-Build Documents by the activities, tests, inspections or approvals of the Owner.

§ 3.1.3.1 The Design-Builder shall perform the Work in compliance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder performs Work contrary to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, the Design-Builder shall assume responsibility for such Work and shall bear the costs attributable to correction.

§ 3.1.3.2 Neither the Design-Builder nor any Contractor, Consultant, or Architect shall be obligated to perform any act which they believe will violate any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities. If the Design-Builder determines that implementation of any instruction received from the Owner, including those in the Owner's Criteria, would cause a violation of any applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Design-Builder shall notify the Owner in writing. Upon verification by the Owner that a change to the Owner's Criteria is required to remedy the violation, the Owner and the Design-Builder shall execute a Modification in accordance with Article 6.

§ 3.1.4 The Design-Builder shall be responsible to the Owner for acts and omissions of the Design-Builder's employees, Architect, Consultants, Contractors, and their agents and employees, and other persons or entities performing portions of the Work.

§ 3.1.5 General Consultation. The Design-Builder shall schedule and conduct periodic meetings with the Owner to review matters such as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.6 When applicable law requires that services be performed by licensed professionals, the Design-Builder shall provide those services through qualified, licensed professionals. The Owner understands and agrees that the services of the Design-Builder's Architect and the Design-Builder's other Consultants are performed in the sole interest of, and for the exclusive benefit of, the Design-Builder.

§ 3.1.7 The Design-Builder, with the assistance of the Owner, shall prepare and file documents required to obtain necessary approvals of governmental authorities having jurisdiction over the Project.

§ 3.1.8 Progress Reports

§ 3.1.8.1 The Design-Builder shall keep the Owner informed of the progress and quality of the Work. On a monthly basis, or otherwise as agreed to by the Owner and Design-Builder, the Design-Builder shall submit written progress reports to the Owner, showing estimated percentages of completion and other information identified below:

- .1 Work completed for the period;
- .2 Project schedule status;
- .3 Submittal schedule and status report, including a summary of outstanding Submittals;
- .4 Responses to requests for information to be provided by the Owner;
- .5 Approved Change Orders and Change Directives;
- .6 Pending Change Order and Change Directive status reports;
- .7 Tests and inspection reports;
- .8 Status report of Work rejected by the Owner;
- .9 Status of Claims previously submitted in accordance with Article 14;
- .10 Cumulative total of the Cost of the Work to date including the Design-Builder's compensation and Reimbursable Expenses, if any;
- .11 Current Project cash-flow and forecast reports; and
- .12 Additional information as agreed to by the Owner and Design-Builder.

§ 3.1.8.2 In addition, where the Contract Sum is the Cost of the Work with or without a Guaranteed Maximum Price, the Design-Builder shall include the following additional information in its progress reports:

- .1 Design-Builder's work force report;
- .2 Equipment utilization report; and
- .3 Cost summary, comparing actual costs to updated cost estimates.

§ 3.1.9 Design-Builder's Schedules

§ 3.1.9.1 The Design-Builder, promptly after execution of this Agreement, shall prepare and submit for the Owner's information a schedule for the Work. The schedule, including the time required for design and construction, shall not exceed time limits current under the Design-Build Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Design-Build Documents, shall provide for expeditious and practicable execution of the Work, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.9.2 The Design-Builder shall perform the Work in general accordance with the most recent schedules submitted to the Owner.

§ 3.1.10 **Certifications.** Upon the Owner's written request, the Design-Builder shall obtain from the Architect, Consultants, and Contractors, and furnish to the Owner, certifications with respect to the documents and services provided by the Architect, Consultants, and Contractors (a) that, to the best of their knowledge, information and belief, the documents or services to which the certifications relate (i) are consistent with the Design-Build Documents, except to the extent specifically identified in the certificate, and (ii) comply with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities governing the design of the Project; and (b) that the Owner and its consultants shall be entitled to rely upon the accuracy of the representations and statements contained in the certifications. The Design-Builder's Architect, Consultants, and Contractors shall not be required to

execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 3.1.11 Design-Builder's Submittals

§ 3.1.11.1 Prior to submission of any Submittals, the Design-Builder shall prepare a Submittal schedule, and shall submit the schedule for the Owner's approval. The Owner's approval shall not unreasonably be delayed or withheld. The Submittal schedule shall (1) be coordinated with the Design-Builder's schedule provided in Section 3.1.9.1, (2) allow the Owner reasonable time to review Submittals, and (3) be periodically updated to reflect the progress of the Work. If the Design-Builder fails to submit a Submittal schedule, the Design-Builder shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of Submittals.

§ 3.1.11.2 By providing Submittals the Design-Builder represents to the Owner that it has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such Submittals with the requirements of the Work and of the Design-Build Documents.

§ 3.1.11.3 The Design-Builder shall perform no portion of the Work for which the Design-Build Documents require Submittals until the Owner has approved the respective Submittal.

§ 3.1.11.4 The Work shall be in accordance with approved Submittals except that the Design-Builder shall not be relieved of its responsibility to perform the Work consistent with the requirements of the Design-Build Documents. The Work may deviate from the Design-Build Documents only if the Design-Builder has notified the Owner in writing of a deviation from the Design-Build Documents at the time of the Submittal and a Modification is executed authorizing the identified deviation. The Design-Builder shall not be relieved of responsibility for errors or omissions in Submittals by the Owner's approval of the Submittals.

§ 3.1.11.5 All professional design services or certifications to be provided by the Design-Builder, including all drawings, calculations, specifications, certifications, shop drawings and other Submittals, shall contain the signature and seal of the licensed design professional preparing them. Submittals related to the Work designed or certified by the licensed design professionals, if prepared by others, shall bear the licensed design professional's written approval. The Owner and its consultants shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications or approvals performed by such design professionals.

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

§ 3.1.13 Royalties, Patents and Copyrights

§ 3.1.13.1 The Design-Builder shall pay all royalties and license fees.

§ 3.1.13.2 The Design-Builder shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and its separate contractors and consultants harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner, or where the copyright violations are required in the Owner's Criteria. However, if the Design-Builder has reason to believe that the design, process or product required in the Owner's Criteria is an infringement of a copyright or a patent, the Design-Builder shall be responsible for such loss unless such information is promptly furnished to the Owner. If the Owner receives notice from a patent or copyright owner of an alleged violation of a patent or copyright, attributable to the Design-Builder, the Owner shall give prompt written notice to the Design-Builder.

§ 3.1.14 Indemnification

§ 3.1.14.1 To the fullest extent permitted by law, the Design-Builder shall indemnify and hold harmless the Owner, including the Owner's agents and employees, from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them or anyone for whose acts they may be liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.1.14.

§ 3.1.14.2 The indemnification obligation under this Section 3.1.14 shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for Design-Builder, Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by them, under workers' compensation acts, disability benefit acts or other employee benefit acts.

§ 3.1.15 Contingent Assignment of Agreements

§ 3.1.15.1 Each agreement for a portion of the Work is assigned by the Design-Builder to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause, pursuant to Sections 13.1.4 or 13.2.2, and only for those agreements that the Owner accepts by written notification to the Design-Builder and the Architect, Consultants, and Contractors whose agreements are accepted for assignment; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of an agreement, the Owner assumes the Design-Builder's rights and obligations under the agreement.

§ 3.1.15.2 Upon such assignment, if the Work has been suspended for more than 30 days, the compensation under the assigned agreement shall be equitably adjusted for increases in cost resulting from the suspension.

§ 3.1.15.3 Upon such assignment to the Owner under this Section 3.1.15, the Owner may further assign the agreement to a successor design-builder or other entity. If the Owner assigns the agreement to a successor design-builder or other entity, the Owner shall nevertheless remain legally responsible for all of the successor design-builder's or other entity's obligations under the agreement.

§ 3.1.16 Design-Builder's Insurance and Bonds. The Design-Builder shall purchase and maintain insurance and provide bonds as set forth in Exhibit B.

ARTICLE 4 WORK PRIOR TO EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 4.1 General

§ 4.1.1 Any information submitted by the Design-Builder, and any interim decisions made by the Owner, shall be for the purpose of facilitating the design process and shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.1.2 The Design-Builder shall advise the Owner on proposed site use and improvements, selection of materials, and building systems and equipment. The Design-Builder shall also provide the Owner with recommendations, consistent with the Owner's Criteria, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions.

§ 4.2 Evaluation of the Owner's Criteria

§ 4.2.1 The Design-Builder shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss and review the Owner's Criteria as set forth in Section 1.1. The Design-Builder shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner's Criteria. The preliminary evaluation shall address possible alternative approaches to design and construction of the Project and include the Design-Builder's recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement and construction scheduling issues.

§ 4.2.2 After the Design-Builder meets with the Owner and presents the preliminary evaluation, the Design-Builder shall provide a written report to the Owner, summarizing the Design-Builder's evaluation of the Owner's Criteria. The report shall also include

- .1 allocations of program functions, detailing each function and their square foot areas;
- .2 a preliminary estimate of the Cost of the Work, and, if necessary, recommendations to adjust the Owner's Criteria to conform to the Owner's budget;
- .3 a preliminary schedule, which shall include proposed design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for the Design-Builder's Proposal; and dates of periodic design review sessions with the Owner; and
- .4 the following:
(List additional information, if any, to be included in the Design-Builder's written report.)

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§ 4.2.3 The Owner shall review the Design-Builder's written report and, if acceptable, provide the Design-Builder with written consent to proceed to the development of the Preliminary Design as described in Section 4.3. The consent to proceed shall not be understood to modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.3 Preliminary Design

§ 4.3.1 Upon the Owner's issuance of a written consent to proceed under Section 4.2.3, the Design-Builder shall prepare and submit a Preliminary Design to the Owner. The Preliminary Design shall include a report identifying any deviations from the Owner's Criteria, and shall include the following:

- .1 Confirmation of the allocations of program functions;
- .2 Site plan;
- .3 Building plans, sections and elevations;

- .4 Structural system;
- .5 Selections of major building systems, including but not limited to mechanical, electrical and plumbing systems; and
- .6 Outline specifications or sufficient drawing notes describing construction materials.

The Preliminary Design may include some combination of physical study models, perspective sketches, or digital modeling.

§ 4.3.2 The Owner shall review the Preliminary Design and, if acceptable, provide the Design-Builder with written consent to proceed to development of the Design-Builder's Proposal. The Preliminary Design shall not modify the Owner's Criteria unless the Owner and Design-Builder execute a Modification.

§ 4.4 Design-Builder's Proposal

§ 4.4.1 Upon the Owner's issuance of a written consent to proceed under Section 4.3.2, the Design-Builder shall prepare and submit the Design-Builder's Proposal to the Owner. The Design-Builder's Proposal shall include the following:

- .1 A list of the Preliminary Design documents and other information, including the Design-Builder's clarifications, assumptions and deviations from the Owner's Criteria, upon which the Design-Builder's Proposal is based;
- .2 The proposed Contract Sum, including the compensation method and, if based upon the Cost of the Work plus a fee, a written statement of estimated cost organized by trade categories, allowances, contingencies, Design-Builder's Fee, and other items that comprise the Contract Sum;
- .3 The proposed date the Design-Builder shall achieve Substantial Completion;
- .4 An enumeration of any qualifications and exclusions, if applicable;
- .5 A list of the Design-Builder's key personnel, Contractors and suppliers; and
- .6 The date on which the Design-Builder's Proposal expires.

§ 4.4.2 Submission of the Design-Builder's Proposal shall constitute a representation by the Design-Builder that it has visited the site and become familiar with local conditions under which the Work is to be completed.

§ 4.4.3 If the Owner and Design-Builder agree on a proposal, the Owner and Design-Builder shall execute the Design-Build Amendment setting forth the terms of their agreement.

ARTICLE 5 WORK FOLLOWING EXECUTION OF THE DESIGN-BUILD AMENDMENT

§ 5.1 Construction Documents

§ 5.1.1 Upon the execution of the Design-Build Amendment, the Design-Builder shall prepare Construction Documents. The Construction Documents shall establish the quality levels of materials and systems required. The Construction Documents shall be consistent with the Design-Build Documents.

§ 5.1.2 The Design-Builder shall provide the Construction Documents to the Owner for the Owner's information. If the Owner discovers any deviations between the Construction Documents and the Design-Build Documents, the Owner shall promptly notify the Design-Builder of such deviations in writing. The Construction Documents shall not modify the Design-Build Documents unless the Owner and Design-Builder execute a Modification. The failure of the Owner to discover any such deviations shall not relieve the Design-Builder of the obligation to perform the Work in accordance with the Design-Build Documents.

§ 5.2 Construction

§ 5.2.1 Commencement. Except as permitted in Section 5.2.2, construction shall not commence prior to execution of the Design-Build Amendment.

§ 5.2.2 If the Owner and Design-Builder agree in writing, construction may proceed prior to the execution of the Design-Build Amendment. However, such authorization shall not waive the Owner's right to reject the Design-Builder's Proposal.

§ 5.2.3 The Design-Builder shall supervise and direct the Work, using the Design-Builder's best skill and attention. The Design-Builder shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work under the Contract, unless the Design-Build Documents give other specific instructions concerning these matters.

§ 5.2.4 The Design-Builder shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 5.3 Labor and Materials

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

§ 5.3.2 When a material or system is specified in the Design-Build Documents, the Design-Builder may make substitutions only in accordance with Article 6.

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

§ 5.4 Taxes

The Design-Builder shall pay sales, consumer, use and similar taxes, for the Work provided by the Design-Builder, that are legally enacted when the Design-Build Amendment is executed, whether or not yet effective or merely scheduled to go into effect.

§ 5.5 Permits, Fees, Notices and Compliance with Laws

§ 5.5.1 Unless otherwise provided in the Design-Build Documents, the Design-Builder shall secure and pay for the building permit as well as any other permits, fees, licenses, and inspections by government agencies, necessary for proper execution of the Work and Substantial Completion of the Project.

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

§ 5.5.3 Concealed or Unknown Conditions. If the Design-Builder encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Design-Build Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Design-Build Documents, the Design-Builder shall promptly provide notice to the Owner before conditions are disturbed and in no event later than 21 days after first

observance of the conditions. The Owner shall promptly investigate such conditions and, if the Owner determines that they differ materially and cause an increase or decrease in the Design-Builder's cost of, or time required for, performance of any part of the Work, shall recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Design-Build Documents and that no change in the terms of the Contract is justified, the Owner shall promptly notify the Design-Builder in writing, stating the reasons. If the Design-Builder disputes the Owner's determination or recommendation, the Design-Builder may proceed as provided in Article 14.

§ 5.5.4 If, in the course of the Work, the Design-Builder encounters human remains, or recognizes the existence of burial markers, archaeological sites, or wetlands, not indicated in the Design-Build Documents, the Design-Builder shall immediately suspend any operations that would affect them and shall notify the Owner. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Design-Builder shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 14.

§ 5.6 Allowances

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

§ 5.6.2 Unless otherwise provided in the Design-Build Documents,

- .1 allowances shall cover the cost to the Design-Builder of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 the Design-Builder's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts, shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 5.6.2.1 and (2) changes in Design-Builder's costs under Section 5.6.2.2.

§ 5.6.3 The Owner shall make selections of materials and equipment with reasonable promptness for allowances requiring Owner selection.

§ 5.7 Key Personnel, Contractors and Suppliers

§ 5.7.1 The Design-Builder shall not employ personnel, or contract with Contractors or suppliers to whom the Owner has made reasonable and timely objection. The Design-Builder shall not be required to contract with anyone to whom the Design-Builder has made reasonable and timely objection.

§ 5.7.2 If the Design-Builder changes any of the personnel, Contractors or suppliers identified in the Design-Build Amendment, the Design-Builder shall notify the Owner and provide the name and qualifications of the new personnel, Contractor or supplier. The Owner may reply within 14 days to the Design-Builder in writing, stating (1) whether the Owner has reasonable objection to the proposed personnel, Contractor or supplier or (2) that the Owner requires additional time to review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

§ 5.7.3 Except for those persons or entities already identified or required in the Design-Build Amendment, the Design-Builder, as soon as practicable after execution of the Design-Build Amendment, shall furnish in writing to the Owner the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Owner may reply within 14 days to the Design-Builder in writing stating (1) whether the Owner has reasonable objection to any such proposed person or entity or (2) that the Owner requires additional time for review. Failure of the Owner to reply within the 14-day period shall constitute notice of no reasonable objection.

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

§ 5.8 Documents and Submittals at the Site

The Design-Builder shall maintain at the site for the Owner one copy of the Design-Build Documents and a current set of the Construction Documents, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Submittals. The Design-Builder shall deliver these items to the Owner in accordance with Section 9.10.2 as a record of the Work as constructed.

§ 5.9 Use of Site

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

§ 5.10 Cutting and Patching

The Design-Builder shall not cut, patch or otherwise alter fully or partially completed construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Design-Builder shall not unreasonably withhold from the Owner or a separate contractor the Design-Builder's consent to cutting or otherwise altering the Work.

§ 5.11 Cleaning Up

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

§ 5.11.2 If the Design-Builder fails to clean up as provided in the Design-Build Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Design-Builder.

§ 5.12 Access to Work

The Design-Builder shall provide the Owner and its separate contractors and consultants access to the Work in preparation and progress wherever located. The Design-Builder shall notify the Owner regarding Project safety criteria and programs, which the Owner, and its contractors and consultants, shall comply with while at the site.

§ 5.13 Construction by Owner or by Separate Contractors

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

§ 5.13.1.1 The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces; and to award separate contracts in connection with other portions of the Project, or other construction or operations on the site, under terms and conditions identical or substantially similar to this Contract, including those terms and conditions related to insurance and waiver of subrogation. The Owner shall notify the Design-Builder promptly after execution of any separate contract. If the Design-Builder claims that delay or additional cost is involved because of such action by the Owner, the Design-Builder shall make a Claim as provided in Article 14.

§ 5.13.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Design-Builder" in the Design-Build Documents in each case shall mean the individual or entity that executes each separate agreement with the Owner.

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

§ 5.13.1.4 Unless otherwise provided in the Design-Build Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or separate contractors, the Owner shall be deemed to be subject to the same obligations, and to have the same rights, that apply to the Design-Builder under the Contract.

§ 5.14 Mutual Responsibility

§ 5.14.1 The Design-Builder shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Design-Builder's construction and operations with theirs as required by the Design-Build Documents.

§ 5.14.2 If part of the Design-Builder's Work depends upon construction or operations by the Owner or a separate contractor, the Design-Builder shall, prior to proceeding with that portion of the Work, prepare a written report to the Owner, identifying apparent discrepancies or defects in the construction or operations by the Owner or separate contractor that would render it unsuitable for proper execution and results of the Design-Builder's Work. Failure of the Design-Builder to report shall constitute an acknowledgment that the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Design-Builder's Work, except as to defects not then reasonably discoverable.

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

§ 5.14.4 The Design-Builder shall promptly remedy damage the Design-Builder wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

§ 5.14.5 The Owner and each separate contractor shall have the same responsibilities for cutting and patching the Work as the Design-Builder has with respect to the construction of the Owner or separate contractors in Section 5.10.

§ 5.15 Owner's Right to Clean Up

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

ARTICLE 6 CHANGES IN THE WORK

§ 6.1 General

§ 6.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order or Change Directive, subject to the limitations stated in this Article 6 and elsewhere in the Design-Build Documents.

§ 6.1.2 A Change Order shall be based upon agreement between the Owner and Design-Builder. The Owner may issue a Change Directive without agreement by the Design-Builder.

§ 6.1.3 Changes in the Work shall be performed under applicable provisions of the Design-Build Documents, and the Design-Builder shall proceed promptly, unless otherwise provided in the Change Order.

§ 6.2 Change Orders

A Change Order is a written instrument signed by the Owner and Design-Builder stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum or, if prior to execution of the Design-Build Amendment, the adjustment in the Design-Builder's compensation; and
- .3 The extent of the adjustment, if any, in the Contract Time.

ARTICLE 7 OWNER'S RESPONSIBILITIES

§ 7.1 General

§ 7.1.1 The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all Project matters requiring the Owner's approval or authorization.

§ 7.1.2 The Owner shall render decisions in a timely manner and in accordance with the Design-Builder's schedule agreed to by the Owner. The Owner shall furnish to the Design-Builder, within 15 days after receipt of a written request, information necessary and relevant for the Design-Builder to evaluate, give notice of or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

§ 7.2 Information and Services Required of the Owner

§ 7.2.1 The Owner shall furnish information or services required of the Owner by the Design-Build Documents with reasonable promptness.

§ 7.2.2 The Owner shall provide, to the extent under the Owner's control and if not required by the Design-Build Documents to be provided by the Design-Builder, the results and reports of prior tests, inspections or investigations conducted for the Project involving structural or mechanical systems; chemical, air and water pollution; hazardous materials; or environmental and subsurface conditions and information regarding the presence of pollutants at the Project site. Upon receipt of a written request from the Design-Builder, the Owner shall also provide surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site under the Owner's control.

§ 7.2.3 The Owner shall promptly obtain easements, zoning variances, and legal authorizations or entitlements regarding site utilization where essential to the execution of the Project.

§ 7.2.4 The Owner shall cooperate with the Design-Builder in securing building and other permits, licenses and inspections.

§ 7.2.5 The services, information, surveys and reports required to be provided by the Owner under this Agreement, shall be furnished at the Owner's expense, and except as otherwise specifically provided in this Agreement or elsewhere in the Design-Build Documents or to the extent the Owner advises the Design-Builder to the contrary in writing, the Design-Builder shall be entitled to rely upon the accuracy and completeness thereof. In no event shall the Design-Builder be relieved of its responsibility to exercise proper precautions relating to the safe performance of the Work.

§ 7.2.6 If the Owner observes or otherwise becomes aware of a fault or defect in the Work or non-conformity with the Design-Build Documents, the Owner shall give prompt written notice thereof to the Design-Builder.

§ 7.2.7 Prior to the execution of the Design-Build Amendment, the Design-Builder may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Design-Build Documents and the Design-Builder's Proposal. Thereafter, the Design-Builder may only request such evidence if (1) the Owner fails to make payments to the Design-Builder as the Design-Build Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Design-Builder identifies in writing a reasonable concern regarding the Owner's ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Design-Builder.

§ 7.2.8 Except as otherwise provided in the Design-Build Documents or when direct communications have been specially authorized, the Owner shall communicate through the Design-Builder with persons or entities employed or retained by the Design-Builder.

§ 7.2.9 Unless required by the Design-Build Documents to be provided by the Design-Builder, the Owner shall, upon request from the Design-Builder, furnish the services of geotechnical engineers or other consultants for investigation of subsurface, air and water conditions when such services are reasonably necessary to properly carry out the design services furnished by the Design-Builder. In such event, the Design-Builder shall specify the services required. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, and necessary operations for anticipating subsoil

conditions. The services of geotechnical engineer(s) or other consultants shall include preparation and submission of all appropriate reports and professional recommendations.

§ 7.3 Submittals

§ 7.3.1 The Owner shall review and approve or take other appropriate action on Submittals. Review of Submittals is not conducted for the purpose of determining the accuracy and completeness of other details, such as dimensions and quantities; or for substantiating instructions for installation or performance of equipment or systems; or for determining that the Submittals are in conformance with the Design-Build Documents, all of which remain the responsibility of the Design-Builder as required by the Design-Build Documents. The Owner's action will be taken in accordance with the submittal schedule approved by the Owner or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Owner's judgment to permit adequate review. The Owner's review of Submittals shall not relieve the Design-Builder of the obligations under Sections 3.1.11, 3.1.12, and 5.2.3. The Owner's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Owner, of any construction means, methods, techniques, sequences or procedures. The Owner's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 7.3.2 Upon review of the Submittals required by the Design-Build Documents, the Owner shall notify the Design-Builder of any non-conformance with the Design-Build Documents the Owner discovers.

§ 7.4 Visits to the site by the Owner shall not be construed to create an obligation on the part of the Owner to make on-site inspections to check the quality or quantity of the Work. The Owner shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, because these are solely the Design-Builder's rights and responsibilities under the Design-Build Documents.

§ 7.5 The Owner shall not be responsible for the Design-Builder's failure to perform the Work in accordance with the requirements of the Design-Build Documents. The Owner shall not have control over or charge of, and will not be responsible for acts or omissions of the Design-Builder, Architect, Consultants, Contractors, or their agents or employees, or any other persons or entities performing portions of the Work for the Design-Builder.

§ 7.6 The Owner has the authority to reject Work that does not conform to the Design-Build Documents. The Owner shall have authority to require inspection or testing of the Work in accordance with Section 15.5.2, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Owner nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Owner to the Design-Builder, the Architect, Consultants, Contractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 7.7 The Owner shall determine the date or dates of Substantial Completion in accordance with Section 9.8 and the date of final completion in accordance with Section 9.10.

§ 7.8 Owner's Right to Stop Work

If the Design-Builder fails to correct Work which is not in accordance with the requirements of the Design-Build Documents as required by Section 11.2 or persistently fails to carry out Work in accordance with the Design-Build Documents, the Owner may issue a written order to the Design-Builder to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the

benefit of the Design-Builder or any other person or entity, except to the extent required by Section 5.13.1.3.

§ 7.9 Owner's Right to Carry Out the Work

If the Design-Builder defaults or neglects to carry out the Work in accordance with the Design-Build Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case, an appropriate Change Order shall be issued deducting from payments then or thereafter due the Design-Builder the reasonable cost of correcting such deficiencies. If payments then or thereafter due the Design-Builder are not sufficient to cover such amounts, the Design-Builder shall pay the difference to the Owner.

ARTICLE 8 TIME

§ 8.1 Progress and Completion

§ 8.1.1 Time limits stated in the Design-Build Documents are of the essence of the Contract. By executing the Design-Build Amendment the Design-Builder confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.1.2 The Design-Builder shall not, except by agreement of the Owner in writing, commence the Work prior to the effective date of insurance, other than property insurance, required by this Contract. The Contract Time shall not be adjusted as a result of the Design-Builder's failure to obtain insurance required under this Contract.

§ 8.1.3 The Design-Builder shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.2 Delays and Extensions of Time

§ 8.2.1 If the Design-Builder is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or of a consultant or separate contractor employed by the Owner; or by changes ordered in the Work by the Owner; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Design-Builder's control; or by delay authorized by the Owner pending mediation and binding dispute resolution or by other causes that the Owner determines may justify delay, then the Contract Time shall be extended by Change Order for a reasonable time..

§ 8.2.2 Claims relating to time shall be made in accordance with applicable provisions of Article 14.

§ 8.2.3 This Section 8.2 does not preclude recovery of damages for delay by either party under other provisions of the Design-Build Documents.

ARTICLE 9 PAYMENT APPLICATIONS AND PROJECT COMPLETION

§ 9.1 Contract Sum

The Contract Sum is stated in the Design-Build Amendment.

§ 9.2 Schedule of Values

Where the Contract Sum is based on a stipulated sum or Guaranteed Maximum Price, the Design-Builder, prior to the first Application for Payment after execution of the Design-Build Amendment shall submit to the Owner a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Owner may require.

This schedule, unless objected to by the Owner, shall be used as a basis for reviewing the Design-Builder's Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Design-Builder shall submit to the Owner an itemized Application for Payment for completed portions of the Work. The application shall be notarized, if required, and supported by data substantiating the Design-Builder's right to payment as the Owner may require, such as copies of requisitions from the Architect, Consultants, Contractors, and material suppliers, and shall reflect retainage if provided for in the Design-Build Documents.

§ 9.3.1.1 As provided in Section 6.3.9, Applications for Payment may include requests for payment on account of changes in the Work that have been properly authorized by Change Directives, or by interim determinations of the Owner, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Design-Builder does not intend to pay the Architect, Consultant, Contractor, material supplier, or other persons or entities providing services or work for the Design-Builder, unless such Work has been performed by others whom the Design-Builder intends to pay.

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

§ 9.3.3 The Design-Builder warrants that title to all Work, other than Instruments of Service, covered by an Application for Payment will pass to the Owner no later than the time of payment. The Design-Builder further warrants that, upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Design-Builder's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Design-Builder, Architect, Consultants, Contractors, material suppliers, or other persons or entities entitled to make a claim by reason of having provided labor, materials and equipment relating to the Work.

§ 9.4 Certificates for Payment

The Owner shall, within seven days after receipt of the Design-Builder's Application for Payment, issue to the Design-Builder a Certificate for Payment indicating the amount the Owner determines is properly due, and notify the Design-Builder in writing of the Owner's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Owner may withhold a Certificate for Payment in whole or in part to the extent reasonably necessary to protect the Owner due to the Owner's determination that the Work has not progressed to the point indicated in the Design-Builder's Application for Payment, or the quality of the Work is not in accordance with the Design-Build Documents. If the Owner is unable to certify payment in the amount of the Application, the Owner will notify the Design-Builder as provided in Section 9.4. If the Design-

Builder and Owner cannot agree on a revised amount, the Owner will promptly issue a Certificate for Payment for the amount that the Owner deems to be due and owing. The Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued to such extent as may be necessary to protect the Owner from loss for which the Design-Builder is responsible because of

- .1 defective Work, including design and construction, not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Design-Builder;
- .3 failure of the Design-Builder to make payments properly to the Architect, Consultants, Contractors or others, for services, labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Design-Build Documents.

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

§ 9.5.3 If the Owner withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Design-Builder and to the Architect or any Consultants, Contractor, material or equipment suppliers, or other persons or entities providing services or work for the Design-Builder to whom the Design-Builder failed to make payment for Work properly performed or material or equipment suitably delivered.

§ 9.6 Progress Payments

§ 9.6.1 After the Owner has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Design-Build Documents.

§ 9.6.2 The Design-Builder shall pay each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder no later than the time period required by applicable law, but in no event more than seven days after receipt of payment from the Owner the amount to which the Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder is entitled, reflecting percentages actually retained from payments to the Design-Builder on account of the portion of the Work performed by the Architect, Consultant, Contractor, or other person or entity. The Design-Builder shall, by appropriate agreement with each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder, require each Architect, Consultant, Contractor, and other person or entity providing services or work for the Design-Builder to make payments to subconsultants and subcontractors in a similar manner.

§ 9.6.3 The Owner will, on request and if practicable, furnish to the Architect, a Consultant, Contractor, or other person or entity providing services or work for the Design-Builder, information regarding percentages of completion or amounts applied for by the Design-Builder and action taken thereon by the Owner on account of portions of the Work done by such Architect, Consultant, Contractor or other person or entity providing services or work for the Design-Builder.

§ 9.6.4 The Owner has the right to request written evidence from the Design-Builder that the Design-Builder has properly paid the Architect, Consultants, Contractors, or other person or entity providing

services or work for the Design-Builder, amounts paid by the Owner to the Design-Builder for the Work. If the Design-Builder fails to furnish such evidence within seven days, the Owner shall have the right to contact the Architect, Consultants, and Contractors to ascertain whether they have been properly paid. The Owner shall have no obligation to pay or to see to the payment of money to a Consultant or Contractor, except as may otherwise be required by law.

§ 9.6.5 Design-Builder payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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

§ 9.6.7 Unless the Design-Builder provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Design-Builder for Work properly performed by the Architect, Consultants, Contractors and other person or entity providing services or work for the Design-Builder, shall be held by the Design-Builder for the Architect and those Consultants, Contractors, or other person or entity providing services or work for the Design-Builder, for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Design-Builder, shall create any fiduciary liability or tort liability on the part of the Design-Builder for breach of trust or shall entitle any person or entity to an award of punitive damages against the Design-Builder for breach of the requirements of this provision.

§ 9.7 Failure of Payment

If the Owner does not issue a Certificate for Payment, through no fault of the Design-Builder, within the time required by the Design-Build Documents, then the Design-Builder may, upon seven additional days' written notice to the Owner, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Design-Builder's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Design-Build Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Design-Build Documents so that the Owner can occupy or utilize the Work for its intended use. The date of Substantial Completion is the date certified by the Owner in accordance with this Section 9.8.

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

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

such case, the Design-Builder shall then submit a request for another inspection by the Owner to determine Substantial Completion.

§ 9.8.4 Prior to issuance of the Certificate of Substantial Completion under Section 9.8.5, the Owner and Design-Builder shall discuss and then determine the parties' obligations to obtain and maintain property insurance following issuance of the Certificate of Substantial Completion.

§ 9.8.5 When the Work or designated portion thereof is substantially complete, the Design-Builder will prepare for the Owner's signature a Certificate of Substantial Completion that shall, upon the Owner's signature, establish the date of Substantial Completion; establish responsibilities of the Owner and Design-Builder for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Design-Builder shall finish all items on the list accompanying the Certificate. Warranties required by the Design-Build Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.6 The Certificate of Substantial Completion shall be submitted by the Design-Builder to the Owner for written acceptance of responsibilities assigned to it in the Certificate. Upon the Owner's acceptance, and consent of surety, if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Design-Build Documents.

§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Design-Builder, provided such occupancy or use is consented to, by endorsement or otherwise, by the insurer providing property insurance and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Design-Builder have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Design-Build Documents. When the Design-Builder considers a portion substantially complete, the Design-Builder shall prepare and submit a list to the Owner as provided under Section 9.8.2. Consent of the Design-Builder to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Design-Builder.

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

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

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Design-Builder's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Owner will promptly make such inspection. When the Owner finds the Work acceptable under the Design-Build Documents and the Contract fully performed, the Owner will, subject to Section 9.10.2, promptly issue a final Certificate for Payment.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Design-Builder submits to the Owner (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work, for which the Owner or the Owner's property might be responsible or encumbered, (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Design-Build Documents to remain in force after final payment is currently in effect, (3) a written statement that the Design-Builder knows of no substantial reason that the insurance will not be renewable to cover the period required by the Design-Build Documents, (4) consent of surety, if any, to final payment, (5) as-constructed record copy of the Construction Documents marked to indicate field changes and selections made during construction, (6) manufacturer's warranties, product data, and maintenance and operations manuals, and (7) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, or releases and waivers of liens, claims, security interests, or encumbrances, arising out of the Contract, to the extent and in such form as may be designated by the Owner. If an Architect, a Consultant, or a Contractor, or other person or entity providing services or work for the Design-Builder, refuses to furnish a release or waiver required by the Owner, the Design-Builder may furnish a bond satisfactory to the Owner to indemnify the Owner against such liens, claims, security interests, or encumbrances. If such liens, claims, security interests, or encumbrances remains unsatisfied after payments are made, the Design-Builder shall refund to the Owner all money that the Owner may be compelled to pay in discharging such liens, claims, security interests, or encumbrances, including all costs and reasonable attorneys' fees.

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

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

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Design-Build Documents; or
- .3 terms of special warranties required by the Design-Build Documents.

§ 9.10.5 Acceptance of final payment by the Design-Builder shall constitute a waiver of claims by the Design-Builder except those previously made in writing and identified by the Design-Builder as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

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

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Design-Builder shall be responsible for precautions for the safety of, and reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;

- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Design-Builder or the Architect, Consultants, or Contractors, or other person or entity providing services or work for the Design-Builder; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, or structures and utilities not designated for removal, relocation or replacement in the course of construction.

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

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

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

§ 10.2.5 The Design-Builder shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Design-Build Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3, caused in whole or in part by the Design-Builder, the Architect, a Consultant, a Contractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Design-Builder is responsible under Sections 10.2.1.2 and 10.2.1.3; except damage or loss attributable to acts or omissions of the Owner, or anyone directly or indirectly employed by the Owner, or by anyone for whose acts the Owner may be liable, and not attributable to the fault or negligence of the Design-Builder. The foregoing obligations of the Design-Builder are in addition to the Design-Builder's obligations under Section 3.1.14.

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

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

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

§ 10.3 Hazardous Materials

§ 10.3.1 The Design-Builder is responsible for compliance with any requirements included in the Design-Build Documents regarding hazardous materials. If the Design-Builder encounters a hazardous material or substance not addressed in the Design-Build Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the

Design-Builder, the Design-Builder shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner in writing.

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

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

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

§ 10.3.5 The Design-Builder shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Design-Builder brings to the site and negligently handles, or (2) where the Design-Builder fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

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

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Design-Builder shall act, at the Design-Builder's discretion, to prevent threatened damage, injury or loss.

ARTICLE 11 UNCOVERING AND CORRECTION OF WORK

§ 11.1 Uncovering of Work

The Owner may request to examine a portion of the Work that the Design-Builder has covered to determine if the Work has been performed in accordance with the Design-Build Documents. If such Work

is in accordance with the Design-Build Documents, the Owner and Design-Builder shall execute a Change Order to adjust the Contract Time and Contract Sum, as appropriate. If such Work is not in accordance with the Design-Build Documents, the costs of uncovering and correcting the Work shall be at the Design-Builder's expense and the Design-Builder shall not be entitled to a change in the Contract Time unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs and the Contract Time will be adjusted as appropriate.

§ 11.2 Correction of Work

§ 11.2.1 Before or After Substantial Completion. The Design-Builder shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Design-Build Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for any design consultant employed by the Owner whose expenses and compensation were made necessary thereby, shall be at the Design-Builder's expense.

§ 11.2.2 After Substantial Completion

§ 11.2.2.1 In addition to the Design-Builder's obligations under Section 3.1.12, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Design-Build Documents, any of the Work is found not to be in accordance with the requirements of the Design-Build Documents, the Design-Builder shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Design-Builder a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of the Work, if the Owner fails to notify the Design-Builder and give the Design-Builder an opportunity to make the correction, the Owner waives the rights to require correction by the Design-Builder and to make a claim for breach of warranty. If the Design-Builder fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner, the Owner may correct it in accordance with Section 7.9.

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

§ 11.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Design-Builder pursuant to this Section 11.2.

§ 11.2.3 The Design-Builder shall remove from the site portions of the Work that are not in accordance with the requirements of the Design-Build Documents and are neither corrected by the Design-Builder nor accepted by the Owner.

§ 11.2.4 The Design-Builder shall bear the cost of correcting destroyed or damaged construction of the Owner or separate contractors, whether completed or partially completed, caused by the Design-Builder's correction or removal of Work that is not in accordance with the requirements of the Design-Build Documents.

§ 11.2.5 Nothing contained in this Section 11.2 shall be construed to establish a period of limitation with respect to other obligations the Design-Builder has under the Design-Build Documents. Establishment of the one-year period for correction of Work as described in Section 11.2.2 relates only to the specific obligation of the Design-Builder to correct the Work, and has no relationship to the time within which the obligation to comply with the Design-Build Documents may be sought to be enforced, nor to the time

within which proceedings may be commenced to establish the Design-Builder's liability with respect to the Design-Builder's obligations other than specifically to correct the Work.

§ 11.3 Acceptance of Nonconforming Work

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

ARTICLE 12 COPYRIGHTS AND LICENSES

§ 12.1 Drawings, specifications, and other documents furnished by the Design-Builder, including those in electronic form, are Instruments of Service. The Design-Builder, and the Architect, Consultants, Contractors, and any other person or entity providing services or work for any of them, shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements, or for similar purposes in connection with the Project, is not to be construed as publication in derogation of the reserved rights of the Design-Builder and the Architect, Consultants, and Contractors, and any other person or entity providing services or work for any of them.

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

§ 12.3 Upon execution of the Agreement, the Design-Builder grants to the Owner a limited, irrevocable and non-exclusive license to use the Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under the Design-Build Documents. The license granted under this section permits the Owner to authorize its consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Design-Builder rightfully terminates this Agreement for cause as provided in Section 13.1.4 or 13.2.1 the license granted in this Section 12.3 shall terminate.

§ 12.3.1 The Design-Builder shall obtain non-exclusive licenses from the Architect, Consultants, and Contractors, that will allow the Design-Builder to satisfy its obligations to the Owner under this Article 12. The Design-Builder's licenses from the Architect and its Consultants and Contractors shall also allow the Owner, in the event this Agreement is terminated for any reason other than the default of the Owner or in the event the Design-Builder's Architect, Consultants, or Contractors terminate their agreements with the Design-Builder for cause, to obtain a limited, irrevocable and non-exclusive license solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner (1) agrees to pay to the Architect, Consultant or Contractor all amounts due, and (2) provide the Architect, Consultant or Contractor with the Owner's written agreement to indemnify and hold harmless the Architect, Consultant or Contractor from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service.

§ 12.3.2 In the event the Owner alters the Instruments of Service without the author's written authorization or uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing

services or work for any of them, from all claims and causes of action arising from or related to such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Design-Builder, Architect, Consultants, Contractors and any other person or entity providing services or work for any of them, from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's alteration or use of the Instruments of Service under this Section 12.3.2. The terms of this Section 12.3.2 shall not apply if the Owner rightfully terminates this Agreement for cause under Sections 13.1.4 or 13.2.2.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination or Suspension Prior to Execution of the Design-Build Amendment

§ 13.1.1 If the Owner fails to make payments to the Design-Builder for Work prior to execution of the Design-Build Amendment in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Design-Builder's option, cause for suspension of performance of services under this Agreement. If the Design-Builder elects to suspend the Work, the Design-Builder shall give seven days' written notice to the Owner before suspending the Work. In the event of a suspension of the Work, the Design-Builder shall have no liability to the Owner for delay or damage caused by the suspension of the Work. Before resuming the Work, the Design-Builder shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

§ 13.1.2 If the Owner suspends the Project, the Design-Builder shall be compensated for the Work performed prior to notice of such suspension. When the Project is resumed, the Design-Builder shall be compensated for expenses incurred in the interruption and resumption of the Design-Builder's Work. The Design-Builder's compensation for, and time to complete, the remaining Work shall be equitably adjusted.

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

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

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

§ 13.1.6 In the event of termination not the fault of the Design-Builder, the Design-Builder shall be compensated for Work performed prior to termination, together with Reimbursable Expenses then due and any other expenses directly attributable to termination for which the Design-Builder is not otherwise compensated. In no event shall the Design-Builder's compensation under this Section 13.1.6 be greater than the compensation set forth in Section 2.1.

§ 13.2 Termination or Suspension Following Execution of the Design-Build Amendment

§ 13.2.1 Termination by the Design-Builder

§ 13.2.1.1 The Design-Builder may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Design-Builder, the Architect, a Consultant, or a

Contractor, or their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;
- .3 Because the Owner has not issued a Certificate for Payment and has not notified the Design-Builder of the reason for withholding certification as provided in Section 9.5.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Design-Build Documents; or
- .4 The Owner has failed to furnish to the Design-Builder promptly, upon the Design-Builder's request, reasonable evidence as required by Section 7.2.7.

§ 13.2.1.2 The Design-Builder may terminate the Contract if, through no act or fault of the Design-Builder, the Architect, a Consultant, a Contractor, or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Design-Builder, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 13.2.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 13.2.1.3 If one of the reasons described in Section 13.2.1.1 or 13.2.1.2 exists, the Design-Builder may, upon seven days' written notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

§ 13.2.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Design-Builder or any other persons or entities performing portions of the Work under contract with the Design-Builder because the Owner has repeatedly failed to fulfill the Owner's obligations under the Design-Build Documents with respect to matters important to the progress of the Work, the Design-Builder may, upon seven additional days' written notice to the Owner, terminate the Contract and recover from the Owner as provided in Section 13.2.1.3.

§ 13.2.2 Termination by the Owner For Cause

§ 13.2.2.1 The Owner may terminate the Contract if the Design-Builder

- .1 fails to submit the Proposal by the date required by this Agreement, or if no date is indicated, within a reasonable time consistent with the date of Substantial Completion;
- .2 repeatedly refuses or fails to supply an Architect, or enough properly skilled Consultants, Contractors, or workers or proper materials;
- .3 fails to make payment to the Architect, Consultants, or Contractors for services, materials or labor in accordance with their respective agreements with the Design-Builder;
- .4 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .5 is otherwise guilty of substantial breach of a provision of the Design-Build Documents.

§ 13.2.2.2 When any of the above reasons exist, the Owner may without prejudice to any other rights or remedies of the Owner and after giving the Design-Builder and the Design-Builder's surety, if any, seven days' written notice, terminate employment of the Design-Builder and may, subject to any prior rights of the surety:

- .1 Exclude the Design-Builder from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Design-Builder;

- .2 Accept assignment of the Architect, Consultant and Contractor agreements pursuant to Section 3.1.15; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Design-Builder, the Owner shall furnish to the Design-Builder a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 13.2.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 13.2.2.1, the Design-Builder shall not be entitled to receive further payment until the Work is finished.

§ 13.2.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Design-Builder. If such costs and damages exceed the unpaid balance, the Design-Builder shall pay the difference to the Owner. The obligation for such payments shall survive termination of the Contract.

§ 13.2.3 Suspension by the Owner for Convenience

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

§ 13.2.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 13.2.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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

§ 13.2.4 Termination by the Owner for Convenience

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

§ 13.2.4.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Design-Builder shall

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

§ 13.2.4.3 In case of such termination for the Owner's convenience, the Design-Builder shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with anticipated overhead and profit on the Work not executed.

ARTICLE 14 CLAIMS AND DISPUTE RESOLUTION

§ 14.1 Claims

§ 14.1.1 **Definition.** A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Design-Builder arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

§ 14.1.2 Time Limits on Claims. The Owner and Design-Builder shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other, arising out of or related to the Contract in accordance with the requirements of the binding dispute resolution method selected in Section 1.3, within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Design-Builder waive all claims and causes of action not commenced in accordance with this Section 14.1.2.

§ 14.1.3 Notice of Claims

§ 14.1.3.1 Prior To Final Payment. Prior to Final Payment, Claims by either the Owner or Design-Builder must be initiated by written notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 14.1.3.2 Claims Arising After Final Payment. After Final Payment, Claims by either the Owner or Design-Builder that have not otherwise been waived pursuant to Sections 9.10.4 or 9.10.5, must be initiated by prompt written notice to the other party. The notice requirement in Section 14.1.3.1 and the Initial Decision requirement as a condition precedent to mediation in Section 14.2.1 shall not apply.

§ 14.1.4 Continuing Contract Performance. Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 13, the Design-Builder shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Design-Build Documents.

§ 14.1.5 Claims for Additional Cost. If the Design-Builder intends to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the portion of the Work that relates to the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 14.1.6 Claims for Additional Time

§ 14.1.6.1 If the Design-Builder intends to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Design-Builder's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

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

§ 14.1.7 Claims for Consequential Damages

The Design-Builder and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Design-Builder for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 13. Nothing contained in this Section 14.1.7 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Design-Build Documents.

§ 14.2 Initial Decision

§ 14.2.1 An initial decision shall be required as a condition precedent to mediation of all Claims between the Owner and Design-Builder initiated prior to the date final payment is due, excluding those arising under Sections 10.3 and 10.4 of the Agreement and Sections B.3.2.9 and B.3.2.10 of Exhibit B to this Agreement, unless 30 days have passed after the Claim has been initiated with no decision having been rendered. Unless otherwise mutually agreed in writing, the Owner shall render the initial decision on Claims.

§ 14.2.2 Procedure

§ 14.2.2.1 Claims Initiated by the Owner. If the Owner initiates a Claim, the Design-Builder shall provide a written response to Owner within ten days after receipt of the notice required under Section 14.1.3.1. Thereafter, the Owner shall render an initial decision within ten days of receiving the Design-Builder's response: (1) withdrawing the Claim in whole or in part, (2) approving the Claim in whole or in part, or (3) suggesting a compromise.

§ 14.2.2.2 Claims Initiated by the Design-Builder. If the Design-Builder initiates a Claim, the Owner will take one or more of the following actions within ten days after receipt of the notice required under Section 14.1.3.1: (1) request additional supporting data, (2) render an initial decision rejecting the Claim in whole or in part, (3) render an initial decision approving the Claim, (4) suggest a compromise or (5) indicate that it is unable to render an initial decision because the Owner lacks sufficient information to evaluate the merits of the Claim.

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

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

§ 14.2.5 The Owner's initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) identify any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 14.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 14.2.6.1.

§ 14.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive

their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

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

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

§ 14.3 Mediation

§ 14.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 14.1.7, may be subject to mediation. Mediation is not a condition precedent to binding dispute resolution.

§ 14.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by any mutually acceptable mediator

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

§ 14.4 Arbitration

§ 14.4.1 If the parties have selected arbitration as the method for binding dispute resolution in Section 1.3, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association or JAMS or other mutually agreeable service in accordance with AAA's Construction Industry Arbitration Rules, JAMS Construction Arbitration Rules & Procedures, or other similar set of rules if another service is sued, in effect on the date of the Agreement before one arbitrator. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

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

§ 14.4.2 The award rendered by the arbitrator shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction. The prevailing party in any arbitration, suit, or similar proceeding shall be awarded its costs, including reasonable attorneys' fees, expert witness fees, and if the proceeding is held more than 250 miles from its place of business, its reasonable travel and accommodation costs to attend the proceeding(s).

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

§ 14.4.4 Consolidation or Joinder

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

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

§ 14.4.4.3 The Owner and Design-Builder grant to any person or entity made a party to an arbitration conducted under this Section 14.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Design-Builder under this Agreement.

ARTICLE 15 MISCELLANEOUS PROVISIONS

§ 15.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 14.4.

§ 15.2 Successors and Assigns

§ 15.2.1 The Owner and Design-Builder, respectively, bind themselves, their partners, successors, assigns and legal representatives to the covenants, agreements and obligations contained in the Design-Build Documents. Except as provided in Section 15.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

§ 15.2.3 If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute certificates, other than those required by Section 3.1.10, the Owner shall submit the proposed language of such certificates for review at least 14 days prior to the requested dates of execution. If the Owner requests the Design-Builder, Architect, Consultants, or Contractors to execute consents reasonably required to facilitate assignment to a lender, the Design-Builder, Architect, Consultants, or Contractors shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to them for review at least 14 days prior to execution. The Design-Builder, Architect, Consultants, and Contractors shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of their services.

§ 15.3 Written Notice

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered

at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

§ 15.4 Rights and Remedies

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

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

§ 15.5 Tests and Inspections

§ 15.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Design-Build Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Design-Builder shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Design-Builder shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Design-Builder.

§ 15.5.2 If the Owner determines that portions of the Work require additional testing, inspection or approval not included under Section 15.5.1, the Owner will instruct the Design-Builder to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Design-Builder shall give timely notice to the Owner of when and where tests and inspections are to be made so that the Owner may be present for such procedures. Such costs, except as provided in Section 15.5.3, shall be at the Owner's expense.

§ 15.5.3 If such procedures for testing, inspection or approval under Sections 15.5.1 and 15.5.2 reveal failure of the portions of the Work to comply with requirements established by the Design-Build Documents, all costs made necessary by such failure shall be at the Design-Builder's expense.

§ 15.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Design-Build Documents, be secured by the Design-Builder and promptly delivered to the Owner.

§ 15.5.5 If the Owner is to observe tests, inspections or approvals required by the Design-Build Documents, the Owner will do so promptly and, where practicable, at the normal place of testing.

§ 15.5.6 Tests or inspections conducted pursuant to the Design-Build Documents shall be made promptly to avoid unreasonable delay in the Work.

§ 15.6 Confidential Information

If the Owner or Design-Builder transmits Confidential Information, the transmission of such Confidential Information constitutes a warranty to the party receiving such Confidential Information that the transmitting party is authorized to transmit the Confidential Information. If a party receives Confidential Information, the receiving party shall keep the Confidential Information strictly confidential and shall not disclose it to any other person or entity except as set forth in Section 15.6.1.

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

§ 15.7 Capitalization

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

§ 15.8 Interpretation

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

§ 15.8.2 Unless otherwise stated in the Design-Build Documents, words which have well-known technical or construction industry meanings are used in the Design-Build Documents in accordance with such recognized meanings.

ARTICLE 16 SCOPE OF THE AGREEMENT

§ 16.1 This Agreement is comprised of the following documents listed below:

- .1 AIA Document A141™–2014, Standard Form of Agreement Between Owner and Design-Builder
- .2 AIA Document A141™–2014, Exhibit A, Design-Build Amendment, if executed
- .3 AIA Document A141™–2014, Exhibit B, Insurance and Bonds
- .4 AIA Document A141™–2014, Exhibit C, Sustainable Projects, if completed
- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

« »

- .6 Other:

Spohn Ranch, Inc. Proposal, dated 10/4/22.

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

OWNER *(Signature)*

« »« »

DESIGN-BUILDER *(Signature)*

« »« »

(Josh Moenning, Mayor)

(Printed name and title)

Attest:

Brianna Duerst, City Clerk

Approved as to Form:

Danielle Myers-Noelle, City Attorney

TEL
AV
BR
D

EXHIBIT B
INSURANCE

Spohn Ranch, Inc. shall maintain the following insurance coverage:

- Commercial General Liability - \$2,000,000 per occurrence
- Excess Liability - \$5,000,000 per occurrence
- Professional Liability - \$2,000,000 per occurrence
- Auto Liability - \$1,000,000 per occurrence
- Worker's Compensation - \$1,000,000 per occurrence

Spohn Ranch, Inc. shall name the City of Norfolk, NE as additional insured.



SOURCEWELL PRICE PROPOSAL

SOURCEWELL CONTRACT #112420-SRI

SOURCEWELL MEMBER #33655

CITY OF NORFOLK, NEBRASKA

NORFOLK SKATEPARK – PUMP TRACK

MARCH 23, 2023



SPOHN RANCH, INC.
P 626-330-5803
F 626-330-5503
W SPOHNRANCH.COM
E INFO@SPOHNRANCH
6824 S CENTINELA AVE.
LOS ANGELES, CA 90230

LET'S ROLL.

SPOHN RANCH TO PROVIDE:

Labor, materials and equipment as follows for the improvements detailed in the 100% Construction Documents and per Spohn Ranch's competitively-solicited Sourcewell Contract #112420-SRI:

- Construction documents
- Grading within pump track footprint
- Install aggregate base course within pump track footprint
- Install drainage pit within pump track footprint
- Form, reinforce, place and finish concrete / shotcrete within pump track footprint
- Jointing and sealing within pump track footprint

Total Sourcewell Price: \$99,600.00

Bonding: \$1992.00

Total Sourcewell Price with Bonding: \$101,592.00

CLIENT TO PROVIDE / PROVIDED BY OTHERS:

Spohn requires the following to be provided by the Client or another third party. Spohn's proposal is expressly conditioned upon the following assumptions and any variance voids the quote. Spohn will not indemnify or accept any risk of loss related to the items set forth below.

- Temporary access to restroom, water source, power source and dumpster within 150' of pump track footprint
- Removal of turf and topsoil within pump track footprint
- Site restoration including topsoil, landscaping, irrigation, etc.
- Balance of work not expressly described in Spohn's scope of work

EXCLUSIONS:

- Prevailing wage
- Bonding – for bonding
- Permitting
- 3rd party testing / inspections
- Taxes other than payroll taxes and sales taxes on materials
- Union labor requirements
- Graffiti removal
- Any work not expressly described in Spohn's scope of work



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LET'S ROLL.

TERMS & CONDITIONS:

The following terms are expressly part of this proposal and any subsequent agreement between Client and Spohn similarly shall incorporate these terms. In the event that no further contract is entered into, the terms set forth in the proposal shall constitute the entire agreement between the parties.

- Acceptance of the work shall be commercially reasonable and expeditious
- Failure to object to work within a reasonable time (up to two weeks) shall constitute deemed acceptance
- Spohn shall have approval rights as to any initial project schedule, and all subsequent schedule changes
- Spohn shall accept no risk of loss outside of its direct control
- All discretion attributed to Client in any contract shall be subject to commercial reasonableness standard
- Spohn shall not indemnify Client for losses not proximately and solely caused by Spohn
- Spohn must approve any material increases in scope in writing including agreeing to an equitable adjustment of contract price and time changes in scope in writing
- All modifications, waivers, alterations to be charged against Spohn must be written and signed by Spohn's authorized representative
- Any increase in the price of raw materials anticipated to be used in Spohn's scope greater than ten percent (10%) occurring after execution of this proposal shall constitute a material changed condition necessitating an equitable adjustment to the contract price
- The price contained in this proposal is valid for thirty (30) days and may be accepted by issuance of a notice to proceed or any similar instruction whereby Client indicates desire to commence project. The price is further conditioned upon Client's delivery of all items outside Spohn's scope of work upon which Spohn's work may be predicated.
- Payment terms – 20% upon mobilization, 40% upon 50% completion of scope of work, 35% upon 100% completion of scope of work, 5% within 30 days of completion of scope of work
- Client shall pay invoices upon receipt. Interest on amounts unpaid after thirty days shall accrue at 1% interest of the cumulative outstanding balance per month (12% annual rate), compounded monthly. Client agrees that all work described in an invoice that is not objected to in a writing within five days of receipt of the invoice shall be deemed to be final and binding upon the Parties as to the amounts due, the adequacy of Spohn's performance, and the value of the services provided to Client. Any written objections shall specify the claimed defects sufficiently to allow Spohn's prompt and effective correction.
- Spohn shall have the right to cure any alleged default within a reasonable time
- Client acknowledges that Spohn is not party to any organized labor agreements. Client agrees that Spohn will not be responsible or liable for any issues, injuries or damages, relating to labor peace, strikes, picketing or otherwise, regardless as to cause. Client agrees that delays related to labor issues shall constitute a contractual delay and entitle Spohn to additional time to perform for the length of the delay, and compensation for any additional costs incurred. These terms are material conditions to Spohn's willingness to provide a proposal to Client.
- In the event that other entities affect the site conditions adversely or impede the progress of the work, the Client shall be responsible for any additional costs
- In the event the Client is responsible for rough grading or other site preparation, Client shall provide proof of correct grades / site preparation prior to Spohn Ranch mobilizing. In the event that the grades / elevations are incorrect, Client will be responsible for demobilization / remobilization costs, and any additional costs incurred. The schedule will be updated according to Spohn Ranch's prior professional commitments, and completion date shall be automatically extended to reflect Spohn's updated schedule.
- Any liability of Spohn which relates to the sale, manufacture, delivery, resale, installation or use of any goods sold by or furnished by Spohn, whether arising out of contract, under any warranty or otherwise, shall be limited to Spohn's choice of the following: the repair of the goods; the replacement of the goods; the cancellation of the contract, return of the goods in question to Spohn, and Spohn's refund of the purchase price
- In no event shall Spohn's liability exceed the price of the specific goods upon which the liability is based
- In addition, Spohn shall not, under any circumstances, be responsible for special, consequential, or incidental damages such as, but not limited to, damage to or loss of other property; loss of profit, revenue or reputation; loss of capital; loss of purchased or replaced goods; or claims for delays, back charges, or loss of use
- In the event of any action, suit, arbitration, or other proceeding of any nature is brought in connection with the payment terms related to these Terms and Conditions, any related agreement, or Spohn's provision of goods, services, products, or to recover any of Spohn's property ("Dispute"), the prevailing party shall be entitled to recover its reasonable attorney's fees, expert-witness fees, other litigation costs and fees (e.g., deposition costs, trial preparation costs, etc.), and other costs and expenses of suit, judgment or award. Any Dispute including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration in Madison County, Nebraska, before one arbitrator. At the option of the first to commence an arbitration, the arbitration shall be administered either by the American Arbitration Association (AAA) pursuant to its Commercial Rules or by JAMS pursuant to its Comprehensive Arbitration Rules and Procedures. Judgment on the Award may be entered in any court having jurisdiction. This clause shall not preclude parties from seeking provisional remedies in aid of arbitration from a court of appropriate jurisdiction. The arbitrator shall, in the Award, allocate costs, reasonable attorney's fees, expert-witness fees, other litigation fees and expenses including the costs of arbitration to the prevailing party in accordance with the Attorney's Fees provision. Judgment on any arbitration award may be entered by any court of competent jurisdiction.
- Spohn shall, at its expense, procure and maintain insurance with carriers acceptable to Client, and in amounts set forth below. Spohn shall provide certificates of insurance to Client upon request. The certificates of insurance shall provide that there will be no cancellation nor reduction of coverage without thirty (30) days prior written notice to Client. Required coverage amounts:
 - Workers Compensation and Employers Liability insurance in the amount of \$1,000,000;

- Automobile Coverage for all Owned, Non-Owned and Hired vehicles in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate;
- Comprehensive General Liability or Commercial General Liability insurance covering all operations or job specific in the amount of \$1,000,000 per occurrence, \$2,000,000 aggregate;
- Excess Liability/ Umbrella Insurance in the amount of \$5,000,000;
- Errors and Omissions/ Professional Liability insurance in the amount of \$2,000,000 per occurrence, \$2,000,000 aggregate.
- Spohn offers a 12-Month Materials and Workmanship Warranty effective upon the date of substantial completion of the project or first use by Client
- These Terms and Conditions are necessarily incorporated by reference into any other related agreement; Client agrees that Nebraska law shall govern the relationship between the Client and Spohn to the fullest extent of applicable law including enforcement of any part of these Terms and Conditions or any other related agreement between or among Client and Spohn.
- Each Term and/or Condition herein is severable in the event one or more provisions are unenforceable for any reason



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LET'S ROLL.

SOURCEWELL PRICE PROPOSAL

SOURCEWELL CONTRACT #112420-SRI

SOURCEWELL MEMBER #33655

CITY OF NORFOLK, NEBRASKA

NORFOLK SKATEPARK – PUMP TRACK

PROPOSAL VALID FOR 30 DAYS FROM MARCH 23, 2023

I AUTHORIZE THE PURCHASE OF THE PRODUCTS AND SERVICES FROM SPOHN RANCH INCLUDED IN THIS PROPOSAL ACCORDING TO THE SPECIFIED TERMS AND CONDITIONS.

SOLD TO: _____

SHIP TO: _____

CONTACT: _____

CONTACT: _____

PHONE: _____

PHONE: _____

EMAIL: _____

EMAIL: _____

SPOHN RANCH REPRESENTATIVE:

PURCHASE AUTHORIZED BY:

DATE: _____

DATE: _____



4/3/2023



Enclosure 25
Page 180 of 188

**INTERLOCAL AGREEMENT
BETWEEN
MADISON COUNTY, NEBRASKA
AND
CITY OF NORFOLK, NEBRASKA
ASPHALTIC CONCRETE PAVING PROJECT M-451(222B)**

THIS AGREEMENT is made and entered into this _____ day of _____, 2023, by and between Madison County, Nebraska, a political subdivision of the State of Nebraska; and the City of Norfolk, Nebraska, a Municipal Corporation, WITNESSETH:

WHEREAS, Madison County is going to bid six asphaltic concrete overlay projects on various roads in Madison County in 2023; and

WHEREAS, the City of Norfolk, Nebraska desires to improve Omaha Avenue from 25th Street to 37th, and Omaha Avenue from 800 feet east of 45th to 45th Street and south on 45th Street one quarter mile to the City Limits with an asphaltic concrete overlay; and

WHEREAS, it would be beneficial to the City of Norfolk to bid their project with the Madison County overlay projects; and

WHEREAS, Madison County and the City of Norfolk are desirous of entering into an Agreement pursuant to the Nebraska Interlocal Cooperation Act (Nebr. Rev. Stat. §§ 13-801 through 13-827) as the same may from time to time be amended, for the purposes of describing the terms and conditions under which Madison County and the City of Norfolk will undertake the above described project.

NOW, THEREFORE, in consideration of the foregoing recitals, and the terms and conditions hereinafter set forth, the parties hereto agree as follows:

1. PROJECT. The road project shall consist of the construction of an asphaltic concrete paving overlay project described as:

Omaha Avenue Overlay
City of Norfolk, Nebraska,

which construction includes asphaltic concrete paving, subgrade preparation, permanent pavement markings, and traffic control.

2. SHARED COSTS. The estimated shared costs of such improvements are as follows:

Mobilization	<u>50,000.00</u>
Cold Milling, Class 1	<u>75,000.00</u>

Asphaltic Concrete for Patching	<u>25,000.00</u>
Asphaltic Concrete, Type “SPR”	<u>350,000.00</u>
Shouldering	<u>35,000.00</u>
Permanent Pavement Marking, Paint	<u>15,000.00</u>
Traffic Control	<u>25,000.00</u>
ESTIMATED TOTAL FOR PROJECT	<u>\$575,000.00</u>

3. LEAD AGENCY. Madison County shall be the lead agency for the road project. The City of Norfolk has contracted with Mainelli Wagner and Associates, Inc. (MWA) to provide design engineering and construction engineering on the project. The City of Norfolk will pay MWA for services rendered directly. The Chairman of the Madison County Board is authorized to sign any document in furtherance of this agreement on behalf of Madison County and the City of Norfolk and both Parties hereby approve the contemplated construction.

4. PLEDGE OF FUNDING. Sufficient funds of Madison County and City of Norfolk are now, or will be, available and are hereby pledged in the amount and at the required time to proceed with a 2023 project construction.

5. BIDS. Madison County will take bids and enter into contract with the lowest responsible bidder on all projects including the City of Norfolk project. The City of Norfolk will reimburse Madison County for the total cost of the project as described below. It is understood that Madison County is taking bids on seven total projects including the Omaha Avenue overlay and that the contract will be awarded to the lowest responsible bidder on the total of all projects.

6. FUNDING. The parties are responsible for funding as follows:

- A. Madison County, Nebraska is responsible for 100% of Preliminary Engineering Costs Construction Costs, and Construction Engineering Costs on its projects.
- B. The City of Norfolk is responsible for 100% of Preliminary Engineering, Construction Costs, and Construction Engineering Costs the Omaha Avenue and 45th Street overlay project.

7. ENGINEERING AGREEMENTS. Madison County has previously entered into Engineering Agreements with Mainelli Wagner & Associates, Inc. for Preliminary Engineering and Construction Engineering for roadway design for its projects and shall be responsible for 100% of the engineering costs on its project and will pay MWA directly for services rendered.

City of Norfolk has previously entered into Engineering Agreements with Mainelli Wagner & Associates, Inc. for Preliminary Engineering and Construction Engineering for roadway design for its projects and shall be responsible for 100% of the engineering costs on its portion of the project and will pay MWA directly for services rendered.

Madison County and the City of Norfolk will review and approve the prepared plans prior to construction for their respective projects

8. DURATION. The term of this Agreement shall commence on the date of its execution and continue until completion of and payment for the road project.

9. NO SEPARATE ENTITY. This Interlocal Agreement does not create a new or separate legal entity and its powers are limited to those granted by this Interlocal Agreement and by the provisions of the Nebraska Interlocal Cooperation Act. For purposes of this Agreement, Madison County shall be considered the administrator of this Agreement pursuant to Neb. Rev. Stat. § 13-801 et seq.

10. NO PROPERTY. There shall be no property acquired pursuant to this Agreement.

11. TAXATION. As a result of this Agreement, no tax authorized under *Nebraska Revised Statutes* Sections 13-318 to 13-326 or 13-2813 to 13-2816 shall be levied or collected.

12. HEADINGS. Headings in this Interlocal Agreement are for convenience only and shall not be used to interpret or construe its provisions.

13. GOVERNING LAW. This agreement shall be construed in accordance with and governed by the laws of the State of Nebraska.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement in duplicate the day and year first above written. This Agreement may be executed in counterparts. Each such counterpart, executed in duplicate, shall be deemed an original hereof and all such executed counterparts shall together be one and the same instrument.

ATTEST:

MADISON COUNTY, NEBRASKA, A
Political Subdivision of the State of Nebraska

Anne M. Pruss, County Clerk

Chairman, Board of Commissioners

Approved as to Form: _____
Joseph Smith, Madison County Attorney

CITY OF NORFOLK, NEBRASKA.
A Municipal Corporation

ATTEST:

Brianna Duerst, City Clerk

Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

ORDINANCE NO. 5830

AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO ENACT CHAPTER 18, ARTICLE IV, OF THE OFFICIAL CITY CODE TO CREATE A PARKS AND RECREATION BOARD; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF NORFOLK, NEBRASKA:

Section 1. That Chapter 18, Article IV of the Official City Code be and the same is hereby enacted to read as follows:

CHAPTER 18

PARKS AND RECREATION

ARTICLE IV. PARKS AND RECREATION BOARD

Sec. 18-81. Parks and Recreation Board - Established.

There is hereby established a parks and recreation board, referred to in this article as “parks and rec board”, who shall be an advisory board to the City Council on matters related to all parks belonging to the city and all recreational activities financially supported by the city. The parks and rec board shall consist of nine (9) members who shall be residents of the City of Norfolk.

Sec. 18-82. Same - Appointment.

(a) The members of the parks and rec board shall be appointed by the mayor with the approval of city council.

(b) The Mayor and City Council shall strive to have at least one representative from each ward serve on the parks and rec board, if possible.

(c) No more than three (3) members from private sports associations shall serve on the board at any given time.

(d) At least one representative from the city council will sit on the parks and rec board in a nonvoting position and is not counted as one of the nine (9) members.

Sec. 18-83. Same – Term of office; vacancies; resignation; compensation.

(a) The term of office of three of the members appointed to the first parks and rec board shall be for one year, the term of office of three of the members appointed shall be two years and the term of three of the members appointed shall be three years, with the computation of the same being from the preceding January.

(b) After the appointment of the original board, it shall be the duty of the mayor and city council to appoint or reappoint one-third of the board each year for a term of three years to commence at the time of appointment at the first meeting in January.

(b) In the event that a vacancy shall occur during the term of any member, a successor shall be appointed for the unexpired portion of the term by the mayor with the approval of city council, at the next regular meeting of the city council.

(c) A member whose term has expired may be reappointed for an additional term by the mayor with the approval of city council.

(d) Should any member, including the city representative, miss more than three consecutive meetings without a valid excuse, it will be viewed as abandonment of the position and the member will be removed from the parks and rec board.

(e) The resignation of a member shall be made in writing and sent to both the mayor and to the chairperson of the parks and rec board.

(f) No member of the parks and rec board shall receive pay or compensation for his or her services as a member of such board.

Sec. 18-84. Same – Duties and responsibilities

It shall be the responsibility of the parks and rec board to:

- (1) Serve in an advisory capacity in matters related to parks belonging to the city and establish rules for the management, care, and use of the same;
- (2) Lay out, improve, beautify, and design all grounds, bodies of water, and buildings owned or acquired for public parks and recreational facilities, to the extent that funds may be provided for such purposes;
- (3) Plan programs and leadership of recreational activities, to the extent that funds may be provided for such purposes;
- (4) Continue to study and promote the needs of the city for additional park and recreational facilities;

- (5) Perform other duties or responsibilities as may from time to time be assigned by the mayor or city council; and
- (6) Approve and recommend programs, projects and activities to the city council, which shall be done by placing such actions on a subsequent council agenda for review and approval.

Sec. 18-85. Same- Officers.

(a) The chairperson of the parks and rec board shall be elected for a one-year term by the members of the board at the first scheduled meeting of each calendar year.

(b) The parks and rec board may choose other officers as it deems necessary.

Sec. 18-86. Same- Meetings.

(a) Regular meetings shall be held monthly at dates and times to be determined by the board.

(b) Meetings outside regularly scheduled meetings may be called by:

- (1) The mayor;
- (2) The city administrator;
- (3) The city council representative;
- (4) The parks and rec board chairperson; or
- (5) A majority of the parks and rec board members.

(c) A quorum shall consist of a majority of all voting members.

(d) In the event of a tie vote, the motion under consideration shall fail to be adopted.

Sec. 18-87. Same- Bylaws; rules; regulations.

The parks and rec board may adopt bylaws, rules and regulations for its own guidance as the board may deem necessary and as such shall not be inconsistent with this chapter.

Section 2. That the effective date of this Ordinance shall be from and after its passage, approval and publication in pamphlet form as required by law.

PASSED AND APPROVED this _____ day of _____, 2023.

ATTEST:

Brianna Duerst, City Clerk

Josh Moenning, Mayor

Approved as to form: _____
Danielle Myers-Noelle, City Attorney