

## Bellevue City Council Meeting ++ Amended Agenda++

Tuesday, October 7, 2025 6:00 PM

Bellevue City Hall

1500 Wall Street

Bellevue, NE 68005

1. PLEDGE OF ALLEGIANCE
2. INVOCATION - Pastor Burt Garwood, Pilgrim Lutheran Church, 2311 Fairview Road.
3. CALL TO ORDER AND ROLL CALL
4. OPEN MEETINGS ACT — Posted on the rear wall of the Council Chambers
5. APPROVAL OF AGENDA, CONSENT AGENDA, CLAIMS, AND ADVISORY COMMITTEE REPORTS:
  - a. Approval of the Agenda
  - b. Approval of the Consent Agenda *(Items marked with an (\*) are approved where this item is, unless otherwise removed)*
    1. (\*) Approval of the September 16, 2025 City Council Minutes.
    2. (\*) Approval of the September 23, 2025 Special Council Meeting Minutes.
    3. (\*) Acknowledge receipt of the September 25, 2025 Planning Commission Minutes.
6. APPROVAL OF CLAIMS.
7. SPECIAL PRESENTATIONS: NONE
8. ORGANIZATIONAL MATTERS: NONE
9. APPROVED CITIZEN COMMUNICATION:
  - a. Charles Shanahan - Discuss Garage Permit - 2520 Olive Street.
10. LIQUOR LICENSES:
  - a. Recommend approval to the Nebraska Liquor Control Commission (NLCC) an amendment application for Tausha Allen Cosimo as manager for Quik Trip 586 located at 1311 Fort Crook Road North Bellevue, NE 68005. (City Clerk)
11. ORDINANCES FOR ADOPTION (3rd reading):
  - a. Ordinance No. 4195: An ordinance authorizing the issuance of general obligation bonds for certain improvement districts in and for the City of Bellevue, in an amount not to exceed \$35,000,000.00. (Finance Director)
  - b. Ordinance No. 4196: Request to amend Section 26-40 of Article III of Chapter 26 of the Bellevue City Code relating to the boundaries of the Official Zoning Map for lands lying outside the city limits but within the City's two-mile zoning jurisdiction boundaries (for Parcel #010609490). Applicant: City of Bellevue. (Planning Director)
12. ORDINANCES FOR PUBLIC HEARING (2nd reading):
  - a. Ordinance No. 4197: Request to rezone Lots 1 through 3, Michalek Estates, from AG to AG, RA, and RE, for the purpose of lot line adjustments. Applicant: Mark Michalek. General Location: 12009 S. 25th Street. (Planning Director)
    1. Small subdivision plat Lots 1 through 3, Michalek Estates. **(No Action Required)**
    2. Waiver of Section 6-7 (7), Subdivision Regulations, regarding excessive depth in relation to width of lots over three to one. **(No Action Required)**
13. ORDINANCES FOR INTRODUCTION (1st reading):
  - a. Ord. No. 4198: Request to rezone Lot 1 and Outlot A, Mora Acres, being a platting of part of Tax Lots 12 and 13, located in the Southwest ¼ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, Nebraska, from AG to RA, and RG-8 for the purpose of residential development; and small subdivision plat Lot 1 and Outlot A, Mora Acres. Applicant: Orchard Valley, Inc. General Location: 1902 Lola Ave. (Planning Director)
  - b. Ord. No. 4199: Request to rezone Lot 6, Tiller's 4th Addition, from BG to RG-8-PS for the purpose of multi-family residential development, with site plan approval. Applicant: Ehrhart

Griffin & Associates. General Location: 1724 Wilshire Dr. (Planning Director)

14. PUBLIC HEARING ON MATTERS OTHER THAN ORDINANCES: NONE

15. RESOLUTIONS: NONE

16. CURRENT BUSINESS:

a. Approve and authorize the Mayor to sign the Community Development Block Grant (CDBG) Funding Approval and the Agreement for FY-25 funding, in an amount not to exceed \$315,457.00. (Finance/CDBG Specialist)

b. Approve and authorize the Mayor to sign Amendment Number 1 to the Cost Reimbursement Research Subaward Agreement for the extension of the grant period to September 30, 2026, in an amount not to exceed \$140,000.00. (CDBG Specialist/Public Works)

c. Approve and authorize the Mayor to sign the (3) three Acquisition of Temporary Easement Contracts with Midwest ROW for Mission Ave. Reconstruction and Streetscape for Tracks 14, 22, and 23, for an amount not to exceed \$1,700.00. (Public Works Director)

d. Approve and authorize the Mayor to sign the nine (9) Acquisition of Temporary Easement Contracts with Midwest ROW for Whitted Creek 25th St. Project, from Lynnwood to Blackhawk, for Tracts 1, 2, 5, 7, 10, 15, 16, 19, and 21, in an amount not to exceed \$30,970.00. (Public Works Director)

e. Approve and authorize the Mayor to sign the Proposal from Cerris Systems to replace the compressor at 1500 Wall Street, in an amount not to exceed \$12,035.00. (Public Works Director)

f. Approve & authorize the Mayor to sign Change Order No. 1 to Citylogix Contract to include additional traffic sign inventory to the database, in an amount not to exceed \$24,000.00. (Public Works Director)

g. Recommend approval of the purchase request of six (6) Explorer Police Cruisers from Anderson Ford, in an amount not to exceed \$263,226.00. (Police Chief)

h. Recommend approval of the purchase request for three (3) CIB/Support Vehicles from Husker Auto Group LLC., in an amount not to exceed \$96,304.00. (Chief Clary)

i. Approve and authorize the Mayor to sign the Interlocal Agreement with Sarpy County for Public Safety Software from October 1, 2025 to September 30, 2028, in an amount not to exceed \$50,982.19. (Administration)

j. ++ Approve and authorize the Mayor to sign the purchase of 25 Panasonic Toughbook laptops for the Police Department in an amount not to exceed \$95,596.00 from GovDirect. (Police Chief)

k. ++ Approve and authorize the purchase of a remote-controlled tablet robot from ICOR Technology in an amount not to exceed \$75,997.50. (Police Chief)

l. ++ Approve and authorize the Mayor to sign City of Bellevue, Nebraska Police Officers Retirement System Defined Contribution Plan in an amount not to exceed \$163,000. (Police Retirement Committee)

m. ++ Approve and authorize the Mayor to sign Amendment One to the City of Bellevue, Nebraska Police Officers Retirement Plan and Trust in an amount not to exceed \$123,000.00. (Police Retirement Committee)

n. ++ Approve and authorize the Mayor to sign the Construction Contractor Assignment Agreement with MCL and ARCO Murray for the Bellevue Bay Indoor Water Park, in an amount not to exceed \$792,526.00. (Economic & Community Development Director)

17. ADMINISTRATION REPORTS: Comments must be limited to items on the current Reports ([September report attached to Council Packet](#))

18. CLOSED SESSION:

19. ADJOURNMENT

# MINUTE RECORD

\*5b1.  
10/7/2025

Bellevue City Council Meeting, September 16, 2025, Page 1

A regular meeting of the Mayor and City Council of Bellevue was called to order by Mayor Rusty Hike at the Bellevue City Hall on the September 16, 2025 at 6:00 p.m. Present were Council Members Kathy Welch, Don Preister, Rich Casey, Thomas Burns, and Julie Collins. Absent: Jerry McCaw.

Also present were City Administrator Jim Ristow and City Attorney Aimee Bataillon.

Notice of this meeting was given in advance thereof by publication in the Sarpy County Times, on the NE Public Notices website, posted and put on city website, the designated method for giving notice and was also given to the Mayor and all members of the City Council. Available in the Office of the City Clerk confirmation of the affidavit of publication, the certificate of posting, and the council's acknowledgment of receipt of notice. All proceedings shown hereafter were taken while the convened meeting was open to the public.

## **PLEDGE OF ALLEGIANCE AND INVOCATION**

Troop 474, Christ the King Lutheran Church, led in the Pledge of Allegiance. Deacon Ted Powell, Church of the Holy Spirit, 1305 Thomsas Drive, provided the invocation.

## **OPEN MEETINGS ACT**

Mayor Hike announced a copy of the Open Meetings Act is posted on the rear wall of the City Council Chambers.

## **APPROVAL OF THE AGENDA:**

**Motion** was made by Burns, seconded by Preister, to approve the agenda. Roll call vote to approve the agenda was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: McCaw. Motion carried.

## **APPROVAL OF THE CONSENT AGENDA:**

**Motion** was made by Casey, seconded by Burns, to approve the consent agenda consisting of the following item: Acknowledge receipt of August 12, 2025 Tree Board Minutes, Acknowledge receipt of the August 28, 2025 Planning Commission Minutes, Approval of the September 2, 2025 Board of Equalization Minutes, Approval of the September 2, 2025 City Council Minutes; and Request approval of the list of applications for hunting waivers, as reviewed and approved by Capt. Kurt Stroehler or Sgt. Don Pleiss. Roll call vote to approve the consent agenda was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

## **APPROVAL OF CLAIMS:**

**Motion** was made by Casey, seconded by Preister, to approve the claims. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: none; abstain: McCaw. Motion carried.

## **SPECIAL PRESENTATIONS: NONE**

## **ORGANIZATIONAL MATTERS: NONE**

## **APPROVED CITIZEN COMMUNICATION:**

### **Tanya Luken - Address Council on Safe Way to Everett Park.**

Ms. Tanya Luken, 109 Cedar Street, Bellevue, spoke regarding safe entry into Everett Park. She explained she lives on southside of Harlan Road. She requested a crosswalk or cross signal to be able to cross Harlan Road and to provide safe access to Everett Park. Discussion followed regarding possible solutions, a city-wide study, and grant funding.

### **Charles Shanahan - Discuss Garage Permit - 2520 Olive Street.**

Mr. Shanahan was not present.

## **LIQUOR LICENSES: NONE**

## **ORDINANCES FOR ADOPTION: (Third Reading):**

### **Ordinance No. 4193: Compensation Ordinance as Updated. (HR Director)**

Ordinance No. 4193: An ordinance of the City of Bellevue, Nebraska, classifying the employees of the City; fixing the ranges of compensation of such employees; providing a pay range schedule; providing for publication in pamphlet form; repealing Ordinance No. 4174; and providing for an effective date was read for the third and final time.

# MINUTE RECORD

Bellevue City Council Meeting, September 16, 2025, Page 2

**Motion** was made by Welch, seconded by Collins, to approve Ordinance No. 4193: An ordinance of the City of Bellevue, Nebraska, classifying the employees of the City; fixing the ranges of compensation of such employees; providing a pay range schedule; providing for publication in pamphlet form; repealing Ordinance No. 4174. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: none; abstain: McCaw. Motion carried.

**Ordinance No. 4194: Request to amend Section 5.17, City of Bellevue Zoning Ordinance, regarding the allowable multifamily residential density in the -PS, Planned Subdivision Overlay. Applicant: Great Lakes Capital. (Planning Director)**

Ordinance No. 4194: An ordinance to amend Section 5.17 of the City of Bellevue, Nebraska zoning ordinance regarding the Planned Subdivision District; to provide for the repeal of ordinances inconsistent herewith; and to provide when this ordinance shall be in full force and effect was read for the third and final time.

**Motion** was made by Casey, seconded by Welch, to postpone until November 4, 2025 Ordinance No. 4194: Request to amend Section 5.17, City of Bellevue Zoning Ordinance, regarding the allowable multifamily residential density in the -PS, Planned Subdivision Overlay. Applicant: Great Lakes Capital. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: none; abstain: McCaw. Motion carried.

**ORDINANCES FOR PUBLIC HEARING: (Second Reading):**

**Ordinance No. 4192: An ordinance to adopt the budget statement to be termed the Annual Appropriations Bill. (Budget Committee)**

Ordinance No. 4192: An ordinance to adopt the budget statement to be termed the Annual Appropriations Bill; to appropriate sums for necessary expenses and liabilities; and to provide for an effective date was read for the second time and a public hearing was held.

Mayor Hike opened the public hearing to give an opportunity for individuals to speak in favor of or in opposition.

Mr. Jason Tordoff, Assistant Finance Director, provided a presentation on the 2026 Budget. He explained that the certified property valuation for the city is \$6,468,288,999. He stated the property tax request is driven by the levy rate and the valuation side. He mentioned the state statutes require municipalities to indicate the amount of property taxes funding public safety services. He provided information on the revenue budget and how it is allocated. He discussed the capital expenditures by department. Mr. Tordoff mentioned the information is available on the city's website.

Councilman Preister requested clarification on whether there will be any further adjustments to this budget. Mr. Tordoff replied there will not be.

No one else in the audience came forth to speak in support of or in opposition to the ordinance.

Mayor Hike declared the public hearing closed.

Mayor Hike stated the third reading will be heard at the Special Council meeting on September 23, 2025 at 5:00 p.m.

**Resolution No. 2025-22: A resolution to set the 2025-2026 property tax levy.**

Mayor Hike opened the public hearing to give an opportunity for individuals to speak in favor of or in opposition.

No one in the audience came forth to speak in support of or in opposition to the ordinance.

Mayor Hike declared the public hearing closed.

Mayor Hike stated the vote will take place at the Special Council meeting on September 23, 2025 at 5:00 p.m.

**Ordinance No. 4195: An ordinance authorizing the issuance of general obligation bonds for certain improvement districts in and for the City of Bellevue, in an amount not to exceed \$35,000,000.00. (Finance Director)**

Ordinance No. 4195: An ordinance authorizing the issuance of General Obligation Bonds, of the City of Bellevue, Nebraska, in the principal amount not to exceed \$35,000,000 to provide financing for the costs of improvements in certain improvement districts in and for the city; prescribing certain terms and form of such bonds and providing for the setting of certain terms and from of such bonds; providing for the levy of taxes to pay the interest on and principal of such bonds; providing for publication of this ordinance in pamphlet or electronic form; and related matters was read for the second time and a public hearing was held.

Mayor Hike opened the public hearing to give an opportunity for individuals to speak in favor of or in opposition.

No one in the audience came forth to speak in support of or in opposition to the ordinance.

# MINUTE RECORD

Bellevue City Council Meeting, September 16, 2025, Page 3

Mayor Hike declared the public hearing closed.

Mayor Hike stated the third reading will be heard at the Council meeting on October 7, 2025.

**Ordinance No. 4196: Request to amend Section 26-40 of Article III of Chapter 26 of the Bellevue City Code relating to the boundaries of the Official Zoning Map for lands lying outside the city limits but within the City's two-mile zoning jurisdiction boundaries (for Parcel #010609490). Applicant: City of Bellevue.**(Planning Director)

Ordinance No. 4196: An ordinance to amend Section 26-40 of Article III of Chapter 26 of the Bellevue City Code relating to boundaries of the official zoning jurisdiction map for lands lying inside the city limits of Bellevue and Lands lying outside the city limits but within the city's two-mile zoning jurisdiction, to adopt a map establishing jurisdictional boundaries; to repeal such section as heretofore existing, and designating an effective date was read for the second time and a public hearing was held.

Mayor Hike opened the public hearing to give an opportunity for individuals to speak in favor of or in opposition.

No one in the audience came forth to speak in support of or in opposition to the ordinance.

Mayor Hike declared the public hearing closed.

Mayor Hike stated the third reading will be heard at the Council meeting on October 7, 2025.

## **ORDINANCES FOR INTRODUCTION (1st reading):**

**Ordinance No. 4197: Request to rezone Lots 1 through 3, Michalek Estates, from AG to AG, RA, and RE, for the purpose of lot line adjustments. Applicant: Mark Michalek. General Location: 12009 S. 25th Street.** (Planning Director)

Ordinance No. 4197: An ordinance to amend the official zoning map of the City of Bellevue, Nebraska, as provided for by Article 3 of Ordinance No. 4146 by changing the zone classification of land located at or about 12009 South 25<sup>th</sup> Street, more particularly described in Section 1 of the Ordinance and to provide for an effective date was read by title only.

Mayor Hike stated the second reading and public hearing will be heard at the Council meeting on October 7, 2025.

## **PUBLIC HEARING ON MATTERS OTHER THAN ORDINANCES:**

**Approve the Event Application for Bellevue Community Foundation for Annual Bellevue Trick or Treat on Sunday, October 26, 2025 from 4:00 p.m. – 6:00 p.m. in Olde Towne on Mission Ave. from Washington Street to Hancock Street; Franklin Street from 20th to 23rd; and Jefferson Street from 20th to 23rd.** (City Clerk)

Mayor Hike opened the public hearing to give an opportunity for individuals to speak in favor of or in opposition.

No one in the audience came forth to speak in support of or in opposition to the ordinance.

Mayor Hike declared the public hearing closed.

**Motion** was made by Collins, seconded by Welch, to approve the Event Application for Bellevue Community Foundation for Annual Bellevue Trick or Treat on Sunday, October 26, 2025 from 4:00 p.m. – 6:00 p.m. in Olde Towne on Mission Ave. from Washington Street to Hancock Street; Franklin Street from 20th to 23rd; and Jefferson Street from 20th to 23<sup>rd</sup>. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: McCaw; abstain: none. Motion carried.

**Request for a conditional use permit for Lot 3D, Twin Ridge II, for the purpose of the parking of oversized vehicles and trailers. Applicant: Shane Hoeft. General location: 1010 Fort Crook Road S.** (Planning Director)

**Motion** was made by Casey, seconded by Preister, to postpone until October 21, 2025 the request for a conditional use permit for Lot 3D, Twin Ridge II, for the purpose of the parking of oversized vehicles and trailers, per the applicant's request. Applicant: Shane Hoeft. General location: 1010 Fort Crook Road S. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: McCaw; abstain: none. Motion carried.

**Request to approve the 2026-2031 Capital Improvement Plan (CIP)** (Planning Director)

Mayor Hike opened the public hearing to give an opportunity for individuals to speak in favor of or in opposition.

No one in the audience came forth to speak in support of or in opposition to the ordinance.

Mayor Hike declared the public hearing closed.

# MINUTE RECORD

Bellevue City Council Meeting, September 16, 2025, Page 4

**Motion** was made by Welch, seconded by Collins, to postpone the request to approve the 2026-2031 Capital Improvement Plan (CIP) until September 23, 2025 at 5:00 p.m. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: McCaw; abstain: none. Motion carried.

## **RESOLUTIONS:**

**Resolution No. 2025-20: Requesting approval to operate a satellite keno location at the business operated by Varsity Hospitality dba "Varsity Sports Cafe" at 3504 Samson Way, Bellevue, NE and authorize the Mayor to sign. (City Clerk)**

**Motion** was made by Welch, seconded by Collins, to approve Resolution No. 2025-20: Requesting approval to operate a satellite keno location at the business operated by Varsity Hospitality dba "Varsity Sports Cafe" at 3504 Samson Way, Bellevue, NE and authorize the Mayor to sign. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: McCaw; abstain: none. Motion carried.

**Resolution No. 2025-21: Requesting approval to operate a satellite keno location at the business operated by Bellevue Hotel Association dba "Beardmore Event Center" at 3930 Raynor Parkway, Bellevue, NE and authorize the Mayor to sign. (City Clerk)**

**Motion** was made by Welch, seconded by Collins, to approve Resolution No. 2025-21: Requesting approval to operate a satellite keno location at the business operated by Bellevue Hotel Association dba "Beardmore Event Center" at 3930 Raynor Parkway, Bellevue, NE and authorize the Mayor to sign. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: McCaw; abstain: none. Motion carried.

**Resolution No. 2025-23: A resolution to preserve the City's flexibility in financing capital improvements. (Finance Director)**

**Motion** was made by Casey, seconded by Collin, to approve Resolution No. 2025-23: A resolution to preserve the City's flexibility in financing capital improvements. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; absent: McCaw; abstain: none. Motion carried.

## **CURRENT BUSINESS:**

**Approve and authorize the Mayor to sign the Annual Renewal Agreement with Traliant for Workplace Harassment Training Service effective 9/2/2025 to 9/1/2026, in an amount not to exceed \$5,582.00. (HR Director)**

**Motion** was made by Collins, seconded by Welch, to approve and authorize the Mayor to sign the Annual Renewal Agreement with Traliant for Workplace Harassment Training Service effective 9/2/2025 to 9/1/2026, in an amount not to exceed \$5,582.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approve Proposal from Engineered Controls to furnish and install a Building Automation System at District 1 Fire Station, in an amount not to exceed \$38,840.00. (Public Works Director)**

**Motion** was made by Welch, seconded by Collins, to approve Proposal from Engineered Controls to furnish and install a Building Automation System at District 1 Fire Station, in an amount not to exceed \$38,840.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approval of Proposal from Hughes Tree Service for the removal of dead trees at the Bellevue Cemetery, in an amount not to exceed \$11,885.00. (Public Works Director)**

**Motion** was made by Collins, seconded by Casey, to approve of Proposal from Hughes Tree Service for the removal of dead trees at the Bellevue Cemetery, in an amount not to exceed \$11,885.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approve the purchase with Cerris Systems, for two (2) heat pump replacements at 1510 Wall Street Building and one (1) heat pump to be installed at the Library, in an amount not to exceed \$33,007.00. (Public Works Director)**

**Motion** was made by Burns, seconded by Collins, to approve the purchase with Cerris Systems, for two (2) heat pump replacements at 1510 Wall Street Building, and one (1) heat pump to be installed at the Library, in an amount not to exceed \$33,007.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

# MINUTE RECORD

Bellevue City Council Meeting, September 16, 2025, Page 5

**Approve Proposal from Big Red Repair Inc. to purchase a 24-Foot Deckover Trailer for the Parks Department, in an amount not to exceed \$12,445.00. (Public Works Director)**

**Motion** was made by Burns, seconded by Preister, to approve Proposal from Big Red Repair Inc. to purchase a 24-Foot Deckover Trailer for the Parks Department, in an amount not to exceed \$12,445.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approve and authorize the Mayor to sign the (4) four Acquisition of Temporary Easement Contracts with Midwest ROW for Whitted Creek 25th St. Project, from Lynnwood to Blackhawk, for Lots 3, 4, 9, and 13, for a total amount not to exceed \$10,340.00. (Public Works Director)**

**Motion** was made by Welch, seconded by Collins, to approve and authorize the Mayor to sign the (4) four Acquisition of Temporary Easement Contracts with Midwest ROW for Whitted Creek 25th St. Project, from Lynnwood to Blackhawk, for Lots 3, 4, 9, and 13, for a total amount not to exceed \$10,340.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approve and authorize the Mayor to sign the (8) eight Acquisition of Temporary Easement Contracts with Midwest ROW for Mission Avenue Reconstruction and Streetscape for Lots 1,3, 4 & 5, 10, 11 & 12, and 32, for a total amount not to exceed \$4,030.00. (Public Works Director)**

**Motion** was made by Burns, seconded by Collins, to approve and authorize the Mayor to sign the (8) eight Acquisition of Temporary Easement Contracts with Midwest ROW for Mission Avenue Reconstruction and Streetscape for Lots 1,3, 4 & 5, 10, 11 & 12, and 32, for a total amount not to exceed \$4,030.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approve purchase of a Tire Balance Machine from Danielson Tech Supply, in an amount not to exceed \$16,558.00. (Public Works Director/Fleet Maintenance)**

**Motion** was made by Casey, seconded by Preister, to approve purchase of a Tire Balance Machine from Danielson Tech Supply, in an amount not to exceed \$16,558.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw; absent: none. Motion carried.

**Recommendation accepting the proposal from FNIC for the city's Property Casualty Insurance renewal for the fiscal year 2025/2026, with a total annual premium of \$815,980.00. (Finance Director)**

Mayor Hike noted the correct amount should be \$994,695.00. The amount on the agenda is incorrect.

**Motion** was made by Collins, seconded by Welch, to recommend approval with the correct amount on accepting the proposal from FNIC for the city's Property Casualty Insurance renewal for the fiscal year 2025/2026, with a total annual premium of \$994,695.00. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approve and authorize the Mayor to sign the Collective Bargaining Agreement with the Bellevue Professional Management Association (BPMA) for the term of October 1, 2025 through September 30, 2026. (Administration/HR Director)**

**Motion** was made by Collins, seconded by Preister, to approve and authorize the Mayor to sign the Collective Bargaining Agreement with the Bellevue Professional Management Association (BPMA) for the term of October 1, 2025 through September 30, 2026. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**Approve maintenance software update with Collective Data in an amount not to exceed \$12,849.94. (Fleet Maintenance)**

**Motion** was made by Casey, seconded by Welch, to approve maintenance software update with Collective Data in an amount not to exceed \$12,849.94. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, and Collins voted yes; voting no: none; abstain: none; absent: McCaw. Motion carried.

**ADMINISTRATION REPORTS: Comments must be limited to items on the current reports (September report will be attached to the October 7th meeting)**

**CLOSED SESSION: NONE**

# MINUTE RECORD

Bellevue City Council Meeting, September 16, 2025, Page 6

## **ADJOURNMENT**

There being no further business to come before the Council at this time, on motion by Collins, seconded by Welch, the meeting was adjourned at 6:56 p.m.

Roll call vote to approve the adjournment was as follows: Welch, Preister, Casey, Burns, and Collins yes; voting no: none; absent: McCaw. Motion carried.

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Susan Kluthe, City Clerk

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Rusty Hike, Mayor

I, the undersigned, City Clerk of the City of Bellevue, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the City Council on September 16, 2025; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agendas for at least twenty-four hours prior to said 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.

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Susan Kluthe, City Clerk

# MINUTE RECORD

Bellevue City Council Special Budget Meeting, September 23, 2025, Page 1

A special budget meeting of the Mayor and City Council of Bellevue was called to order by Council President Rich Casey at the Bellevue City Hall on the September 23, 2025 at 5:00 p.m. Present were Council Members Kathy Welch, Don Preister, Rich Casey, Thomas Burns, Julie Collins, and Jerry McCaw. Absent: Mayor Rusty Hike.

Also present were City Administrator Jim Ristow and City Attorney Aimee Bataillon.

Notice of this meeting was given in advance thereof by publication in the Sarpy County Times, on the NE Public Notices website, posted and put on city website, the designated method for giving notice and was also given to the Mayor and all members of the City Council. Available in the Office of the City Clerk confirmation of the affidavit of publication, the certificate of posting, and the council's acknowledgment of receipt of notice. All proceedings shown hereafter were taken while the convened meeting was open to the public.

## **PLEDGE OF ALLEGIANCE**

Council President Casey led in the Pledge of Allegiance.

## **OPEN MEETINGS ACT**

Council President Casey announced a copy of the Open Meetings Act is posted on the rear wall of the City Council Chambers.

## **APPROVAL OF THE AGENDA:**

**Motion** was made by Preister, seconded by Burns, to approve the agenda. Roll call vote to approve the agenda was as follows: Welch, Preister, Casey, Burns, Collins and McCaw voted yes; voting no: none; absent: none. Motion carried.

## **REQUEST APPROVAL OF THE 2026 -2031 CAPITAL IMPROVEMENT PLAN:**

**Motion** was made by Welch, seconded by Burns, approve request approving the 2026-2031 Capital Improvement Plan (CIP). Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, Collins, and McCaw voted yes; voting no: none; abstain: none; absent: none. Motion carried.

## **ORDINANCE NO. 4192: AN ORDINANCE TO APPROVE THE ANNUAL APPROPRIATIONS:**

Ordinance No. 4192: An ordinance to adopt the budget statement to be termed the Annual Appropriations Bill; to appropriate sums for necessary expenses and liabilities; and to provide for an effective date.

**Motion** was made by Collins, seconded by Welch, approve Ordinance No. 4192: An ordinance to adopt the budget statement to be termed the Annual Appropriations Bill; to appropriate sums for necessary expenses and liabilities; and to provide for an effective date. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, Collins, and McCaw voted yes; voting no: none; abstain: none; absent: none. Motion carried.

## **RESOLUTION NO. 2025-22: A RESOLUTION TO SET THE 2025-2026 PROPERTY TAX LEVY:**

**Motion** was made by McCaw, seconded by Burns, approve Resolution No. 2025-22: A resolution to set the 2025-2026 Property Tax Levy. Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, Collins, and McCaw voted yes; voting no: none; abstain: none; absent: none. Motion carried.

## **ADJOURNMENT**

There being no further business to come before the Council at this time, on motion by Burns, seconded by Welch, the meeting was adjourned at 5:08 p.m.

Roll call vote to approve the motion was as follows: Welch, Preister, Casey, Burns, Collins, and McCaw voted yes; voting no: none; absent: none. Motion carried.

# MINUTE RECORD

Bellevue City Council Special Budget Meeting, September 23, 2025, Page 2

I, the undersigned, City Clerk of the City of Bellevue, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the City Council on September 23, 2025; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agendas for at least twenty-four hours prior to said 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.

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Susan Kluthe, City Clerk

# MINUTE RECORD

Bellevue Planning Commission Meeting, September 25, 2025, Page 1

The Bellevue Planning Commission held a regular meeting on Thursday, September 25, 2025, at 6:00 p.m. in the Bellevue City Council Chambers. Upon roll call, present were Commissioners Lasenburg, Taylor-Jones, Hankins, Yoder, Ackley, and Perrin. Absent were Commissioners Aerni, Sims, and Bennett. Also present was Tammi Palm, Planning Director and Angela Curry, Assistant Planning Manager.

Notice of this meeting was given in advance thereof by publication in the Sarpy County Times and posting in two public places and was also given to the Chairperson and members prior to the meeting. These minutes were written and available for public inspection within ten days of the meeting.

Hankins announced a copy of the Open Meetings Act was posted on the rear wall on the outside of the City Council Chambers.

Motion was made by Ackley, seconded by Taylor-Jones, to approve the minutes of the August 28, 2025, regular meeting as presented. Upon roll call, Lasenburg, Lisa Taylor-Jones, Hankins, Yoder, Ackley, and Perrin, all voted yes. Motion carried.

Hankins asked if there were any updates or additions to staff reports. Palm advised there were no updates.

Motion was made by Yoder, seconded by Lasenburg, to accept into the record all staff reports, attachments, memos, and handouts regarding each application and including those received after the agenda was presented. Upon roll call, all present voted yes. Motion carried unanimously.

The following item was on consent agenda:

Item 2.a. Request to final plat Lots 1 through 7, and Outlots A and B, Quail Crossing being a replat of Lot 1, Katherine Addition. Applicant: Quail Crossing, LLC. General Location: Southwest Corner of S 48th Street and Highway 370. Case #: S-2508-17.

There was no one present to speak in favor of, or in opposition to this request.

MOTION was made by Yoder, seconded by Taylor-Jones, to APPROVE the consent agenda item as presented. All present voted yes. Motion carried unanimously.

**Item 2.a. will proceed to CITY COUNCIL for PUBLIC HEARING on October 21, 2025**

Hankins explained the public hearing procedures.

PUBLIC HEARING was held on a request to rezone Lot 1 and Outlot A, Mora Acres, being a platting of part of Tax Lots 12 and 13, located in the Southwest ¼ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, Nebraska, from AG to RA, and RG-8 for the purpose of residential development; and small subdivision plat Lot 1 and Outlot A, Mora Acres. Applicant: Orchard Valley, Inc. General Location: 1902 Lola Ave. Case #: Z-2507-07, S-2507-13.

Hankins asked staff for updates. Palm advised there was an update. She stated staff had originally recommended a continuance to obtain revisions from the applicant. Palm stated that revisions were subsequently received and that minor technical deficiencies had been resolved. She said staff therefore recommends approval based on conformance with the Zoning Ordinance, subdivision regulations, and compatibility with the existing neighborhood. Palm stated the rezoning of this small subdivision plat is intended to facilitate the applicant's larger future development by replatting two unplatted tax lots to clean up property lines.

Klancy M. Peterson, 2637 S. 158 Plz., Ste. 100, Omaha, NE, appeared on behalf of the applicant. Peterson stated that the applicant intends to request de-annexation of Outlot A (the southern portion of the lot) to incorporate it into the SID (Sanitary and Improvement District). The plat is necessary to properly define the property line prior to the de-annexation request.

Yoder inquired about access to the two lots, potential impacts, and access from Lola Avenue. Peterson explained that a temporary ingress/egress easement will be in place until the second plat is completed, at which time dedicated access will be provided. An exhibit showing access was submitted to staff. Palm added that staff requested interim access details and received the exhibit the previous day. Public Works has reviewed the exhibit and is comfortable with the plan. Palm noted that direct communication between the developer and Mora, the property owner to the north, will be required until a dedicated

# MINUTE RECORD

Bellevue Planning Commission Meeting, September 25, 2025, Page 2

right-of-way is established.

MOTION was made by Ackley, seconded by Yoder, to recommend APPROVAL of a request to rezone Lot 1 and Outlot A, Mora Acres, being a platting of part of Tax Lots 12 and 13, located in the Southwest ¼ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, Nebraska, from AG to RA, and RG-8 for the purpose of residential development; and small subdivision plat Lot 1 and Outlot A, Mora Acres. Applicant: Orchard Valley, Inc. General Location: 1902 Lola Ave. Case #: Z-2507-07, S-2507-13. APPROVAL based upon lack of perceived negative impact upon the surrounding area and compliance with the Zoning Ordinance. Upon roll call, all present voted yes. MOTION carried unanimously.

### **Item 3.a. will proceed to CITY COUNCIL for PUBLIC HEARING on October 21, 2025**

PUBLIC HEARING was held on a request to rezone Lot 6, Tiller's 4<sup>th</sup> Addition, from BG to RG-8-PS for the purpose of multi-family residential development, with site plan approval. Applicant: Ehrhart Griffin & Associates. General Location: 1724 Wilshire Dr. Case #: Z-2506-06.

Hankins asked staff for updates. Palm stated there were no updates and provided a summary. She explained the application was originally submitted in July as a multifamily development with 96 units and a parking ratio of approximately 1:1. At that time, the Planning Commission continued the item at the request of the applicant to allow the applicant to address parking concerns raised by staff. The revised site plan proposes 80 units in a four-story building with an underground garage and a parking ratio of 1.5:1. Approximately 75% of the units are one- and two-bedroom, with the remainder being three- and four-bedroom units. Palm stated this will be an affordable housing project, and City Council has previously approved a redevelopment plan with TIF (Tax Increment Financing) for the project. Based on the updated unit count and revised parking ratio, staff is comfortable with the site plan, which is in compliance with landscaping and other requirements. Palm noted that staff reviewed recent apartment complex approvals for comparison. As referenced in the staff report, a similar multifamily development, Ascend on 75 (near Childs Road and Nebraska Drive), was approved with a 1.5:1 parking ratio. That project included one-, two-, and three-bedroom units, and City Council also approved 22 on-street parking spaces to count towards the overall parking ratio. Palm further reported that all staff comments have been satisfied. The applicant conducted a traffic study in May, which was reviewed by Public Works. No improvements are required as a result of the proposed development. Staff recommends approval based on compatibility with the surrounding neighborhood, lack of perceived negative impact upon the surrounding area and conformance with the Zoning Ordinance.

Brent Beller, 11440 West Center Road, Omaha, NE, with Fullenkamp, Jobeun, Johnson & Beller, LLP, appeared on behalf of the applicant. Beller stated that Nick Goede, Terry Morrison, and Ryan Durant were also present. He explained the project began at 120 units, was reduced to 96, and ultimately lowered to 80 units in order to meet the 1.5:1 parking ratio supported in Bellevue. Beller stated this is an affordable housing development, the type of housing the Nebraska Affordable Housing Act has tasked all cities to provide. The revised plan includes 59 surface parking spaces and 61 underground garage spaces. Beller emphasized the project meets affordable housing goals in Bellevue and complies with staff requirements.

Yoder noted approximately 50 letters of opposition were received from residents of Hillcrest Freedom Village, reflecting perceived safety concerns and the potential impact of up to 400 new residents. Beller responded that occupancy will be governed by fire code limits, which would not allow for 400 residents. He also addressed concerns about playground size, noting some opposition was based on a misunderstanding of the proposal. Yoder commented if this isn't an appropriate location for affordable housing based on the proximity to schools, a grocery store, and other amenities, then he is not sure what is. Beller agreed and stated the project's proximity to amenities such as public transit, school, and groceries within two-tenths of a mile of the project is a huge draw for the developer. He explained the lot has been vacant for 25 years. The property is zoned BG (General Business), but commercial uses have not been feasible at this location. Yoder noted that BG zoning allows a wide range of permitted uses. Beller agreed and stated that higher-intensity, traffic-generating commercial uses such as 24-hour gas stations, auto services, liquor stores, or drive-thru restaurants could be located there compared to housing.

Ackley noted that opposition largely related to the earlier 96-unit proposal. He complimented the developer and city staff in working together to decrease the unit count, thereby increasing the parking ratio, which addresses the neighbors' concerns. Ackley expressed support for this project, stating it was a great infill development project and that more affordable workforce housing is a need in our community. He observed that parking concerns assumed two cars per family, which may not reflect

# MINUTE RECORD

Bellevue Planning Commission Meeting, September 25, 2025, Page 3

the reality for many families in affordable housing.

MOTION was made by Ackley, seconded by Yoder, to recommend APPROVAL of a request to rezone Lot 6, Tiller's 4<sup>th</sup> Addition, from BG to RG-8-PS for the purpose of multi-family residential development, with site plan approval. Applicant: Ehrhart Griffin & Associates. General Location: 1724 Wilshire Dr. Case #: Z-2506-06. APPROVAL based upon compatibility with the surrounding neighborhood, lack of perceived negative impact upon the surrounding area, and conformance with the Zoning Ordinance. Recommend APPROVAL to amend the future land use map to reflect the changes with this application. Upon roll call, all present voted yes. MOTION carried unanimously.

**Item 3.b. will proceed to CITY COUNCIL for PUBLIC HEARING on October 21, 2025**

Meeting adjourned at 6:24 p.m.



Jenna Lance  
Planning/Permits Technician

# MINUTE RECORD

6.  
10/7/2025

## CLAIMS FOR 2025/10/07 TO BE PD 2025/09/29

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### CITY ADMINISTRATOR

CANTEEN REFRESHMENT SERVICES	COFFEE AND SUPPLIES	363.31
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	34.52
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	3,938.16
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE307746	78.86
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	27.40
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	553.16
		<u>\$ 4,995.41</u>

### LEGAL SERVICES

EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	4,417.67
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE307746	13.92
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	4.83
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	97.62
		<u>\$ 4,534.04</u>

### CABLE ADVISORY

EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	4,425.20
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE307746	69.59
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	24.17
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	488.09
SCOTT WELCH	TO RENEW SSL CERTS FOR 3 BELLEVUE SITES	99.00
		<u>\$ 5,106.05</u>

### CITY CLERK

CAPITAL BUSINESS SYSTEMS, INC	2025/07/26-08/25 COPIER EXPENSE	131.42
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	17.26
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	2,399.19
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE307746	120.61
HILLCREST FREEDOM VILLAGE	2024/10/09 TIF 8779 INTEREST	105,874.43
IVY PROPERTIES	2025/09/22 TIF 8778 PRINCIPAL, INTEREST	27,916.86
MARATHON EQUITY	2025/06/04 TIF 8776 INTEREST	21,018.25
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	41.90
MRES ASCEND SOUTHWOODS	2024/10/09 TIF 8775 PRINCIPAL, INTEREST	141,824.78
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	846.01
ONE SOURCE	2025/08/01-09/01 BACKGROUND CHECKS	176.00
REDFIELD DIRECT, LLC	MINUTE RECORD & ORDINANCE BOOKS	1,107.17
ROYCE CORNHUSKER	2025/09/22 TIF 8793 PRINCIPAL, INTEREST	13,264.79
ROYCE CORNHUSKER #2	2025/09/22 TIF 8798 PRINCIPAL, INTEREST	5,034.06
ROYCE CORNHUSKER #3	2025/09/22 TIF 8799 INTEREST	7,620.81
TKC CHANDLER	2025/09/22 TIF 8731 INTEREST	9,507.61
		<u>\$ 336,901.15</u>

### FINANCE/RISK MANAGEMENT

AGRISOMPO NORTH AMERICA, INC	CROP INSURANCE RY 2025	5,117.00
CAPITAL BUSINESS SYSTEMS, INC	2025/08/09-09/08 PRINTER SERVICE	33.37
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	17.26
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	9,405.05
HANEY SHOE STORE	SAFETY SHOES-J PARKS	96.99
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE307746	102.06
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	35.45
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	715.86
REDFIELD DIRECT, LLC	MINUTE RECORD PAPER-1 REAM	223.52
TRISTAR CLAIMS MANAGEMENT SERVICES,	WORK COMP PRE-FUND CLAIMS	51,658.82
		<u>\$ 67,405.38</u>

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CLAIMS FOR 2025/10/07 TO BE PD 2025/09/29

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## LIBRARY

CAPITAL BUSINESS SYSTEMS, INC	2025/08/10-09/09 COPIER EXPENSE	182.59
CENTER POINT LARGE PRINT	LARGE PRINT BOOKS	121.20
CENTURY LINK	2025/09/11-10/10 MONTHLY SERVICE	144.78
COX BUSINESS SERVICES	2025/09/09-10/08 MONTHLY SERVICE	410.00
DELL MARKETING L.P.	DELL PRO 24 ALL-IN-ONE COMPUTERS (4)	4,920.00
DEMCO	HEIGHT ADJ FLIPPER DESK	417.05
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	8,726.30
INGRAM LIBRARY SERVICES LLC	BOOKS	3,633.25
MATRIX BUSINESS SYSTEMS INC	2025/07/31-08/30 COPIER EXPENSE	19.87
QUADIENT FINANCE USA, INC	2025/08/31M LIBRARY NECSHIPS	605.24
RUFF WATERS, INC	2025/08/31M AQUARIUM MAINTENANCE	502.84
VERIZON WIRELESS	2025/09/17-10/16 MONTHLY SERVICE	120.03
		<u>\$ 19,803.15</u>

## ADMINISTRATIVE SERVICES/PERSONNEL

CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	17.26
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	10,374.31
IDEAL PURE WATER COMPANY	BOTTLED WATER	37.00
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/03/28 BHE307746	78.86
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	27.40
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	553.16
PRECISE MRM LLC	2025/08/31M FLAT DATA PLAN	69.00
TRANSNET, LLC	DIGITAL RECORDER S#423A01950	945.00
		<u>\$ 12,101.99</u>

## CODE ENFORCEMENT

AUTO BODY AUTHORITY	BODY WORK UNIT CE4 - FINAL BILL	888.00
CAPITAL BUSINESS SYSTEMS, INC	2025/07/10-08/09 COPIER EXPENSE	193.46
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	17.26
CROW LAWN CARE LLC	2025/09/04 MOWING	3,800.00
CROW LAWN CARE LLC	2025/08/07 MOWING	9,050.00
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	9,228.70
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE195089	1.12
HRUBSKY LYNNE	REFUND FOR CODE HEARING	35.00
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	15.68
MOTOROLA SOLUTIONS, INC	SINGLE UNIT DESKTOP CHARGERS	290.00
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	195.84
PAPILLION SANITATION	2025/07/15 CODE CLEANUP	677.59
PAPILLION SANITATION	2025/08/12 CODE CLEANUP	562.79
		<u>\$ 24,955.44</u>

## PUBLIC WORKS

ALFRED BENESCH & COMPANY	BPW-250118 MS4 PERMITTING SERVICES	2,238.34
	2025/06/30-09/14	
ALFRED BENESCH & COMPANY	BPW-240122 GOOGLE INSTALLATION	2,922.30
	2025/08/25-09/14	
AUTODESK, INC	2025/08/23-2026/08/22 CIVIL 3D	8,610.00
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	34.52
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	5,658.60
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE195089	1.88
JEO CONSULTING GROUP, INC	BPW-250113 PCSMP REVIEWS FY 2025 THRU	3,093.75
	2025/08/29	
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	26.34
NEBRASKA IOWA SUPPLY COMPANY, INC	DIESEL FOR CITY TANKS	5,049.17
OLSSON ASSOCIATES	BPW-240802 WATERPARK CITY INFRASTRUCTURE	24,585.25
	THRU 2025/09/13	
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	328.88
PRECISE MRM LLC	2025/08/31M FLAT DATA PLAN	92.00
SARPY COUNTY & CITIES WASTEWATER	CONNECTION FEES FOR ENTERTAINMENT	374,804.56
TOTAL TOOL SUPPLY, INC	FLUO PINK MARKING PAINT	142.80
		<u>\$ 427,588.39</u>

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## PARKS

AMERICAN DISC GOLF DESIGN AND INSTALLATION	DISC GOLF COURSE RENOVATION, INSTALL BENCHES , INSTALL BENCHES-SUN VALLEY	21,000.00
A-RELIEF SERVICES	2025/08/12-09/08 PORTABLE RESTROOMS-BELLEVUE HEROES PARK	405.00
A-RELIEF SERVICES	2025/08/09-09/05 PORTABLE RESTROOMS-CHURCH	199.00
A-RELIEF SERVICES	2025/08/05-09/01 PORTABLE RESTROOMS-AHP	938.00
A-RELIEF SERVICES	2025/08/17-09/13 PORTABLE RESTROOMS-SWANSON PARK	199.00
BIG A DEMO & EXCAVATING	BPW-250106 ASPEN POOL DEMOLITION	65,800.00
BIG RIG TRUCK ACCESSORIES	2025/08/02-09/09	
CENTURY LINK	24FT DECKOVER TRAILER S#2679832	12,455.00
CREATIVE SITES, LLC	2025/08/22-09/21 MONTHLY SERVICE	17.26
CROW LAWN CARE LLC	SIX (6) BACKLESS BENCHES	3,900.00
DANIELSON / TECH SUPPLY	MOWING	4,071.60
DANIELSON / TECH SUPPLY	GOLDENROD - NEW ROTARY 2 POST ABOVE GROUND TURF LIFT	14,127.54
DISCOUNT PLAYGROUND SUPPLY	ROTARY FULL SIZE SHIM KIT, SHIPPING	501.73
DURABLE FLAGS, LLC	IRON SWING HANGERS WITH CLEVIS	107.37
EMPLOYEE BENEFITS SYSTEM	INSTALL NEW FLAGPOLE-WASHINGTON PARK	15,489.00
EXCEL GROUNDS MANAGEMENT	2025/09/30 HEALTH INSURANCE	8,007.37
HEARTLAND NATURAL GAS LLC	FALL LANDSCAPE CLEANUP-CITY PARKS	3,000.00
HGM ASSOCIATES INC	2025/07/30-2025/08/28 BHE697770	0.42
HGM ASSOCIATES INC	BPW-250108 EVERETT PARK PICKLEBALL/ PARKING THRU 2025/08/31	64.41
HGM ASSOCIATES INC	BPW-250108 EVERETT PARK PICKLEBALL/ PARKING THRU 2025/08/31	538.71
HUGHES TREE SERVICE	TREE REMOVAL-1404 BRYAN AVE, BEHIND 1306 BRYAN AVE	3,700.00
HUGHES TREE SERVICE	TWIN RIDGE PARK COTTONWOOD REMOVAL OVER TORNADO SLIDE	2,600.00
HUGHES TREE SERVICE	TWIN RIDGE PARK (11) COTTONWOOD REMOVAL ALONG WALKING PATH	5,000.00
J & J SMALL ENGINE SERVICE	BLOWER, TRIMMERS	800.75
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	272.21
METROPOLITAN UTILITIES DIST	2025/08/06-09/08 MONTHLY SERVICE	746.52
METROPOLITAN UTILITIES DIST	2025/08/07-09/05 MONTHLY SERVICE	63.27
METROPOLITAN UTILITIES DIST	2025/08/07-09/09 MONTHLY SERVICE	50.00
PRECISE MRM LLC	2025/08/31M FLAT DATA PLAN	299.00
PRIDE HOME MAINTENANCE SERVICES,	AHP - ADDITIONAL MAIN LINE REPAIR	1,772.00
SITEONE LANDSCAPE SUPPLY	HERBICIDE, FERTILIZER, INSECTICIDE	44,876.80
TENNIS COURTS UNLIMITED	PICKLEBALL CENTER STRAPS	165.00
		<b>\$ 211,166.96</b>

## RECREATION

B&D DIAMOND PRO	BAGS OF MARKING DUST, SHIPPING	425.00
BELLEVUE VACUUMS	UPRIGHT VACUUM WITH ATTACHMENTS	379.95
CAPITAL BUSINESS SYSTEMS, INC	2025/08/11-09/10 COPIER EXPENSE	34.64
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	103.56
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	5,290.54
METROPOLITAN UTILITIES DIST	2025/08/15-09/11 MONTHLY SERVICE	862.98
METROPOLITAN UTILITIES DIST	2025/08/05-09/04 MONTHLY SERVICE	11.68
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	2,697.53
METROPOLITAN UTILITIES DIST	2025/08/07-09/05 MONTHLY SERVICE	14,894.01
PRECISE MRM LLC	2025/08/31M FLAT DATA PLAN	92.00
		<b>\$ 24,791.89</b>

## FACILITY MAINTENANCE

CARPENTER PAPER CO	JANITORIAL SUPPLIES	89.90
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	51.78
CERRIS SYSTEMS NORTH CENTRAL, INC	A/C REPAIRS - MULTIPLE HP DOWN, ERV REPAIR	9,238.25
SARPY COUNTY TREASURER	VEHICLE REGISTRATION	15.00

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## FACILITY MAINTENANCE (cont'd)

EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	13,567.29
FIRE PROTECTION SERVICES, LLC	ANNUAL FIRE ALARM, FIRE EXTINGUISHER INSPECTION-DIST 2	1,991.75
GEARHART CONSTRUCTION & PLUMBING	REPAIR SEWER-WASHINGTON PARK	4,100.00
GEARHART CONSTRUCTION & PLUMBING	REPLACE PRESSURE VALVE-EVERETT SPLASH PAD	5,190.00
GEARHART CONSTRUCTION & PLUMBING	CLEAR BLOCKAGE IN TOILET-LOOKINGGLASS	260.00
HD SUPPLY formerly Home Depot Pro	JANITORIAL SUPPLIES	1,432.92
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE173904	4.21
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE387012	26.10
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE537731	0.84
HGM ASSOCIATES INC	BPW-250201 LIBRARY PARKING LOT REPAIR THRU 2025/07/31	1,170.00
HGM ASSOCIATES INC	BPW-250201 BELLEVUE PARKING LOT REPAIR THRU 2025/09/15	8,316.29
HGM ASSOCIATES INC	BPW-250201 BELLEVUE PARKING LOT REPAIR THRU 2025/09/15	3,295.58
INTERSTATE POWER SYSTEMS	GENERATOR MAINTENANCE	694.96
JACKSON SERVICES, INC	DOOR MAT SERVICE-CITY BUILDINGS	158.41
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	279.10
METROPOLITAN UTILITIES DIST	2025/08/08-09/04 MONTHLY SERVICE	50.00
PRECISE MRM LLC	2025/08/31 M FLAT DATA PLAN	161.00
TITANIUM FIRE SPRINKLER COMPANY	INTERNAL PIPE INSPECTION-DIST 4, TRNG SITE	900.00
TRICO MECHANICAL SERVICES	INSTALL MINI-SPLIT SYSTEM-TOWER SITE	6,588.00
		<b>\$ 57,581.38</b>

## CEMETERY

A-RELIEF SERVICES	2025/08/09-09/05 PORTABLE RESTROOMS	199.00
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	13.72
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	3,065.29
GEARHART CONSTRUCTION & PLUMBING	INSTALL PLUMBING FOR ADA BATHROOM	6,500.00
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	119.51
		<b>\$ 9,897.52</b>

## STREETS

HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE231905	0.84
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE642709	2.11
SARPY COUNTY TREASURER	VEHICLE REGISTRATIONS	48.00
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	202.65
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	141.01
METROPOLITAN UTILITIES DIST	2025/08/05-09/04 MONTHLY SERVICE	11.68
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	360.61
METROPOLITAN UTILITIES DIST	2025/08/07-09/05 MONTHLY SERVICE	272.57
METROPOLITAN UTILITIES DIST	2025/08/12-09/09 MONTHLY SERVICE	54.67
OMAHA PUBLIC POWER DISTRICT	2025/07/21-08/19 MONTHLY SERVICE	423.24
OMAHA PUBLIC POWER DISTRICT	2025/07/23-08/21 MONTHLY SERVICE	33.33
OMAHA PUBLIC POWER DISTRICT	2025/07/29-08/28 MONTHLY SERVICE	100,723.85
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	43,520.52
ALFRED BENESCH & COMPANY	BPW-250104 CITY OVERLAY PROJECTS 2025/08/25-09/14	25,517.50
ALFRED BENESCH & COMPANY	BPW-220813 STREETSCAPING MISSION AVE 2025/05/05-09/14	74,791.02
ALFRED BENESCH & COMPANY	BPW-250103 CDBG SIDEWALK IMPROVEMENTS 2025/08/25-09/14	1,899.00
ALFRED BENESCH & COMPANY	BPW-240101 MAJOR STREET RESURFACING 2025/08/25-09/14	5,788.86
BUDGET AT BELLEVUE MINI, LLC	BPW 240604 TEMP EASEMENT FT CROOK & CARY ST BOX CULVERT	2,150.00
BURRELL ENTERPRISES, LLC	BPW-250102 CONCRETE PROJECT THRU	128,272.99
BURRELL ENTERPRISES, LLC	BPW-250102 CONCRETE PROJECT THRU	61,295.98
CAPITAL BUSINESS SYSTEMS, INC	2025/08/12-09/11 COPIER EXPENSE	30.54
CHARLENE A TOMPKINS	BPW 240124 TEMP EASEMENT -WHITTED CREEK - ACQUISITIONS	3,410.00
CONCRETE INDUSTRIES, INC	101 CONCRETE BARRIERS	131,300.00
CONCRETE SUPPLY, INC	CONCRETE	25,033.00

# MINUTE RECORD

**CLAIMS FOR 2025/10/07 TO BE PD 2025/09/29**

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**STREETS (cont'd)**

CROW LAWN CARE LLC	2025/07/25-08/13 ROW MOWING - CYCLE 7	10,982.88
CROW LAWN CARE LLC	2025/08/14-09/02 ROW MOWING - CYCLE 8	10,982.88
CROW LAWN CARE LLC	2025/09/03-09/22 ROW MOWING - CYCLE 9	10,982.88
DANIEL BOTSFORD	BPW 240109 TEMP EASEMENT-MISSION AVE-ACQUISITION	460.00
DREFS TREE SERVICE	CUT DOWN MAPLE TREE-101 KIRBY AVE	450.00
DREFS TREE SERVICE	CUT DOWN TREES-MULTIPLE ADDRESSES	19,750.00
FIRE PROTECTION SERVICES, LLC	NEW EXTINGUISHERS-STREET SHOPS	1,120.00
FRATERNAL ORDER OF EAGLES	BPW 240109 TEMP EASEMENT ROW-MISSION AVE	1,190.00
HELENA AGRI-ENTERPRISES LLC	CHEMICALS FOR STUMP KILLER	141.25
HGM ASSOCIATES INC	BPW-240604 CULVERT WINGWALL REPAIR THRU 2025/08/31	1,046.60
JENNIFER JOLLEY	BPW 240124 TEMP EASEMENT ROW -WHITTED CREEK -ACQUISITION	2,010.00
JEO CONSULTING GROUP, INC	BPW-250120 INDUSTRIAL RD DRAINAGE IMP THRU 2025/09/19	10,783.75
JOEL ADAMS	BPW-240124 TEMP EASEMENT ROW-WHITTED CREEK -ACQUISITIONS	2,310.00
LAWRENCE F CHANDLER III	BPW 240109 TEMP EASEMENT ROW -MISSION AVE ACQUISITIONS	680.00
LOGAN CONTRACTORS SUPPLY	CRAFCO SEALANT 45,000 @ 0.48	43,200.00
LOGAN CONTRACTORS SUPPLY	CAUTION TAPE, EC BENT, PAINT	1,658.34
LUMAX PROPERTIES LLC	BPW 240109 TEMP EASEMENT ROW-MISSION AVE -ACQUISITION	880.00
MAPE LLC	BPW 240109 TEMP EASEMENT ROW-MISSION AVE ACQUISITION	480.00
MARTIN ASPHALT	BULK ASPHALT TACK	528.00
MATTHEW J BENSHOOF	BPW240124 TEMP CONSTRUCTION EASEMENT MIDWEST ROW WHITTED CRK	910.00
MIDWEST RIGHT OF WAY SERVICES, INC	BPW-240121 COLLEGE HTS DRAINAGE 2025/08/02-08/29	285.90
MIDWEST RIGHT OF WAY SERVICES, INC	BPW-240121 COLLEGE HTS DRAINAGE 2025/08/02-08/29	451.60
MIDWEST RIGHT OF WAY SERVICES, INC	BPW-240124 WHITTED CREEK 2025/08/02-MATERIAL SCREENER, SIFTER	17,093.40
MULTITEK NORTH AMERICA, LLC	WASHERS, LOCK NUTS, BOLTS-SIGNS & SIGNAL	107,310.00
NEBRASKA IOWA INDUSTRIAL FASTENERS,	BPW-250103 CDBG SIDEWALK IMPROVEMENTS	1,154.77
NL & L CONCRETE INC	BPW-250102 CONCRETE PROJECT 2025/07/27-09/13	44,380.48
NL & L CONCRETE INC	BPW-250104 CITY OVERLAY PROJECTS 2025/08/24-09/18	144,944.49
OMNI ENGINEERING	2025/08/31M FLAT DATA PLAN CONCRETE	439,528.17
PRECISE MRM LLC	ECS-400 CRACK SEALER #EC-1116	1,196.00
READY MIXED CONCRETE COMPANY	BPW 240124 TEMP EASEMENT-WHITTED CREEK -ACQUISTION	46,911.25
ROAD BUILDERS MACHINERY & SUPPLY CO	GEO-MELT 55	81,500.00
SANG IL YI	BPW-250701 HWY 370 SIGNAL IMPLEMENTATION 2025/08/07-08/31	2,610.00
SMITH FERTILIZER & GRAIN CO, INC	BPW-240109 MISSION AVE IMPROVEMENTS 2025/08/14-08/31	16,663.96
THE SCHEMMER ASSOCIATES		3,895.60
VALLEY CORPORATION		167,913.01
		<b>\$1,801,669.18</b>

**FLEET MAINTENANCE**

HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE262116	3.37
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	51.78
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	130.41
911 CUSTOM, LLC	ARROW STICK BAR-PO123	1,424.85
911 CUSTOM, LLC	EQUIPMENT TRAY & PARTITION-PO804	1,610.75
ALLIED OIL & TIRE COMPANY	DRY DIESEL, SYN 5W30-RESTOCK	1,608.85
ARNOLD MOTOR SUPPLY	CHRYSLER PUSH-TYPE RETAINER, FILLER HOSE,	154.10
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	24,736.50
ARROW TOWING	TOW CHARGES-PO628, ST359	475.00

# MINUTE RECORD

CLAIMS FOR 2025/10/07 TO BE PD 2025/09/29

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## FLEET MAINTENANCE (cont'd)

AUTOMOTIVE WAREHOUSE DIST, INC	HYDRAULIC FITTINGS, BRAKELINE COUPLINGS, CONNECTORS, CIRCUIT BREAKERS, BLADES	99.24
BAUER BUILT TIRE & SERVICE	BALANCE FRONT TIRES-ST230, GUARD TIRES	218.85
BAXTER FORD	SHIELD, SCREWS, TENSIONERS, PUMP ASSY, TRANS FLUID, BRACKETS, COOLANT HOSE, WIPER BLADES, FASTENERS	2,253.95
CAPITAL BUSINESS SYSTEMS, INC	2025/07/20-08/19 COPIER EXPENSE	27.50
COLLECTIVE DATA, INC	2025/10/17-2026/04/17 SOFTWARE LICENSE	12,849.94
CORNHUSKER INTERNATIONAL TRUCKS	AIR FILTERS, VALVE	(525.34)
CUMMINS SALES AND SERVICE	EGR COOLER & CLAMPS-TRUCK21, FUEL LINE	1,976.63
DANIELSON / TECH SUPPLY	TIRE BALANCE MACHINE	16,558.80
EDWARDS CHEVROLET-CADILLAC	BLADE-CE3	302.64
FACTORY MOTOR PARTS CO	OIL FILTERS, WIRE ASSY, CAMSHAFT	150.05
HOSE & HANDLING, INC	SOFT FUEL HOSE-ENG41	59.10
INDOFF, INC	OFFICE SUPPLIES	316.45
LOGAN CONTRACTORS SUPPLY	AIRTUBES, VARIOUS PARTS FOR STOCK	1,226.91
MEYER LABORATORY INC	HAND SOAP FOR SHOP	218.00
MGX EQUIPMENT SERVICES, LLC	CRANE REMOTE BATTERY, SERVICE WORK	1,054.00
MICHAEL TODD INDUSTRIAL SUPPLY	THIN HEAD BOLT FOR SALTD OG-ST FLEET	43.87
MILLARD METAL SERVICES	CARBON STEEL PLATE, STEEL TUBING	555.00
NAPA AUTO PARTS	AIR/OIL/TRANS FILTERS, OIL, COOLANT, DRILL	968.05
NEBRASKA IOWA INDUSTRIAL FASTENERS, INC	SAW BLADES, BATTERY STUD TOP NUTS, RIVET INSERT TOOL, WASHERS	696.70
QUALITY TIRE, INC	CARLSTAR ALL TRAIL II TIRE	150.00
SUPERIOR SIGNALS	WEDGE BUSHING	28.50
SUSPENSION SHOP, INC	U BOLT-ST149	48.00
TY'S OUTDOOR POWER & SERVICE	TUBE PLUGS, CARBURATOR, TORSION SPRING KIT, CASTER YOKE	287.35
WALKERS UNIFORM RENTAL	UNIFORM RENTAL SERVICE, FENDR COVERS	570.75
WOODHOUSE PLATTSMOUTH	BOLTS-P0803	25.50
		<b>\$ 70,356.05</b>

## SOLID WASTE

NE-DEPARTMENT OF REVENUE	FORM 94-WASTE REDUCTION & RECYCLING FEE RETURN 2025	25.00
PAPILLION SANITATION	2025/08/19-08/26 GLASS RECYCLING	425.28
PAPILLION SANITATION	2025/07/29-08/12 GLASS RECYCLING	643.43
		<b>\$ 1,093.71</b>

## PLANNING

CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	17.26
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	2,212.60
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE195089	1.70
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	23.82
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	297.48
		<b>\$ 2,552.86</b>

## PERMITS & INSPECTIONS

CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	17.26
DAVID FANNON	ASBESTOS TESTING AND REMOVAL FOR 1110 FORT CROOK RD S	700.00
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	12,962.50
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE195089	2.27
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	31.83
OMAHA PUBLIC POWER DISTRICT	2025/07/30-09/11 MONTHLY SERVICE	397.47
		<b>\$ 14,111.33</b>

# MINUTE RECORD

**CLAIMS FOR 2025/10/07 TO BE PD 2025/09/29**

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**POLICE**

911 CUSTOM, LLC	40MM RELOAD PRESS, INSERTS	844.11
ANDREW JASHINSKE	REIMB PER DIEM FOR TRAINING	170.00
AT&T MOBILITY	2025/07/22-08/21 MONTHLY SERVICE	698.18
AT&T MOBILITY-CC	2025/08/05-09/04 MONTHLY SERVICE	3,119.50
AUTO BODY AUTHORITY	TOW CHARGES	225.00
BELLEVUE CHAMBER OF COMMERCE AND COMMUNITY	CAREER FAIR & BUSINESS EXPO	150.00
BENEFIT PLANS		
CENTURY LINK	2025/09/30M POLICE PENSION PLAN-MD, JG, MG	8,817.56
COREY BROWN	2025/08/22-09/21 MONTHLY SERVICE	138.06
COUNCIL HITCH SERVICE	REIMB PER DIEM & INCIDENTALS FOR TRAINING	578.93
COX BUSINESS SERVICES	CLASS III HITCH, CONNECTOR-UNIT 123	556.00
CREIGHTON UNIVERSITY COLLEGE OF	2025/09/02-10/01 MONTHLY SERVICE	285.00
DAVID SWACKHAMMER	BLS CARDS	10.50
DILLON BROTHERS H-D BUELL	REIMB PER DIEM FOR TRAINING	374.00
DOUGLAS COUNTY SHERIFF OFFICE	2025/09/01-2026/08/31 (6) MOTORCYCLE	20,160.00
DRY CREEK ARSENAL, LLC	FORENSIC FEES	220.00
EMPLOYEE BENEFITS SYSTEM	HEAVY FLOW SUPPRESSOR COVERS	2,984.14
FEDERAL EXPRESS CORPORATION	2025/09/30 HEALTH INSURANCE	177,981.94
GOVDIRECT, INC	MAILING CHARGES	97.52
GREAT PLAINS UNIFORMS	DOCKING STATIONS (7), ADAPTER (7)	6,639.08
HARRIS DECALS INC	UNIFORM ITEMS-POHEVITZ, PETTIT, SHAPIRO	342.99
HEARTLAND NATURAL GAS LLC	VINYL DECALS-UNIT 620	640.44
HYUNDAI MOTOR FINANCE	2025/07/30-2025/08/28 BHE195089	40.18
JACKSON SERVICES, INC	2025/09/30M LEASE PMT - HIDTA-DEA-SIMONES	720.01
JOE MILOS	DOOR MAT SERVICE	175.70
JOHN HANCOCK PENSIONS	REIMB PER DIEM FOR TRAINING	170.00
JOSHUA MARRS	POLICE DEFINED PENSION-CITY SHARE	441,582.19
KIESLER POLICE SUPPLY & AMMO	REIMB PER DIEM & INCIDENTALS FOR TRAINING	403.15
MACQUEEN EQUIPMENT, LLC	LESS LETHAL PROJECTILE, INSERT POWDER	1,252.50
MATCON, LLC	STRONGARM BATTERY, SHIPPING	911.80
METROPOLITAN UTILITIES DIST	2025/10/31M RENT, MAINTENANCE FOR K9	1,841.87
OMAHA PUBLIC POWER DISTRICT	2025/08/06-09/04 MONTHLY SERVICE	564.07
PEN-LINK	2025/07/30-09/11 MONTHLY SERVICE	7,043.75
PEPPERBALL	2025/10/31-2026/10/30 PLX SOFTWARE AND	7,618.87
SHARP IMAGE INC	BLAST INERT FREILL SINGLE PACK	138.00
TECHSMITH CORPORATION	WINDOW TINTING-BRONCO	135.00
THOMSON REUTERS - WEST	2025/09/16-2026/09/17 BUSINESS LICENSE	594.00
TRISTAR	2025/08/31M ONLINE SOFTWARE SUBSCRIPTION	496.00
TRI-TECH FORENSICS, INC	2025/08/31M RE-OPEN CLAIMS	1,570.00
UNIVERSITY OF NEBRASKA MEDICAL	TAC MED BAGS AND SUPPLIES	780.59
VERIZON WIRELESS	TOXICOLOGY TESTS	3,731.00
ZOMBIE TACTICAL	2025/08/24-09/23 MONTHLY SERVICE	491.45
	BLUE CANS SUPPRESSOR	2,040.00
		<b>\$ 697,333.08</b>

**FIRE & RESCUE**

AIR CLEANING TECHNOLOGIES, INC	HOSE FOR VEHICLE EXHAUST, INSTALL	1,659.40
AIRGAS USA, LLC	2025/08/31M CYLINDER RENTAL, OXYGEN	401.02
AUTO BODY AUTHORITY	TOW-MED21	195.00
BELLEVUE PRINTING COMPANY	BUSINESS CARDS-NAWROCKI	30.00
BOUND TREE MEDICAL, LLC	MEDICAL SUPPLIES, RESCUE EQUIPMENT	7,863.72
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	103.56
COX BUSINESS SERVICES	2025/09/30M MONTHLY SERVICE	115.00
CREIGHTON UNIVERSITY COLLEGE OF	BLS CARDS	139.75
DANKO EMERGENCY EQUIPMENT	BOOTS-STRACHOTA	437.07
DANKO EMERGENCY EQUIPMENT	RESCUE EQUIPMENT	28,713.37
DINGMAN'S COLLISION CENTER	VEHICLE REPAIRS-CITIZEN VEHICLE	2,900.62
ED M FELD EQUIPMENT CO	REPLACEMENT HOSE	9,975.04
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	137,576.62

# MINUTE RECORD

CLAIMS FOR 2025/10/07 TO BE PD 2025/09/29

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## FIRE & RESCUE (cont'd)

GREAT PLAINS UNIFORMS	UNIFORM ITEMS (7 EMP)	1,794.27
HARRIS DECALS INC	LETTER REMOVAL FOR TECH RESCUE TRAILERS	1,176.00
HEARTLAND NATURAL GAS LLC	2025/07/30-2025/08/28 BHE235679	14.73
INTERSTATE POWER SYSTEMS	GENERATOR MAINTENANCE-ALL DISTRICTS	7,601.04
JEFFREY DAY	REIMB NATIONAL REGISTRY FOR EMT TEST	175.00
KAREN GALVIN	REFUND FOR SERVICES	196.26
KEVIN ARTHURS	REFUND FOR SERVICES	89.80
MACQUEEN EQUIPMENT, LLC	COAT & PANT REPAIR	408.00
MARCO TECHNOLOGIES, LLC	2025/08/02-09/01 COPIER EXPENSE	154.21
METROPOLITAN COMMUNITY COLLEGE	(6) INSTRUCTOR 1 CERTIFICATIONS-FIRE	1,800.00
METROPOLITAN UTILITIES DIST	2025/08/08-09/05 MONTHLY SERVICE	50.00
METROPOLITAN UTILITIES DIST	2025/08/06-09/04 MONTHLY SERVICE	345.03
METROPOLITAN UTILITIES DIST	2025/08/07-09/04 MONTHLY SERVICE	47.44
METROPOLITAN UTILITIES DIST	2025/08/07-09/05 MONTHLY SERVICE	1,246.56
METROPOLITAN UTILITIES DIST	2025/08/08-09/05 MONTHLY SERVICE	368.69
METROPOLITAN UTILITIES DIST	2025/08/09-09/08 MONTHLY SERVICE	144.04
METROPOLITAN UTILITIES DIST	2025/08/12-09/09 MONTHLY SERVICE	268.53
MOTOROLA SOLUTIONS, INC	(17) IMPRES 2 BATTERIES, (15) REMOTE SPEAKERS, (11) SINGLE CHARGERS, (2) MULTIPLE REFUND FOR SERVICES	15,181.00
NANCY MURPHY		457.56
PCS MOBILE	(4) GAMBER JOHNSON VEHICLE DOCKS FOR GETACS, (4) ANTENNAS, (4) PROCESSORS, PLASTIC HATS FOR FIRE PREVENTION	21,201.96
PODZLY, INC	BOOTS-A PINEDA	288.00
REDBACK USA		178.10
STERICYCLE, INC	2025/08/31M ON-SITE SHREDDING	144.00
STRYKER SALES CORPORATION	LIKEPAK MONITOR & ACCESSORIES	43,347.27
WITMER PUBLIC SAFETY GROUP	BOAT HELMETS & PADDLES	223.20
ZOLL DATA SYSTEMS INC	2025/09/30M ZOLL BILLING	1,654.80
		<u>\$ 288,665.66</u>

## NON-DEPARTMENTAL/CONTRACTS

AMERICAN NATIONAL BANK	2025/08/31M ACCT 1000 ANALYSIS CHG	418.34
CENTURY LINK	2025/08/04-09/03 MONTHLY SERVICE	285.44
CHUBB COMMERCIAL INSURANCE	2025/10/01 CRIME POLICY	1,826.00
FORVIS MAZARS LLP	2025/04/30 MAINTENANCE OF CAPITAL ASSETS	2,105.00
FOUNDERS SERIES OF LOCKTON CO, LLC	2025/09/30M WELLNESS CONSULTING FEE	1,875.00
GREAT PLAINS COMMUNICATIONS LLC	2025/09/30M MONTHLY SERVICE	425.42
ABBY HIGHLAND	2025/08/31M CDBG CONSULTANT EXPENSES	1,787.50
HEARTLAND MARKETING & COMMUNICATIONS, INC	2025/07/28-08/31 SOCIAL MEDIA MANAGEMENT	2,713.78
NE-DEPARTMENT OF REVENUE	2025/08/31M SALES AND USE TAX	461.31
PM AM CORPORATION	2025/08/31M - ALARM FEES	2,110.00
		<u>\$ 14,007.79</u>

## INFORMATION TECHNOLOGY

MNJ TECHNOLOGIES DIRECT, INC	ADMIN BY REQUEST WORKSTATION FOR IT	4,015.00
MOTOROLA SOLUTIONS, INC	DESKTOP MULTI UNIT CHARGER, MOBILE RDIO MGT, EARPIECES	2,212.01
PCS MOBILE	(2) INTEL CORE PROCESSORS FOR IT	8,827.74
SARPY COUNTY FISCAL ADMINISTRATION	2025/10/01-2029/09/30 GIS BILLING, AERIAL PHOTO, ARGIS SHARE	79,925.00
SENTINEL TECHNOLOGIES, INC	2025/08/31M FORTIS MONTHLY SERVICE & CRIMPS & CONNECTORS-COMMUNICATION	5,414.77
TESSCO		488.26
		<u>\$ 100,882.78</u>

## BELLEVUE BAY INDOOR WATERPARK

WHITewater WEST INDUSTRIES, LTD	FINAL DEPOSIT-ENGINEERING DESIGN	75,000.00
		<u>\$ 75,000.00</u>

# MINUTE RECORD

**CLAIMS FOR 2025/10/07 TO BE PD 2025/09/29**

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**WASTEWATER-ADMINISTRATION**

AMERICAN NATIONAL BANK	2025/08/31M ACCT 1034 ANALYSIS CHG	47.08
AT&T MOBILITY	2025/09/08-10/07 MONTHLY SERVICE	655.48
CENTURY LINK	2025/09/13-10/12 MONTHLY SERVICE	225.54
CENTURY LINK	2025/08/22-09/21 MONTHLY SERVICE	120.82
CENTURY LINK	2025/09/04-10/03 MONTHLY SERVICE	65.18
COX BUSINESS SERVICES	2025/09/12-10/11 MONTHLY SERVICE	208.00
COX BUSINESS SERVICES	2025/09/04-10/03 MONTHLY SERVICE	220.00
EMPLOYEE BENEFITS SYSTEM	2025/09/30 HEALTH INSURANCE	17,268.72
METROPOLITAN UTILITIES DIST	2025/08/07-09/05 MONTHLY SERVICE	231.63
		<u>\$ 19,042.45</u>

**WASTEWATER-LIFT STATION MAINTENANCE**

HDR ENGINEERING, INC	BPW-181013 QUAIL LIFT STATION 2024/06/30-2025/08/23	569.60
		<u>\$ 569.60</u>

**WASTEWATER-SEWER MAINTENANCE**

ARMOR EQUIPMENT	GEAR WHEEL, DRIVE UNIT, TORQUE WRENCH, O-RINGS, FLOW INDICATORS	1,481.44
NORTHERN TOOL & EQUIPMENT CATALOG	HONDA 2200W INVERTER GENERATOR	1,132.17
UTILITY EQUIPMENT COMPANY	COUPLINGS W/SHEAR RINGS, BLADES	839.90
		<u>\$ 3,453.51</u>

**COMMUNITY DEVELOPMENT**

ABBY HIGHLAND	2025/08/31MCDBG CONSULTANT	3,368.75
ALL SEASONS FOUNDATION	ALL SEASON ASSISTANCE FOR VULNERABLE PROFESSIONAL SERVICES -CDBG DR RESILIENCE THRU 2025/08/31	1,605.25
RDG PLANNING & DESIGN, INC		25,899.92
		<u>\$ 30,873.92</u>

**TOTAL CLAIMS FOR 2025/10/07 PD 2025/09/29**

\$4,326,440.67

**TOTAL PAYROLL FOR 2025/09/12**

\$1,871,016.60



9b.  
9/23/2025

City of Bellevue  
Office of the City Administrator  
1500 Wall Street • Bellevue, Nebraska 68005 • (402) 292-3023

### TOPIC FOR CONSIDERATION FOR CITY COUNCIL AGENDA

If you have a specific topic that you would like the City Council to consider at a future meeting, please list your name and contact information and the topic. The matter will be reviewed and forwarded to the city staff for appropriate action or scheduled for a future meeting of the City Council, as may be necessary. You will be notified of any staff recommendation or action take on your request or when the matter will be presented to the City Council for consideration.

Name: Charles SHANAHAN

Address: 2520 OLIVE ST

Telephone Number: 402 812 5248 Email Address: CHUCKSTIR61@GMAIL.COM

Date Submitted: 9-2-2025 Date of Requested City Council Meeting: SEPT 16 2025

Description of Requested Topic:

DISCUSS my GARAGE PERMIT 2520 OLIVE ST

For Office Use Only:

Date of City Council Meeting: 9/16/25

Applicant Contacted: \_\_\_\_\_

RECEIVED  
SEP 02 2025  
CITY CLERK

9a  
10/7/2025



City of Bellevue  
Office of the City Administrator  
1500 Wall Street • Bellevue, Nebraska 68005 • (402) 292-3023

### TOPIC FOR CONSIDERATION FOR CITY COUNCIL AGENDA

If you have a specific topic that you would like the City Council to consider at a future meeting, please list your name and contact information and the topic. The matter will be reviewed and forwarded to the city staff for appropriate action or scheduled for a future meeting of the City Council, as may be necessary. You will be notified of any staff recommendation or action take on your request or when the matter will be presented to the City Council for consideration.

Name: Charles SHARAHAN

Address: 2520 OLIVE ST

Telephone Number: 402 8125248 Email Address: CHUCK STIRBLA@gmail.com

Date Submitted: 9-2-2025 Date of Requested City Council Meeting: SEPT 16 2025

Description of Requested Topic:

DISCUSS my GARAGE PERMIT 2520 OLIVE ST

For Office Use Only:

Date of City Council Meeting: 10/7/25  
9/6/25

Applicant Contacted: \_\_\_\_\_

*ok*  
*ok*  
*ju*

RECEIVED  
SEP 02 2025  
CITY CLERK

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

10a.  
10/7/2025

COUNCIL MEETING DATE: 10/7/2025		SUBMITTED BY: City Clerk	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Amendment application for Tausha Allen Cosimo as manager for QuikTrip 586 located at 1311 Fort Crook Road North Bellevue, NE 68005.

SYNOPSIS/BACKGROUND:

Amendment application for a new manager for Tausha Allen Cosimo as manager for Quik Trip 586 located at 1311 Fort Crook Road North Bellevue, NE 68005. Applications are turned directly into the Nebraska Liquor Control Commission (NLCC) by the applicant. The NLCC forwards to application to the City Clerk's office of the local governing body. City Clerk sends the application to the Police Department for review. The application is then submitted to City Council for review and recommendation to the NLCC. The recommendation from the City Council is then sent to the NLCC.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NUMBER:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

Recommend approval of an amendment application for Tausha Allen Cosimo as manager for Quik Trip 586 located at 1311 Fort Crook Road North Bellevue, NE 68005.

ATTACHMENTS:

1. Application	2. Police Report	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:




**NOTICE OF PUBLIC HEARING ON APPLICATION  
FOR MANAGER CHANGE FOR THEIR CURRENT LIQUOR  
LICENSE**

Notice is hereby given that an amendment application has been made for Tausha Allen Cosimo as manager for QuikTrip 586 located at 1311 Fort Crook Road North Bellevue, NE 68005.

A public hearing on the application will be held at the City Council meeting on October 7, 2025, at 6:00 p.m., in the Council Chambers, 1500 Wall Street, Bellevue, NE. At such time all persons desiring to give evidence before the City Council will be heard.

Susan Kluthe  
City Clerk



## Application Copy

File Number: 125716

AMENDMENT TYPE	APPLICATION DATE RECEIVED
Manager Change Amendment	2025-09-16
CURRENT MANAGER NAME	CURRENT MANAGER EMAIL
BROCK A THORNTON	BTHORNTON@QUIKTRIP.COM
NEW MANAGER NAME	NEW MANAGER EMAIL
Tausha Allen Cosimo	licensing@quiktrip.com

### QUESTIONS

#### Class D Beer, Wine, Spirits Off S

1. Per Nebraska Revised Statute 53-103.18 - Manager, defined: Manager means a person appointed by a corporation or limited liability company to oversee the daily operation of the business licensed in Nebraska. A manager shall meet all the requirements of the Nebraska Liquor Control Act as though he or she were the applicant, including residency.

What is the premises manager's name?

Tausha Allen Cosimo

2. What is the manager's address?

3814 S 189th St, Omaha, NE 68130

3. What is the manager's phone number?

9186157700

4. What is the manager's email address? An email will be sent to them to obtain their personal information.

licensing@quiktrip.com

5. What county is the manager registered to vote in?

The manager must be a resident of the state of Nebraska. If the manager is not registered to vote they can complete their voter registration here - <https://www.nebraska.gov/apps-sos-voter-registration/>

Douglas

6. Is the manager married?

No

7. Do you have prior experience or training in selling, serving or managing alcohol sales?

Yes

10+ years working at QuikTrip

8. Do you qualify under Nebraska Liquor Control Act (53-131.01) and do you intend to supervise, in person, the management of the business?

Yes

9. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY §53-125(5)

Has the new manager, or their spouse, EVER been convicted of or plead guilty to any charge? Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year (& month if known) of the conviction or plea. This question includes traffic violations other than speeding. PLEASE NOTE: NOTIFICATION IS REQUIRED TO THE LIQUOR COMMISSION IF ANY ARRESTS OR CONVICTIONS OCCUR AFTER THE SUBMISSION OF THIS APPLICATION

No

#### DOCUMENTS

TYPE	FILE NAME	DESCRIPTION
Privacy Act Statement	PRIVACY STATEMENT - SIGNED.pdf	

APPLICANT

Deborah Rowden

DECLARATION

I (We) the applicant(s) agree and consent

I declare under penalty of perjury that I have read the contents of this amendment application and, to the best of my knowledge, believe all statements made in this application are true, correct, and complete.

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: <b>September 2, 2025</b>		SUBMITTED BY: <b>Finance</b>	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input checked="" type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

An ordinance authorizing the issuance of general obligation bonds, not to exceed \$35,000,000, to provide financing for improvements in certain improvements districts.

SYNOPSIS/BACKGROUND:

The City contemplates several capital projects for the next fiscal year, 2025-2026. These projects include the construction of certain improvements to streets, alleys, sidewalks, public ways, or other public spaces that are budgeted to cost approximately \$34,550,500. The Council shall create one or more improvement districts by one or more separate ordinances corresponding to the above-mentioned improvements and, upon passage of those ordinances, the City shall be authorized to issue general obligation bonds.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NUMBER:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

First reading of ordinance to authorize issuance of general obligation bonds, not to exceed \$35,000,000.00, for certain improvement districts in and for the City of Bellevue. No other action necessary.

ATTACHMENTS:

1. <input type="text" value="Ordinance 4195"/>	2. <input type="text" value="Exhibit 1"/>	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ORDINANCE NO. 4195**

**AN ORDINANCE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION BONDS, OF THE CITY OF BELLEVUE, NEBRASKA, IN THE PRINCIPAL AMOUNT NOT TO EXCEED \$35,000,000 TO PROVIDE FINANCING FOR THE COSTS OF IMPROVEMENTS IN CERTAIN IMPROVEMENT DISTRICTS IN AND FOR THE CITY; PRESCRIBING CERTAIN TERMS AND FORM OF SUCH BONDS AND PROVIDING FOR THE SETTING OF CERTAIN TERMS AND FORM OF SUCH BONDS; PROVIDING FOR THE LEVY OF TAXES TO PAY THE INTEREST ON AND PRINCIPAL OF SUCH BONDS; PROVIDING FOR PUBLICATION OF THIS ORDINANCE IN PAMPHLET OR ELECTRONIC FORM; AND RELATED MATTERS**

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

**Section 1.** The Mayor and Council (the “**Council**”) of the City of Bellevue, Nebraska (the “**City**”) hereby find and determine as follows:

(a) The Council has plans for, and has included in its capital improvement budget for the fiscal year 2025-26 the cost of, the construction of certain improvements to streets, alleys, sidewalks, public ways, or other public spaces as described in Section 16-617, R.R.S. Neb., as amended, which improvements may include, but not be limited to, paving, repaving, graveling, grading, curbing, guttering, and the construction and replacement of pedestrian walks, plazas, malls, landscaping, lighting systems, and permanent facilities (such improvements herein referred to as the “**Budgeted Improvements**”). The budgeted cost of the Budgeted Improvements is approximately \$34,550,500.

(b) The Council shall create one or more improvement districts by one or more separate ordinances (the “**District Ordinances**”) pursuant to Section 16-617, R.R.S. Neb., as amended, (collectively upon formation such districts shall be the “**Districts**” referenced in this Ordinance) for all or a portion of the improvements referenced in subparagraph (a) above (such portion of the improvements herein referred to as the “**Projects**”), and the Projects in the Districts shall be funded at public cost with no levy of special assessments against the properties included in each such District.

(c) The costs of the Projects in the Districts is hereby declared and determined to be of general benefit to the City, and passage and approval of the District Ordinances shall be further evidence of such determination, and such costs, together with legal, fiscal, financing and miscellaneous expenses, shall be funded in whole or in part through the issuance of improvement bonds pursuant to Section 16-623, R.R.S. Neb., as amended,

(d) Upon passage and approval of the District Ordinances by the Council, all conditions, acts and things required by law to exist or to be done precedent to the issuance of general obligation bonds of the City in the amount of not to exceed \$35,000,000 pursuant Section 16-623, R.R.S. Neb., as amended, for the purpose of paying the costs of the Projects and related expenses heretofore described, shall exist and shall have been done in due form and time as required by law.

**Section 2.** (a) To provide funds for the purpose of paying the costs or reimbursing the City for the costs of the Projects as set forth in Section 1 hereof, there shall be and there are hereby ordered issued the general obligation bonds of the City in one or more series, in the aggregate stated principal amount of not to exceed \$35,000,000 (the “**Bonds**”); provided, however, such amount may be increased as necessary to the extent the Bonds are sold at a net original issue discount, and in no event shall the Bonds be issued in an

amount which exceeds the expected costs of the Projects to be funded from proceeds of the Bonds. The Bonds may be issued in one or more series, may be issued from time to time, and each series shall consist of fully registered bonds without coupons, numbered from R-1 upward, in denominations of \$5,000 or any integral multiple thereof. The Bonds, as originally issued or issued upon transfer, exchange or substitution, shall be substantially in the form set forth in Section 5. The Bonds shall be dated the date of delivery thereof (the “Date of Original Issue”), shall be due and payable serially on the dates and in the amounts, and shall bear interest at the rates per annum all as provided in the Designation (described herein).

(b) The Bonds or any portion thereof are hereby authorized to be sold pursuant to a negotiated sale with an underwriting firm identified in the Designation (described below), as initial purchaser (the “Underwriter”). In connection with such sale, the Mayor, City Administrator and City Finance Director (each, an “Authorized Officer”) are each hereby authorized to specify, determine, designate, establish and appoint, as the case may be, in one or more written designations which may be included in a bond purchase agreement (each, a “Designation”) the following matters for each series of Bonds: (i) the identity of the Underwriter, the aggregate purchase price of the Bonds, and the underwriting discount or fee which shall not exceed 0.9% of the aggregate stated principal amount of the Bonds; (ii) the form and contents of any bond purchase agreement in connection with such sale; (iii) the title, dated date, aggregate principal amount (including the aggregate principal amounts of serial Bonds and term Bonds, if any), , and the final maturity date, which shall not be later than the twentieth (20<sup>th</sup>) anniversary of the date of original issue of each series of Bonds; (iv) the principal amounts maturing in each year; (v) the rate or rates of interest to be borne by each principal maturity, and any original issue premium or original issue discount, provided that the true interest cost of the Bonds shall not exceed 5.50%; (vi) the principal payment dates and interest payment dates of the Bonds; (vii) whether the Bonds will be subject to redemption prior to their stated maturity, and if subject to such optional redemption, the provisions governing such redemption, including a redemption price not to exceed 104% of the principal amount then being redeemed plus accrued interest to the date of redemption; (viii) the amount and due date of each sinking fund installment for any of the Bonds issued as term Bonds; (ix) the designation of the Registrar and the form and content of any agreement between the City and such entity; (x) whether a Bond Insurance Policy will be obtained for a series of Bonds, the identity of the Bond Insurer, and the terms required for any such Bond Insurance Policy pursuant to Section 17 of this Ordinance; and (xi) all other terms and provisions of the Bonds not otherwise specified or fixed by this Ordinance.

(c) The Bonds shall be subject to redemption at the option of the City prior to the stated maturities thereof at any time on or after the fifth anniversary of the Date of the Original Issue (or on such other date as determined in the Designation), as a whole, or in part from time to time in such principal amount and from such maturity or maturities as the City, in its sole and absolute discretion shall determine, and in the event that less than all of the Bonds of any maturity are to be called for redemption, the particular Bonds of such maturity to be redeemed shall be selected by lot, at a redemption price of the amount thereof, together with the interest accrued on such principal amount to the date fixed for redemption.

The Bonds shall be redeemed in whole multiples of \$5,000 and if any Bond be in a denomination in excess of \$5,000, portions of the principal amount thereof in installments of \$5,000 or any multiples thereof may be redeemed, and if less than all of the principal amount thereof is to be redeemed, in such case upon the surrender of such Bond there shall be issued to the registered owner thereof without charge therefor, for the then unredeemed balance of the principal amount thereof, Bonds of like series, maturity and interest rates in any of the authorized denominations provided by this Ordinance.

Notice of redemption of Bonds stating their designation, date, maturity and principal amounts shall be given by the Registrar by mailing such notice by first-class mail, postage prepaid, not less than thirty (30) days prior to the date fixed for redemption to the registered owners at their most recent addresses appearing upon the books of registry, but failure to mail such notice shall not affect the proceedings for redemption. Notice of redemption need not be given to the holder of any Bond, whether registered or not, who has waived

notice of redemption. Notice of redemption having been given as provided above or notice of redemption having been waived by the owners of Bonds called for redemption who have not been given such notice as provided above, the Bonds so called for redemption shall become due and payable on the designated redemption date. The City shall give written notice to the Registrar of its election to redeem Bonds at least forty-five days prior to the said redemption date, or such shorter period as shall be acceptable to the Registrar. If on or before the said redemption date funds sufficient to pay the Bonds so called for redemption at the applicable redemption price and accrued interest to said date have been deposited or caused to have been deposited by the City with the Registrar for the purposes of such payment and notice of redemption thereof has been given or waived as hereinbefore provided, then from and after the date fixed for redemption interest on such Bonds so called shall cease to accrue and become payable. If such funds shall not have been so deposited with the Registrar as provided on or before the date fixed for redemption, such call for redemption shall be revoked and the Bonds so called for redemption shall continue to be outstanding the same as though they had not been so called, and shall continue to bear interest until paid at such rate as they would have borne had they not been called for redemption, and shall continue to be protected by this Ordinance and entitled to the benefits and security hereof.

**Section 3.** Interest on the Bonds at the respective rates for each maturity is payable semiannually as determined in the Designation (each of such dates an “**Interest Payment Date**”) from the Date of Original Issue or the most recent Interest Payment Date, whichever is later, until maturity or earlier redemption by check or draft mailed by the Registrar or its successor on such Interest Payment Date to the registered owner of each Bond at such registered owner’s address as it appears on the Bond Register maintained by the Registrar or its successor at the close of business on the fifteenth day preceding such Interest Payment Date (the “**Record Date**”) subject to the provisions of the following paragraph. The principal on the Bonds and the interest due at maturity or upon redemption prior to maturity is payable in lawful money of the United States of America to the registered owners thereof upon presentation and surrender of such Bonds to the Registrar.

In the event that payments of interest due on the Bonds on an Interest Payment Date are not timely made, such interest shall cease to be payable to the registered owners as of the Record Date for such Interest Payment Date and shall be payable to the registered owners of the Bonds as of a special date of record for payment of such defaulted interest as shall be designated by the Registrar whenever moneys for the purpose of paying such defaulted interest become available.

If the date for payment of the principal of or interest on the Bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the city where the Registrar is located, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

**Section 4.** Bonds shall be executed on behalf of the City by the manual or facsimile signatures of the Mayor and Clerk and shall have the City Seal impressed or imprinted on each Bond. In case any officer whose signature or a facsimile of whose signature shall appear on the Bonds and shall cease to be such officer before the delivery of the Bonds, such signature or facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he or she had remained in office until delivery. Notwithstanding such execution, no Bond shall be valid or obligatory for any purpose or entitled to any security or benefit under this Ordinance unless and until a certificate of authentication on such Bond has been duly executed by the manual signature of an authorized representative of the Registrar. Certificates of authentication on different Bonds need not be signed by the same representative. The executed certificate or authentication on each Bond shall be conclusive evidence that it has been authenticated and delivered under this Ordinance.

**Section 5.** The Bonds shall be in substantially the following form:

**UNITED STATES OF AMERICA  
STATE OF NEBRASKA  
COUNTY OF SARPY  
CITY OF BELLEVUE  
GENERAL OBLIGATION BOND, SERIES 20 \_\_\_\_**

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Issue</u>	<u>CUSIP Number</u>
	_____, 20__	_____, 2025	

**REGISTERED OWNER: CEDE & CO.**

**PRINCIPAL AMOUNT: \_\_\_\_\_ DOLLARS**

The **CITY OF BELLEVUE, NEBRASKA** (the “City”), hereby acknowledges itself to owe and for value received promises to pay to the Registered Owner specified above or registered assigns, the Principal Amount stated above in lawful money of the United States of America on the Maturity Date specified above, with interest thereon, calculated on the basis of a 360-day year consisting of twelve 30-day months, from Date of Issue stated above at the Interest Rate per annum specified above, payable semiannually on \_\_\_\_\_ and \_\_\_\_\_ of each year, beginning \_\_\_\_\_, 20\_\_ (each of such dates an “**Interest Payment Date**”) until maturity or earlier redemption.

The Principal Amount and the interest due at maturity or upon redemption prior to maturity is payable to the Registered Owner hereof in lawful money of the United States of America without deduction for services as paying agent at the office of the Bond Registrar and Paying Agent, \_\_\_\_\_ (the “**Registrar**”), upon presentation and surrender of this bond. Interest on this bond due prior to maturity or earlier redemption shall be paid by check or draft mailed by the Registrar on the date such interest is due and payable to the Registered Owner at such Registered Owner’s address as it appears on the registration books of the Registrar as of the close of business on the fifteenth day preceding the date on which interest on this bond is payable (the “**Record Date**”). Any interest not so timely paid shall cease to be payable to the person entitled thereto as of the Record Date such interest was payable, and shall be payable to the person who is the Registered Owner of this bond (or of one or more predecessor bonds hereto) on such special Record Date for payment of such defaulted interest as shall be fixed by the Registrar whenever money for such purpose become available. For the prompt payment of this bond, both principal and interest at the time the same becomes due, the full faith, credit, resources and taxing powers of the City are hereby pledged.

The bonds of the series of which this bond is one are subject to redemption at the option of the City prior to the stated maturities thereof at any time on and after the fifth anniversary of the Date of Issue, as a whole, or in part from time to time in such principal amounts and from such maturity or maturities as the City, in its sole and absolute discretion, shall determine, and in the event that less than all the bonds of a maturity are to be called for redemption, the particular bonds of such maturity to be redeemed shall be selected by lot at the redemption price of the principal amount thereof, together with the interest accrued on such principal amount to the date fixed for redemption.

Bonds shall be redeemed in whole multiples of \$5,000 and if any bond be in a denomination in excess of \$5,000, portions of the principal amount thereof in installments of \$5,000 or any multiples thereof may be redeemed, and if less than all of the principal thereof is to be redeemed, in such case upon the surrender of such bond there shall be issued to the registered owner thereof without charge therefor, for the then

unredeemed balance of the principal amount thereof, registered bonds of like series, maturity and interest rates in any of the authorized denominations provided by the Ordinance (hereinafter defined).

Notice of redemption of this bond shall be given to the Registered Owner hereof by first-class mail, postage prepaid, not less than thirty (30) days prior to the date fixed for redemption, all as more particularly set forth in the Ordinance (hereinafter defined). Notice of redemption having been given as provided in the Ordinance (hereinafter defined), or notice of redemption having been waived, and funds for the payment thereof having been deposited with the Registrar, this bond shall cease to bear interest from and after the date fixed for redemption.

This bond is one of a series of bonds numbered from 1 upwards, in order of their issuance, being in the denomination of \$5,000 and integral multiples thereof, of the total principal amount of \_\_\_\_\_ Thousand Dollars (\$ \_\_\_\_\_) all of like date and tenor except as to denomination, date of maturity, rate of interest and priority of redemption which have been issued by the City for the purpose of providing financing for improvements in the City's Improvement District Nos. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_, pursuant to Section 16-623s, Reissue Revised Statutes of Nebraska, as amended, and paying the costs of issuance of the series of bonds of which this bond is one. This bond and the series of which it is one, are issued under the authority of and in compliance with the laws of the State of Nebraska governing the City, and pursuant to Ordinance Nos. \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_ of the City (together, the "Ordinance") duly enacted and by proceedings duly had by the Mayor and Council.

This bond is transferable by the Registered Owner hereof in person or by such Registered Owner's attorney duly authorized in writing, at the principal office of the Registrar but only in the manner and subject to the limitations and conditions provided in the Ordinance and upon presentation and surrender hereof to the Registrar for cancellation. Upon any such registration of transfer, the City shall execute and the Registrar shall authenticate and deliver in exchange for this bond, a new registered bond or bonds, registered in the name of the transferee, of authorized denominations, in an aggregate principal amount equal to the principal amount of this bond, of the same series and maturity and bearing interest at the same rate. The City and the Registrar may deem and treat the Registered Owner hereof as the absolute owner for the purpose of receiving payment of or on account of principal hereof, premium, if any, and interest due hereon and for all other purposes.

If the date for payment of the principal of or interest on this bonds shall be a Saturday, Sunday, legal holiday or a day on which banking institutions in the City of Bellevue, are authorized by law or executive order to close, then the date for such payment shall be the next succeeding day which is not a Saturday, Sunday, legal holiday or a day on which such banking institutions are authorized to close, and payment on such day shall have the same force and effect as if made on the nominal date of payment.

**IT IS HEREBY CERTIFIED AND WARRANTED** that all conditions, acts and things required by law to exist or to be done precedent to and in the issuance of this bond did exist, did happen and were done and performed in regular and due form and time as required by law, and that the indebtedness of the City, including this bond, does not exceed any statutory limitation imposed by law. The City agrees that it will cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, sufficient in rate and amount to fully pay the principal and interest on said bonds as the same becomes due.

This bond shall not be valid or become obligatory for any purpose until it shall have been authenticated by the execution by the Registrar of the Certificate of Authentication endorsed hereon.

**IN WITNESS WHEREOF**, the Mayor and Council have caused this bond to be executed on behalf of the City by the manual or facsimile signatures of its Mayor and Clerk and have caused the City Seal to be impressed or imprinted hereon, all as of the Date of Issue set forth above.

**CITY OF BELLEVUE, NEBRASKA**

ATTEST:

By: \_\_\_\_\_ (Facsimile Signature)  
Mayor

By: \_\_\_\_\_ (Facsimile Signature)  
Clerk

[S E A L]

**BOND REGISTRAR AND PAYING AGENT'S  
CERTIFICATE OF AUTHENTICATION**

This Bond is one of the series of bonds described in the within-mentioned Ordinance.

\_\_\_\_\_, Bond  
Registrar and Paying Agent

By: \_\_\_\_\_

*[The remainder of this page intentionally left blank]*

**ASSIGNMENT**

**FOR VALUE RECEIVED**, the undersigned hereby sells, assigns and transfers unto

\_\_\_\_\_  
Print or Type Name, Address and Social Security Number  
or other Taxpayer Identification Number of Transferee

the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ agent to transfer the within Bond on the books kept by the Registrar for the registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

\_\_\_\_\_  
NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears upon the face of the within Bond in every particular.

Signature Guaranteed By:

\_\_\_\_\_  
(Name of Eligible Guarantor Institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15))

By: \_\_\_\_\_  
Title: \_\_\_\_\_

**Section 6.** Each of the Bonds shall be executed on behalf of the City with the manual or facsimile signatures of the Mayor and Clerk. The Bonds shall be issued initially as “book-entry-only” bonds using the services of The Depository Trust Company (the “**Depository**”), with one typewritten bond per maturity being issued to the Depository. In such connection said officers are authorized to execute and deliver a letter of understanding and representation (the “**Representation Letter**”) in the form required by the Depository, for and on behalf of the City, which shall thereafter govern matters with respect to registration, transfer, payment and redemption of the Bonds. Upon the issuance of the Bonds as “book-entry-only” bonds, the following provisions shall apply:

(a) The City and the Registrar shall have no responsibility or obligation to any broker-dealer, bank or other financial institution for which the Depository holds Bonds as securities depository (each, a “**Bond Participant**”) or to any person who is an actual purchaser of a Bond from the Bond Participant while the Bonds are in book-entry form (each, a “**Beneficial Owner**”) with respect to the following:

(i) the accuracy of the records of the Depository, any nominees of the Depository or any Bond Participant with respect to any ownership interest in the Bonds,

(ii) the delivery to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any notice with respect to the Bonds, including any notice of redemption, or

(iii) the payment to any Bond Participant, any Beneficial Owner or any other person, other than the Depository, of any amount with respect to the Bonds. The Registrar shall make payments with respect to the Bonds only to or upon the order of the Depository or its nominee, and all such payments shall be valid and effective fully to satisfy and discharge the obligations with respect to such Bonds to the extent of the sum or sums so paid. No person other than the Depository shall receive an authenticated Bond.

(b) Upon receipt by the Registrar of written notice from the Depository to the effect that the Depository is unable or unwilling to discharge its responsibilities, the Registrar shall issue, transfer and exchange Bonds requested by the Depository in appropriate amounts. Whenever the Depository requests the City and the Registrar to do so, the City and the Registrar will cooperate with the Depository in taking appropriate action after reasonable notice (i) to arrange, with the prior written consent of the City, for a substitute depository willing and able upon reasonable and customary terms to maintain custody of the Bonds or (ii) to make available Bonds registered in whatever name or names the Beneficial Owners transferring or exchanging such Bonds shall designate.

(c) If the City determines that it is desirable that certificates representing the Bonds be delivered to the Bond Participants and/or Beneficial Owners of the Bonds and so notifies the Registrar in writing, the Registrar shall so notify the Depository, whereupon the Depository will notify the Bond Participants of the availability through the Depository of certificates representing the Bonds. In such event, the City and the Registrar shall issue, transfer or exchange certificates representing the Bonds as requested by the Depository in appropriate amounts and in authorized denominations.

(d) Notwithstanding any other provision of this Ordinance to the contrary, so long as any Bond is registered in the name of the Depository or any nominee thereof, all payments with respect to such Bond and all notices with respect to such Bond shall be made and given, respectively, to the Depository as provided in the Representation Letter.

(e) Registered ownership of the Bonds may be transferred on the books of registration maintained by the Registrar, and the Bonds may be delivered in physical form to the following:

(i) any successor securities depository or its nominee;

(ii) any persons, upon (A) the resignation of the Depository from its functions as depository or (B) termination of the use of the Depository pursuant to this Section.

(f) In the event of any partial redemption of a Bond unless and until such partially redeemed Bond has been replaced in accordance with the provisions of Section 3(d) of this Ordinance, the books and records of the Registrar shall govern and establish the principal amount of such Bond as is then outstanding and all of the Bonds issued to the Depository or its nominee shall contain a legend to such effect.

If for any reason the Depository resigns and is not replaced, the City shall immediately provide a supply of printed bond certificates for issuance upon the transfers from the Depository and subsequent transfer or in the event of partial redemption. In the event that such supply of certificates shall be insufficient to meet the requirements of the Registrar for issuance of replacement Bonds upon transfer or partial redemption, the City agrees to order printed an additional supply of certificates and to direct their execution by manual or facsimile signature of its then duly qualified and acting Mayor and Clerk. In case any officer whose signature or facsimile thereof shall appear on any Bond shall cease to be such officer before the delivery of such Bond (including any bond certificates delivered to the Registrar for issuance upon transfer), such signature or such facsimile signature shall nevertheless be valid and sufficient for all purposes the same as if such officer or officers had remained in office until the delivery of such Bond. The Bonds shall not be valid and binding on the City until authenticated by the Registrar. The Bonds shall be delivered to the Registrar for registration and authentication. Upon execution, registration and authentication of the Bonds, they shall be delivered to the City Treasurer, who is authorized to deliver them to the Underwriter, as the initial purchaser thereof, upon receipt of the full purchase price of the Bonds as set forth in the Bond Purchase Agreement hereinafter approved. Such initial purchaser shall have the right to direct the registration of the Bonds and the denomination thereof within each maturity, subject to the restrictions of this Ordinance. The Underwriter and its agents, representatives and counsel (including the City's bond counsel) are hereby authorized to take such actions on behalf of the City as are necessary to effectuate the closing of the issuance and sale of the Bonds, including, without limitation, authorizing the release of the Bonds by the Depository at closing. The Bond Purchase Agreement (the "Purchase Agreement") to be entered into between the City and the Underwriter with respect to the purchase of the Bonds from the City, in such form as the Authorized Officer executing the Purchase Agreement shall in the exercise of his or her own independent judgment and absolute discretion determine to be necessary, proper, appropriate, advisable, or desirable in order to effectuate the issuance, sale, and delivery of the Bonds, be and the same is hereby in all respects authorized, adopted, specified, accepted, ratified, approved and confirmed.

**Section 7.** An Authorized Officer, or one or more of them, shall designate the Bond Registrar and Paying Agent (the "**Registrar**") for the Bonds in the Designation. The Registrar shall keep the books for the registration and transfer of Bonds at its office. If the Registrar is a bank or trust company, the Registrar shall serve in such capacities under the terms of an agreement entitled "Paying Agent and Registrar's Agreement" between the City and the Registrar, the form of which shall be approved by an Authorized Officer. The Mayor and Clerk are hereby authorized to execute said agreement in substantially the form presented but with such changes as they shall deem appropriate or necessary. The names and registered addresses of the registered owner or owners of the Bonds shall at all times be recorded in such books. The transfer of any Bond may be registered upon the books kept for the registration and registration of transfer of Bonds upon presentation and surrender thereof to the Registrar together with an assignment duly executed by the registered owner or such registered owner's attorney or legal representative in such form as shall be satisfactory to the Registrar. Upon

any such registration of transfer, the City shall execute and the Registrar shall authenticate and deliver in exchange for such Bond, a new Bond or Bonds of any denomination or denominations authorized by this Ordinance of the same series and maturity and in the same aggregate principal amount and bearing interest at the same rate. Bonds may be exchanged at the principal office of the Registrar for a like aggregate principal amount of Bonds and the City shall execute and the Registrar shall authenticate and deliver Bonds which the owner making the exchange is entitled to receive, numbered consecutively beginning after the last number then outstanding and of the same maturity and bearing interest at the same rate as the Bonds surrendered for exchange. The Registrar may impose a charge sufficient to defray all costs and expenses incident to registrations of transfer and exchanges. In each case the Registrar shall require the payment by the owner requesting exchange or transfer of any tax or other governmental charge required to be paid with respect to such exchange or transfer.

The Registrar shall not be required to transfer Bonds for a period of 16 days next preceding any interest or principal payment date or to transfer any Bonds for a period of 30 days next preceding any date fixed for redemption. The Registrar shall also be responsible for making the payments of principal and interest as the same fall due upon the Bonds from funds provided by the City for such purpose. Payments of interest due upon the Bonds prior to maturity or redemption shall be made by the Registrar by mailing a check in the amount due for such interest on each interest payment date to the registered owner of each Bond as of the close of business on the fifteenth day of the month immediately preceding the month in which interest on the Bonds is payable, addressed to such owner's registered address as shown on the books of registration as required to be maintained under this **Section 7**. Payments of principal due at maturity or at any date fixed for redemption prior to maturity, together with any accrued interest then due, shall be made by the Registrar upon presentation and surrender of such Bond at the office of the Registrar. The City and the Registrar may treat the registered owner of any Bond as the absolute owner of such Bond for purposes of making payment thereon and for all other purposes. All payments on account of interest or principal made to the registered owner of any Bond shall be valid and effectual and shall be a discharge of the City and the Registrar in respect of the liability upon the Bonds or claims for interest to the extent of the sum or sums so paid.

**Section 8.** After the Bonds are executed by the City they shall be delivered to the Registrar for authentication and registration as to ownership, and in the denominations designated in writing by the initial purchaser thereof hereinafter identified. After execution, authentication and registration of the Bonds, the City Treasurer is authorized and directed to deliver them to the Underwriter upon receipt of the purchase price of the Bonds as set forth in the Bond Purchase Agreement hereinafter approved.

**Section 9.** The City agrees that it will cause to be levied and collected annually a tax by valuation on all the taxable property in the City, in addition to all other taxes, which with other funds of the City available therefor, shall be sufficient in rate and amount to fully pay the principal of and interest on the Bonds as the same become due.

**Section 10.** The Clerk shall make and certify one or more complete transcripts of the proceedings had and done by the City precedent to the issuance of said Bonds, a copy of which transcript shall be delivered to the initial purchaser of the Bonds. After being executed by the Mayor and Clerk, said Bonds shall be delivered to Underwriter.

**Section 11.** The City hereby covenants with the purchasers and holders of the Bonds herein authorized that it will make no use of the proceeds of said issue, including monies held in any sinking fund for the payment of principal and interest on said Bonds, which would cause said Bonds to be arbitrage bonds within the meaning of Sections 103 and 148 and other related sections of the Internal Revenue Code of 1986, as amended (the "Code"), and further covenants to comply with said Sections 103 and 148 and related sections and all applicable regulations thereunder throughout the term of said issue. The City hereby

authorizes the Authorized Officers to covenant and agree to take all actions necessary under the Code to maintain the tax-exempt status (as to taxpayers generally) of interest payable on the Bonds.

**Section 12.** The City hereby (a) authorizes and directs that an Authorized Officer execute and deliver, on the date of issue of the Bonds, a continuing disclosure undertaking (the “Continuing Disclosure Undertaking”) in such form as shall be satisfactory to the City and in compliance with Rule 15c2-12 of the Securities and Exchange Commission, and (b) covenants and agrees that it will comply with and carry out all of the provisions of the Continuing Disclosure Undertaking. Notwithstanding any other provision of this resolution, failure of the City to comply with the Continuing Disclosure Undertaking shall not be considered an event of default hereunder; however, any Participating Underwriter (as such term is defined in the Continuing Disclosure Undertaking) or any Beneficial Owner or any Registered Owner of a Bond (as such terms are defined in the Continuing Disclosure Undertaking) may take such actions as may be necessary and appropriate, including seeking mandamus or specific performance by court order, to cause the City to comply with its obligations under this section.

**Section 13.** The proceeds of the Bonds shall be deposited with the City and applied to pay the costs of the improvements in the District as described in Section 1 hereof, and issuance expenses for the Bonds. Pending such application the City Treasurer may hold such proceeds.

**Section 14.** The City’s obligation under this Ordinance shall be fully discharged and satisfied as to the Bonds authorized and issued hereunder, and said Bonds shall no longer be deemed outstanding hereunder when payment of the principal of such Bonds plus interest thereon to the date of maturity or redemption thereof (a) shall have been made or caused to be made in accordance with the terms thereof; or (b) shall have been provided by depositing with the Registrar or in escrow with a national or state bank having trust powers, in trust solely for such payment (i) sufficient moneys to make such payment or (ii) direct general obligations of, or obligations the principal and interest of which are unconditionally guaranteed by, the United States of America or obligations of an agency of the United States of America (herein referred to as “**Government Obligations**”), in such amount and maturing as to principal and interest at such times, as will insure the availability of sufficient moneys to make such payment, and such Bonds shall cease to draw interest from the date of their redemption or maturity and, except for the purposes of such payment, shall no longer be entitled to the benefits of this Ordinance; provided that, with respect to any Bonds called or to be called for redemption prior to the stated maturity thereof, notice of redemption shall have been duly given. If moneys shall have been deposited in accordance with the terms hereof with the Registrar as escrow agent in trust for that purpose sufficient to pay the principal of such Bonds, together with all interest due thereon to the due date thereof or to the date fixed for the redemption thereof, as the case may be, all liability of the City for such payment shall forthwith cease, determine and be completely discharged, and such Bonds shall no longer be considered outstanding.

**Section 15.** Without in any way limiting the power, authority or discretion elsewhere herein granted or delegated, the Council hereby (a) authorizes and directs the Mayor, City Administrator, City Finance Director, City Clerk, City Attorney and all other officers, officials, employees and agents of the City to carry out or cause to be carried out, and to perform such obligations of the City and such other actions as they, or any of them, in consultation with bond counsel, the initial purchaser of the bonds and its counsel, shall consider necessary, advisable, desirable or appropriate in connection with this Ordinance and issuance, sale and delivery of the Bonds, including, without limitation, and whenever appropriate the execution and delivery thereof and of all other related documents, instruments, certifications and opinions, and (b) delegates, authorizes and directs the Mayor, City Administrator and City Finance Director the right, power and authority to exercise his own independent judgment and absolute discretion in (i) determining and finalizing the terms, provisions, form and contents of any official statement utilized in offering the Bonds for sale to the public, (ii) determining and finalizing all other terms and provisions to be carried by the Bonds not specifically set forth in this Ordinance, and (iii) the taking of all actions and the making of all arrangements necessary, proper,

appropriate, advisable or desirable in order to effectuate the issuance, sale and delivery of the Bonds. The execution and delivery by the Mayor or by any such other officers, officials, employees or agents of the City of any such documents, instruments, certifications and opinions, or the doing by them of any act in connection with any of the matters which are the subject of this Ordinance, shall constitute conclusive evidence of both the City's and their approval of the terms, provisions and contents thereof and all changes, modifications, amendments, revisions and alterations made therein and shall conclusively establish their absolute, unconditional and irrevocable authority with respect thereto from the City and the authorization, approval and ratification by the City of the documents, instruments, certifications and opinions so executed and the actions so taken.

**Section 16.** The Mayor and City Council hereby authorize the Authorized Officers, or each individually, to approve and deem final, within the meaning of Rule 15c2-12 under the Securities Exchange Act of 1934, as amended, a Preliminary Official Statement with respect to the Bonds and the information therein contained and to approve and deliver a final Official Statement for and on behalf of the City. The Authorized Officers, or any one or more of them, are hereby further authorized to take any and all actions and enter into any and all agreements and execute any documents deemed necessary or appropriate in connection with the issuance and sale of the Bonds, and any such actions previously taken are hereby ratified and confirmed.

**Section 17.** The Authorized Officers are authorized to obtain an insurance policy (the "**Bond Insurance Policy**") issued by a provider of bond insurance determined appropriate by an Authorized Officer (the "**Bond Insurer**") guaranteeing the scheduled payment of the principal of and interest on the Bonds covered by the Bond Insurance Policy, and take any and all actions necessary or appropriate in connection with obtaining such Bond Insurance Policy. Notwithstanding any other provision of this Ordinance to the contrary, the provisions agreed to by an Authorized Officer with respect to the Bond Insurance Policy with the Bond Insurer shall govern with respect to the applicable Bonds.

**Section 18.** All documents, agreements, certificates, and instruments related to the Bonds shall be valid, binding, and enforceable against the City when executed and delivered by means of (i) an original manual signature; (ii) a faxed, scanned, or photocopied manual signature, or (iii) any other electronic signature permitted by electronic signatures laws, including any relevant provisions of the Uniform Commercial Code, in each case to the extent applicable. Each faxed, scanned, or photocopied manual signature, or other electronic signature, shall for all purposes have the same validity, legal effect, and admissibility in evidence as an original manual signature. Each document, agreement, certificate, and instrument related to the Bonds may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute one and the same document, agreement, certificate, or instrument, as applicable.

**Section 19.** If any one or more of the provisions of this Ordinance should be determined by a court of competent jurisdiction to be contrary to law, then such provisions shall be deemed severable from the remaining provisions of this Ordinance and the invalidity thereof shall in no way affect the validity of the other provisions of this Ordinance or of the Bonds and the owners of the Bonds shall retain all the rights and benefits accorded to them under this Ordinance and under any applicable provisions of law.

If any provisions of this Ordinance shall be held or deemed to be or shall, in fact, be inoperative or unenforceable or invalid in any particular case in any jurisdiction or jurisdictions, or in all cases because it conflicts with any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable or invalid in any other case or circumstances, or of rendering any other provision or provisions herein contained inoperative or unenforceable or invalid to any extent whatever.

**Section 20.** All ordinances, resolutions or orders, or parts thereof in conflict with the provisions of this Ordinance are to be extent of such conflict hereby repealed.

**Section 21.** This Ordinance shall be in full force and effect from and after its passage and publication in pamphlet or electronic form as provided by law.

**PASSED AND APPROVED:** \_\_\_\_\_, 2025.

**CITY OF BELLEVUE, NEBRASKA**

ATTEST:

By: \_\_\_\_\_  
Mayor

By: \_\_\_\_\_  
Clerk

[ S E A L ]

**City of Bellevue**  
**Exhibit 1 - Capital Expenditure Funding**  
**2025-26 Budget**

<u>Dept.</u>	<u>Account</u>	<u>CIP Ref #</u>	<u>Description</u>	<u>Amount</u> <u>Bondable /</u> <u>Loanable</u>
10 - Public Works	7050 Project Engineering	PW 25(5)	PW 25(5) Entertainment District Engineering	\$ 500,000
10 - Public Works	7020 Right of Way Improvements	PW 25(6)	PW 25(6) Entertainment District Construction	\$ 5,500,000
10 - Public Works	7050 Project Engineering	PW 25(8)	PW 25(8) PW 26 (7) Highway 75/34 Interchange (Engineering)	\$ 300,000
10 - Public Works	7010 Street Improvements	PW 25(9)	PW 25(9) PW 26 (8) Highway 75/34 Interchange (Construction) Year One	\$ 2,500,000
10 - Public Works	7010 Street Improvements	PW 25(13)	ED 26 (2) Entertainment District Improvements-Covered Walkways	\$ 10,000,000
11 - Parks	7040 Park Improvement	PK25(1)	PK (1) Bike/Trail Renovations, Everett Park	\$ 600,000
11 - Parks	7040 Park Improvement	PK25(2)	PK (2) Bike/Trail Renovations, Hasting Banner Park	\$ 425,000
11 - Parks	7040 Park Improvement	PK25(4)	PK (4) Playground and Shelter, Twin Ridge Park	\$ 180,500
11 - Parks	7040 Park Improvement	PK25(5)	PK (5) Playground and Shelter, Willow Springs Park	\$ 250,000
15 - Streets	7010 Street Improvements	ST 25(1)	ST 25(1) Major Street Resurfacing	\$ 400,000
15 - Streets	7010 Street Improvements	ST 25(2)	ST 25(2) 2025 Concrete Projects	\$ 3,505,000
15 - Streets	7010 Street Improvements	ST 25(3)	ST 25(3) 2025 Overlay Projects	\$ 200,000
15 - Streets	7010 Street Improvements	ST 25(4)	ST 25(4) 2025 Reconstruction Projects	\$ 3,775,000
15 - Streets	7010 Street Improvements	ST 25(5)	ST 25(5) South 36th Street	\$ -
15 - Streets	7010 Street Improvements	ST 25(6)	ST 25(6) Bridge Repairs	\$ 160,000
15 - Streets	7010 Street Improvements	ST 25(7)	ST 25(7) Drainage Improvements	\$ 5,465,000
15 - Streets	7010 Street Improvements	ST 25(8)	ST 25(8) Signal Improvements	\$ 790,000
			Total for Improvement Districts:	<b>\$ 34,550,500</b>

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: September 2, 2025		SUBMITTED BY: Tammi Palm, Planning Director	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input checked="" type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Request to amend Section 26-40 of Article III of Chapter 26 of the Bellevue City Code relating to the boundaries of the Official Zoning Map for lands lying outside the city limits but within the City's two-mile zoning jurisdiction boundaries (for Parcel #010609490). Applicant: City of Bellevue.

SYNOPSIS/BACKGROUND:

The city's extra-territorial jurisdiction (ETJ) currently splits Parcel #010609490; the northern portion is in Bellevue's ETJ while the remainder lies in Sarpy County. The property owner desires to subdivide this parcel; therefore, it is important to have the entirety of the property within the city's ETJ in order to facilitate this request. Staff has been in communication with the Sarpy County Planning Department on this matter. The city's ETJ was last amended in 2017 for a similar request.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NAME:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

The Planning Department recommends approval of this request.

ATTACHMENTS:

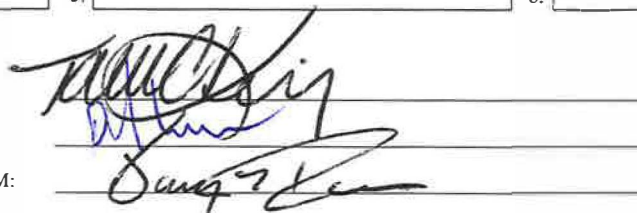
1. Staff Memo	2. Ordinance No. 4196	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM: \_\_\_\_\_

FINANCE APPROVAL AS TO FORM: \_\_\_\_\_

ADMINISTRATOR APPROVAL AS TO FORM: \_\_\_\_\_





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City of Bellevue  
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## MEMORANDUM

TO: City Council  
Jim Ristow, City Administrator  
Mayor Rusty Hike  
FROM: Tammi Palm, Planning Director  
DATE: August 27, 2025  
RE: Amendment to ETJ Boundary

The city’s extra-territorial jurisdiction (ETJ) currently splits Parcel 010609490, also known as Tax Lots 10B and 12C (27-13-13). The northern portion is in Bellevue’s ETJ while the remainder of the property lies in Sarpy County. Please refer to the attached maps.

The property owner desires to subdivide the 16-acre parcel into two separate acreages. To do this, the entirety of the parcel needs to be within Bellevue’s ETJ. The city’s ETJ was last amended in 2017 for a similar request.

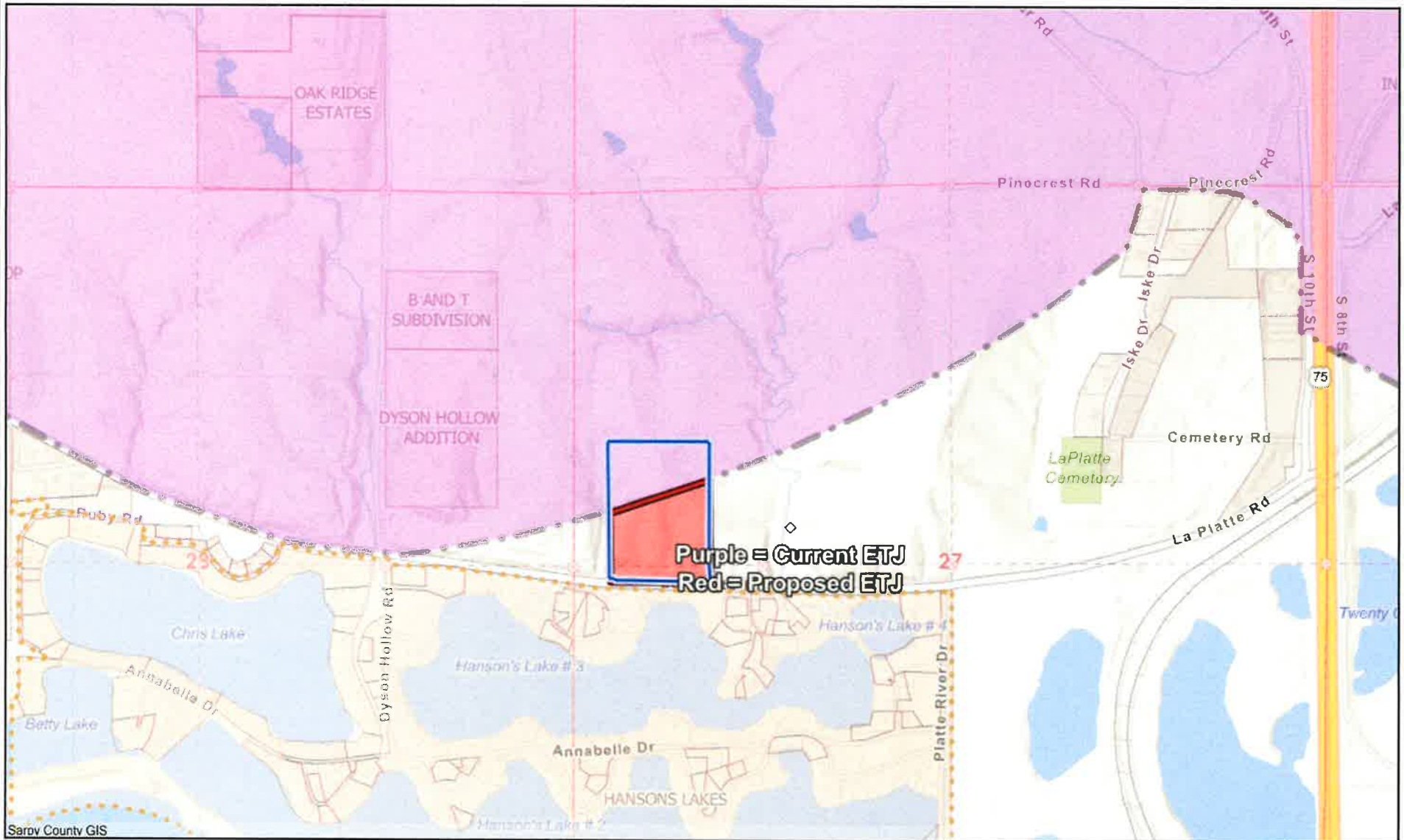
Staff has been working with the Sarpy County Planning Department on this matter. If this ordinance is approved by the Council, the next step would be for the Sarpy County Board to pass a resolution to cede jurisdiction to the city.

### **PLANNING DEPARTMENT RECOMMENDATION:**

The Planning Department recommends APPROVAL of this request.



# ETJ MAP

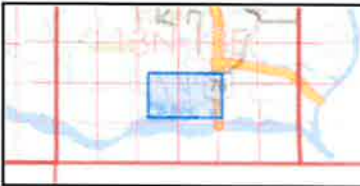


Sarpy County GIS



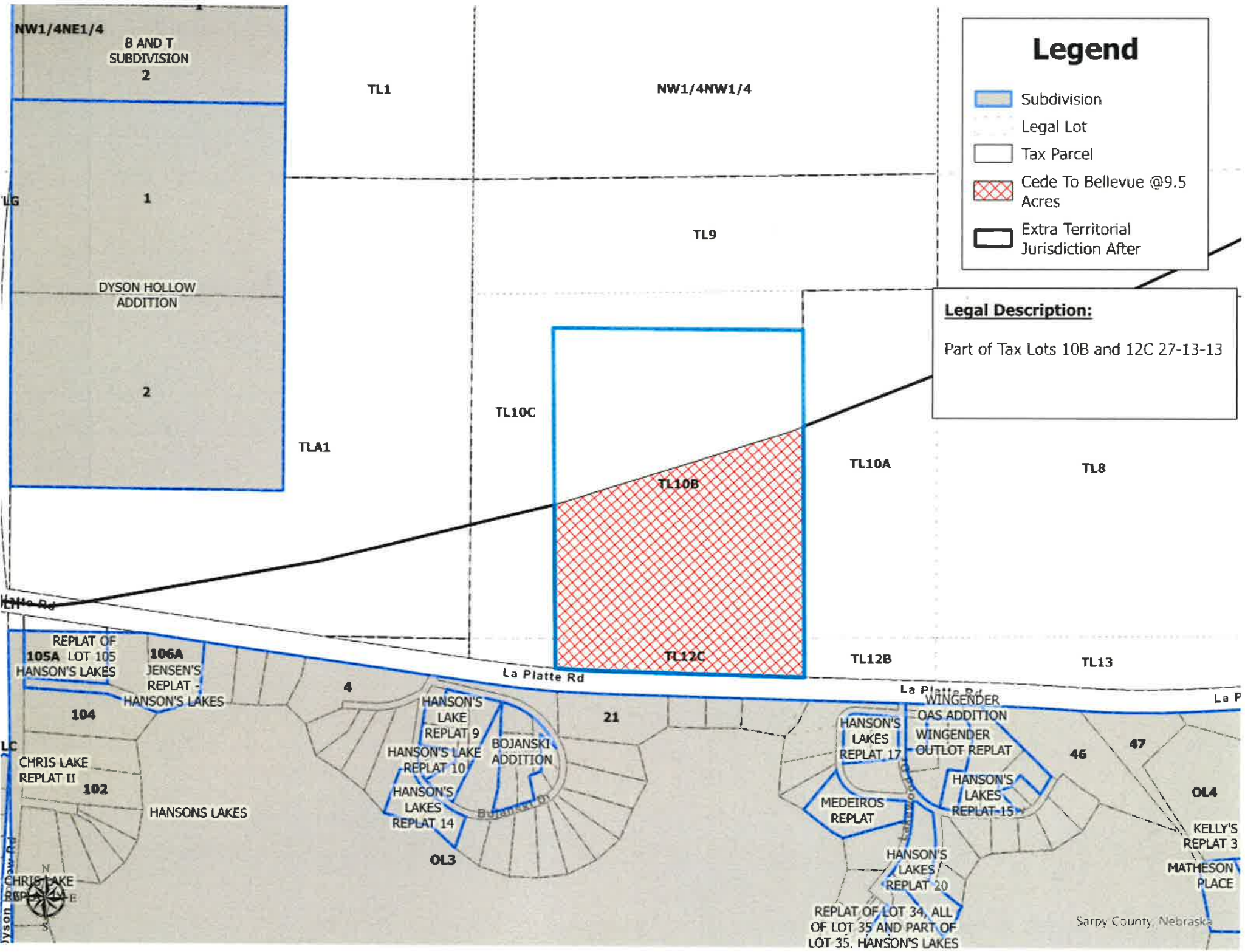
Map Scale 1: 15000

This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the source records and information sources to ascertain the usability of the information.



Notes





### Legend

- Subdivision
- Legal Lot
- Tax Parcel
- Cede To Bellevue @9.5 Acres
- Extra Territorial Jurisdiction After

**Legal Description:**  
 Part of Tax Lots 10B and 12C 27-13-13

NW1/4NE1/4  
 8 AND T  
 SUBDIVISION  
 2

TL1

NW1/4NW1/4

1

TL9

DYSON HOLLOW  
 ADDITION

2

TLA1

TL10C

TL10A

TL8

TL10B

La Platte Rd

REPLAT OF  
 105A LOT 105  
 HANSON'S LAKES

106A  
 JENSEN'S  
 REPLAT

La Platte Rd

TL12B

TL13

104

HANSON'S LAKES

4

HANSON'S LAKE  
 REPLAT 9  
 HANSON'S LAKE  
 REPLAT 10  
 HANSON'S  
 LAKES  
 REPLAT 14

21

BOJANSKI  
 ADDITION

La Platte Rd  
 WINGENDER  
 OAS ADDITION  
 WINGENDER  
 OUTLOT REPLAT

HANSON'S  
 LAKES  
 REPLAT 17

46

47

CHRIS LAKE  
 REPLAT II

102

HANSONS LAKES

MEDEIROS  
 REPLAT

HANSON'S  
 LAKES  
 REPLAT-15

OL4  
 KELLY'S  
 REPLAT 3

CHRIS LAKE  
 REPLAT I

OL3

HANSON'S  
 LAKES  
 REPLAT 20

REPLAT OF LOT 34, ALL  
 OF LOT 35 AND PART OF  
 LOT 35. HANSON'S LAKES

MATHESON  
 PLACE

Sarpy County, Nebraska

**ORDINANCE NO. 4196**

AN ORDINANCE TO AMEND SECTION 26-40 OF ARTICLE III OF CHAPTER 26 OF THE BELLEVUE CITY CODE RELATING TO BOUNDARIES OF THE OFFICIAL ZONING JURISDICTION MAP FOR LANDS LYING INSIDE THE CITY LIMITS OF BELLEVUE AND LANDS LYING OUTSIDE THE CITY LIMITS BUT WITHIN THE CITY'S TWO-MILE ZONING JURISDICTION; TO ADOPT A MAP ESTABLISHING JURISDICTIONAL BOUNDARIES; TO REPEAL SUCH SECTION AS HERETOFORE EXISTING; AND DESIGNATING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BELLEVUE, NEBRASKA.

Section 1. That Section 26-40 of Article III of Chapter 26 of the Bellevue City Code is hereby amended to read as follows:

(a) Whenever used in this Code, the term "Official Zoning Jurisdiction Maps" shall mean the map attached to this Ordinance as Exhibit A and dated October 23, 2025, as such Maps are amended by ordinance from time to time. To the extent required by law, the Official Zoning Jurisdiction Maps are by this reference made a part of this Section 26-40. The Official Zoning Maps shall be maintained by the planning department and shall be considered the official map for purposes of sections 16-901 through 16-905, inclusive, of the laws of the State of Nebraska, and for purposes of enforcement of the Code, including the City zoning ordinance and the subdivision regulations.

(b) The Official Zoning Jurisdiction Maps shall separately identify the corporate limits of the City and those areas that lie outside the corporate limits of the city that have been designated by the city for purposes of implementing sections 16-901 through 16-905, inclusive, of the laws of the State of Nebraska and contemplated by section 26-38(ii) of this Code.

(c) The Official Zoning Jurisdiction Maps shall be amended as necessary, or appropriate, whenever the city shall modify its corporate limits. Any such amendment shall be promptly and permanently noted on the face of the Official Zoning Jurisdiction Maps.

(d) The location, size, shape, and boundaries of the zones to which the provisions of section 26-38 and section 26-39 of this Code are applicable shall be indicated on the Official Zoning Jurisdiction Maps. Any amendment to a zoning classification on the Official Zoning Jurisdiction Map shall include the legal description of the land involved, including appropriate adjacent public right-of-way on public property. Any such amendment shall be promptly and permanently noted on the face of the Official Zoning Jurisdiction Maps.

Section 2. That Section 26-40 of the Bellevue City Code as heretofore existing is hereby repealed.

Section 3. This ordinance shall take effect and be in full force from and after its passage, approval and publication according to law.

Adopted by the Mayor and City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_



APPROVED AS TO FORM:

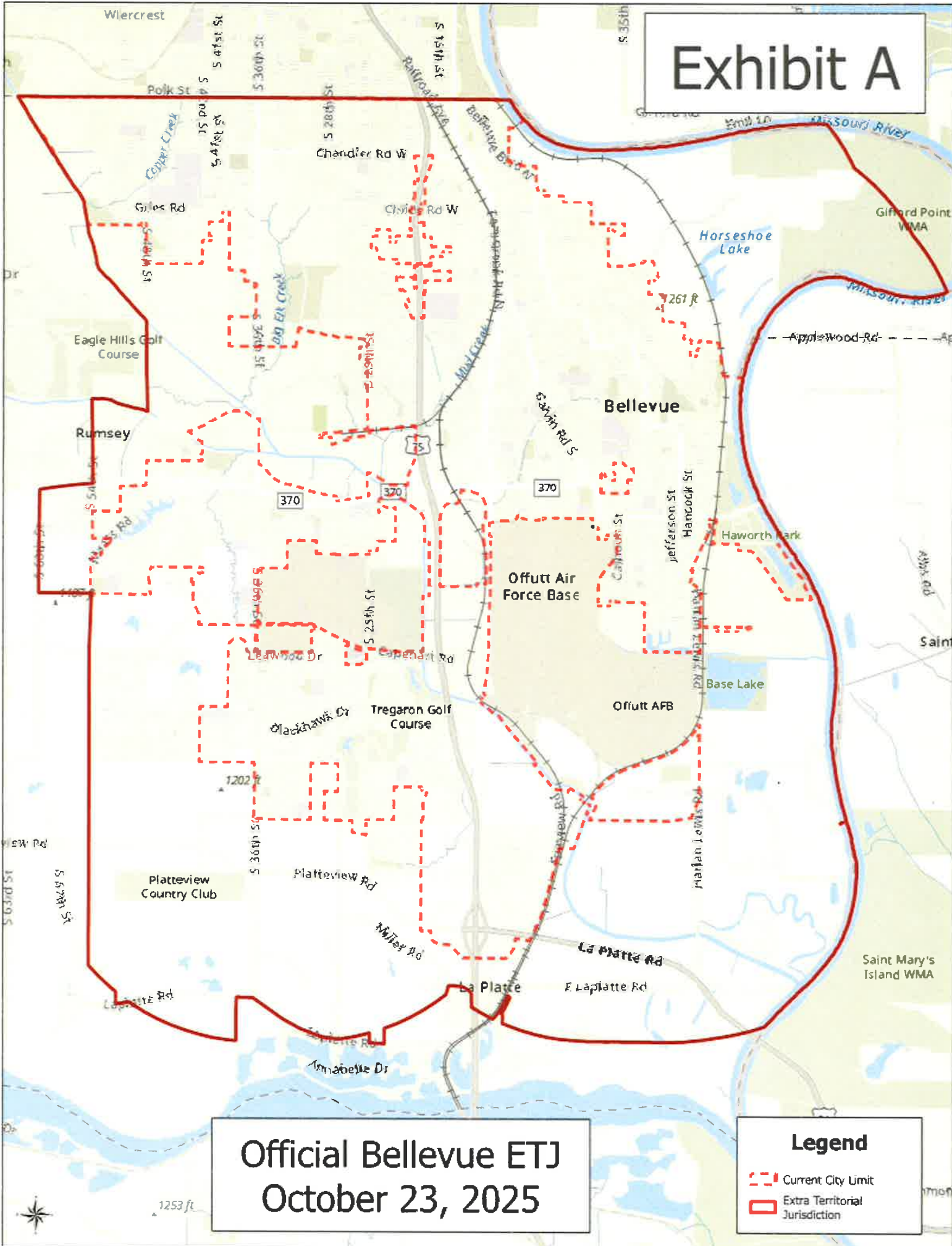
\_\_\_\_\_  
City Attorney

# Exhibit A

## Official Bellevue ETJ October 23, 2025

**Legend**

-  Current City Limit
-  Extra Territorial Jurisdiction



**CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET**

**12a.  
10/7/2025**

COUNCIL MEETING DATE: <b>September 16, 2025</b>		SUBMITTED BY: <b>Tammi Palm, Planning Director</b>	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input checked="" type="checkbox"/>	PUBLIC HEARING	<input type="checkbox"/>
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER	<input type="checkbox"/>

**SUBJECT:**

Request to rezone Lots 1 through 3, Michalek Estates, from AG to AG, RA, and RE, for the purpose of lot line adjustments; small subdivision plat Lots 1 through 3, Michalek Estates; and waiver of Section 6-7 (7), Subdivision Regulations, regarding excessive depth in relation to width of lots over three to one. Applicant: Mark Michalek. General location: 12009 S. 25th Street.

**SYNOPSIS/BACKGROUND:**

Mark Michalek is requesting approval of a rezoning and small subdivision plat for Lots 1 through 3, Michalek Estates, for the purpose of lot line adjustments. This property consists of three tax lots. Two of the three existing tax lots have nonconforming AG zoning designations. This platting and rezoning will bring the properties into conformance. Lot 1 will consist of approximately 29 acres and have an AG zoning, Lot 2 is 5.03 acres with an RA zoning, and Lot 3 is 1.35 acres with an RE zoning. All lots meet the minimum requirements for their perspective zoning districts. The small subdivision plat and rezoning do not impact the existing land use or change what can be built on the properties.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

**TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:**

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NAME:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

**RECOMMENDATION:**

The Planning Department and Planning Commission are recommending approval of this request.

**ATTACHMENTS:**

- |   |  |   |
|---|--|---|
| 1. <input type="text" value="PC Recommendation"/> | 2. <input type="text" value="Staff Report"/> | 3. <input type="text" value="Ord. No. 4197"/> |
| 4. <input type="text"/>                           | 5. <input type="text"/>                      | 6. <input type="text"/>                       |

**SIGNATURES:**

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Daniel Miller*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_

# City of Bellevue

## PLANNING COMMISSION RECOMMENDATION

APPLICANT: City of Bellevue  
CASE #'s: Z-2507-08 and S-2507-15  
CITY COUNCIL HEARING DATE: October 07, 2025

REQUEST: to rezone Lots 1 through 3, Michalek Estates, being a platting of Tax Lots 3B1, 3B2, and 3B3A, all located in the Northwest 1/4 of Section 3, T13N, R13E of the 6th P.M., Sarpy County, Nebraska, from AG to AG, RA, and RE for the purpose of lot line adjustments; small subdivision plat Lots 1 through 3, Michalek Estates; and waiver of Section 6-7 (7) regarding excessive depth in relation to width of lots over three to one.

On August 29, 2025, the City of Bellevue Planning Commission voted six yes, zero no, three absent, and zero abstained:

**APPROVAL** based upon lack of perceived negative impact to the surrounding neighborhood and conformance with the Zoning Ordinance.

VOTE:

Yes:	Six:	No:	Zero:	Abstain:	Zero:	Absent:	One:
	Hankins						Aerni
	Sims						Taylor-Jones
	Bennett						Lasenburg
	Yoder						
	Ackley						
	Perrin						

Planning Commission Hearing was held on: August 29, 2025

# CITY OF BELLEVUE PLANNING DEPARTMENT

## RECOMMENDATION REPORT # 2

CASE NUMBERS: Z-2507-08  
S-2507-15

FOR HEARING OF:  
REPORT #1: August 28, 2025  
REPORT #2: October 7, 2025

### I. GENERAL INFORMATION

#### A. APPLICANT:

Mark Michalek  
12009 S. 25<sup>th</sup> Street  
Bellevue, NE 68123

#### B. PROPERTY OWNERS:

Mark and Janice Michalek  
12009 S. 25<sup>th</sup> Street  
Bellevue, NE 68123

#### C. GENERAL LOCATION:

12009 S 25<sup>th</sup> Street

#### D. LEGAL DESCRIPTION:

Lots 1 through 3, Michalek Estates, being a platting of Tax Lots 3B1, 3B2, and 3B3A, all located in the Northwest ¼ of Section 3, T13N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska.

#### E. REQUESTED ACTIONS:

1. Rezone Lots 1 through 3, Michalek Estates, from AG to AG, RA, and RE, for the purpose of lot line adjustments.
2. Small Subdivision Plat Lots 1 through 3, Michalek Estates.

3. Waiver of Section 6-7 (7) regarding excessive depth in relation to width of lots over three to one.

**F. EXISTING ZONING AND LAND USE:**

AG, Single Family Residential and Agricultural

**G. PURPOSE OF REQUEST:**

The purpose of this request is to obtain approval of a rezoning and small subdivision plat for the purpose of adjusting lot lines and bringing the properties into zoning conformance.

**H. SIZE OF SITE:**

The entire site is 35 acres, with the proposed lots as follows: Lot 1 – 28.87 acres, Lot 2 – 5.03 acres, and Lot 3 – 1.35 acres.

**II. BACKGROUND INFORMATION**

**A. EXISTING CONDITION OF SITE:**

Tax Lots 3B1 and 3B2 are presently developed with single family residences. Tax Lot 3B3A is developed with a single family residence, a mobile home, and several agricultural outbuildings.

**B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**

- 1. **North:** Single Family Residential/Agricultural, AG
- 2. **East:** Papio Creek/Floodway
- 3. **South:** USAF Property/Willow Springs Golf Course
- 4. **West:** USAF Property (across 25<sup>th</sup> Street)

**C. REVELANT CASE HISTORY:**

1. On August 28, 2025, the Planning Commission recommended approval of a request to rezone Lots 1 through 3, Michalek Estates, being a platting of Tax Lots 3B1, 3B2, and 3B3A, all located in the Northwest ¼ of Section 3, T13N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska from AG to AG, RA, and RE for the purpose of lot line adjustments; and small subdivision plat Lots 1 through 3, Michalek Estates; and waiver of Section 6-7 (7), Subdivision Regulations, regarding excessive depth in relation to width of lots over three to one.

**D. APPLICABLE REGULATIONS:**

- 1. Section 5.05, Zoning Ordinance, regarding AG uses and requirements.

2. Section 5.06, Zoning Ordinance, regarding RA uses and requirements.
3. Section 5.07, Zoning Ordinance, regarding RE uses and requirements.
4. Chapter 5, Subdivision Regulations, regarding Small Subdivisions.
5. Chapter 6, Subdivision Regulations, regarding Minimum Design Standards.
6. Chapter 8, Subdivision Regulations, regarding Hardship and Waivers.

### **III. ANALYSIS**

#### **A. COMPREHENSIVE PLAN:**

The Future Land Use Map of the Comprehensive Plan designates this area as mixed use.

#### **B. OTHER PLANS:**

None

#### **C. TRAFFIC AND ACCESS:**

1. There is no MAPA traffic data information available for this area.
2. The properties presently have access from private driveways off South 25<sup>th</sup> Street.

#### **D. UTILITIES:**

All utilities are available to this location.

#### **E. ANALYSIS:**

1. Mark Michalek is requesting approval of a rezoning and small subdivision plat for Lots 1 through 3, Michalek Estates, for the purpose of lot line adjustments.
2. This property consists of three tax lots. Two of the three existing tax lots have nonconforming AG zoning designations. This platting and rezoning will bring the properties into conformance.

Lot 1 will consist of approximately 29 acres and have an AG zoning, while Lot 2 is 5.03 acres with an RA zoning, and Lot 3 is 1.35 acres with an RE zoning.

The minimum lot size in the AG district is 20 acres. The minimum lot size in RA is 5 acres, while the minimum lot size is 1 acre in the RE district. All lots meet the minimum requirements for their perspective zoning districts.

3. This application was sent out to the following departments/individuals for review: Public Works, Permits and Inspections, Chief of Police, Offutt Air Force Base, Fire Inspector, Sarpy County Planning Director, Sarpy County Public Works Department, and the Bellevue Public School District. The cover letter indicated a deadline to send comments back to the Planning Department, and stated if the requested department did not have comments pertaining to the application, no response was needed.

Matt Knight, Public Works Engineer, and Mike Sharp, Sarpy County Public Works, had minor technical comments regarding the small subdivision plat. The surveyor has made the requested revisions.

4. The applicant is also requesting a waiver of Section 6-7 (7), Subdivision Regulations, regarding lot standards for excessive depth in relation to width of lots over three (3) to one (1). This request pertains to proposed Lot 1, Michalek Estates. The existing configuration of the property already exists; therefore, staff has no objections to the requested waiver.

5. The Future Land Use Map of the Comprehensive Plan shows this area as mixed use.

The Comprehensive Plan does not preclude a change of zone in this location. Staff believes mixed use for this property is an appropriate long-term plan; however, the proposed zoning will allow for the existing single family residences to remain until such time as mixed development occurs.

6. The small subdivision plat and rezoning do not impact the existing land use or change what can be built on the properties.

#### **F. TECHNICAL DEFICIENCIES:**

None

#### **IV. DEPARTMENT RECOMMENDATION**

APPROVAL based upon lack of perceived negative impact to the surrounding neighborhood and conformance with the Zoning Ordinance.

#### **V. PLANNING COMMISSION RECOMMENDATION**

APPROVAL based upon lack of perceived negative impact to the surrounding neighborhood and conformance with the Zoning Ordinance.

**VI. ATTACHMENTS TO REPORT**

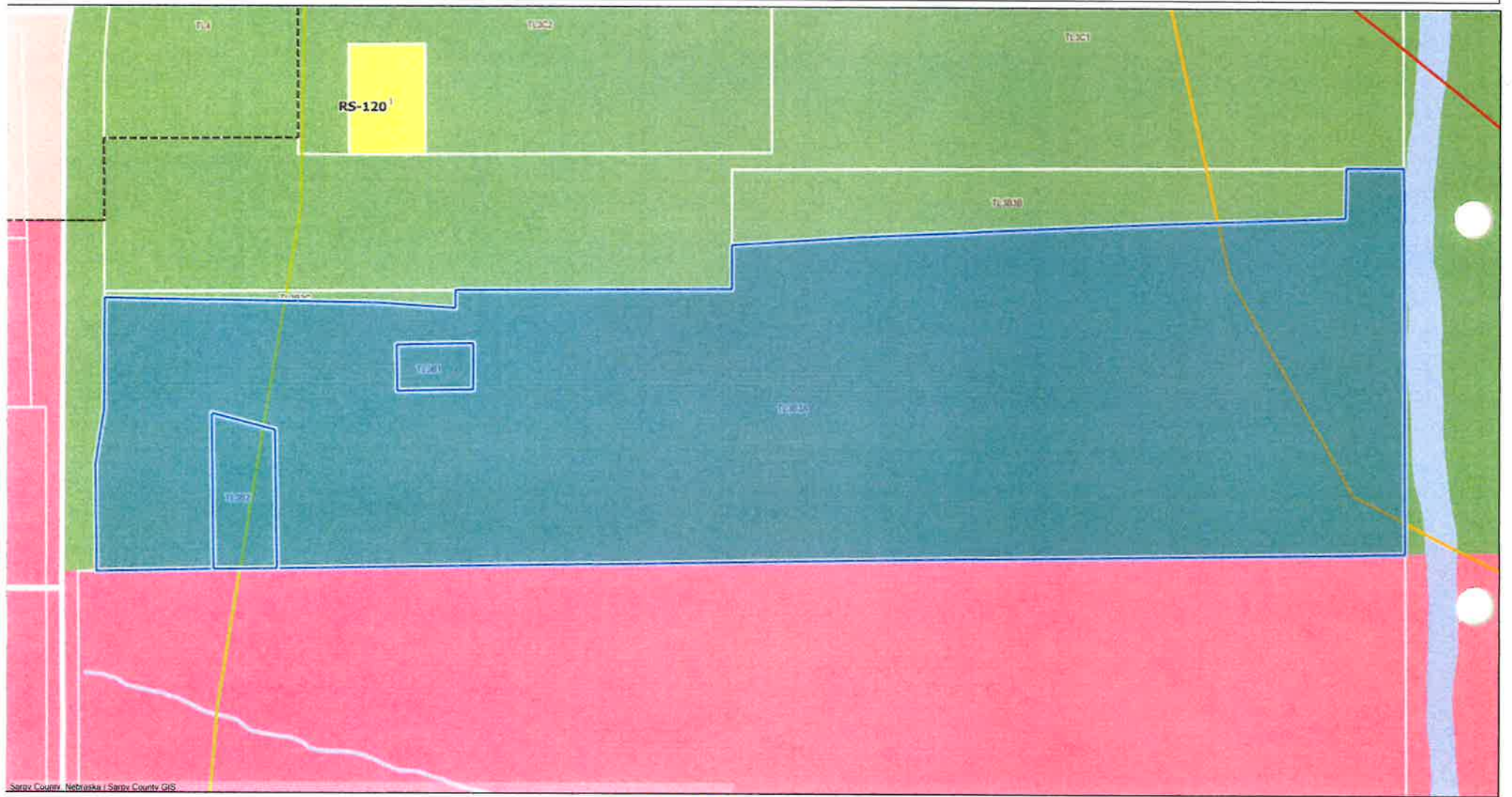
1. Vicinity map/Zoning Map
2. 2024 GIS aerial photo of the property
3. Small Subdivision Plat received August 19, 2025
4. As Built Plot Plan received July 24, 2025
5. Letter from the applicant received July 25, 2025
6. Waiver request received August 12, 2025

**VII. COPIES OF REPORT TO:**

1. Applicant
2. Doug Hill
3. Public Upon Request

  
Assistant Planning Manager

  
Planning Director                      Date of Report 08/09/25

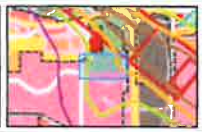


Sarpy County, Nebraska | Sarpy County GIS



Map Scale 1: 2862

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the source records and information sources to ascertain the usability of the information.



Notes



Map Scale 1: 2862

This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the source records and information sources to ascertain the usability of the information.



Notes

NORTHWEST CORNER  
SEC. 3, T13N, R13E  
SARPY COUNTY  
NEBRASKA

FOUND 1" PINCH TOP PIPE  
41.34' SE CHISELED "X" IN CURB  
41.72' SW CHISELED "X" IN CURB  
37.45' NW "X" NAILS IN POWER POLE  
31.10' NE "X" IN TOP CENTER  
GRATE CONC. PIPE

RIGHT-OF-WAY EASEMENTS  
MISC BOOK 118 PAGE 21  
MISC BOOK 135 PAGE 259

NOTE  
THERE SHALL BE NO  
DIRECT VEHICULAR ACCESS  
TO SOUTH 25TH STREET  
FROM LOTS 1 AND 3. ALL  
ACCESS SHALL BE FROM  
3000' PERMANENT DRIVE  
EASEMENT.

WEST 1/4 CORNER  
SEC. 3, T13N, R13E  
SARPY COUNTY  
NEBRASKA

FOUND SARPY COUNTY BRASS  
CAP IN ASPHALT  
2.5' E TO CENTERLINE 25TH STREET  
130.55' SE CORNER CHAIN LINK FENCE  
36.74' W NAIL IN POWER POLE  
75.01' NW CENTER OF NORTH GUY ANCHOR

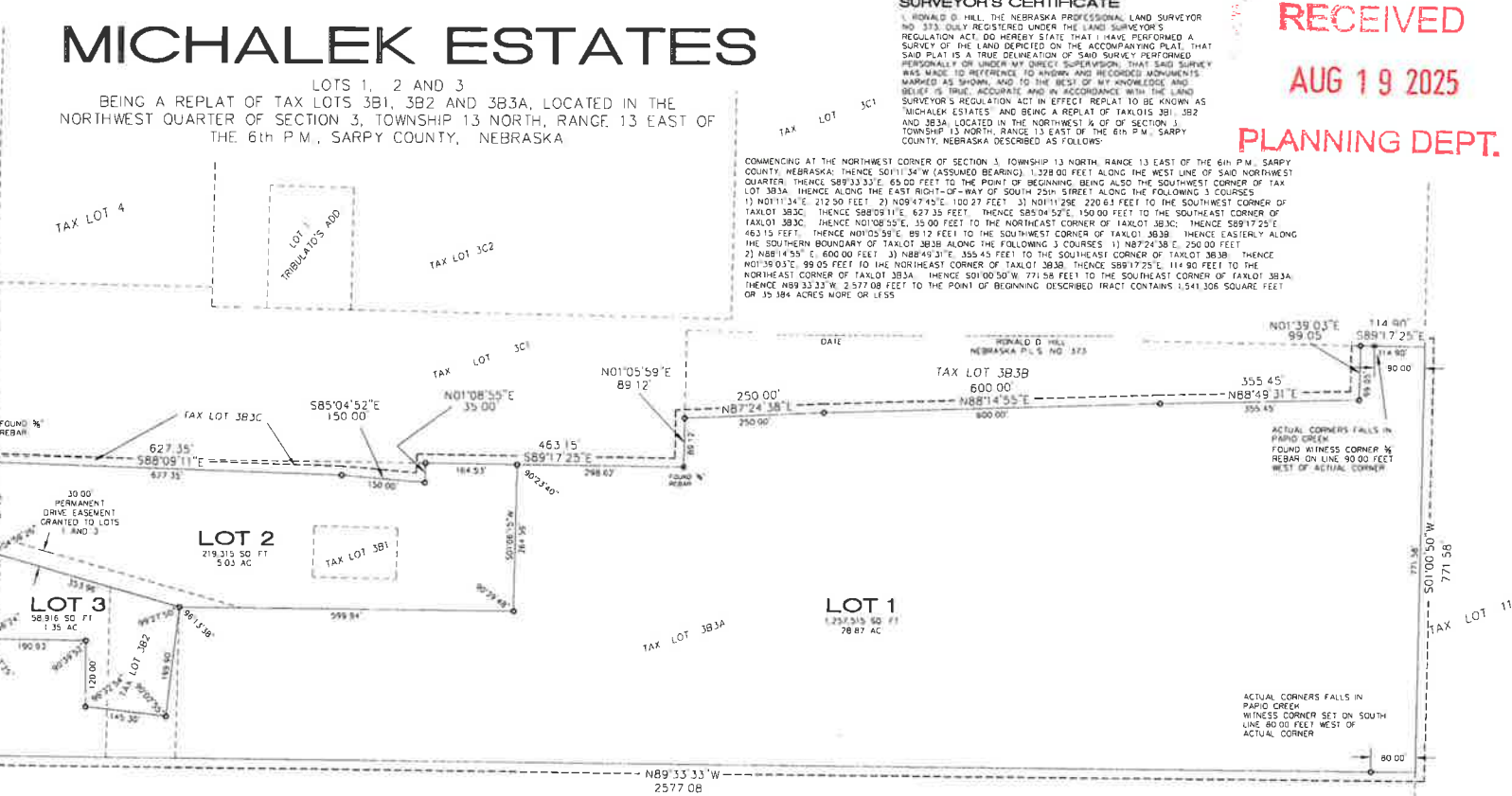
# MICHALEK ESTATES

LOTS 1, 2 AND 3  
BEING A REPLAT OF TAX LOTS 3B1, 3B2 AND 3B3A, LOCATED IN THE  
NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 13 EAST OF  
THE 6th P.M., SARPY COUNTY, NEBRASKA

SOUTH 25th STREET

2500' 00" 50'11" 34" W (ASSUMED BEARING)

212.50' N01'11'34"E



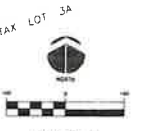
**APPROVAL OF BELLEVUE PLANNING COMMISSION**  
THIS PLAT OF "MICHALEK ESTATES" WAS APPROVED BY THE BELLEVUE PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2025

**APPROVAL OF BELLEVUE CITY COUNCIL**  
THIS PLAT OF "MICHALEK ESTATES" WAS APPROVED BY THE BELLEVUE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2025. THIS PLAT BECOMES NULL AND VOID IF NOT RECORDED WITHIN NINETY (90) DAYS OF THE ABOVE DATE.

**REVIEW OF SARPY PUBLIC WORKS**  
THIS PLAT OF "MICHALEK ESTATES" WAS REVIEWED BY THE SARPY COUNTY PUBLIC WORKS DEPARTMENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2025.

**COUNTY TREASURER'S CERTIFICATE**  
THIS IS TO CERTIFY THAT THERE ARE NO TAXES DUE OR DELINQUENT AGAINST THE PROPERTY DESCRIBED WITHIN THE SURVEYOR'S CERTIFICATE OR EMBRACED WITHIN THIS PLAT AS SHOWN BY THE RECORDS OF THIS OFFICE.

DATE \_\_\_\_\_ SARPY COUNTY TREASURER \_\_\_\_\_



- - PROPERTY CORNER FOUND (SIC AS NOTED)
- - PROPERTY CORNER SET BY GARY JENSEN
- ⊙ - SECTION CORNER FOUND

NOTE  
NORTHWEST QUARTER OF SECTION 3-13-13  
AND SOUTH LINE OF TAX LOT 33A  
DETERMINED FROM SURVEY BY GARY JENSEN  
DATED NOVEMBER 26, 2002  
BOUNDARY OF TAXLOT 3B3B AND 3B3C  
DETERMINED BY GARY JENSEN DATED IN DEED  
FILED AS INSTRUMENT NUMBER 2011-03592

**SURVEYOR'S CERTIFICATE**  
I, RONALD D. HILL, THE NEBRASKA PROFESSIONAL LAND SURVEYOR NO. 513, DULY REGISTERED UNDER THE LAND SURVEYORS REGULATION ACT, DO HEREBY STATE THAT I HAVE PERFORMED A SURVEY OF THE LAND DESCRIBED ON THE ACCOMPANYING PLAT, THAT SAID PLAT IS A TRUE DELINEATION OF SAID SURVEY PERFORMED PERSONALLY OR UNDER MY DIRECT SUPERVISION, THAT SAID SURVEY WAS MADE IN REFERENCE TO KNOWN AND RECORDED MONUMENTS MARKED AS SHOWN, AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IS TRUE, ACCURATE AND IN ACCORDANCE WITH THE SURVEYORS REGULATION ACT IN EFFECT. REPLAT TO BE KNOWN AS "MICHALEK ESTATES" AND BEING A REPLAT OF TAXLOTS 3B1, 3B2 AND 3B3A, LOCATED IN THE NORTHWEST 1/4 OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 13 EAST OF THE 6th P.M., SARPY COUNTY, NEBRASKA DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 13 EAST OF THE 6th P.M., SARPY COUNTY, NEBRASKA: THENCE S01°11'34" W (ASSUMED BEARING), 1,328.00 FEET ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, THENCE S89°33'33" E, 65.00 FEET TO THE POINT OF BEGINNING, BEING ALSO THE SOUTHWEST CORNER OF TAX LOT 3B3A, THENCE ALONG THE EAST RIGHT-OF-WAY OF SOUTH 25TH STREET, ALONG THE FOLLOWING 3 COURSES: 1) N01°11'34" E, 212.50 FEET; 2) N09°47'45" E, 100.27 FEET; 3) N01°11'29" E, 220.63 FEET TO THE SOUTHWEST CORNER OF TAXLOT 3B3C, THENCE S89°09'11" E, 627.35 FEET, THENCE S85°04'52" E, 150.00 FEET TO THE SOUTHEAST CORNER OF TAXLOT 3B3C, THENCE N01°08'55" E, 35.00 FEET TO THE NORTHEAST CORNER OF TAXLOT 3B3C, THENCE S89°17'25" E, 463.15 FEET, THENCE N01°05'59" E, 89.12 FEET TO THE SOUTHWEST CORNER OF TAXLOT 3B3B, THENCE EASTERLY ALONG THE SOUTHERN BOUNDARY OF TAXLOT 3B3B ALONG THE FOLLOWING 3 COURSES: 1) N87°24'38" E, 250.00 FEET; 2) N88°49'31" E, 600.00 FEET; 3) N88°49'31" E, 355.45 FEET TO THE SOUTHEAST CORNER OF TAXLOT 3B3B, THENCE N01°39'03" E, 99.05 FEET TO THE NORTHEAST CORNER OF TAXLOT 3B3B, THENCE S89°17'25" E, 114.90 FEET TO THE NORTHEAST CORNER OF TAXLOT 3B3A, THENCE S01°00'50" W, 771.58 FEET TO THE SOUTHEAST CORNER OF TAXLOT 3B3A, THENCE N89°33'33" W, 2,577.08 FEET TO THE POINT OF BEGINNING. DESCRIBED TRACT CONTAINS 1,541,306 SQUARE FEET OR 35.384 ACRES MORE OR LESS.

DATE \_\_\_\_\_  
RONALD D. HILL  
NEBRASKA P.L.S. NO. 513

**DEDICATION**  
KNOW ALL MEN BY THESE PRESENTS THAT WE, MARK A MICHALEK AND JANICE A MICHALEK, BEING THE OWNERS OF THE PROPERTY DESCRIBED WITHIN THE SURVEYOR'S CERTIFICATE AND EMBRACED WITHIN THIS PLAT, HAVE CAUSED SAID LAND TO BE REPLATED INTO LOTS TO BE NUMBERED AS SHOWN, SAID SUBDIVISION TO BE HEREAFTER KNOWN AS "MICHALEK ESTATES", AND WE DO HEREBY RATIFY AND APPROVE OF THE DISPOSITION OF OUR PROPERTY AS SHOWN ON THIS PLAT. WE DO HEREBY GRANT A PERPETUAL EASEMENT TO THE OMAHA PUBLIC POWER DISTRICT AND CENTURYLINK COMMUNICATIONS INTERNATIONAL, INC. AND ANY COMPANY WHICH HAS BEEN GRANTED A FRANCHISE TO PROVIDE A CABLE TELEVISION SYSTEM IN THE AREA TO BE SUBDIVIDED, THEIR SUCCESSORS AND ASSIGNS, TO ERECT, OPERATE, MAINTAIN, REPAIR AND RENEW POLES, WIRES, CROSS ARMS, DOWN GUYS AND ANCHORS, CABLES, CONDUITS AND OTHER RELATED FACILITIES, AND TO EXTEND THEREON WIRES OR CABLES, FOR THE TRANSMISSION OF ELECTRIC CURRENT FOR LIGHT, HEAT, AND POWER FOR THE TRANSMISSION OF SIGNALS AND SOUNDS, OF ALL KINDS AND THE RECEPTION THEREON, INCLUDING SIGNALS PROVIDED BY A CABLE TELEVISION SYSTEM AND THEIR RECEPTION ON OVER THROUGH UNDER AND ACROSS A FIVE (5) FOOT WIDE STRIP OF LAND ABUTTING ALL FRONT AND SIDE BOUNDARY LINES, AND AN EIGHT (8) FOOT WIDE STRIP OF LAND ABUTTING THE REAR BOUNDARY LINES OF ALL INTERIOR LOTS AND A SIXTEEN (16) FOOT WIDE STRIP OF LAND ABUTTING THE REAR BOUNDARY OF ALL EXTERIOR LOTS. THE TERM EXTERIOR LOTS IS HEREIN DEFINED AS THOSE LOTS FORMING THE OUTER PERIMETER OF THE ABOVE DESCRIBED ADDITION. THE SIXTEEN (16) FOOT WIDE STRIP MAY BE REDUCED TO EIGHT (8) FEET WIDE WHEN ADJACENT LAND IS SURVEYED, PLATED, AND RECORDED, NO PERMANENT BUILDINGS, TREES, RETAINING WALLS OR LOOSE ROCK SHALL BE PLACED IN THE SAID EASEMENT WAYS, BUT THE SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING, SIDEWALKS, DRIVEWAYS, AND OTHER PURPOSES THAT DO NOT, THEN, OR LATER INTERFERE WITH THE FORESAID USES OF RIGHTS HEREIN GRANTED. WE DO ALSO DEDICATE THE EASEMENTS AS SHOWN HEREON, IN WITNESS WHEREOF, WE DO HEREBY SET OUR HANDS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2025.

MARK A MICHALEK \_\_\_\_\_ JANICE A MICHALEK \_\_\_\_\_  
**ACKNOWLEDGMENT OF NOTARY**  
STATE OF NEBRASKA }  
COUNTY OF SARPY } 55

ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2025, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, DULY QUALIFIED AND COMMISSIONED IN SAID COUNTY AND STATE, PERSONALLY APPEARED MARK A MICHALEK AND JANICE A MICHALEK, PERSONALLY KNOWN BY ME TO BE THE IDENTICAL PERSONS WHOSE NAMES APPEAR ON THIS PLAT, AND THEY DID ACKNOWLEDGE THE EXECUTION THEREOF TO BE THEIR VOLUNTARY ACT AND DEED.  
DATE \_\_\_\_\_ NOTARY PUBLIC \_\_\_\_\_

RECEIVED  
AUG 19 2025  
PLANNING DEPT.

SURVEY: ECH/JBH  
DRAWN: RCH  
DATE: 07/20/2025  
08/06/2025  
08/19/2025

**MICHALEK ESTATES**  
SMALL SUBDIVISION-CITY OF BELLEVUE  
SARPY COUNTY, NEBRASKA

**HILL-FARELL ASSOCIATES, INC.**  
Land Surveyors  
Bellevue, NE 68005 (402) 291-6100

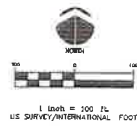
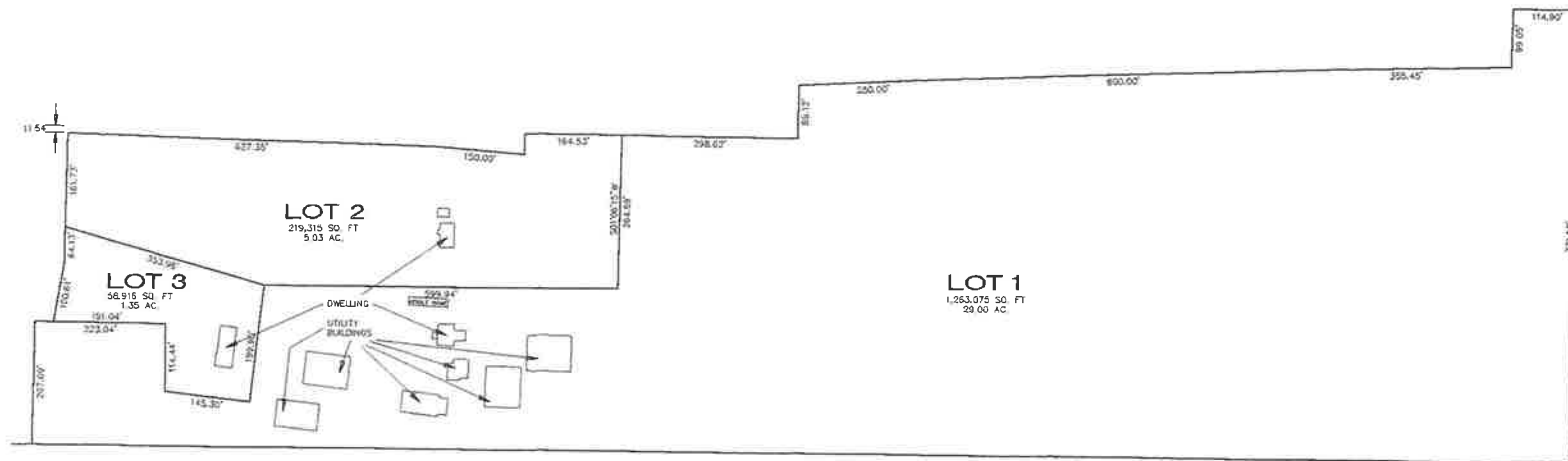


PROJECT NO.  
3828/MICHALEK ESTATES

# MICHALEK ESTATES

LOTS 1, 2 AND 3  
BEING A REPLAT OF TAX LOTS 3B1, 3B2 AND 3B3A, LOCATED IN THE  
NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 13 EAST OF  
THE 6th P.M., SARPY COUNTY, NEBRASKA.

STRUCTURES ON PROPERTY AS BUILT



SURVEY TECH/UCH  
DRAWN: RCH  
DATE: 07/20/2025

**MICHALEK ESTATES**  
SMALL SUBDIVISION  
CITY OF BELLEVUE  
SARPY COUNTY, NEBRASKA

HILL-FARRELL ASSOCIATES, INC.  
Land Surveyors  
Bellevue, NE 68005 (402) 291-6100



PROJECT NO.  
2025/MICHALEK ESTATES

RECEIVED  
JUL 24 2025

PLANNING DEPT.

# Hill-Farrell Associates, Inc.

Land Surveyors  
Bellevue, Nebraska



July 25, 2025

Angela Curry  
Assistant Planning Manager  
City of Bellevue  
1510 Wall Street  
Bellevue, NE 68005

RE: Michalek Estates-Small Subdivision Application and Rezoning

Dear Angela:

Attached please find Final Plat and Applications for Referenced Project. Property owner desires to Rezone and Replat subject property to correct Zoning to conform and adjust lot lines to fit current and future conditions.

Thank you for your assistance. Please contact me with any questions or comments.

Sincerely,

Doug

Ronald D. Hill  
NE L.S. No. 373  
dhill@hillfarrell.com

# Hill-Farrell Associates, Inc.

Land Surveyors  
Bellevue, Nebraska



RECEIVED

AUG 19 2025

PLANNING DEPT.

August 12, 2025

Angela Curry  
Assistant Planning Manager  
City of Bellevue  
1510 Wall Street  
Bellevue, NE 68005

RE: Michalek Estates-Small Subdivision Application and Rezoning

Dear Angela:

Applicant is requesting a waiver of Section 6-7 (7), Subdivision Regulations. Due to the rectangular dimensions of the existing property, in order to subdivide the property efficiently to provide desired size and area of parcels the three to one ratio cannot be maintained.

Thank you for your assistance. Please contact me with any questions or comments.

Sincerely,

Doug

Ronald D. Hill  
NE L.S. No. 373  
dhill@hillfarrell.com

ORDINANCE NO. 4197

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF BELLEVUE, NEBRASKA, AS PROVIDED FOR BY ARTICLE 3 OF ORDINANCE NO. 4146 BY CHANGING THE ZONE CLASSIFICATION OF LAND LOCATED AT OR ABOUT 12009 SOUTH 25<sup>TH</sup> STREET, MORE PARTICULARLY DESCRIBED IN SECTION 1 OF THE ORDINANCE AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, having received a recommendation from the city of Bellevue Planning Commission and proper notice having been given and public hearing held as provided by law:

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

Section 1. That part of the official zoning map of the City of Bellevue, Nebraska, as provided in Article 3, of Ordinance No. 4146 is hereby amended to change the zone classification of the following described parcel of land:

Lot 1, Michalek Estates, being a platting of Tax Lots 3B1, 3B2, and 3B3A, all located in the Northwest ¼ of Section 3, T13N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska

From AG (Agricultural) to AG (Agricultural); and

Lot 2, Michalek Estates, being a platting of Tax Lots 3B1, 3B2, and 3B3A, all located in the Northwest ¼ of Section 3, T13N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska

From AG (Agricultural) to RA (Residential Agriculture); and

Lot 3, Michalek Estates, being a platting of Tax Lots 3B1, 3B2, and 3B3A, all located in the Northwest ¼ of Section 3, T13N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska

From AG (Agricultural) to RE (Residential Estates).

(Mark and Janice Michalek)

Section 2. This ordinance shall not take effect until such time as the final plat of Michalek Estates is filed with the Sarpy County Register of Deeds in accordance with Section 5-10 of the City of Bellevue Subdivision Regulations.

Section 3. Except as amended herein, the official zoning map and the classification shown therein shall remain as heretofore existing.

Section 4. This ordinance shall take affect and be in force from and after its adoption and publication according to law.

ADOPTED by the Mayor and City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

First Reading: \_\_\_\_\_  
Second Reading: \_\_\_\_\_  
Third Reading: \_\_\_\_\_

# MICHALEK ESTATES

LOTS 1, 2 AND 3  
BEING A REPLAT OF TAX LOTS 3B1, 3B2 AND 3B3A, LOCATED IN THE  
NORTHWEST QUARTER OF SECTION 3, TOWNSHIP 13 NORTH, RANGE 13 EAST OF  
THE 6th P.M. SARY COUNTY, NEBRASKA

NORTHWEST CORNER  
SEC 3, T13N, R13E  
SARY COUNTY  
NEBRASKA

FOUND 1" PVC TOP MARK  
#134 SE CORNER X IN CURB  
#172 SW CORNER X IN CURB  
2145 NW 7" NAILS IN POWER POLE  
3110 NC X IN TOP CENTER  
CRAL CONC RPL

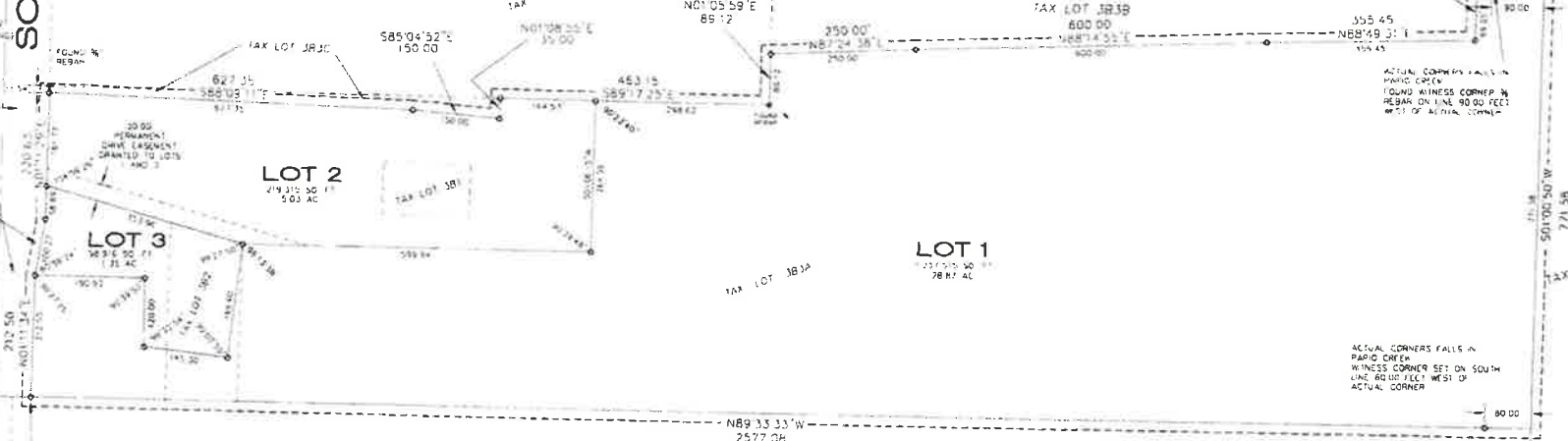
SECTION 3  
SOUTH 1/4

SOUTH 25th STREET

NOTE  
THERE SHALL BE NO  
DIRECT VEHICULAR ACCESS  
FROM LOTS 1 AND 3 ALL  
ACCESS SHALL BE FROM  
30.00 PERMANENT DRIVE  
EASEMENT

WEST 1/4 CORNER  
SEC 3, T13N, R13E  
SARY COUNTY  
NEBRASKA

FOUND SARY COUNTY BRASS  
CAP IN ANCHOR:  
12.5' FT TO CENTERLINE 25th STREET  
12.55' SE CORNER CHAIN LINK FENCE  
36.74' NW NAIL IN POWER POLE  
38.74' NW CENTER OF NORTH QUARTER ANCHOR



**SURVEYOR'S CERTIFICATE**  
HOWARD D. HILL, THE NEBRASKA PROFESSIONAL LAND SURVEYOR  
NO. 113, DULY REGISTERED UNDER THE LAND SURVEYORS  
REGULATION ACT OF NEBRASKA STATE, THAT I HAVE PERSONALLY  
SURVEYED THE LAND DESCRIBED ON THE ACCOMPANYING PLAT, THAT  
SAID PLAT IS A TRUE DELINEATION OF SAID SURVEY PERFORMED  
PERSONALLY OR UNDER MY SUPERVISION, THAT SAID SURVEY  
WAS MADE TO REFERENCE TO KNOWN AND UNCHANGED MONUMENTS  
WHICH ARE SHOWN AND TO THE BEST OF MY KNOWLEDGE AND  
BELIEF IS TRUE, ACCURATE AND IN ACCORDANCE WITH THE LAND  
SURVEYORS REGULATION ACT IN EFFECT REPLAT TO BE KNOWN AS  
MICHALEK ESTATES, AND BEING A REPLAT OF PARCELS 3B1, 3B2  
AND 3B3A, LOCATED IN THE NORTHWEST 1/4 OF SECTION 3,  
TOWNSHIP 13 NORTH, RANGE 13 EAST OF THE 6th P.M. SARY  
COUNTY, NEBRASKA DESCRIBED AS FOLLOWS:

**RECEIVED**  
**AUG 19 2025**  
**PLANNING DEPT.**

COMMENCING AT THE NORTHWEST CORNER OF SECTION 3, TOWNSHIP 13 NORTH RANGE 13 EAST OF THE 6th P.M. SARY  
COUNTY, NEBRASKA, THENCE S01°13'34"W (AS SHOWN BEARING) 229.00 FEET ALONG THE WEST LINE OF SAID NORTHWEST  
1/4 SECTION, THENCE S05°23'22"E 65.00 FEET TO THE POINT OF BEGINNING, BEING ALSO THE SOUTHWEST CORNER OF TAX  
LOT 3B1, THENCE ALONG THE EAST NORTH-SOUTH-WAY OF SOUTH 25th STREET ALONG THE FOLLOWING COURSES:  
1. N01°11'34"E 215.00 FEET; 2. N08°45'42"E 100.00 FEET; 3. N01°10'52"E 226.63 FEET TO THE SOUTHWEST CORNER OF  
TAX LOT 3B2. THENCE S88°02'11"E 627.22 FEET; THENCE S45°34'22"E 149.00 FEET TO THE SOUTHEAST CORNER OF  
TAX LOT 3B2. THENCE N10°05'59"E 30.00 FEET TO THE NORTHEAST CORNER OF TAX LOT 3B2. THENCE S89°17'22"E  
483.15 FEET; THENCE N10°05'59"E 88.12 FEET TO THE FOLLOWING COURSES: 4. N89°33'33"W 257.77 FEET; 5. S01°10'40"W  
THE SOUTHERN BOUNDARY OF TAX LOT 3B2, ALONG THE FOLLOWING COURSES: 6. N89°33'33"W 257.77 FEET; 7. N01°05'59"E  
30.00 FEET; 8. N89°33'33"W 257.77 FEET; 9. N01°05'59"E 30.00 FEET TO THE SOUTHWEST CORNER OF TAX LOT 3B1.  
10. N01°10'52"E 226.63 FEET TO THE SOUTHWEST CORNER OF TAX LOT 3B1. THENCE S05°23'22"E 65.00 FEET TO THE  
NORTHWEST CORNER OF TAX LOT 3B3A. THENCE S05°23'22"E 65.00 FEET TO THE SOUTHWEST CORNER OF TAX LOT 3B3A.  
THENCE N01°10'52"E 226.63 FEET TO THE POINT OF BEGINNING DESCRIBED TRACT CONTAINS 1,541,306 SQUARE FEET  
OR 35.184 ACRES MORE OR LESS.

**APPROVAL OF BELLEVUE PLANNING COMMISSION**  
THIS PLAT OF MICHALEK ESTATES WAS APPROVED BY THE BELLEVUE PLANNING COMMISSION THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.

**APPROVAL OF BELLEVUE CITY COUNCIL**  
THIS PLAT OF MICHALEK ESTATES WAS APPROVED BY THE BELLEVUE CITY COUNCIL THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025. THIS PLAT BECOMES NULL AND VOID IF NOT RECORDED WITHIN NINETY (90) DAYS OF THE ABOVE DATE.

**REVIEW OF SARY PUBLIC WORKS**  
THIS PLAT OF MICHALEK ESTATES WAS REVIEWED BY THE SARY COUNTY PUBLIC WORKS DEPARTMENT THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.

**COUNTY TREASURER'S CERTIFICATE**  
THIS IS TO CERTIFY THAT THERE ARE NO TAXES DUE OR DELINQUENT AGAINST THE PROPERTY DESCRIBED WITHIN THE SURVEYOR'S CERTIFICATE OR ENBRACED WITHIN THIS PLAT AS SHOWN BY THE RECORDS OF THIS OFFICE.



**DEDICATION**  
KNOW ALL MEN BY THESE PRESENTS THAT WE, MARK A. MICHALEK AND JANICE A. MICHALEK, BEING THE OWNERS OF THE  
PROPERTY DESCRIBED WITHIN THE SURVEYOR'S CERTIFICATE AND ENBRACED WITHIN THIS PLAT, HAVE CAUSED SAID LAND TO  
BE REPLATED AND LOTS TO BE NUMBERED AS SHOWN, SAID SUBDIVISION TO BE HEREAFTER KNOWN AS MICHALEK  
ESTATES, AND WE DO HEREBY RATEEY AND APPROVE OF THE DISPOSITION OF OUR PROPERTY AS SHOWN ON THIS PLAT  
WE DO HEREBY GRANT A PERPETUAL EASEMENT TO THE OMAHA PUBLIC POWER DISTRICT AND OVENYUWAK  
COMMUNICATIONS INTERNATIONAL, INC. AND ANY COMPANY WHICH HAS BEEN GRANTED A FRANCHISE TO PRODUCE A CABLE  
TELEVISION SYSTEM IN THE AREA TO BE SUBDIVIDED, THEIR SUCCESSORS AND ASSIGNS TO ERRECT, OPERATE, MAINTAIN,  
REPAIR AND RENEW POLES, WIRES, CROSS ARMS, DOWN GUIDS AND ANCHORS, CABLES, CONDUITS AND OTHER RELATED  
FACILITIES AND TO EXTEND THEREON WIRES OR CABLES FOR THE TRANSMISSION OF TELEVISION CURRENT, LOW VOLTAGE  
ELECTRICITY PROVIDED BY A CABLE TELEVISION SYSTEM AND THEIR SUCCESSORS OR THEIR THROUGH UNDER AND ACROSS A  
FIVE (5) FOOT WIDE STRIP OF LAND ABUTTING ALL FRONT AND SIDE BOUNDARY LINES AND AN EIGHT (8) FOOT WIDE STRIP  
ABUTTING THE REAR BOUNDARY LINES OF ALL INTERIOR LOTS AND A SIXTEEN (16) FOOT WIDE STRIP OF LAND  
ABUTTING THE WEST BOUNDARY OF ALL EXTERIOR LOTS. THE TERM EXTERIOR LOTS IS HEREBY DEFINED AS THOSE LOTS  
FORMING THE OUTER PERIMETER OF THE ABOVE DESCRIBED SECTION. THE SIXTEEN (16) FOOT WIDE STRIP MAY BE REDUCED  
TO EIGHT (8) FEET WIDE WHEN ADJACENT LAND IS MARKED BY LINES AND RECORDED. NO PERMANENT BUILDINGS, WELLS,  
REINFORCED CONCRETE FOUNDATIONS, SIGNAGE OR OTHER STRUCTURES SHALL BE PLACED IN THE SAID EASEMENT BARS, BUT THE SAME MAY BE USED FOR  
LANDSCAPING, SIGNAGE, SIDEWALKS, DRIVEWAYS AND OTHER PURPOSES THAT DO NOT INTERFERE WITH THE USE THEREOF  
BY THE ABOVE SAID USERS OF CABLE TELEVISION. GRANTED BY US TO AND TO BE DEDICATED TO THE DISTRICTS AS SHOWN HEREON.  
IN WITNESS WHEREOF WE DO HEREBY SET OUR HANDS THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025.

MARK A. MICHALEK \_\_\_\_\_ JANICE A. MICHALEK \_\_\_\_\_  
STATE OF NEBRASKA \_\_\_\_\_  
COUNTY OF SARY \_\_\_\_\_

**ACKNOWLEDGMENT OF NOTARY**  
ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2025, BEFORE ME, THE UNDERSIGNED NOTARY PUBLIC, DULY  
QUALIFIED AND COMMISSIONED IN AND FOR SAID COUNTY AND STATE, PERSONALLY APPEARED MARK A. MICHALEK AND  
JANICE A. MICHALEK, PERSONALLY KNOWN BY ME TO BE THE IDENTICAL PERSONS WHOSE NAMES APPEAR ON THIS PLAT  
AND THEY DO KNOWLEDGELY, FREELY AND VOLUNTARILY DECLARE THAT THEY ARE THE IDENTICAL PERSONS WHOSE NAMES APPEAR ON THIS PLAT  
AND THEY DO KNOWLEDGELY, FREELY AND VOLUNTARILY DECLARE THAT THEY ARE THE IDENTICAL PERSONS WHOSE NAMES APPEAR ON THIS PLAT

SURVEY FOR/ON:  
DRAWN FOR:  
DATE: 07/20/2025  
08/04/2025  
08/06/2025

**MICHALEK ESTATES**  
SMALL SUBDIVISION-CITY OF BELLEVUE  
SARY COUNTY, NEBRASKA

**HILL-FARELL ASSOCIATES, INC.**  
*Land* **surveyors**  
Bellevue, NE 68005 (402) 291-6100

PROJECT NO:  
SEE/NUMBER SYSTEMS

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

13a.  
10/7/2025

COUNCIL MEETING DATE: 10/07/2025		SUBMITTED BY: Tammi Palm		TITLE: Planning Director		
AGENDA ITEM:		CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>			
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input checked="" type="checkbox"/>		PUBLIC HEARING <input type="checkbox"/>			
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>		OTHER <input type="checkbox"/>			

SUBJECT:

Approval of a request to rezone Lot 1 and Outlot A, Mora Acres, from AG to RA and RG-8 for the purpose of residential development; and small subdivision plat Lot 1 and Outlot A, Mora Acres. Applicant: Orchard Valley, Inc. General Location: 1902 Lola Avenue.

SYNOPSIS/BACKGROUND:

Melvin Sudbeck, on behalf of Orchard Valley, Inc., is requesting approval of a change of zone for Lot 1 and Outlot A, Mora Acres, and small subdivision plat for Lot 1 and Outlot A, Mora Acres. The applicant is requesting RA and RG-8-PS zoning. The property consists of two tax lots which have nonconforming AG zoning designations. Lot 1 will have an RA zoning and Outlot A will be zoned RG-8. The developer intends to de-annex Outlot A and use it as a part of a future residential development in an SID. The outlot will be replatted once de-annexed. This platting and rezoning will bring the properties into conformance and aid in future development.

FISCAL IMPACT:  BUDGETED FUNDS?: NO  GRANT/MATCHING FUNDS?: NO

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: NO <input type="text"/>	COUNTER-PARTY: <input type="text"/>	INTERLOCAL AGREEMENT: NO <input type="text"/>
CONTRACT DESCRIPTION: <input type="text"/>		
CONTRACT EFFECTIVE DATE: <input type="text"/>	CONTRACT TERM: <input type="text"/>	CONTRACT END DATE: <input type="text"/>
PROJECT NAME: <input type="text"/>		
START DATE: <input type="text"/>	END DATE: <input type="text"/>	PAYMENT DATE: <input type="text"/>
		INSURANCE REQUIRED: YES <input type="text"/>
CIP PROJECT NAME: <input type="text"/>	CIP PROJECT NUMBER: <input type="text"/>	
STREET DISTRICT NAME (S): <input type="text"/>	STREET DISTRICT NUMBER (S): <input type="text"/>	
ACCOUNTING DISTRUBUTION CODE: <input type="text"/>	ACCOUNT NUMBER: <input type="text"/>	

RECOMMENDATION:

The Planning Department and Planning Commission have recommended approval of this application.

ATTACHMENTS:

- |   |                         |                         |
|---|-------------------------|-------------------------|
| 1. Planning Commission Recommendation Sheet | 2. Staff Report         | 3. Ordinance #4198      |
| 4. <input type="text"/>                     | 5. <input type="text"/> | 6. <input type="text"/> |

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Doreen Hillis*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_  
*[Signature]*  
\_\_\_\_\_

# City of Bellevue

## PLANNING COMMISSION RECOMMENDATION

APPLICANT: Orchard Valley, Inc

CASE #: Z-2507-07, S-2507-13.

CITY COUNCIL HEARING DATE: October 21, 2025

REQUEST: to rezone Lot 1 and Outlot A, Mora Acres, being a platting of part of Tax Lots 12 and 13, located in the Southwest ¼ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, Nebraska, from AG to RA and RG-8 for the purpose of residential development; and small subdivision plat Lot 1 and Outlot A.

On September 25, 2025, the City of Bellevue Planning Commission voted six yes, zero no, three absent, and zero abstained:

**APPROVAL** based upon compatibility with the surrounding neighborhood, lack of perceived negative impact upon the surrounding area, and conformance with the Zoning Ordinance. Request the future land use map be amended to reflect the changes with this application.

VOTE:

Yes:	Six:	No:	Zero:	Abstain:	Zero:	Absent:	Three:
	Ackley						Aerni
	Hankins						Bennett
	Lasenburg						Sims
	Taylor-Jones						
	Perrin						
	Yoder						

Planning Commission Hearing (s) was held on: September 25, 2025.

# CITY OF BELLEVUE PLANNING DEPARTMENT

## RECOMMENDATION REPORT # 3

CASE NUMBERS: Z-2507-07  
S-2507-13

FOR HEARING OF:  
REPORT #1: August 28, 2025  
REPORT #2: September 25, 2025  
REPORT #3: October 21, 2025

### I. GENERAL INFORMATION

#### A. APPLICANT:

Orchard Valley, Inc.  
Melvin Sudbeck  
16255 Woodland Drive  
Omaha, NE 68136

#### B. PROPERTY OWNER:

Lionel Mora  
1902 Lola Avenue  
Bellevue, NE 68147

#### C. GENERAL LOCATION:

1902 Lola Avenue

#### D. LEGAL DESCRIPTION:

Lot 1 and Outlot A, Mora Acres, being a platting of part of Tax Lots 12 and 13, all located in the Southwest  $\frac{1}{4}$  of Section 22, T14N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska.

#### E. REQUESTED ACTIONS:

1. Rezone Lot 1 and Outlot A, Mora Acres, from AG to RA and RG-8 for the purpose of residential development.
2. Small Subdivision Plat Lot 1 and Outlot A, Mora Acres.

**F. EXISTING ZONING AND LAND USE:**

AG, Single Family Residential and Agricultural

**G. PURPOSE OF REQUEST:**

The purpose of this request is to obtain approval of a rezoning and small subdivision plat for the purpose of future residential development.

**H. SIZE OF SITE:**

The entire site is 11.54 acres, with the proposed lots as follows: Lot 1 – 10.11 acres and Outlot A – 1.43 acres.

**II. BACKGROUND INFORMATION**

**A. EXISTING CONDITION OF SITE:**

The site is presently developed with a single family residence and largely covered in vegetation.

**B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**

- 1. **North:** Single Family Residential, RS-72
- 2. **East:** Highway 75 right-of-way
- 3. **South:** Vacant/AG
- 4. **West:** Single Family Residential, RS-72-PS

**C. REVELANT CASE HISTORY:**

- 1. On August 28, 2025, the request to rezone Lot 1 and Outlot A, Mora Acres, from AG to RA and RG-8; and small subdivision plat Lot 1 and Outlot A, Mora Acres, was continued to the September 25, 2025, Planning Commission meeting.
- 2. On September 25, 2025, the Planning Commission recommended approval of a request to rezone Lot 1 and Outlot A, Mora Acres, being a platting of part of Tax Lots 12 and 13, located in the Southwest ¼ of Section 22, T14N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska, from AG to RA and RG-8 for the purpose of residential development; and small subdivision plat Lot 1 and Outlot A, Mora Acres.

**D. APPLICABLE REGULATIONS:**

- 1. Section 5.06, Zoning Ordinance, regarding RA uses and requirements.
- 2. Section 5.15, Zoning Ordinance, regarding RG-8 uses and requirements.

3. Chapter 5, Subdivision Regulations, regarding Small Subdivisions.
4. Chapter 6, Subdivision Regulations, regarding Minimum Design Standards.

### **III. ANALYSIS**

#### **A. COMPREHENSIVE PLAN:**

The Future Land Use Map of the Comprehensive Plan designates this area as single family residential.

#### **B. OTHER PLANS:**

The applicant intends to pursue a de-annexation of Outlot A to facilitate future residential development. The de-annexation is necessary for the developer to utilize a Sanitary and Improvement District (SID).

#### **C. TRAFFIC AND ACCESS:**

1. There is no MAPA traffic data information available for this area.
2. The property has access from a private driveway off Lola Avenue.

#### **D. UTILITIES:**

All utilities are available to this location.

#### **E. ANALYSIS:**

1. Melvin Sudbeck, on behalf of Orchard Valley, Inc., is requesting approval of a rezoning and small subdivision plat for Lot 1 and Outlot A, Mora Acres, for the purpose of residential development.
2. This property consists of two tax lots which have nonconforming AG zoning designations. This platting and rezoning will bring the properties into conformance.

Lot 1 will consist of approximately 10 acres and have an RA zoning, while Outlot A is 1.43 acres with an RG-8 zoning.

All lots meet the minimum requirements for their perspective zoning districts.

3. By definition, outlots are not buildable lots. The developer intends to de-annex Outlot A and use it as part of a future residential development in a Sanitary and Improvement District. The outlot will be replatted once de-annexed.

4. This application was sent out to the following departments/individuals for review: Public Works, Permits and Inspections, Chief of Police, Offutt Air Force Base, Fire Inspector, Sarpy County Planning Director, Sarpy County Public Works Department, and the Bellevue Public School District. The cover letter indicated a deadline to send comments back to the Planning Department, and stated if the requested department did not have comments pertaining to the application, no response was needed.

Matt Knight, Public Works Engineer, and Mike Sharp, Sarpy County Public Works, had technical comments regarding the small subdivision plat. These comments have since been satisfied by the applicant's surveyor/engineer.

5. The Future Land Use Map of the Comprehensive Plan shows this area as residential.

6. The small subdivision plat and rezoning would bring the properties into conformance and aid in future development.

**F. TECHNICAL DEFICIENCIES:**

Several technical deficiencies have been noted on the plat by both the Bellevue and Sarpy Public Works Departments.

**IV. DEPARTMENT RECOMMENDATION**

APPROVAL based upon lack of perceived negative impact upon the surrounding area, and conformance with the Zoning Ordinance and Subdivision Regulations.

**V. PLANNING COMMISSION RECOMMENDATION**

APPROVAL based upon compatibility with the surrounding neighborhood, lack of perceived negative impact upon the surrounding area, and conformance with the Zoning Ordinance.

**VI. ATTACHMENTS TO REPORT**

1. Vicinity map/Zoning Map
2. 2024 GIS aerial photo of the property
3. Small Subdivision Plat received September 22, 2025
4. Letter from the applicant received July 21, 2025

**VII. COPIES OF REPORT TO:**

1. Applicant
2. FoleyShald
3. Public Upon Request

  
Assistant Planning Manager

  
Planning Director                      Date of Report

ORDINANCE NO. 4198

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF BELLEVUE, NEBRASKA, AS PROVIDED FOR BY ARTICLE 3 OF ORDINANCE NO. 4146 BY CHANGING THE ZONE CLASSIFICATION OF LAND LOCATED AT OR ABOUT 1902 LOLA AVE, MORE PARTICULARLY DESCRIBED IN SECTION 1 OF THE ORDINANCE AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, having received a recommendation from the city of Bellevue Planning Commission and proper notice having been given and public hearing held as provided by law:

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

Section 1. That part of the official zoning map of the City of Bellevue, Nebraska, as provided in Article 3, of Ordinance No. 4146 is hereby amended to change the zone classification of the following described parcel of land:

Lot 1, Mora Acres, being a replat of part of Tax Lots 12 and 13, located in the Southwest ¼ of Section 22, T14N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska

From AG (Agricultural District) to RA (Residential Agriculture District)

Outlot A, Mora Acres, being a replat of part of Tax Lots 12 and 13, located in the Southwest ¼ of Section 22, T14N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska

From AG (Agricultural District) to RG-8 (General Residential District, 800 square feet per unit).

(Orchard Valley, Inc)

Section 2. This ordinance shall not take effect until such time as the final plat of Mora Acres is filed with the Sarpy County Register of Deeds in accordance with Section 5-10 of the City of Bellevue Subdivision Regulations.

Section 3. Except as amended herein, the official zoning map and the classification shown therein shall remain as heretofore existing.

Section 4. This ordinance shall take affect and be in force from and after its adoption and publication according to law.

ADOPTED by the Mayor and City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

13b.  
10/7/2025

COUNCIL MEETING DATE: <b>October 7, 2025</b>		SUBMITTED BY: <b>Tammi Palm, Planning Director</b>	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input checked="" type="checkbox"/>	PUBLIC HEARING	<input type="checkbox"/>
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER	<input type="checkbox"/>

SUBJECT:

Request to rezone Lot 6, Tiller's 4th Addition, from BG to RG-8-PS for the purpose of multi-family residential development, with site plan approval. Applicant: Ehrhart Griffin & Associates. General Location: 1724 Wilshire Dr.

SYNOPSIS/BACKGROUND:

Terry Morrison, on behalf of Ehrhart Griffin & Associates, is requesting approval of a rezoning with site plan approval for Lot 6, Tiller's 4th Addition, for the purpose of multi-family residential development. The site plan shows 80 apartment units in one building that consist of 20 one-bedroom, 39 two-bedroom, 12 three-bedroom, and 9 four-bedroom apartments. The building will have 4 stories of residential units with a level of underground parking. The site plan shows a combined total of 120 parking stalls; 59 surface stalls and 61 lower level parking garage stalls. City Council previously approved the redevelopment plan for the use of Tax Increment Financing for this project.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NAME:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

The Planning Department and Planning Commission are recommending approval of this request.

ATTACHMENTS:

1. <input type="text" value="PC Recommendation"/>	2. <input type="text" value="Staff Report"/>	3. <input type="text" value="Ord. No. 4199"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:


# City of Bellevue

## PLANNING COMMISSION RECOMMENDATION

APPLICANT: Ehrhart Griffin & Associates

CASE #: Z-2506-06

CITY COUNCIL HEARING DATE: October 21, 2025

REQUEST: to rezone Lot 6, Tiller's 4<sup>th</sup> Addition, from BG to RG-8-PS for the purpose of multi-family residential development, with site plan approval.

On September 25, 2025, the City of Bellevue Planning Commission voted six yes, zero no, three absent and zero abstained:

**APPROVAL** based upon compatibility with the surrounding neighborhood, lack of perceived negative impact upon the surrounding area, and conformance with the Zoning Ordinance. Approval of an amendment to the future land use map be amended to reflect the changes with this application.

VOTE:

Yes:	Six:	No:	Zero:	Abstain:	Zero:	Absent:	Three:
	Ackley						Aerni
	Hankins						Bennett
	Lasenburg						Sims
	Taylor-Jones						
	Perrin						
	Yoder						

Planning Commission Hearing (s) was held on: September 25, 2025.

# CITY OF BELLEVUE PLANNING DEPARTMENT

## RECOMMENDATION REPORT # 3

CASE NUMBER: Z-2506-06

FOR HEARING OF:

REPORT #1: July 24, 2025  
REPORT #2: September 25, 2025  
REPORT #3: October 21, 2025

### I. GENERAL INFORMATION

#### A. APPLICANT:

Ehrhart Griffin & Associates  
Attn: Terry Morrison  
3552 Farnam St.  
Omaha, NE 68131

#### B. PROPERTY OWNER:

Great Lakes Capital  
Attn: Gary Vizioli  
7410 Aspect Drive, Suite 100  
Granger, IN 46530

#### C. GENERAL LOCATION:

1724 Wilshire Drive

#### D. LEGAL DESCRIPTION:

Lot 6, Tiller's 4<sup>th</sup> Addition, located in the Northeast ¼ of Section 35, T14N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska.

#### E. REQUESTED ACTIONS:

1. Rezone Lot 6, Tiller's 4<sup>th</sup> Addition from BG to RG-8-PS, with site plan approval.

#### F. EXISTING ZONING AND LAND USE:

BG, Parking Lot/Vacant

**G. PURPOSE OF REQUEST:**

The purpose of this request is to obtain a change of zone with site plan approval to allow for the construction of a multifamily residential development.

**H. SIZE OF SITE:**

The site is approximately 1.51 acres.

**II. BACKGROUND INFORMATION**

**A. EXISTING CONDITION OF SITE:**

Lot 6 is presently vacant and partially covered with a parking lot. This property is the former site of a putt-putt golf course, of which the parking lot has remained.

**B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**

- 1. **North:** Commercial/Office, BG
- 2. **East:** Commercial, BG
- 3. **South:** Commercial, BG
- 4. **West:** Multifamily Residential/Senior Housing, RG-20

**C. RELEVANT CASE HISTORY:**

- 1. On March 12, 2007, the City Council declared Lot 6, Tiller’s 4<sup>th</sup> Addition, as blighted and substandard.
- 2. On June 26, 2025, the Planning Commission recommended approval of a redevelopment plan for Lot 6, Tiller’s 4<sup>th</sup> Addition. The City Council approved this request on July 15, 2025.
- 3. On July 24, 2025, the request to rezone Lot 6, Tiller’s 4<sup>th</sup> Addition, from BG to RG-8-PS, with site plan approval, for the purpose of multi-family residential development, was continued to the August 28, 2025, Planning Commission meeting.
- 4. On August 28, 2025, the request to rezone Lot 6, Tiller’s 4<sup>th</sup> Addition, from BG to RG-8-PS, with site plan approval, for the purpose of multi-family residential development, was continued to the September 25, 2025, Planning Commission meeting.
- 5. On September 25, 2025, the Planning Commission recommended approval of a request to rezone Lot 6, Tiller’s 4<sup>th</sup> Addition, from BG to RG-8-PS, with site plan approval.

**D. APPLICABLE REGULATIONS:**

1. Section 5.13, Zoning Ordinance, regarding RG-8 uses and requirements.
2. Section 5.17, Zoning Ordinance, regarding PS (Planned Subdivision) uses and requirements.

**III. ANALYSIS**

**A. COMPREHENSIVE PLAN:**

The Future Land Use Map of the Comprehensive Plan designates this area as commercial. A motion to approve this request should also include a motion to amend the Future Land Use Map for multifamily residential use.

**B. OTHER PLANS:**

The applicant has been approved for the use of Tax Increment Financing (TIF) for this project.

**C. TRAFFIC AND ACCESS:**

1. There is no MAPA traffic data information available for this area.
2. Access is proposed from two points, both of which are along Wilshire Drive.

**D. UTILITIES:**

All utilities are available or will be constructed to serve this development.

**E. ANALYSIS:**

1. Terry Morrison, on behalf of Ehrhart Griffin & Associates, has submitted a request for rezoning with site plan approval for Lot 6, Tiller's 4<sup>th</sup> Addition, for the purpose of multi-family residential development.
2. The property is currently zoned BG (General Business). The intent of the RG-8 district is to permit very high-density development, multi-story apartment development, and other uses that are typical and compatible with the operation of apartment houses.

The -PS overlay is typically utilized in multi-family development. The intent is to encourage the creative design of new living areas. Additionally, it allows for modifications in the platting of lots and the siting of buildings.

3. The site plan consists of 80 apartment units in one building. The proposed unit breakdown is as follows: 20 one-bedroom, 39 two-bedroom, 12 three-bedroom,

and 9 four-bedroom apartments. As such, 74% of the building will be one- and two-bedroom units.

The building will have a level of underground parking, with 4 stories of residential units.

4. In connection with this request, the applicant has submitted a text amendment to allow for the proposed density. The proposed text amendment would allow a minimum of 675 square feet of lot area per dwelling unit.

Under the current RG-8 guidelines, no more than 73 units would be allowed. The current RG-8 regulations require the first four units of a multifamily dwelling to have a minimum lot area of 2,500 square feet per unit; after which, the minimum lot area may be 800 square feet per unit.

As shown on the site plan, the proposed density for this development is approximately 721 square feet of lot area per unit outside of the first four units.

5. The site plan shows 56 standard parking stalls and 3 ADA parking stalls for a total of 59 surface stalls. It also notes 58 standard parking stalls and 3 ADA parking stalls for a total of 61 lower-level parking garage stalls, for a combined total of 120 stalls. This averages 1.5 parking stalls per unit. The ordinance requires two parking stalls per unit. Through the Planned Subdivision Overlay and the site plan approval process, the City Council can approve a reduction of the minimum parking requirements.

A similar multifamily development, Ascend on 75, recently constructed near Childs Road and Nebraska Drive, was approved with a 1.5:1 parking ratio. This apartment complex offers one-, two-, and three-bedroom units. In addition to the surface parking on site, the City Council approved the site plan to include 22 on-street parking spaces to count towards the 1.5:1 parking ratio.

6. The applicant is proposing a playground area with play panels, a play structure, and seating. Details of the playground are provided as part of the proposed landscape plan.

Heber Neighborhood Park is within walking distance of the property and includes a playground, picnic area, and shelter.

7. The landscape plan has been reviewed by staff and meets the requirements of the zoning ordinance.

8. The proposed buildings will need to meet the requirements of Section 8.12, Zoning Ordinance, regarding design standards. Compliance with this will be reviewed as part of the building permit process.

9. This application was sent out to the following departments for review: Public Works, Permits and Inspections, Chief of Police, Offutt Air Force Base, Fire Inspector, Sarpy County Public Works, and the Bellevue Public School District. The cover letter indicated a deadline to send comments back to the Planning Department and stated that if the requested department did not have comments pertaining to the application, no response was needed.

John Krager, Public Works Engineer, requested technical revisions to the site plan, drainage plan, and stormwater plan. The applicant's engineer has addressed Mr. Krager's concerns.

JEO (contracted by the city) requested minor revisions to the drainage plan. The applicant's engineer has satisfied these comments.

Chief Building Official Mike Christensen had comments pertaining to the existing retaining wall located on the property to the west in connection with the proposed construction. The applicant's engineer provided the additional information needed to address these comments.

Donald Gifford, Fire Department, had comments pertaining to the width of the access points. The applicant's engineer has since satisfied these comments.

No other comments were received on this case.

10. Per the site plan, sidewalks will be installed as part of this development.

11. A traffic study was done at the request of the Public Works Department. The traffic impact analysis was completed by Felsburg Holt & Ullevig (FHU) in May 2025. Staff has reviewed the study. No street improvements in the study area are being recommended as a result of this development.

12. Access is being proposed from two points along Wilshire Drive. To aid in the flow of traffic, these access points will be one-way; the southern access point will be the entrance into the development, with the northern access point being the exit.

13. The Future Land Use Map of the Comprehensive Plan shows this area as commercial. A motion to approve the development should also include a motion to amend the Future Land Use Map.

Staff supports an amendment to the Future Land Use Map. Existing development in the area is a mix of commercial and multifamily, including multifamily housing along the Harlan Drive corridor.

14. Staff believes multifamily residential development is compatible with the adjacent neighborhood, and this would be a beneficial development for the city.

Under the current BG zoning, there are approximately 95 commercial uses that are permitted and could be constructed by right. Some of these uses include a car wash, convenience store with fuel pumps, restaurant (to include drive-thru service), tavern/cocktail lounge, grocery store, hotel, as well as numerous retail uses. Subsequently, the Planning Department believes a residential use, to include a high-density residential use, would have less of a negative impact on the adjoining properties. As previously mentioned, the existing neighborhood is a mix of residential and commercial uses with BG, RG-8-PS, and RG-20 zoning.

**F. TECHNICAL DEFICIENCIES:**

None.

**IV. DEPARTMENT RECOMMENDATION**

APPROVAL based upon compatibility with the surrounding neighborhood, lack of perceived negative impact upon the surrounding area, and conformance with the Zoning Ordinance.

**V. PLANNING COMMISSION RECOMMENDATION**

APPROVAL based upon compatibility with the surrounding neighborhood, lack of perceived negative impact upon the surrounding area, and conformance with the Zoning Ordinance. APPROVAL of an amendment to the Future Land Use Map to reflect the changes with this application.

**VI. ATTACHMENTS TO REPORT**

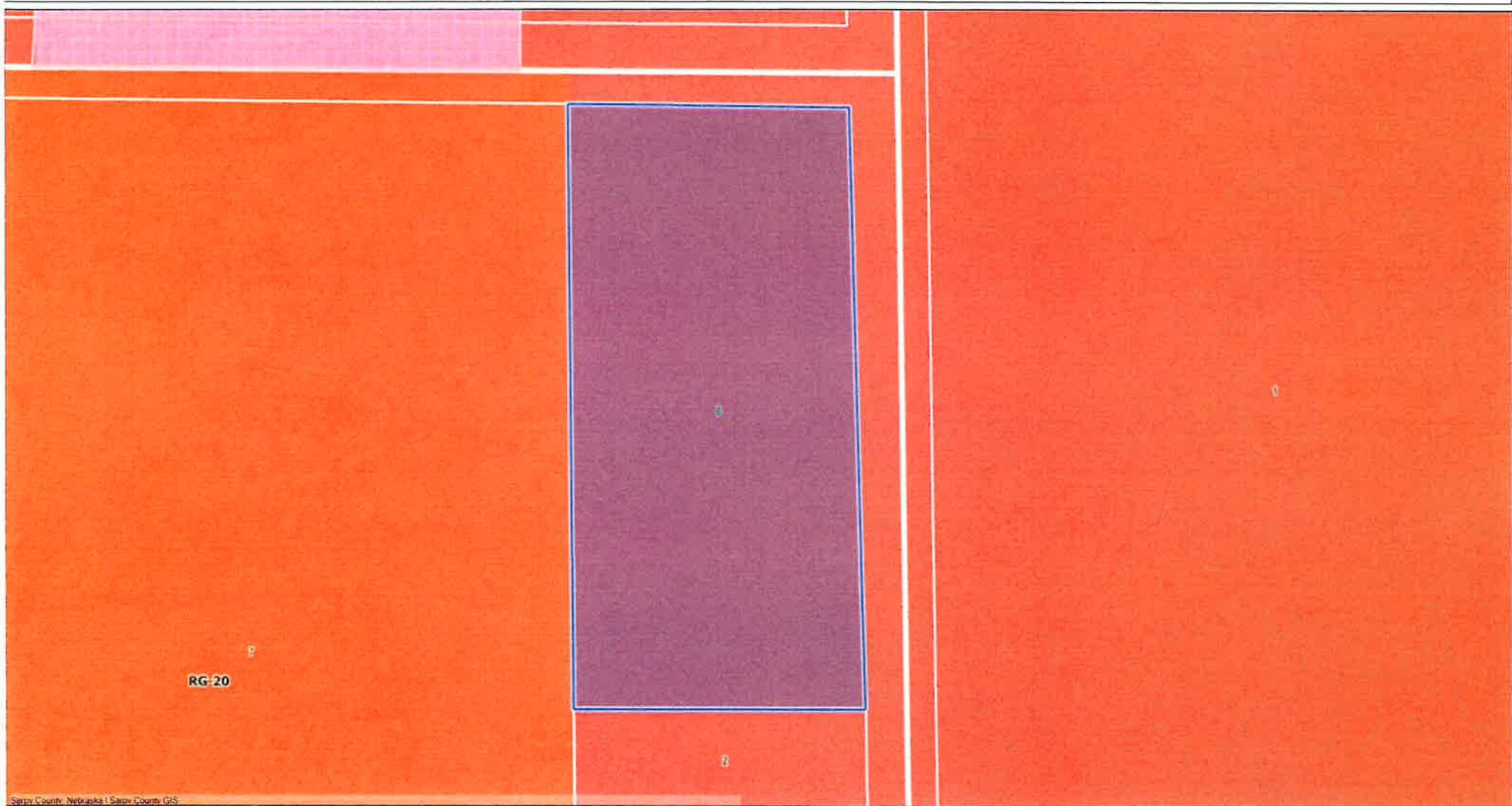
1. Vicinity Map/Zoning Map
2. 2024 GIS aerial photo of the property
3. Site plan received September 17, 2025
4. Landscape plan (to include playground area detail) received September 12, 2025
5. Zoning Justification letter from Brent Beller received September 2, 2025
6. -PS Zoning Justification letter from Brent Beller received September 2, 2025

**VII. COPIES OF REPORT TO:**

1. Great Lakes Capital – Gary Vizioli
2. Fullenkamp Jobeun Johnson & Beller LLP - Brent Beller
3. Ehrhart Griffin & Associates – Terry Morrison
4. Public Upon Request

  
Assistant Planning Manager

 09/30/2025  
Planning Director                      Date of Report



Sarpy County, Nebraska | Sarpy County GIS



Map Scale 1: 900



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Notes



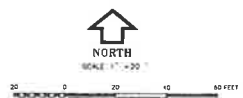
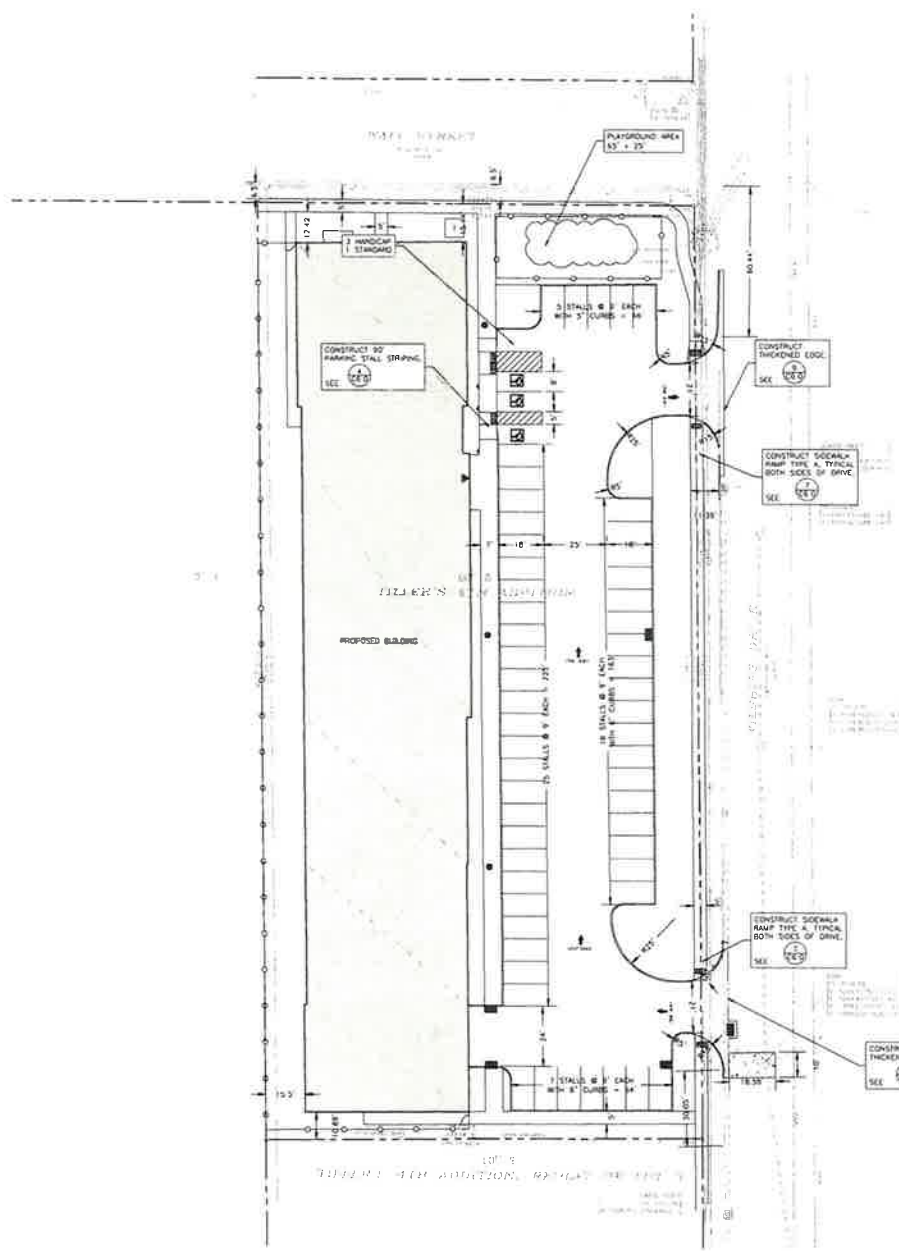
Map Scale 1: 900



This product is for informational purposes and may not have been prepared for, or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the source records and information sources to ascertain the usability of the information.



Notes



NOTE:  
UNDEGROUND UTILITY LOCATIONS SHOWN ARE FROM SUPPLIERS PROVIDED TO US FROM STREET OWNERS. VERIFY COMPANY AND UTILITY LOCATION WITH THE UTILITY COMPANY. WE ASSUME NO LIABILITY FOR DAMAGE TO OR FROM UTILITIES. WE ASSUME NO LIABILITY FOR DAMAGE TO OR FROM UTILITIES. WE ASSUME NO LIABILITY FOR DAMAGE TO OR FROM UTILITIES. WE ASSUME NO LIABILITY FOR DAMAGE TO OR FROM UTILITIES.

LEGEND

- - - PROPERTY LINE
- PROPOSED 9" P.C.C. PAVEMENT SEE (1)
- WITH INTEGRAL CURB SEE (2)
- PROPOSED 5" P.C.C. SIDEWALK PAVEMENT SEE (3)
- ▲ PROPOSED BUILDING PROGRESS/EGRESS
- - - PROPOSED FENCE
- PROPOSED BOLLARDS

NOTES:

1. REFER TO ARCHITECTURAL PLANS FOR BUILDING DIMENSIONS. THE CONTRACTOR SHALL ADJUST THE BUILDING LOCATIONS AS NECESSARY TO ACCOMMODATE THE FEATURES ON THE SITE AND MAINTAIN SETBACK REQUIREMENTS. THE CONTRACTOR SHALL ADJUST HIS SUBGRADE PREPARATION BASED ON THE DIMENSIONS OF THE BUILDING PROVIDED BY THE ARCHITECT.
2. CONTRACTOR SHALL CONTACT D'RHAMPT GRIFFIN & ASSOCIATES (402) 361-0631 FOR COORDINATE FILE FOR CONSTRUCTION STAKING. IT IS THE CONTRACTORS RESPONSIBILITY TO VERIFY ALL PROPERTY LINES AND DIMENSIONS BEFORE BEGINNING CONSTRUCTION OF ANY IMPROVEMENTS. CONTRACTOR SHALL VERIFY THAT BUILDING SETBACK DIMENSIONS MEET ALL APPLICABLE LOCAL AND STATE BUILDING AND FIRE CODES.
3. PROVIDE EXPANSION JOINTS AT ALL LOCATIONS WHERE PAVEMENT ABUTS BUILDING.
4. THE CONTRACTOR WOULD BE REQUIRED TO INSTALL CITY OF OMAHA APPROVED CAST IRON DETECTABLE WARNING PANELS FOR WHEELCHAIR RAMP INSERTS ALONG WITH 3/8" INCH EXPANSION JOINT MATERIAL. JOINTS WOULD NEED TO BE SEALED WITH A HOT APPLIED TYPE 2 SEALANT OR A POLYURETHANE, SILICONE OR EPXYMATIC LIQUID MATERIAL MEETING ASTM D5893.

PARKING STALL COUNT	
STANDARD STALLS	3
ADA STALLS	1
PARKING GARAGE	6
<b>TOTAL STALLS</b>	<b>10</b>
36 STALLS @ 118 SQ. FT.	4248 SQ. FT.
1181 SQ. FT. OF OPEN SPACE	1181 SQ. FT.
1153 SQ. FT. PROVIDED	1153 SQ. FT.

AGENCY APPROVAL

ALLEY POYNER  
MACCHIETTO  
ARCHITECTURE

100% DD SUBMITTAL  
NOT FOR CONSTRUCTION  
07/11/2025

RECEIVED  
SEP 17 2025  
PLANNING DEPT.

REVISION DATE  
Project Number: 25010  
Date: 07/11/2025  
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SITE LAYOUT PLAN

C1.1



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 SEP 12 2025  
 PLANNING DEPT.

The Wilshire  
 Great Lakes Capital

1724 Wilshire Dr.  
 Bellevue, NE 68005



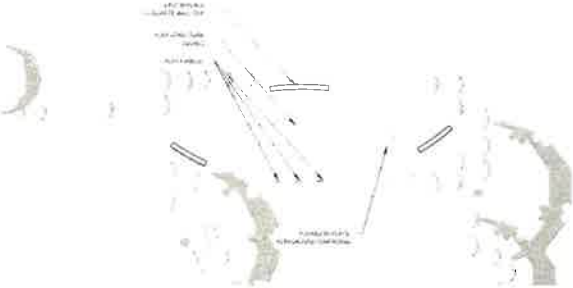
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 MODEL 345299  
 MANUFACTURER: LANDSCAPE STRUCTURE



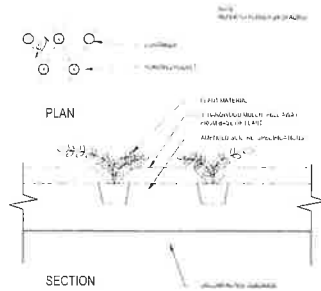
PLAY STRUCTURE  
 MODEL WALLHOLLA 7  
 MANUFACTURER: GORIC



CONCRETE SEAT WALL



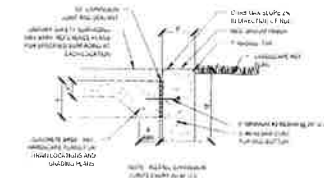
ENLARGED PLAYGROUND AREA 08



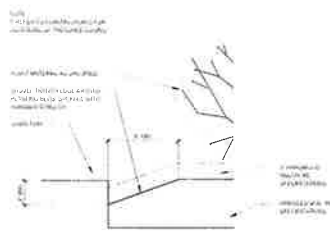
CONTAINER PLANTING 07



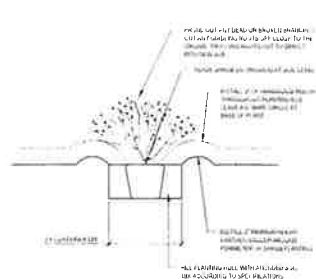
PLAYGROUND SURFACING 06



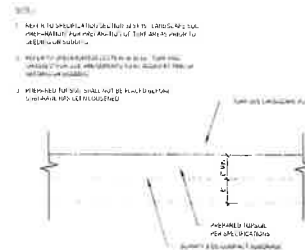
THICKENED EDGE DETAIL 05



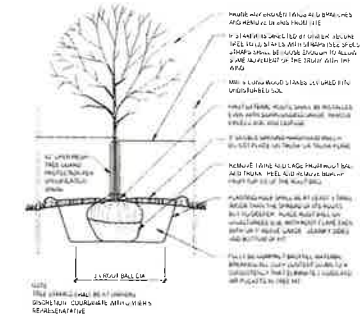
TRENCH EDGE 04



SHRUB PLANTING 03



FESCUE SOD 02



DECIDUOUS TREE PLANTING 01

AGENCY APPROVAL



ALLEY POYNER  
 MACCHIETTO  
 ARCHITECTURE  
 NE Corbin Ave. of Columbus, CA 94133  
 Phone: 415.241.0122

100% DD  
 SUBMITTAL

REVISION	DATE
Project Number	25010
Date	09.11.2025
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LANDSCAPE DETAIL

L2.0



FULLENKAMP  
JOBEUN  
JOHNSON &  
BELLER LLP

JOHN H. FULLENKAMP  
LARRY A. JOBEUN  
MARK B. JOHNSON  
BRENT W. BELLER  
ROBERT T. GRIFFITH

September 2, 2025

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SEP 02 2025

PLANNING DEPT.

Tammi Palm  
Planning Director  
City of Bellevue  
1510 Wall Street  
Bellevue, NE 68005

RE: The Wilshire – Zoning Justification Letter

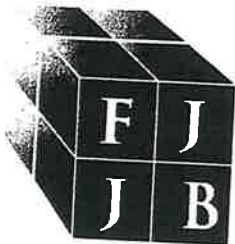
To Whom It May Concern,

We are outside legal counsel for Great Lakes Capital in connection with their proposed development of the real property located 1724 Wilshire Drive, Bellevue, Nebraska. Great Lakes Capital proposes to develop the 1.49-acre site into a 80-unit low-income multi-family residential apartment building. The project encompasses all of Lot 6 Tiller's 4th Addition, which is currently zoned "BG". In connection therewith, Great Lakes Capital is requesting to rezone the subject property to RG-8, with a PS Overlay, in compliance with the City of Bellevue's zoning ordinance, provided, that, the applicant will request a waiver to the density requirements, as referenced in the actual zoning application.

We appreciate the City of Bellevue's consideration of our application, and with this rezoning request, Great Lakes Capital will be able to develop and construct much-needed low-income housing that will provide affordable housing options for the residents of Bellevue.

Thank you.

Brent W. Beller, Esq.



FULLENKAMP  
JOBEUN  
JOHNSON &  
BELLER LLP

JOHN H. FULLENKAMP  
LARRY A. JOBEUN  
MARK B. JOHNSON  
BRENT W. BELLER  
ROBERT T. GRIFFITH

September 2, 2025

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SEP 02 2025

PLANNING DEPT.

Tammi Palm  
Planning Director  
City of Bellevue  
1510 Wall Street  
Bellevue, NE 68005

RE: The Wilshire – PS Overlay

To Whom It May Concern,

We are outside legal counsel for Great Lakes Capital in connection with their proposed development of the real property located 1724 Wilshire Drive, Bellevue, Nebraska. Great Lakes Capital proposes to develop the 1.49-acre site into a 80-unit low-income multi-family residential apartment building. The project encompasses all of Lot 6 Tiller's 4th Addition, which is currently zoned "BG". In connection therewith, Great Lakes Capital is requesting to rezone the subject property to RG-8, with a PS Overlay, in compliance with the City of Bellevue's zoning ordinance. Per Section 5.17.03, a justification for the PS Overlay request needs to meet one of the subsections of Section 5.17.03. The proposed project proposes to develop a "work force housing" multi-family residential project, that is truly affordable.

Subsection (1) of 5.17.03 provides that "proposed modification of the primary district regulations as to platting of lots and space limits will be in the public interest and in harmony with the purpose of this ordinance, and will not adversely affect nearby properties". Without question, the City of Bellevue, along with the surrounding metro area, are desperately seeking to provide more affordable housing options to the residents of Bellevue. In addition, in order to serve all resident's needs, including those with children, units with multiple bedroom options is a must. This project is one of very few multifamily projects that is considered truly "affordable" (with the utilization of low-income tax credits), and also offers both three and four bedroom units. Having this sort of unit mix is serving a public interest. Further, the surrounding neighbors are also undertaking residential uses (west of the parcel), and to the south is an optical doctor practice that may actually benefit from the development, as it is likely that many residents will be interested in walking next door for their optical needs.

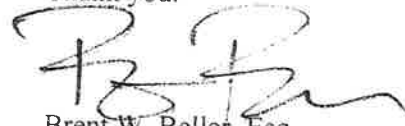
Subsection (2) of 5.17.03 speaks to the configuration of the parcel in question. The parcel in question has remained vacant and un-developed for the better part of 20 years. The parcel has been listed for sale for almost 25 years. Part of the reason this parcel has remained undeveloped is that the parcel is constrained site (1.49 acres), which makes commercial and residential develop difficult, meaning, the developer must be able to utilize as much of the site as is possible. Further the topography of the site slopes hard to the west and south, which further compounds the amount of land that is available for development. The PS overlay allows for the necessary modifications to the zoning code (parking and density) for a development like the proposed to be feasible.

Subsection (3) of 5.17.03 speaks to new and innovative planning methods that further serve public interest. As stated above this development provides a range of affordable housing options, which will directly benefit the public with the addition of much needed workforce housing. Further, the costs for a project of this scale are the exact same as a market rate project, BUT the rents for this project are far below market rental rates. This development will utilize 4% low-income taxable bonds, sponsored by NIFA. In order to meet the debt service on the 4% bonds, the project must have at least 80 units in order for the project to meet the required bond debt service coverage. Originally the development proposed 120+units, but in discussions with the City the developer was able to lower the unit count to 80 units, which is the lowest amount of units that will be able to meet the debt service coverage requirements. By pursuing and utilizing the low-income tax credit program, the developer will continue to meet and benefit the public by providing truly affordable workforce housing.

Subsection (4) of 5.17.03 speaks to the PS request not being for "convenience, profit or caprice". The developer's interest in this parcel is simply based on the need to provide for workforce housing at price point and location that makes sense on all levels. Developer's that undertake true "affordable" housing projects have the same costs as market rate projects. It is imperative that the developments like the Wilshire find locations that are fairly priced, because again, costs will always be factor in providing affordable housing. As such, a constrained parcel like this one offers the developer an opportunity to have a lower basis in the land, and then offset that lower land price with increased amenities for the actual above ground improvements. With a smaller parcel like this one, the PS overlay allows for flexibility on zoning standards like density and parking. There are easier parcels to develop, but those parcels are often not located in an areas where the targeted residents may intend to work, live or go to school. Those other parcels also are priced at higher premium which add with the high costs of construction would not allow this project to remain "affordable" under the guidelines of NIFA, and the low-income tax credit program.

We appreciate the City of Bellevue's consideration of our application, and with this rezoning request, Great Lakes Capital will be able to develop and construct much-needed low-income housing that will provide affordable housing options for the residents of Bellevue.

Thank you.



Brent W. Beller, Esq.

ORDINANCE NO. 4199

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF BELLEVUE, NEBRASKA, AS PROVIDED FOR BY ARTICLE 3 OF ORDINANCE NO. 4146 BY CHANGING THE ZONE CLASSIFICATION OF LAND LOCATED AT OR ABOUT 1724 WILSHIRE DRIVE, MORE PARTICULARLY DESCRIBED IN SECTION 1 OF THE ORDINANCE AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, having received a recommendation from the city of Bellevue Planning Commission and proper notice having been given and public hearing held as provided by law:

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

Section 1. That part of the official zoning map of the City of Bellevue, Nebraska, as provided in Article 3, of Ordinance No. 4146 is hereby amended to change the zone classification of the following described parcel of land:

Lot 6, Tiller's 4<sup>th</sup> Addition, located in the Northeast ¼ of Section 35, T14N, R13E of the 6<sup>th</sup> P.M., Sarpy County, Nebraska

From BG (General Business District) to RG-8-PS (General Residential District, 800 square feet per unit, Planned Subdivision Overlay)

(Ehrhart Griffin & Associates)

Section 2. Except as amended herein, the official zoning map and the classification shown therein shall remain as heretofore existing.

Section 3. This ordinance shall take affect and be in force from and after its adoption and publication according to law.

ADOPTED by the Mayor and City Council this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

ATTEST

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

Thomas and Cheryl Powell  
1803 Hillcrest Drive  
Bellevue, NE 68005

September 1st, 2025

City of Bellevue  
Tammi Palm, Planning Director  
1510 Wall Street  
Bellevue, NE 68005

Dear Ms. Palm,

My husband and I have lived in the Freedom Village community, an active 55+ living situation, since March 2024. We have embraced the Village and Bellevue communities. The area is mostly quiet and easily accessible for our needs.

We are concerned that will change, not for the better, if the Wilshire project goes forward. From just eyeballing it, the land does not appear to be able to host a 5 story structure and all the parking space that it will require. A rough calculation is that 96 apartments with several multi-bedroom units will need more than the 72 parking spaces that we understand will be built under the apartment building. Most American families have at least 2 cars, if there are teen drivers in the family there are probably more. At a minimum, it appears that 180 parking spaces will be needed. Is the developer planning on the tenants parking on the streets? Will the tenants see our parking lot which is for our community's residents and guests as their option? If the tenants use the parking lot of the businesses on the corner of Wall Street and Wilshire, will the business owners be okay with that? Or the City of Bellevue's lot?

Currently Wall Street is not very busy, which is good for the senior drivers living in Harmony Court as well as Freedom Village, not to mention the senior drivers from Hillcrest Rehab Center. According to the drawing in the Redevelopment Plan Exhibit B, an entrance/exit is on Wall Street. How much will that increase traffic on Wall Street? It is a rare day when someone in the Hillcrest Rehab Center doesn't need the rescue squad. When the fire truck and ambulance are there during the day, traffic is held up at times because the rescue vehicles have to park in the street. Will our first responders be put at risk by anxious drivers trying to squeeze by to get out of the neighborhood?

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Will the city be putting in a traffic light at the intersection of Harlan Drive and Hillcrest Drive? Or one at Wilshire and Harlan? During daylight hours, with so few west bound drivers obeying the posted speed limit of 35 mph, trying to turn left (east) at those intersections is a challenge, with the extra traffic it will become nearly impossible. People in our communities use Wall Street to access Galvin because of the difficulty of turning left (east) onto Harlan Drive, if Wall Street is blocked, people will have to go blocks out of their way to even get to the grocery store (Family Fare).

According to the proposal, the developer has planned a playground, however on the Exhibit B drawing there is no playground shown. It appears that the building will be butted up against the property line with our community as well as the Bellevue Vision Center's property line, with the rest of the space devoted to drive ways and parking lot. The proposal also stated that their estimate is of 43 children (unless they plan to artificially limit the number of children who can live in their facility, they are seriously short in their estimate. With current code/law if there is a 4 bedroom apartment, there could be up to 6 children in that home). Where are these children going to play? In the green space in our community or in the green space around Harmony Court? What if one of the kids falls off the 15' wall that separates our community from the Wilshire lot? In our community we have a fire pit in the center that doesn't have any mechanism to prevent its operation. What happens if an unsupervised tween/teen from the Wilshire project starts our fire pit and immolates themselves or someone else? Is the city prepared for that kind of publicity?

We understand the desire to have that lot be productive. Has the City courted any other senior living company, such as Hillcrest, to develop that space? A smaller complex dedicated to disabled yet independent people? How about disabled veterans' community apartments?

Thank you for considering our concerns,



Thomas and Cheryl Powell



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SEP 03 2025  
PLANNING DEPT.

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

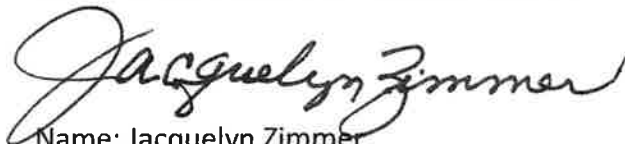
This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk, and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

The document I have read indicates a 5-story, 96 apartment building will be built with 72 of them multi-bedrooms on a 1.5-acre lot. This indicates 300 plus people could be living there. That is a great number of people living in a small footprint. The developer indicates up to 43 elementary age children could be accommodated. Why do they think only elementary age children will be there? I think all minors, regardless of age, will be living there. It looks like upwards of 3 times that many children could be there. I feel the number of children playing in a small play area would be very noisy. The playground indicated in the plan is clearly planned for small children, what about the tweens and teens? I am concerned our open green area would be an attractive draw to a serene area meant for a 55+ Senior Retirement community.

The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Name: Jacquelyn Zimmer  
Address: 1805 Hillcrest Dr. Bellevue NE 68005  
Telephone # 402-297-0914

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SEP 03 2025  
PLANNING DEPT.

Dear Tammi Palm (Planning Director,)

I moved to Bellevue (Freedom Village) in 2023. I left a very hard South Omaha neighborhood.

Being a widow I feel safe here, I can go out at night walk my dog, which I dare not do in my last neighborhood.

I hope the Wilshire Development does not go through. The neighborhood will change drastically.

Silvia Maron  
1807 Hillcrest Dr.  
Bellevue, Ne, 68005

RECEIVED

AUG 14 2025

PLANNING DEPT.

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: **Proposed Redevelopment Plan for Lot 6, Tiller's Addition**

Ms. Palm,

My name is Elaine Mausbach. I am a resident of Hillcrest's Freedom Village. I love living in Bellevue, in Freedom Village, and in Sarpy County. I have become aware of the proposed building project on the empty lot which is directly adjacent to the lot upon which Freedom Village is located. I believe the proposed plan has been brought before your planning department for approval. As a resident of Bellevue, I strongly voice my objection to the plan and ask that your decision would be to **vote no** against the proposed plan for Lot 6, Tiller's Addition.

As a resident, I would like to submit my reasons for asking this redevelopment proposal to be denied because the completion of such would greatly impact me personally:

I would be less confident in my choice to move to a Bellevue and Freedom Village apartment. Rather than the quiet and secure over 55 independent facility, the proposed project would certainly threaten to disrupt the peace and security of Freedom Village. I would have to move.

With a 96 apartment building for family housing adjacent to Freedom building property, the probable and possible population on Lot 6 apartments could reasonably exceed 400 plus residents. That is calculated on two adults per unit and two children. Reality is that it could greatly exceed my 400 estimate. (It would not matter if the plans were for affordable family or luxury apartments. IMO, the lot is too small to accommodate that number of people, parking spots, green area, and playgrounds.) IMO, that would be population overload. Freedom sits on a lot four times the size of Lot 6. FV has a very nice courtyard area for seniors to enjoy. For Lot 6 residents, it might look like an open invitation to invade the private courtyard area of Freedom village. As an 83 yr old resident, I do not have the skills necessary to avoid getting out of the way of skate boards, bikes, footballs, or energized kids. Falls would happen.

Also, the solution to that risk exposure cannot be as simple as signage, fences, etc. because we live in a culture where reasonable solutions do not exist.

The safety and security of the 56 families already living here would be jeopardized.

Thank you for considering my concerns and I respectfully ask that you would vote down the Proposed Redevelopment Plan for Lot 6, Tiller's Addition.

Respectfully, *Elaine M. Mausbach*

Name Elaine M. Mausbach

Address 1821 Hillcrest Drive, Apt. 407, Bellevue, NE

Telephone # 531-999-2305

RECEIVED  
AUG 15 2025  
PLANNING DEPT.

August 27, 2025

**Low-income/High Density Housing Development Protest Letter**

RECEIVED

AUG 28 2025

**Planning Commission**

PLANNING DEPT.

Our names are Mike and Carol Catherall and we live in Freedom Village. We are writing to you to protest against the potential development of a 96 unit low-income/high density apartment complex known as The Wilshire located on the southwest corner of Wilshire Drive and Wall Street. We have several concerns regarding this property.

We moved to Freedom Village about two and one-half years ago seeking a new home where we, as seniors, could interact with others of our age and enjoy the quiet and safe environment that the Village provides. This environment is now threatened by the proposed development with a large influx of people; upwards of 300 residents and 50+ children of elementary school age. Those children have no adequate place to play or socialize. The nearest school and park are a long walk away and across a very busy street. And why only elementary age? Surely there will be children of middle school and high school age. These children have very different needs regarding their free time. Our large, open central area with a fire pit and grill will be an attractive place for children which will lead to a large disruption to the environment of our senior community. The large increase in vehicular traffic on Wilshire Drive will only add to that disruption.

The number of units in the proposed complex will result in a very dense environment with inadequate parking even with the proposed underground garage. A parking overflow on to both Wilshire and Wall streets is very likely. Neither of these streets were built to accommodate a large number of parked cars in a safe manner. The lack of facilities for children may also lead to their presence on both streets. Given that Wilshire is one of two exits for the police from their station, it presents a potentially very unsafe condition for both the police and pedestrians.

The plan lacks the specificity needed to make an informed decision. There are many benefit claims made with no supporting analysis. Examples are growing needs of employers, positive impact in the immediate area, continuing to add viability to the area, a positive impact of foot traffic and increased employment opportunities. There are more.

In summary, the proposed development does not seem to be a very good fit for the area. A close examination would reveal there are few advantages and many negatives. Bellevue has several undeveloped areas that would be a better location for this proposal. We are asking for non-approval of this plan.

Thank you for your consideration.

*Mike Catherall*

*Carol Catherall*

Mike and Carol Catherall

CC: Mayor Hike, Councilman McCaw, City Administrator Ristow, Planning Commission

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am writing in opposition to the above redevelopment plan. We moved to Freedom Village in June 2023 because it offered a safe, secure, maintenance free living situation.

I am concerned that with the number of residents living in the proposed building there will be a disruption to this senior living area. The plan calls for a 5 story 96-unit apartment building with underground parking, a clubhouse, a playground and other amenities on a 1.5-acre lot. Based on the number of units and bedrooms this would mean between 300 and 400 residents. This would include at least 43 children (per proposal) and more than likely 200+ school age (elementary to high school) children and other minors. That is a great number of people living in a very small footprint. This would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns.

This block currently is comprised of senior housing, agencies supporting seniors, an optometrist, and an auto parts store but no amenities for children. The small play area for the proposed site is for small children and with the number of children it is meant to accommodate would be very noisy. But there will also be older children living in the proposed apartment building. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370. I am concerned our open green area meant for a 55+ Senior Retirement Community, would be an attractive draw to the children, elementary-age and teenagers alike, who will be living in the new building, compromising our safety and disrupting the serenity of our environment.

The safety and security of the people living in this area and the 96 families slated for the new building would be jeopardized. Upwards of 300 or more people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing

Thank you in advance for considering my concerns,



Beth Mincer  
1817 Hillcrest Dr  
Bellevue, NE 68005

Tele # (402) 659-8714

RECEIVED  
AUG 25 2025  
PLANNING DEPT.

24 August 2025

Planning Committee,

I am Carol Catherall and I live at 1819 Hillcrest Dr. in Freedom Village. I've been here for 2.5 years and love it. I cannot think of a single good thing about putting a high impact apartment building next to us. Our 28 unit apartment building is on a lot about the same size as the projected 96 unit building.

Most of us are long time Bellevue residents and it seems that the city does not care about us at all. Also, Hillcrest is the second largest employer in Bellevue. Why put this next to their campus for old people.

But as a mother and teacher, my main worry is about any children who might live there. We see how fast the police go down Wilshire on emergency calls. This is certainly nothing against the Bellevue police. I've had nothing but good interaction with them. That many cars and people will slow them down. I'm afraid that children will be on bicycles or run to see police cars and there will be a tragedy.

All of us in Freedom Village will certainly appreciate any help you can give to prevent the building being located on Wilshire.

Thank you,

*Carol Catherall*

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

The document I have read indicates a 5-story, 96 apartment building will be built with 72 of them multi-bedrooms on a 1.5-acre lot. This indicates 300 plus people could be living there. That is a great number of people living in a small footprint. The developer indicates up to 43 elementary age children could be accommodated. Why do they think only elementary age children will be there? I think all minors, regardless of age, will be living there. It looks like upwards of 3 times that many children could be there. I feel the number of children playing in a small play area would be very noisy. The playground indicated in the plan is clearly planned for small children, what about the tweens and teens? I am concerned our open green area would be an attractive draw to a serene area meant for a 55+ Senior Retirement Community.

The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,

*Roger Duwin*

1823 Hillcrest Drive ~~##~~  
Bellevue, NE 68005

Tele # 402-505-3811

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,

  
1823 Hillcrest Drive Apt.  
Bellevue, NE 68005

Tele # 402.960.5390

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Carol Friend. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

The document I have read indicates a 5-story, 96 apartment building will be built with 72 of them multi-bedrooms on a 1.5-acre lot. This indicates 300 plus people could be living there. That is a great number of people living in a small footprint. The developer indicates up to 43 elementary age children could be accommodated. Why do they think only elementary age children will be there? I think all minors, regardless of age, will be living there. It looks like upwards of 3 times that many children could be there. I feel the number of children playing in a small play area would be very noisy. The playground indicated in the plan is clearly planned for small children, what about the tweens and teens? I am concerned our open green area would be an attractive draw to a serene area meant for a 55+ Senior Retirement Community.

The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Carol Friend  
1827 Hillcrest Dr.  
Bellevue NE 68005  
402-293-7902

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Chuck Friend. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

The document I have read indicates a 5-story, 96 apartment building will be built with 72 of them multi-bedrooms on a 1.5-acre lot. This indicates 300 plus people could be living there. That is a great number of people living in a small footprint. The developer indicates up to 43 elementary age children could be accommodated. Why do they think only elementary age children will be there? I think all minors, regardless of age, will be living there. It looks like upwards of 3 times that many children could be there. I feel the number of children playing in a small play area would be very noisy. The playground indicated in the plan is clearly planned for small children, what about the tweens and teens? I am concerned our open green area would be an attractive draw to a serene area meant for a 55+ Senior Retirement Community.

The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Chuck Friend  
1827 Hillcrest Dr.  
Bellevue NE 66005  
402-293-7902

Ms. Tammi Palm  
Planning Director  
1510 Wall Street  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Rena Appel, I am a resident of Hillcrest's Freedom Village. I am writing to express my objection to the proposed redevelopment plan for Lot 6, Tiller's Addition. I would hope that the City will not be so quick to accept this proposal without thinking through the actual impact on the people who live here in this vicinity. Once the developer builds, they simply move onto another project somewhere else, without concern for the increased congestion and noise left behind that we will have to live with.

I moved to Freedom Village in February of this year. I have lived in Sarpy County since April 2016. I bought my lease out of the apartments where I had been living to move to 55+ Housing. It is very difficult for Seniors to find affordable senior housing in this area. I looked all over the Omaha area and chose Freedom Village because it was quiet and secure. I am very much afraid those qualities will be diminished..

When I reviewed the documents, I went over to look at the space. I really have a hard time understanding how that tiny little strip could support a 96 unit high rise apartment complex; three-fourths of which would be allocated to multi-bedrooms, that could potentially squeeze upwards of 300 people in a 1.5 acre lot. Not to mention the narrowness of that intersection at Wilshire and Wall.

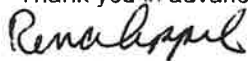
I don't believe that many people could live safely in that small of a space in that narrow intersection. The closest elementary school is a 14 minute walk and the closest public park is a 12 minute walk; both are either along or across busy Highway 370. That lot is so narrow I question whether there could be any real green space for the number of children that would actually be living in those apartments. The developer has no idea the number or ages of children who would actually live there; pre-teens and teens are just as likely as elementary school children to live there; it's not realistic to expect all ages to be playing in a small playground and most likely you'd see children congregating in other spaces. For example, the proposal discusses bike storage, that means children potentially biking and playing in the street. That's hazardous for cars driving along Wilshire not to mention the potential for a child to get hit. Additionally, I am concerned that Hillcrest's open green area could be mistaken for a public space, which would be disruptive to the serenity of this community.

I understand that the redevelopment plan was recently rejected due to the lack of parking and that consideration of this redevelopment plan has been continued to August. In light of this, I want to note that there is no public transportation here; so regardless of what type of parking adjustments that may be proposed, the bottom line is the amount of vehicle traffic will increase with a project like this. It's already difficult to make a right turn from Hillcrest onto Highway 370; as well as to make a left turn from Highway 370 onto Hillcrest with the current traffic levels.

I am very concerned about the adverse impacts the density of this project will have on our community. Upwards of 300 people is entirely too dense a population for a 1.5 acre lot.

The immediate surrounding area includes 55+ Senior housing, a nursing home, and an assisted living facility. A 96 unit high rise apartment building is not a common sense solution for this area. Perhaps less-dense, income based affordable 55+ housing would be a better alternative.

Thank you in advance for considering my concerns.



Rena Appel  
1821 Hillcrest Dr. Apt. 202  
Bellevue, NE 68005  
402-991-5046

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Margaret Novak. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns.



Margaret Novak  
1821 Hillcrest Dr. Apt 205  
Bellevue NE 68005  
402-926-6978

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

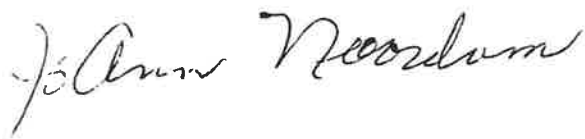
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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



1821 Hillcrest Drive Apt. 306  
Bellevue, NE 68005

Tele # 402-332-6360

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,

1821 Hillcrest Drive Apt.  
Bellevue, NE 68005

Tele #

Erinita DeBow  
Apt. 404

August 12, 2025

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Elaine Mausbach. I am a resident of Hillcrest's Freedom Village. I love living in Bellevue, in Freedom Village, and in Sarpy County. I have become aware of the proposed building project on the empty lot which is directly adjacent to the lot upon which Freedom Village is located. I believe the proposed plan has been brought before your planning department for approval. As a resident of Bellevue, I strongly voice my objection to the plan and ask that your decision would be to **vote no** against the proposed plan for Lot 6, Tiller's Addition.

As a resident, I would like to submit my reasons for asking this redevelopment proposal to be denied because the completion of such would greatly impact me personally:

I would be less confident in my choice to move to a Bellevue and Freedom Village apartment. Rather than the quiet and secure over 55 independent facility, the proposed project would certainly threaten to disrupt the peace and security of Freedom Village. I would have to move.

With a 96 apartment building for family housing adjacent to Freedom building property, the probable and possible population on Lot 6 apartments could reasonably exceed 400 plus residents. That is calculated on two adults per unit and two children. Reality is that it could greatly exceed my 400 estimate. (It would not matter if the plans were for affordable family or luxury apartments. IMO, the lot is too small to accommodate that number of people, parking spots, green area, and playgrounds.) IMO, that would be population overload. Freedom sits on a lot four times the size of Lot 6. FV has a very nice courtyard area for seniors to enjoy. For Lot 6 residents, it might look like an open invitation to invade the private courtyard area of Freedom village. As an 83 yr old resident, I do not have the skills necessary to avoid getting out of the way of skate boards, bikes, footballs, or energized kids. Falls would happen.

Also, the solution to that risk exposure cannot be as simple as signage, fences, etc. because we live in a culture where reasonable solutions do not exist.

The safety and security of the 56 families already living here would be jeopardized.

Thank you for considering my concerns and I respectfully ask that you would vote down the Proposed Redevelopment Plan for Lot 6, Tiller's Addition.

Respectfully, *Elaine M. Mausbach*

Name Elaine M. Mausbach

Address 1821 Hillcrest Drive, Apt. 407, Bellevue, NE

Telephone # 531-999-2305

RESIDENTS

SENT The following

Directly to

Recipient

1717 Hillcrest Drive  
Bellevue, NE

Dear Mayra Hike

My name is Karen Berbland  
and I live at 1717 Hillcrest Drive.

I live next door to the property  
at the corner of Wilshire Drive and  
Wall Street. As you know this  
property has a proposed redevelopment  
plan for a 5 level multi family  
apartment complex.

Have you looked at this 1.5 acre  
property? There is no room for a  
96 unit apartment complex. Where  
are the people going to park? Where  
are the children going to play? Some  
of the children could well be teenagers  
that need more space than the  
small play area that is proposed.

I am sure there are much better  
ideas for this property. Please talk  
to the planning dept. and help  
them come up with a better plan  
for this property.

Sincerely,

Karen Berbland (a resident of Bellevue)

Uick. Inogen  
1735 Hillcrest Dr  
Bellevue, Nc 680

To Whom it may concern,

I Am A Resident of Hillcrest Housing  
in the 55+, I live in a Garden Home with  
my Dog.

I came to Bellevue to A Community,  
where it WAS quiet; NO Through traffic,  
Neighbors who left their homes as well.

We are a small community, where we  
know everyone's Dog's Names + share our  
private lives.

I Appose the 96, 5 Story Apartment  
housing on Wellshire and Wall for low income  
people.

We want quiet, NO traffic + limited  
children, as we have lots of cement for Skate-  
boards, roller skating + bicycles.

We will Not tolerate, loud music, Speeding Cars  
Our property, stold or Ding Dong Ditch!!!!

Please Stop this Low Income Apartment Housing!

24 August 2025

Mr. McCaw,

I am Carol Catherall and I live at 1819 Hillcrest Dr. in Freedom Village. I've been here for 2.5 years and love it. I cannot think of a single good thing about putting a high impact apartment building next to us. Our 28 unit apartment building is on a lot about the same size as the projected 96 unit building.

Most of us are long time Bellevue residents and it seems that the city does not care about us at all. Also, Hillcrest is the second largest employer in Bellevue. Why put this next to their campus for old people.

But as a mother and teacher, my main worry is about any children who might live there. We see how fast the police go down Wilshire on emergency calls. This is certainly nothing against the Bellevue police. I've had nothing but good interaction with them. That many cars and people will slow them down. I'm afraid that children will be on bicycles or run to see police cars and there will be a tragedy.

All of us in Freedom Village will certainly appreciate any help you can give to prevent the building being located on Wilshire.

Thank you,

*Carol Catherall*

24 August 2025

Councilman Casey,

I know that Freedom Village is not in your ward, but since you are retired military, I think you care about us military that retired in Bellevue.

I am Carol Catherall and I live at 1819 Hillcrest Dr. in Freedom Village. I've been here for 2.5 years and love it. I cannot think of a single good thing about putting a high impact apartment building next to us. Our 28 unit apartment building is on a lot about the same size as the projected 96 unit building.

Most of us are long time Bellevue residents and it seems that the city does not care about us at all. Also, Hillcrest is the second largest employer in Bellevue. Why put this next to their campus for old people.

But as a mother and teacher, my main worry is about any children who might live there. We see how fast the police go down Wilshire on emergency calls. This is certainly nothing against the Bellevue police. I've had nothing but good interaction with them. That many cars and people will slow them down. I'm afraid that children will be on bicycles or run to see police cars and there will be a tragedy.

All of us in Freedom Village will certainly appreciate any help you can give to prevent the building being located on Wilshire.

Thank you,

A handwritten signature in black ink that reads "Carol Catherall". The signature is written in a cursive, flowing style.

**Roger Irwin  
1823 Hillcrest Dr  
Bellevue, NE 68005  
402-960-5390**

Dear Mayor Hike,

As a resident of Freedom Village of Bellevue, I have some concerns about the proposed large dwelling to be located on Wilshire Drive and Wall Street.

I am 84 years old, a Vietnam Veteran, retired Nebraska State Patrol, handicapped and legally blind. My main concern is for my safety and the safety of other senior citizens who reside in the retirement community. Several residents have garden plots. Another concern is the unattended children coming down in our area. We have a fire pit which is not turned off and could be attractive to the children.

I hope you will seriously consider this retirement community and its senior citizens who call this their home. Also consider the traffic which would double or triple. We already have a hard time getting on to Harlan Drive.

Thank you,

A handwritten signature in cursive script that reads "Roger Irwin".

Roger Irwin

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Judy Burcaw. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

The document I have read indicates a 5-story, 96 apartment building will be built with 72 of them multi-bedrooms on a 1.5-acre lot. This indicates 300 plus people could be living there. That is a great number of people living in a small footprint. The developer indicates up to 43 elementary age children could be accommodated. Why do they think only elementary age children will be there? I think all minors, regardless of age, will be living there. It looks like upwards of 3 times that many children could be there. I feel the number of children playing in a small play area would be very noisy. The playground indicated in the plan is clearly planned for small children, what about the tweens and teens? I am concerned our open green area would be an attractive draw to a serene area meant for a 55+ Senior Retirement Community.

The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Judy Burcaw  
1705 Hillcrest Dr.  
Bellevue NE 68005  
402-203-9039

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Frank Burcaw. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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Thank you in advance for considering my concerns,



Frank Burcaw  
1705 Hillcrest Dr.  
Bellevue NE 66005  
402-203-9039

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Marilyn Bogacki. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Marilyn Bogacki  
1707 Hillcrest Dr.  
Bellevue NE 68005  
863-558-2138

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Ginette Carpenter. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

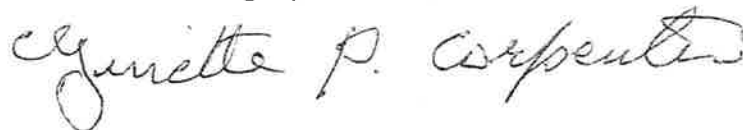
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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,

A handwritten signature in cursive script that reads "Ginette P. Carpenter". The signature is written in dark ink and is positioned above the typed name and address.

Ginette Carpenter  
1715 Hillcrest Dr.  
Bellevue NE 68005  
402-301-3863

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Dan Nietfeld. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

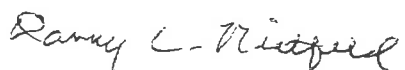
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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Dan Nietfeld  
1719 Hillcrest Dr.  
Bellevue NE 68005  
402-679-5660

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Kathy Nietfeld. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

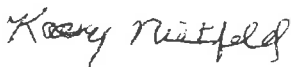
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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Kathy Nietfeld  
1719 Hillcrest Dr.  
Bellevue NE 66005  
402-679-5660

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Clyde Johnson. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Clyde Johnson  
1723 Hillcrest Dr.  
Bellevue NE 68005  
402-291-4221

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Barb Johnson. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Barb Johnson  
1723 Hillcrest Dr.  
Bellevue NE 68005  
402-291-4221

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Lynn Hanson. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Lynn Hanson  
1725 Hillcrest Dr.  
Bellevue NE 68005  
320-699-0429

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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Thank you in advance for considering my concerns,

  
Clif Langford  
1733 Hillcrest Drive  
Bellevue, NE 68005

Tele # 402-291-3877

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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Thank you in advance for considering my concerns,

A handwritten signature in black ink that reads "Marijke Langford". The signature is written in a cursive, flowing style.

Marijke Langford  
1733 Hillcrest Drive  
Bellevue, NE 68005

Tele # 402-291-3877

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is John Kelly. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

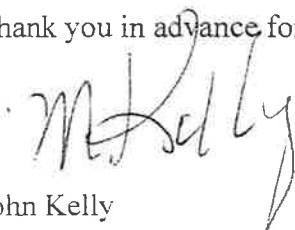
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Thank you in advance for considering my concerns,



John Kelly  
1809 Hillcrest Dr.  
Bellevue NE 68005  
785-331-8014

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Gay Flynn. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Gay Flynn  
1809 Hillcrest Dr.  
Bellevue NE 68005  
785-331-8015

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

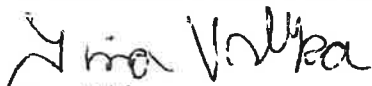
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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



Tina Vrbka

1813 Hillcrest Dr  
Bellevue NE 68005  
402-672-0073

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

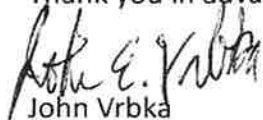
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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



John Vrbka  
1813 Hillcrest Dr  
Bellevue NE 68005  
402-672-5762

Ms. Tammi Palm  
Planning Director  
Bellevue NE Planning Commission  
1810 Wall St  
Bellevue NE 68005

Re: Redevelopment Plan for Lot 6 Tiller's 4th Addition

Dear Ms. Palm,

My name is Robert (Bob) Povich. I am a resident of the Hillcrest property, Freedom Village. I am writing to you to voice my objection to this lot being used for the plan above. I am concerned that the amount of residents living there will be a disruption of this senior living area. We enjoy a quiet and safe area. Those qualities are what brought me to this facility.

This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating more safety issues.

The document that I have read indicates that 96 apartments will be built with 72 of them multi bedrooms. This tells me that 200 to 300 people could be living there. That is a huge number of folks living in a small footprint. The developer indicates that up to 43 elementary age children should be accommodated. Why do they think only elementary age children will be there? I think all minors regardless of age could be living there. It looks to me that upwards of 3 times that many children could be there. Don't get me wrong, I don't have a problem with the kids, but the noise and areas they would play in would be very noisy. I'm sure our open green area would be attractive for drawing kids to play.

All of the residential facilities in this area are geared towards seniors. I really don't want our safety to be jeopardized. This plan is not a good fit for this area.

Thank you in advance for considering my concerns.



Bob Povich  
1815 Hillcrest Dr.  
Bellevue, NE 68005  
402-990-5984

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.


This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5-acre lot on which to build. The closest elementary school is a 14-minute walk and the closest public park is a 12-minute walk. Both are either along or across busy Highway 370.

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The safety and security of the 56 families already living here would be jeopardized. The well-being, safety and security of the 96 families slated for this 5-story apartment building would also be jeopardized. Upwards of 300 people is entirely too dense a population for a 1.5-acre lot.

This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



CAROL A. LOVELL

1821 Hillcrest Drive Apt. 304  
Bellevue, NE 68005

Tele # 512-636-8403

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.


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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,

  
LINDA M RAY  
1821 Hillcrest Drive Apt. 405 402-990-9398  
Bellevue, NE 68005

Tele #

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



402-393-6468

1821 Hillcrest Drive Apt. 305  
Bellevue, NE 68005

Tele #

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.


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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,

  
Deborah A. Peterson

1821 Hillcrest Drive Apt. 206  
Bellevue, NE 68005

Tele #

- 402-650-3425

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,

  
1821 Hillcrest Drive Apt. 103  
Bellevue, NE 68005

Tele # 402-515-9581

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

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This plan is not a good fit for this area. Better use might be less-dense, income-based, affordable 55+ housing.

Thank you in advance for considering my concerns,



1821 Hillcrest Drive Apt. 102  
Bellevue, NE 68005

Tele # 402-319-2355

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Larry Mahagan. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

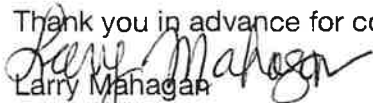
This plan would greatly increase vehicle and pedestrian traffic around the streets and residential areas creating safety concerns. Hillcrest, Wall Street, and Wilshire tend to be through streets for access to City Hall, McDonald's, Family Fare and Galvin. In addition there is a considerable emergency traffic. With Freedom Village, Hillcrest, and Harmony Court it is not unusual to have fire trucks and rescue squads in the area. Wilshire seems to be a major route for police cars making rapid egress to Harlan Dr.. This block currently is comprised of senior housing, agencies supporting seniors, an optometrist and an auto parts store. This leaves a very small 1.5 acre lot on which to build. The closest elementary school is a 14 minute walk and the closest public park is a 12 minute walk. Both are either along or across busy Highway 370 (Harlan Dr.).

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This plan is not a good fit for this area. Better use might be less dense, income based, affordable 55+ housing.

Thank you in advance for considering my concerns my concerns.

  
Larry Mahagan  
1703 Hillcrest Dr.  
Bellevue, NE. 68005  
402-679-1419

Tammi Palm, Planning Director  
City of Bellevue Planning Department  
1510 Wall St.  
Bellevue, NE 68005

Subject: Proposed Redevelopment Plan for Lot 6, Tiller's Addition

Ms. Palm,

My name is Glenda Mahagan. I am a resident of Hillcrest's Freedom Village. I am writing to you to voice my objection to this lot being used for the above plan. I am concerned the number of residents living there will be a disruption to our senior living area. We enjoy a quiet, safe area. Those qualities are what brought me to this facility.

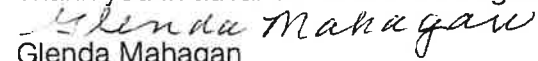
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Thank you in advance for considering my concerns my concerns.

  
Glenda Mahagan  
1703 Hillcrest Dr.  
Bellevue, NE. 68005  
402-690-2678

# FREEDOM VILLAGE



OF BELLEVUE

RECEIVED

JUL 23 2025

PLANNING DEPT.

July 23, 2025

Planning Commissioners,

Please add this to the record for items 3.a – Text Amendment to Section 5.17, Planned Subdivision Overlay and 3.b. – Request to Rezone Lot 6, Tiller’s 4th Addition. Case #: Z-2506-06.

On behalf of the senior residents and owners of Freedom Village of Bellevue, the property to the west of this project, we wanted to provide this letter of opposition to both items and some comments for your review.

When the Freedom Village project was proposed and approved it really was a conversation about what protects the best interest of the existing 250 seniors living at Hillcrest Health & Rehab and the adjacent Harmony Court. With Freedom Village now stabilized, an additional 75 seniors live in the area. This proposed project doesn’t protect the best interests of these 325 seniors. Below are several areas of concern we have with the proposed development and why it is not comparable to Freedom Village or Harmony Court.

## **Density**

The density is too large for the development. We disagree with the Planning Department’s recommendation of approval. Their research from neighboring cities shows that Bellevue’s RG-8 already allows more density than other jurisdictions are allowing in multi-family zoned districts.

The text amendment requested was really designed and previously approved by the city for the BGM zoning district. The difference between BGM and RG-8 is that BGM is for developments/ buildings that are mixed with businesses and apartments under the same roof or within the same development. A BGM mixed development/ building could have smaller apartments to allow for live-work units and create more density to support the businesses. Live-work developments/ buildings take the concept further by incorporating lifestyle amenities like retail, dining, and recreational spaces within the development/ building. This creates a self-contained environment where residents can live, work, and enjoy leisure activities without needing to travel far. What Bellevue has done in the BGM district is similar to what Omaha has in R-8, Neighborhood Business District (NBD), and

Central Business District (CBD) districts. Again, these are all supportive of ‘urban services’ and businesses and not multi-family.

Here are the neighboring city’s regulations for minimum lot area per unit in multi-family.

The Planning Department researched allowed multifamily density in surrounding cities and jurisdictions:

- The City of Papillion has a R-4 multifamily zoning district which is defined as 3 or more units. The first four units require 3,000 square feet of lot area per unit, with 1,500 square feet of lot area required after that. The minimum required lot area is 10,000 square feet.
- LaVista has a R-3 zoning district which is defined as allowing high density residential in areas providing all public facilities and supporting facilities to maintain a sound environment for inhabitants. This zoning district requires 3,000 square feet of lot area for the first 4 units, and 1,500 square feet of lot area for each additional unit. The maximum building coverage in this zoning district is 40%.
- Sarpy County utilizes an RG-15 zoning district which allows for multifamily residential buildings at a density of 1,500 square feet of lot area per unit, with a minimum lot area of 10,000 square feet.
- The City of Omaha has several multifamily zoning districts, to include R-WRN (Walkable Residential Neighborhood District), R-6, R-7, and R-8. The R-7 zoning district allows 40 units per acre and has a minimum lot size of 1,000 square feet. The R-8 zoning district is a high-density multifamily district “most appropriate in centrally located areas near supporting urban services” and near major institutional, employment, and community centers. This district requires a minimum of 500 square feet of lot area per unit, with a 5,000 square foot minimum lot area. Multifamily uses are also allowed in the NBD and CBD zoning districts. The Neighborhood Business District (NBD) requires 200 square feet of lot area per dwelling unit. The CBD (Central Business District) allows for 100 square feet of lot area per dwelling unit. The City of Omaha also has a provision allowing for multifamily residential projects to exceed density and floor area by approval of a conditional use permit. **R-7 = 1,089 sq. ft. of lot area**

Per Bellevue Zoning Ordinance multi-family dwellings density is based upon the following.

*RG-20 = The first four units of a multiple family dwelling, townhouse, or condominium shall have a minimum lot area of 5,000 s.f. per unit; after which the minimum lot area may be 2,000 s.f. per unit.*

*RG-8 = The first four units of a multiple family dwelling, townhouse, or condominium shall have a minimum lot area of 2,500 s.f. per unit; after which the minimum lot area may be 800 s.f. per unit.*

Additionally, the density being proposed in this development is not comparable to Freedom Village or Harmony Court. See below for comparisons.

- Freedom Village Density (RG-20) =  
129 units allowed vs. 56 Total Units Provided = 4,810 s.f. of lot area per unit
- Harmony Court Density (RG-8) =  
188 units allowed vs. 86 Total Units Provided = 1,825 s.f. of lot area per unit
- Proposed Development (RG-8) =  
73 units allowed vs. 96 Proposed Units = 675 s.f. of lot area per unit

## **Parking**

The off-street parking is not adequate for the development. Bellevue Zoning Ordinance requires 2 stalls per apartment in multi-family. The rezone with site plan approval application requests a reduction from the required 192 stalls to 118 stalls. That is only 1.2 stalls per apartment. The off-street parking being proposed in this development is not comparable to Freedom Village or Harmony Court (per Bellevue Zoning Ordinance multi-family dwellings exclusively for senior citizens require 1 stall per apartment). See below for comparisons.

- Freedom Village Off-Street Parking =  
(1 stall/ apartment = 56 total Required) – 3.2 stalls/ apartment = 180 Total Provided
- Harmony Court Off-Street Parking =  
(1 stall/ apartment = 86 total Required) – 1.2 stalls/ apartment = 105 Total Provided
- Proposed Development Off-Street Parking =  
(2 stalls/ apartment = 192 total Required) – 1.2 stalls/ apartment = 118 Proposed

## **Green Space**

The green space is not adequate for the development. While there is a playground being provided and some green space there is no large area for the kids to play football, soccer, or tag? Additionally, there is no 'dog park' being provided so where will dogs run? The green space being proposed in this development is not comparable to Freedom Village or Harmony Court. See below for comparisons.

- Freedom Village Green Space = 40.4% of lot is green space (for seniors only)
- Harmony Court Green Space = 49.7% of lot is green space (for seniors only)
- Proposed Development Green Space = 33.7% of lot is green space (for multi-family)

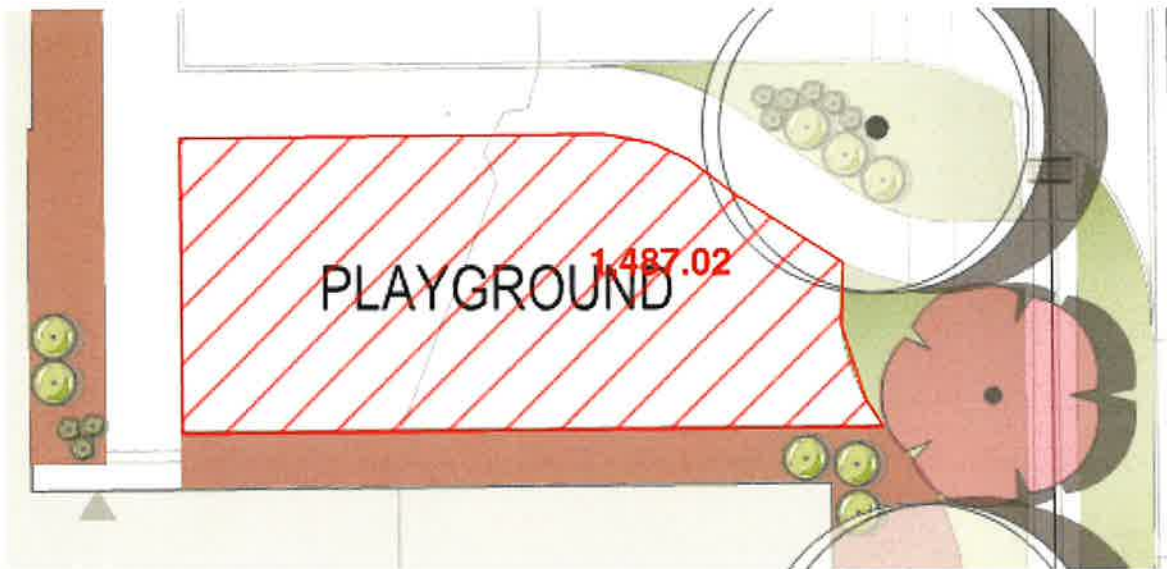
## **But For...But?**

In the context of Tax Increment Financing (TIF), the 'but for' test is a requirement that a development project would not occur 'but for' the use of TIF financing. This means the project is unlikely to happen without the financial assistance provided by TIF. As stated in our previous letter to the Planning Commission we agree the project needs the redevelopment plan (TIF) to be successful. However, this project is more of a But For...But, because not only is it using TIF it is also asking for other text amendments to the Bellevue Zoning Ordinance. There are several recent examples of approved multi-family redevelopment plans that have been successful without additional 'buts' needed. See below for a list of some of those projects.

Freedom Village (RG-20); Jefferson Place Addition (RG-28); Cardinal Commons (RG-28); South Woods (RG-8); College Apartments (RG-8)

## **Playground Size**

The size of the playground is not adequate for the number of children that will be part of this development. The playground as proposed is roughly 1,487 sq. ft. (see below) If you use 50 sq. ft. per child as a recommendation from the sources below that would accommodate 29 children at one time. Per the apartment breakdown given by the developer and 1 child occupant per extra bedroom; (22) one-bedroom = 0 kids, (45) two-bedroom = 45 kids, (19) three-bedroom = 38 kids, (10) four-bedroom = 30 kids, for a total of 113 kids living in this development.



**Source #1** – Per the Community Investment Collaborative for Kids (CICK) an outdoor play space should be divided into distinct activity areas, both to ensure safety and to provide suitable locations for different types of play. Provide both sunny and shaded places, and a covered area so that children can get outdoors on rainy days or in the heat of a summer day. Most state licensing regulations require a minimum of 75 square feet of outdoor space per child playing outdoors at one time, but early childhood experts recommend 100 square feet or more.

### CICK Funders

- Freddie Mac Foundation
- JPMorgan Chase
- William Randolph Hearst Foundations

CICK expands the supply and improves the quality of early care and education in low-income communities through new investments in physical facilities.

**Source #2** – In designing playgrounds for apartment buildings, there's a strong recommendation to allocate between 40 and 75 square feet of play area per child, according to KOMPAN.

KOMPAN was founded in 1970 in Denmark by sculptor Tom Lindhardt and co-founder Hans Mogens Fenne-Frederiksen. The concept of play sculptures for children was birthed by children’s instant attraction to Tom Lindhardt’s playful sculptural art. Today, KOMPAN’s beautiful and timeless playgrounds foster its continued purpose to co-create and shape healthier and happier communities globally by delivering play and fitness solutions.

**Occupant Load**

The occupant load hasn’t been clearly defined by the developer. During the Planning Commission meeting discussion on June 26, 2025, related to the redevelopment plan the applicant mentioned the occupant load for the development to be 197 people total. However, the table below provided by the applicant would provide for a much larger occupant load. Per the table below and the apartment breakdown given by the developer; (22) one-bedroom = 66 occupants, (45) two-bedroom = 180 occupants, (19) three-bedroom = 95 occupants, (10) four-bedroom = 60 occupants, for a total of 401 occupants living in this development.

<b>BUILDING OCCUPANT LOAD</b>				
<b>SPACE NAME</b>	<b>FUNCTION OF SPACE</b>	<b>AREA</b>	<b>OL FACTOR</b>	<b>OCCUPANT LOAD</b>
TRASH	ACCESSREORY STORAGE	487 SF	300 SF	2
PARKING GARAGE	PARKING GARAGES	25539 SF	200 SF	128
LEVEL-00				129
JANITOR	ACCESSREORY STORAGE	69 SF	300 SF	1
STOR	ACCESSREORY STORAGE	65 SF	300 SF	1
TRASH	ACCESSREORY STORAGE	49 SF	300 SF	1
COMMUNITY	ASSEMBLY UNCONCENTRATED	520 SF	15 SF	35
BUSINESS	BUSINESS AREA	1731 SF	100 SF	17
ELEC	MECHANICAL EQUIPMENT ROOM	497 SF	300 SF	2
MECH	MECHANICAL EQUIPMENT ROOM	29 SF	300 SF	1
1-BED	RESIDENTIAL	689 SF	200 SF	3
1-BED	RESIDENTIAL	682 SF	200 SF	3
1-BED	RESIDENTIAL	712 SF	200 SF	4
1-BED	RESIDENTIAL	675 SF	200 SF	3
1-BED	RESIDENTIAL	679 SF	200 SF	3
1-BED	RESIDENTIAL	778 SF	200 SF	4
2-BED	RESIDENTIAL	890 SF	200 SF	4
2-BED	RESIDENTIAL	983 SF	200 SF	5
2-BED	RESIDENTIAL	846 SF	200 SF	4
2-BED	RESIDENTIAL	830 SF	200 SF	4
2-BED	RESIDENTIAL	830 SF	200 SF	4
2-BED	RESIDENTIAL	830 SF	200 SF	4
2-BED	RESIDENTIAL	831 SF	200 SF	4
2-BED	RESIDENTIAL	830 SF	200 SF	4
2-BED	RESIDENTIAL	829 SF	200 SF	4
3-BED	RESIDENTIAL	1115 SF	200 SF	6
3-BED	RESIDENTIAL	1029 SF	200 SF	5
3-BED	RESIDENTIAL	1099 SF	200 SF	5
4-BED	RESIDENTIAL	1219 SF	200 SF	6
4-BED	RESIDENTIAL	1219 SF	200 SF	6
4-BED	RESIDENTIAL	1198 SF	200 SF	6
4-BED	RESIDENTIAL	1247 SF	200 SF	6
LEVEL-01				158

While the table above is being used by the development designers for building code regulations, it does seem unrealistic. So for discussion purposes if you use 1.5 adult occupants as an average per apartment and the remaining bedrooms as 1 kid occupant and the apartment breakdown given by the developer; (22) one-bedroom = 33 occupants, (45) two-bedroom = 112.5 occupants, (19) three-bedroom = 66.5 occupants, (10) four-bedroom = 45 occupants, for a total of 257 occupants living in this development.

The occupant load affects most of the comments above and could have a tremendous impact on the senior residents of Freedom Village of Bellevue, Hillcrest Health & Living, and Harmony Court.

Lastly, we feel agenda items 3.a and 3.b need to be reviewed and approved at the same time. The text amendment only works if the project can provide the required parking which as of this meeting it cannot. We understand the applicant has requested a continuance of item 3.b to the August meeting so both items should be continued until then so everything can be discussed and voted on at the same time.

We thank you for your time and hope you understand our opposition to the proposed development. Please feel free to contact one of us with any questions or comments.

Thank you,

Jolene Roberts

Owner – Freedom Village of Bellevue  
(402) 682-4800  
[jroberts@hillcresthealth.com](mailto:jroberts@hillcresthealth.com)

Jim Janicki  
Owner – Freedom Village of Bellevue  
(402) 682-4800  
[jjanicki@hillcresthealth.com](mailto:jjanicki@hillcresthealth.com)

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

16a.  
10/7/2025

COUNCIL MEETING DATE: 09/16/2025		SUBMITTED BY: Finance, CDBG	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Approve and execute the CDBG Funding Approval and Agreement for FY-25 funding in the amount of \$315,457.00

SYNOPSIS/BACKGROUND:

The City of Bellevue approved and submitted the 2025 Action Plan outlining CDBG funded projects in July 2025. Following a review, HUD has approved the plan and activities, and provided a funding agreement for the City's approval. To receive the funding, the City must execute and return the funding agreement to HUD. Once the agreement is executed and the environmental review is complete, the 2025 funds will be released to the City for expenditure.

FISCAL IMPACT: \$315,457.00 BUDGETED FUNDS?: Yes GRANT/MATCHING FUNDS?: Yes

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: Yes COUNTER-PARTY: HUD INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION: Funding Agreement, B-25-MC-31-0003

CONTRACT EFFECTIVE DATE: 10/01/2025 CONTRACT TERM: 7 years CONTRACT END DATE: 9/1/2033

PROJECT NAME: \*Once approved by City Council and HUD, activities will be named and coded.

START DATE: 10/01/2025 END DATE: 09/01/2033 PAYMENT DATE: INSURANCE REQUIRED: Yes

CIP PROJECT NAME: CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Approve and execute the HUD FY-25 CDBG funding agreement.

ATTACHMENTS:

- HUD Letter - 2025 Approval
- Federal Award Agreement/14.218
- 
- 
- 
- 

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Daniel J. Jellie*  
*Sam & Ken*



September 10, 2025

Abby Highland, CDBG Specialist  
 City of Bellevue  
 1500 Wall Street  
 Bellevue, NE 68005

**SUBJECT: Fiscal Year 2025 Grant Agreement Transmittal**

Dear Ms. Highland:

The Omaha Field Office would like to thank you for your continued partnership in providing quality affordable housing, a suitable living environment, and expanding economic opportunities through the Department of Housing and Urban Development (HUD) programs.

One Grant Agreement is attached for each program awarded as follows:

Community Development Block Grant Program (CDBG)	\$315,457.00
<b>Total FY 2025 Award</b>	<b>\$315,457.00</b>

**Federal Award Agreement**

Transmittal of a grant agreement does not constitute approval of the activities described in your Consolidated Plan or Annual Action Plan. You are reminded that you, as grantee, are responsible for ensuring that all grant funds are used in accordance with all program requirements. By executing the Federal Award Agreement, you are entering into a legally binding agreement with HUD to use the awarded funds and carry out the funded activities in accordance with all Federal statutes, regulations, Federal Register notices, and award terms and conditions that apply to those funds and activities.

Please carefully note the addenda that are part of each agreement.

HUD recognizes that some U.S. District Courts have issued injunction orders which impact certain FY 2025 CPD formula funding grant agreement(s). To preserve all legal rights and defenses, the enclosed grant agreement contains the same conditions at issue in those court actions. For grantees who are plaintiffs in those court actions, HUD intends to comply with all applicable injunction orders and will not implement or enforce the challenged conditions consistent with those court orders, including disregarding any “certifications” or “compliance” statements. Please return an executed copy of the grant agreement, as discussed below, and HUD will make grant funds at issue in your agreement available consistent with all applicable orders. Please be advised that should the injunction orders that currently prohibit HUD from enforcing the challenged conditions as to your grant be stayed, dissolved, or reversed, the grant agreement, with conditions, will automatically become effective.

**Executing the Agreement**

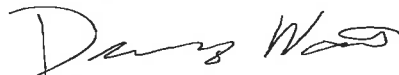
The authorized official **must** complete Addendum 3. Indirect Cost Rate Schedule for each agreement, even if no indirect costs will be charged under the grant. Please mark one (and only one) checkbox to reflect how indirect costs will be calculated and charged under the grant. Please note that the Office of Management and Budget (OMB) issued revised Guidance and the *de minimis* indirect cost rate increased from 10 percent to up to 15 percent of Modified Total Direct Costs.

After inputting their name and title, the authorized official must execute each agreement, with a signature, and date. No other additions other than those described here should be made to the grant agreement without prior written approval. Please ensure the Chief Elected Official or authorized official signs the agreement.

You must return the entire Federal Award Agreement, including all addenda, to this office via the Field Office General Email Inbox: [CPD\\_GeneralCorr-R7@hud.gov](mailto:CPD_GeneralCorr-R7@hud.gov). HUD will be signing the grant agreement second and will return to your office a copy of each signed agreement for you to maintain in your local program files.

HUD congratulates the City of Bellevue on your grant award(s), and we look forward to assisting you in accomplishing your program goals. If you have any questions or need further information or assistance, please contact your assigned Field Office representative or email our Office at [CPD\\_GeneralCorr-R7@hud.gov](mailto:CPD_GeneralCorr-R7@hud.gov).

Sincerely,



Dominique Waters  
CPD Director (Acting)  
Office of Community Planning and  
Development

Enclosure(s)

**U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
OFFICE OF COMMUNITY PLANNING AND DEVELOPMENT  
FEDERAL AWARD AGREEMENT**

**A. General Federal Award Information**

1. Recipient name (must match Unique Entity Identifier name) and address: City of Bellevue 210 WEST MISSION AVENUE Bellevue, NE 68005-5237	12. Assistance listing number and title: <ul style="list-style-type: none"> <li>14.218, Community Development Block Grant Program for Entitlement Communities</li> <li>14.225, Community Development Block Grant Program for Insular Areas</li> <li>14.228, Community Development Block Grant Program for States and Non-Entitlement Grants in Hawaii</li> </ul>
2. Recipient's Unique Entity Identifier: MGFGXEFM3353	13. Amount of federal funds obligated by this action: \$315,457.00
3. Tax identification number: 476006099	14. Total amount of federal funds obligated: \$315,457.00
4. Federal Award Identification Number (FAIN): B25MC310003	15. Total approved cost sharing (if applicable): N/A
5. Instrument type: Grant <input checked="" type="checkbox"/> Cooperative agreement <input type="checkbox"/> Loan Guarantee <input type="checkbox"/>	16. Total federal award amount, including approved cost sharing: \$315,457.00
6. Period of performance start and end date: 10/1/2024 - See Addendum 2	17. Budget approved by HUD:
7. Budget period start and end date: 10/1/2024 - See Addendum 2	18. Fiscal year: 2025
8. Initial Agreement <input checked="" type="checkbox"/> Amendment <input type="checkbox"/> #	19. Statutory authority: 42 U.S.C. 5301 et seq.
9. Indirect cost rate (per § 200.414): Recipients must complete Addendum 3: Indirect Cost Rate Schedule	20. Applicable appropriations act(s): Public Law 119-4
10. Is this award for research and development (per 2 C.F.R. § 200.1)? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	21. Notice/notice of funding opportunity this award is made under (if applicable): N/A
11. Awarding official name and contact information:	22. Program regulations (if applicable): 24 C.F.R. Part 570
23. Federal award description: The CDBG program provides funding to eligible grantees for the development of viable urban communities, by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. <ul style="list-style-type: none"> <li>Addendum 1. Policy Requirements</li> <li>Addendum 2. Program-Specific Requirements</li> <li>Addendum 3. Indirect Cost Rate Schedule</li> </ul>	

*Authority and Agreement.* This agreement between the U.S. Department of Housing and Urban Development (HUD) and the Recipient is made pursuant to the statutory authority above (box 19) and is subject to the applicable appropriations act(s) (box 20). This agreement incorporates by reference the Community Development Block Grant program statute 42 U.S.C. 5301 et seq., the program regulations at 24 C.F.R. § 570 (as now in effect and as may be

## U.S. Department of Housing and Urban Development — Federal Award Agreement

amended from time to time), Recipient's consolidated plan/action plan, the relevant funding notice (box 21), any attached Specific Terms and Conditions, and the attached addenda (box 23).

### B. Terms and Conditions

1. *General terms and requirements.* The Recipient must comply with all applicable federal laws, regulations, and requirements, unless otherwise provided through HUD's formal waiver authorities. This agreement, including any attachments and addenda, may only be amended in writing executed by parties to this agreement and any addenda.
2. *Administrative requirements.* The Recipient must comply with the following requirement(s) if checked below:
  - The administrative requirements in the HUD General Administrative, National, and Departmental Policy Requirements and Terms for HUD's Financial Assistance Programs 2025, as indicated in the relevant NOFO, apply to this agreement.
  - The grantee shall comply with requirements established by the Office of Management and Budget (OMB) concerning the Unique Entity Identifier (UEI); the System for Award Management (SAM.gov); the Federal Funding Accountability and Transparency Act as provided in 2 C.F.R. part 25, Universal Identifier and General Contractor Registration; and 2 C.F.R. part 170, Reporting Subaward and Executive Compensation Information.
3. *Applicability of 2 C.F.R. part 200.*
  - The Recipient must comply with the applicable requirements at 2 C.F.R. part 200, as may be amended from time to time. If any previous or future amendments to 2 C.F.R. part 200 replace or renumber any part 200 section cited in HUD's regulations in Title 24 of the Code of Federal Regulations, the amended part 200 requirements will govern award activities carried out after the amendments' effective date.
  - The Recipient must comply with the applicable requirements at 2 C.F.R. part 200. If any previous amendments to 2 C.F.R. part 200 replace or renumber any part 200 section cited in HUD's regulations in Title 24 of the Code of Federal Regulations, the amended part 200 requirements will govern award activities carried out after the amendments' effective date.
4. *Future budget periods.* If the period of performance spans multiple budget periods, subsequent budget periods are subject to the availability of funds, program authority, satisfactory performance, and compliance with the terms and conditions of the Federal award.
5. *Indirect Cost Rate.* If the Recipient intends to use a negotiated or de minimis rate for indirect costs, the Recipient must submit an Indirect Cost Rate form to HUD, either with its application using HUD-426 (competitive grants) or with this agreement using "Addendum #3 "Indirect Cost Rate Schedule" (formula and congressional grants). The submitted form/addendum will be incorporated into and made part of this agreement, provided that the rate information is consistent with the applicable requirements under 2 C.F.R. § 200.414. If there is any change in the Recipient's indirect cost rate, it must immediately notify HUD and execute an amendment to this agreement to reflect the change if necessary.
6. *Recipient integrity and performance matters.* If the Federal share of this award is more than \$500,000 over the period of performance (box 6), the terms and conditions in 2 C.F.R. part 200 Appendix XII apply to this agreement.
7. *Recordkeeping and Access to Records.* The Recipient hereby agrees to maintain complete and accurate books of account for this award and award activities in such a manner as to permit the preparation of statements and reports in accordance with HUD requirements, and to permit timely and effective audit. The Recipient agrees to furnish HUD such financial and project reports, records, statements, subrecipient data, and documents at such times, in such form, and accompanied by such reporting data as required by HUD. HUD and its duly authorized representative shall have full and free access to all Recipient offices and facilities, and to all books, documents, and records of the Recipient relevant to the administration, receipt, and use of this award and award activities, including the right to audit and make copies. The Recipient agrees to maintain records that identify the source and application of funds, including relevant subrecipient data, in

## U.S. Department of Housing and Urban Development — Federal Award Agreement

such a manner as to allow HUD to determine that all funds are and have been expended in accordance with program requirements and in a manner consistent with applicable law.

Further, the Recipient hereby acknowledges that HUD is in the process of implementing new grants management and reporting tools, which will be made available for the Recipient's use in the future. The Recipient agrees to report on grant performance and financial activities (including vendor and cash disbursement supporting details for the Recipient and its subrecipients) using these new tools when they are released. HUD will work with the Recipient to support the Recipient's transition to this new reporting environment. Once implemented, timely reporting in this new environment will be mandatory. HUD reserves the right to exercise all of its available rights and remedies for any noncompliance with these grants management and financial reporting requirements, to include, without limitation, requiring 100% review, suspension of disbursements, and all other legally available remedies, to the furthest extent permitted by law, as amended.

8. *Noncompliance.* If the Recipient fails to comply with the provisions of this agreement, HUD may take one or more of the actions provided in program statutes, regulations or 2 C.F.R. § 200.339, as applicable. Nothing in this agreement shall limit any remedies otherwise available to HUD in the case of noncompliance by the Recipient. No delay or omissions by HUD in exercising any right or remedy available to it under this agreement shall impair any such right or remedy or constitute a waiver of or acquiescence in any Recipient noncompliance.
9. *Termination provisions.* Unless superseded by program statutes, regulations or NOFOs, the termination provisions in 2 C.F.R. § 200.340 apply.
10. *Build America, Buy America.* The Recipient must comply with the requirements of the Build America, Buy America (BABA) Act, 41 U.S.C. § 8301 note, and all applicable rules and notices, as may be amended, if applicable. Pursuant to HUD's Notice, "Public Interest Phased Implementation Waiver for FY 2022 and 2023 of Build America, Buy America Provisions as Applied to Recipients of HUD Federal Financial Assistance" (88 Fed. Reg. 17001), BABA requirements apply to any infrastructure projects HUD has obligated funds for after the effective dates, unless excepted by a waiver.
11. *Waste, Fraud, Abuse, and Whistleblower Protections.* Any person who becomes aware of the existence or apparent existence of fraud, waste, or abuse of any HUD award must report such incidents to both the HUD official responsible for the award and to HUD's Office of Inspector General (OIG). Allegations of fraud, waste, and abuse related to HUD programs can be reported to the HUD OIG hotline via phone at 1-800-347-3735 or online hotline form. The Recipient must comply with 41 U.S.C. § 4712, which includes informing employees in writing of their rights and remedies, in the predominant native language of the workforce. Under 41 U.S.C. § 4712, employees of a government contractor, subcontractor, recipient, and subrecipient—as well as a personal services contractor—who make a protected disclosure about a Federal award or contract cannot be discharged, demoted, or otherwise discriminated against if they reasonably believe the information they disclose is evidence of (1) gross mismanagement of a Federal contract or award; (2) waste of Federal funds; (3) abuse of authority relating to a Federal contract or award; (4) substantial and specific danger to public health and safety; or (5) violations of law, rule, or regulation related to a Federal contract or award.
12. *Third-Party Claims.* Nothing in this agreement shall be construed as creating or justifying any claim against the federal government or the Recipient by any third party.
13. *Rule of Construction and No Construction Against Drafter.* Notwithstanding anything contained in this agreement, the terms and conditions hereof are to be construed to have full and expansive effect in both interpretation and application, and the parties agree that the principle of interpretation that holds that ambiguities in terms or conditions are construed against the drafter shall not apply in interpreting this agreement.

### C. Federal Award Performance Goals

The Recipient must meet any applicable performance goals, indicators, targets, and baseline data as required by applicable program requirements.

U.S. Department of Housing and Urban Development — Federal Award Agreement

**D. Specific Terms and Conditions**      Not applicable     Attached

For the U.S. Department of HUD (name and title of authorized official)	Signature	Date
For the Recipient (name and title of authorized official)	Signature	Date

## U.S. Department of Housing and Urban Development — Federal Award Agreement

### ADDENDUM 1. POLICY REQUIREMENTS

If applicable:

1. The Recipient shall not use grant funds to promote “gender ideology,” as defined in Executive Order (E.O.) 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government;
2. The Recipient agrees that its compliance in all respects with all applicable Federal anti-discrimination laws is material to the U.S. Government’s payment decisions for purposes of section 3729(b)(4) of title 31, United States Code;
3. The Recipient certifies that it does not operate any programs that violate any applicable Federal anti-discrimination laws, including Title VI of the Civil Rights Act of 1964;
4. The Recipient shall not use any grant funds to fund or promote elective abortions, as required by E.O. 14182, Enforcing the Hyde Amendment; and that,
5. Notwithstanding anything in the NOFO or Application, this Grant shall not be governed by Executive Orders revoked by E.O. 14154, including E.O. 14008, or NOFO requirements implementing Executive Orders that have been revoked.
6. The Recipient must administer its grant in accordance with all applicable immigration restrictions and requirements, including the eligibility and verification requirements that apply under title IV of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, as amended ([8 U.S.C. 1601-1646](#)) (PRWORA) and any applicable requirements that HUD, the Attorney General, or the U.S. Citizenship and Immigration Services may establish from time to time to comply with PRWORA, [Executive Order 14218](#), or other Executive Orders or immigration laws.
7. No state or unit of general local government that receives funding under this grant may use that funding in a manner that by design or effect facilitates the subsidization or promotion of illegal immigration or shields illegal aliens from deportation, including by maintaining policies or practices that materially impede enforcement of federal immigration statutes and regulations.
8. The Recipient must use SAVE, or an equivalent verification system approved by the Federal government, to prevent any Federal public benefit from being provided to an ineligible alien who entered the United States illegally or is otherwise unlawfully present in the United States.
9. Faith-based organizations may be subrecipients for funds on the same basis as any other organization. Recipients may not, in the selection of subrecipients, discriminate against an organization based on the organization’s religious character, affiliation, or exercise.

**ADDENDUM 2. PROGRAM-SPECIFIC REQUIREMENTS**

**Assistance Listing 14.218, Community Development Block Grant Program for Entitlement Communities**

**Assistance Listing 14.225, Community Development Block Grant Program for Insular Areas**

**Assistance Listing 14.228, Community Development Block Grant Program for States and Non-Entitlement Grants in Hawaii**

1. *Environmental Review.* The Recipient agrees to assume all the responsibilities for environmental review, decision making, and actions, as specified and required in regulations issued by the Secretary pursuant to section 104(g) of title I of the Housing and Community Development Act of 1974 and published in 24 C.F.R. part 58; except that if the Recipient is a state, the Recipient must require the unit of general local government to assume that responsibility and must comply with the state's responsibilities under 24 C.F.R. 58.4.
2. *Public Use.* The Recipient shall ensure that no CDBG funds are used to support any Federal, State, or local projects that seek to use the power of eminent domain, unless eminent domain is employed only for public use. For the purposes of this requirement, public use shall not be construed to include economic development that primarily benefits private entities. Any use of funds for mass transit, railroad, airport, seaport, or highway projects as well as utility projects that benefit or serve the general public (including energy-, communication-, water-, and wastewater-related infrastructure), other structures designated for use by the general public or which have other common-carrier or public-utility functions that serve the general public and are subject to regulation and oversight by the government, and projects for the removal of an immediate threat to public health and safety or brownfield as defined in the Small Business Liability Relief and Brownfields Revitalization Act (Pub. Law No. 107-118) shall be considered a public use for purposes of eminent domain.
3. *Prohibition on Selling, Trading, and Transferring Funds.* The Recipient or unit of general local government that directly or indirectly receives CDBG funds may not sell, trade, or otherwise transfer all or any such portion of such funds to another such entity in exchange for any other funds, credits or non-Federal considerations, but must use such funds for activities eligible under title I of the Housing and Community Development Act of 1974.
4. *Construction of Water and Sewer Facilities.* Notwithstanding any other provision of this agreement, the Recipient may not obligate or expend award funds to plan or construct water or sewer facilities, including any new or revised activities, until after 1) it completes the review procedures required under Executive Order 12372, Intergovernmental Review of Federal Programs, and 24 C.F.R. part 52 and 2) HUD provides written notice of the release of funds.
5. *Funds for For-Profit Entities.* Under 42 U.S.C. § 5305(a)(17), CDBG funds may not be provided to a for-profit entity unless such activity or project has been evaluated and selected in accordance with Appendix A to 24 C.F.R. § 570, *Guidelines and Objectives for Evaluating Project Costs and Financial Requirements*.
6. *Violence Against Women Act.* The Recipient will comply with the right to report crime and emergencies protections at 34 U.S.C. § 12495 of the Violence Against Women Act.

U.S. Department of Housing and Urban Development — Federal Award Agreement

7. Funding Information and Period of Performance and Budget Period End Dates

<u>Source of Funds</u>	<u>Amount</u>	<u>Period of Performance End Date</u>	<u>Budget Period End Date</u>
2025	\$315,457.00	9/30/2033	9/30/2033

U.S. Department of Housing and Urban Development — Federal Award Agreement

**ADDENDUM 3. INDIRECT COST RATE SCHEDULE**

As the duly authorized representative of the Recipient, I certify that the Recipient:

- Will not use an indirect cost rate to calculate and charge indirect costs under the grant.
- Will calculate and charge indirect costs under the grant by applying a *de minimis* rate as provided by 2 C.F.R. § 200.414(f), as may be amended from time to time.
- Will calculate and charge indirect costs under the grant using the indirect cost rate(s) listed below, and each rate listed is included in an indirect cost rate proposal developed in accordance with the applicable appendix to 2 C.F.R. part 200 and, *if required*, was approved by the cognizant agency for indirect costs.

Agency/department/major function	Indirect cost rate	Type of Direct Cost Base
	%	
	%	
	%	

Instructions for the Recipient:

The Recipient must mark the one (and only one) checkbox above that best reflects how the Recipient’s indirect costs will be calculated and charged under the grant. Do not include indirect cost rate information for subrecipients.

The table following the third box must be completed only if that box is checked. When listing a rate in the table, enter both the percentage amount (e.g., 10%) and the type of direct cost base to be used. For example, if the direct cost base used for calculating indirect costs is Modified Total Direct Costs, then enter “MTDC” in the “Type of Direct Cost Base” column.

If using the Simplified Allocation Method for indirect costs, enter the applicable indirect cost rate and type of direct cost base in the first row of the table.

If using the Multiple Allocation Base Method, enter each major function of the organization for which a rate was developed and will be used under the grant, the indirect cost rate applicable to that major function, and the type of direct cost base to which the rate will be applied.

If the Recipient is a government and more than one agency or department will carry out activities under the grant, enter each agency or department that will carry out activities under the grant, the indirect cost rate(s) for that agency or department, and the type of direct cost base to which each rate will be applied.

To learn more about the indirect cost requirements, see 2 C.F.R. part 200, subpart E and Appendix VII to Part 200 (for state and local governments).

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: 10/07/2025		SUBMITTED BY: CDBG Specialist/ Public Works	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Approve and Execute the Amendment Number 1 to the grant agreement with the University of Nebraska-Lincoln for the Nebraska Inflation Reduction Act (IRA) grant for the Bellevue Urban Forestry Management and Growth Plan.

SYNOPSIS/BACKGROUND:

The City of Bellevue was awarded \$140,000.00 in grant funds through the University of Nebraska-Lincoln from the USDA Forest Service Inflation Reduction Act Funds for development of the Bellevue Urban Forestry Management and Growth Plan which includes the creation of a community forestry plan, annual tree plantings for two years, and increased community outreach and education for tree planting community wide. With approval of the extension amendment, the City will continue to work with the Nebraska Forest Service and the University to administer the project in line with grant requirements.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NUMBER:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

Approve and execute the amendment to the Cost Reimbursement Research Subaward Agreement for the extension of the grant period to September 30, 2026.

ATTACHMENTS:

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM: \_\_\_\_\_

FINANCE APPROVAL AS TO FORM: \_\_\_\_\_


ADMINISTRATOR APPROVAL AS TO FORM: \_\_\_\_\_

## Cost Reimbursement Research Subaward Agreement

<b>Federal Awarding Agency:</b> Department of Agriculture (USDA)	
<b>Pass-Through Entity (PTE):</b> Brd. of Regents of the Univ. of Nebraska on behalf of the Univ. of Nebraska-Lincoln	<b>Subrecipient:</b> City of Bellevue
PTE PI: John Erixson	Sub PI: David Goedeken
PTE Federal Award No: 23-DG-11021600-051	Subaward No: 25-6553-0115-003
Project Title: Nebraska Inflation Reduction Act (IRA)	
<b>Subaward Period of Performance (Budget Period):</b>	
Start: 10/01/2024	End: 09/30/2025
Amount Funded This Action (USD): \$ 103,375.00	
<b>Estimated Project Period (if incrementally funded):</b>	
Start: 10/01/2024	End: 09/30/2027
Incrementally Estimated Total (USD): \$ 140,000.00	

### Terms and Conditions

1. PTE hereby awards a cost reimbursable subaward, as described above, to Subrecipient. The Statement of Work and budget for this Subaward are as shown in Attachment 5. In its performance of Subaward work, Subrecipient shall be an independent entity and not an employee or agent of PTE.
2. Subrecipient shall submit invoices not more often than monthly and not less frequently than quarterly for allowable costs incurred. Upon the receipt of proper invoices, the PTE agrees to process payments in accordance with this Subaward. All invoices shall be submitted using Subrecipient's standard invoice, but at a minimum shall include current and cumulative costs (including cost sharing), Subaward number, and certification. Invoices that do not reference PTE Subaward number shall be returned to Subrecipient. Invoices and questions concerning invoice receipt or payments shall be directed to the party's Financial Contact, shown in Attachment 3A.
3. A final statement of cumulative costs incurred, including cost sharing, marked "FINAL" must be submitted to PTE's Financial Contact, as shown in Attachment 3A, not later than 60 days after the Project Period end date. The final statement of costs shall constitute Subrecipient's final financial report.
4. All payments shall be considered provisional and are subject to adjustment within the total estimated cost in the event such adjustment is necessary as a result of an adverse audit finding against the Subrecipient.
5. Matters concerning the technical performance of this Subaward shall be directed to the appropriate party's Principal Investigator as shown in Attachments 3A and 3B. Technical reports are required as shown in Attachment 4.
6. Matters concerning the request or negotiation of any changes in the terms, conditions, or amounts cited in this Subaward, and any changes requiring prior approval, shall be directed to each party's Administrative Contact, as shown in Attachments 3A and 3B. Any such change made to this Subaward requires the written approval of each party's Authorized Official, as shown in Attachments 3A and 3B.
7. The PTE may issue non-substantive changes to the Period of Performance and budget Bilaterally. Unilateral modification shall be considered valid 14 days after receipt unless otherwise indicated by Subrecipient when sent to Subrecipient's Authorized Official Contact, as shown in Attachment 3B.
8. Each party shall be responsible for its negligent acts or omissions and the negligent acts or omissions of its employees, officers, or directors, to the extent allowed by law.
9. Either party may terminate this Subaward with 30 days written notice to the appropriate party's Authorized Official Contact, as shown in Attachments 3A and 3B. PTE shall pay Subrecipient for termination costs as allowable under this Subaward, as applicable.
10. By signing this Subaward, including the attachments hereto which are hereby incorporated by reference, Subrecipient certifies that it will perform the Statement of Work in accordance with the terms and conditions of this Subaward and the applicable terms of the Federal Award, including the appropriate Research Terms and Conditions ("RTCs") of the Federal Awarding Agency, as referenced in Attachment 2. The parties further agree that they intend this Subaward to comply with all applicable laws, regulations and requirements.

By an Authorized Official of Pass-through Entity:  Suzan Lund      09/10/2024   14:37 CDT Name: Suzan Lund      Date: _____ Title: Associate Director, Office of Sponsored Programs	By an Authorized Official of Subrecipient:   Name: Rusty Hill      Date: 9/3/24 Title: Mayor
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**Attachment 1**  
**Certifications and Assurances**

Subaward Number:  
25-6553-0115-003

**Certification Regarding Lobbying**

By signing this Subaward, the Subrecipient Authorized Official certifies, to the best of his/her knowledge and belief, that no Federal appropriated funds have been paid or will be paid, by or on behalf of the Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or intending to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Subrecipient shall complete and submit Standard Form -LLL, "Disclosure Form to Report Lobbying," to the PTE.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

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**Debarment, Suspension, and Other Responsibility Matters**

To the extent allowed by law, by signing this Subaward, the Subrecipient Authorized Official certifies, to the best of his/her knowledge and belief that neither the Subrecipient nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from participation in this transaction by any federal department or agency.

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**Audit and Access to Records**

Subrecipient certifies that it will provide notice of any adverse findings which impact this Subaward and will provide access to records as required. If Subrecipient is not subject to the Single Audit Act, then Subrecipient will provide notice of the completion of any required audits and provide access to such audits upon request.

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**Program for Enhancement of Contractor Employee Protections**

Subrecipient is hereby notified that they are required to: inform their employees working on any federal award that they are subject to the whistleblower rights and remedies of the pilot program; inform their employees in writing of employee whistleblower protections under 41 U.S.C §4712 in the predominant native language of the workforce; and include such requirements in any agreement made with a subcontractor or subgrantee.

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The Subrecipient shall require that the language of the certifications above in this Attachment 1 be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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**Use of Name**

Neither party shall use the other party's name, trademarks, or other logos in any publicity, advertising, or news release without the prior written approval of an authorized representative of that party. The parties agree that each party may use factual information regarding the existence and purpose of the relationship that is the subject of this Subaward for legitimate business purposes, to satisfy any reporting and funding obligations, or as required by applicable law or regulation without written permission from the other party. In any such statement, the relationship of the parties shall be accurately and appropriately described.



**Attachment 2**  
**Federal Award Terms and Conditions**

Subaward Number  
**25-6553-0115-003**

**Required Data Elements**

The data elements required by Uniform Guidance are incorporated **in the attached Federal Award.**

<b>Federal Award Issue Date</b>	<b>FAIN</b>	<b>CFDA No.</b>
08/10/23	23-DG-11021600-051	10.727
<b>CFDA Title</b>		
Inflation Reduction Act Urban & Community Forestry Program		
<b>Key Personnel Per NOA</b>		

**This Subaward Is:**

- Research & Development     Subject to FFATA

**General Terms and Conditions**

By signing this Subaward, Subrecipient agrees to the following:

- To abide by the conditions on activities and restrictions on expenditure of federal funds in appropriations acts that are applicable to this Subaward to the extent those restrictions are pertinent. This includes any recent legislation noted on the Federal Awarding Agency's website:

<http://nifa.usda.gov/resource/nifa-federal-assistance-policy-guide>

- Reserved and 2 CFR 400

- The Federal Awarding Agency's grants policy guidance, including addenda in effect as of the beginning date of the period of performance or as amended found at:

<https://nifa.usda.gov/regulations-and-guidelines>

- Research Terms and Conditions, including any Federal Awarding Agency's Specific Requirements found at:

<https://www.nsf.gov/awards/managing/rtc.jsp> except for the following :

- No-cost extensions require the written approval of the PTE. Any requests for a no-cost extension shall be directed to the Financial Contact shown in Attachment 3A, not less than 30 days prior to the desired effective date of the requested change.
- Any payment mechanisms and financial reporting requirements described in the applicable Federal Awarding Agency Terms and Conditions and Agency-Specific Requirements are replaced with Terms and Conditions (1) through (4) of this Subaward; and
- Any prior approvals are to be sought from the PTE and not the Federal Awarding Agency.
- Title to equipment that is purchased or fabricated with research funds or Subrecipient cost sharing funds, as direct costs of the project or program, shall vest in the Subrecipient subject to the conditions specified in the Subaward.
- Prior approval must be sought for a change in Subrecipient PI or change in Key Personnel (defined as listed on the NOA).

- Treatment of program income: **Additive**

This section intentionally left blank

**Special Terms and Conditions:**

**Copyrights:**

**Subrecipient Shall Grant** to PTE an irrevocable, royalty-free, non-transferable, non-exclusive right and license to use, reproduce, make derivative works, display, and perform publicly any copyrights or copyrighted material (including any computer software and its documentation and/or databases) first developed and delivered under this Subaward solely for the purpose of and only to the extent required to meet PTE's obligations to the Federal Government under its PTE Federal Award.

Subrecipient grants to PTE the right to use any written progress reports and deliverables created under this Subaward solely for the purpose of and only to the extent required to meet PTE's obligations to the Federal Government under its Federal Award.

**Data Rights:**

Subrecipient grants to PTE the right to use data created in the performance of this Subaward solely for the purpose of and only to the extent required to meet PTE's obligations to the Federal Government under its PTE Federal Award.

**Data Sharing and Access** (Check if applicable):

- Subrecipient agrees to comply with the Federal Awarding Agency's data sharing and access requirements as reflected in the NOA (or in the special terms below) and the Data Management/Sharing Plan submitted to the Federal Awarding Agency and attached.

**Promoting Objectivity in Research (COI):**

Subrecipient must designate herein which entity's Financial Conflicts of Interest policy (COI) will apply:

If applying its own COI policy, by execution of this Subaward, Subrecipient certifies that its policy complies with the requirements of the relevant Federal Awarding Agency as identified herein:

Subrecipient shall report any financial conflict of interest to PTE's Administrative Representative or COI contact, as designated on Attachment 3A. Any financial conflicts of interest identified shall, when applicable, subsequently be reported to Federal Awarding Agency. Such report shall be made before expenditure of funds authorized in this Subaward and within 45 days of any subsequently identified COI.

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**Work Involving Human or Vertebrate Animals (Select Applicable Options)**

No Human or Vertebrate Animals

This section left intentionally blank.

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**Human Subjects Data (Select One)**

This section left intentionally blank

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**Additional Terms**



**Attachment 3A**  
**Pass-Through Entity (PTE) Contacts**

Subaward Number:

25-6553-0115-003

**PTE Information**

Entity Name: Brd. of Regents of the Univ. of Nebraska on behalf of the Univ. of Nebraska-Lincoln

Legal Address: 151 Prem S. Paul Research Center at Whittier School  
2200 Vine Street  
Lincoln NE 68583-0861

Website: <http://research.unl.edu/sponsoredprograms/>

**PTE Contacts**

Central Email: unlospawards@unl.edu

Principal Investigator Name: John Erixson

Email: jerixson2@unl.edu Telephone Number: 402-472-6601

Administrative Contact Name: Belinda Gillam

Email: bgillam1@unl.edu Telephone Number: 402-472-7061

COI Contact email (if different to above):

Financial Contact Name: Belinda Gillam

Email: bgillam1@unl.edu Telephone Number: 402-472-7061

Email invoices?  Yes  No Invoice email (if different): osp-postaward@unl.edu

Authorized Official Name: Suzan Lund

Email: unlospawards@unl.edu Telephone Number: 402-472-3171

**PI Address:**

102F Forestry Hall (FORS)  
1800 N 37th Street  
Lincoln NE 68583-0815

**Administrative Address:**

151 Prem S. Paul Research Center at Whittier School  
2200 Vine Street  
Lincoln NE 68583-0861

**Invoice Address:**

151 Prem S. Paul Research Center at Whittier School  
2200 Vine Street  
Lincoln NE 68583-0861

**Attachment 3B**  
**Subrecipient Contacts**

Subaward Number:  
25-6553-0115-003

**Subrecipient Information for FFATA reporting**

Entity's UEI Name:

EIN No.:  Institution Type:

UEI:  Currently registered in SAM.gov:  Yes  No

Parent UEI:  Exempt from reporting executive compensation:  Yes  No (if no, complete 3Bpg2)

Place of Performance Address:

<i>This section for U.S. Entities:</i>	Zip Code <u>Look-up</u>
Congressional District: <input type="text" value="1"/>	Zip Code+4: <input type="text" value="68005-3675"/>

**Subrecipient Contacts**

Central Email:

Website:

Principal Investigator Name:

Email:  Telephone Number:

Administrative Contact Name:

Email:  Telephone Number:

Financial Contact Name:

Email:  Telephone Number:

Invoice Email:

Authorized Official Name:

Email:  Telephone Number:

**Legal Address:**

1500 Wall Street  
Bellevue, NE 68005-3675

**Administrative Address:**

1500 Wall Street  
Bellevue, NE 68005-3675

**Payment Address:**

1500 Wall Street  
Bellevue, NE 68005-3675



**Attachment 3B-2**  
**Highest Compensated Officers**

Subaward Number:  
25-6553-0115-003

**Subrecipient:**

Institution Name:

PI Name:

**Highest Compensated Officers**

The names and total compensation of the five most highly compensated officers of the entity(ies) must be listed if the entity in the preceding fiscal year received 80 percent or more of its annual gross revenues in Federal awards; and \$25,000,000 or more in annual gross revenues from Federal awards; and the public does not have access to this information about the compensation of the senior executives of the entity through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. §§ 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. See FFATA § 2(b)(1) Internal Revenue Code of 1986.

Officer 1 Name:

Officer 1 Compensation:

Officer 2 Name:

Officer 2 Compensation:

Officer 3 Name:

Officer 3 Compensation:

Officer 4 Name:

Officer 4 Compensation:

Officer 5 Name:

Officer 5 Compensation:



**Attachment 4**  
**Reporting and Prior Approval Terms**

Subaward Number:

25-6553-0115-003

Subrecipient agrees to submit the following reports (PTE contacts are identified in Attachment 3A):

**Technical Reports:**

- Monthly technical/progress reports will be submitted to the PTE's [ ] within [ ] days of the end of the month.
- Quarterly technical/progress reports will be submitted within 30 days after the end of each project quarter to the PTE's [ ]
- Annual technical / progress reports will be submitted within [ ] days prior to the end of each budget period to the PTE's [ ]. Such report shall also include a detailed budget for the next Budget Period, updated other support for key personnel, certification of appropriate education in the conduct of human subject research of any new key personnel, and annual IRB or IACUC approval, if applicable.
- A Final technical/progress report will be submitted to the PTE's [ ] within [ ] days of the end of the Project Period or after termination of this award, whichever comes first.
- Technical/progress reports on the project as may be required by PTE's Principal Investigator [ ] in order for the PTE to satisfy its reporting obligations to the Federal Awarding Agency.

**Prior Approvals:**

Carryover:  
Carryover is automatic

**Other Reports:**

- In accordance with 37 CFR 401.14, Subrecipient agrees to notify PTE's [ ] [ ] days after Subrecipient's inventor discloses invention(s) in writing to Subrecipient's personnel responsible for patent matters. The Subrecipient will submit a final invention report using Federal Awarding Agency specific forms to the PTE's [ ] within 60 days of the end of the Project Period to be included as part of the PTE's final invention report to the Federal Awarding Agency.  
A negative report is required: [ ]
- Property Inventory Report (only when required by Federal Awarding Agency), specific requirements below.

**Other Special Reporting Requirements:**

- 1. INVOICES
  - A. Email invoices and detail to the financial contact as per Attachment 3A
  - B. Included with the invoice shall be a detailed itemization of expenditures produced from Subrecipient's accounting system. The itemization shall include, at a minimum, names/amounts of persons paid from this award, vendor payee name, date of payment, item description and amount.
  - C. Personnel detail must be provided either from Subrecipient's accounting system or via the attached Personnel Cost Template
  - D. Include Uniform Guidance Certification statement with signature
- 2. CLOSE-OUT
  - A. Complete attached Subaward Agreement Close-Out form and email to financial contact



**Attachment 5**  
**Statement of Work, Cost Sharing, Indirects & Budget**

Subaward Number:  
25-6553-0115-003

**Statement of Work**

Below  Attached,  pages

If award is FFATA eligible and SOW exceeds 4000 characters, include a *Subrecipient Federal Award Project Description*

**Budget Information**

<b>Indirect Information</b> Indirect Cost Rate (IDC) Applied <input type="text" value="0"/> % Rate Type: <input type="text"/>	<b>Cost Sharing</b> <input type="text" value="No"/> If Yes, include Amount: \$ <input type="text"/>
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**Budget Details**  Below  Attached,  pages

**Budget Totals**

Direct Costs	\$ <input type="text" value="103,375.00"/>
Indirect Costs	\$ <input type="text" value=""/>
<b>Total Costs</b>	<b>\$ <input type="text" value="103,375.00"/></b>

*All amounts are in United States Dollars*

Subaward Number:

25-6553-0115-003



**Attachment 6**

**Notice of Award (NOA) and any additional documents**

- The following pages include the NOA and if applicable any additional documentation referenced throughout this Subaward.
- ~~Not incorporating the NOA or any additional documentation to this Subaward.~~

## Subaward Agreement Close-Out Requirements

The University of Nebraska-Lincoln requires subrecipients to submit a list of equipment purchased, a copy of your invention disclosure report, final invoice for the agreement and a signed copy of this form. Final invoice will not be processed for payment until all close-out documentation has been received.

Subaward agreement #: \_\_\_\_\_

Subrecipient: \_\_\_\_\_

Please check all that apply:

Final invoice has been emailed including a system generated report as back-up documentation.

There are NO outstanding claims against this subaward agreement. (No further claims will be honored after this block has been checked and this form has been signed and returned to the University of Nebraska-Lincoln.)

Only the amount included in the Final Invoice \$ \_\_\_\_\_ is due. When the FINAL invoice is paid by the University of Nebraska-Lincoln, there will be no further claims against this subaward agreement.

Required cost share has been met and reported

Patents and/or inventions are pending. Please see attached documentation.

NO patents or inventions to report under this subaward agreement.

Technical report completed and mailed to UNL-PI on this date: \_\_\_\_\_

Neither government furnished equipment nor equipment purchased with money from this subaward agreement to be reported. (*University's definition of Equipment is an article of nonexpendable tangible personal property having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit*)

Equipment purchased: (Please attach additional sheet if necessary)  
Include Description, S/N, Acquisition Date, Location, Condition and Cost.

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I hereby certify the above information is correct and in accordance with the terms of the subaward agreement. Subrecipient does hereby remise, release, and discharge the University, its officers, agents and employees, of and from all liabilities, obligations, claims, and demands whatsoever under or arising from the said subaward agreement.

\_\_\_\_\_  
Signature (Subrecipient's Authorized Representative)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**Please email the completed form to the financial contact per Attachment 3A included with the subaward agreement.**

**FEDERAL FINANCIAL ASSISTANCE  
AWARD OF DOMESTIC GRANT 23-DG-11021600-051  
Between  
BOARD OF REGENTS OF THE UNIVERSITY OF NEBRASKA  
And The  
USDA, FOREST SERVICE  
ROCKY MOUNTAIN REGION  
STATE, PRIVATE, AND TRIBAL FORESTRY**

Project Title: 2023 Inflation Reduction Act Urban & Community Forestry

Upon execution of this document, an award to Board of Regents of the University of Nebraska, hereinafter referred to as "UNL," in the amount of **\$1,875,000.00**, is made under the authority of Cooperative Forestry Assistance Act, P.L. 95-313 as amended, 16 USC 2105 and Public Law 117-169, Subtitle D, Section 23003(a). The Federal Assistance Listing (formerly Catalog of Federal Domestic Assistance - CFDA) number and name are 10.727, Inflation Reduction Act Urban & Community Forestry. UNL accepts this award for the purpose described in the application narrative. Your application for Federal financial assistance, dated 06/13/2023, and the attached Forest Service provisions, 'Forest Service Award Provisions,' are incorporated into this letter and made a part of this award.

This authority requires a 1:1 match, however match has been waived under the provision of Public Law 117-169 (Inflation Reduction Act) and based on assurance from the Cooperator that 100% of the work and funding will be directed to disadvantaged communities.

This is an award of Federal financial assistance. Prime and sub-recipients to this award are subject to the OMB guidance in subparts A through F of 2 CFR Part 200 as adopted and supplemented by the USDA in 2 CFR Part 400. Adoption by USDA of the OMB guidance in 2 CFR 400 gives regulatory effect to the OMB guidance in 2 CFR 200 where full text may be found.

Electronic copies of the CFRs can be obtained at the following internet site: [www.ecfr.gov](http://www.ecfr.gov). If you are unable to retrieve these regulations electronically, please contact your Grants and Agreements Office at [sm.fs.R2sptfgrants@usda.gov](mailto:sm.fs.R2sptfgrants@usda.gov).

The following administrative provisions apply to this award:

- A. **LEGAL AUTHORITY.** UNL shall have the legal authority to enter into this award, and the institutional, managerial, and financial capability to ensure proper planning, management, and completion of the project, which includes funds sufficient to pay the non-Federal share of project costs, when applicable.



- B. **PRINCIPAL CONTACTS.** Individuals listed below are authorized to act in their respective areas for matters related to this award.

**Principal Cooperator Contacts:**

<b>Cooperator Program Contact</b>	<b>Cooperator Administrative Contact</b>
Christina Hoyt 101D Forestry Hall Lincoln, NE 68583-0861 Telephone: 402-472-5049 Email: <a href="mailto:choyt2@unl.edu">choyt2@unl.edu</a>	Katie Reinmiller, Finance/Grants University of Nebraska-Lincoln Natural Resources Business Center 3310 Holdrege St., 237F HARH Lincoln, NE 68583-0972 Telephone: 402-472-8734 Email: <a href="mailto:kreinmiller2@unl.edu">kreinmiller2@unl.edu</a>

**Principal Forest Service Contacts:**

<b>Forest Service Program Manager Contact</b>	<b>Forest Service Administrative Contact</b>
Sherry Fountain 1617 Cole Boulevard, Building 17 Lakewood, CO 80401-3305 Email: <a href="mailto:sherry.fountain@usda.gov">sherry.fountain@usda.gov</a>	Ryan Elikan 1617 Cole Boulevard, Building 17 Lakewood, CO 80401-3305 Email: <a href="mailto:Ryan.elikan@usda.gov">Ryan.elikan@usda.gov</a>

- C. **SYSTEM FOR AWARD MANAGEMENT REGISTRATION REQUIREMENT (SAM).** UNL shall maintain current information in the System for Award Management (SAM) until receipt of final payment. This requires review and update to the information at least annually after the initial registration, and more frequently if required by changes in information or award term(s). Additional information about registration procedures may be found at the SAM Internet site at [www.sam.gov](http://www.sam.gov).
- D. **ADVANCED AND REIMBURSABLE PAYMENTS – FINANCIAL ASSISTANCE.** Advanced and reimbursable payments are approved under this award. Only costs for those project activities approved in (1) the initial award, or (2) modifications thereto, are allowable. Requests for payment must be submitted on Standard Form 270 (SF-270), Request for Advance or Reimbursement, and must be submitted no more than monthly. In order to approve a Request for Advance Payment or Reimbursement, the Forest Service shall review such requests to ensure advances or payments for reimbursement are in compliance and otherwise consistent with OMB, USDA, and Forest Service regulations.

Advance payments must not exceed the minimum amount needed or no more than is needed for a 30-day period, whichever is less. If the Recipient receives an advance

payment and subsequently requests an advance or reimbursement payment, then the request must clearly demonstrate that the previously advanced funds have been fully expended before the Forest Service can approve the request for payment. Any funds advanced, but not spent, upon expiration of this award must be returned to the Forest Service.

The Program Manager reserves the right to request additional information prior to approving a payment.

The invoice must be sent by one of three methods:	Send a copy to:
EMAIL (preferred): <a href="mailto:SM.FS.asc_ga@usda.gov">SM.FS.asc_ga@usda.gov</a>	US Forest Service program contacts listed above
FAX: 877-687-4894	and
POSTAL: Albuquerque Service Center Payments – Grants & Agreements 101B Sun Ave NE Albuquerque, NM 87109	<a href="mailto:sm.fs.r2sptfgrants@usda.gov">sm.fs.r2sptfgrants@usda.gov</a>

- E. INDIRECT COST RATES. UNL has elected to not assess indirect against this award
- F. PRIOR WRITTEN APPROVAL. UNL shall obtain prior written approval pursuant to conditions set forth in 2 CFR 200.407.
- G. MODIFICATIONS. Modifications within the scope of this award must be made by mutual consent of the parties, by the issuance of a written modification signed and dated by all properly authorized signatory officials, prior to any changes being performed. Requests for modification should be made, in writing, at least 60 days prior to implementation of the requested change. The Forest Service is not obligated to fund any changes not properly approved in advance.
- H. PERIOD OF PERFORMANCE. This agreement is executed as of the date of the Forest Service signatory official signature.

The end date, or expiration date is **06/30/2028** This instrument may be extended by a properly executed modification. *See Modification Provision above.*

- I. **AUTHORIZED REPRESENTATIVES.** By signature below, each party certifies that the individuals listed in this document as representatives of the individual parties are authorized to act in their respective areas for matters related to this award. In witness whereof the parties hereto have executed this award.



08/02/23 | 14:31 CDT

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MICHAEL ZELENY, Vice Chancellor  
Business and Finance  
University of Nebraska-Lincoln

Date

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SYLVIA BIERMAN, Director  
State, Private, and Tribal Forestry  
U.S. Forest Service, Rocky Mountain Region

Date

The authority and the format of this award have been reviewed and approved for signature.

**LYNNE SHOLTY** Digitally signed by LYNNE  
SHOLTY  
Date: 2023.08.02 09:27:11 -06'00'

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LYNNE SHOLTY  
Forest Service Grants Management Specialist

Date

## **ATTACHMENT A: FOREST SERVICE AWARD PROVISIONS**

- A. **COLLABORATIVE ARRANGEMENTS.** Where permitted by terms of the award and Federal law, UNL a may enter into collaborative arrangements with other organizations to jointly carry out activities with Forest Service funds available under this award.
- B. **FOREST SERVICE LIABILITY TO THE RECIPIENT.** The United States shall not be liable to UNL for any costs, damages, claims, liabilities, and judgments that arise in connection with the performance of work under this award, including damage to any property owned by UNL or any third party.
- C. **NOTICES.** Any notice given by the Forest Service or UNL will be sufficient only if in writing and delivered in person, mailed, or transmitted electronically by e-mail or fax, as follows:

To the Forest Service Program Manager, at the address specified in the award.

To UNL, at the address shown in the award or such other address designated within the award.

Notices will be effective when delivered in accordance with this provision, or on the effective date of the notice, whichever is later.

- D. **SUBAWARDS.** Prior approval is required to issue subawards under this grant. The intent to subaward must be identified in the approved budget and scope of work and approved in the initial award or through subsequent modifications. Approval of each individual subaward is not required, however the cooperator must document that each sub-recipient does NOT have active exclusions in the System for Award Management ([sam.gov](http://sam.gov)).

The Cooperator must also ensure that they have evaluated each subrecipient's risk in accordance with 2 CFR 200.332 (b).

Any subrecipient under this award must be notified that they are subject to the OMB guidance in subparts A through F of 2 CFR Part 200, as adopted and supplemented by the USDA in 2 CFR Part 400. Any sub-award must follow the regulations found in 2 CFR 200.331 through .333.

All subawards \$30,000 or more must be reported at [fsrs.gov](http://fsrs.gov) in compliance with 2 CFR 170. See Attachment B for full text.

- E. **FINANCIAL STATUS REPORTING.** A Federal Financial Report, Standard Form SF-425 (and Federal Financial Report Attachment, SF-425A, if required for reporting multiple awards), must be submitted semi-annually. These reports are due 30 days after the reporting period ending June 30<sup>th</sup> and December 31<sup>st</sup>. The final SF-425 (and SF-425A, if applicable) must be submitted either with the final payment request or no later

than 120 days from the expiration date of the award. These forms may be found at <https://www.grants.gov/web/grants/forms.html>.

- F. **PROGRAM PERFORMANCE REPORTS.** The recipient shall perform all actions identified and funded in application/modification narratives within the performance period identified in award.

In accordance with 2 CFR 200.301, reports must relate financial data to performance accomplishments of the federal award.

UNL shall submit semi-annual performance reports. These reports are due 30 days after the reporting period ending June 30<sup>th</sup> and December 31<sup>st</sup>. The final performance report shall be submitted either with UNL's final payment request, or separately, but not later than 120 days from the expiration date of the award.

- G. **NOTIFICATION.** UNL shall immediately notify the Forest Service of developments that have a significant impact on the activities supported under this award. Also, notification must be given in case of problems, delays or adverse conditions that materially impair the ability to meet the objectives of the award. This notification must include a statement of the action taken or contemplated, and any assistance needed to resolve the situation.
- H. **CHANGES IN KEY PERSONNEL.** Any revision to key personnel identified in this award requires notification of the Forest Service Program Manager by email or letter.
- I. **USE OF FOREST SERVICE INSIGNIA.** In order for UNL to use the Forest Service insignia on any published media, such as a Web page, printed publication, or audiovisual production, permission must be granted by the Forest Service's Office of Communications (Washington Office). A written request will be submitted by Forest Service, Program Manager, to the Office of Communications Assistant Director, Visual Information and Publishing Services prior to use of the insignia. The Forest Service Program Manager will notify UNL when permission is granted.
- J. **FUNDING EQUIPMENT.** Federal funding under this award is not available for reimbursement of UNL's purchase of equipment. Equipment is defined as having a fair market value of \$5,000 or more per unit and a useful life of over one year. Supplies are those items that are not equipment.

- K. PUBLIC NOTICES. It is Forest Service's policy to inform the public as fully as possible of its programs and activities. UNL is encouraged to give public notice of the receipt of this award and, from time to time, to announce progress and accomplishments.

UNL may call on Forest Service's Office of Communication for advice regarding public notices. UNL is requested to provide copies of notices or announcements to the Forest Service Program Manager and to Forest Service's Office Communications as far in advance of release as possible.

- L. FOREST SERVICE ACKNOWLEDGED IN PUBLICATIONS, AUDIOVISUALS, AND ELECTRONIC MEDIA. UNL shall acknowledge Forest Service support in any publications, audiovisuals, and electronic media developed as a result of this award. Follow direction in USDA Supplemental 2 CFR 415.2.
- M. NONDISCRIMINATION STATEMENT – PRINTED, ELECTRONIC, OR AUDIOVISUAL MATERIAL. UNL shall include the following statement, in full, in any printed, audiovisual material, or electronic media for public distribution developed or printed with any Federal funding.

*In accordance with Federal law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, disability, and reprisal or retaliation for prior civil rights activity. (Not all prohibited bases apply to all programs.)*

*Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, and American Sign Language) should contact the responsible State or local Agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.*

*To file a program discrimination complaint, a complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form, which can be obtained online at <https://www.ocio.usda.gov/document/ad-3027>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:*

- (1) Mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW, Washington, D.C. 20250-9410; o*
- (2) Fax: (833) 256-1665 or (202) 690-7442; or*
- (3) Email: [program.intake@usda.gov](mailto:program.intake@usda.gov).*

If the material is too small to permit the full Non-Discrimination Statement to be included, the material will, at a minimum, include the alternative statement:

***"This institution is an equal opportunity provider."***

N. DISPUTES.

1. Any dispute under this award shall be decided by the Signatory Official. The Signatory Official shall furnish UNL a written copy of the decision.
2. Decisions of the Signatory Official shall be final unless, within 30 days of receipt of the decision of the Signatory Official, UNL appeal(s) the decision to the Forest Service's Director, State, Private, and Tribal Forestry (SPTF). Any appeal made under this provision shall be in writing and addressed to the Director, SPTF, USDA, Forest Service, Washington, DC 20024. A copy of the appeal shall be concurrently furnished to the Signatory Official.
3. In order to facilitate review on the record by the Director, SPTF, UNL shall be given an opportunity to submit written evidence in support of its appeal. No hearing will be provided.
4. A decision under this provision by the Director, SPTF is final.
5. The final decision by the Director, SPTF does not preclude UNL from pursuing remedies available under the law.

O. AWARD CLOSEOUT. UNL must submit, no later than 120 calendar days after the end date of the period of performance, all financial, performance, and other reports as required by the terms and conditions of the Federal award.

Any unobligated balance of cash advanced to UNL must be immediately refunded to the Forest Service, including any interest earned in accordance with 2 CFR 200.344(d).

If this award is closed without audit, the Forest Service reserves the right to disallow and recover an appropriate amount after fully considering any recommended disallowances resulting from an audit which may be conducted later.

P. TERMINATION. This award may be terminated, in whole or part pursuant to 2 CFR 200.340.

Q. DEBARMENT AND SUSPENSION. UNL shall immediately inform the Forest Service if they or any of their principals are presently excluded, debarred, or suspended from entering into covered transactions with the federal government according to the terms of 2 CFR Part 180. Additionally, should UNL or any of their principals receive a transmittal letter or other official federal notice of debarment or suspension, then they shall notify the Forest Service without undue delay. This applies whether the

exclusion, debarment, or suspension is voluntary or involuntary. The Recipient shall adhere to 2 CFR Part 180 Subpart C in regards to review of sub-recipients or contracts for debarment and suspension.

All subrecipients and contractors must complete the form AD-1048, Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion, Lower Tier Covered Transactions. Blank forms are available electronically. Completed forms must be kept on file with the primary recipient.

R. MEMBERS OF CONGRESS. Pursuant to 41 U.S.C. 22, no member of, or delegate to, Congress shall be admitted to any share or part of this award, or benefits that may arise therefrom, either directly or indirectly.

S. TRAFFICKING IN PERSONS.

1. Provisions applicable to a Recipient that is a private entity.

- a. You as the Recipient, your employees, Subrecipients under this award, and Subrecipients' employees may not:
  - (1) Engage in severe forms of trafficking in persons during the period of time that the award is in effect;
  - (2) Procure a commercial sex act during the period of time that the award is in effect; or
  - (3) Use forced labor in the performance of the award or subawards under the award.
  
- b. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if you or a Subrecipient that is a private entity:
  - (1) Is determined to have violated a prohibition in paragraph a.1 of this award term; or
  - (2) Has an employee who is determined by the agency official authorized to terminate the award to have violated a prohibition in paragraph a.1 of this award term through conduct that is either:
    - i. Associated with performance under this award; or
    - ii. Imputed to you or the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement),".

2. Provision applicable to a Recipient other than a private entity. We as the Federal awarding agency may unilaterally terminate this award, without penalty, if a subrecipient that is a private entity:
- a. Is determined to have violated an applicable prohibition in paragraph a.1 of this award term; or

- b. Has an employee who is determined by the agency official authorized to terminate the award to have violated an applicable prohibition in paragraph a.1 of this award term through conduct that is either—
  - (1) Associated with performance under this award; or
  - (2) Imputed to the subrecipient using the standards and due process for imputing the conduct of an individual to an organization that are provided in 2 CFR part 180, “OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement),”
- 3. Provisions applicable to any recipient.
  - a. You must inform us immediately of any information you receive from any source alleging a violation of a prohibition in paragraph a.1 of this award term.
  - b. Our right to terminate unilaterally that is described in paragraph a.2 or b of this section:
    - (1) Implements section 106(g) of the Trafficking Victims Protection Act of 2000 (TVPA), as amended (22 U.S.C. 7104(g)), and
    - (2) Is in addition to all other remedies for noncompliance that are available to us under this award.
  - c. You must include the requirements of paragraph a.1 of this award term in any subaward you make to a private entity.
- 4. Definitions. For purposes of this award term:
  - a. “Employee” means either:
    - (1) An individual employed by you or a subrecipient who is engaged in the performance of the project or program under this award; or
    - (2) Another person engaged in the performance of the project or program under this award and not compensated by you including, but not limited to, a volunteer or individual whose services are contributed by a third party as an in-kind contribution toward cost sharing or matching requirements.
  - b. “Forced labor” means labor obtained by any of the following methods: the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
  - c. “Private entity”:
    - (1) Means any entity other than a State, local government, Indian tribe, or foreign public entity, as those terms are defined in 2 CFR 175.25.
    - (2) Includes:
      - i. A nonprofit organization, including any nonprofit institution of higher education, hospital, or tribal organization other than one included in the definition of Indian tribe at 2 CFR 175.25(b).
      - ii. A for-profit organization.
  - d. “Severe forms of trafficking in persons,” “commercial sex act,” and “coercion” have the meanings given at section 103 of the TVPA, as amended (22 U.S.C. 7102).

T. DRUG-FREE WORKPLACE.

1. UNL agree(s) that it will publish a drug-free workplace statement and provide a copy to each employee who will be engaged in the performance of any project/program that receives federal funding. The statement must
  - a. Tell the employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in its workplace;
  - b. Specify the actions UNL will take against employees for violating that prohibition; and
  - c. Let each employee know that, as a condition of employment under any award, the employee:
    - (1) Shall abide by the terms of the statement, and
    - (2) Shall notify UNL in writing if they are convicted for a violation of a criminal drug statute occurring in the workplace, and shall do so no more than 5 calendar days after the conviction.
2. UNL agree(s) that it will establish an ongoing drug-free awareness program to inform employees about
  - a. The dangers of drug abuse in the workplace;
  - b. The established policy of maintaining a drug-free workplace;
  - c. Any available drug counseling, rehabilitation and employee assistance programs; and
  - d. The penalties that you may impose upon them for drug abuse violations occurring in the workplace.
3. Without the Program Manager's expressed written approval, the policy statement and program must be in place as soon as possible, no later than the 30 days after the effective date of this instrument, or the completion date of this award, whichever occurs first.
4. UNL agrees to immediately notify the Program Manager if an employee is convicted of a drug violation in the workplace. The notification must be in writing, identify the employee's position title, the award number of each award on which the employee worked. The notification must be sent to the Program Manager within 10 calendar days after UNL learns of the conviction.
5. Within 30 calendar days of learning about an employee's conviction, UNL must either
  - a. Take appropriate personnel action against the employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973 (29 USC 794), as amended, or
  - b. Require the employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for these purposes by a Federal, State or local health, law enforcement, or other appropriate agency.

U. PROHIBITION AGAINST USING FUNDS WITH ENTITIES THAT REQUIRE CERTAIN INTERNAL CONFIDENTIALITY AGREEMENTS.

1. The recipient may not require its employees, contractors, or subrecipients seeking to report fraud, waste, or abuse to sign or comply with internal confidentiality agreements or statements prohibiting or otherwise restricting them from lawfully reporting that waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information.
2. The recipient must notify its employees, contractors, or subrecipients that the prohibitions and restrictions of any internal confidentiality agreements inconsistent with paragraph (1) of this award provision are no longer in effect.
3. The prohibition in paragraph (1) of this award provision does not contravene requirements applicable to any other form issued by a Federal department or agency governing the nondisclosure of classified information.
4. If the Government determines that the recipient is not in compliance with this award provision, it;
  - a. Will prohibit the recipient's use of funds under this award in accordance with sections 743, 744 of Division E of the Consolidated Appropriations Act, 2016, (Pub. L. 114-113) or any successor provision of law; and
  - b. May pursue other remedies available for the recipient's material failure to comply with award terms and conditions.

V. ELIGIBLE WORKERS. UNL shall ensure that all employees complete the I-9 form to certify that they are eligible for lawful employment under the Immigration and Nationality Act (8 U.S.C. 1324(a)). UNL shall comply with regulations regarding certification and retention of the completed forms. These requirements also apply to any contract or supplemental instruments awarded under this award.

W. FREEDOM OF INFORMATION ACT (FOIA). Public access to award or agreement records must not be limited, except when such records must be kept confidential and would have been exempted from disclosure pursuant to Freedom of Information regulations (5 U.S.C. 552). Requests for research data are subject to 2 CFR 315(e).

Public access to culturally sensitive data and information of Federally-recognized Tribes may also be explicitly limited by P.L. 110-234, Title VIII Subtitle B §8106 (2009 Farm Bill).

X. TEXT MESSAGING WHILE DRIVING. In accordance with Executive Order (EO) 13513, "Federal Leadership on Reducing Text Messaging While Driving," any and all text messaging by Federal employees is banned: a) while driving a Government owned vehicle (GOV) or driving a privately owned vehicle (POV) while on official Government business; or b) using any electronic equipment supplied by the Government when driving any vehicle at any time. All Cooperators, their Employees, Volunteers, and Contractors are encouraged to adopt and enforce policies that ban text messaging when driving company owned, leased or rented vehicles, POVs or GOVs

when driving while on official Government business or when performing any work for or on behalf of the Government.

- Y. PROMOTING FREE SPEECH AND RELIGIOUS FREEDOM. As a recipient of USDA financial assistance, you will comply with the following:
1. Do not discriminate against applicants for sub-grants on the basis of their religious character.
  2. 7 Code of Federal Regulations (CFR) part 16.3(a), Rights of Religious Organizations.
  3. Statutory and National policy requirements, including those prohibiting discrimination and those described in Executive Order 13798 promoting free speech and religious freedom, 2 CFR 200.300.
- Z. PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT. The cooperator (including subrecipients) is responsible for compliance with the prohibition on certain telecommunications and video surveillance services or equipment identified in 2 CFR 200.216. See Public Law 115-232, Section 889 for additional information.

In accordance with 2 CFR 200.216, the grantee (including subrecipients) is prohibited from obligating or expending loan or grant funds for covered telecommunications equipment or services to:

- (1) procure or obtain, extend or renew a contract to procure or obtain;
- (2) enter into a contract (or extend or renew a contract) to procure; or
- (3) obtain the equipment, services or systems.

## ATTACHMENT B: 2 CFR PART 170

### Appendix A to Part 170—Award Term

#### I. Reporting Subawards and Executive Compensation

##### a. *Reporting of first-tier subawards.*

1. *Applicability.* Unless you are exempt as provided in paragraph d. of this award term, you must report each action that equals or exceeds \$30,000 in Federal funds for a subaward to a non-Federal entity or Federal agency (see definitions in paragraph e. of this award term).
2. *Where and when to report.*
  - i. The non-Federal entity or Federal agency must report each obligating action described in paragraph a.1. of this award term to <http://www.fsrs.gov>.
  - ii. For subaward information, report no later than the end of the month following the month in which the obligation was made. (For example, if the obligation was made on November 7, 2010, the obligation must be reported by no later than December 31, 2010.)
3. *What to report.* You must report the information about each obligating action that the submission instructions posted at <http://www.fsrs.gov> specify.

##### b. *Reporting total compensation of recipient executives for non-Federal entities.*

1. *Applicability and what to report.* You must report total compensation for each of your five most highly compensated executives for the preceding completed fiscal year, if—
  - i. The total Federal funding authorized to date under this Federal award equals or exceeds \$30,000 as defined in 2 CFR 170.320;
  - ii. in the preceding fiscal year, you received—
    - (A) 80 percent or more of your annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards), and
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards); and,
  - iii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report executive total compensation described in paragraph b.1. of this award term:
  - i. As part of your registration profile at <https://www.sam.gov>.
  - ii. By the end of the month following the month in which this award is made, and annually thereafter.

##### c. *Reporting of Total Compensation of Subrecipient Executives.*

1. *Applicability and what to report.* Unless you are exempt as provided in paragraph d. of this award term, for each first-tier non-Federal entity subrecipient under this award, you shall report the names and total compensation of each of the subrecipient's five most

highly compensated executives for the subrecipient's preceding completed fiscal year, if—

- i. in the subrecipient's preceding fiscal year, the subrecipient received—
    - (A) 80 percent or more of its annual gross revenues from Federal procurement contracts (and subcontracts) and Federal financial assistance subject to the Transparency Act, as defined at 2 CFR 170.320 (and subawards) and,
    - (B) \$25,000,000 or more in annual gross revenues from Federal procurement contracts (and subcontracts), and Federal financial assistance subject to the Transparency Act (and subawards); and
  - ii. The public does not have access to information about the compensation of the executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d)) or section 6104 of the Internal Revenue Code of 1986. (To determine if the public has access to the compensation information, see the U.S. Security and Exchange Commission total compensation filings at <http://www.sec.gov/answers/execomp.htm>.)
2. *Where and when to report.* You must report subrecipient executive total compensation described in paragraph c.1. of this award term:
- i. To the recipient.
  - ii. By the end of the month following the month during which you make the subaward. For example, if a subaward is obligated on any date during the month of October of a given year (*i.e.*, between October 1 and 31), you must report any required compensation information of the subrecipient by November 30 of that year.
- d. *Exemptions.*
- If, in the previous tax year, you had gross income, from all sources, under \$300,000, you are exempt from the requirements to report:
- i. Subawards, and
  - ii. The total compensation of the five most highly compensated executives of any subrecipient.
- e. *Definitions.* For purposes of this award term:
1. Federal Agency means a Federal agency as defined at 5 U.S.C. 551(1) and further clarified by 5 U.S.C. 552(f).
  2. Non-Federal *entity* means all of the following, as defined in 2 CFR part 25:
    - i. A Governmental organization, which is a State, local government, or Indian tribe;
    - ii. A foreign public entity;
    - iii. A domestic or foreign nonprofit organization; and,
    - iv. A domestic or foreign for-profit organization
  3. *Executive* means officers, managing partners, or any other employees in management positions.
  4. *Subaward:*
    - i. This term means a legal instrument to provide support for the performance of any portion of the substantive project or program for which you received this award and that you as the recipient award to an eligible subrecipient.
    - ii. The term does not include your procurement of property and services needed to carry out the project or program (for further explanation, see 2 CFR 200.331).
    - iii. A subaward may be provided through any legal agreement, including an agreement that you or a subrecipient considers a contract.

5. *Subrecipient* means a non-Federal entity or Federal agency that:
  - i. Receives a subaward from you (the recipient) under this award; and
  - ii. Is accountable to you for the use of the Federal funds provided by the subaward.
6. *Total compensation* means the cash and noncash dollar value earned by the executive during the recipient's or subrecipient's preceding fiscal year and includes the following (for more information see 17 CFR 229.402(c)(2)).

END OF ATTACHMENT B: 2 CFR PART 170

## **ATTACHMENT C: WHISTLEBLOWER NOTICE**

Whistleblowers perform an important service to USDA and the public when they come forward with what they reasonably believe to be evidence of wrongdoing. They should never be subject to reprisal for doing so. Federal law protects federal employees as well as personal services contractors and employees of Federal contractors, subcontractors, grantees, and subgrantees against reprisal for whistleblowing. USDA bears the responsibility to ensure that nothing in a non-disclosure agreement which a contractor, subcontractor, grantee, or subgrantee requires their employees to sign should be interpreted as limiting their ability to provide information to the Office of Inspector General (OIG).

41 U.S.C. § 4712 requires the head of each executive agency to ensure that its contractors inform their workers in writing of the rights and remedies under the statute.

Accordingly, it is illegal for a personal services contractor or an employee of a Federal contractor, subcontractor, grantee, or subgrantee to be discharged, demoted, or otherwise discriminated against for making a protected whistleblower disclosure. In this context, these categories of individuals are whistleblowers who disclose information that the individual reasonably believes is evidence of one of the following:

- Gross mismanagement of a Federal contract or grant;
- A gross waste of Federal funds;
- An abuse of authority relating to a Federal contract or grant;
- A substantial and specific danger to public health or safety; or
- A violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) or grant.

To be protected under 41 U.S.C. § 4712, the disclosure must be made to one of the following:

- A Member of Congress, or a representative of a committee of Congress;
- The OIG;
- The Government Accountability Office (GAO);
- A Federal employee responsible for contract or grant oversight or management at USDA;
- An otherwise authorized official at USDA or other law enforcement agency;
- A court or grand jury; or
- A management official or other employee of the contractor, subcontractor, or grantee who has the responsibility to investigate, discover, or address misconduct.

Under 41 U.S.C. § 4712, personal services contractors as well as employees of contractors, subcontractors, grantees, or subgrantees may file a complaint with OIG, who will investigate the matter unless they determine that the complaint is frivolous, fails to allege a violation of the prohibition against whistleblower reprisal, or has been addressed in another proceeding. OIG's investigation is then presented to the head of the executive agency who evaluates the facts of the investigation and can order the contractor, subcontractor, grantee, or subgrantee

to take remedial action, such as reinstatement or back pay.

Federal Acquisition Regulation (FAR) Subpart 3.903, *Whistleblower Protections for Contractor Employees, Policy*, prohibits government contractors from retaliating against a contract worker for making a protected disclosure related to the contract. FAR Subpart 3.909-1 prohibits the Government from using funds for a contract with an entity that requires its employees or subcontractors to sign internal confidentiality statements prohibiting or restricting disclosures of fraud, waste, or abuse to designated persons. This prohibition does not contravene agreements pertaining to classified information. The regulation also requires contracting officers to insert FAR clause 52.203-17, *Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights*, in all solicitations and contracts that exceed the Simplified Acquisition Threshold as defined in FAR Subpart 3.908. This clause requires notification to contractor employees that they are subject to the whistleblower rights and remedies referenced in 41 U.S.C. § 4712.

In order to make a complaint alleging any of the violations mentioned above, one should complete the OIG Hotline form located at: <https://www.usda.gov/oig/hotline>. For additional information, they may also visit the WPC's webpage at: <https://www.usda.gov/oig/wpc> or they may directly contact the WPC at [OIGWPC@oig.usda.gov](mailto:OIGWPC@oig.usda.gov).


**Certificate Of Completion**

Envelope Id: 2D80E33087CA47D1B0E4B1C354D37407	Status: Completed
Subject: Complete with DocuSign: 23-DG-11021600-051 Award Letter for sigs.pdf	
Source Envelope:	
Document Pages: 18	Signatures: 1
Certificate Pages: 1	Initials: 0
AutoNav: Enabled	Envelope Originator:
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	aurora.kenworthy@unl.edu
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MIKE.ZELENY@UNL.EDU		Viewed: 8/2/2023 2:14:52 PM
Vice Chancellor for Business and Finance		Signed: 8/2/2023 2:31:40 PM
University of Nebraska - Lincoln		
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Agent Delivery Events	Status	Timestamp
Intermediary Delivery Events	Status	Timestamp
Certified Delivery Events	Status	Timestamp
Carbon Copy Events	Status	Timestamp
Witness Events	Signature	Timestamp
Notary Events	Signature	Timestamp
<b>Envelope Summary Events</b>	<b>Status</b>	<b>Timestamps</b>
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Signing Complete	Security Checked	8/2/2023 2:31:40 PM
Completed	Security Checked	8/2/2023 2:31:40 PM
<b>Payment Events</b>	<b>Status</b>	<b>Timestamps</b>



## IRA Supplemental Agreement

**For their part, the project sponsor agrees to the following conditions:**

1. The project application and all associated notifications from NFS are hereby considered a part of this agreement.
2. No match is required and a match waived under this grant will be passed on to sub-recipients.
3. The project shall be implemented according to the scope of work and budget submitted to and approved in advance by NFS prior to the execution of this agreement. Changes to the scope of work and/or budget must be approved in advance by NFS and NFS will approve the change in writing.
  - a. Communities will address management needs appropriate to their local situation within their scope of work. Allowable activities under IRA include:
    - i. Inventories and management plans
    - ii. Address the backlog of the over-mature canopy, at-risk trees, and ash trees through removals.
      1. Remove dead and diseased or structurally unsound trees on Public ROW and parks.
      2. Low-moderate income at-risk tree removal programs (private property)
      3. Wood waste grinding and stump removal from removal activities
    - iii. Plant the next generation of trees to replace the canopy and mitigate heat.
    - iv. Replace trees removed on a one-to-one ratio in the same or nearby locations and plant new trees throughout the community.
    - v. Young-tree establishment and structural pruning
    - vi. Improve the care of existing trees to preserve the canopy.
    - vii. Pruning programs to help retain the benefits of existing trees
    - viii. EAB treatments carried out under an EAB Response Plan
    - ix. Create space in highly paved areas and plant trees to improve environmental and human health.
    - x. Targeted area depaving and tree planting activities annually in areas that are currently lacking greenspace and where heat and human health are factors
    - xi. Address urban wood utilization
    - xii. Create urban food forests
    - xiii. Build capacity to carry out the above activities.
4. IRA will require bi-annual reporting. Please take photos of your project and track metrics. **All work and expenditures must be tracked to the level of designated disadvantaged tracts.**
5. Signage: No outdoor signs will be required; however, USFS will provide a QR code to download a sign to be placed within a public building.
6. **100% of the work funded out of this grant will serve disadvantaged/partially disadvantaged communities.**
7. **Compliance for Determining Disadvantage Communities:**
  - a. USFS has provided the following guidelines for determining disadvantaged communities.

- i. Does the scope of work deliver 100% of the funding/program benefits to disadvantaged communities as defined by the [EPA IRA Disadvantage Communities?](#)
    1. The EPA IRA Disadvantage Communities map includes:
      - a. Any census tract that is included as disadvantaged in [CEJST](#),
      - b. Any census block group at or above the 90th percentile for any of [EJScreen's](#) Supplemental Indexes when compared to the nation or state, and/or
      - c. Any geographic area within Tribal lands, as included in [EJScreen](#)
      - d. *If yes, continue with project as proposed or scale down as necessary. If no,*
    - ii. Does the scope of work deliver 100% of the funding/program benefits to communities with census block groups at or above the 80th percentile for any of [EJScreen's](#) Supplemental Indexes when compared to the nation or state?  
*If yes, continue with the project as proposed or scale down as necessary.*
  - b. **NFS has created an online [tool](#) that combines the above USFS compliance guidance in one easy-to-use map.** Nebraska projects shall utilize this tool to ensure compliance.
8. NFS may inspect all completed projects within 30 days of receiving a notification from the UNL Office of Sponsored Programs asking NFS to certify a project. The Project Sponsor agrees to correct all significant deficiencies noted in the inspection. Reimbursement may be withheld if deficiencies are not corrected at the discretion of NFS.
9. Federal funds fund this project, and as such, projects must conform to all applicable local, state, and federal laws and regulations, including those regarding bidding practices. IRA is a federally funded program, and the Code of Federal Regulations § [2 CFR 200](#) should be followed.
- a. By signing this agreement, the Project Sponsor Authorized Official, to the best of their knowledge and belief that neither the Project Sponsor or its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.
  - b. The Project Sponsor is hereby notified that they are required to: Inform their employees on any federal award that they are subject to the whistleblower rights and remedies; inform their employees in writing of employee whistleblower protections under §41 U.S.C. 4712 in the pre-dominant native language of the workforce; and include such requirements in any agreement made with a subcontractor.
  - c. By Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs).
  - d. All documents associated with the award must be retained for three years from the date of the final expenditure report.
10. **Allowable Expenses:**
- a. Supply purchase should include consumable items (ex: hoses, shovels, staking, tree protection, mulch, chainsaws, printing costs for educational materials, drip-irrigation for

- the watering of trees, outreach expenses, or an item under 5k in value (for one item or parts to create an item) such as a water tank.
  - b. Cost of trees
  - c. Contracting costs for tree planting, tree care, tree removal, tree inspection, tree pruning, inventory, or management plan development.
  - d. Equipment rental to perform project objectives.
  - e. Salary/benefits for staff that are directly performing project work to carry out project activities.
  - f. Minor pavement removals (example: expand the size of a tree pit.)
  - g. Other expenses as pre-approved in writing by NFS to ensure federal program compliance.
  - h. Community administrative costs will not exceed 20% of their subaward.
  - i. **Types of costs that are unallowable** (never allowed): Equipment; Construction; In-ground irrigation systems for watering turf/non-tree components or major plumbing expenses; Food and Alcoholic beverages; Bad debts; Contingencies; Contributions and donations; Entertainment; Fines and penalties; Compensation for property destroyed or damaged; Fundraising; Interest and other financing costs; Loan for promised work not yet completed.
11. If planning to work on private property, you must maximize the likelihood of tree establishment and long-term survival of any trees planted, ensure landowners are aware of and give permission/access for work on their property, and include a statement that releases the federal government, the University of Nebraska and the Nebraska Forest Service from any liability associated with work completed on private property. **No payments can be made from the Project Sponsor directly to a private landowner.** Project Sponsors may pay vendors directly for services provided to the private landowner (for example, tree removal or the purchase of a tree). The Project Sponsor is responsible for ensuring and certifying that the work was completed.
- a. Tree giveaway programs should limit planting to the front yard (not the back yard) or ROW.
  - b. Work done on private property should follow the guidelines for removals and tree planting within this document.
  - c. If the private property work includes the removal of a hazard tree or ash tree, then the tree planting can take place any place on the property so that tree benefits are replaced.
12. All projects are expected to comply with local bidding ordinances and requirements (ordinances or requirements of the governmental unit or sponsoring authority responsible for the project). However, it is not the intent of the NFS that the lowest bid be automatically accepted, but rather that the lowest responsible bid is accepted. Bids shall be carefully evaluated considering nursery standards, arboriculture standards, project specifications, and plant material requirements. Suppose the local governmental unit or sponsoring authority is required to accept only the lowest bid. In that case, NFS shall be allowed to review all bids to determine whether the lowest bid is responsible and acceptable. If such a bid is unacceptable, the bidding process will be redone. All contracting must follow local, state, and federal law as applicable.
13. The Project Sponsor agrees to ongoing project maintenance for at least ten years from the end of the grant.
14. The project will follow all design, purchasing, planting, and care guidelines in the *Project Design, Planting, and Care Requirements*.

15. Tree planting is allowed under the program:
- a. Nurseries contracted as part of the project must be licensed by the Nebraska Department of Agriculture. <https://nda.nebraska.gov/plant/entomology/nursery/index.html>
  - b. It is suggested that all plant material planted on public property be guaranteed for at least one year from the planting date.
  - c. Plant lists shall be submitted to NFS for approval and No plant substitutions shall be allowed without the permission and approval of NFS.
  - d. Plant material can be obtained from more than one plant contractor.
  - e. The size of plant material allowed is as follows:
    - i. Deciduous Trees Specifications: ½" to 1 ½" trunk caliper measured at 12" above the ground.
    - ii. Evergreen Trees Specifications: 3 to 6 feet tall.
    - iii. Spade dug tree specifications: at least 24" of spade width is required for each 1" of trunk caliper.
    - iv. Balled and burlapped (B&B) specifications: at least 18" of soil ball is required for each 1" caliper of trunk. All baskets and burlap must be removed entirely before planting or to a depth of at least 12" in the hole after planting.
    - v. Bare root trees must be stored and transported correctly to avoid drying out their roots.
  - f. Ineligible species:
    - i. Because of the threat of emerald ash borer, native ash species including green ash (*Fraxinus pennsylvanica*), white ash (*F. americana*), black ash (*F. nigra*) and blue ash (*F. quadrangulata*) shall not be planted in the project.
    - ii. Because of the invasive nature of callery pear (*Pyrus calleryana*, including, but not limited to Cleveland select and Chanticleer varieties), it shall not be planted in the project.
    - iii. Because of the spread of pine wilt disease, Scotch pines (*Pinus sylvestris*) shall not be planted in the project.
    - iv. Siberian elm, Amur maple, Russian olive, tamarack, Freeman maple, including 'Autumn Blaze' maple are not allowed.
  - g. NFS retains the right to reject overused or other problematic species or cultivars proposed for use in the grant project.
  - h. Planting may not occur during July and August unless NFS grants written permission.
    - i. All plants installed in the project shall follow the specifications detailed in the American Standard Nursery Stock ANSI Z60. 1, including height, caliper, and volume measurements as applicable.
    - j. All newly planted trees should be watered regularly for the first three years. Reasonable costs for drip irrigation, watering bags, and water tanks are allowable costs and should be employed.
16. Removal of Hazard or At-Risk Trees is allowed under the program.
- a. Hazard or At-Risk trees for removal must be designated by 1) qualified employees of the local government (holding Nebraska Arborist Association (NAA) or International Society Arboriculture (ISA) certification) OR 2) NFS TRAQ Qualified staff OR 3) an independent ISA

TRAQ Qualified arborist that is not performing the contracted tree removal work. ***A list of tree removal locations must be provided to NFS.***

- b. Ash trees may be removed under the program in communities within 15 miles of confirmed EAB finds. If a community does not have an EAB response plan the community should develop an EAB Response Plan (template available from NFS) before embarking on ash tree removals. It is suggested that EAB removals are spread out over time to reduce the impact of tree removal.
- c. Tree removals (when approved as a part of the project) shall be done by qualified commercial arborists (Nebraska Arborist Association, International Society of Arboriculture certified or licensed by the municipality where the project resides). Commercial arborists shall provide proof of current liability insurance, including workers' compensation, to the project sponsor. Commercial arborists shall also meet all requirements provided for by local ordinances.
- d. Replacement Trees must be planted in the area or nearby area where the tree was removed. **A minimum 1:1 replacement is required.** ***A list of tree replacement locations must be provided to NFS.***
- e. All contractors providing tree removal work must follow ANSI A300 standards and ANSI Z133 Safety Standards.
- f. Tree removals must follow federal law regarding migratory birds and endangered species. It is highly recommended removals are avoided between April 1<sup>st</sup> and July 31<sup>st</sup> unless the tree is deemed hazardous.

17. Tree pruning work is allowed under the program:

- a. All contractors providing pruning and removal work must follow ANSI A300 standards and ANSI Z133 Safety Standard.
- b. All contractors providing pruning work must have a Nebraska Arborist Association certification or International Society of Arboriculture certification. Arborists shall provide proof of current liability insurance, including workers' compensation, to the project sponsor. Commercial arborists shall also meet all requirements provided for by local ordinances.
- c. Pruning should follow ANSI 300 and ANSI Z133 Safety Standard. Pruning should be performed with a clear objective of safety and tree health. Pruning should improve the structure of the tree (young tree training), and for mature trees removing dead, diseased, or compromised branches. Low-level dead could be left to benefit wildlife, particularly in low-target areas.
  - i. Do not remove more the 20 percent of live branches from the crown at one time.
  - ii. Pruning cuts shall not damage branch bark and branch collars.
  - iii. If raising is a pruning objective for public safety, at least 2/3 of the live crown should remain.
  - iv. In general, pruning cuts are made at a lateral branch that is one-third the diameter of the stem being removed.
- d. Topping and lion-tailing are not approved tree pruning practices.

18. Inventory work and management plan development is allowed under the program:

- a. Inventory and Management Plans can be funded with IRA funds if these activities feature robust engagement, participation, and leadership from disadvantaged areas of communities. Management plan goals and benefits must include a focus on disadvantaged communities. Management plans may address the entire community.
  - b. Inventories must include species, location, DBH, and condition class. It is recommended that inventories utilize GIS-based software. Inventories may include the entire community.
  - c. Communities must follow local, state, and federal bidding requirements and NFS may review the bids for reasonable costs.
19. Select green infrastructure practices are eligible under the program.
- a. Examples include pavement removal to expand tree planting areas, suspended pavement (for trees), rain gardens (for tree planting). All green infrastructure practices and expenses should be approved by NFS before implementation or bids. Not all expenses may be eligible for reimbursement.

**Your assigned forester for technical assistance /inspections/approvals:**

**Name:** \_\_\_\_\_ **E-mail:** \_\_\_\_\_ **Phone:** \_\_\_\_\_

**Project Design, Planting, and Care Requirements**

The Nebraska Statewide Arboretum (NSA) has developed the following specifications and guidelines to help grant-funded and other partnership projects achieve success and establish healthy landscapes. The Nebraska Forest Service (NFS) has adopted these requirements for all NFS IRA grants.

**PROJECT DESIGN AND IMPLEMENTATION**

In general, design plans should emphasize sustainable landscape practices including wise species selection and placement that help reduce the need for costly inputs of supplemental water, fertilizers, pesticides, and difficult maintenance practices. NFS will review design plans and/or species lists and offer suggestions for changes.

**PLANTING PRACTICES**

**IRA note:** Tree demands over the next five years will be high due to the national implementation of IRA funds. We highly recommend engaging a nursery or arborist at the beginning of the project to make them aware of your needs. Most local nurseries can obtain stock from regional growers or national growers according to your specifications. In addition, you can contract grow with a Nebraska or regional grower or order in bare-root stock.

Landscape planting is most successful when good stock and proper planting methods are used. The following are specifications and guidelines required by the NFS for purchasing and planting the most common types of landscape plant material (trees, shrubs, and herbaceous plants).

**Plant Quality Standards**

Minimum quality specifications for all nursery grown plants shall be the specifications contained in *American Standard for Nursery Stock*, specifically ANSI Z60.1, as adopted by the American Association of Nurserymen. All plants shall be free of diseases, noxious weeds, and damaging insects. All plants shall be subject to the laws and regulations of the State of Nebraska and shall be identified by plant names approved by NFS.

Projects are strongly encouraged to investigate the source of nursery stock. Stock grown in Nebraska may be best adapted to Nebraska sites. Species selected for planting shall be adaptable to Nebraska, and the NFS reserves the right to approve species selections and sizes. NFS highly recommends that trees originate from nurseries in the north central part of the United States as indicated by Figure 1. All plants shall be packed and shipped from the supplier in a manner that protects the plant against drying, freezing, breaking or other injury.

Bare-root plants shall be packed in moist packing material and bundled to ensure against heat or mold damage. Plants shall be protected against the elements while in transit and shall be thoroughly inspected before acceptance. The project coordinator or individual(s) responsible for ordering plant material shall contact the nursery supplying the order to ensure compliance with these standards.



Figure 1 - Recommended nursery source zone.

**Planting Seasons:** Spring and fall are the best times to plant most landscape plants in Nebraska. Planting can occur into winter if the ground is workable and plants are properly protected. **Planting should not occur and will not be approved without permission for any time during July and August.** Weather conditions can vary greatly from day-to-day and from year-to-year across Nebraska. Consequently, those coordinating planting projects shall be cognizant of recent weather patterns and be prepared to take the steps necessary to ensure successful transplanting. It is especially important that irrigation be available if the post-planting period is dry. Dry periods are common throughout the growing season in Nebraska, especially during mid to late summer. Planting during extremely wet periods can also be problematic if the planting area cannot be prepared properly, or if water stands around the root zone of transplanted plants for extended periods of time.

**Pavement Cut-out Plantings:** Trees planted in pavement cut-outs in downtowns, parking lots and medians are exposed to harsh and stressful growing conditions. They are subject to construction soils, compaction, temperature extremes, decreased horizontal root space, and decreased gas exchange and moisture to roots. It has been the experience of the NFS that these plantings have greatly reduced life spans. Any plantings in sites such as those mentioned will require approval. Approval will be based on recommendations for minimum open soil space and will require the use of species that have been shown to be more tolerant of these areas. An engineering plan may be required before approval of any planting in these areas. Planting strips are less stressful than individual cut-outs because they create a larger open space. At least 3 feet of good soil should be added to planting areas after construction and before planting.

**Preparing the Planting Site:** Before any planting begins, confirm that the soil is suitable for growing the selected plants. For questionable soils, a soil test would be helpful. If the soil is heavy clay or very compacted, the soil should also be tested to ensure that there is adequate drainage. If drainage is poor and the area seasonally wet, wet-tolerant species such as maple, sycamore, baldcypress, and swamp white oak should be considered.

For most soils, amendments to the planting area are not necessary. New construction sites shall have at least 8 inches of top soil present or applied after construction. If soils are heavy clay or very compacted, consider replacing the soil with a good loam soil and/or incorporating composted organic materials to a depth of several inches.

**Tree and Shrub Planting:** Protect landscape plants when transplanting them by holding and lifting them by the container, basket or ball, not by the trunk. Keep the roots moist but not saturated. If you are not able to plant your tree or shrub immediately after purchase, place them in a cool, shaded area.

**Note:** Locate all underground utilities before digging.

**Planting depth is of critical importance in the long-term health and vigor of a tree.** All trees shall be planted at a depth such that the uppermost structural roots are located within the top two inches of the soil surface (see figure 2 – proper tree planting). The root flare (or trunk flare) is the area between the vertical transition of the tree stem and the structural roots and should be visible above grade upon planting. While root flare is somewhat difficult to detect in some young trees, the objective is to ensure that the uppermost two or more structural roots of the young tree are located near the soil surface.

If planting balled and burlapped stock, the wire basket shall be cut, and basket completely removed before planting. Remove burlap and all twine or similar material. Use care in handling the root ball. Part of the burlap can be left on to facilitate lifting the plant into the hole. After the plant is in the hole, the burlap should be cut away to the bottom of the planting hole, or as deep as possible. Shipping labels, wire, tags, wrapping, and staking material shall be removed from the trunk and branches.

For container-grown or containerized plants, examine the roots after removing the pot. Plants shall not be pot bound. Plants with masses of circling roots are not acceptable for planting. Minimally encircled roots shall be straightened out in the planting hole as much as possible. For plants grown in fabric bags, the bag should be cut away and completely removed before planting.

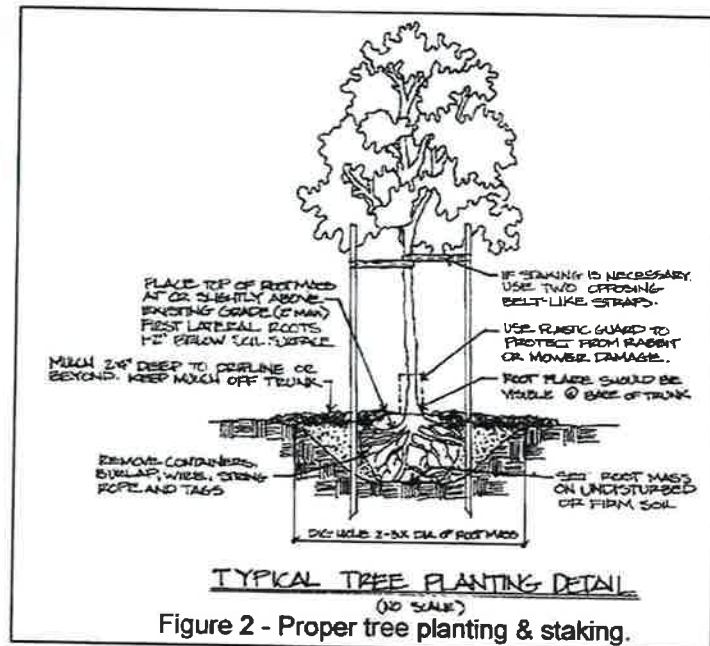


Figure 2 - Proper tree planting & staking.

The planting hole should be significantly wider than the root system or root ball and no deeper than the depth of the root system. Score the sides of the hole with shovel, especially in clay soils. Once the plant is in place, use the soil removed from the hole as the back-fill around the roots. When back-filling, water occasionally to remove air pockets. Be careful not to tamp or compact the soil, this can lead to excessive soil compaction and possible root damage. Do not incorporate organic matter, sand, or other material into the back-fill since differences in soil-pore sizes are created which can restrict water movement and root growth between the root ball, planting hole, and surrounding soil.

**Mulching:** Research has shown that wood chip mulch contributes to the healthy establishment of landscape plants. Mulching conserves moisture, reduces weed competition, insulates roots from heat and cold extremes, helps prevent mower and trimmer damage, and aids in long-term development of good soil structure. Mulching should be considered an ongoing practice that is a part of each year's maintenance routine. Depending on the type of mulch used and weather conditions, most tree and shrub beds shall need to be re-mulched every two to three years. Later applications should not increase the total mulch depth.

Mulch trees and shrubs with a 2-3" deep layer over the root zone. A tree of 1 1/2" caliper should have a mulch ring of 5' diameter or greater. Evergreens should be mulched to beyond the spread of the lowest branches. Mulch shall not be piled up against tree trunks and shall be kept a few inches from the base of the trunk. Mulch plants in massed groupings when possible. Avoid deep layers of mulch which could result in the tree being planted too deep.

Wood chips, shredded or chipped, serve as the best mulches. Be careful with lighter materials such as bark nuggets since they have a tendency to float out of the chip bed during heavy rains. Avoid cypress mulch as it tends to form dense mats and poor growing conditions, and is often harvested from endangered trees. Do not use rock mulches. Rock does not insulate against temperature extremes, and rock absorbs and radiates heat, which can lead to plant desiccation. Do not use black plastic or landscape fabric under the mulch layer. They inhibit proper air and water exchange by the roots.

**Staking and Guying of Trees:** The purpose of most staking and guying is to prevent a newly planted tree from tipping over in the wind. In Nebraska this practice is often necessary. Excessive movement can dislodge the small, fibrous roots in the soil before they are firmly established. However, many trees are lost because guying materials are not removed or are improperly installed.

Staking is especially important on open, windy, and exposed sites, and sites with high use by people. Staking and guying materials shall be strong enough to provide support, but flexible enough to allow some movement. Guying materials shall have a broad surface at the point of contact with the tree to prevent damage from rubbing. Commercial tree ties and cloth or canvas webbing or straps that are at least 1.5" wide are examples of good guying materials. **Do not use garden hose.** All staking and guying shall be monitored and adjusted as needed to prevent tree damage and girdling. **It shall be removed within one year of installation.** Stakes without guying may be left in the place longer in high use areas if needed to prevent damage from humans, mowers, and other equipment or vehicles.

**Wraps and Guards:** Tree wraps can be used to protect the tree from damage while it is being transported and planted. Otherwise, trunks should not be wrapped during the growing season. Trunk wrapping may

be desirable on some thin-barked trees such as red maple to prevent winter injury. Consult with NFS staff for recommendations.

Tree trunk damage from rodents, deer, mowers, and weed trimmers can be prevented by using plastic trunk guards. Guards should be monitored regularly and removed before rubbing or girdling problems occur. It is preferable to use guards that allow for air movement. A variety of wire mesh/netting cages can be used to protect shrubs from rabbits in winter.

**Watering:** All plants should be thoroughly watered at the time of planting. This shall be done by the nursery contracted to do the installation. Supplemental watering is often needed for 1-2 years or more after planting. The amount of watering required will vary with the type of plant, type of soil, time of year, and weather conditions. Avoid over-watering, especially in poorly drained soils.

Newly planted trees and shrubs should receive the equivalent of one inch of rainfall per week during the growing season. It is best to water trees thoroughly and slowly with enough water to fully moisten the root ball. In general, container and B&B plantings require more water at application than do bare root plantings. If rainfall is adequate during the growing season (1 inch per week) supplemental water is not required.

Newly perennials should receive the equivalent of one inch of rainfall per week during the growing season; during the first several weeks after planting watering may be required more frequently. Small perennials have a smaller root space than trees and shrubs and are best established by watering directly at the plant's base. This may be done by hand with a watering wand or by soaker hose. Sprinklers are less effective at delivering the required water to the roots of each plant; if using a sprinkler be diligent about observing plants for signs of stress.

**Fertilizing:** Most topsoils contain sufficient levels of available nutrients to supply the requirements of newly planted landscape plants, thus fertilization is not needed. Planting species that are tolerant of existing soil conditions will provide the greatest success. In situations where construction has altered the soil, the addition of good topsoil and organic material such as compost may be necessary. Future determination of additional nutrient needs shall be made based on the condition and vitality of the plants and soil sample analysis. The addition of compost to perennial beds, rather than fertilizer, is also best.

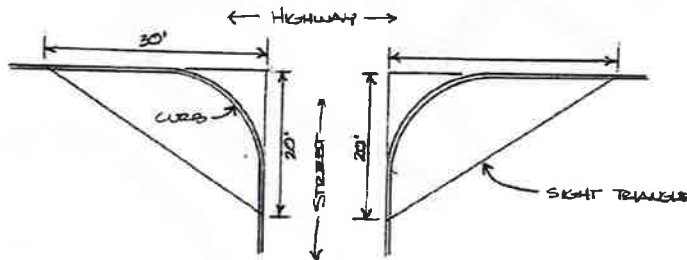
#### **Roadside Planting Considerations:**

Permission from the proper authority is required before any plant material can be placed on a highway or street right-of-way. The Nebraska Department of Roads recommends that the following general rules be considered when planting along roadways.

1. A lateral obstacle clearance, or clear zone, exists along all roadways. No woody plants or fixed objects can be located in this zone. The clear zone varies depending on the road design and speed limit. Setbacks for some common situations are:
  - Highway in town with curb, speed limit 40 mph or below - all woody plants shall be at least 6 feet from back of curb.
  - Highways in town without curb; speed limit of 40 mph or below - all woody plants shall be at least 10 feet from edge of driving lane.

- Rural highways without curb; any speed limit - all woody plants shall be at least 30 feet from edge of driving lanes.
2. All tree and shrub planting shall allow 10 feet on either side of fire hydrants.
  3. Allow 15 feet from trunk of shade trees to light poles (10 feet for ornamentals).
  4. Trees shall be located at least 20 feet on either side of any overhead utility line unless their natural habit shall keep them under the line.
  5. Shade trees shall be at least 5 feet and ornamentals 10 feet from either side of drives.
  6. Shade trees shall be pruned up to at least 8 feet over sidewalks, more over roadways.
  7. Trees with an appropriate habit shall be selected to reduce branching in driving and walking areas.
  8. Locate all above and below ground utilities before planting. Stay away from buried utility lines. When planting where storm sewers are located, verify that there is enough depth above the sewer to allow successful planting over them.
  9. Plants shall not interfere with the visibility of any signs.
  10. Shrubs and herbaceous perennials shall be less than 30 inches tall in medians.
  11. Sight triangles, in which nothing over 30 inches tall can be planted, exist at all roadway intersections (including major driveways - see diagram below). The area of the site triangle varies depending on the adjacent highway speed. The diagram below shows a street intersecting a 30 mph highway. Shade trees can be planted with the trunks at the outside edge of the triangle. Ornamental trees shall be planted so no branching extends into the site triangle. Other plant material can be planted in this area but shall be less than 30 inches tall. In general, trees at most street/roadway intersections are to be located 25-30 feet from the adjacent street/roadway edge (contact your local, county or state governmental agency for specific guidelines).

SIGHT TRIANGLE DIAGRAM



## **Urban Forestry Management and Growth Plan - City of Bellevue, Nebraska**

### **OBJECTIVES:**

1. Successfully create and implement urban forestry plans building a self-sustaining response for the community trees and parks.
2. Complete annual tree planting in accordance with the completed community forestry plans.
3. Address tree equity and increased urban forest through increase outreach, education, and awareness of the need for tree planting community wide.

### **DELIVERABLES:**

- Complete a Community Forestry Management Plan.
- Development of community education materials.
- Annual tree planting of 100 trees for 2 years for a total of 200 new trees.
- Establish planted trees by ongoing watering, mulching and young tree pruning for the first five years.

### **OUTCOMES:**

- Develop a proactive and efficient tree program that will lead to a decrease in tree maintenance and removal costs by increasing tree health, decreasing hazardous tree situations, and creating a sustainable forestry program.
- Create a community urban forestry plan that will complement the existing Parks Improvement Plan and the tree inventory currently begin updated by the Bellevue Tree Board.
- Bring together representatives of a diverse group of civic, business, social organizations, and residents to identify goals and priorities to maintain and grow our urban forest and tree canopy.

### **PLAN OF OPERATION:**

**Program Planning and Development** - The City will develop a Community Forestry Management Plan by producing a request for proposals to obtain a qualified consulting firm to provide professional service to develop a master plan including the status of the community urban forest and description of strategies and actions to meet the goals of the plan. The plan will rely on community outreach to educate residents on the importance of urban forest and benefit of a substantial tree canopy; meeting with partners to utilize the knowledge and expertise to ensure the plan address all needs and goals; and obtain input and direction for future projects.

**Planting and Maintenance** - The City will complete tree planting in locations identified in the Community Forestry Management Plan and are located in the eligible areas identified in the Nebraska Forestry Service map to fill the gaps in areas that would benefit the overall tree canopy. The City will also consult with partners such as the Bellevue Tree Board, Offutt Air Force Base, and Fontenelle Forest on proposed plantings to ensure there will be no negative impacts. The City of Bellevue will issue a request for bids to obtain a contractor that will assist with planting and maintenance of the trees for five years following the planting. The tree planting will take place in the fall to ensure a higher survival rate and the selection of the trees will be based on a list distributed by the Nebraska State Arboretum. The city and its partner organizations will assist with community engagement with education and demonstration project of the importance of urban forestry and health and expansion of our tree.

**PARTNERSHIP:**

- City of Bellevue Parks Department
- City of Bellevue Tree Board
- Green Bellevue
- Papio-Missouri River Natural Resources District
- Offutt Air Force Base
- Honor and Memorial Chapter of Nebraska

**LEVERAGED DOLLARS:**

The City of Bellevue will be providing in-kind leverage assistance through the administration of the grant funded activities

**IRA RFP - City of Bellevue Urban Forestry Management and Growth Plan**

<b>Financials</b>	<b>Description</b>	<b>Year 1</b>	<b>Year 2</b>	<b>Year 3</b>	<b>Total</b>
<b>Supplies</b>	Community Outreach material	\$ 4,000.00	\$ 500.00	\$ 500.00	\$ 5,000.00
<b>Contractual</b>	Community Forestry Plan Annual Tree Planting	\$ 99,375.00	\$ 16,875.00	\$ 18,750.00	\$ 99,375.00 \$ 35,625.00
<b>TOTAL</b>		\$ 103,375.00	\$ 17,375.00	\$ 19,250.00	\$ 140,000.00

**IRA Budget Justification**  
**City of Bellevue Urban Forestry Management and Growth Plan**

**a. Contractual**

Community Forestry Plan - \$99,375.00

Obtain an experienced consultant to complete the community forestry plan and the tree inventory as needed.

Annual Tree Planting – \$35,625.00

Contractual Services to plant and maintain 100 trees per year for two years including tree, planting labor, supplies, equipment and maintenance for 5 years.

- \$168.75/tree x 100 trees = \$16,875

- \$187.50/tree x 100 trees = \$18,750

If the cost of tree planting and maintenance exceed the budget, the City of Bellevue will cover the additional cost.

**b. Supplies**

Community Meeting and Outreach Supplies - \$4,000 for first year, \$500 x 2 year = \$5,000.00

Cost includes publication, postage, printing for educational materials for the development of the community forestry plan and for the planting of the urban forest, and annual community outreach materials. First year will include the development of the documents, updated documents and printing will follow for two years.

Personnel Cost Template

Personnel Costs								
Name	Position	Effort%	Pay Period		Payment Date	Salary	Benefits	Total
			Start Date	End Date				
<b>TOTALS</b>						<b>0</b>	<b>0</b>	<b>0</b>

**Certification:**  
 I hereby certify the effort for the payroll to be correct as charged on this grant. The timesheets and any necessary documents related to these personnel costs will be available upon request.

Signature \_\_\_\_\_ Title \_\_\_\_\_ Date \_\_\_\_\_




**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion  
 Lower Tier Covered Transactions**

*The following statement is made in accordance with the Privacy Act of 1974 (5 U.S.C. § 552a, as amended). This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, and 2 CFR §§ 180.300, 180.335, Participants' responsibilities. The regulations were amended and published on August 31, 2005, in 70 Fed. Reg. 51865-51880. Copies of the regulations may be obtained by contacting the Department of Agriculture agency offering the proposed covered transaction.*

*According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0505-0027. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The provisions of appropriate criminal or civil fraud, privacy, and other statutes may be applicable to the information provided.*

**(Read instructions on page two before completing certification.)**

- A. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency;
- B. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

ORGANIZATION NAME City of Bellevue, Nebraska	PR/AWARD NUMBER OR PROJECT NAME IRA 25-6553-0115-003
NAME(S) AND TITLE(S) OF AUTHORIZED REPRESENTATIVE(S) Jim Ristow, City Administrator	
SIGNATURE 	DATE 9-3-24

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (e.g., Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD-3027, found online at [How to File a Program Discrimination Complaint](#) and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632-9992. Submit your completed form or letter to USDA by: (1) mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue, SW, Washington, D.C. 20250-9410; (2) fax: (202) 690-7442; or (3) email: [program.intake@usda.gov](mailto:program.intake@usda.gov).

USDA is an equal opportunity provider, employer, and lender.

### **Instructions for Certification**

- (1) By signing and submitting this form, the prospective lower tier participant is providing the certification set out on page 1 in accordance with these instructions.
- (2) The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies, including suspension or debarment.
- (3) The prospective lower tier participant must provide immediate written notice to the person(s) to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- (4) The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549, at 2 CFR Parts 180 and 417. You may contact the Department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
- (5) The prospective lower tier participant agrees by submitting this form that, should the proposed covered transaction be entered into, it may not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Department or agency with which this transaction originated.
- (6) The prospective lower tier participant further agrees by submitting this form that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
- (7) A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the General Services Administration's System for Award Management Exclusions database.
- (8) Nothing contained in the foregoing shall be construed to require establishment of a system of records to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- (9) Except for transactions authorized under paragraph (5) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the Department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.



**Research Subaward Agreement  
Amendment (Number )**

Pass-Through Entity (PTE)

Subrecipient

Brd. of Regents of the Univ. of Nebraska on behalf of the Univ. of Nebraska-Lincoln

Entity Name

osp-subawards@unl.edu

Email Address

John Erixson

Principal Investigator

Project Title:

PTE Federal Award No:

Federal Awarding Agency:

**Revised Subaward Period of Performance:**

Start Date:

End Date:

Amount Funded This Action:

Subaward No:

Total Amount of Federal Funds Obligated to Date:

Subject to FFATA:

Yes  No

Automatic Carryover:

Yes  No

**Amendment(s) to Original Terms and Conditions**

This Amendment revises the above-referenced Research Subaward Agreement as follows:

1. The Subaward Period of Performance shall be extended to September 30, 2026. The Subaward Period of Performance shall now read "October 1, 2024 to September 30, 2026."

*For clarity: all amounts stated in this amendment are in United States Dollars.*

**All other terms and conditions of this Subaward Agreement remain in full force and effect.**

By an Authorized Official of PTE:

By an Authorized Official of Subrecipient:

Name:

Date:

Name:

Date:

Title:

Title:

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: 10/7/2025		SUBMITTED BY: David Goedeken PE - PW Director	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

240109 - CIPST25 M146(338B) Mission Ave Reconstruction & Streetscape - Acquisition of Temporary Easements

SYNOPSIS/BACKGROUND:

Midwest Right-of-Way has provided documentation for the requested acquisitions, easements and cost breakdown for the Mission Ave Reconstruction & Streetscape Project. The complete documentations is available upon request. This group of Acquisitions are for the following TRACTS: 14, 22, and 23 in the amount of \$1,700.00. Complete documentation for each TRACT is available upon request.

FISCAL IMPACT: \$1,700.00 BUDGETED FUNDS?: Yes GRANT/MATCHING FUNDS?: No

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: No COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION: 240109 - CIPST25 M146(338B) Mission Ave Reconstruction & Streetscape

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME: 240109 - CIPST25 M146(338B) Mission Ave Reconstruction & Streetscape

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: Mission Ave Reconstruction & Streetscape CIP PROJECT NUMBER: ST25(04)

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: 6243 ACCOUNT NUMBER: 10-15-6243

RECOMMENDATION:

Recommend the City Council review and recommend the Mayor to approve the Acquisition of Temporary Easements for the Mission Ave Reconstruction & Streetscape for TRACTS: 14, 22, and 23 in the amount of \$1,700.00.

ATTACHMENTS:

- |                       |                                   |                        |
|-----------------------|-----------------------------------|------------------------|
| 1. MWROW Cover Letter | 2. Statement of Just Compensation | 3. Temporary Easements |
| 4.                    | 5.                                | 6.                     |

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Handwritten signatures for Legal, Finance, and Administrator approval.*



September 22, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Mission Avenue Improvements  
Project # M146 (388B)  
Tract #14

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Construction Easement for Tract 14, Don Rolfe. The authorized representative of the City of Bellevue will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Construction Easement Contract and a check in amount of \$310.00 made payable to:**

**Don Rolfe  
1011 Bellevue Blvd. South  
Bellevue, Nebraska 68005**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Denny Bliss'.

Denny Bliss  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: M146 (388B)  
Tract No.: 14

**STATEMENT OF JUST COMPENSATION**

The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Don Rolfe**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the Waiver Valuation of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 219 SF x \$7.00/SF x 10% x 2 Years	\$	<u>310.00</u> ®
	\$	
<b>Total Amount Offered</b>	\$	<u>310.00</u>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the waiver valuation of the property.

This offer is being made on the 26 day of AUGUST, 2025, and the total amount of this offer is **\$310.00**.

Sincerely,  
  
Denny Bliss  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Mission Avenue Improvements  
PROJECT # M146 (388B) TRACT: 14

**KNOW ALL MEN BY THESE PRESENTS:**

That **DON ROLFE**, a Single Person

herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **THREE HUNDRED TEN and NO/100 DOLLARS, (\$310.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, maintenance, operation, and replacement of grading and sidewalk reconstruction related to roadway improvements within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and sidewalk reconstruction related to roadway improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

EXECUTED by the Owner this 18 day of September, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

*[Handwritten Signature]*

\_\_\_\_\_

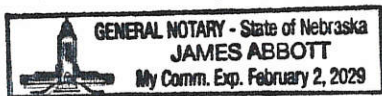
**DON ROLFE**

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 18 day of September, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Don Rolfe

to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)



*[Handwritten Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**BUYER: CITY OF BELLEVUE, NEBRASKA**

BY: \_\_\_\_\_

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

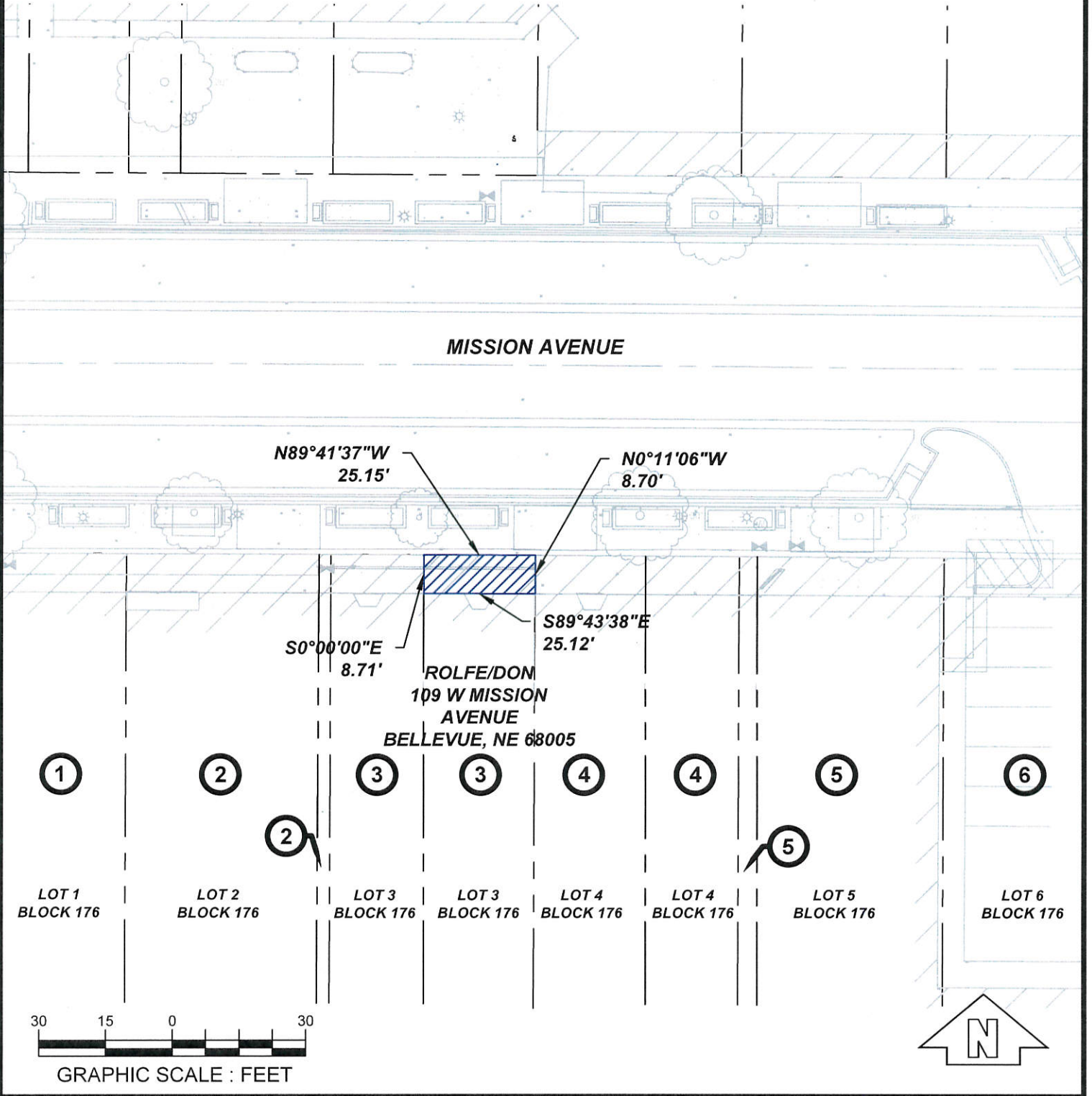
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.


WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

# EXHIBIT 1



## CITY OF BELLEVUE - PUBLIC WORKS DEPARTMENT

Owner(s): Don Rolfe	 TEMPORARY EASEMENT: 219 S.F.
Parcel Address: 109 W Mission Avenue Bellevue, NE 68005	Project No. M146 (388B)
	Project Name: Mission Avenue Improvements
Tract No.: 14	Date Prepared: 03/04/2025
Revision Date(s):	Page 2 of 2

**TRACT 14**



September 15, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Mission Avenue Improvements  
Project # M146 (388B)  
Tract #22

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Construction Easement for Tract 22, Donald F. and Dixie L. Mather. The authorized representative of the City of Bellevue will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$940.00 made payable to:**

**Donald F. Mather and Dixie L. Mather  
14604 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

Denny Bliss  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: M146 (388B)  
Tract No.: 22

**STATEMENT OF JUST COMPENSATION**

The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Donald F. Mather Sr. and Dixie L. Mather**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the Waiver Valuation of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 667 SF x \$7.00/SF x 10% x 2 Years	\$	<u>940.00</u> ®
	\$	<u>          </u>
<b>Total Amount Offered</b>	\$	<u>940.00</u>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the waiver valuation of the property.

This offer is being made on the 25 day of AUGUST, 2025, and the total amount of this offer is **\$940.00**.

Sincerely,  


Denny Bliss  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Mission Avenue Improvements  
PROJECT # M146 (388B)

TRACT: 22

**KNOW ALL MEN BY THESE PRESENTS:**

That **DONALD F. MATHER SR. and DIXIE L. MATHER, as Trustees of the Donald F. Mather Sr. and Dixie L. Mather Revocable Trust**, herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **NINE HUNDRED FORTY and NO/100 DOLLARS, (\$940.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, maintenance, operation, and replacement of grading and sidewalk reconstruction related to roadway improvements within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and sidewalk reconstruction related to roadway improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.
8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

*[SIGNATURE PAGE TO FOLLOW]*

EXECUTED by the Owner this 15 day of SEPTEMBER, 2025.

TRUST ACKNOWLEDGMENT

**OWNER: DONALD F. MATHER SR. and DIXIE L. MATHER, as Trustees of the Donald F. Mather Sr. and Dixie L. Mather Revocable Trust**

Donald F. Mather Sr. Trustee  
DONALD F. MATHER SR., Trustee

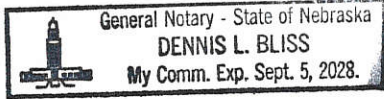
Dixie L. Mather Trustee  
DIXIE L. MATHER, Trustee

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 15 day of SEPTEMBER, 2025, before me, a General Notary Public duly commissioned and qualified, personally came **DONALD F. MATHER SR. and DIXIE L. MATHER, as Trustees of the Donald F. Mather Sr. and Dixie L. Mather Revocable Trust** to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.

(SEAL)



Dennis L. Bliss  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**BUYER: CITY OF BELLEVUE, NEBRASKA**

BY: \_\_\_\_\_

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

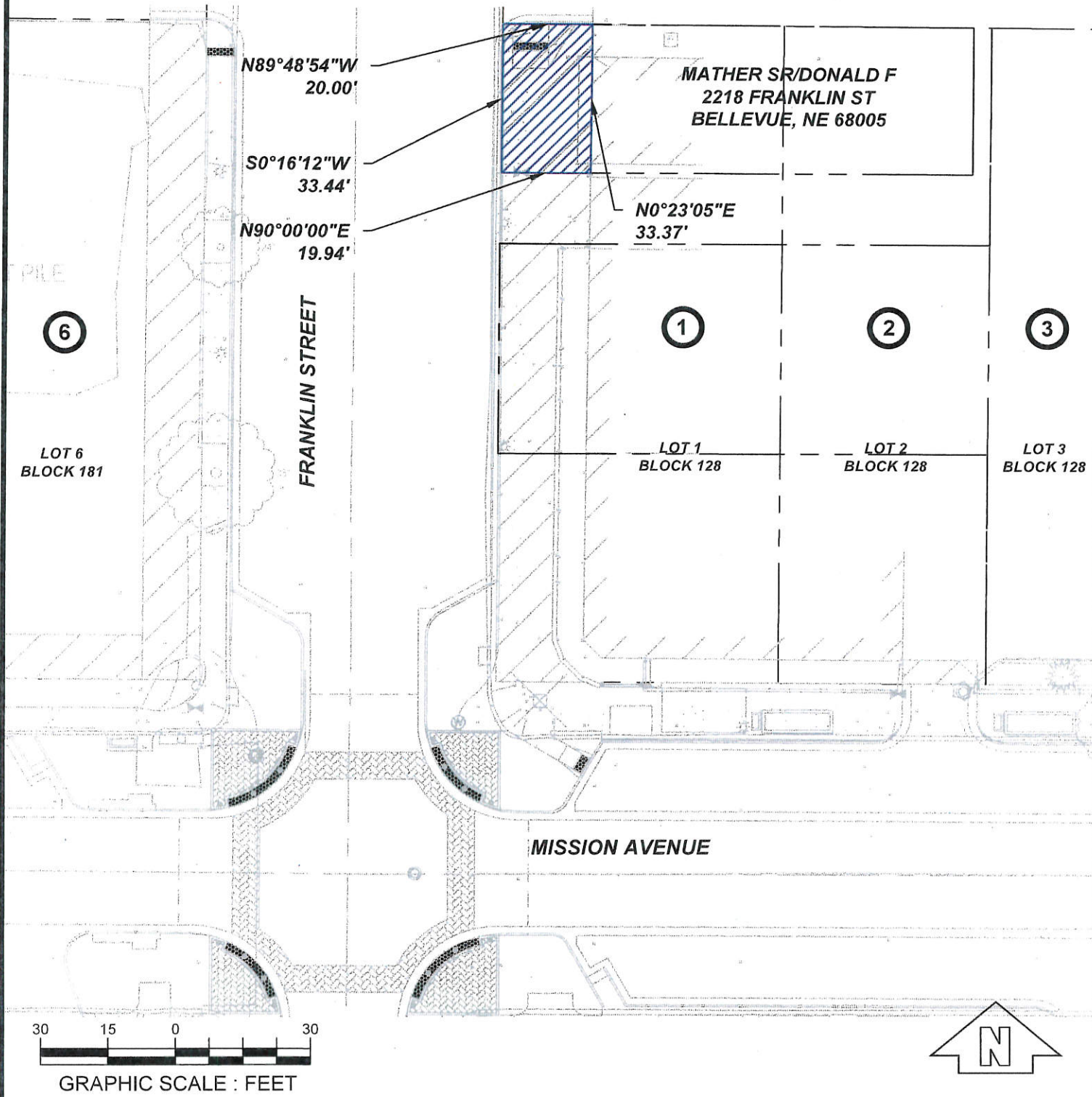
the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

# EXHIBIT 1



## CITY OF BELLEVUE - PUBLIC WORKS DEPARTMENT

Owner(s): Donald F Mather Sr Parcel Address: 2213 Franklin St Bellevue, NE 68005	<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 20px; text-align: center;"></td> <td>TEMPORARY EASEMENT: _____ 667 S.F.</td> </tr> <tr> <td colspan="2">Project No. M146 (388B)</td> </tr> <tr> <td colspan="2">Project Name: Mission Avenue Improvements</td> </tr> </table>		TEMPORARY EASEMENT: _____ 667 S.F.	Project No. M146 (388B)		Project Name: Mission Avenue Improvements	
	TEMPORARY EASEMENT: _____ 667 S.F.						
Project No. M146 (388B)							
Project Name: Mission Avenue Improvements							
Tract No.: <u>22</u>	Date Prepared: <u>04/02/2025</u>	Revision Date(s): _____	Page 2 of 2				

TRACT 22



**MIDWEST**

R | O | W

**TRACT 23**

midwestrow.com

September 3, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Mission Avenue Improvements  
Project # M146 (388B)  
Tract #23

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Easement for Tract 23, MB Hair Design, LLC. The authorized representative of the City of Bellevue will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$450.00 made payable to:**

**MB Hair Design, LLC  
c/o Mary L. Brown  
2215 Franklin Street  
Bellevue, Nebraska 68005**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Denny Bliss'.

Denny Bliss  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: M146 (388B)  
Tract No.: 23

**STATEMENT OF JUST COMPENSATION**


The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska’s Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **MB Hair Design, LLC**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the Waiver Valuation of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 318 SF x \$7.00/SF x 10% x 2 Years	\$	<u>450.00</u> ®
	\$	
<b>Total Amount Offered</b>	\$	<u>450.00</u>

This written statement represents the City of Bellevue, Nebraska’s offer made in an amount not less than the waiver valuation of the property.

This offer is being made on the 2 day of SEPTEMBER, 2025, and the total amount of this offer is **\$450.00**.

Sincerely,  
  
Denny Bliss  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Mission Avenue Improvements  
PROJECT # M146 (388B) TRACT: 23

**KNOW ALL MEN BY THESE PRESENTS:**

That MB HAIR DESIGN, LLC, a Nebraska Limited Liability Company, herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **FOUR HUNDRED FIFTY and NO/100 DOLLARS, (\$450.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the CITY of BELLEVUE, NEBRASKA, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, maintenance, operation, and replacement of grading and sidewalk reconstruction related to roadway improvements within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and sidewalk reconstruction related to roadway improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.
  
8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

***[SIGNATURE PAGE TO FOLLOW]***

EXECUTED by the Owner this 2 day of SEPTEMBER, 2025.

LIMITED LIABILITY COMPANY ACKNOWLEDGMENT

**OWNER: MB HAIR DESIGN, LLC**

Mary L. Brown  
By Managing Member

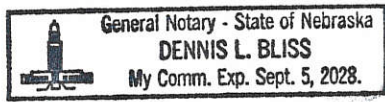
STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF SARPY )

Dated this 2 day of SEPTEMBER, 2025, before me, a General Notary Public duly commissioned and qualified, came MARY L. BROWN

Managing Member of **MB HAIR DESIGN, LLC, a Nebraska Limited Liability Company**, to me personally known to be the respective officer of said Limited Liability Company and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as such officer and the voluntary act and deed of said Limited Liability Company.

WITNESS my hand and Notarial Seal the day and year above written.

(SEAL)



[Signature]  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**BUYER: CITY OF BELLEVUE, NEBRASKA**

BY: \_\_\_\_\_

STATE OF NEBRASKA )  
 ) ss.  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

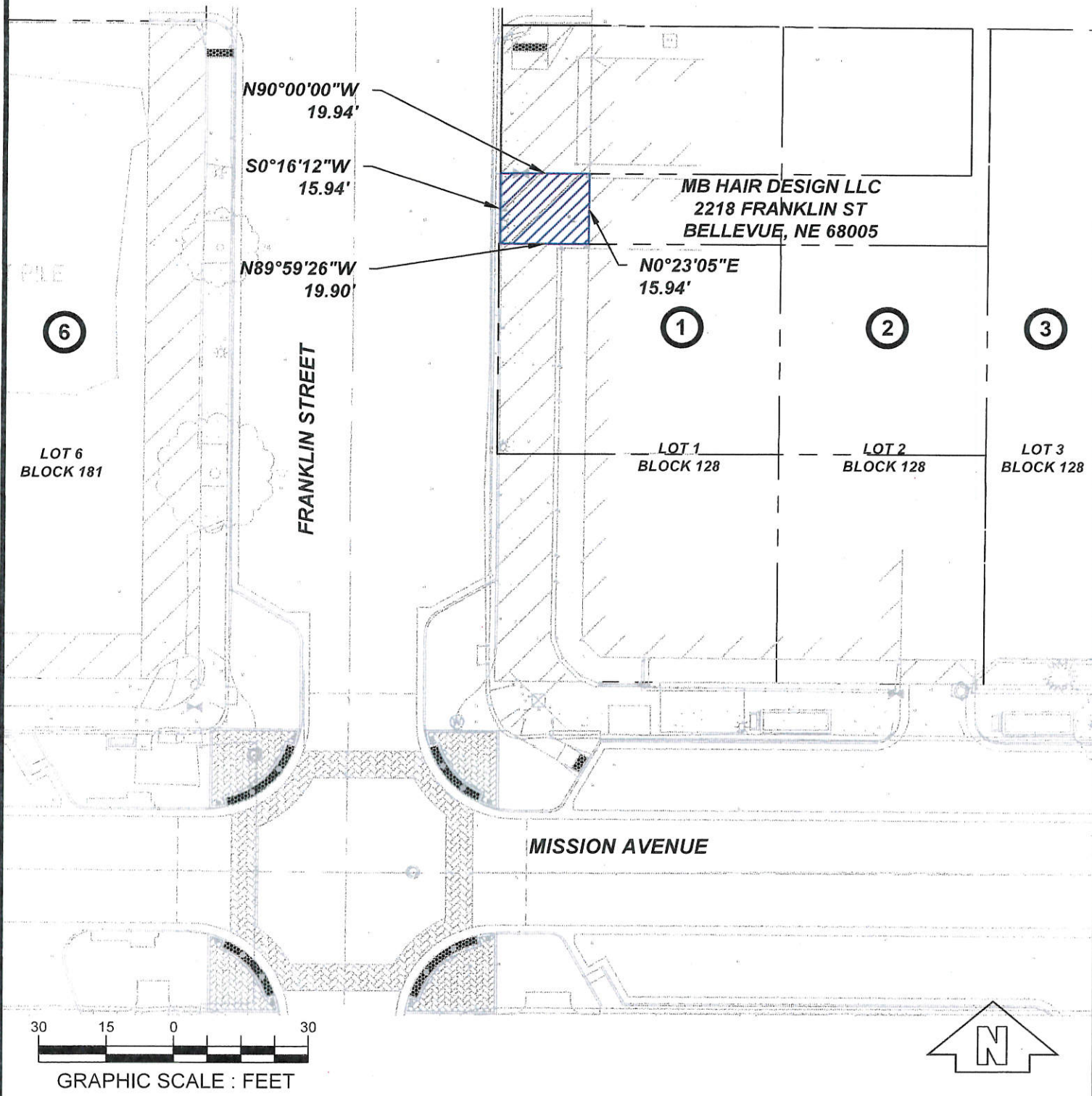
the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

# EXHIBIT 1



## CITY OF BELLEVUE - PUBLIC WORKS DEPARTMENT

Owner(s): MB Hair Design LLC

Parcel Address: 2215 Franklin St  
Bellevue, NE 68005



TEMPORARY EASEMENT: 318 S.F.

Project No. M146 (388B)

Project Name: Mission Avenue Improvements

Tract No.: 23

Date Prepared: 04/02/2025

Revision Date(s):

Page 2 of 2

**TRACT 23**

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: Oct 7, 2025		SUBMITTED BY: David Goedeken, PE - PW Director	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

240124 CIPST(07) M146(271A) Whitted Creek 25th St Lynnwood to Blackhawk - Acquisition of Temporary Easements

SYNOPSIS/BACKGROUND:

Midwest Right-of-Way has provided documentation for the requested acquisitions, easements and cost breakdown for the Whitted Creek 25th St Lynnwood to Blackhawk project. The complete documentations is available upon request. This group of Acquisitions are for the following TRACTS: 1, 2, 5, 7,10,15,16, 19 and 21 in the amount of \$30,970.00. Complete documentation for each TRACT is available upon request.

FISCAL IMPACT:: \$30,970.00 BUDGETED FUNDS?: YES GRANT/MATCHING FUNDS?: NO

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: No COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION: 240124 CIPST(07) M146(271A) Whitted Creek 25th St Lynnwood to Blackhawk

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME: 240124 CIPST(07) M146(271A) Whitted Creek 25th St Lynnwood to Blackhawk

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: Whitted Creek 25th St Lynnwood to Blackhawk CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S): ST07

ACCOUNTING DISTRIBUTION CODE: 6243 ACCOUNT NUMBER: 10-15-6243

RECOMMENDATION:

Recommend the City Council review and recommend the Mayor to approve the Acquisition of Temporary Easements for the Whitted Creek 25th St Lynnwood to Blackhawk project for TRACTS: 1, 2, 5, 7,10,15,16, 19 and 21 in the amount of \$30,970.00.

ATTACHMENTS:

- |                       |                        |                                   |
|-----------------------|------------------------|-----------------------------------|
| 1. MWROW Cover Letter | 2. Temporary Easements | 3. Statement of Just Compensation |
| 4.                    | 5.                     | 6.                                |

SIGNATURES:

LEGAL APPROVAL AS TO FORM: 

FINANCE APPROVAL AS TO FORM: 

ADMINISTRATOR APPROVAL AS TO FORM: 

\*REVISED 1/2024



September 8, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #1

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Easement for Tract 1, Carmela Hallett. The authorized representative of the City of Bellevue, Nebraska will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue, Nebraska and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$1,860.00 made payable to:**

**Carmela Hallett  
13006 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Denny Bliss'.

Denny Bliss  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 1

*SENT VIA  
E-MAIL  
8-13-25*

**STATEMENT OF JUST COMPENSATION No. 2**


The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Carmela Hallett**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 539 SF x \$7.00/SF x 10% x 2 Years	\$	<u>760.00</u>
Fencing: Wood Fence	\$	<u>1,100.00</u>
		<u>          </u>
<b>Total Amount Offered</b>	<b>\$</b>	<b><u>1,860.00</u></b>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 13 day of AUGUST, 2025, and the total amount of this offer is **\$1,860.00**.

Sincerely,  
  
Denny Bliss  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
PROJECT # BPW-240124 TRACT: 1

**KNOW ALL MEN BY THESE PRESENTS:**

That CARMELA HALLETT, a single person

herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **ONE THOUSAND, EIGHT HUNDRED SIXTY and NO/100 DOLLARS, (\$1,860.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and sidewalk reconstruction related to roadway improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.
  
8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

*[SIGNATURE PAGE TO FOLLOW]*

EXECUTED by the Owner this 8 day of SEPTEMBER, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

[Signature]  
CARMELA HALLETT

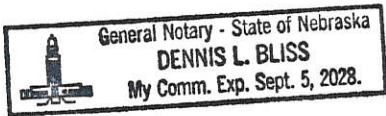
[Signature]

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 8 day of SEPTEMBER, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Carmela Hallett,

to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)



[Signature]  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

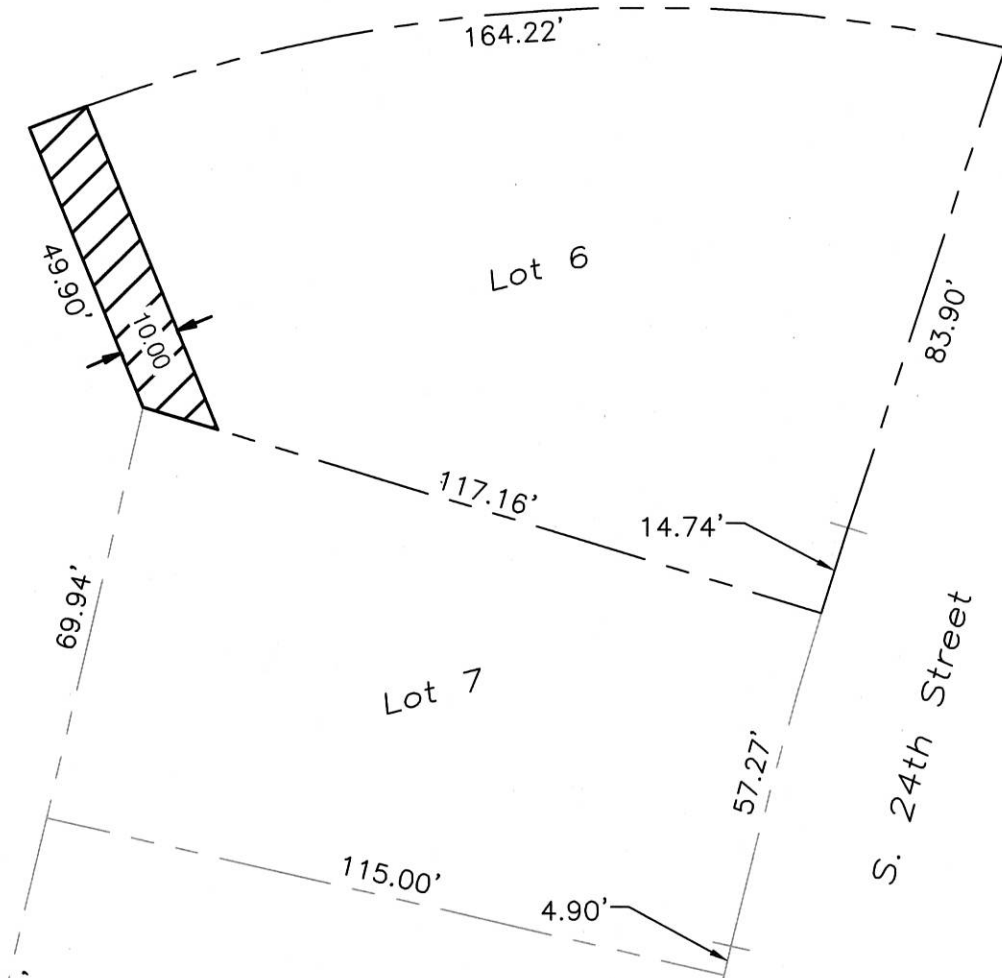
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

Lynnwood Drive



**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 6, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 6 CONTAINING 539 SQUARE FEET, MORE OR LESS.



**Lot 6 - Stonecroft**



TEMPORARY EASEMENT: 539 S.F.

TRACT NO.: 01

PROJECT NO.: 24-2773

PREPARE DATE: 03/12/25

REVISION DATE: \_\_\_\_\_

**TRACT 1**



September 15, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #2

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Easement for Tract 2, Kelly A. Kazmierski. The authorized representative of the City of Bellevue, Nebraska will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue, Nebraska and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract, and a copy of the recorded documents, and a check in amount of \$4,680.00 made payable to:**

**Kelly A. Kazmierski  
13008 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Denny Bliss'.

Denny Bliss  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 2

**STATEMENT OF JUST COMPENSATION**

The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska’s Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Kelly A. Kazmierski**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 696 SF x \$7.00/SF x 10% x 2 Years	\$ <u>980.00</u> ®
Fencing: Chain Link Fence	\$ <u>1,200.00</u>
Cost to Cure: Move Shed	\$ <u>2,500.00</u>
<b>Total Amount Offered</b>	<b>\$ <u>4,680.00</u></b>

This written statement represents the City of Bellevue, Nebraska’s offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 26 day of AUGUST, 2025, and the total amount of this offer is **\$4,680.00**.

Sincerely,

Denny Bliss  
Right of Way Agent

TEMPORARY CONSTRUCTION EASEMENT

PROJECT: City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
PROJECT # BPW-240124 TRACT: 2

KNOW ALL MEN BY THESE PRESENTS:

That KELLY A. KAZMIERSKI, a single person

herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **FOUR THOUSAND, SIX HUNDRED EIGHTY and NO/100 DOLLARS, (\$4,680.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

SEE ATTACHED TEMPORARY EASEMENT EXHIBIT

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and sidewalk reconstruction related to roadway improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.
  
8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

***[SIGNATURE PAGE TO FOLLOW]***

EXECUTED by the Owner this 15 day of SEPTEMBER, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

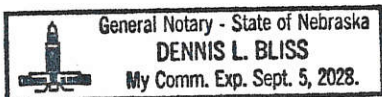
Kelly A. Kazmierski  
KELLY A. KAZMIERSKI

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 15 day of SEPTEMBER, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Kelly A. Kazmierski

to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)



[Signature]  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

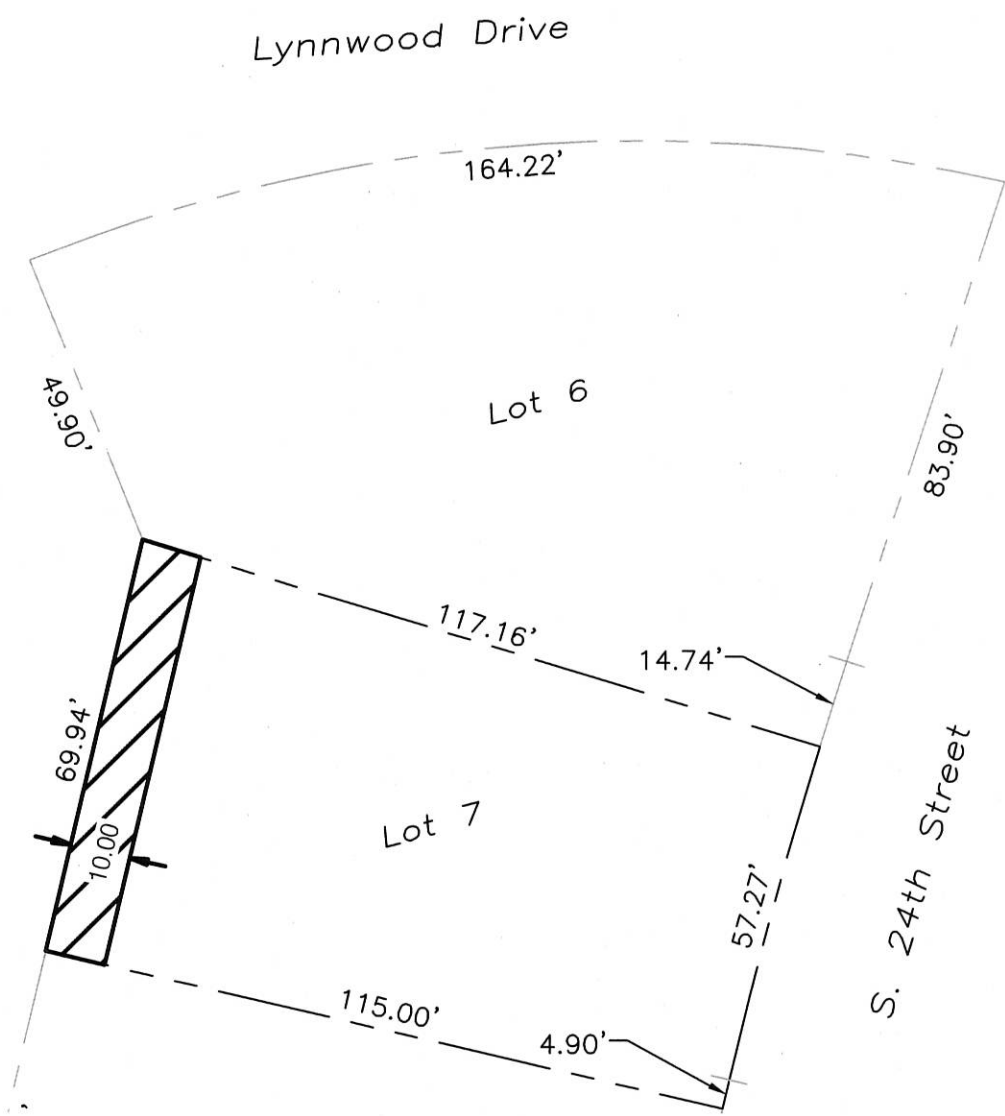
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

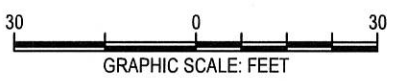
\_\_\_\_\_  
NOTARY PUBLIC




**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 7, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 7 CONTAINING 696 SQUARE FEET, MORE OR LESS.



**Lot 7 - Stonecroft**

 TEMPORARY EASEMENT: <u>696</u> S.F.	TRACT NO.: <u>02</u>	PROJECT NO.: <u>24-2773</u>
	PREPARE DATE: <u>03/12/25</u>	REVISION DATE: _____

**TRACT 2**



September 15, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #5

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Easement for Tract 5, Theodore A. and Bethany A. Teten. The authorized representative of the City of Bellevue, Nebraska will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue, Nebraska and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$4,510.00 made payable to:**

**Theodore A. Teten and Bethany A. Teten  
13014 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

Denny Bliss  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 5

**STATEMENT OF JUST COMPENSATION**

The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Theodore A. and Bethany A. Teten**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 645 SF x \$7.00/SF x 10% x 2 Years	\$ 910.00 ®
Fence Damages: Wood Fence	\$ 1,100.00
Cost to Cure: Move Shed	\$ 2,500.00
<b>Total Amount Offered</b>	<b>\$ 4,510.00</b>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 14 day of July, 2025, and the total amount of this offer is **\$4,510.00**.

Sincerely,  
  
Denny Bliss  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

**PROJECT:** City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
**PROJECT #** BPW-240124 **TRACT:** 5

**KNOW ALL MEN BY THESE PRESENTS:**

That **THEODORE A. TETEN and BETHANY A. TETEN, husband and wife, as joint tenants with the right of survivorship**, herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **FOUR THOUSAND, FIVE HUNDRED TEN and NO/100 DOLLARS, (\$4,510.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, maintenance, operation, and replacement of grading and sidewalk reconstruction related to roadway improvements within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and sidewalk reconstruction related to roadway improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.
  
8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

***[SIGNATURE PAGE TO FOLLOW]***

EXECUTED by the Owner this 10 day of SEPTEMBER, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

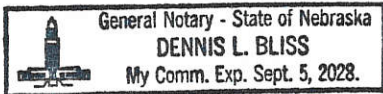
Theodore A. Teten  
THEODORE A. TETEN

Bethany A. Teten  
BETHANY A. TETEN

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 10 day of SEPTEMBER, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Theodore A. Teten and Bethany A. Teten to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)



Dennis L. Bliss  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

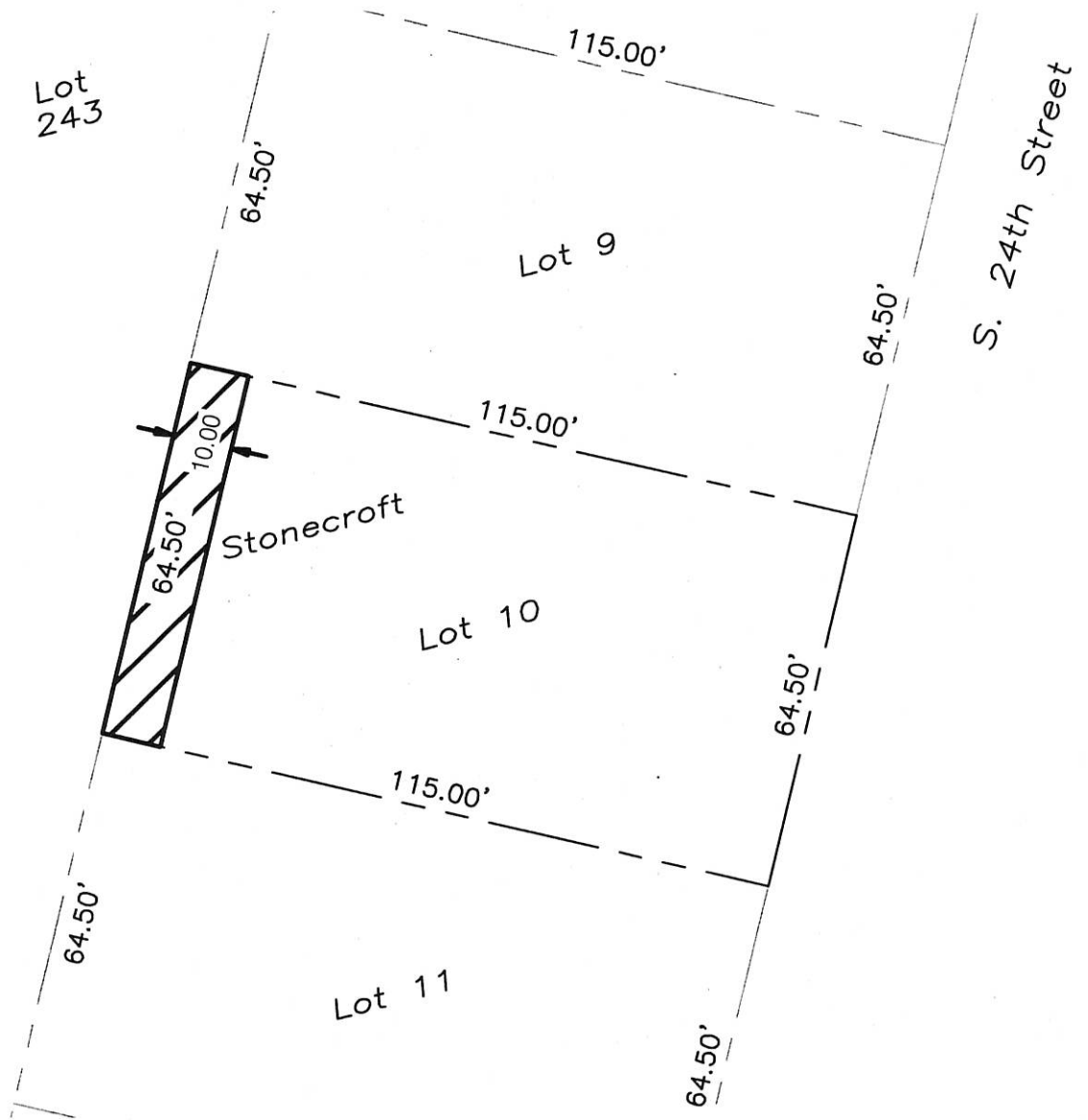
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC



**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 10, STONECROTT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 10 CONTAINING 645 SQUARE FEET, MORE OR LESS.



**Lot 10 - Stonecrott**

 TEMPORARY EASEMENT: 645 S.F.

TRACT NO.: <u>05</u>	PROJECT NO.: <u>24-2773</u>
PREPARE DATE: <u>03/12/25</u>	REVISION DATE: _____

**TRACT 5**



September 15, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #7

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Easement for Tract 7, Charles S. and Angela M. Curry. The authorized representative of the City of Bellevue, Nebraska will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue, Nebraska and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$4,040.00 made payable to:**

**Charles S. Curry and Angela M. Curry  
13104 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

Denny Bliss  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 7

SENT VIA  
E-MAIL 9-02-25

STATEMENT OF JUST COMPENSATION No. 3

The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Charles S. and Angela M. Curry**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 645 SF x \$7.00/SF x 10% x 2 Years	\$	<u>910.00</u> ®
Cost to Cure: Move Shed	\$	<u>2,500.00</u>
Relocate 4 Sprinkler Heads	\$	<u>350.00</u>
14 (Boxwood hedges) @ \$20.00 each	\$	<u>280.00</u>
<b>Total Amount Offered</b>	<b>\$</b>	<b><u>4,040.00</u></b>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 2 day of SEPTEMBER, 2025, and the total amount of this offer is \$4,040.00.

Sincerely,  


Denny Bliss  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
PROJECT # BPW-240124 TRACT: 7

**KNOW ALL MEN BY THESE PRESENTS:**

That **CHARLES S. CURRY and ANGELA M. CURRY, as Joint Tenants with Right of Survivorship, and not as Tenants in Common**, herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **FOUR THOUSAND, FORTY and NO/100 DOLLARS, (\$4,040.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and sidewalk reconstruction related to roadway improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.
7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as

may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.

8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

***[SIGNATURE PAGE TO FOLLOW]***

EXECUTED by the Owner this 10 day of SEPTEMBER, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

Charles S. Curry  
CHARLES S. CURRY

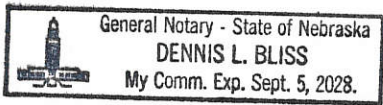
Angela M. Curry  
ANGELA M. CURRY

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 10 day of SEPTEMBER, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Charles S. Curry and Angela M. Curry to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)

Dennis L. Bliss  
NOTARY PUBLIC



EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

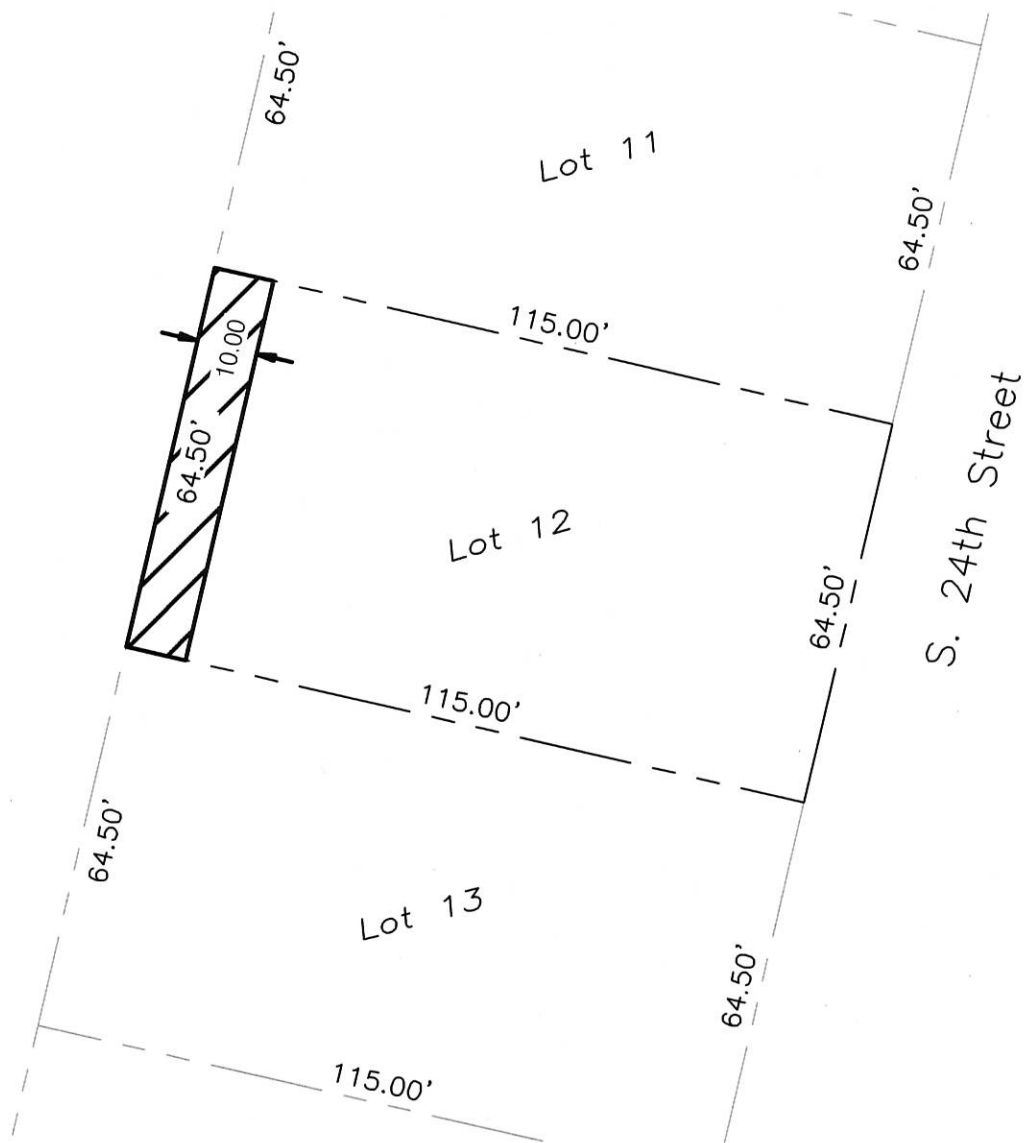
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC



**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 12, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 12 CONTAINING 645 SQUARE FEET, MORE OR LESS.



**Lot 12 - Stonecroft**



TEMPORARY EASEMENT: 645 S.F.

TRACT NO.: 07

PROJECT NO.: 24-2773

PREPARE DATE: 03/12/25

REVISION DATE: \_\_\_\_\_

**TRACT 7**



September 10, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #10

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Easement for Tract 10, Anthony Perez. The authorized representative of the City of Bellevue will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$4,810.00 made payable to:**

**Anthony Perez and Payton Perez  
13110 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [cschescke@midwestrow.com](mailto:cschescke@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

A handwritten signature in black ink, appearing to read 'Caleb Schescke', with a long horizontal flourish extending to the right.

Caleb Schescke  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 10

**STATEMENT OF JUST COMPENSATION**

The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Ralph Perez and Anthony Perez**, with this written statement of Just Compensation made to acquire the property.

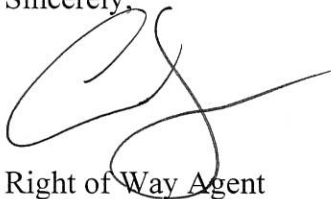
This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 645 SF x \$7.00/SF x 10% x 2 Years	\$ 910.00 ®
Fence Damages: Wood Fence	\$ 1,400.00
Cost to Cure: Move Shed	\$ 2,500.00
<b>Total Amount Offered</b>	<b>\$ 4,810.00</b>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 7<sup>th</sup> day of August, 2025, and the total amount of this offer is **\$4,810.00**.

Sincerely,

  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

**PROJECT:** City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
**PROJECT #** BPW-240124 **TRACT:** 10

**KNOW ALL MEN BY THESE PRESENTS:**

That **RALPH PEREZ, deceased, ANTHONY PEREZ, a married person, and PAYTON PEREZ, his wife, as joint tenants with rights of survivorship,** herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **FOUR THOUSAND, EIGHT HUNDRED TEN and NO/100 DOLLARS, (\$4,810.00),** duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY OF BELLEVUE, NEBRASKA,** its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings, not located in the public right of way, of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and construction related to improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

EXECUTED by the Owner this 4<sup>th</sup> day of September, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

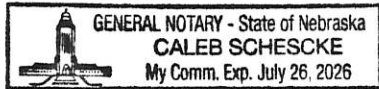
[Signature]  
ANTHONY PEREZ

[Signature]  
PAYTON PEREZ

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 4<sup>th</sup> day of September, 2025, before me, a General Notary Public duly commissioned and qualified, personally came ANTHONY PEREZ and PAYTON PEREZ to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)



[Signature]  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

**BUYER: CITY OF BELLEVUE, NEBRASKA**

BY: \_\_\_\_\_

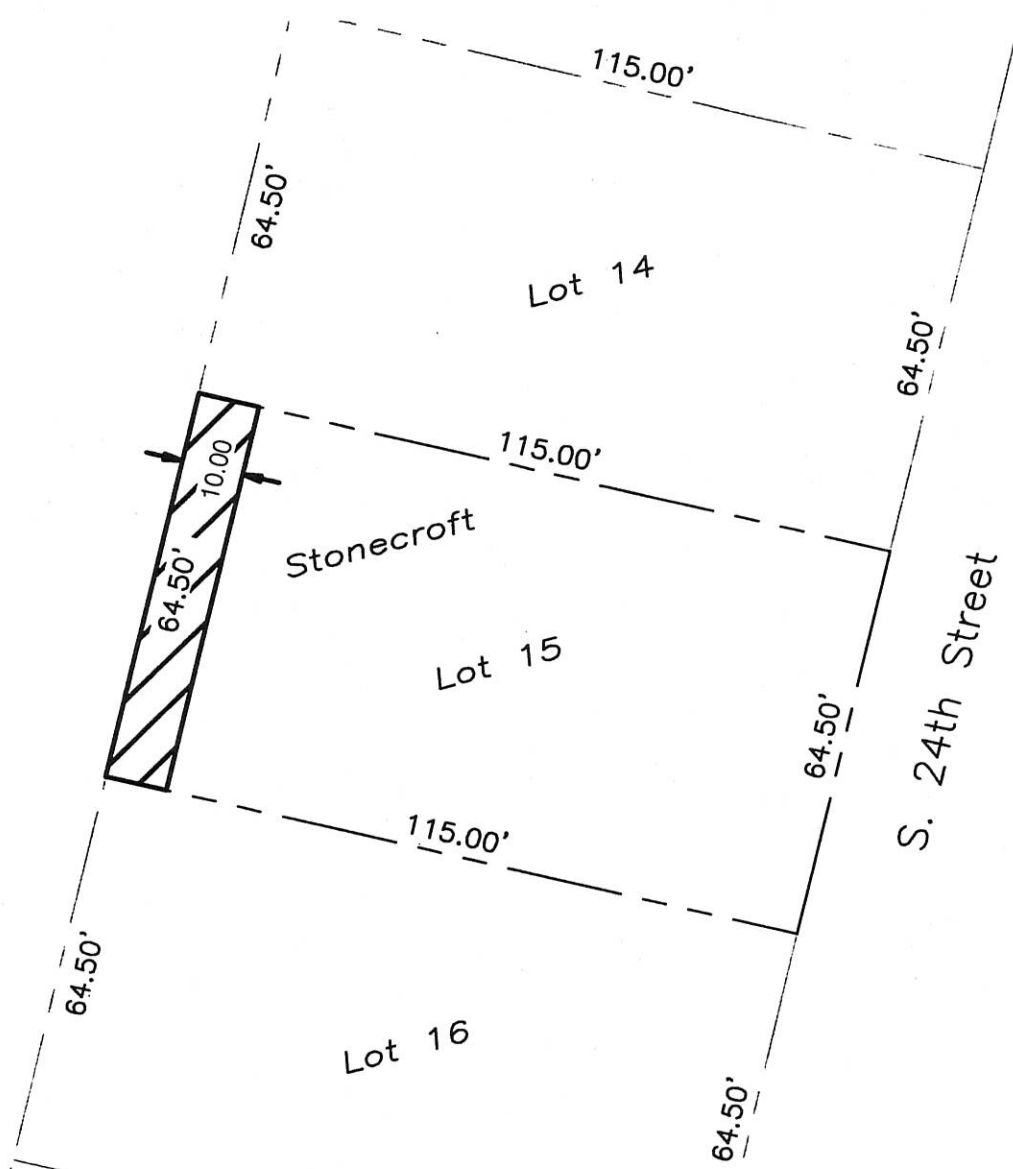
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

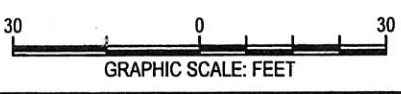
\_\_\_\_\_  
NOTARY PUBLIC




**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 15, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 15 CONTAINING 645 SQUARE FEET, MORE OR LESS.



**Lot 15 - Stonecroft**

 TEMPORARY EASEMENT: <u>645</u> S.F.	TRACT NO.: <u>10</u>	PROJECT NO.: <u>24-2773</u>
	PREPARE DATE: <u>03/12/25</u>	REVISION DATE: _____

**TRACT 10**



September 4, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #15

Dear Mr. Krager:

Enclosed are executed copies of the Temporary Easement for Tract 15, Kevin R. and Deborah H. Bond. The authorized representative of the City of Bellevue will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$2,150.00 made payable to:**

**Kevin R. Bond and Deborah H. Bond  
13208 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [cschescke@midwestrow.com](mailto:cschescke@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

Caleb Schescke  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 15

**STATEMENT OF JUST COMPENSATION**

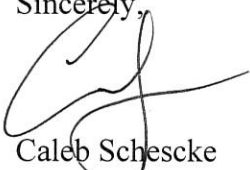
The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Kevin R. and Deborah H. Bond**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 743 SF x \$7.00/SF x 10% x 2 Years	\$ <u>1,050.00</u> ®
Fence Damages: Wood Fence	\$ <u>1,100.00</u>
<b>Total Amount Offered</b>	\$ <u><u>2,150.00</u></u>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 10<sup>th</sup> day of July, 2025, and the total amount of this offer is **\$2,150.00**.

Sincerely,  
  
Caleb Schescke  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

**PROJECT:** City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
**PROJECT #** BPW-240124 **TRACT:** 15

**KNOW ALL MEN BY THESE PRESENTS:**

That **KEVIN R. BOND and DEBORAH H. BOND, Husband and Wife, as Joint Tenants with Right of Survivorship, and not as Tenants in Common**, herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **TWO THOUSAND, ONE HUNDRED FIFTY and NO/100 DOLLARS, (\$2,150.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings, not located in the public right of way, of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and construction related to improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.

7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.
8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

***[SIGNATURE PAGE TO FOLLOW]***

EXECUTED by the Owner this 2 day of September, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

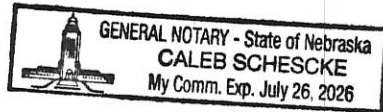
[Signature]  
KEVIN R. BOND

[Signature]  
DEBORAH H. BOND

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 2<sup>nd</sup> day of September, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Kevin R. Bond and Deborah H. Bond to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)



[Signature]  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

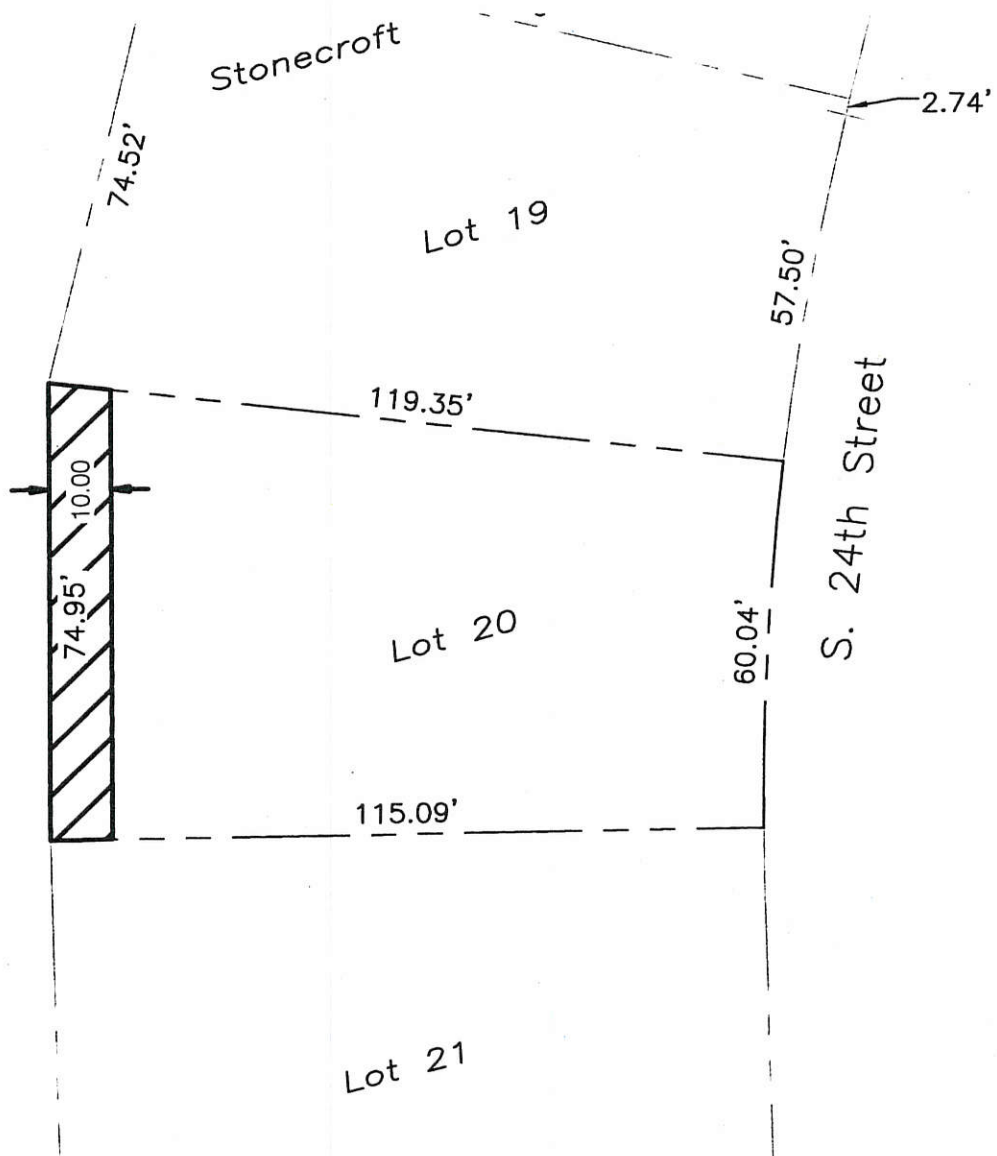
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

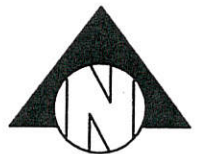
\_\_\_\_\_  
NOTARY PUBLIC



**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 20, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 20 CONTAINING 743 SQUARE FEET, MORE OR LESS.



**Lot 20 - Stonecroft**



TEMPORARY EASEMENT: 743 S.F.

TRACT NO.: 15

PROJECT NO.: 24-2773

PREPARE DATE: 03/14/25

REVISION DATE:

**TRACT 15**



September 4, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #16

Dear Mr. Krager:

Enclosed is an executed copy of the Temporary Easement for Tract 16, Kevin E. and Petra E. Schwandt. The authorized representative of the City of Bellevue will need to sign the contract. The signed original is to be kept by the City of Bellevue and placed in the completed file. A copy should be sent with payment to the property owner.

**Please send a copy of the executed Temporary Easement Contract and a check in amount of \$2,380.00 made payable to:**

**Kevin E. Schwandt and Petra E. Schwandt  
13402 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [cscheske@midwestrow.com](mailto:cscheske@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

A handwritten signature in black ink, appearing to be 'CS' followed by a long horizontal line.

Caleb Schescke  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 16

**STATEMENT OF JUST COMPENSATION**

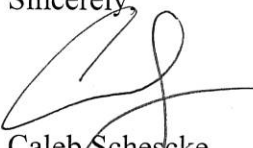
The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Kevin E. and Petra E. Schwandt**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 838 SF x \$7.00/SF x 10% x 2 Years	\$ 1,180.00 ®
Fence Damages: Chain Link Fence	\$ 1,200.00
	\$
<b>Total Amount Offered</b>	<b>\$ 2,380.00</b>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 16<sup>th</sup> day of July, 2025, and the total amount of this offer is **\$2,380.00**.

Sincerely,  
  
Caleb Schescke  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
PROJECT # BPW-240124 TRACT: 16

**KNOW ALL MEN BY THESE PRESENTS:**

That **KEVIN E. SCHWANDT and PETRA E. SCHWANDT, Husband and Wife**, herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **TWO THOUSAND, THREE HUNDRED EIGHTY and NO/100 DOLLARS, (\$2,380.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings, not located in the public right of way, of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and construction related to improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.
7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as

may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.

8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

***[SIGNATURE PAGE TO FOLLOW]***

EXECUTED by the Owner this 2<sup>nd</sup> day of September, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

[Signature]  
KEVIN E. SCHWANDT

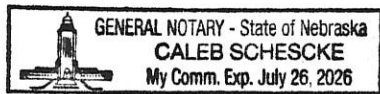
[Signature]  
PETRA E. SCHWANDT

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 2<sup>nd</sup> day of September, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Kevin E. Schwandt and Petra E. Schwandt to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)

[Signature]  
NOTARY PUBLIC



EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

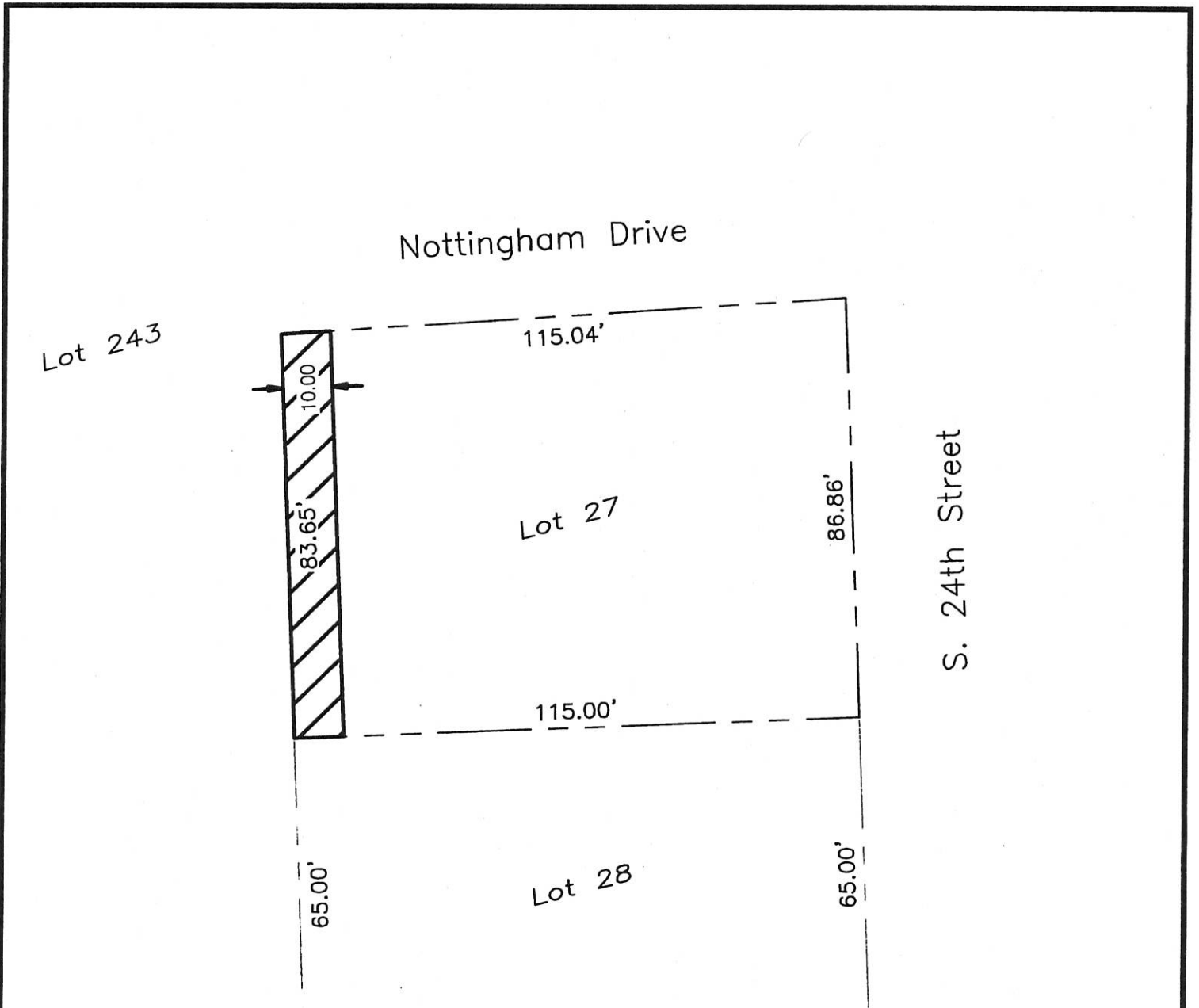
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC



**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 27, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 27 CONTAINING 838 SQUARE FEET, MORE OR LESS.



**Lot 27 - Stonecroft**



TEMPORARY EASEMENT: 838 S.F.

TRACT NO.: 16 PROJECT NO.: 24-2773

PREPARE DATE: 03/14/25 REVISION DATE: \_\_\_\_\_

**TRACT 16**



September 16, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #19

Dear Mr. Krager:

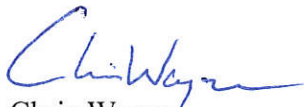
Enclosed are two (2) executed copies of the Temporary Easement for Tract 19, Patricia L. Heath (f/k/a Patricia L. Cahanding). The authorized representative of the City of Bellevue, Nebraska will need to sign both copies of the Temporary Easement. One signed original is to be kept by the City of Bellevue, Nebraska and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$4,510.00 made payable to:**

**Patricia L. Cahanding  
13408 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

  
Chris Wayne  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 19

**STATEMENT OF JUST COMPENSATION**

The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Patricia L. Cahanding**, with this written statement of Just Compensation made to acquire the property.

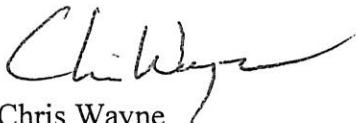
This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 650 SF x \$7.00/SF x 10% x 2 Years	\$ 910.00
Fence Damages: Wood Fence	\$ 1,100.00
Cost to Cure: Move Shed	\$ 2,500.00
<b>Total Amount Offered</b>	<b>\$ 4,510.00</b>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 21<sup>st</sup> day of July, 2025, and the total amount of this offer is **\$4,510.00**.

Sincerely,



Chris Wayne  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
PROJECT # BPW-240124 TRACT: 19

**KNOW ALL MEN BY THESE PRESENTS:**

That **PATRICIA L. HEATH, A/K/A, PATRICIA L. CAHANDING, a single person**, herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **FOUR THOUSAND, FIVE HUNDRED TEN and NO/100 DOLLARS, (\$4,510.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the **CITY of BELLEVUE, NEBRASKA**, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings, not located in the public right of way, of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and construction related to improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.
7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as

may be recited in this document. This document is the full and final agreement between the parties. Any amendment to this easement shall be made in writing, signed by both parties.

8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

***[SIGNATURE PAGE TO FOLLOW]***

EXECUTED by the Owner this 5<sup>th</sup> day of September, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

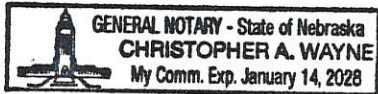
Patricia L. Heath

PATRICIA L. HEATH  
a/k/a PATRICIA L. CAHANDING

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 5 day of September, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Patricia L. Heath, a/k/a Patricia L. Cahanding to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)



Christopher A. Wayne  
NOTARY PUBLIC

EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

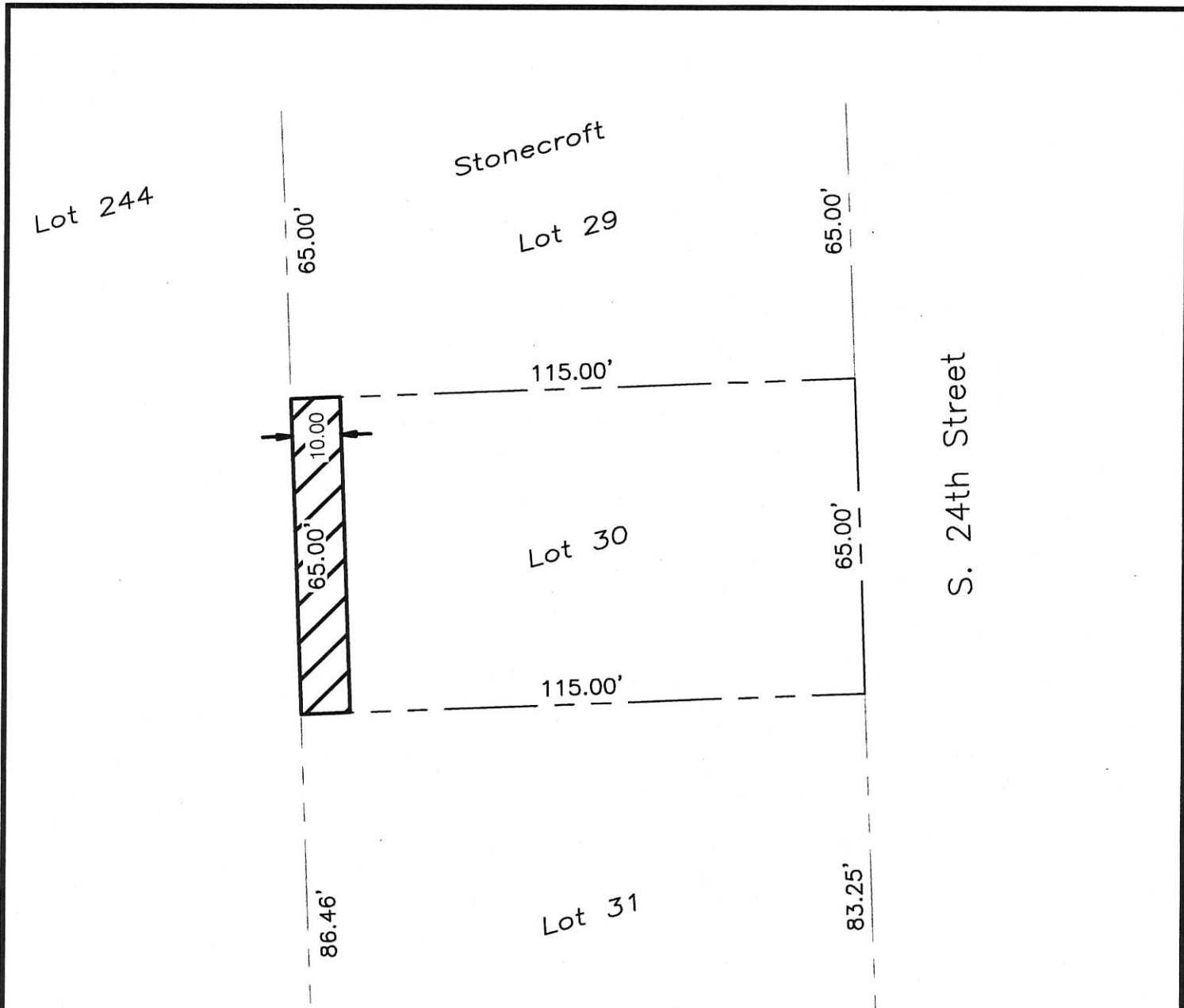
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC




**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 30, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 30 CONTAINING 650 SQUARE FEET, MORE OR LESS.



**Lot 30 - Stonecroft**

 TEMPORARY EASEMENT: _____ 650 _____ S.F.	TRACT NO.: <u>19</u>	PROJECT NO.: <u>24-2773</u>
	PREPARE DATE: <u>03/14/25</u>	REVISION DATE: _____

**TRACT 19**



September 10, 2025

John Krager  
City of Bellevue  
1510 Wall Street  
Bellevue, Nebraska 68005

RE: City of Bellevue, Nebraska  
Whitted Creek - 25<sup>th</sup> Street, Lynwood to Blackhawk  
Project # BPW-240124  
Tract #21

Dear Mr. Krager:

Enclosed are two (2) executed copies of the Temporary Easement for Tract 21, Nicholas Larsen. The authorized representative of the City of Bellevue, Nebraska will need to sign all copies of each contract. One signed original is to be kept by the City of Bellevue, Nebraska and placed in the completed file. The second original should be sent with payment to the property owner.

**Please send an original executed Temporary Easement Contract and a check in amount of \$2,030.00 made payable to:**

**Nicholas Larsen  
13210 South 24<sup>th</sup> Street  
Bellevue, Nebraska 68123**

Please e-mail copies of the signed contracts, recorded documents, and a copy of the payment to [kroegers@midwestrow.com](mailto:kroegers@midwestrow.com) to be included in the electronic file for audit purposes. If you have any questions, please contact us at 402-955-2900.

Sincerely,

A handwritten signature in blue ink that reads "Chris Wayne".

Chris Wayne  
Acquisition Agent

Enclosures

Agency: City of Bellevue, Nebraska  
Project No.: BPW-240124  
Tract No.: 21

**STATEMENT OF JUST COMPENSATION**


The City of Bellevue, in compliance with the Uniform Relocation Assistance and Real Property Acquisition Policy Act of 1970, requires that the City of Bellevue, Nebraska's Right-of-Way Agent, upon his/her first visit of negotiating; provide the owner of real property, **Nicholas Larsen**, with this written statement of Just Compensation made to acquire the property.

This offer will be made in the amount not less than the appraised fair market value of the property involved and will include a summary of the basis for the amount established as just compensation for:

Temporary Easement: 658 SF x \$7.00/SF x 10% x 2 Years	\$ 930.00 ®
Fence Damages: Wood Fence	\$ 1,100.00
<b>Total Amount Offered</b>	<b>\$ 2,030.00</b>

This written statement represents the City of Bellevue, Nebraska's offer made in an amount not less than the appraised valuation of the property.

This offer is being made on the 18<sup>th</sup> day of July, 2025, and the total amount of this offer is **\$2,030.00**.

Sincerely,  
  
Chris Wayne  
Right of Way Agent

**TEMPORARY CONSTRUCTION EASEMENT**

PROJECT: City of Bellevue, Nebraska - Whitted Creek 25<sup>th</sup> Street Lynwood to Blackhawk  
PROJECT # BPW-240124 TRACT: 21

**KNOW ALL MEN BY THESE PRESENTS:**

That NICHOLAS LARSEN, a single person herein called "Grantor", whether one or more, record owner of the real property hereinafter described, for and in consideration of the sum of **TWO THOUSAND, THIRTY and NO/100 DOLLARS, (\$2,030.00)**, duly paid, the receipt whereof is hereby acknowledged, does hereby GRANT, REMISE and RELINQUISH unto the CITY of BELLEVUE, NEBRASKA, its successors and assigns, herein called "Grantee", the RIGHT, PRIVILEGE and EASEMENT to use and occupy temporarily, during the initial construction, reconstruction, and grading within reasonable construction standards and appurtenances thereto belonging, over and through the following described real property, to-wit:

**SEE ATTACHED TEMPORARY EASEMENT EXHIBIT**

As a further consideration of this grant, the Parties herein agrees as follows:

1. The Grantor confirms that it is well seized in fee of the Easement Areas, that it has the lawful authority and right to grant and convey this Easement in the manner and form aforesaid, and that it will warrant and defend this Easement against the lawful claims and demands made by all persons. If any other party shall hold any encumbrance against the aforementioned property at the time of commencement of this Easement, Grantor shall be solely responsible for delivering any payments which may be due and owing as a result of such encumbrance and shall indemnify, defend, and hold harmless Grantee from and against any losses, costs, damages, liens, claims, liabilities, or expenses (including but not limited to reasonable attorneys' fees, court costs and disbursements) incurred by Grantee related to claims raised by such party or parties holding such encumbrance.
2. It is understood and agreed that the above-described area shall be used for grading and reconstruction purposes necessary to restore the property to a usable condition, not for the parking, storage or servicing of construction equipment.
3. It is further understood and agreed that in the event fences, driveways or permanent buildings, not located in the public right of way, of the Grantor are removed or damaged by the Grantee's agents during the initial construction, the Grantee will cause the said improvement on the property hereinabove described to be repaired and restored to a condition fully equal to that existing before construction operations were commenced.
4. That immediately following the initial construction hereinabove referred to, the Grantee will cause to be removed from the property hereinabove described, all debris, all surplus material and construction equipment and leave the premises in a neat and presentable condition.
5. That the right, privilege and easement herein granted for temporary construction use of those portions of the said property as may lie inside the boundaries of the aforesaid temporary easement shall cease and terminate immediately following the completion of construction on said property, final inspection and acceptance of the grading and construction related to improvements, or two years after commencement of construction on said property, whichever occurs first.
6. This instrument, and the covenants and agreements herein contained, shall inure to the benefit of and be binding and obligatory upon the heirs, executors, administrators, successors and assigns of the respective parties. Each party hereby represents and warrants to the other party that the execution of this Agreement is duly authorized and constitutes a legal, valid and binding obligation of said party.
7. The Grantor warrants that no verbal or written representations or inducements have been made or given by the Grantee or by any of its officers, agents or employees, other than as may be recited in this document. This document is the full and final agreement between

the parties. Any amendment to this easement shall be made in writing, signed by both parties.

8. The easement shall be governed by the laws of the State of Nebraska. Any action brought hereunder shall be brought in the State courts of Sarpy County, Nebraska.

*[SIGNATURE PAGE TO FOLLOW]*

EXECUTED by the Owner this 05 day of September, 2025.

INDIVIDUAL ACKNOWLEDGMENT

OWNER(S):

Nicholas Larsen  
NICHOLAS LARSEN

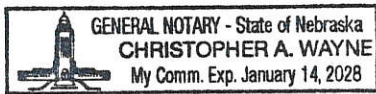
STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

Dated this 5<sup>th</sup> day of September, 2025, before me, a General Notary Public duly commissioned and qualified, personally came Nicholas Larsen, a single person

to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as owner(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.  
(SEAL)

Christopher A. Wayne  
NOTARY PUBLIC



EXECUTED by the City this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

BUYER: CITY OF BELLEVUE, NEBRASKA

BY: \_\_\_\_\_

STATE OF NEBRASKA )  
 ) SS  
COUNTY OF SARPY )

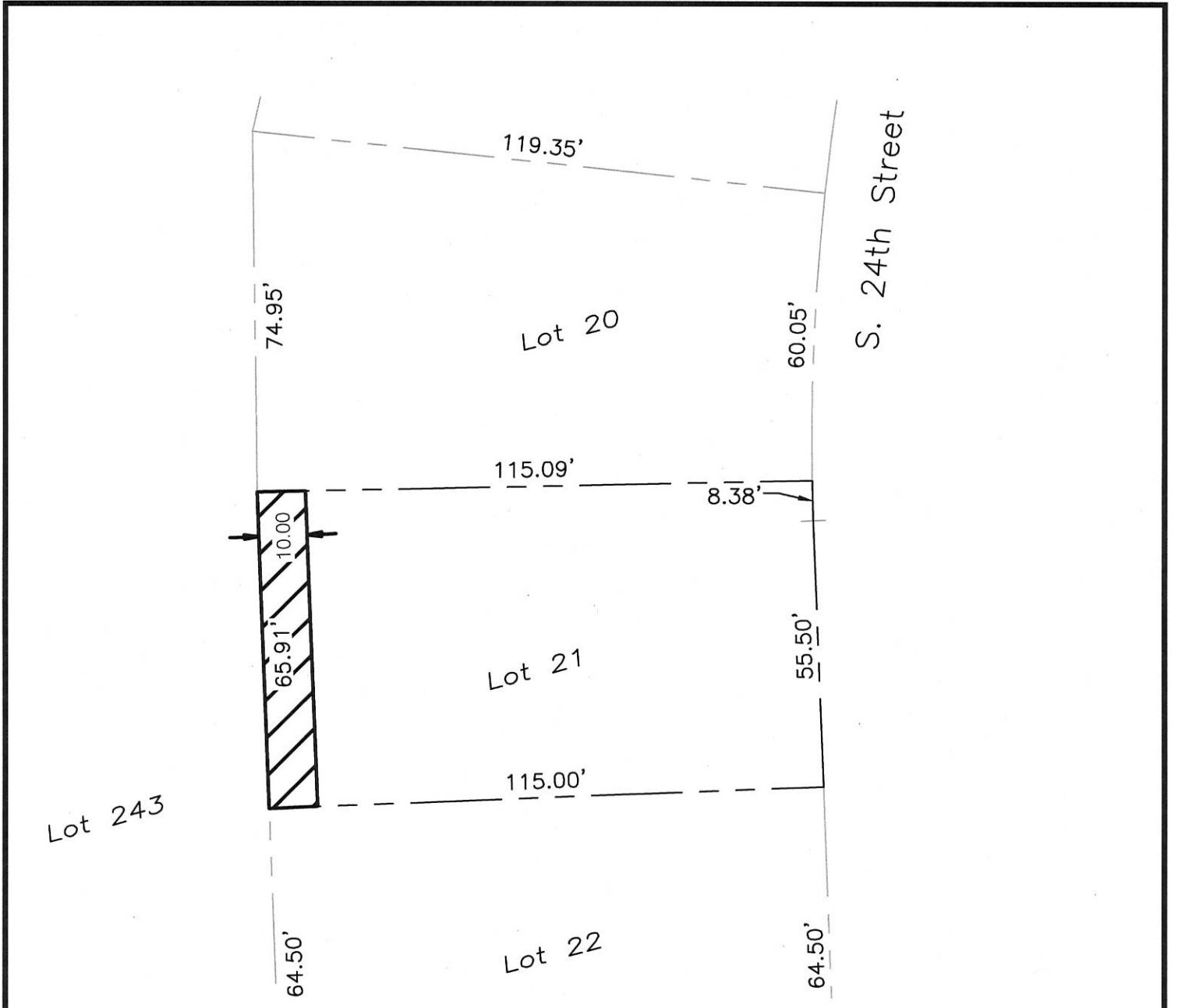
Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2025, before me, a General Notary Public, duly commissioned and qualified, personally came \_\_\_\_\_

the authorized representative of the City of Bellevue, Nebraska, to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.  
(SEAL)

\_\_\_\_\_  
NOTARY PUBLIC

**TRACT 21**



**Legal Description - Temporary Easement**

A PARCEL OF LAND LOCATED IN LOT 21, STONECROFT, AS SURVEYED, PLATTED & RECORDED IN SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE WEST 10.00 FEET OF SAID LOT 21 CONTAINING 658 SQUARE FEET, MORE OR LESS.



**Lot 21 - Stonecroft**



TEMPORARY EASEMENT: 658 S.F.

TRACT NO.: 21

PROJECT NO.: 24-2773

PREPARE DATE: 04/07/25

REVISION DATE: \_\_\_\_\_

**TRACT 21**

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: <b>October 7, 2025</b>		SUBMITTED BY: <b>David Goedeken-Public Works Director</b>	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Replace compressor at 1500 Wall St.

SYNOPSIS/BACKGROUND:

1500 Wall St. One of the two compressors is down and needs replaced.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: <input type="text" value="YES"/>	COUNTER-PARTY: <input type="text" value="Cerris systems"/>	INTERLOCAL AGREEMENT: <input type="text"/>
CONTRACT DESCRIPTION: <input type="text"/>		
CONTRACT EFFECTIVE DATE: <input type="text"/>	CONTRACT TERM: <input type="text"/>	CONTRACT END DATE: <input type="text"/>
PROJECT NAME: <input type="text"/>		
START DATE: <input type="text"/>	END DATE: <input type="text"/>	PAYMENT DATE: <input type="text"/>
INSURANCE REQUIRED: <input type="text"/>		
CIP PROJECT NAME: <input type="text"/>	CIP PROJECT NUMBER: <input type="text"/>	
STREET DISTRICT NAME (S): <input type="text"/>	STREET DISTRICT NUMBER (S): <input type="text"/>	
ACCOUNTING DISTRIBUTION CODE: <input type="text"/>	ACCOUNT NUMBER: <input type="text"/>	


RECOMMENDATION:

Approve and authorize the compressor to be replaced at 1500 Wall St.

ATTACHMENTS:

1. <input type="text" value="Proposal"/>	2. <input type="text"/>	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:   
 FINANCE APPROVAL AS TO FORM: \_\_\_\_\_  
 ADMINISTRATOR APPROVAL AS TO FORM: 



## Bellevue Planning

### | Proposed Project Agreement

CITY ADMIN CARRIER COMPRESSOR

**DATE:**

9/22/2025

**PROPOSAL NUMBER:**

P14938

**PREPARED FOR:**

Bellevue Planning  
1510 Wall Street  
Bellevue, NE 68005

**PREPARED BY:**

Aaron Ueckert  
402-306-7385  
aueckert@cerris.com





# Project Proposal

**Company**  
Cerris Systems North Central, Inc.  
9751 S 142<sup>nd</sup> St  
Omaha, NE 68138  
Ph: 402-306-7385

Proposal Date: 9/22/2025  
Proposal Number: PI4938

Bill To Identity	Agreement Location
City of Bellevue 1500 Wall Street Bellevue, NE 68005	Bellevue Planning 1510 Wall Street Bellevue, NE 68005

We are pleased to offer our proposal for this project. Our proposal is based upon the site and system examination, material, labor costs, subcontractor costs, and permit fees.

**Scope of Work:**

1. Shut unit down
2. Evacuate freon from condensing unit
3. Remove bad compressor
4. Provide and install a new Carrier OEM compressor
5. Replace liquid line drier
6. Check for leaks on welds and joints
7. Pull vacuum on the system
8. Unwire current compressor contactor
9. Install new contactor
10. Recharge system
11. Place unit in service and verify proper operation

**Our proposal is also based on the following exclusions:**

1. Any work outside of the above-described scope.
2. Building controls



3. Electrical work, including heat trace, line voltage for controls, wiring for medical gas system, fuses, heaters, starters, disconnects, or interconnecting wiring of equipment furnished, unless specifically noted.
4. Temperature controls, low voltage wiring or building automation system work.
5. Trash removal or haul off (place in a contractor supplied dumpster).
6. Overtime or shift work.
7. Allowances or contingency
8. Bond Premium – add 1% for performance and payment bond if required

**The quoted price set forth herein does not include the cost impact of any tariffs or other taxes or embargos which may be imposed by the United States or any of its trading partners. To the extent the cost of any materials/equipment/items procured in furtherance of a subcontract or purchase order based upon this quotation/proposal/bid (collectively, "Bid") is impacted by the imposition of any tariffs, tax or embargo, the actual documented cost of such shall be billed to, and be reimbursed by, City of Bellevue, along with any schedule adjustments necessitated thereby. This Bid is expressly contingent upon the right to recovery of cost escalation set forth above. By accepting this Bid, City of Bellevue agrees that the resulting contract will include language providing for such right to recovery, and that such right of recovery will not be conditioned upon City of Bellevue's own recovery from a higher-tier contracting party.**

***Cerris Systems price for SCOPE above is \$12,035.00***

*Our price is guaranteed for (30) days from the date of this proposal.*

**WARRANTY:** Our warranty on work performed is in accordance with **Paragraph 2 in Terms and Conditions**, parts and labor.

**TERMS OF PAYMENT:** NET 30. Material and equipment furnished under this proposal shall remain the property of the seller until final payment has been received.



**Signature for Proposal Number - P14938**

Upon execution as provided below, this agreement, including the following pages attached hereto (collectively, the "Agreement"), shall become a binding and enforceable agreement against both parties hereto. Customer, by execution of this Agreement, acknowledges that it has reviewed and understands the attached terms and conditions and has the authority to enter into this Agreement.

**Contractor**

**Customer**

*Aaron Ueckert*

\_\_\_\_\_  
Signature (Authorized Representative)

\_\_\_\_\_  
Signature (Authorized Representative)

Aaron Ueckert

\_\_\_\_\_  
Name (Print/ Type)

\_\_\_\_\_  
Name (Print/ Type)

402-306-7385

\_\_\_\_\_  
Phone

\_\_\_\_\_  
Title

9/22/2025

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

\_\_\_\_\_  
PO#



## Project Agreement Terms and Conditions

The following terms and conditions are incorporated into and a part of the agreement between Contractor and Customer (the "Agreement"):

1. Customer shall permit Contractor free and timely access to areas and equipment and allow Contractor to start and stop the equipment as necessary to perform required services. All planned work under this Agreement will be performed during the Contractor's normal working hours.
2. The contractor warrants that the workmanship hereunder shall be free from defects for thirty (30) days from the date of installation. If any replacement part or item of equipment proves defective, Contractor will extend to Customer the benefits of any warranty Contractor has received from the manufacturer. Removal and reinstallation of any equipment or materials repaired or replaced under a manufacturer's warranty will be at the Customer's expense and at the rates in effect. **CONTRACTOR MAKES NO OTHER WARRANTIES, EXCEPT AS DESCRIBED HEREIN, AND EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
3. Contractor may invoice Customer monthly. Customer will promptly pay invoices within thirty (30) days of receipt. Should a payment become thirty (30) days or more delinquent, Contractor may stop all work under this Agreement without notice and/or cancel this Agreement, and the entire Agreement amount shall become due and payable immediately without notice or demand. In addition, if Contractor does not receive payment of a properly submitted invoice within thirty (30) days, Customer shall accrue a late charge on the balance outstanding at the lesser of (a) 1 1/2% per month of (b) the highest rate allowed by law, in each case compounded monthly to the extent allowed by law.
4. Any alteration to, or deviation from this Agreement involving extra work, cost of materials or labor will become an additional charge (fixed price amount to be negotiated or on a time-and-materials basis at Contractor's rates then in effect) over the sum stated in this Agreement.
5. In the event Contractor must commence legal action in order to recover any amount payable or owed to Contractor under this Agreement, Customer shall pay Contractor all court costs and attorneys' fees incurred by Contractor.
6. In the event of a breach by Contractor of the terms of this Agreement, including without limitation Section 2, or in the event Customer incurs any liability in connection with the rendering of services by Contractor, Customer's sole remedy against Contractor shall be for Contractor to re-perform the services in accordance with the warranty or, if such services cannot be re-performed or such re-performance does not cure the breach or the liability, to refund to Customer the amount paid to Contractor under this Agreement, up to Customer's direct damages caused by such breach or liability. Notwithstanding the foregoing, in no event shall the liability of Contractor in connection with any products or services, whether by reason of breach of contract, tort (including without limitation negligence), statute or otherwise exceed the amount of fees paid by Customer to Contractor for those products or services.

7. Further, in no event shall Contractor have any liability for loss of profits, loss of business, indirect, incidental, consequential, special, punitive, indirect or exemplary damages, even if Contractor has been advised of the possibility of such damages. In furtherance and not in limitation of the foregoing, Contractor shall not be liable in respect of any decisions made by Customer as a result of Contractor's services. Any action, regardless of form, against the Contractor relating to this Agreement, or the breach thereof, must be commenced within one (1) year from the date of the work.
8. Contractor shall not be liable for any delay, loss, damage or detention caused by acts or circumstances beyond its control including, without limitation, unavailability of machinery, equipment or materials, delay of carriers, strikes, including those by Contractor's employees, lockouts, civil or military authority, priority regulations, insurrection or riot, war, acts of terrorism, action of the elements, forces of nature, or by any cause beyond its control.
9. Cerris Systems shall not be liable for any delay in the performance of the work resulting from or attributed to acts or circumstances beyond Cerris' control, including, but not limited to, acts of God, fire, riots, labor disputes, acts or omissions of the Purchaser, Owner or other Contractors or delays caused by suppliers or subcontractors of Cerris Systems.
10. To the fullest extent permitted by law, Customer shall indemnify and hold harmless Contractor, its agent and employees from and against all claims, liabilities, damages, losses and expenses (including but not limited to attorneys' fees) arising out of or resulting from the performance of work hereunder or any act or omission arising out of or related to this Agreement, provided that such claim, damage, loss or expense is caused in whole or in part by an active or passive act or omission of Customer, anyone directly or indirectly employed by Customer, or anyone for whose acts Customer may be liable, regardless of whether it is caused in part by the negligence of Contractor. Further, and notwithstanding the preceding sentence, Contractor shall be held harmless and shall not be liable to Customer for any claims, liabilities, damages, losses and expenses related to mold or to the creation of mold at Customer's location(s) and shall have no obligation to treat, identify or remove such mold.
11. Customer shall make available to Contractor's personnel all pertinent Material Safety Data Sheets (MSDS) pursuant to OSHA'S Hazard Communication Standard Regulations.
12. Customer shall be responsible for all taxes applicable to the services and/or materials hereunder.
13. Contractor's obligation under this proposal and any subsequent contract does not include the identification, abatement or removal of asbestos, mold or any other toxic or hazardous substances, hazardous wastes or hazardous materials. In the event such substances, wastes and materials are encountered, Contractor's shall have the right thereafter to suspend its work until such substances, wastes or materials and the resultant hazards are removed. The time for completion of the work shall be extended to the extent caused by the suspension and the contract price equitably adjusted. As previously provided, Contractor shall be held harmless and shall not be liable for any claims, liabilities, damages, losses and expenses related to such substances, wastes and materials, including the failure to identify or notify Customer of such substances, wastes and materials.

14. This Agreement is between Contractor and Customer alone, and neither intends that there be any third-party beneficiaries to this Agreement. Without limiting the generality of the foregoing, by entering into this Agreement and providing services on Customer's behalf, Contractor is not assuming any duty or obligation to any of Customer's employees, vendors, clients, subcontractors, agents, shareholders, partners or members. Customer agrees to indemnify and hold Contractor harmless from and against any and all liabilities, losses, claims, costs, expenses, and damages (including without limitation reasonable attorneys' fees) incurred by Contractor by reason of a claim brought against Contractor by any of Customer's employees, vendors, clients, subcontractors, agents, shareholders, partners or members with respect to the services provided by Contractor on Customer's behalf.
15. Each of the parties hereto is an independent contractor and neither party is, nor shall be considered to be, an agent, distributor, or representative of the other. Neither party shall act or present itself, directly or indirectly, as an agent of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.
16. These terms and conditions, together with the attached documents, constitutes the entire agreement and understanding among the parties hereto and supersedes any and all prior agreements and understandings, oral or written, relating to the subject matter hereof. It sets forth the terms for the provision of any products or services Contractor may provide Customer, whether in connection with the particular engagement that is identified as the subject of this Agreement or otherwise, unless and until a written instrument is signed by an authorized representative of Contractor agreeing to different terms. This Agreement shall not be assignable by Customer and Contractor without the express prior written consent of either party. This Agreement shall be governed by and construed in accordance with the laws of the State of the Contractor's headquarters are located, without giving effect to that State's conflicts of laws principles.
17. This Agreement may be cancelled by either party upon 30-day written notice. Customer shall be liable for all incurred expenses at the time of cancellation.
18. If paying with credit card a 3% surcharge will be added to the total project price.

**ADDITIONAL SERVICES:  
Limits of Liability**

1. Cerris Systems will not be responsible for emergency service repairs, replacement parts, miscellaneous materials, or refrigerants.
2. The Inspection Maintenance Agreement shall in no way bind Cerris Systems to make corrections, replacements, or repairs necessitated by (a) Purchaser's improper operation or misuse of the equipment or systems, (b) by negligence of others, or (c) by faulty design of the equipment.
3. Cerris Systems shall not be required under the Inspection Maintenance Agreement to make safety tests or to install new attachments or additional controls or equipment recommended or directed by any insurance company, laboratory, or governmental authority.
4. The Inspection Maintenance Agreement does not include the maintenance, repair or replacement of electrical disconnect switches, casing or cabinets, ductwork, insulation of any equipment not covered under this Agreement, damage from freezing, corrosion, electrolysis, drain stoppage or plumbing beyond equipment, gas lines, domestic water lines, or nonmoving parts of heating, cooling and ventilating equipment.

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

16f.  
10/7/2025

COUNCIL MEETING DATE: October 7, 2025		SUBMITTED BY: Dave Goedeken-Public Works Director	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

**BPW 250401 CIP ST25(9)M146(319) Assessment Management**

SYNOPSIS/BACKGROUND:

City Council approve and authorize the Mayor to sign Change Order No.1 to Citylogix contract approved May 6, 2025 in the amount of \$24,00.00 to include additional traffic sign inventory to the database.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NUMBER:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRUBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

City Council approve and authorize the Mayor to sign Change Order No.1 to Citylogix contract approved May 6, 2025 in the amount of \$24,00.00 to include additional traffic sign inventory to the database.

ATTACHMENTS:

1. <input type="text" value="Change Order No. 1"/>	2. <input type="text"/>	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM: \_\_\_\_\_

FINANCE APPROVAL AS TO FORM: \_\_\_\_\_

ADMINISTRATOR APPROVAL AS TO FORM: \_\_\_\_\_

*Handwritten signatures:*  
  


**CHANGE ORDER NO.: [Number of Change Order]**

Owner: City of Bellevue Owner's Project No.: 250401  
 Engineer: City of Bellevue Engineer's Project No.:  
 Contractor: Citylogix Contractor's Project No.:  
 Project: M146(319) Pavement Assessment Management System  
 Contract Name: M146(319) Pavement Assessment Management System  
 Date Issued: May 6, 2025 Effective Date of Change Order: September 16, 2025

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

Description:

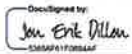
**Additional Traffic Signs**

Attachments:

**Citylogix Change Order dated September 2, 2025**

Change in Contract Price	Change in Contract Times [State Contract Times as either a specific date or a number of days]
Original Contract Price: \$ 229,270	Original Contract Times: Substantial Completion: _____ Ready for final payment: _____
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous Change Order]: \$ 0	[Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous Change Order]: Substantial Completion: _____ Ready for final payment: _____
Contract Price prior to this Change Order: \$ 229,270	Contract Times prior to this Change Order: Substantial Completion: _____ Ready for final payment: _____
Increase this Change Order: \$ 24,000	[Increase] [Decrease] this Change Order: Substantial Completion: _____ Ready for final payment: _____
Contract Price incorporating this Change Order: \$ 253,270	Contract Times with all approved Change Orders: Substantial Completion: _____ Ready for final payment: _____

Authorized by Contractor

By:  Jon Erik Dillon  
 Title: CEO/Director  
 Date: 9/3/2025

Approved by Owner

By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

Recommended by Engineer

By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_

By: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Date: \_\_\_\_\_



605 Salem St.,  
Wakefield, MA, 01880  
+1-617-399-8236

Krishna Prabhakaran  
[krishna.prabhakaran@citylogix.com](mailto:krishna.prabhakaran@citylogix.com)  
[www.citylogix.com](http://www.citylogix.com)  
(438) 530-3769

# Change Order

## Citylogix Services

**To:**  
John Krager  
[John.Krager@bellevue.net](mailto:John.Krager@bellevue.net)

**Municipality:**  
City of Bellevue / Public Works Dept  
1510 Wall St./ Bellevue NE 68005


**Date:** September 02, 2025

PROJECT UPDATE				
DEPARTMENT	SERVICES INCLUDED	Unit	Unit Cost	TOTAL
StreetScan	Additional Traffic Signs	8,000	\$3	\$24,000
<b>TOTAL</b>				<b>\$24,000</b>

Approval

Bobby Riggs:

Date:

  
9/2/25



CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

16g.  
10/7/2025

COUNCIL MEETING DATE: 10-07-25		SUBMITTED BY: Chief Clary	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Police Cruiser Purchase

SYNOPSIS/BACKGROUND:

The Police Department is requesting the purchase of six 2025 Ford Explorer police cruisers to replace aging units. State bid contract price (#16076) is \$43,871 each.

FISCAL IMPACT: \$263,226 BUDGETED FUNDS: Yes GRANT/MATCHING FUNDS:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: No COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Recommend approval of the purchase request for six Ford Explorer police cruisers for the Police Department.

ATTACHMENTS:

- Anderson Ford Proposal
- 
- 
- 
- 
- 

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Donnie G. Phillips*  
*[Signature]*  
*[Signature]*

**BELLEVUE POLICE DEPARTMENT**  
**MEMORANDUM**



TO: Chief Clary  
FROM: Lt. Matt Hoffman  
SUBJECT: 2026 CIP Fleet Purchase request  
DATE: 09-30-25

Chief,

Regarding the 2 CIP fleet purchase requests I've submitted, I would like to expand on the justifications for you, in case you get inquiries.

Our fleet has aging cars that need to be replaced and with the addition of more officers the fleet numbers need to be raised to provide cars for new officers. We generally have vehicles damaged due to accidents or mechanical repairs that exceed the value of the cars during the year that may need to be replaced. For those reasons I am asking for authorization to purchase six (6) 2025 Ford Explorer police cruisers. The price for the cruisers would be \$263,226.00 through Anderson Ford.

Replacement for 602 2015 Dodge Charger 98,061 miles  
Replacement for 618 2015 Dodge Charger 117,283 miles  
Replacement for 900 2015 Dodge Charger 109,873 miles  
Replacement for 901 2012 Dodge Charger 95,954 miles  
Addition of two new cruisers to account for growth and damaged vehicles.

I have also submitted a purchase request for one (1) Chevrolet Traverse and two (2) Chevy Equinox's. Those cars are for the addition of a SIU Lieutenant position in CIB who does not get an assigned car by a federal task force and the replacement of two CIB vehicle which are having some mechanical issues due to age and wear. They would be assigned as detailed below. The total cost would be \$96,304.00 through the Husker Auto Group.

Replacement of car 114 2010 Chevrolet Impala 90,157 miles  
Replacement of car 109 2008 Chevrolet Impala 85,930 miles  
New car for the SIU Lt. position

Lt. Matt Hoffman  #209 Date 9-30-25

# ANDERSON

www.AndersonAutoGroup.com

City of Bellevue

September 29th,

State Contract # 16076

FP1A: 2025 Police Utility Vehicle AWD: 3.3L V6 Gas: \$42,587

Options to add to each:

1. Driver side spotlight: \$495
2. Keyed alike: \$75
3. Red/white cargo dome lamp: \$150
4. Courtesy lamp disable: \$109
5. Reverse sensing system: \$395
6. Black Exterior
7. Wheel Center Caps: \$60
8. Police engine idle: Standard on 2025 models

Total price 3.3L V6: \$43,871

## **Bobby Colclasure**

*Anderson Auto Group*

*Commercial & Fleet Director*

*2500 Wildcat Dr., Lincoln, NE 68521*

*Cell-402-617-4521*

**Because People Matter...**

We will serve your needs by always doing what is right.



LINCOLN



MAZDA

**LINCOLN NORTH**  
2500 Wildcat Drive  
Lincoln, NE 68521  
402.458.9800

**LINCOLN SOUTH**  
3201 Yankee Hill Road  
Lincoln, NE 68512  
402.464.0661  
(Opening Fall 2011)

**GRAND ISLAND**  
120 Diers Avenue  
Grand Island, NE 68803  
308.384.1700

**ST. JOSEPH**  
2207 North Belt Highway  
St. Joseph, MO 64506  
816.383.8000

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

16h.  
10/7/2025

COUNCIL MEETING DATE: 10-07-25		SUBMITTED BY: Chief Clary	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING	<input type="checkbox"/>
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER	<input type="checkbox"/>

SUBJECT:

Police unmarked CIB/Support vehicle purchase

SYNOPSIS/BACKGROUND:

The Police Department needs to add one unmarked vehicle for a new Lt. position that was created last fiscal year and replace two aging vehicles currently assigned to CIB. The vehicle purchase price will be off the state bid price of \$39,382 for a Chevy Traverse and \$28,461 each for two Chevy Equinox's.

FISCAL IMPACT: \$96,304 BUDGETED FUNDS?: Yes GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: No COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Recommend approval of the purchase request for 3 CIB/Support vehicles for the Police Department.

ATTACHMENTS:

- Husker Auto Group Proposal
- 
- 
- 
- 
- 

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Signature: Daniel Hillis*  
*Signature: [unclear]*  
*Signature: [unclear]*



# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

## BELLEVUE POLICE DEPT

**Prepared For: MATT HOFFMAN**

402-682-6642

MATT.HOFFMAN@BELLEVUE.NET

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT





# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD TRAVERSE 9 24 2025

## Quote Worksheet

	<b>MSRP</b>
Base Price	\$42,800.00
Dest Charge	\$1,895.00
Total Options	\$0.00
<b>Subtotal</b>	<b>\$44,695.00</b>
2 ADDITIONAL KEYS AND FOBS PROGRAMMED	\$998.00
<b>Subtotal Pre-Tax Adjustments</b>	<b>\$998.00</b>
Less Customer Discount	(\$6,311.00)
<b>Subtotal Discount</b>	<b>(\$6,311.00)</b>
Trade-In	\$0.00
<b>Excluded from Sales Tax</b>	<b>Subtotal Trade-In \$0.00</b>
<b>Taxable Price</b>	<b>\$39,382.00</b>
Sales Tax	\$0.00
<b>Subtotal Taxes</b>	<b>\$0.00</b>
<b>Subtotal Post-Tax Adjustments</b>	<b>\$0.00</b>
<b>Total Sales Price</b>	<b>\$39,382.00</b>

\_\_\_\_\_  
Dealer Signature / Date

\_\_\_\_\_  
Customer Signature / Date

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Data Version: 26555. Data Updated: Sep 23, 2025 6:52:00 PM PDT.



# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD TRAVERSE 9 24 2025

## Window Sticker

### SUMMARY

[Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT MSRP:\$42,800.00

Interior:LT Jet Black, Premium cloth seat trim

Exterior 1:Summit White

Exterior 2:No color has been selected.

Engine, 2.5L Turbo DOHC SIDI with Variable Valve Timing (VVT)

Transmission, 8-speed automatic

### OPTIONS

CODE	MODEL	MSRP
1LB56	[Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT	\$42,800.00
<b>OPTIONS</b>		
**	** FEATURE AVAILABILITY WILL CHANGE THROUGHOUT THE MODEL YEAR. SEE THE WINDOW LABEL OF A SPECIFIC VEHICLE TO DETERMINE ITS CONTENT. **	\$0.00
2LT	LT Preferred Equipment Group	\$0.00
ABE	Seating, 7-passenger (2-2-3 seating configuration)	\$0.00
AR9	Seats, front bucket	\$0.00
FE9	Emissions, Federal requirements	\$0.00
GAZ	Summit White	\$0.00
HQB	LT Jet Black, Premium cloth seat trim	\$0.00
LK0	Engine, 2.5L Turbo DOHC SIDI with Variable Valve Timing (VVT)	\$0.00
MF8	Transmission, 8-speed automatic	\$0.00
QO5	Tires, 255/65R18 all-season blackwall	\$0.00
SGE	Wheels, 18" (45.7 cm) Grazen Metallic machined-face aluminum	\$0.00

<b>SUBTOTAL</b>	<b>\$42,800.00</b>
Adjustments Total	\$0.00
Destination Charge	\$1,895.00
<b>TOTAL PRICE</b>	<b>\$44,695.00</b>

### FUEL ECONOMY

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD TRAVERSE 9 24 2025

Est City:19 (Est) MPG

Est Highway:24 (Est) MPG

Est Highway Cruising Range:520.80 mi

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT ( Complete )

Quote: BELLEVUE PD TRAVERSE 9 24 2025

## Standard Equipment

### Package

Convenience Package includes (BTV) Remote Start, (KA1) heated driver and front passenger seats and (KI3) heated steering wheel

Chevy Safety Assist includes (UE4) Following Distance Indicator, (UEU) Forward Collision Alert and (TQ5) IntelliBeam

Safety Package 1 includes (UGN) Enhanced Automatic Emergency Braking, (KSG) Adaptive Cruise Control , (CTB) Intersection Automatic Emergency Braking, (UOW) Side bicyclist Alert, (UKM) Lane keep assist with Lane Departure Warning, enhanced and (UVZ) Reverse Automatic Braking

Trailer Package includes Hitch with hitch cover, (PZ8) Hitch View, (CTT) Hitch Guidance, (V08) heavy-duty cooling system and (KW5) 220 amp alternator

### Mechanical

Engine, 2.5L Turbo DOHC SIDI with Variable Valve Timing (VVT) (328 hp [244 kW] @ 5500 rpm, 326 lb-ft of torque [442 N-m] @ 3500 rpm) (STD)

Transmission, 8-speed automatic (STD)

Engine control, stop-start system

Engine control, stop-start system override

Electronic Precision Shift, electronic transmission range selector

Cooling system, heavy-duty

Alternator, 220 amps

GVWR, 6394 lbs (2900 kg)

All-wheel drive

Hitch Guidance

Hitch View

Suspension, Ride and Handling

Brake lining wear indicator

Brakes, 4-wheel antilock, 4-wheel disc

### Exterior

Wheels, 18" (45.7 cm) Grazen Metallic machined-face aluminum (STD)

Tires, 255/65R18 all-season blackwall (STD)

Wheel, spare, 18" (45.7 cm) steel

Tire, compact spare, T135/70R18, blackwall

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD TRAVERSE 9 24 2025

## Exterior

- Roof rails, Black
- Molding, bright door upper and low gloss Black belt
- Moldings, molded color bodyside
- Moldings, rocker, narrow, molded color
- Wheel moldings, mold-in-color Black
- Door handles, body-color
- Headlamps, LED, automatic on/off
- IntelliBeam, auto high beam
- Glass, deep-tinted
- Glass, rear, deep tint
- Mirrors, outside heated, power-adjustable, manual-folding Black, with integrated turn signal indicators
- Rear Camera Washer
- AutoSense Power Liftgate, programmable, hands free

## Entertainment

- Audio system, 17.7" diagonal advanced color high-contrast LCD display with Google built-in compatibility (select service plan required, terms and limitations apply), including navigation capability, connected apps, personalized profiles for each driver's settings, Natural Voice Recognition and Phone Integration for Wireless Apple CarPlay and Wireless Android Auto for compatible phones
- Audio system feature, 6-speaker system
- SiriusXM with 360L Trial Subscription. SiriusXM with 360L transforms your customers' ride with our most extensive and personalized radio experience on the road. (IMPORTANT: The SiriusXM trial subscription is not provided on vehicles that are ordered for Fleet Daily Rental ("FDR") use. Trial subscription is subject to the SiriusXM Customer Agreement and privacy policy, visit [siriusxm.com](http://siriusxm.com) which includes full terms and how to cancel. All fees, content, features, and availability are subject to change. Some features require GM connected vehicle services.)
- Wi-Fi Hotspot capable (Terms and limitations apply. See [onstar.com](http://onstar.com) or dealer for details.)
- Active Noise Cancellation, driveline

## Interior

- Seats, front bucket (STD)
- Seating, 7-passenger (2-2-3 seating configuration) (STD)
- Seat trim, premium cloth
- Seat adjuster, driver 8-way power

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD TRAVERSE 9 24 2025

## Interior

- Seat adjuster, front passenger 4-way manual
- Seats, heated driver and front passenger
- Headrest, 3rd row center
- Floor mats, front, carpeted (Deleted when LPO floor mats or floor liners are ordered.)
- Floor mats, rear, carpeted (Deleted when LPO floor mats or floor liners are ordered.)
- Steering column, manual tilt and telescopic
- Steering wheel, wrapped, round bottom
- Steering wheel, heated
- Driver Information Center, 11" diagonal display
- Vehicle health management provides advanced warning of vehicle issues
- Windows, remote express-up/-down driver and express-down all passengers
- Keyless Open, all doors includes extended range Remote Keyless Entry with lock/unlock feature
- Remote Start
- Adaptive Cruise Control
- Wireless Phone Charging
- USB ports, 2, one type A and one type-C data/charge, located in the front area of the center console
- USB ports, 2 type-A, charge-only located on the rear of the center console
- USB ports, 2 type-A, charge-only one on each outboard location
- Air conditioning, tri-zone automatic climate control with individual climate settings for driver, front passenger and rear seat passengers
- Air conditioning, rear
- Sensor, cabin humidity and windshield temperature
- Mirror, inside rearview manual day/night
- Heater, electric, heater defroster system, reinforced

## Safety-Mechanical

- Enhanced Automatic Emergency Braking
- Front Pedestrian and Bicyclist Braking
- Intersection Automatic Emergency Braking
- Rear Cross Traffic Braking

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT ( Complete )

Quote: BELLEVUE PD TRAVERSE 9 24 2025

## Safety-Mechanical

Reverse Automatic Braking

## Safety-Exterior

Mechanical jack with tools

## Safety-Interior

Airbags, driver and front passenger frontal, seat-mounted side-impact first and second row outboard seating positions and roof rail-mounted head-curtain for all outboard seating positions and Passenger Sensing System for front passenger (Always use seat belts and child restraints. Children are safer when properly secured in a rear seat in the appropriate child restraint. See the Owner's Manual for more information.)

OnStar Services capable (See onstar.com for details and limitations. Services vary by model. Service plan required.)

OnStar Basics (OnStar Fleet Basics for Fleet) Drive confidently with core OnStar services including remote commands, built-in voice assistance, real-time traffic and navigation, and Automatic Crash Response to help if you're in need. (Requires (UE1) OnStar. OnStar Basics includes remote commands, Navigation, Voice Assistance, and Automatic Crash Response, for eligible vehicles with compatible software. OnStar Basics is standard for 8 years; OnStar plan, working electrical system, cell reception and GPS signal required. OnStar links to emergency services. Service coverage varies with conditions and location. Service availability, features and functionality vary by device and software version. See onstar.com for details and limitations.)

Teen Driver a configurable feature that lets you activate customizable vehicle settings associated with a key fob, to help encourage safe driving behavior. It can limit certain available vehicle features, and it prevents certain safety systems from being turned off. An in-vehicle report card gives you information on driving habits and helps you to continue to coach your new driver

Rear Park Assist

HD Rear Vision Camera

Blind Zone Steering Assist

Lane Keep Assist with Lane Departure Warning, enhanced

Following Distance Indicator

Forward Collision Alert

Side Bicyclist Alert

LED Reflective Windshield Collision Alert

Seat belt restraint pretensioner, rear

Seat belt, 3-point, front passenger with pretensioner and load limiter

Seat belt, 3-point, driver with pretensioner and load limiter

Seat belts, all rows 3-point with pretensioners, driver and front passenger height-adjustable

Seat belt indicator, second row

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Traverse (1LB56) AWD 4dr LT w/2LT ( Complete )

Quote: BELLEVUE PD TRAVERSE 9 24 2025

## Safety-Interior

Seat belt indicator, third row

Buckle to Drive prevents vehicle from being shifted out of Park until driver seat belt is fastened; times out after 20 seconds and encourages seat belt use, can be turned on and off in Settings menu

LATCH system (Lower Anchors and Tethers for CHildren), for child restraints seats

Display, automatic occupant sensing

Passenger Sensing System sensor indicator inflatable restraint, front passenger/child presence detector

Safety Alert Seat

Tire Pressure Monitor System, auto learn

## WARRANTY

Warranty Note: <<< Preliminary 2026 Warranty >>>

Basic Years: 3

Basic Miles/km: 36,000

Drivetrain Years: 5

Drivetrain Miles/km: 60,000

Drivetrain Note: Certain commercial, government, and qualified fleet vehicles: 5 years/100,000 miles

Corrosion Years (Rust-Through): 6

Corrosion Years: 3

Corrosion Miles/km (Rust-Through): 100,000

Corrosion Miles/km: 36,000

Roadside Assistance Years: 5

Roadside Assistance Miles/km: 60,000

Roadside Assistance Note: Certain commercial, government, and qualified fleet vehicles: 5 years/100,000 miles

Maintenance Note: First Visit: 12 Months/12,000 Miles

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

## BELLEVUE POLICE DEPT

**Prepared For: MATT HOFFMAN**

402-682-6642

MATT.HOFFMAN@BELLEVUE.NET

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT





# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT (  Complete )

Quote: BELLEVUE PD EQUINOX 9 24 2025

## Quote Worksheet

	<b>MSRP</b>
Base Price	\$30,700.00
Dest Charge	\$1,795.00
Total Options	\$0.00
<b>Subtotal</b>	<b>\$32,495.00</b>
2 ADDITIONAL KEYS AND FOBS PROGRAMMED	\$998.00
<b>Subtotal Pre-Tax Adjustments</b>	<b>\$998.00</b>
Less Customer Discount	(\$5,032.00)
<b>Subtotal Discount</b>	<b>(\$5,032.00)</b>
Trade-In	\$0.00
<b>Excluded from Sales Tax</b>	<b>Subtotal Trade-In</b>
	<b>\$0.00</b>
<b>Taxable Price</b>	<b>\$28,461.00</b>
Sales Tax	\$0.00
<b>Subtotal Taxes</b>	<b>\$0.00</b>
<b>Subtotal Post-Tax Adjustments</b>	<b>\$0.00</b>
<b>Total Sales Price</b>	<b>\$28,461.00</b>

\_\_\_\_\_  
Dealer Signature / Date

\_\_\_\_\_  
Customer Signature / Date

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD EQUINOX 9 24 2025

## Window Sticker

### SUMMARY

[Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT

MSRP:\$30,700.00

Interior:Black, Cloth seat trim

Exterior 1:Summit White

Exterior 2:No color has been selected.

Engine, 1.5L Turbo DOHC 4-cylinder, SIDI, VVT

Transmission, 8-speed automatic

### OPTIONS

CODE	MODEL	MSRP
1PT26	[Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT	\$30,700.00
<b>OPTIONS</b>		
**	** FEATURE AVAILABILITY WILL CHANGE THROUGHOUT THE MODEL YEAR. SEE THE WINDOW LABEL OF A SPECIFIC VEHICLE TO DETERMINE ITS CONTENT. **	\$0.00
2LT	LT Preferred Equipment Group	\$0.00
AR9	Seats, front bucket	\$0.00
EKV	Black, Cloth seat trim	\$0.00
FE9	Emissions, Federal requirements	\$0.00
FHB	Axle, 3.47 final drive ratio	\$0.00
GAZ	Summit White	\$0.00
LSD	Engine, 1.5L Turbo DOHC 4-cylinder, SIDI, VVT	\$0.00
MGH	Transmission, 8-speed automatic	\$0.00
NTB	Emissions, Federal	\$0.00
RJS	Tires, 235/65R17, all-season blackwall	\$0.00
RSC	Wheels, 17" (43.2 cm) Grazen Metallic machined-face aluminum	\$0.00
<b>SUBTOTAL</b>		<b>\$30,700.00</b>
Adjustments Total		\$0.00
Destination Charge		\$1,795.00
<b>TOTAL PRICE</b>		<b>\$32,495.00</b>

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# HUSKER AUTO GROUP LLC

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Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT ( ✓ Complete )

Quote: BELLEVUE PD EQUINOX 9 24 2025

## FUEL ECONOMY

Est City:N/A

Est Highway:N/A

Est Highway Cruising Range:N/A

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# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD EQUINOX 9 24 2025

## Standard Equipment

### Package

Convenience Package I includes (BTV) Remote Start, (DAE) illuminated visor vanity mirrors, (KA1) driver and front passenger heated seats, (KI3) heated steering wheel and (WLM) remote express-up/down driver and express-down all passengers

Chevy Safety Assist includes Automatic Emergency Braking, Front Pedestrian Braking, Lane Keep Assist with Lane Departure Warning, Following Distance Indicator, (UEU) Forward Collision Alert and IntelliBeam (Automatic Emergency Braking replaced by (UGN) Enhanced Automatic Emergency Braking. Lane Keep Assist with Lane Departure Warning replaced by (UKM) Enhanced Lane Keep Assist with Lane Departure Warning. Front Pedestrian Braking replaced by standard Front Pedestrian and Bicyclist Braking.)

### Mechanical

Engine, 1.5L Turbo DOHC 4-cylinder, SIDI, VVT (STD)

Transmission, 8-speed automatic (STD)

Axle, 3.47 final drive ratio (AWD only.)

Fuel, gasoline, E15

Automatic Stop/Start

Drive Mode Selector

All-wheel drive

Suspension, front MacPherson strut

Suspension, rear 4-link

Battery, 70AH, 12V, 760 cold-cranking amps

Alternator, 130 amps

GVWR, 4850 lbs. (2200 kg) (AWD only.)

Brake, automatic vehicle hold

Brakes, 16" front sliding caliper disc, 16" rear sliding caliper disc

Brake lining wear indicator

Brake rotor, FNC

Exhaust, turned down, hidden

Mechanical jack with tools

### Exterior

Wheels, 17" (43.2 cm) Grazen Metallic machined-face aluminum (STD)

Tires, 235/65R17, all-season blackwall (STD)

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Data Version: 26555. Data Updated: Sep 23, 2025 6:52:00 PM PDT.



# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD EQUINOX 9 24 2025

## Exterior

- Wheel, compact spare 17" (43.2 cm) steel
- Tire, compact spare, T125/70R17, blackwall
- Shutters, front upper and lower grille, active
- Headlamps, LED
- IntelliBeam, automatic high beam on/off
- Tail lamps, LED
- Glass, deep-tinted, rear
- Window, rear side, solar absorbing, privacy tinting
- Mirror caps, body-color
- Mirrors, outside heated power-adjustable, manual-folding
- Liftgate, rear manual
- Door handles, body-color

## Entertainment

- Audio system feature, standard speaker system
- Infotainment, High
- SiriusXM with 360L Trial Subscription SiriusXM with 360L transforms your customers' ride with our most extensive and personalized radio experience on the road. (IMPORTANT: The SiriusXM trial subscription is not provided on vehicles that are ordered for Fleet Daily Rental ("FDR") use. Trial subscription is subject to the SiriusXM Customer Agreement and privacy policy, visit [siriusxm.com](http://siriusxm.com) which includes full terms and how to cancel. All fees, content, features, and availability are subject to change. Some features require GM connected vehicle services.)
- 5G vehicle connectivity (Terms and limitations apply. See [onstar.com](http://onstar.com) or dealer for details.)
- Wi-Fi Hotspot capable (Terms and limitations apply. See [onstar.com](http://onstar.com) or dealer for details.)
- Wireless Apple CarPlay/Wireless Android Auto
- Google Automotive Services capable
- Noise control system, active noise cancellation
- USB Ports, 2 type-C located on back of center console, charge only
- USB Ports, 2, one type-A and one type-C data/charge, located in the front area of the center console

## Interior

- Seats, front bucket (STD)
- Seat trim, Cloth


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Data Version: 26555. Data Updated: Sep 23, 2025 6:52:00 PM PDT.



# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT (  Complete )

Quote: BELLEVUE PD EQUINOX 9 24 2025

## Interior

Seats, heated driver and front passenger

Seat adjuster, driver 6-way manual

Seat adjuster, front passenger 4-way manual

Headrest, rear center

Armrest, rear center, fold-down with 2 cupholders

Floor mats, carpeted rear

Steering wheel, 3-spoke

Steering wheel, heated, automatic

Steering column, tilt and telescoping

Speedometer, miles/kilometers

Driver Information Center 11" diagonal Driver Information Center

Display, AOS occupant sensing

11.3" diagonal advanced color LCD display with Google Built-In compatibility including navigation capability, connected apps, Natural Voice Recognition and Phone Integration for Wireless Apple CarPlay/Wireless Android Auto for compatible phones

Vehicle health management

Windows, remote express-up/-down driver and express-down all passengers

Keyless Open and Start

Remote Start

Adaptive Cruise Control

Remote panic alarm

Air conditioning, single-zone

Defogger, rear-window electric

Air filter, pollutant

Mirror, inside rearview manual day/night

Visors, driver and front passenger illuminated vanity mirrors, covered

Map pocket, driver seatback

Map pocket, front passenger seatback

Carpeted load floor

Power outlet, cargo area auxiliary, 12-volt

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Data Version: 26555. Data Updated: Sep 23, 2025 6:52:00 PM PDT.



# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT ( Complete )

Quote: BELLEVUE PD EQUINOX 9 24 2025

## Safety-Mechanical

Enhanced Automatic Emergency Braking

Intersection Automatic Emergency Braking intersection alert, braking

## Safety-Interior

Airbags, Dual-stage frontal airbags for driver and front passenger; Seat-mounted side-impact airbags for driver and front outboard passenger; Head-curtain airbags for front and rear outboard seating positions; Includes front outboard Passenger Sensing System for frontal passenger airbag

Airbag, Passenger Sensing System sensor indicator inflatable restraint, front passenger/child presence detector (Always use seat belts and child restraints. Children are safer when properly secured in a rear seat in the appropriate child restraint. See the Owner's Manual for more information.)

OnStar Services capable (See onstar.com for details and limitations. Services vary by model. Service plan required.)

OnStar Basics (OnStar Fleet Basics for Fleet) Drive confidently with core OnStar services including remote commands, built-in voice assistance, real-time traffic and navigation, and Automatic Crash Response to help if you're in need. (Requires (UE1) OnStar. OnStar Basics includes remote commands, Navigation, Voice Assistance, and Automatic Crash Response, for eligible vehicles with compatible software. OnStar Basics is standard for 8 years; OnStar plan, working electrical system, cell reception and GPS signal required. OnStar links to emergency services. Service coverage varies with conditions and location. Service availability, features and functionality vary by device and software version. See onstar.com for details and limitations.)

Rear Park Assist

HD Rear Vision Camera

Forward Collision Alert

Following distance indicator

Front Pedestrian and Bicyclist Braking

Rear Cross Traffic Braking

Reverse Automatic Braking

Blind Zone Steering Assist

Lane Keep Assist with Lane Departure Warning, enhanced

Side Bicyclist Alert

Occupant Presence Detection, front and rear

Buckle to Drive prevents vehicle from being shifted out of Park until driver seat belt is fastened; times out after 20 seconds and encourages seat belt use

Safety Alert Seat

Seat Belt Adjustable Guide Loops

Rear Seat Reminder

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Data Version: 26555. Data Updated: Sep 23, 2025 6:52:00 PM PDT.



# HUSKER AUTO GROUP LLC

Joshua Ames | 4026101001 | james@huskerautogroup.com

Vehicle: [Fleet] 2026 Chevrolet Equinox (1PT26) AWD 4dr LT w/2LT (✔ Complete)

Quote: BELLEVUE PD EQUINOX 9 24 2025

## Safety-Interior

Teen Driver a configurable feature that lets you activate customizable vehicle settings associated with a key fob, to help encourage safe driving behavior. It can limit certain available vehicle features, and it prevents certain safety systems from being turned off. An in-vehicle report card gives you information on driving habits and helps you to continue to coach your new driver

## WARRANTY

Warranty Note: <<< Preliminary 2026 Warranty >>>

Basic Years: 3

Basic Miles/km: 36,000

Drivetrain Years: 5

Drivetrain Miles/km: 60,000

Drivetrain Note: Certain commercial, government, and qualified fleet vehicles: 5 years/100,000 miles

Corrosion Years (Rust-Through): 6

Corrosion Years: 3

Corrosion Miles/km (Rust-Through): 100,000

Corrosion Miles/km: 36,000

Roadside Assistance Years: 5

Roadside Assistance Miles/km: 60,000

Roadside Assistance Note: Certain commercial, government, and qualified fleet vehicles: 5 years/100,000 miles

Maintenance Note: First Visit: 12 Months/12,000 Miles

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Data Version: 26555. Data Updated: Sep 23, 2025 6:52:00 PM PDT.

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

16i.  
10/7/2025

COUNCIL MEETING DATE: 10/7/2025		SUBMITTED BY: Administration	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Three year Interlocal Agreement for Sarpy County Public Safety Software

SYNOPSIS/BACKGROUND:

Our current Public Safety Software Interlocal Agreement expires 9/30/2025.

FISCAL IMPACT: \$50,982.19 BUDGETED FUNDS: Yes GRANT/MATCHING FUNDS:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT: yes

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: 10/1/25 CONTRACT TERM: 3 year CONTRACT END DATE: 9/30/28

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NUMBER:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

Approve and authorize the Mayor to sign the Interlocal Agreement with Sarpy County for Public Safety Software from October 1, 2025 - September 30, 2028, in an amount of \$50,982.19

ATTACHMENTS:

1. Agreement	2. <input type="text"/>	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:



## INTERLOCAL COOPERATION AGREEMENT

### Interlocal Agreement for Public Safety Software Commencing October 1, 2025

This Interlocal Cooperation Agreement is made and entered into by and between the County of Sarpy, State of Nebraska (hereinafter "County") and City of Bellevue, located in Sarpy County, State of Nebraska (hereinafter "City"), pursuant to the authority granted to the parties under Neb. Rev. Stat. §13-801, *et seq.*

WHEREAS, County is a duly existing body politic and corporate, created by the laws of the State of Nebraska; and,

WHEREAS, the City wishes to utilize the resources of the County's Technology Services Department and to fairly compensate the County for the expense of said services; and,

WHEREAS, pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801, *et seq.*, the parties wish to permit their local governmental units to make the most efficient use of their powers by enabling them to cooperate with each other on a basis of mutual advantage and thereby to provide services and facilities in a manner and pursuant to forms of governmental organization that will accord best with the geographic, economic, population, and other factors influencing the needs and development of local communities.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE AND FOREGOING, IT IS AGREED:

- A. **Duties of County:** County shall, in consideration of the terms of this Agreement:
- a. Provide certain Public Safety Software to the City, as further outlined in the Statement of Works and Service Level Agreements, attached hereto and hereby incorporated by this reference as "Attachment A."
  - b. Maintain Cyber Security Insurance in the amount of two million dollars (\$2,000,000), or maximum allowable amount by the County's carrier. In the event of a change in premium or coverage, the County will notify the City.
- B. **Duties of City:** City shall, in consideration of the terms of this Agreement:
- a. The Public Safety software rates shall be determined on May 1 of each year by dividing the total number of City's then fiscally authorized sworn law enforcement personnel by the total number of then fiscally authorized sworn law enforcement personnel of the City of Bellevue, City of Papillion, City of La Vista, and Sarpy County, as well as by actual usage of license and storage. Each fiscal year or the agreement, each agency shall provide the number of authorized sworn law enforcement personnel for budgeting purposes.
  - b. Payments shall be made to reimburse the County for payment for the City share.
  - c. Any hosted service costs will be billed quarterly.

- d. City will grant to County such access to City's facilities and network resources as needed for County to perform its duties as described herein.
- C. **Exclusion of Other Agreements**: The terms of this agreement do not release either party from their respective obligations in any previous agreements between the parties.
- D. **Compliance with Laws**: City and County promise to comply with all applicable Federal and State laws regarding the activities of either party under the terms of this Agreement.
- E. **Insurance and Hold Harmless Clause**: Each party hereby warrants it is adequately insured for the activities and the period of this Agreement. Each party shall and does hereby save the other party, and its officers, employees, agents, contractors and subcontractors harmless from any and all claims and/or liability whatsoever due to or arising out of its acts, conduct, omissions, or negligence to any other person or persons, trust or trustee, estate, partnership, corporation, business, company, political subdivision, or property thereof.
- F. **Entire Agreement**: This instrument and its incorporated attachments contain the entire Agreement of the parties.
- G. **Term of Agreement**: This Agreement is effective from October 1, 2025, through September 30, 2028, but may be terminated by either party upon 120 days' notice. After such three-year period, the contract shall automatically renew for successive one-year periods unless terminated as otherwise provided. In the event that this Agreement is terminated prior to the end of its term, City shall be obligated to pay in full for the services described in subsection B above.
- H. **Amendments**: This Agreement states the complete understanding of the parties and may not be amended except by written agreement of the parties.
- I. **Notice**: Notice to parties shall be given in writing to the individuals shown below:
- COUNTY: Ms. Deb Houghtaling  
 Sarpy County Clerk  
 1210 Golden Gate Drive  
 Papillion, NE 68046
- CITY: JIM RISTOW  
STEVE BETTS  
 \_\_\_\_\_  
 \_\_\_\_\_
- J. **Authority to Act**: Each party hereto declares that it has taken all steps which are legally necessary or required to authorize this Agreement, and the rights, duties, and obligations hereunder. Each party further represents and warrants that each has the power and

authority to enter into this Agreement, to perform its obligations hereunder, and to consummate the contemplated transactions.

- K. **Neither Party Agent for the Other**: Each party declares, represents, warrants, and acknowledges that it is not an agent for the other now, nor will it be in the future. Each party is an independent contractor, and neither party is nor will become the employee of the other as a result of the contractual relationship created by this Agreement. Furthermore, County and City will separately administer their respective rights and responsibilities under this Agreement, there being no joint or cooperative body created for the financing, operating, or management of the same. This Agreement does not constitute a joint venture between the parties.
- L. **Residency Verification Clause**: Pursuant to Neb. Rev. Stat. §4-114 *et seq.*, each Party shall use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authority by the illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. §1324a, known as the E-Verify Program, or an equivalent federal program designated by the United State Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.
- M. **Non-Discrimination**: Pursuant to Neb. Rev. Stat. §73-102, the parties declare, promise, and warrant that they have and will continue to comply fully with Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C.A. §1985, *et seq.*), and the Nebraska Fair Employment Practice Act, Neb. Rev. Stat. §48-1101, *et seq.*, in that there shall be no discrimination against any employee who is employed in the performance of this Agreement, or against any applicant for such employment, because of age, color, national origin, race, religion, creed, disability or sex.

[Remainder of this page intentionally left blank]

EXECUTED this 17<sup>th</sup> day of October, 2025.

CITY OF \_\_\_\_\_, NEBRASKA,  
A Body Politic and Corporate.

\_\_\_\_\_  
Mayor

(SEAL)  
ATTEST:

\_\_\_\_\_  
City Clerk

COUNTY OF SARPY, NEBRASKA,  
A Body Politic and Corporate.

\_\_\_\_\_  
Chairman, Board of Commissioners

(SEAL)  
ATTEST:

\_\_\_\_\_  
Sarpy County Clerk

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.


CITY OF \_\_\_\_\_, NEBRASKA,  
A Body Politic and Corporate.

\_\_\_\_\_  
Mayor

(SEAL)  
ATTEST:

\_\_\_\_\_  
City Clerk

COUNTY OF SARPY, NEBRASKA,  
A Body Politic and Corporate.

  
\_\_\_\_\_  
Chairman, Board of Commissioners

(SEAL)  
ATTEST:



  
\_\_\_\_\_  
Sarpy County Clerk

## Attachment A

# Sarpy County Technology Services Public Safety Software Statement of Work

## Section I: Public Safety Software & Services

Public Safety Software is any software that is hosted by Sarpy County or any other agency to provide services to Public Safety Agencies.

The current (2025) list of items is as follows:

- Motorola P1 Records (Law Records Management System)
- Motorola PremierOne Mobile CAD
- Motorola Premier Mobile Data Computer (MDC)
- Absolute Secure Access (formerly NetMotion, connects mobile devices to Public Safety Systems)\*
- Zero Trust Network Access Client Licensing (ZTNA)\*
- Zoll Fire Records Management System
- ESO Electronic Health Record (EHR) and Patient Care Reporting (ePCR)
- Hosted Services to provide any of the above systems
- Hardware costs associated with any of the above systems
- Fiber Connectivity to Douglas County Emergency Communications

\*Each Law/Fire Agency is responsible for purchasing new Client licenses for SecureAccess and ZTNA.

## Section II: Cost Allocation

Public Safety Software costs will be allocated in one of the following three ways.

### I. Based on Product Licenses Allocated to or Used by Each Agency

Costs are shared based on the number of licenses each agency uses.

- Absolute Secure Access
- Zero Trust Network Access Client Licensing (ZTNA)

### II. Based on Percentage of Sworn Personnel

Costs are allocated based on each agency's share of total sworn personnel.

- Motorola P1 Records (Law Records Management System)
- Motorola PremierOne Mobile CAD
- Motorola Premier Mobile Data Computer (MDC)
- Fiber Connectivity to Douglas County Emergency Communications

## **Attachment A**

### **III. Equal Cost Share Representative of Usage**

Costs are equally divided between the agencies that use the system or service.

- Hosted Services to provide any of the above systems
- Hardware costs associated with any of the above systems
- Zoll Fire Records Management System
- ESO Electronic Health Record (EHR) and Patient Care Reporting (ePCR)

New systems or hosted service costs will be paid by the agency or by multiple agencies with an agreed upon cost allocation. The costs or cost allocation will be communicated to the Sarpy County Technology Services Department in writing so that it can be included in any budget considerations.

### **Section III: Budget / Expenditures**

Sarpy County Technology Services will provide an annual budget for Public Safety Software. This budget will reflect any costs that are needed to maintain the systems listed in Section II and any other additional systems that have been approved.

The Budget for any Law Enforcement related costs, including any hosted services, and maintenance costs for connectivity (ex. SecureAccess) should be approved by the Law Records Management Governance Committee or via writing by each agency(s) Police Chief or designee.

The Budget for any Fire Agency should be approved/acknowledged via writing by each agency(s) Fire Chief or designee.

### **Section IV: Support**

Sarpy County Technology Services will provide support for the systems and products listed in Section I via the I.T. Services Interlocal Agreement with each City. Support levels are defined in those interlocal agreements under Attachment A.

## Attachment B

### Public Safety Personnel and Software Counts

\*As of June 2025

<b>Agency Authorized Sworn Personnel</b>		
Agency	Sworn	Agency %
Bellevue PD	114	35.63%
Papillion PD	49	15.31%
La Vista PD	47	14.69%
Sarpy County Sheriff	110	34.38%
<b>Total</b>	<b>320</b>	

<b>Absolute SecureAccess Licenses</b>		
Bellevue Fire	23	8.24%
Bellevue Police	121	43.37%
Papillion Fire	18	6.45%
Papillion Police	30	10.75%
La Vista Police	24	8.60%
Sarpy County	63	22.58%
<b>TOTAL</b>	<b>279</b>	

<b>ZTNA Licenses</b>		
Bellevue	170	34.00%
Papillion	60	12.00%
La Vista	70	14.00%
Sarpy County	200	40.00%
<b>TOTAL</b>	<b>500</b>	

<b>Sarpy County Hosted Services Pricing (Monthly)</b>		
Item	Unit	Cost
CPU (Processor)	Core	\$25.00
Memory	GB	\$3.00
Storage	GB	\$0.30
Bandwidth	Fiber	\$100.00
Backups	GB	\$0.25



# Resolution 2025-242

NEW BOARD OF COMMISSIONERS  
SARPY COUNTY, NEBRASKA

## Approving Interlocal Agreement for Public Safety Software for the City of Bellevue, Commencing October 1, 2025 and Ending September 30, 2028

Whereas, pursuant to Neb. Rev. Stat. § 23-104(6), the County has the power to do all acts in relation to the concerns of the County necessary to the exercise of its corporate powers; and,

Whereas, pursuant to Neb. Rev. Stat. § 23-103, the powers of the County as a body are exercised by the County Board; and,

Whereas, the Interlocal Cooperation Act of the State of Nebraska, Neb. Rev. Stat. § 13-801, *et seq.*, enables separate political subdivisions of the State of Nebraska to cooperate on the basis of mutual advance to provide for joint undertakings, services, and facilities, in a manner and pursuant to forms of government organization that will accord with best geographic, economic, population, and other factors influencing the needs and developments of local communities; and,

Whereas, the City of Bellevue wishes to utilize the resources of the County's Information Systems Department, specifically Public Safety Software, and to fairly compensate the County for the expenses of said services; and,

Whereas, an Interlocal Cooperation Agreement for Public Safety Software has been proposed which outlines the terms of such collaboration for the period of October 1, 2025 through September 30, 2028; and,

Whereas, entering into the Agreement is in the best interests of the citizens of Sarpy County.

NOW, THEREFORE, BE IT RESOLVED by the Sarpy County Board of Commissioners that the Interlocal Cooperation Agreement for Public Safety Software with the City of Bellevue, a copy of which is attached hereto, is hereby approved.

BE IT FURTHER RESOLVED that the Chairman of this Board, in conjunction with the County Clerk, is hereby authorized to sign said Agreement, and any related documents necessary to effect the intent of this Resolution, the same being approved by this Board.

The above Resolution was approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with the applicable law on the 09 day of September 2025

Attest:  
SEAL



  
Sarpy County Chairman

  
Sarpy County Clerk/Register of Deeds

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: 10-07-25		SUBMITTED BY: Chief Clary	
AGENDA ITEM:	CONSENT AGENDA	<input type="checkbox"/>	SPECIAL PRESENTATION
LIQUOR LICENSE	ORDINANCE	<input type="checkbox"/>	PUBLIC HEARING
RESOLUTION	CURRENT BUSINESS	<input checked="" type="checkbox"/>	OTHER

SUBJECT:

Approve the purchase of 25 Panasonic Toughbooks to be issued to officers.

SYNOPSIS/BACKGROUND:

The police department has been transitioning from the use of a desktop computer to laptop computers that are individually issued. This allows officers to have access to files on calls and at the station and in their patrol cars. This increases the efficiency of the officers when taking reports and adds more flexibility to other department members when they are away from their desks.

FISCAL IMPACT: \$95,596.00 BUDGETED FUNDS?: Yes GRANT/MATCHING FUNDS?: No

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: No COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Approve the purchase of the 25 Panasonic Toughbook laptops for the Police Department for the amount of \$95,596.00 from the vendor GovDirect.

ATTACHMENTS:

1. Gov Direct Quote	2.	3.
4.	5.	6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Simona B...*  
*[Signature]*  
*[Signature]*



Invoice 000Q7979

Date Sep 23, 2025

Payment Terms NET30

**QUOTE**

**Remit To:**

GovDirect  
 2185 Logan Street  
 Suite B  
 Clearwater, FL 33765

**Bill To:**

Shaun Manning  
 Bellevue Police  
 1510 Wall St  
 Bellevue, NE 68005  
 United States

**Ship To:**

Shaun Manning  
 Bellevue Police Department - NE  
 1510 Wall St  
 Bellevue, NE 68005  
 United States

Email: kishan.manning@bellevue.net  
 Phone: +1 402-293-3000

Email: kishan.manning@bellevue.net  
 Phone: +1 402-293-3000

Salesperson		Customer ID	Ship Via	P.O. Number
Carl Steffens		+1 402-293-3000	Ground	P2025-2604
QTY	Description	Unit Price	Ext. Price	
25	Panasonic Service/Support - Extended Warranty - 2 Year - Service - Maintenance - Parts & Labor - Physical	\$279.12	\$6,978.00	
25	Panasonic Toughbook FZ-55 - Win11 Pro, Intel Core i7-1370P vPro (up to 5.2GHz), AMT, 14.0" FHD 1000 nit Gloved Multi Touch, 32GB(16+16), Intel Iris Xe, 512GB OPAL SSD, Intel Wi-Fi 6E, Bluetooth, 4G EM7595, GPS, COM Splitter, Dual Pass (Ch1:GPS/Ch2:WWAN), Mic and Infrared 2MP Webcam, Standard Battery, TPM 2.0, Emissive Backlit Keyboard, Flat	\$3,544.72	\$88,618.00	

QTY	Description	Unit Price	Ext. Price
		Subtotal	\$95,596.00
		Total Shipping	\$0.00
		Total Tax	\$0.00
		Total Price	\$95,596.00

To accept this quote, sign here and return: \_\_\_\_\_

## Thank You For Your Business!

All prices and descriptions are subject to change without notice. This price list is a quotation only and is not an order or offer to sell. No contract for sale will exist unless and until one of the following occur: 1.) a purchase order has been issued by you and accepted by Bizco or 2.) an order is place on-line and accepted by Bizco or 3.) a written proposal is accepted by you. The prices contained in this list may not be relied upon as the price at which Bizco will accept an offer to purchase products unless expressly agreed to by Bizco in writing. Product specifications may be changed by the manufacturer without notice. It is your responsibility to verify product conformance to specifications of any subsequent contract. All products are subject to availability from the manufacturer. Prices quoted may not include applicable taxes. Sales tax will be included on the invoice. Products are non-returnable unless approved in writing by Bizco Technologies within 30 days of invoice date. Those approved returns may be subject to a restocking fee. Payment terms are available upon credit approval; unless otherwise stated in writing, terms shall not exceed 30 days from date of invoice. Questions about these and other terms and conditions should be addressed by your sales representative.

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

16k.  
10/7/2025

COUNCIL MEETING DATE: 10-7-25		SUBMITTED BY: Police	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Approve the purchase of a remote-controlled tactical robot.

SYNOPSIS/BACKGROUND:

This robot will provide critical capabilities for high risk and emergency operations, including the ability to remotely open doors and manipulate objects—capabilities our department has not previously possessed. This technology will protect officers from life threatening situations by eliminating the need for direct human contact in scenarios involving barricaded subjects, explosive threats, and other hazards where entry poses serious injury or death risks. Following extensive research, this model was selected as best meeting our operational requirements. It replaces aging equipment that lacks the advanced capabilities necessary for current mission needs.

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NUMBER:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

Approve and authorize the purchase of a remote-controlled tactical robot from ICOR Technology for \$75,997.50.

ATTACHMENTS:

- |  |                         |                         |
|--|-------------------------|-------------------------|
| 1. <input type="text" value="Quote from ICOR Technology"/> | 2. <input type="text"/> | 3. <input type="text"/> |
| 4. <input type="text"/>                                    | 5. <input type="text"/> | 6. <input type="text"/> |

SIGNATURES:

LEGAL APPROVAL AS TO FORM: \_\_\_\_\_

FINANCE APPROVAL AS TO FORM: \_\_\_\_\_

ADMINISTRATOR APPROVAL AS TO FORM: \_\_\_\_\_

  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_



935 Ages Drive  
Ottawa, ON K1G 6L3  
CANADA

P: 613.745.3600  
F: 613.745.3590  
TF: 877.483.7978

www.icortechology.com  
sales@icortechology.com

# QUOTE

Jay Kirwan  
Bellevue Police Department (NE)  
To 1510 Wall St,  
Bellevue, NE 68005

QUOTE NO.: QUO-10152-V5G4-1  
EFFECTIVE FROM: 5/14/2025  
EFFECTIVE TO: 8/14/2025

Tel:  
Fax:  
Mobile: 402-637-5801  
Email: jay.kirwan@bellevue.net

CURRENCY: US Dollar  
SHIPPING METHOD: Ground  
SHIPPING TERMS: FOB - DESTINATION  
\*DELIVERY DATE: 16 - 20 Weeks ARO  
PAYMENT TERMS: Net 30

QTY	P/N	DESCRIPTION	\$/UNIT	% DISC.	LINE TOTAL
1.0	MINI-R1.5-120	Mini-CALIBER® Robot - IP Mesh Radios (1.4GHz-DTC) Comes standard with: • Rubber Tracks for traversing rough terrain and climbing stairs • Wirelessly Controlled Front and Rear Flippers with positional feedback with preset Home and Stair Climbing positions • Turreted Robotic Claw arm with 15lbs lift and 5 axes of movement • 10x Color zoom camera on claw arm • Front and Rear Color/IR Drive Cameras • Wide Angle color rear mast camera • Color Claw camera • 2-Way Audio: Talk/Listen through the robot • LED drive lights for Front and Mast Cameras • Wireless RF control: 1.4GHz COFDM IP MESH Radios (2 x 1W, L-Band) with 7 selectable channels • Portable, Lightweight, Handheld Controller with capacitive touchscreen • Picture-in-Picture video (up to 4 camera streams), and HDMI output • 110VAC configuration • 2x 24V DC Lithium-Iron-Phosphate Robot Battery Packs (1x onboard; 1x spare) & 1x 24V DC Battery Charger • 2x 12V DC Lithium-Ion CCU Battery Packs (1x onboard; 1x spare) & 1x 12V DC Battery Charger • 2 year limited warranty • Electronic manual with training videos and hard copy of operator manual. *Note: Mini-CALIBER is shipped in a wooden crate. Hard-shell case is available as an option.	\$75,000.00	4.67	\$71,497.50
1.0	NEW PART #Truck mount radio extender for MINI-R1.5-120	MINI R1.5-120 Truck mount/Radio extender. Increase radio performance while operating CCU inside of an armored vehicle. Compatible with the MINI-R1.5-120. An additional cable to attach to the transmitter/receiver can be directly connected to the CCU using a length of cable. Key use is the ability to have antennae's mounted outside armored vehicles.	\$3,500.00		\$3,500.00
1.0	S&H	SHIPPING AND HANDLING	\$1,000.00		\$1,000.00
				<b>TOTAL</b>	<b>\$75,997.50</b>

This is a quotation on the goods named, subject to the conditions noted below:

Unless otherwise provided: This quote is in US Dollars; shipping terms are EX WORKS for domestic and international shipments; all prices are exclusive of shipping costs, insurance, custom clearance and any applicable Taxes of any kind; all price quotations are valid for 90 days. Published list prices are subject to change without notice. Due to a policy of continuous product improvement, ICOR reserves the right to change specifications and appearance without notice. Please reference the invoice number on your cheque and remit to ICOR Technology Inc. 935 Ages Drive, Ottawa, Ontario K1G 6L3 Canada. The CALIBER® Robot (including the MK3, TS, Mini, and MK4) contains up to 35% US-source materials and are ITAR export license free and not subject to AECA or EAR regulations. The CALIBER® Robot is a Controlled Good, and requires an Export Permit for international shipping in accordance with the Export and Import Permits Act (R.S.C., 1985, c. E-19). Failure to perform due to the action or inaction of the Government of Canada will be considered Force Majeure, and, ICOR is not responsible for any penalties, fees, liquidated damages, etc. Some or all of the quoted items are eligible for purchase through GSA's Cooperative Purchasing Program and 1122 Program for State and Local Law Enforcement. Please consult with your purchasing department to determine the optimal purchasing vehicle and notify your ICOR Sales Representative to make any changes necessary. ICOR's GSA Contract Number is: GS-07F-0430V

**DISCLAIMER REGARDING DISRUPTER MOUNT CONFIGURATIONS:** ICOR Technology is a robot manufacturer and do not make disrupters. The end-user must consult with the disrupter manufacturer for complete instructions on loading, operation, maintenance and firing procedures. ICOR recommends that the end-user takes disrupter training from the manufacturer before firing the weapon off of the robot. USE AT OWN RISK. ANY POTENTIAL DAMAGES TO THE ROBOT AS A RESULT OF USING A DISRUPTER ARE NOT COVERED UNDER WARRANTY. AS PER ICOR'S LIMITED WARRANTY, WARNING AND LIMITATION OF LIABILITY DOCUMENT, ICOR SHALL BE HELD HARMLESS TO ANY LOSS OR INJURY AS RESULT OF USING DISRUPTERS ON THE ROBOT.

**\*NOTICE OF COVID-19 MANUFACTURING AND SHIPPING DELAY**

The COVID-19 pandemic has posed unprecedented problems to the worldwide supply chain network, causing delays in the delivery of critical components needed to build CALIBER® robots. ICOR's top priority is to build and deliver robots according to the order acknowledgement's timelines; nevertheless, we cannot be held liable for delays caused by restricted air cargo capacity and overburdened global logistics networks.

To accept this quotation, sign here and return:

Signature

Date



935 Ages Drive  
Ottawa, ON K1G 6L3  
CANADA

P: 613.745.3600  
F: 613.745.3590  
TF: 877.483.7978

[www.icortechnology.com](http://www.icortechnology.com)  
[sales@icortechnology.com](mailto:sales@icortechnology.com)

# QUOTE

---

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: 10-7-25		SUBMITTED BY: Police - Retirement Committee	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Approve and authorize Mayor to sign City of Bellevue, Nebraska, Police Officers Retirement System Defined Contribution Plan

SYNOPSIS/BACKGROUND:

The City of Bellevue, Nebraska Police Officers Retirement Plan and Trust was approved at the City Council meeting on February 21, 2023. That defined benefit plan applies only to police officers hired before May 2011.

This new document establishes a defined contribution plan for police officers hired in May 2011 or later. Although drafted concurrently with the defined benefit plan, it was not submitted to the City Council for approval.

Additionally, Nebraska Legislative Bill 179 (2025) mandates an increased contribution rate to each officer's retirement account, raising both employee and employer contributions from 7% to 9%, effective October 1, 2025 and remain in full force indefinitely. This document has been updated to reflect those requirements.

FISCAL IMPACT:: \$163,000 BUDGETED FUNDS?: Yes GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Approve and authorize Mayor to sign City of Bellevue, Nebraska, Police Officers Retirement System Defined Contribution Plan

ATTACHMENTS:

1. Police Officers Defined Contribution Plan
- 2.
- 3.
- 4.
- 5.
- 6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*Angela J. Hillman*  
*[Signature]*  
*[Signature]*

**CITY OF BELLEVUE, NEBRASKA**  
**POLICE OFFICERS RETIREMENT SYSTEM**  
**DEFINED CONTRIBUTION PLAN**

Restated \_\_\_\_\_, 2025

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**CITY OF BELLEVUE, NEBRASKA  
POLICE OFFICERS RETIREMENT SYSTEM  
DEFINED CONTRIBUTION PLAN**

**Introduction and Parties**

**Whereas** pursuant to the Police Officers Retirement Act (“Act”), codified at Neb. Rev. Stat. Section 16-1001 through 16-1019, the City of Bellevue, Nebraska has established this Defined Contribution Retirement Plan (“Plan”), and established a trust funding medium for the Plan as required by Neb. Rev. Stat. Section 16-1004, for the purpose of providing retirement income for its Police Officers who were hired on or after May 1, 2011.

**Whereas** the City previously entered into a Settlement Agreement Between Bellevue Police Officers Association/Fraternal Order of Police Lodge 59, and the City of Bellevue, Nebraska dated May 9, 2011 (as later amended by the Sarpy County, District Court’s Amended Order of Judgment (entered on September 3, 2020) and Amended Order of Judgment on Mandate (entered on April 21, 2020) in *Abbott et al. v. City of Bellevue*, CI 17-1674 (collectively, the “Agreement”)), that provides for the retirement benefits of those Police Officers covered by the Agreement;

**Whereas** Employees with hire dates on or after May 1, 2011 (or Employees whose name does not appear in Appendix A to the City of Bellevue, Nebraska Police Officers Retirement Plan and Trust) are not entitled to benefits under the Agreement and their retirement benefits are controlled solely and exclusively under Nebraska Revised Statutes (“Neb. Rev. Stat.”) Section 16-1001 through Section 16-1019, as amended;

**Whereas** the Nebraska State Legislature has amended the Act from time to time;

**Whereas** the City, upon recommendation by the Retirement Committee, has determined it is necessary that the Plan be amended and restated to incorporate applicable changes in the tax laws and regulations to ensure the Plan remains in compliance with the Code, to incorporate amendments adopted under Neb. Rev. Stat. Section 16-1001 through 16-1019, to adopt such additional amendments as required by law or as otherwise determined to be necessary or appropriate by the City, and to clarify the provisions of the Plan as set forth in the Act;

**Now, therefore**, pursuant to its power and authority to amend the Plan, the Plan is hereby amended and restated by the City as follows:

**ARTICLE 1  
Creation and Purpose**

1.1 **Purpose.** The primary purpose of the Plan is to provide retirement income, line-of-duty disability income, and other benefits for Police Officers in addition to, or in conjunction with, the benefits provided under the Federal Social Security Act and the Nebraska Workers’ Compensation Act, in consideration of their service to the City. The Plan is designed to comply with Nebraska Statutes relating to police officer retirement systems of cities of the first class and

is a money purchase plan intended to meet the requirements of Code Sections 401(a) and 414(d), as said sections apply to government plans or such other provisions of the Code as applicable, and applicable Treasury Regulations and other guidance in order that the Plan may qualify as a governmental tax-qualified plan.

1.2 Custodian. The Retirement Committee has entered into a trust agreement with a corporate Trustee, which may be changed from time to time, in the discretion of the Retirement Committee. To the extent permitted by applicable law and directed by the Retirement Committee, the administrative expenses of the Plan are paid from the assets maintained by such corporate Trustee.

## **ARTICLE 2**

### **Definitions**

The following words and phrases when used in this Plan, unless the context clearly indicates otherwise, have the following meanings:

2.1 “Account” or “Accounts” means the separate investment account established and maintained for a Participant by the Administrator, pursuant to Neb. Rev. Stat. Section 16-1004(3), that is the aggregate of the following separate bookkeeping accounts maintained for each Participant reflecting their interest under the Plan as follows:

(b) “Employee Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to his or her pre-tax contributions made pursuant to Section 4.3.

(c) “Employer Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to Employer contributions made on the Employee’s behalf, pursuant to Sections 4.2 and 4.5.

(d) “Transfer Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to his or her transfer contributions pursuant to Section 4.9.

(e) “After-Tax Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to his or her voluntary after-tax contributions pursuant to Section 4.6.

2.2 “Actuarial Equivalent” means equality in value of the aggregate amount of benefit expected to be received under different forms of benefit or at different times (including lump sum distributions) based on a 50/50 blend of male and female mortality under the applicable IRS mortality table as defined under Code Section 417(e)(3) for the calendar year containing the death or Disability commencement date, pursuant to Article 11, and 7% interest per annum. All actuarial and mortality assumptions adopted by the City, as recommended by the Retirement Committee shall be on a sex-neutral basis.

2.3 “Administrator” means the City. To the extent the City delegates any of the Cities’ responsibilities as Administrator pursuant to Neb. Rev. Stat. Section 16-1014 and Section 12.1, the person, department, or committee to whom such delegation is made will be treated as the Administrator.

2.4 “Annuity Contract” means the contract or contracts issued by one or more life insurance companies and purchased by the Plan for the purpose of providing all or a portion of the benefits under this Plan. Annuity conversion rates contained in any such contract must be specified on a sex neutral basis.

2.5 “Applicable Form” means the appropriate form, as designated and furnished by the Retirement Committee or its delegate to make an election or provide a notice required by the Plan.

2.6 “Beneficiary” means the person or persons designated by a Participant, pursuant to the Applicable Form filed with the Retirement Committee, or its delegate, before the Participant’s death, to receive death benefits which may be payable under the Plan.

2.7 “City” means the City of Bellevue, Nebraska.

2.8 “Code” means the Internal Revenue Code of 1986, as amended from time to time.

2.9 “Compensation” means all amounts paid to an Employee by the City for personal services as reported on the Employee’s federal income tax withholding statement, including the Employee’s contributions picked up by the City as provided in Neb. Rev. Stat. Section 16-1005(2) and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to Code Section 125 or 457.

2.10 “Disability” or “Disabled” means the complete inability of the Employee, for reasons of accident or other cause while in the line of duty, to perform the duties of a Police Officer.

2.11 “Employee” means any Police Officer whose most recent hire date is on or after May 1, 2011. The term also includes any such Police Officer while in Disability status, as determined by the Retirement Committee.

2.12 “Employer” means the City.

2.13 “Investment Option” means an investment option which forms part of the Trust Fund as selected and monitored by the Administrator.

2.14 “Normal Retirement Age” means age 60.

2.15 “Participant” means an Employee, retired Employee, or former Employee who has met all the requirements of this Plan and who continues to have rights or contingent rights to amounts payable under this Plan.

2.16 “Plan” means the plan adopted herein, pursuant to Neb. Rev. Stat. Section 16-1001 through 16-1019, known as the “City of Bellevue, Nebraska Police Officers Retirement System Defined Contribution Plan” or “Defined Contribution Plan.”

2.17 “Plan Year” means a 12-month period beginning on January 1 and ending on December 31.

2.18 “Police Officer” means a person who is employed by the City as a full-time police officer as determined by the City under its normal practices.

2.19 “Regular Pay” means the average salary of the Participant for the period of five consecutive years preceding the Participant’s date of death or Disability which produces the highest average.

2.20 “Retirement Committee” means the Retirement Committee as provided under Article 12 of this Plan, created pursuant to Neb. Rev. Stat. Section 16-1014.

2.21 “Service Manager” means the person or organization appointed by the Administrator to perform third party service and operational functions.

2.22 “Straight Life Annuity” means an ordinary annuity payable for the life of the primary annuitant only and terminating at his or her death without refund or death benefit of any kind.

2.23 “Termination of Service” means a complete termination of the employment relationship between an Employee and the City for any reason, including Disability and retirement; provided, however, such term does not include (i) temporary absence due to vacation, sickness, or layoff; (ii) military service, to the extent required under Uniformed Services Employment and Reemployment Rights Act of 1994 (“USERRA”) (as codified at Chapter 43, Title 38, of the United States Code) and Code Section 414(u)(8)(A); (iii) a leave that qualifies as a family or medical leave under the FMLA; or (iv) any other leave of absence approved by the Employer in accordance with its leave policies and procedures. An Employee is deemed to have had a Termination of Service for purposes of the Plan when, in accordance with the established personnel practices of the Employer, or the applicable collective bargaining agreement, the employment relationship is considered actually terminated and the Participant has been paid all Compensation due upon Termination of Service, including, but not limited to, payment of accrued vacation leave credits, and payment of accrued sick leave credits.

2.24 “Trust Fund” means the assets of the trust established hereunder, in all Investment Options selected by the Administrator, to provide for the payment of the benefits specified in the Plan.

2.25 “Trustee” means the trustee, or any successor trustee or trustees designated and appointed by the Administrator under the Plan.

2.26 “Year of Service” means the period of time beginning with an Employee’s most recent date of hire or the anniversary of such date of hire and ending twelve months thereafter.

Service performed as an Employee of any other city or governmental entity will be disregarded for all purposes under the Plan.

### **ARTICLE 3 Eligibility and Participation**

3.1 Eligibility. All Employees with a hire date on or after May 1, 2011 must participate under the terms of this Plan, unless the Employee already participates in another qualified plan sponsored by the City. All Employees first employed on or after such date, or any former Employees rehired by the City on or after such date, will become eligible for participation in the Plan immediately as of the date hire or rehire by the City.

3.2 Entry into Plan. All Employees employed by the City will automatically become Participants upon meeting the eligibility requirements.

3.3 Termination of Plan Participation. The participation of a Participant ceases upon payment to the Participant of the entire amount of his or her vested Account or upon the Participant's death prior to such payment.

### **ARTICLE 4 Contributions**

4.1 General Provisions. Contributions must be made to the trust in accordance with this Article 4, subject to the limitations of Article 5.

4.2 Employer Contributions. The City, in accordance with Neb. Rev. Stat. Section 16-1006, will contribute to the Plan, on behalf of each Employee, a sum equal to 100% of the amounts deducted from each such Employee's Compensation in accordance with Neb. Rev. Stat. Section 16-1005(1) and Section 4.3, which must be credited to the Employer Contribution Account. Such contributions shall be:

- (a) 6% until October 1, 2013,
- (b) 6.5% beginning October 1, 2013, until October 1, 2015,
- (c) 7% beginning October 1, 2015, until October 1, 2025, and
- (d) 9% beginning October 1, 2025.

4.3 Employee Contributions. Until October 1, 2013, Employee contribution under the Plan are 6% of Compensation. Effective October 1, 2013 to September 30, 2015, Employee contributions under the Plan are 6.5% of Compensation. Effective October 1, 2015 to September 30, 2025, Employee contributions under the Plan are 7% of Compensation. Effective October 1, 2025, Employee contributions under the Plan are 9% of Compensation.

4.4 Contributions Required. All Participants are, as a condition of employment, required to make mandatory individual Employee contributions in accordance with Section 4.3.

The City is required to make Employer contributions in accordance with Section 4.2. Participants may not make contributions to the Plan while they are in Disability status, as determined by the Retirement Committee.

4.5 Pick-Up Provisions. The City will pick-up Employee contributions required under Section 4.3 and deducted from the Compensation of the Participants, and the contributions so picked-up will be treated as Employer contributions in determining federal tax treatment under the Code, including Code Section 414(h). The City will pick-up these contributions by a salary deduction either through a reduction in the cash salary of the Participant or a combination of a reduction in salary and offset against a future salary increase. In no event may an Employee be given an option to choose to receive the amount of the required pre-tax Employee contribution in lieu of having such amount paid directly to the Trust Fund.

4.6 Voluntary After-Tax Employee Contributions. Each Employee is entitled to make voluntary after-tax cash contributions to the Plan in an amount, when added to all Employee and Employer contributions, not to exceed the contribution limitations established by the Code, as set forth in Article 5. Voluntary after-tax contributions will be credited to the Participant's After-Tax Contributions Account when made. Such voluntary contributions then will be held, administered, invested, and distributed in the same manner as any other amounts credited to the Participant's Employer Contribution Account.

4.7 Payment of Employer and Employee Contributions. Employee contributions must be made by regular payroll deductions from the Employee's Compensation. Employer and Employee contributions will be credited to the Participant's Account monthly. Employee and Employer contributions are subject to the limits under Article 5.

4.8 Rollover Contributions. The Plan does not accept rollover contributions.

4.9 Transfers of Plan Contributions. In the event that after four or more years of employment as a police officer by another first-class city in Nebraska, a police officer terminates his or her employment with such other city for the purposes of becoming a Police Officer of the City, and such new employment commences within 120 days of the Termination of Service, the full accumulated value of his or her Employee Contribution Account and the vested portion of his or her Employer Contribution Account at the time of termination may be directly transferred to this Plan. The transferred funds will be administered by the Retirement Committee under a Transfer Contribution Account established for this purpose. For the purposes of applying the vesting schedule in Section 8.2 to the Transfer Contribution Account, such Police Officer will be deemed a new Employee. The Trustee will also make such direct transfers to the retirement system of any other first-class city in Nebraska for a Participant who terminates employment with the City and becomes a police officer of such other first-class city. Upon the transfer of the Participant's Employee Contribution Account and the vested interest of his or her Employer Contribution Account, all obligations of this Plan and the City to such Participant and his or her Beneficiary terminates.

**ARTICLE 5**  
**Limitations on Contributions**

5.1 Applicability of Article. Notwithstanding any provision of the Plan to the contrary, Employee contributions to the Plan and additions to the Accounts of Participants are limited as provided in Code Section 415, this Article 5, and state law.

5.2 Limitation under Code Section 415. Notwithstanding anything in the Plan to the contrary, the following limitations apply:

(a) To the extent required under Code Section 415(c), in no event will the “annual addition,” as defined in this Section 5.2 for a Participant for any Plan Year, exceed the lesser of:

- (1) \$70,000 for 2025, as adjusted under Code Section 415(d) or
- (2) 100% of the “compensation,” as defined in this Section 5.2, such Participant received during the Plan Year.

(b) For purposes of this Section 5.2 and subject to Code Section 415(h), all defined contribution plans of the Employer must be treated as a single defined contribution plan.

(c) For purposes of this Section 5.2, “annual addition” means the annual addition as defined in Code Section 415(c). In general, Code Section 415(c) defines the annual addition as the sum of the following amounts credited to a Participant’s Account for the limitation year under this Plan and any other defined contribution plan maintained by the Employer:

- (1) Employer contributions;
- (2) Employee contributions; and
- (3) After-Tax contributions.

(d) For purposes of this Section 5.2, the following types of contributions are not “annual additions” for limitation purposes:

- (1) Rollover contributions.
- (2) Repayments of amounts described in Code Section 411(a)(7)(B).
- (3) The direct transfer of Employee contributions from one qualified plan to another.
- (4) Any Employer contributions used by the Administrator to meet the expense of the Plan’s startup expenses.

(e) For purposes of this Section 5.2, “compensation” means compensation as defined in Code Section 415(c)(3). In general, Code Section 415(c)(3) defines compensation as all of a Participant’s wages as defined in Code Section 3401(a) for the purposes of income tax withholding at the source but determined without regard to any rules that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code Section 3401(a)(2)); provided, however, compensation will also include the amount of any elective deferrals, as defined in Code Section 402(g)(3), and any amount contributed or deferred by the Employer at election of the Employee and which is not includible in the gross income of the Employee by reason of Code Sections 125, 132(f), or 457.

Payments made by the later of 2½ months after Termination of Service or the end of the limitation year that includes the date of the Participant’s Termination of Service must be included in compensation if they are the following types of post-termination payments:

- (1) payments that, absent a Termination of Service, would have been paid to the Employee while the Employee continued in employment with the Employer and are regular compensation for services during the Employee’s regular working hours, compensation for services outside the Employee’s regular working hours (such as overtime or shift differential), commissions, or other similar compensation; or
- (2) payments for unused accrued bona fide sick, vacation or other leave, but only if the Participant would have been able to use the leave if employment had continued; or
- (3) payments pursuant to a nonqualified unfunded deferred compensation plan, but only if the payments would have been paid to the Participant at the same time if the Participant had continued employment with the Employer and only to the extent that the payment is includible in the Participant’s gross income.

Any payments not described above are not considered compensation if paid after Termination of Service, even if they are paid within 2½ months following Termination of Service, except for payments to the individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code Section 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

An Employee who is in qualified military service (within the meaning of Code Section 414(u)(1)) will be treated as receiving compensation from the Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received from the Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period was not reasonably

certain, the Employee's average compensation from the Employer during the twelve month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

5.3 Limitation under Code Section 401(a)(17). The annual Compensation of each Participant taken into account in determining allocations for any Plan Year may not exceed the annual compensation limit under Code Section 401(a)(17), as adjusted for cost-of-living increases (\$350,000 for 2025). Annual compensation means Compensation during the Plan Year (the determination period). The cost-of-living adjustment in effect for a calendar year applies to annual Compensation for the determination period that begins with or within such calendar year. Wages in excess of the limits established in Code Section 401(a)(17)(B) may also not be used in calculation of limits under this Section 5.3.

## **ARTICLE 6**

### **Accounting**

6.1 Participant Accounts. The Administrator will establish and maintain adequate records to reflect the separate investment Account of each Participant. Each Account will be separately invested and reinvested, separately credited with all earnings and gains with respect to the investment of the assets of the Account, and separately debited with the losses of the Account. The expenses incurred by the Plan when a Participant directs the investment of all or a portion of his or her Account will be charged against the Employee Contribution Account and will reduce the Participant's the balance of the Participant's Account. Accounts will be credited with Employer and Employee contributions monthly. The balance of such Accounts will be adjusted daily to reflect any distribution to the Participant and all interest, dividends, account charges and changes of market value resulting from the investment of the Participant's Account.

6.2 Deposits. In all cases, deposits of contributions will be treated as made only as of the date the funds are accepted as in good order by the Administrator.

## **ARTICLE 7**

### **Investment of Accounts**

7.1 Plan Investments. Investment of the Trust Fund must be by the Trustee under the general direction of the Retirement Committee. The City, or the Retirement Committee if delegated such function by the City, may contract with a funding agent to hold or invest the assets of the Trust Fund. The City, or the Retirement Committee if delegated such function by the City, may select and contract with investment managers registered under the federal Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the Trust Fund as may be assigned by the City or by the Retirement Committee. The Trust Fund must be invested pursuant to the policies established by the Nebraska Investment Council. Investment of the Trust Fund may be made without distinction between principal and income.

7.2 Investment Options. The Retirement Committee will evaluate annually the available Investment Options for Participants. Following such evaluation, the Retirement Committee will determine available Investment Options in their sole discretion. The Participants

may direct the investment of their Accounts among the Investment Options selected by the Retirement Committee. The Administrator will follow the Participants' directions with respect to the investment of each the Participants' Accounts.

7.3 Remittance of Contributions. All contributions under the Plan will be transferred by the Employer to the trust immediately following regular payroll. In no event will contributions be transferred by the Employer to the Plan later than ten business days after regular payroll.

7.4 Investment of Contributions. The Trustee will then transfer all contributions to the selected Investment Options within two business days after receipt of the contribution in good order from the Employer.

7.5 Investment Default. If a Participant does not have a valid investment direction on file, the Participant's Account will be invested in the appropriate target date fund selected from time to time by the Retirement Committee. In such event, the Participant is deemed to have directed that option for their Accounts.

## **ARTICLE 8**

### **Vesting**

8.1 Vesting Standards for Employee Contributions. A Participant will always be 100% vested in the Employee Contribution Account.

8.2 Vesting Standards for Employer Contributions.

(a) A Participant will be:

(1) 40% vested in the Employer Contribution Account only upon the completion of 2 complete Years of Service;

(2) 60% vested in the Employer Contribution Account only upon the completion of 4 complete Years of Service;

(3) 80% vested in the Employer Contribution Account only upon the completion of 5 complete Years of Service; and

(4) 100% vested in the Employer Contribution Account only upon the completion of 7 complete Years of Service;

(b) Upon a Participant's attainment of Normal Retirement Age while employed by the City as a Police Officer, the Participant has a nonforfeitable right to the Employer Contributions Account.

(c) Any non-vested amounts are forfeited upon Termination of Service.

8.3 Forfeitures. Any amount forfeited under Section 8.2 will be held in a separate Plan forfeiture account and will be used to pay the administrative expenses of the Plan and the remainder

will then be used to reduce the Employer contribution which would otherwise be required to fund benefits. These forfeitures must not be used to increase any Participant's benefit.

## **ARTICLE 9 Distributions**

9.1 General Provisions. Except as otherwise provided in Article 11, distributions will be made pursuant to this Article 9 following a Participant's Termination of Service. Benefits payable to a Participant or a Beneficiary from this Plan will be based on the value of the Participant's Account.

9.2 Distributions Following Termination of Service. Upon Termination of Service, a Participant is eligible to apply, using the Applicable Form, for a distribution of the Participant's Account in the form of a single lump sum payment.

9.3 Distributions to Vested Participants Following Termination of Service. Upon Termination of Service and upon the attainment of age 60 or the attainment of age 55 and the completion of 25 Years of Service, a Participant is entitled to the vested portion of the Participant's Account, and may apply, using the Applicable Form, to have benefits commence on a date which is no later than the required distribution date of Code Section 401(a)(9), as specified in Section 9.6. All benefits must be paid in the form of the benefit options specified in Section 9.4.

9.4 Payment Options. Subject to restrictions established by the Administrator, the Plan will provide a payout option in the form of a single lump-sum payment of the Participant's Account, or any other optional form of annuity benefit established by the Administrator and provided under a purchased Annuity Contract; provided, however, that the optional annuity benefit must include:

- (a) a Straight Life Annuity;
- (b) a Straight Life Annuity with a guarantee of at least 60 monthly payments; or
- (c) an annuity payable for the life of the retiring Participant and, after the death of the retiree, monthly payments, as elected by the retiring Participant, of either 100%, 75%, or 50% of the amount of annuity payable to the retiring Participant during his or her life, to the Beneficiary selected by the retiring Participant at the time of the payment option election.

9.5 Involuntary Cash-Outs of Small Accounts.

- (a) If a Participant's Account at the time of Termination of Service is less than \$1,000, the Administrator will distribute the Participant's Account to the terminated Participant, without consent, unless the Participant elects to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover.

(b) Any retiring Participant whose benefit is less than \$25 per month under the Straight Life Annuity option will be paid a lump-sum settlement and will not be entitled to elect to receive annuity benefits from the Plan.

#### 9.6 Required Minimum Distribution Rules.

(a) The provisions of this Section 9.6 take precedence over any inconsistent provisions of the Plan. All distributions under the Plan must be made in accordance with a reasonable and good faith interpretation of Code Section 401(a)(9), including the incidental benefit rules under Code Section 401(a)(9)(G), Treasury Regulation 1.401(a)(9)-1 through -9, as each may be amended from time to time, and any regulatory guidance issued thereunder.

(b) A Participant's Accounts will be distributed to the Participant beginning no later than the Participant's required beginning date. The Participant's required beginning date is April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches the applicable age within the meaning of Code Section 401(a)(9)(C)(v) and paragraph (c) or (ii) the calendar year the Participant has a Termination of Service.

#### (c) Applicable Age.

(1) For a Participant who attained age 70½ before January 1, 2020, the applicable age is 70½.

(2) For a Participant who attained age 70½ after December 31, 2019, and before January 1, 2023, the applicable age is 72.

(3) For a Participant who attains age 72 after December 31, 2022, the applicable age is 73.

(4) For a Participant who attains age 74 after December 31, 2032, the applicable age is 75.

(d) A Participant may file with the Administrator an Applicable Form designating the Beneficiary or Beneficiaries to receive the Participant's entire Account, paid in a form provided under Section 9.8, in the event of the Participant's death. No Beneficiary designation takes effect until an Applicable Form is signed by the Participant and received and accepted by the Administrator. If the Participant dies without an Applicable Form on file with the Administrator, the benefit payments will be made to the Participant's estate in a single lump sum.

A Participant may designate at least one primary Beneficiary and one contingent Beneficiary and to indicate whether the Beneficiaries in each class are to share equally or according to specified percentages. A contingent Beneficiary will receive benefit payments only if there is no surviving primary Beneficiary. If a Beneficiary predeceases the Participant, the surviving Beneficiaries in the same class (*i.e.*, primary or contingent) will share equally the deceased Beneficiary's share. In the event of the death of a

Beneficiary, after the Beneficiary has become entitled to receive benefits, the remaining benefits will be paid to the estate of the Beneficiary.

9.7 Payments to Beneficiary. The Participant's Account or portion thereof to be received by the Beneficiary may be paid in the form of a single lump-sum payment, Straight Life Annuity, or other optional form of benefit specified in the Plan's funding medium.

9.8 Required Minimum Distributions Upon Death of Participant.

(a) For Participant deaths on or after January 1, 2022, upon the death of a Participant before distributions of the Participant's Account begin under Section 9.6 the following distribution provisions will take effect; provided, however, that such provisions are subject to any regulations or other guidance issued under Code Section 401(a)(9):

(1) If the Participant has no designated Beneficiary within the meaning of Code 401(a)(9)(E)(i), the Participant's Account under the Plan will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(2) If any portion of the Participant's Account are payable to a designated Beneficiary within the meaning of Code 401(a)(9)(E)(i), the Participant's Account under the Plan will be distributed by December 31 of the calendar year containing the tenth anniversary of the Participant's death.

(3) Notwithstanding subparagraph (2), if any portion of the Participant's Account are payable to an eligible designated Beneficiary, within the meaning of Code 401(a)(9)(E)(ii), the Participant's Account must be distributed to the eligible designated Beneficiary (i) by December 31 of the calendar year containing the tenth anniversary of the Participant's death, or (ii) beginning no later than December 31 of the calendar year immediately following the calendar year in which the Participant died, over the life of the eligible designated Beneficiary, or over a period not exceeding the life expectancy of the eligible designated Beneficiary. If the eligible designated Beneficiary is the surviving spouse, payment under item (ii) is not required until December 31 of the calendar year in which the Participant would have attained the applicable age (as defined in Sec. 9.6(c)). Effective for calendar years beginning after December 31, 2023, a surviving spouse who is the member's sole designated Beneficiary may elect to be treated as if the surviving spouse were the Participant as provided under Code Section 401(a)(9)(B)(iv).

(4) Upon either (i) the death of an eligible designated Beneficiary before distribution of the Participant's entire Account or (ii) the attainment of the age of majority, as defined under the laws of the State of Nebraska, for an eligible designated Beneficiary who is a minor child of the Participant, subparagraph (3) will no longer apply, and the remainder of the Account will be distributed under subparagraphs (1) or (2), as applicable.

(b) For Participant deaths before January 1, 2022, distributions shall be made in accordance with the plan provisions in effect prior to the effective date of the SECURE Act, applying a reasonable and good faith interpretation of Code Section 401(a)(9) as in effect prior to such amendments.

(c) If the Participant dies after distributions of his or her Account begun under Section 9.6, any remaining portion of the Account will continue to be distributed at least as rapidly as under the method of distribution in effect prior to the Participant's death and is subject to any regulations or other guidance issued under Code Section 401(a)(9).

(d) Any distributions required under the incidental death benefit requirements of Code Section 401(a) will be treated as distributions required under Section 9.6 and this Section 9.8.

9.9 Eligible Rollover Distributions. Notwithstanding any provision of the Plan to the contrary, a Distributee may elect on an Applicable Form to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan as specified by the Distributee in a Direct Rollover, at the time and in the manner prescribed by the Administrator. For purposes of this Section 9.9, the following definitions apply:

(a) "Direct Rollover" means an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan for the benefit of the Distributee.

(b) "Distributee" means a Participant, the spouse of the Participant, and a Participant's non-spouse Beneficiary, any of whom is eligible to receive a distribution from the Plan.

(c) "Eligible Retirement Plan," as defined under Code Section 402(c)(8)(B), means:

(1) an individual retirement account described in Code Section 408(a);

(2) an individual retirement annuity described in Code Section 408(b);

(3) an annuity plan described in Code Section 403(a);

(4) a plan described in Code Section 403(b);

(5) a qualified plan described in Code Section 401(a);

(6) a Code Section 457(b) eligible deferred compensation plan which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state;

(7) a Roth individual retirement account described in Code Section 408A(e);  
and

(8) a simple retirement account described in Code Section 408(p)(1) following the two-year period described in Code Section 72(t)(6).

In the case of a distribution to a Participant's non-spouse Beneficiary, an Eligible Retirement Plan means the plans described in subparagraphs (1) and (2) only, to the extent consistent with the provisions of Code Section 402(c)(11) and any successor provisions thereto or additional guidance issued thereunder.

(d) "Eligible Rollover Distribution," as defined in Code Section 402(f)(2)(A), means any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include:

(1) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Beneficiary, or for a specified period of ten years or more;

(2) any distribution to the extent to which such distribution is required under Code Section 401(a)(9) (other than amounts that would have been required but for a statutory waiver of the Code Section 401(a)(9) requirements);

(3) the portion of any distribution that is not includable in gross income; provided, however, a portion of a distribution does not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax Employee contributions which are not includable in gross income, provided that such portion may be transferred only:

(A) to an individual retirement account or annuity described in Code Section 408(a) or (b), respectively, or to a qualified defined contribution plan described in Code Section 401(a) that agrees to separately account for amounts so transferred (and earnings thereon), including separately accounting for the portion of the distribution that is includable in gross income and the portion of such distribution which is not so includable;

(B) to a qualified defined benefit plan described in Code Section 401(a) or to an annuity contract described in Code Section 403(b), that agrees to separately account for amounts so transferred (and earnings thereon), including separate accounting for the portion of the distribution that is includable in gross income and the portion of such distribution which is not includable; or

(C) to a Roth IRA described in Code Section 408A.

(4) any distribution which is made upon the financial hardship of the Participant; and

(5) other items designated by regulations, or by the Commissioner in revenue rulings, notices, or other guidance, as items that do not constitute an eligible rollover distribution.

**ARTICLE 10**  
**No Loans or Hardship Distributions**

Plan loans and hardship distributions are not permitted.

**ARTICLE 11**  
**Death and Disability Benefits**

11.1 Disability Benefits.

(a) Line of Duty Disability Benefits.

(1) In the event a Participant incurs a Disability through the performance of duty (as defined below), the Participant is entitled to receive monthly pension payments from the Plan in an amount equal to 50% of Regular Pay for the period of such Disability.

(1) In the case of permanent Disability, pension payments will commence as of the first day of the month following the establishment of the Disability, except that the pension commencement date will be further delayed until all credit for unused annual or sick leave and other similar credits have been fully paid to the Disabled Participant, provided there is no impairment to the Participant's Regular Pay during such period of time.

(2) Total payments to a Disabled Participant, in excess of amounts paid as workers' compensation benefits, may not be less than the value of the Participant's Account at the date of Disability.

(3) If the Actuarial Equivalent of the Disability benefit payable under this paragraph (a) exceeds the value of the Participant's Account at the time of the first payment, the City must contribute such additional amounts as may be necessary, from time to time, to provide for the required Disability pension.

(4) A Participant who receives Disability benefits will not be entitled to any other benefits provided by this Plan, and the Participant's Beneficiaries will not be eligible for death benefits under this Plan unless such Disability should end prior to death and the Participant's Account had not been fully paid out as a Disability pension before such death.

(b) Definition of and Establishing Disability.

(5) A Participant will be considered as having incurred a Disability only if it is established upon written proof and certification provided to the City by a disinterested and duly licensed physician, that the Participant is completely unable, for reasons of accident or other cause while in the line of duty, to perform the duties of a Police Officer for the City. The physician conducting any required medical examination shall be selected or otherwise approved of by the City, and a

Participant's failure to submit to any medical examination ordered by the City for this purpose shall cause the Participant to become ineligible for a Disability pension.

(6) The City may at any time within three years from the commencement of the Disability pension require the Disabled Participant to be examined by a physician, at the City's expense, to determine the continuance of such permanent Disability. More than one such examination may be required by the City. After the expiration of the initial three-year period, a medical examination can be required only upon order of a Nebraska District Court upon submission by the City of reasonable grounds to believe that the Employee is fraudulently receiving a Disability pension under this Plan.

(7) In the event an Employee who received a Disability pension hereunder is determined under the foregoing procedures to no longer be disabled, the Disability pension shall terminate and the value of the Participant's Account, as reduced by the Disability pension benefits theretofore paid from the Plan, will thereafter be held and administered in the same manner as any nondisabled Participant or former Participant.

(b) Temporary Disability. In the event of temporary Disability incurred while in the line of duty, the Participant will receive their Compensation during the continuance of such Disability for a period not to exceed 12 months; provided, however, if it shall be determined by the City or other appropriate municipal authorities of the City within the said 12 month period that such Disability has become a full Disability as defined in Section 1.1(b), then the Participant's Compensation will cease, and the Participant will be entitled to the Disability pension benefit provided by this Section 11.1.

(c) Workers' Compensation Benefits.

(1) All payments of Disability pension benefits under this Section 11.1 shall be subject to deduction of workers' compensation benefits paid under the Nebraska Workers' Compensation Act. If a Participant accepts a lump sum settlement in lieu of all or part of the periodic benefit payable as workers' compensation benefits, such periodic payments will, for purposes of determining the monthly Disability pension hereunder, be considered to continue for the applicable number of months by dividing the lump sum received by the monthly equivalent of such periodic payments, and such equivalent payment will reduce the monthly Disability pension otherwise payable under this Section 11.1.

(2) The Actuarial Equivalent value of the Disability pension benefit paid to a disabled Participant, in excess of amounts paid as workers' compensation benefits, may not be less than the value of the Participant's Account at the date of Disability.

(d) Disability Not in the Line of Duty. Disability benefits are not paid or provided by the Plan in the event of any Disability of a Participant which is not incurred while in the line of duty.

11.2 Death in the Line of Duty Survivor Benefits.

(a) If a Participant dies in the line of duty or his or her death is caused by or is the result of injuries received while in the line of duty and the deceased Participant is survived by a spouse or minor children, a monthly pension equal to 50% of the Participant's Regular Pay at the time of death will be paid to the surviving spouse.

(b) Upon the remarriage or death of the surviving spouse, the monthly pension will continue to be paid to the minor child or children during such child's or children's minority, subject to deduction of the amounts paid as workers' compensation benefits on account of death paid under the Nebraska Workers' Compensation Act. If there is more than one minor child eligible to receive benefits hereunder, each such child shall share equally in the total pension benefit to the age of his or her majority, and the portion of the pension benefit paid to any such child will cease upon his or her attainment of the age of majority.

(c) If the Actuarial Equivalent of the pension benefit payable under this Section 11.2 exceeds the value of the Participant's Account at the time of the first payment, the City must contribute such additional amounts as may be necessary to purchase or provide for the required pension benefit.

**ARTICLE 12**  
**Retirement Committee**

12.1 Authority of the Retirement Committee. The Retirement Committee, defined under Neb. Rev. Stat. Section 16-1014, will supervise the general operation of the Plan. The City will continue to be responsible for the general administration of the Plan unless specific functions or all functions with regard to the administration of the Plan are delegated, by ordinance or this Plan, to the Retirement Committee. The City and the Retirement Committee have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the Plan. The Retirement Committee is a named fiduciary of the Plan.

12.2 Retirement Committee Members. The Retirement Committee will include members from both the police force and designees of the City. The Retirement Committee will consist of six members of which four members will be elected by the officers of the police force of the City, and two members will be designated by the City Council. The members who are not Plan Participants will have a general knowledge of retirement plans as a condition to appointment as a member. Members of the City Council may serve on the Retirement Committee. Retirement Committee members will be appointed to four-year terms. Vacancies will be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the Retirement Committee will receive no salary and will not be compensated for expenses. The Retirement Committee will appoint a chairman from among its members who will be authorized to execute any document on behalf of the Retirement Committee.

12.3 Specific Duties of the Retirement Committee.

- (a) It will be the duty of the Retirement Committee to:
- (1) Provide each Participant a summary of Plan eligibility requirements and benefit provisions;
  - (2) Provide, within 30 days after a request is made by a Participant, a statement describing the amount of benefits such Participant is eligible to receive; and
  - (3) Make available for review an annual report of the Plan's operations describing both the amount of contributions to the Plan from both Employee and Employer sources and an identification of the total assets of the Plan.
- (b) The City delegates to the Retirement Committee the authority to select one or more annuity providers for the purpose of providing annuity benefits under the Plan. The Retirement Committee shall exercise this authority in accordance with the fiduciary standards set forth in Neb. Rev. Stat. Section 16-1014.

12.4 Powers of the Retirement Committee. In addition to the specific duties set forth in Section 12.3, the Retirement Committee is responsible for performing the duties required to operate the Plan in accordance with federal and state law and the terms of the Plan. In connection therewith, the Retirement Committee will have the power and discretion:

- (a) To determine eligibility;
- (b) To determine, consistently with the Plan, applicable law, rules and regulations, all questions of law or fact that may arise as the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, and Beneficiaries, Employees and former Employees;
- (c) To adopt rules, regulations, and procedures necessary for the proper and efficient administration of the Plan, not inconsistent with the Plan, state law, and the Code, and to amend or rescind such rules, regulations, or procedures;
- (d) To make payments from the Trust Fund to Participants, their Beneficiaries and other persons as the Retirement Committee may determine;
- (e) To contract with one or more Service Managers to perform education, recordkeeping, investment services, and administrative services under this Plan;
- (f) To correct any underpaid or overpaid benefit from the Plan, including the power to order an offset or adjustment of future benefit payments to recover any such overpayment;
- (g) To accept service of legal process; and

(h) To do all things necessary or proper pursuant to the duty of supervising the Plan's operations.

All administrative powers necessary to operate the Plan is vested exclusively with the City unless otherwise specifically provided by this Plan or delegated by ordinance to the Retirement Committee.

12.5 Power to Make Adjustment and Corrections. The Retirement Committee will have the power and authority to make such equitable adjustments to the Accounts and benefits of any Participant to correct any mathematical or accounting errors or any mistakes that may arise by reason of factual errors in information supplied to the City, Retirement Committee, or Trustee. The Retirement Committee may also take appropriate action to correct errors in the administration or operation of the Plan as deemed necessary or appropriate to preserve the tax qualification of the Plan under Code Section 401(a), including the power and authority to correct operational errors and defects pursuant to any correction action as may be authorized under the IRS Employee Plans Compliance Resolution System ("EPCRS"), or any successor program to EPCRS. Such corrective actions may include causing appropriate distributions to be made to a Participant from the Plan, to the extent such distribution is made to correct a qualification defect or as may otherwise be required or authorized under the EPCRS. A Participant whose Account or benefit has been adjusted by the Retirement Committee may request a review by the City of such adjustment.

12.6 Use of Alternative Media. The City, Retirement Committee, and Trustee may use telephonic or electronic media to satisfy any administrative duty or notice requirements required by this Plan, to the extent permissible under the Code or Treasury Regulations (or other generally applicable guidance). The City, Retirement Committee, and Trustee may also use telephonic or electronic media to conduct Plan transactions, such as enrolling Participants, electing and changing investment allocations, and other Plan transactions to the extent permissible under the Code or the Treasury Regulations.

12.7 Limited Liability. In administering the Plan neither the Retirement Committee, nor the City Council, nor any Participant thereof, nor the City and its officers and employees, or any Police Officer thereof, or any financial institution with which the Retirement Committee contracts, will be liable for any acts of omission or commission, except for his or her or its own individual, willful, and intentional malfeasance or misfeasance. In its administration of the Plan, the City, and its officers and directors, and the Retirement Committee, will be entitled to rely conclusively on all tables, valuations, certificates, opinions, and reports which will be furnished by any actuary, accountant, Trustee, insurance company, counsel, or other expert who will be employed or engaged by the City or the Retirement Committee.

12.8 Employment of Consultants. The Administrator may employ or contract with one or more persons to render advice with regard to its responsibilities under the Plan.

12.9 Amendment and Termination. While it is expected that the Plan will continue indefinitely, the City has the right, in its sole and final discretion, to amend, freeze, or terminate the Plan, or to discontinue any further Employer contributions to the Plan at any time and to any extent that it may deem advisable; provided, however, that if the Plan is amended, the

Administrator will nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment in accordance with this Section 12.9

12.10 Fiduciary Insurance. The Administrator may require the purchase of fiduciary liability insurance for any of such fiduciaries to cover liability or losses occurring by reason of the act or omission of a fiduciary.

12.11 Payment of Benefits. The Administrator, if in doubt concerning the correctness of its action in making a payment of a benefit, may suspend payment until satisfied as to the correctness of the payment or the person to receive the payment, or may file, in any state court of competent jurisdiction, a suit, in such form as it considers appropriate, for legal determination of the benefits to be paid and the persons to receive them. The Administrator may also bring a suit or take such other action as it deems appropriate in the case of questions involving investment directions. The Administrator will comply with the final order of the court in any such suit, and Participants, Beneficiaries, Administrator, and Service Manager will be bound thereby insofar as such order affects the benefits payable under this Plan or the method or manner of payment.

12.12 Payment of Expenses. All expenses and costs associated with the administration and investments of the Plan will be assessed against Plan assets. Administrative costs will be explicitly assessed against the Participants' Accounts. Investment costs will be assessed explicitly against each specific Investment Option in a manner determined appropriate by the management of each Investment Option and approved by appropriate federal regulating entities and the Retirement Committee if appropriate.

12.13 Claims Procedure. Claims under the Plan will be processed under the terms of the Nebraska Administrative Procedures Act, found in Chapter 84, Article 9(a) of the Revised Statutes of Nebraska.

## ARTICLE 13

### Trust

13.1 Trust Status. All assets held in connection with the Plan, including all contributions to the Plan, all property and rights acquired or purchased with such amounts and all income attributable to such amounts, property or rights will be held in trust for the exclusive benefit of Participants and their Beneficiaries under the Plan. No part of the assets and income of the Plan will be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and for defraying reasonable expenses of the Plan, except as allowed by law except due to a mistake of fact as permitted by IRS Revenue Ruling 91-4.

13.2 Trust Fund. All contributions under the Plan will be transferred to the trust to be held, managed, invested, and distributed as part of the Trust Fund by the Trustee in accordance with the provisions of the Plan. All benefits under the Plan will be distributed solely from the Trust Fund, and the Employer will have no liability therefor other than the obligation to make contributions to the Trust Fund as provided in the Plan.

**ARTICLE 14**  
**Miscellaneous Provisions**

14.1 Non-Alienation of Benefits. None of the benefits, payments, proceeds, or distributions payable under the Plan are subject to the claim of any creditor of any Participant or to the claim of any creditor of any Beneficiary hereunder, or to any legal process of levy or attachment by any creditor of any such Participant or Beneficiary; and no such benefits will be in any manner liable for or subject to the debts, liabilities, engagements, or torts of any Participant or Beneficiary; and neither will any such Participant or Beneficiary have any right to alienate, commute, anticipate, transfer, encumber, pledge, or assign any of the benefits, payments, proceeds, or distributions under this Plan.

14.2 Qualified Domestic Relations Orders (“QDRO”).

(a) Notwithstanding Section 14.1, the Plan will comply with any directions set forth in a QDRO meeting the requirements of Code Section 414(p), as applicable to governmental plans; provided, however, no benefits will be paid, assigned, or set aside for any person unless and until the Plan has received such releases and benefit waivers from the Participant or any other person as the Administrator may deem necessary or appropriate to protect the Plan and the Administrator from any claims which may arise as a result of the Plan complying with the provisions of any QDRO. In no event will the Plan recognize a QDRO which alters, changes or provides for a form of benefit not otherwise provided for under the Plan, increases benefits not otherwise provided by the Plan, or accelerates or defers the time of payment of Plan benefits, except to the limited extent allowed under Code Section 414(p)(4).

(b) The Retirement Committee will establish procedures in accordance with Code Section 414(p) for determining the qualified status of a domestic relations order served upon the Plan. The Retirement Committee will follow all applicable procedures set forth in Code Section 414(p) which apply when a domestic relations order is received, including issuing appropriate instructions to the Trustee with respect to segregating amounts in separate accounts pending the resolution of all matters relating to the domestic relations order and the distribution of Plan benefits with respect thereto.

(c) Death of Alternate Payee Prior to Payment of Accounts. If an alternate payee dies before receiving his or her entire interest under a QDRO, the alternate payee’s remaining interest will become immediately payable to (i) his or her designated Beneficiary, if any, or (ii) if there is no designated Beneficiary, the alternate payee’s estate, unless expressly provided otherwise in the QDRO.

14.3 Compliance with Code Section 401(a). At all times, the Plan will be administered in accordance with and construed to be consistent with Code Section 401(a) and its accompanying regulations. The Plan is a money purchase plan, whereby contributions are determined pursuant to Sections 4.2 and 4.3 of the Plan.

14.4 USERRA and HEART Compliance. Notwithstanding any provisions of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with the USERRA; Code Section 414(u); and Code Section 401(a)(37), as amended from time to time.

(a) For purposes of this Section 14.4, “qualified military service” means any service in the uniformed services as defined in USERRA by any individual if such individual is entitled to reemployment rights under USERRA with respect to such service.

(b) A Participant whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service may elect to make Employee contributions upon resumption of employment with the Employer in accordance with USERRA. Except to the extent provided under Code Section 414(u), this right applies for the shorter of (i) five years following the resumption of employment or (ii) for a period equal to three times the period of the interruption or leave. If the Participant elects to make such Employee contribution, the Employer will make-up the related Employer contribution which would have been required had such contributions been made during the period of interruption or leave.

(c) To the extent provided under Code Section 401(a)(37), in the case of a Participant whose employment is interrupted by qualified military service and who dies while performing qualified military service, the survivor of such Participant will be entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan as if the Participant had timely resumed employment in accordance with USERRA and then terminated employment with the Employer on account of death. Qualified military service will be counted as Years of Service in determining a Participant’s vested status in the Employer contributions.

(d) A Participant whose employment is interrupted by qualified military service or who is on a leave of absence for qualified military service and who receives a differential wage payment within the meaning of Code Section 414(u)(12)(D) from the Employer, will be treated as a Participant of the Employer and the differential wage payment will be treated as Compensation.

(e) A Participant who becomes disabled while performing qualified military service will be treated as if the Participant had resumed reemployment with the Employer in accordance with the Participant’s reemployment rights under USERRA on the day preceding his or her Disability and terminated employment on the actual date of Disability. Qualified military service will be counted as Years of Service in determining a Participant’s vested status in the Employer contributions.

14.5 Federal Taxes. The Employer and the Retirement Committee do not guarantee that any federal or state income, payroll, or other tax consequence will occur because of participation in this Plan. The Administrator will withhold from the benefit payments to be made to any recipient under this Plan such taxes as may be required to be withheld by applicable state and

federal tax laws, and such withheld taxes will be promptly remitted to the proper governmental authority.

14.6 Limitation on Rights. Neither the establishment nor maintenance of the Plan, nor any amendment thereof nor the purchase of any insurance contract, nor any act or omission under the Plan (or resulting from the operation of the Plan) will be construed:

- (a) as conferring upon any Participant, Beneficiary, or any other person a right or claim against the trust, the Employer or the Administrator except to the extent that such right or claim will be specifically expressed and provided in the Plan;
- (b) as creating any responsibility or liability of the Employer for the validity or effect of the Plan;
- (c) as a contract between the Employer and any Participant or other person;
- (d) as being consideration for, or an inducement or condition of, employment of any Participant or other person, or as affecting or restricting in any manner or to any extent whatsoever the rights or obligations of the Employer or any Participant or other person to continue or terminate the employment relationship at any time; or
- (e) as giving any Participant the right to be retained in the service of the Employer or to interfere with the right of the Employer to discharge any Participant or other person at any time.

14.7 Release. Any payment to any Participant will, to the extent thereof, be in full satisfaction of the claim of such Participant being paid thereby and the Administrator may condition payment thereof on the delivery by the Participant of the duly executed receipt and release in such form as may be determined by the Administrator.

14.8 Liability. The Administrator will not incur any liability in acting upon any notice, request, signed letter, telegram or other paper or document or electronic transmission believed by the Administrator to be genuine or to be executed or sent by an authorized person.

14.9 Necessary Parties to Disputes. Necessary parties to any accounting, litigation or other proceedings relating to the Plan will include only the Retirement Committee. The settlement or judgment in any such case in which the Retirement Committee are duly served will be binding upon all affected Participants in the Plan, their Beneficiaries, estates and upon all persons claiming by, through or under them.

14.10 Supersession. The terms of the Plan will supersede any previous agreement between the parties pertaining to the Plan.

14.11 Counterparts. This Plan may be executed in two or more counterparts, each of which will constitute an original.

IN WITNESS WHEREOF, the City has caused this amendment and restatement of the Plan to be executed by its duly authorized officer this \_\_\_\_ day of \_\_\_\_\_, 2025.

CITY OF BELLEVUE, NEBRASKA

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: 10-7-25		SUBMITTED BY: Police - Retirement Committee	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING	<input type="checkbox"/>
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER	<input type="checkbox"/>

SUBJECT:

Approve and authorize Mayor to sign Amendment One to the City of Bellevue, Nebraska, Police Officers Retirement Retirement Plan and Trust

SYNOPSIS/BACKGROUND:

The City of Bellevue, Nebraska Police Officers Retirement Plan and Trust was approved at the City Council meeting on February 21, 2023. Nebraska Legislative Bill 179 (2025) mandates an increased contribution rate to each officer's retirement account, raising both employee and employer contributions from 7% to 9%, effective October 1, 2025 and remain in full force indefinitely.

FISCAL IMPACT: \$123,000 BUDGETED FUNDS?: Yes GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Approve and authorize Mayor to sign Amendment One to the City of Bellevue, Nebraska, Police Officers Retirement Retirement Plan and Trust

ATTACHMENTS:

1. Amendment One to the Retirement Plan and Trust	2.	3.
4.	5.	6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

*[Handwritten signatures]*

**AMENDMENT ONE TO THE CITY OF BELLEVUE, NEBRASKA POLICE  
OFFICERS RETIREMENT PLAN AND TRUST**

**WHEREAS**, the City of Bellevue, Nebraska (the “City”) maintains the City of Bellevue, Nebraska Police Officers Retirement Plan and Trust (the “Plan”) for the benefit of eligible police officers; and

**WHEREAS**, the Nebraska Legislature has enacted Legislative Bill 179 (2025), which amends Neb. Rev. Stat. § 16-1005 to increase the mandatory employee contribution rate to the Police Officers Retirement System from 7% to 9% of salary, effective October 1, 2025; and

**WHEREAS**, the City desires to amend the Plan to reflect this statutory change and make other clarifying amendments;

**NOW, THEREFORE**, pursuant to the authority reserved by the City under Article 11 of the Plan, the Plan is hereby amended as follows:

1. Section 2.1 is amended to read as follows:

(a) “Employee Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to mandatory contributions made by the Employee pursuant to Section 4.2. The Employee Contribution Account shall be further subdivided into separate bookkeeping accounts as follows:

(1) EE012 – a subaccount to reflect the Employee’s base 6% mandatory contributions; and

(2) EE912 – a subaccount to reflect the Employee’s mandatory contributions in excess of 6%.

Per the CI 17-1674 Orders, Employee’s mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The “excess contribution” amount required for each Employee is 1%, but may be amended pursuant to Neb. Rev. Stat. §16-1005. The EE912 subaccount shall account for the “excess contributions” beginning with the 0.5% excess contribution on October 1, 2013, the 1% excess contribution beginning on October 1, 2015, and the 3% excess contribution beginning on October 1, 2025, as provided by Legislative Bill 179 (2025), resulting in a total mandatory employee contribution rate of 9% effective October 1, 2025.

(b) “Employer Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to Employer contributions made on the Employee’s behalf, pursuant to Section 4.2. The Employer Contribution Account shall be further subdivided into separate bookkeeping accounts as follows:

(1) ER012 – a subaccount to reflect the City’s base 6% matching contributions; and

(2) ER912 – a subaccount to reflect the City’s matching contributions in excess of 6%.

Per the CI 17-1674 Orders, the City’s mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The “excess contribution” amount required for the City is 1%, but may be amended pursuant to Neb. Rev. Stat. §16-1005. The ER912 subaccount shall account for the “excess contributions” beginning with the 0.5% excess contribution on October 1, 2013, the 1% excess contribution beginning October 1, 2015, and the 3% excess contribution beginning on October 1, 2025, as provided by Legislative Bill 179 (2025), resulting in a total mandatory employer contribution rate of 9% effective October 1, 2025.

2. Section 2.4 is amended to read as follows:

“Agreement” means the Settlement Agreement Between Bellevue Police Officers Association/Fraternal Order of Police Lodge No. 59 and the City of Bellevue, Nebraska, dated May 9, 2011, and any applicable agreement between the City and the BPCSA, as either may be amended or superseded from time to time.

3. Section 2.25, last sentence, is amended to read as follows:

An Employee shall be deemed to have had a Termination of Service for purposes of the Plan when, in accordance with the established personnel practices of the Employer, the employment relationship is considered actually terminated and the Employee has been paid all compensation due upon Termination of Service, including, but not limited to, payment of accrued vacation leave credits, and payment of accrued sick leave credits, as provided in the applicable collective bargaining agreement between the City of Bellevue, Nebraska and the Bellevue Police Officers Association Fraternal Order of Police Lodge 59 or the Bellevue Police Command Staff Association, as applicable.

4. Section 2.29 is added to be and read as follows:

2.29 “BPCSA” means the Bellevue Police Command Staff Association, the recognized bargaining unit representing certain command-level Police Officers employed by the City.

5. Section 4.1(a) and (b) is amended to read as follows:

(a) Employee Contribution Account, which shall include two subaccounts:

(1) One subaccount (“EE012”) to reflect the portion of the Employee’s mandatory contributions that are equal to 6% of the Employee’s Salary; and

(2) One subaccount (“EE912”) to reflect the portion of the Employee’s mandatory contributions that are in excess of 6% of the Employee’s Salary.

Per the CI 17-1674 Orders, Employee’s mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The “excess contribution” amount required for each Employee is 1%, but may be amended pursuant to Neb. Rev. Stat. §16-1005. The EE912 subaccount shall account for the “excess contributions” beginning with a 0.5% excess contribution on October 1, 2013, the 1% excess contribution beginning on October 1, 2015, and the 3% excess contribution beginning on October 1, 2025, as provided by Legislative Bill 179 (2025), resulting in a total mandatory employee contribution rate of 9% effective October 1, 2025.

(b) Employer Contribution Account, which shall include two subaccounts:

(1) One subaccount (“ER012”) to reflect the portion of the City’s matching contributions that are equal to 6% of the Employee’s Salary; and

(2) One subaccount (“ER912”) to reflect the portion of the City’s matching contributions that are in excess of 6% of the Employee’s Salary.

Per the CI 17-1674 Orders, the City’s mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The “excess contribution” amount required for the City is 1%, but may be amended pursuant to Neb. Rev. Stat. §16-1005. The ER912 subaccount shall account for the “excess contributions” beginning with a 0.5% excess contribution on October 1, 2013, the 1% excess contribution beginning on October 1, 2015, and the 3% excess contribution beginning on October 1, 2025, as provided by Legislative Bill 179 (2025), resulting in a total mandatory employee contribution rate of 9% effective October 1, 2025.

6. Section 4.2 is amended to read as follows:

Each Participant shall have Employee contributions deducted from his or her Salary in an amount equal to:

(a) 6% until October 1, 2013,

(b) 6.5% beginning October 1, 2013, until October 1, 2015,

(c) 7% beginning October 1, 2015, until October 1, 2025, and

(d) 9% beginning October 1, 2025

of the Participant's Salary for such period. Such Employee contributions shall be credited to the Participant's Employee Contribution Account on a monthly basis, as set forth in Section 4.1(a).

7. Section 4.3 is amended to read as follows:

The City shall make Employer contributions for each Participant in an amount equal to 100% of the Employee contributions deducted from the Employee's Salary, in accordance with Neb. Rev. Stat. § 16-1005(1) and Section 4.2 of the Plan. Such contributions shall be:

(a) 6% until October 1, 2013,

(b) 6.5% beginning October 1, 2013, until October 1, 2015,

(c) 7% beginning October 1, 2015, until October 1, 2025, and

(d) 9% beginning October 1, 2025.

Such contributions shall be paid into the Trust Fund and credited to the Participant's Employer Contribution Account on a monthly basis, as set forth in Section 4.1(b).

8. Section 6.7(b) is amended to read as follows:

(b) A Participant's benefit shall be distributed, or begin to be distributed, to the Participant beginning no later than April 1 of the calendar year following the later of:

(1) the calendar year in which the Participant reaches the applicable required beginning date under Code § 401(a)(9), which is:

(i) age 70½ for individuals who attained age 70½ before January 1, 2020;

(ii) age 72 for individuals who attained age 70½ after December 31, 2019, and before January 1, 2023;

(iii) age 73 for individuals who attain age 72 after December 31, 2022; and

(iv) age 75 for individuals who attain age 74 after December 31, 2032, or

(2) the calendar year in which the Participant has a Termination of Service.

9. Section 7.4(a), last sentence, is amended to read as follows:

The City, in consultation with the BPOA and the BPCSA, shall contract for the services of an actuary...

10. Section 9.4(e) is amended to read as follows:

To contract with one or more service managers to perform education, recordkeeping, investment services, and administrative services under this Plan; provided however that the City, in consultation with the BPOA and the BPCSA, shall contract for the services of an actuary or other accounting professional who shall be responsible for calculating the normal Retirement Benefit amounts;

IN WITNESS WHEREOF the City has caused this amendment to the Plan to be executed by its duly authorized officer this day of \_\_\_\_\_, 2025.

By: \_\_\_\_\_  
Rusty Hike

Title: Mayor

CITY OF BELLEVUE, NEBRASKA  
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: <b>October 7th 2025</b>		SUBMITTED BY: <b>Harrison Johnson</b>	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING	<input type="checkbox"/>
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER	<input type="checkbox"/>

SUBJECT:

**Construction Contractor Assignment Agreement**

SYNOPSIS/BACKGROUND:

This item pertains to the construction assignment agreement between MCL, and ARCO Murray for the Bellevue Bay Indoor Water Park

FISCAL IMPACT:  BUDGETED FUNDS?:  GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:  COUNTER-PARTY:  INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE:  CONTRACT TERM:  CONTRACT END DATE:

PROJECT NAME:

START DATE:  END DATE:  PAYMENT DATE:  INSURANCE REQUIRED:

CIP PROJECT NAME:  CIP PROJECT NUMBER:

STREET DISTRICT NAME (S):  STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE:  ACCOUNT NUMBER:

RECOMMENDATION:

**Staff Recommends Approval**

ATTACHMENTS:

1. <input type="text" value="Assignment Agreement &amp; Exhibits"/>	2. <input type="text"/>	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM: \_\_\_\_\_

FINANCE APPROVAL AS TO FORM: \_\_\_\_\_

ADMINISTRATOR APPROVAL AS TO FORM: \_\_\_\_\_

*Christina Brubaker*  
\_\_\_\_\_  
*Pat*  
\_\_\_\_\_

## ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement (this "Assignment") is made as of October 1, 2025 (the "Effective Date") by and between **Meyers-Carlisle-Leapley Construction Company, Inc. dba MCL Construction**, a Nebraska corporation, with an address of 14558 Portal Circle, La Vista, NE 68138 ("Assignor") and **ARCO/Murray National Holdings, Inc.**, a Delaware corporation, with an address of 3113 Woodcreek Drive, Downers Grove, IL 60515 ("Assignee"), and **The City of Bellevue**, a Nebraska Municipality, with an address of 1500 Wall Street, Bellevue, NE 68005 (the "Owner") (the Assignor, the Assignee and the Owner are referred to collectively herein as the "Parties" and individually as a "Party").

WHEREAS, Assignor and Owner are parties to that certain AIA Document A133-2019 Agreement Between Owner and Construction Manager as Contractor, dated as of September 16, 2024 (such Agreement with any amendments to date, including without limitation the Guaranteed Maximum Price Amendment Number 1 dated November 27, 2024, the Guaranteed Maximum Price Amendment Number 2 dated February 4, 2025, the Guaranteed Maximum Price Amendment Number 3 dated May 20, 2025, and the A201 General Conditions to the Contract thereto, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference and referred to herein collectively as the "Construction Contract") for construction services to be rendered in connection with the construction of the Bellevue Bay Indoor Water Park Project, located at the northwest corner of Highways 75 and 34 in Bellevue, NE (the "Project");

WHEREAS, Assignor and certain subcontractors of Assignor have entered into subcontracts with respect to the Project and the Construction Contract, a listing and copy of which is attached hereto as Exhibit B and incorporated herein by this reference (collectively, the "Subcontracts");

WHEREAS, at Owner's direction and consent and as more particularly set forth herein and effective as of the Effective Date, Assignor desires to assign to Assignee, and Assignee desires to assume from Assignor, all of Assignor's right, title and interest in and to the Construction Contract;

WHEREAS, at Owner's direction and consent and as more particularly set forth herein and effective as of the Effective Date, Assignor desires to assign to Owner, and Owner desires to assume from Assignor, all of Assignor's right, title and interest in and to the Subcontracts effective as of the Effective Date;

WHEREAS, as of the Effective Date, Assignor has agreed to assign the Construction Contract to Assignee and Assignee will assume the performance of all covenants, conditions and provisions of the Construction Contract required to be performed by Assignor, as Construction Manager thereunder from and after the Effective Date;

WHEREAS, as of the Effective Date, Assignor will assign the Subcontracts to Owner, and Owner will assume the performance of all covenants, conditions and provisions of the Subcontracts required to be performed by Assignor, as Contractor thereunder from and after the Effective Date;

WHEREAS, in cessation of its current performance of the Construction Contract and as an inducement to Assignor's assignment of the Construction Contract to the Assignee and the Subcontracts to the Owner as of the Effective Date, the Owner agrees to pay Assignor the Assignment Sum (as hereinafter defined), in consideration for Assignor's efforts in facilitating the transfer of the Construction Contract from Assignor to Assignee and Assignor's partial completion of the work thereunder, and the Subcontracts to the Owner, subject to and in accordance herewith and as more particularly set forth in Section 9 below;

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor, Assignee and Owner hereby agree as follows:

1. Incorporation of Recitals. Each of the Recital paragraphs set forth above and the capitalized terms defined therein are hereby incorporated into this Assignment as if fully set forth herein.

2. Owner's Representations. Owner represents and warrants for the benefit of the Assignor and Assignee that, as of the Effective Date, (i) the Construction Contract is in full force and effect and constitutes the valid and binding obligation of the Owner, enforceable in accordance with its terms, (ii) no breaches or defaults by any party exists under the Construction Contract, (iii) Assignor has satisfied all of its obligations under the Construction Contract required to be performed by Assignor as of the Effective Date, and (iv) Owner has provided to Assignee an accurate, true and complete copy of the Construction Contract.

3. Assignor's Representations. Assignor represents and warrants for the benefit of the Assignee that, as of the Effective Date: (i) no default has been alleged by any party under the Construction Contract, (ii) the Construction Contract is in full force and effect, (iii) Assignor is the Construction Manager as set forth in the Construction Contract, (iv) except as set forth herein with respect to the Subcontracts (as hereinafter defined) Assignor has not previously assigned, encumbered or otherwise transferred its rights under the Construction Contract, and (v) Assignor has provided to Assignee an accurate, true and complete copy of the Construction Contract.

4. Assignment to Assignee. Effective as of the Effective Date, Assignor hereby irrevocably assigns, transfers, conveys and sets over unto Assignee, all of Assignor's right, title, duties, obligations and interest in, to and under the Construction Contract, subject to the terms, covenants, and conditions contained in the Construction Contract. Following this Assignment, Assignor shall have no liability or responsibility for any claims, damages, or losses arising from work performed under the Construction Contract. For the avoidance of doubt, Assignor shall remain responsible only for payment of all subcontracts, purchase orders, and other agreements entered into by Assignor and relating to work performed on the Project prior to the Effective Date, only as specifically set forth in Exhibit C (the "Subcontractor Payment Obligations").

5. Assignment to Owner. Effective as of the Effective Date, Assignor hereby irrevocably assigns, transfers, conveys and sets over unto Owner, all of Assignor's right, title, duties, obligations and interest in, to and under the Subcontracts. Following this Assignment, Assignor shall have no liability or responsibility for any claims, damages, or losses arising from work performed under the Subcontracts. For the avoidance of doubt, Assignor shall remain responsible only for the Subcontractor Payment Obligations.

6. Assignor shall indemnify, defend, and hold harmless Assignee from and against, any and all liabilities, losses, damages, claims, costs or expenses, including attorneys' fees, arising out of any failure of Assignor to convey its interest pursuant to Section 4, free and clear of all third-party liens, claims, or encumbrances other than the Subcontractor Payment Obligations.

7. Assumption by Assignee. Effective as of the Effective Date, Assignee hereby (a) accepts the foregoing assignment of the Construction Contract, and (b) assumes and agrees to observe and perform all of the duties, obligations, liabilities, terms and covenants of the Assignor under the Construction Contract from and after the Effective Date.

8. Effective as of the Effective Date, Owner hereby (a) accepts the foregoing assignment of the Subcontracts; (b) assumes and agrees to observe and perform all of the duties, obligations, liabilities,

terms and covenants of the Assignor under the Subcontracts from and after the Effective Date, and (c) except with respect to the Subcontractor Payment Obligations, indemnifies, protects and defends Assignor and its successors and assigns, against, and save each of the foregoing harmless from, any and all third-party liabilities, obligations, costs, expenses (including, without limitation, reasonable attorneys' fees), claims, actions and damages which may arise through, from, by or under the Subcontracts and the Construction Contract, including but not limited to the construction of the Project with respect to any period or any circumstance.

9. Owner's Direction, Release and Payment. Owner directs Assignor to make assignment to Assignee of the Construction Contract. Effective as of the Effective Date, Owner accepts Assignee as the Construction Manager under the Construction Contract and directs that the Construction Contract shall be assigned by Assignor to Assignee hereunder. Further, notwithstanding anything in the Construction Contract to the contrary, including but not limited to Section 14.2.1 of the Construction Contract, Owner hereby releases and discharges Assignor for the performance of any obligations of the Construction Manager, as described therein, from and after the Effective Date. Owner hereby fully and unconditionally releases, acquits and forever discharges Assignor from any and all claims, demands, damages, actions, causes of action, suits, costs (including court costs), expenses, attorneys' fees, judgments, sums of money or claims of any kind or nature whatsoever, both known and unknown, fixed or contingent, which Owner may now have or claim to have against Assignor arising from or related to the Construction Contract. This release specifically includes, but is not limited to, any claims related to the performance or non-performance of any obligations of the Construction Manager under the Construction Contract.

(a) Owner acknowledges that Assignor commenced certain scope, including but not limited to the ordering of materials, prior to the execution of the Assignment. Assignor shall be entitled to compensation for all work performed, materials ordered, labor costs, the Construction Manager's fee, anticipated assignment costs and expenses, including attorney's fees, and all other unreimbursed costs for work performed on the Project prior to the Effective Date of the Assignment. Such amounts through July 31, 2025 are set forth on Exhibit D attached hereto and incorporated herein by this reference (the "Entitled Compensation"). Furthermore, within twenty one (21) days following the Effective Date, Assignor shall prepare a final pay application for (i) work performed, materials ordered and all other reimbursed costs for work performed on the Project from August 1, 2025, through the Effective Date, and (ii) demobilization costs and expenses (the "Final Pay Application"). The Entitled Compensation and the Final Pay Application shall collectively be referred to as the "Compensation").

(b) As additional consideration for Assignor's agreement and consent to the assignment contemplated herein, Owner shall pay Assignor Seven Hundred Ninety-Two Thousand Five Hundred Twenty-Six and No/100ths Dollars (\$792,526.00)(the "Assignment Facilitation Fee").

(c) Within ten (10) days of the Effective Date, Owner shall pay Assignor all sums set forth in the Entitled Compensation and the Assignment Facilitation Fee, which amounts shall jointly be referred to as the "Closing Payment," in cash or certified funds or by ACH transfer.

(d) Within ten (10) business days of Owner's receipt of the Final Pay Application, Owner shall pay Assignor all sums set forth in the Final Pay Application (the "Final Payment") in cash or certified funds or by ACH transfer. For purposes hereof, the Closing Payment and the Final Payment shall be collectively referred to as the Assignment Sum. Assignor's agreement and

obligations set forth herein shall not become effective unless and until Assignor receives this Agreement fully executed by Assignee, Assignor and Owner and has received receipt of the Assignment Sum.

10. Further Action. Assignor, Assignee and Owner each covenant and agree to execute and deliver, at the request of any other Party to this Assignment, such further instruments of transfer and assignment and to take such other action as such other Party may reasonably request to further document the assignment and assumption contemplated by and the full intent of this Assignment.

11. Waiver and Release.

a. Mutual Waiver. Upon Assignor's receipt of the Assignment Sum and Owner's receipt of the Final Lien Waiver (as hereinafter defined), the Assignor, Assignee and Owner each hereby irrevocably waive any claims and rights against each other that they now have or may have in the future in connection with this Assignment or the Construction Contract. This mutual waiver and release shall be binding upon and inure to the benefit of each party and their respective successors and assigns.

b. Assignor represents that the conditional lien waiver attached as Exhibit E hereto and incorporated herein by this reference releases the Owner from any and all claims arising in connection with the Construction Contract as described therein, except the payment of the Compensation and payment of the Assignment Facilitation Fee. Concurrently with submission of the Final Pay Application to Owner, Assignor shall complete and deliver to Kelly J. Mundt, Nebraska Title Company, 14680 W. Dodge Rd, Omaha, NE 68154 (the "Escrow Agent") Assignor's unconditional final lien waiver in the form attached hereto as Exhibit F and incorporated herein by this reference (the "Final Lien Waiver"). Following Owner's payment of the Assignment Sum to Escrow Agent and upon Assignor's receipt of the Assignment Sum from Escrow Agent, Escrow Agent shall release such unconditional final lien waiver to Owner and such unconditional lien waiver shall be deemed fully effective upon release.

12. Mutual Indemnity. Each Party shall indemnify defend, and hold harmless the other Parties from and against, any and all liabilities, losses, damages, claims, costs or expenses, including attorneys' fees, arising from their respective breaches of this Assignment.

13. Governing Law; Amendment. This Assignment shall be governed by, and construed and interpreted in accordance with, the laws of the State of Nebraska, without regard to conflicts of law principles. This Assignment may not be modified or amended except by written instrument signed by duly authorized representatives of all Parties.

14. Notices. All notices regarding this Assignment shall be in writing, shall be addressed to the person and address set forth below and shall be (i) deposited in the U.S. mail, first class, certified with return receipt requested and with appropriate postage, (ii) hand delivered or (iii) sent via email with a return receipt. All communications sent in accordance with this Section shall become effective on the date of receipt. From time to time Assignor, Assignee or Owner may designate a new address for purposes of this Section by notice to the other signatories to this Assignment.

If to Assignor: Meyers Carlisle Leapley Construction Company, Inc.  
Attn: Tony Fucinaro  
14558 Portal Circle  
La Vista, NE 68138  
With a copy to: [tjd@mclconstruction.com](mailto:tjd@mclconstruction.com)

If to Assignee: ARCO/Murray National Holdings, Inc.  
3113 Woodcreek Drive  
Downers Grove, IL 60515  
Attn: Legal Department  
With copy to [Email: legalnotices@arco1.com](mailto:legalnotices@arco1.com)

If to Owner: City Attorney  
City of Bellevue  
1500 Wall Street  
Bellevue, NE 68005

15. Miscellaneous. This Assignment shall be binding upon and enforceable against, and shall inure to the benefit of, the Parties and their respective successors and assigns. This Assignment may be executed in several counterparts, and delivered electronically via pdf format, each of which will be deemed an original, and all of such counterparts together shall constitute one and the same instrument.

16. Severability. Should the application of any word, phrase, clause, sentence, paragraph and/or provision of this Assignment to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (i) the validity of other words, phrases, clauses, sentences, paragraphs and/or provisions of this Assignment shall not be affected or impaired thereby and (ii) such words, phrases, clauses, sentences, paragraphs and/or provisions shall be enforced to the maximum extent possible so as to effect the intent of Assignor, Assignee and the Owner.

17. Entire Agreement. This Assignment sets forth the entire agreement between the Parties hereto relating to the Assignment of the Construction Contract and supersedes all other oral and written provisions, and except as otherwise modified herein, the terms, covenants and conditions of the Construction Contract shall remain in full force and effect. If there are any conflicts between the terms of the Construction Contract and the terms of this Assignment, this Assignment shall govern.

18. Representations and Warranties of Authority. Each Party represents and warrants to the others that it has full authority to enter into this Assignment; that it has obtained all necessary corporate, governmental, or other approvals required to execute, deliver, and perform this Assignment; and that the person signing this Assignment on its behalf is duly authorized to do so.

19. Non-Disparagement. The Parties agree that they shall not disparage another Party with respect to the Assignment and the Construction Contract. Following Owner's adoption of this Assignment, Owner and MCL agree to issue to the media the joint public statement that is attached hereto as Exhibit G and incorporated herein. The Parties agree to work together in good faith to effectuate this Assignment.

*[Signatures on the following page.]*

IN WITNESS WHEREOF, the parties hereto have executed this Assignment as of the date first written above.

**ASSIGNOR:**

**Meyers, Carlisle, Leapley Construction  
Company, Inc. dba MCL Construction, a  
Nebraska corporation**

By: \_\_\_\_\_

Name: Tony Fucinaro

Title: Managing Principal

**ASSIGNEE:**

**ARCO/MURRAY NATIONAL HOLDINGS,  
INC., a Delaware corporation,**

By: \_\_\_\_\_

Name:

Title:

**OWNER:**

**City of Bellevue, a Nebraska Municipality**

By: \_\_\_\_\_

Name:

Title

**EXHIBIT "A"**

**Construction Contract**

[To Be Attached]

**EXHIBIT “B”**

**Subcontracts**

[To Be Attached]

**EXHIBIT “C”**

**Subcontractor Payment Obligations**

[To Be Attached]

**EXHIBIT “D”**

**Entitled Compensation**

[Insert Amounts]

**EXHIBIT "E"**

**Conditional Lien Waiver Form**

[To Be Attached]

**EXHIBIT "F"**

**Final Lien Waiver Form**

[To Be Attached]

**EXHIBIT "G"**

**Joint Public Statement**

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To Be Attached]



# AIA<sup>®</sup> Document A133<sup>®</sup> – 2019

## **Standard Form of Agreement Between Owner and Construction Manager as Constructor** where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

**AGREEMENT** made as of the 16th day of September in the year 2024  
(In words, indicate day, month, and year.)

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

City of Bellevue  
Nebraska Municipality  
1500 Wall Street  
Bellevue, NE 68005

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

Meyers, Carlisle, Leapley Construction Company, Inc. dba MCL Construction, a Nebraska corporation  
14558 Portal Circle  
La Vista, NE 68138  
Office: 402-339-2221

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

Bellevue Bay Indoor Water Park  
Highway 75 and 34; Northwest corner

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

Holland Basham Associates  
119 South 49th Avenue  
Omaha, NE 68132

The Owner and Construction Manager agree as follows.

### ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

**TABLE OF ARTICLES**

- 1 INITIAL INFORMATION**
- 2 GENERAL PROVISIONS**
- 3 CONSTRUCTION MANAGER’S RESPONSIBILITIES**
- 4 OWNER’S RESPONSIBILITIES**
- 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES**
- 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES**
- 7 COST OF THE WORK FOR CONSTRUCTION PHASE**
- 8 DISCOUNTS, REBATES, AND REFUNDS**
- 9 SUBCONTRACTS AND OTHER AGREEMENTS**
- 10 ACCOUNTING RECORDS**
- 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES**
- 12 DISPUTE RESOLUTION**
- 13 TERMINATION OR SUSPENSION**
- 14 MISCELLANEOUS PROVISIONS**
- 15 SCOPE OF THE AGREEMENT**

**EXHIBIT A GUARANTEED MAXIMUM PRICE AMENDMENT**  
**EXHIBIT B INSURANCE AND BONDS**

**ARTICLE 1 INITIAL INFORMATION**

**§ 1.1** This Agreement is based on the Initial Information set forth in this Section 1.1.  
*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

**§ 1.1.1** The Owner’s program for the Project, as described in Section 4.1.1:  
*(Insert the Owner’s program, identify documentation that establishes the Owner’s program, or state the manner in which the program will be developed.)*

The project will consist of an OpenAire custom enclosure, support building and outdoor wave pool area – see exhibits 1-3.

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

The project will consist of an OpenAire custom enclosure, support building and outdoor wave pool area – see exhibits 1-3.  
 The project will be located at the Northeast corner of Highway 75 and 34 as shown on the attached exhibits.

**§ 1.1.3** The Owner’s budget for the Guaranteed Maximum Price, as defined in Article 6:  
*(Provide total and, if known, a line item breakdown.)*

DS Initial  
 a.jf RA

TBD

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

.1 Design phase milestone dates, if any:

TBD

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner’s requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:  
(Identify any requirements for fast-track scheduling or phased construction.)

N/A

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

N/A

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner’s Sustainable Objective. If E234–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:  
(Identify special characteristics or needs of the Project not provided elsewhere.)

N/A

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:  
(List name, address, and other contact information.)

Harrison Johnson  
Director of Economic and Community Development  
City of Bellevue  
1500 Wall Street  
Bellevue, NE 68005  
Office: 402-293-6085  
Mobile: 402-541-3192

§ 1.1.9 The persons or entities, in addition to the Owner’s representative, who are required to review the Construction Manager’s submittals to the Owner are as follows:  
(List name, address and other contact information.)

DS Initial  
AJF RA

TBD

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

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

TBD

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

TBD

§ 1.1.11 The Architect’s representative:  
(List name, address, and other contact information.)

Tom Zuk  
Principal  
Holland Basham Architects  
119 South 49<sup>th</sup> Avenue  
Omaha, NE 68132  
Office: 402-551-0800  
Mobile: 402-201-8669

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:  
(List name, address, and other contact information.)

Tyler Adams  
Project Executive  
MCL Construction  
14558 Portal Circle  
La Vista, NE 68138  
Office: 402-339-2221  
Mobile: 531-444-6857

§ 1.1.13 The Owner’s requirements for the Construction Manager’s staffing plan for Preconstruction Services, as required under Section 3.1.9:

(List any Owner-specific requirements to be included in the staffing plan.)

N/A

§ 1.1.14 The Owner’s requirements for subcontractor procurement for the performance of the Work:  
(List any Owner-specific requirements for subcontractor procurement.)

N/A

§ 1.1.15 Other Initial Information on which this Agreement is based:

N/A

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately

DS Initial  
AJF RA

adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

## ARTICLE 2 GENERAL PROVISIONS

### § 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

### § 2.2 Relationship of the Parties

The Construction Manager agrees to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

### § 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

## ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

### § 3.1 Preconstruction Phase

#### § 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and Architect on proposed site use and improvements, selection of materials, building systems, and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; 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. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

**§ 3.1.11 Subcontractors and Suppliers**

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

**§ 3.1.12 Procurement**

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them

**§ 3.1.13 Compliance with Laws**

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

**§ 3.1.14 Other Preconstruction Services**

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

*(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)*

TBD

**§ 3.2 Guaranteed Maximum Price Proposal**

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

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

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- .1 A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
- .2 A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- .3 A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- .4 The anticipated date of Substantial Completion upon which the proposed Guaranteed Maximum Price is based; and
- .5 A date by which the Owner must accept the Guaranteed Maximum Price.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order.

§ 3.2.5 The Construction Manager shall meet with the Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of the Guaranteed Maximum Price Amendment, unless the Owner provides prior written authorization for such costs.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

### § 3.3 Construction Phase

#### § 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the issuance of all permits and licenses necessary or required for commencement of construction activities and Owner's execution of the Guaranteed Maximum Price Amendment or, prior to acceptance of the Guaranteed Maximum Price proposal, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment.

**§ 3.3.2 Administration**

**§ 3.3.2.1** The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

**§ 3.3.2.2** Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

**§ 3.3.2.3 Monthly Report**

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

**§ 3.3.2.4 Daily Logs**

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

**§ 3.3.2.5 Cost Control**

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

**ARTICLE 4 OWNER'S RESPONSIBILITIES****§ 4.1 Information and Services Required of the Owner**

**§ 4.1.1** The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

**§ 4.1.2** Prior to the execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

**§ 4.1.3** The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

**§ 4.1.4 Structural and Environmental Tests, Surveys and Reports.** During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 4.1.4.1** The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

**§ 4.1.4.2** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and

contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

**§ 4.1.4.3** The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

**§ 4.1.5** During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner’s control and relevant to the Construction Manager’s performance of the Work with reasonable promptness after receiving the Construction Manager’s written request for such information or services. The Construction manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 4.1.6** If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

**§ 4.2 Owner’s Designated Representative**

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner’s representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner’s authorized representative.

**§ 4.2.1 Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner’s needs and interests. This provision does not require the Owner to furnish legal, insurance and accounting services, to or for the benefit of Construction Manager that may be reasonably necessary for the Construction Manager to perform the Work.

**§ 4.3 Architect**

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect’s scope of services in the agreement.

**ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES**

**§ 5.1 Compensation**

**§ 5.1.1** For the Construction Manager’s Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

*(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)*

Preconstruction Fee – Lump Sum: \$15,000.00

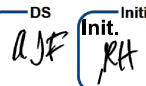
**§ 5.1.2** The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager’s Consultants and Subcontractors, if any, are set forth below.

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

N/A

**Individual or Position**

**Rate**

DS Initial  


§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

## § 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.  
(Insert rate of monthly or annual interest agreed upon.)

Twelve Percent (12.00%) per annum.

## ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

### § 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

Two Percent (2.00%).

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

- 1) For additive changes in the Work, the Construction Manager's Fee will be adjusted at the same percentage as identified in 6.1.2 above.
- 2) For deductive changes in the Work, the Construction Manager's Fee will be adjusted as follows:
  - a) For deductive changes that are >0% and <5% of the GMP, the CMR shall retain 80% of their total fee
  - b) For deductive changes that are >5% and <10% of the GMP, the CMR shall retain 70% of their total fee
  - c) For deductive changes that are >10% and <20% of the GMP, the CMR shall retain 50% of their total fee
  - d) For deductive changes that are >20% and <100% of the GMP, the CMR shall retain 20% of their total fee

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

Ten percent (10%) on Subcontractor Work and five percent (5%) on Work by a Subcontractor's subcontractor.

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed One Hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Liquidated damages, if any:

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

§ 6.1.7 Other:

(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

**§ 6.2 Guaranteed Maximum Price**

The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

**§ 6.3 Changes in the Work**

**§ 6.3.1** The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work.

**§ 6.3.1.1** The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.2** Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

**§ 6.3.3** Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

**§ 6.3.4** In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

**§ 6.3.5** If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

**ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE****§ 7.1 Costs to Be Reimbursed**

**§ 7.1.1** The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

**§ 7.1.2** Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

**§ 7.1.3** Costs shall be at rates not higher than the standard rates paid at the place of the Project, except with prior approval of the Owner.

**§ 7.1.4** Cost to cover factors that may adversely affect cost such as; construction schedule problems (, strikes, pandemics, epidemics.); and other causes beyond Construction Manager's control are considered reimbursable costs, with the Owner's prior approval.

**§ 7.2 Labor Costs**

**§ 7.2.1** Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

**§ 7.2.2** Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

**§ 7.2.2.1** Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)*

**§ 7.2.3** Wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work, with the Owner's prior approval.

**§ 7.2.4** Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3, with the Owner's prior approval.

**§ 7.2.5** If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

**§ 7.3 Subcontract Costs**

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

**§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction**

**§ 7.4.1** Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

**§ 7.4.2** Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

**§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items**

**§ 7.5.1** Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

**§ 7.5.2** Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

**§ 7.5.3** Costs of removal of debris from the site of the Work and its proper and legal disposal.

**§ 7.5.4** Costs of the Construction Manager's site office, including general office equipment and supplies.

**§ 7.5.5** Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

**§ 7.6 Miscellaneous Costs**

**§ 7.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

**§ 7.6.1.1** Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ 7.6.1.2** Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

**§ 7.6.2** Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

**§ 7.6.3** Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

**§ 7.6.4** Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

**§ 7.6.5** Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

**§ 7.6.5.1** The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

**§ 7.6.6** Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

**§ 7.6.7** Costs of document reproductions and delivery charges.

**§ 7.6.8** Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ 7.6.9** Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

**§ 7.6.10** Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

**§ 7.6.11** That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

**§ 7.7 Other Costs and Emergencies**

**§ 7.7.1** Other costs incurred in the performance of the Work, with the Owner's prior approval.

**§ 7.7.2** Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

#### § 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Construction Manager; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

#### § 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 to 7.7;
- .8 Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- .9 Costs for services incurred during the Preconstruction Phase.

#### ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

**ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS**

**§ 9.1** Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

**§ 9.1.1** When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager shall be entitled to a Change Order adjusting the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

**§ 9.2** Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

**ARTICLE 10 ACCOUNTING RECORDS**

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be in accordance with the Contract Documents. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

**ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES****§ 11.1 Progress Payments**

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

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

**§ 11.1.3** Provided that an Application for Payment is received by the Architect not later than the tenth (10<sup>th</sup>) day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the thirtieth (30<sup>th</sup>) day of the same month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty (30) days after the Architect receives the Application for Payment.

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

**§ 11.1.4** With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress

payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

**§ 11.1.5** Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

**§ 11.1.5.1** The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

**§ 11.1.5.2** The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

**§ 11.1.5.3** When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect.

**§ 11.1.6** Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

**§ 11.1.7** In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

**§ 11.1.7.1** The amount of each progress payment shall first include:

- .1 That portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values;
- .2 That portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction or, if approved in writing in advance by the Owner, suitably stored off the site at a location agreed upon in writing;
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .4 The Construction Manager's Fee, computed upon the Cost of the Work described in the preceding Sections 11.1.7.1.1 and 11.1.7.1.2 at the rate stated in Section 6.1.2 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work included in Sections 11.1.7.1.1 and 11.1.7.1.2 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

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

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.8.

**§ 11.1.8 Retainage**

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

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

Ten percent (10%) until the Project is 50% completed, at which time retainage shall be reduced to 5%.

**§ 11.1.8.1.1** The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

Payment for materials supplied by a material supplier who is not performing any construction activities at the Project site.

**§ 11.1.8.2** Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)*

See Section 11.1.8.1.

**§ 11.1.8.3** Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)*

Upon Substantial Completion, all retainage shall be paid, less an amount equal to one hundred fifty percent (150%) of the estimated cost to complete any incomplete work and for unresolved claims.

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

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

**§ 11.1.11** The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

**§ 11.1.12** In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

**§ 11.2 Final Payment**

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

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and

.3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

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

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

### § 11.3 Interest

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

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

Twelve Percent (12.00%) per annum.

## ARTICLE 12 DISPUTE RESOLUTION

### § 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

N/A

**§ 12.2 Binding Dispute Resolution**

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

*(Check the appropriate box.)*

- Arbitration pursuant to Article 15 of AIA Document A201–2017
- Litigation in a court of competent jurisdiction
- Other: *(Specify)*

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

**ARTICLE 13 TERMINATION OR SUSPENSION**

**§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment**

**§ 13.1.1** If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner.

**§ 13.1.2** In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

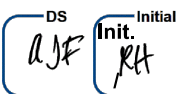
**§ 13.1.3** Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven days’ written notice to the Construction Manager for the Owner’s convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven days’ written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

**§ 13.1.4** In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager’s compensation under this Section exceed the compensation set forth in Section 5.1.

**§ 13.1.5** If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager’s Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager’s Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

**§ 13.1.6** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such

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steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

**§ 13.1.6.1** If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

## **§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment**

### **§ 13.2.1 Termination**

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

### **§ 13.2.2 Termination by the Owner for Cause**

**§ 13.2.2.1** If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

**§ 13.2.2.2** The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.

### **§ 13.2.3 Termination by the Owner for Convenience**

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Construction Manager a termination fee as follows:

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

Payment to Construction Manager of the Cost of the Work for Work completed to the date of termination and unpaid, plus the Construction Manager's fee computed thereon.

## **§ 13.3 Suspension**

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

**ARTICLE 14 MISCELLANEOUS PROVISIONS**

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 14.2 Successors and Assigns**

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

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

**§ 14.3 Insurance and Bonds**

**§ 14.3.1 Preconstruction Phase**

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of not less than One Million dollars (\$ 1,000,000 ) for each occurrence and Two Million dollars (\$ 2,000,000) in the aggregate for bodily injury and property damage.

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

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers’ Compensation at statutory limits and Employers Liability with policy limits not less than One Million dollars (\$ 1,000,000 ) each accident, One Million dollars (\$ 1,000,000 ) each employee, and One Million dollars (\$ 1,000,000 ) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than ( \$ ) per claim and ( \$ ) in the aggregate.

**§ 14.3.1.6 Other Insurance**

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

Coverage	Limits
N/A	N/A

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

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§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

**§ 14.3.2 Construction Phase**

After execution of the Guaranteed Maximum Price Amendment, the Owner and the Construction Manager shall purchase and maintain insurance as set forth in AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price, Exhibit B, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A133™–2019 Exhibit B, and elsewhere in the Contract Documents.

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

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

Via email

§ 14.5 In no event will either party be liable to the other for any type of incidental, special, exemplary, punitive, indirect, or consequential damages, including, but not limited to, lost revenue, lost profits, or loss of interruption of use, even if such party was advised of the possibility of such damages, and whether arising under any theory of law, including contract, tort, strict liability, or otherwise.

**ARTICLE 15 SCOPE OF THE AGREEMENT**

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

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price
- .2 AIA Document A133™–2019, Exhibit A, Guaranteed Maximum Price Amendment, if executed
- .3 AIA Document A133™–2019, Exhibit B, Insurance and Bonds, if executed
- .4 AIA Document A201™–2017, General Conditions of the Contract for Construction
- .5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this Agreement.)*

.6 Other Exhibits:  
*(Check all boxes that apply.)*

AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:  
*(Insert the date of the E234-2019 incorporated into this Agreement.)*

Supplementary and other Conditions of the Contract:

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Document	Title	Date	Pages
Bellevue Bay AIA Document A201-2017 080624 Final	General Conditions of the Contract for Construction	08/06/24	40

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

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

N/A

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

Signed by:

*Rusty Hike*

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**OWNER (Signature)**

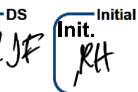
Rusty Hike, Mayor  
*(Printed name and title)*

DocuSigned by:

*Anthony Fucinaro*

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**CONSTRUCTION MANAGER (Signature)**

Anthony J. Fucinaro III, Managing Principal  
*(Printed name and title)*



Total Project Area - Bellevue, NE  
EXHIBIT 1

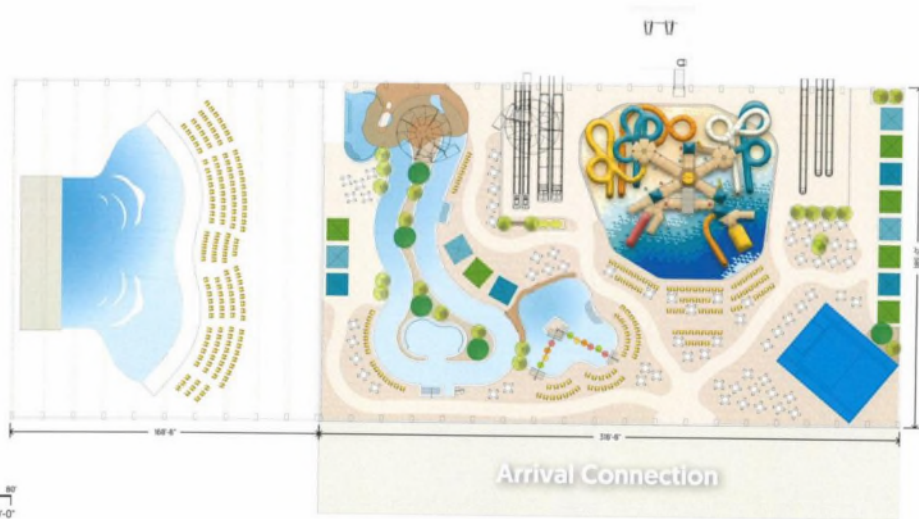
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RJE RH



### Conceptual Waterpark Design EXHIBIT 2

DS Initial  
RJE RHT

60,000 +/- SF OpenAire Structure (Natatorium)  
30,000 SF Outdoor Wave Pool Area



Scale: 1"=40'-0"

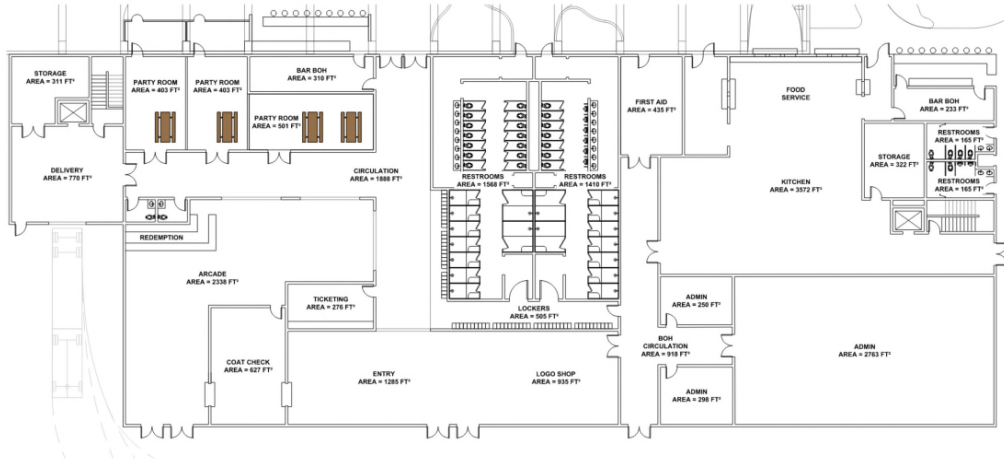


Option 2: Phase 1 & 2  
Bellevue Indoor Waterpark | Site Layouts



Conceptual Support Building  
EXHIBIT 3  
50,000 SF +/- Support Building

DS Initial  
DJF RA



BELLEVUE  
REFERENCE SUPPORT BUILDING PLAN

SK003

Issue Date: 04.08.24



# AIA® Document A201® – 2017

## General Conditions of the Contract for Construction

**for the following PROJECT:**

*(Name and location or address)*

Bellevue Bay Indoor Water Park  
Highway 75 and 34; Northwest corner

**THE OWNER:**

*(Name, legal status and address)*

City of Bellevue  
1500 Wall Street  
Bellevue, NE 68005

**THE ARCHITECT:**

*(Name, legal status and address)*

Holland Basham Associates  
119 South 49th Avenue  
Omaha, NE 68132

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- 5      **SUBCONTRACTORS**
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- 10     **PROTECTION OF PERSONS AND PROPERTY**
- 11     **INSURANCE AND BONDS**
- 12     **UNCOVERING AND CORRECTION OF WORK**
- 13     **MISCELLANEOUS PROVISIONS**

**ADDITIONS AND DELETIONS:**

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

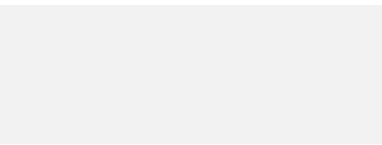
This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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

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14 TERMINATION OR SUSPENSION OF THE CONTRACT

15 CLAIMS AND DISPUTES



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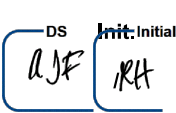
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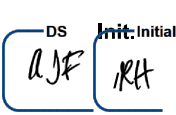
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**ARTICLE 1 GENERAL PROVISIONS****§ 1.1 Basic Definitions****§ 1.1.1 The Contract Documents**

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

**§ 1.1.2 The Contract**

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

**§ 1.1.3 The Work**

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

**§ 1.1.4 The Project**

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

**§ 1.1.5 The Drawings**

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

**§ 1.1.6 The Specifications**

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

**§ 1.1.7 Instruments of Service**

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

**§ 1.1.8 Initial Decision Maker**

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

**§ 1.2 Correlation and Intent of the Contract Documents**

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

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

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

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

### § 1.3 Capitalization

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

### § 1.4 Interpretation

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

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

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

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

### § 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

### § 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

### § 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 OWNER

### § 2.1 General

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

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

### § 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

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

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

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

### § 2.3 Information and Services Required of the Owner

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

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

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

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

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services. The Owner shall not unreasonably delay the Work in providing such information or services.

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

#### § 2.4 Owner's Right to Stop the Work

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

#### § 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

### ARTICLE 3 CONTRACTOR

#### § 3.1 General

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

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

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

#### § 3.2 Review of Contract Documents and Field Conditions by Contractor

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

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

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

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

### § 3.3 Supervision and Construction Procedures

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

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

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

### § 3.4 Labor and Materials

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

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

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

**§ 3.5 Warranty**

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

**§ 3.5.2** All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

**§ 3.6 Taxes**

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

**§ 3.7 Permits, Fees, Notices and Compliance with Laws**

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

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

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

**§ 3.7.4 Concealed or Unknown Conditions**

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

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

**§ 3.8 Allowances**

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

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

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

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

**§ 3.9 Superintendent**

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

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

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

**§ 3.10 Contractor's Construction and Submittal Schedules**

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

**§ 3.10.2** The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time unless the Architect's approval exceeds ten (10) working days.

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

**§ 3.11 Documents and Samples at the Site**

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and

similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

**§ 3.12 Shop Drawings, Product Data and Samples**

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

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

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

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

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

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

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

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

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

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

**§ 3.12.10.1** If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will

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

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

### **§ 3.13 Use of Site**

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

### **§ 3.14 Cutting and Patching**

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

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

### **§ 3.15 Cleaning Up**

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

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

### **§ 3.16 Access to Work**

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

### **§ 3.17 Royalties, Patents and Copyrights**

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

**§ 3.18 Indemnification**

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

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

**§ 3.18.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, and its 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, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Owner, Architect, engineer, and consultant, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**ARTICLE 4 ARCHITECT****§ 4.1 General**

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

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

**§ 4.2 Administration of the Contract**

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

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

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not

have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

#### § 4.2.4 Communications

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

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

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

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

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

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

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

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

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

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

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

## ARTICLE 5 SUBCONTRACTORS

### § 5.1 Definitions

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

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

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

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

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

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

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

### § 5.3 Subcontractual Relations

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

**§ 5.4 Contingent Assignment of Subcontracts**

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

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

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

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

**ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS****§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts**

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

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

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

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

**§ 6.2 Mutual Responsibility**

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

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

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

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

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

### § 6.3 Owner's Right to Clean Up

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

## ARTICLE 7 CHANGES IN THE WORK

### § 7.1 General

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

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

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

### § 7.2 Change Orders

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

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

### § 7.3 Construction Change Directives

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

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

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

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

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

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

The Architect's determination, as specified above, shall not be less than the actual costs expended by the Contractor in performing the changed Work. If the Architect's determination is believed by the Contractor to be less than its actual costs (incurred or projected) in performing the Work, the Contractor may initiate dispute resolution procedures pursuant to Article 15.

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

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

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

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

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

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

#### **§ 7.4 Minor Changes in the Work**

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

prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

## ARTICLE 8 TIME

### § 8.1 Definitions

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

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

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

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

### § 8.2 Progress and Completion

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

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

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

### § 8.3 Delays and Extensions of Time

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

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

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

## ARTICLE 9 PAYMENTS AND COMPLETION

### § 9.1 Contract Sum

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

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

### § 9.2 Schedule of Values

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

**§ 9.3 Applications for Payment**

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

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

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

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

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

**§ 9.4 Certificates for Payment**

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

**§ 9.4.2** The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 9.5 Decisions to Withhold Certification**

**§ 9.5.1** The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be

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

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

*(Paragraph deleted)*

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

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

## **§ 9.6 Progress Payments**

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

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

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

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

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

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

**§ 9.6.7** Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require

money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

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

### **§ 9.7 Failure of Payment**

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

### **§ 9.8 Substantial Completion**

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

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

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

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§ 9.8.5** The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

### **§ 9.9 Partial Occupancy or Use**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of

the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

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

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

**§ 9.10 Final Completion and Final Payment**

**§ 9.10.1** Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

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

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

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

- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

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

**ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY****§ 10.1 Safety Precautions and Programs**

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

**§ 10.2 Safety of Persons and Property**

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

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

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

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

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

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

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

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

**§ 10.2.8 Injury or Damage to Person or Property**

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

**§ 10.3 Hazardous Materials and Substances**

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or

polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

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

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

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

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

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

#### § 10.4 Emergencies

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

### ARTICLE 11 INSURANCE AND BONDS

#### § 11.1 Contractor's Insurance and Bonds

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

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

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

## § 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 11.2.2 **Failure to Purchase Required Property Insurance.** If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

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

## § 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

**§ 11.3.2** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

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

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

**§11.5 Adjustment and Settlement of Insured Loss**

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

**§ 11.5.2** Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

**ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

**§ 12.1 Uncovering of Work**

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

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

**§ 12.2 Correction of Work**

**§ 12.2.1 Before Substantial Completion**

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

**§ 12.2.2 After Substantial Completion**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the

Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

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

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

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

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

### § 12.3 Acceptance of Nonconforming Work

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

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 Successors and Assigns

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

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

### § 13.3 Rights and Remedies

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

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

#### § 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

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

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

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

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

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

#### § 13.5 Interest

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

### ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

#### § 14.1 Termination by the Contractor

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

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

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work,

repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

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

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

## § 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

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

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

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

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

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

## § 14.3 Suspension by the Owner for Convenience

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

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

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

## § 14.4 Termination by the Owner for Convenience

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

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

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

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

## ARTICLE 15 CLAIMS AND DISPUTES

### § 15.1 Claims

#### § 15.1.1 Definition

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

#### § 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

#### § 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

#### § 15.1.4 Continuing Contract Performance

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

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

#### § 15.1.5 Claims for Additional Cost

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

**§ 15.1.6 Claims for Additional Time**

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

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

**§ 15.1.7 Waiver of Claims for Consequential Damages**

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

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

**§ 15.2 Initial Decision**

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

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

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

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

**§ 15.2.5** The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision

Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall not be final or binding on the parties.

§ 15.2.6 Either party may file for mediation of an initial decision at any time  
(Paragraph deleted)

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

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

### § 15.3 Mediation

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

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

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

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

### § 15.4 Arbitration

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

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

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

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

**§ 15.4.4 Consolidation or Joinder**

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

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

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





# AIA<sup>®</sup> Document A133<sup>®</sup> – 2019 Exhibit A

## Guaranteed Maximum Price Amendment

This Amendment dated the 27th day of November in the year 2024 , is incorporated into the accompanying AIA Document A133<sup>™</sup>–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the 16th day of September in the year 2024 (the "Agreement")  
*(In words, indicate day, month, and year.)*

for the following **PROJECT:**  
*(Name and address or location)*

Bellevue Bay Indoor Water Park  
 Highway 75 and 34; Northwest corner

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

City of Bellevue  
 Nebraska Municipality  
 1500 Wall Street  
 Bellevue, NE 68005

**THE CONSTRUCTION MANAGER:**  
*(Name, legal status, and address)*

Meyers, Carlisle, Leapley Construction Company, Inc.  
 (d/b/a MCL Construction)  
 14558 Portal Circle  
 La Vista, NE 68138  
 Office: 402-339-2221

**TABLE OF ARTICLES**

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

**ARTICLE A.1 GUARANTEED MAXIMUM PRICE**

**§ A.1.1 Guaranteed Maximum Price**

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract

**ADDITIONS AND DELETIONS:**

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

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

AIA Document A201<sup>™</sup>–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

User Notes:

(2033478243)

Initial DS  


Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed Twenty Million, Two Hundred Fifty-Four Thousand, One Hundred Ninety-Five Dollars (\$20,254,195.00 ), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price. Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager’s contingency; alternates; the Construction Manager’s Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.  
(Provide itemized statement below or reference an attachment.)

- 1) Exhibit "B" – MCL GMP Amendment #1 Cost Breakdown letter dated 11/15/2024
- 2) Exhibit "C" – WhiteWater West Proposal 48542-8
- 3) Exhibit "D" – OpenAire Proposal

§ A.1.1.3 The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement.

§ A.1.1.4 The method of adjustment of the Construction Manager’s Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 Alternates

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
N/A	

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.  
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

§ A.1.1.6 Unit prices, if any:  
(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

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

ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ A.2.1 The date of commencement of the Work shall be:  
(Check one of the following boxes.)

- The date of execution of this Amendment.
- Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)  
  
Per Section 3.3.1.2 of the executed AIA A133-2019 Agreement

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

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

§ A.2.3 Substantial Completion

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work: (Check one of the following boxes and complete the necessary information.)

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

[ X ] By the following date: To Be Determined

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
N/A			

§ A.3.1.2 The following Specifications: (Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages
N/A			

§ A.3.1.3 The following Drawings: (Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

Number	Title	Date
N/A		

§ A.3.1.4 The Sustainability Plan, if any:

Init.

Initial DS [Handwritten initials]

User Notes:

(2033478243)

(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
N/A		

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:  
(Identify each allowance.)

Item	Price
N/A	

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:  
(Identify each assumption and clarification.)

See Exhibit "B"

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:  
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

See Exhibit "B"

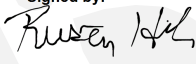
**ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS**


§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:


(List name, discipline, address, and other information.)

N/A

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

Signed by:  
  
28DB9DF7D12CAC5  
**OWNER (Signature)**  
 \_\_\_\_\_  
 Rusty Hike, Mayor  
 (Printed name and title)

DocuSigned by:  
  
E04931277D5E474  
**CONSTRUCTION MANAGER (Signature)**  
 \_\_\_\_\_  
 Anthony J. Fucinaro III, Managing Principal  
 (Printed name and title)

Initial DS  




**Meyers Carlisle Leapley Construction**  
14558 Portal Circle  
La Vista, NE 68138  
O 402-339-2221 F 402-339-2114  
[mclconstruction.com](http://mclconstruction.com)

Date: 11/15/2024

Re: Bellevue Bay Indoor Water Park Project  
Exhibit B - GMP Amendment #01 value

To: Harrison Johnson  
Director of Economic and Community Development

Mr. Johnson,

Per your request, please see a breakdown of the anticipated values that will be included in GMP Amendment #01 for the Bellevue Bay Indoor Waterpark project.

1. MCL Preconstruction fee:	\$15,000.00
2. Whitewater West Package:	\$8,418,547.00
3. Whitewater West Performance & Payment bond (2.24%):	\$188,707.00
4. OpenAire Package:	\$11,014,800.00
5. OpenAire Performance & Payment bond (2.00%)	<u>\$220,000.00</u>
	<b>SUBTOTAL-1:</b>
	\$19,857,054.00
6. MCL fee (2.00%) on items 1-5 above:	<u>\$397,141.00</u>
	<b>SUBTOTAL-2:</b>
	<b>\$20,254,195.00</b>



Meyers Carlisle Leapley Construction  
14558 Portal Circle  
La Vista, NE 68138  
O 402-339-2221 F 402-339-2114  
[mclconstruction.com](http://mclconstruction.com)

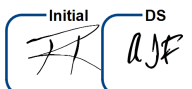
Clarifications:

1. The Whitewater West figure of \$8,607,254.00 is based on their proposal dated 09/27/2024. This figure does not include any pre-payments that have/may have occurred prior to this date. Any modifications to the scope of the proposal dated 09/27/2024 (additive or deductive) may entitle MCL Construction to an equitable adjustment in contract time and/or Guaranteed Maximum Price.
2. The OpenAire figure of \$11,234,800.00 is based on their proposal dated 09/17/2024. This figure does not include any pre-payments that have/may have occurred prior to this date. Any modifications to the scope of the proposal dated 09/27/2024 (additive or deductive) may entitle MCL Construction to an equitable adjustment in contract time and/or Guaranteed Maximum Price.
3. GMP Amendment #01 is a partial amendment and does not represent the full or final cost of the Bellevue Bay Indoor Water Park project.
4. MCL Construction is proceeding under directive from the City of Bellevue for material procurement purposes and to mitigate potential cost escalation associated with items listed above.
5. This current GMP Amendment does not include any General Conditions required to execute the work identified above - this will need to be added in a subsequent GMP Amendment.
6. This current GMP Amendment cannot be built without the balance of the complete project scope being approved by forthcoming GMP Amendment(s).
7. MCL Construction is not responsible for any change or cancellation fees directed by the Owner related to the items included in this GMP Amendment – any such fees will be passed on directly to the Owner.
8. MCL Construction is not responsible for design services – approval of this Amendment assumes the Architect and all coordinating professionals are conforming with all applicable and governing codes and requirements related to this scope of work.
9. MCL Construction will invoice per Subcontractor payment schedules listed in the attached proposals.

Respectfully,

*Tyler Adams*

Tyler Adams  
Project Executive  
MCL Construction



# Bellevue Indoor Waterpark

Bellevue, NE, USA

48542-8

November 29, 2024



**WHITewater**<sup>®</sup>

EST. 1980

This document contains a formal quotation valid for 30 days from the date issued. When signed by both parties this quotation forms a legally binding contract that guarantees the success of your project by utilizing only the best design and products available.

Parties..... 1

Specific Terms and Conditions ..... 2

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    2. Delivery, Transfer of Risk and Ownership of the Equipment ..... 3

    3. Purchase Price ..... 4

    4. Payment Terms..... 4

    5. Estimated Schedule of Delivery and Completion ..... 5

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**The appendices listed above are made part of this contract and together represent the full extent of the agreement. In case of conflict between the contract herein and any other referenced documents, the contract takes precedence.**

## Parties

---

This contract is made on the latest date of signing by both parties, between:

**The seller, WhiteWater West Industries Ltd. (WhiteWater)**

With registered office at:

180-6651 FRASERWOOD PL  
RICHMOND BC V6W 1J3  
Tel: +1.604.273.1068 • Fax: +1.604.273.4518

A British Columbia corporation with incorporation number BC1238701 and a resident of Canada for income tax purpose with registration number 10567 3271 RC0002.

**Formal notices to be addressed to the attention of:**

Luc Benac, Director Legal & Risk Management (luc.benac@WhiteWaterwest.com)

**AND**

**The purchaser,**

**(Purchaser)**

With registered office at:

.....  
.....  
.....

A ..... corporation with incorporation number

and

a resident of for income tax purpose with registration number .....

**Formal notices to be addressed to the attention of:**

..... ( ..... @..... )

Site Address at:

.....  
.....  
.....

END OF SECTION

## Specific Terms and Conditions

### 1. Abbreviated Scope of Work

Included in the scope of this proposal or contract are the following Products and Services:

PRODUCTS	As per drawing	
Slide A: Topspin – 1-2 Person Inner-Tube	48542 SK-20	
Slide B: Open & Enclosed – 1-2 Person Inner-Tube		
Slide C: Rattler – 1-2 Person Inner-Tube		
Slide D: AquaTube – Body Slide		
Slide E: AquaTube – Body Slide		
Slide F: Parallel Pursuit – Mat Racer		
Slide G: Parallel Pursuit – Mat Racer		
AquaPlay AP-RF5C Custom (Includes Polycarbonate Guardrails) (Un-Themed)	48542 SK-6	
AquaSplash Toys (14 units): GS Straight Up x 6 units GS Group Volcano x 1 unit FS Poly Palm Windy x 3 units FS Waterfall 3 x 1 unit Fs Crabbie 1 x 1 unit FS Seastar x 1 unit FS Spiral Tunnel x 1 unit		
Life Floor around AP unit		n/a
FlowRider Double		FlowRider Double
13m Wave Pool		13m Wave Pool

STEEL ADDITIONS	Steel Finish	Notes & Specifications
<input checked="" type="checkbox"/> Start tower(s) for slides	Painted	
<input checked="" type="checkbox"/> Slide supports	Painted	

ON-SITE SERVICES	Number of man-days	Notes
<input checked="" type="checkbox"/> Installation of WhiteWater Supplied Equipment	Included	Non-Prevailing Wages <sup>1</sup>
<input checked="" type="checkbox"/> Installation Advisory		based on a seven day workweek <sup>1</sup>
<input checked="" type="checkbox"/> Ride Commissioning		based on a seven day workweek <sup>1</sup>

For further information please refer to Appendices for Specifications.

**Notes:**

<sup>1</sup> Duration and price are based on a seven-day workweek and assume continuous working conditions without major interruption. In case compliance with local labor laws or safety procedures on site - whichever is the more stringent – prevents a seven-day workweek, in consultation with Purchaser, schedule and price will be adjusted to reflect such compliance.

## 2. Delivery, Transfer of Risk and Ownership of the Equipment

Delivery of the equipment; transfer of risk, transfer of ownership and responsibility of WhiteWater and Purchaser strictly follow Incoterms (2020) or as might be specified, amended or clarified below:

### DDP - Delivered Duty Paid (Place of Destination) as strictly defined under Incoterms (2020)

- Delivery, transfer of risk and ownership take place when the equipment is placed at the disposal of the Purchaser ready for unloading from the mean of transportation at the named place of destination.
- Purchaser is responsible for unloading the equipment on site except that when WhiteWater is responsible for the installation of the equipment, WhiteWater will unload the equipment as part of keeping the chain of custody.
- WhiteWater is responsible for export and import clearance as a non-resident Importer Of Record, but Purchaser must provide to WhiteWater is Employer Identification Number registered with US Customs and Border Protection (WhiteWater can help if such filing is required for Purchaser)
- WhiteWater is responsible for insurance against the risk of loss or damage during the carriage which insurance will be to the benefit of WhiteWater and not endorsed to Purchaser



Named Place of Destination is: **Bellevue, NE, USA**

### Detention

Purchaser agrees that it is responsible to pay or reimburse WhiteWater for any detention as a result of Purchaser delaying unloading and return of empty containers.

### 3. Purchase Price

Subject to the terms of this Contract, the Purchaser hereby orders and purchases from WhiteWater, and WhiteWater agrees to sell and provide to the Purchaser, the Equipment and Services for the Purchase Price, exclusive of any sales tax. When applicable, sales taxes will be in addition to the Purchase Price amount, which is the responsibility of the purchaser, and will be billed at the time of invoice.

**\$8,607,254 USD**

A breakdown of which is attached in the [Appendix 6 Purchase Price Breakdown](#).

### 4. Payment Terms

As a condition of the performance of WhiteWater, Purchaser agrees to pay the Purchase Price as follows:

<b>DEPOSIT PAYMENT</b> <i>(Upon execution of this contract)</i>	10%
<b>FACTORY BOOKING</b> <i>(to reserve capacity in manufacturing schedule)</i>	15%
<b>MATERIALS ORDER</b> <i>(to start procurement including deposit on major purchase orders)</i>	15%
<b>MANUFACTURING</b> <i>(Four weeks after start of procurement)</i>	15%
<b>MANUFACTURING COMPLETE</b> <i>(Materials ready for inspection if any)</i>	15%
<b>SHIPPING INITIATION</b> <i>(Prior to and as a condition of loading materials on board for shipping)</i>	10%
<b>SHIPPING COMPLETION</b> <i>(Upon receipt of materials at destination)</i>	10%
<b>PRE-INSTALLATION</b> <i>(Upon mobilization of our personnel on site)</i>	5%
<b>FINAL PAYMENT</b> <i>(Upon issuance of Certificate of Substantial Completion)</i>	5%

Banking information to be presented under separate cover after execution of the contract.

## 5. Estimated Schedule of Delivery and Completion

Based on a contract fully executed by both parties on **October 5, 2024**, the targeted date for commissioning of the equipment is **November 18, 2026**.

Purchaser's initial \_\_\_\_\_

### 1. Engineering

All the following deliverables need to be received within 5 business days (or as indicated on the schedule annexed) or schedule will be delayed:

- Executed Contract
- Deposit Payment
- Critical Startup Information as detailed in Appendix "Critical Startup Information" required to start performance of the work

To maintain the project schedule, the Purchaser agrees to provide all necessary approvals for design, theming and equipment colors in a timely manner.

### 2. Manufacturing

To start upon completion of Engineering and upon receipt of the following items from the Purchaser (where applicable):

- Milestone payment or issuance of the letter of credit
- Signed authorization to proceed from the Purchaser
- 3rd party design acceptance

### 3. Shipping

Loading of the equipment to start upon receipt of milestone payment, unless secured by a letter of credit.

### 4. Installation Advisory Services or Installation of Equipment (if applicable)

To start upon notification of site readiness and accessibility to our employees.

~

*Any delay to contract initiation (i.e. contract execution and deposit payment) or any changes to milestone dates by Purchaser will cause corresponding delays to the delivery schedule. In addition, significant changes might also affect the duration of the various tasks. For further information please refer to the preliminary schedule included in Appendix Preliminary Schedule.*

END OF SECTION

## General Terms and Conditions

---

### 1. Indemnification

- a. Upon written request of Purchaser, WhiteWater shall, to the fullest extent permitted by law, indemnify, defend with experienced counsel of WhiteWater's choice and hold Purchaser (including any parent, subsidiary and/or related entity of Purchaser, as well as their officers, directors, managers, employees, agents and servants with the exclusion of any service providers like architects or project engineers) harmless from any claims, demands, causes of action or costs, including attorney fees, which:
- *arise out of or are otherwise related to any alleged negligence or other culpable conduct of any of its employee, subcontractor or agent of WhiteWater, in connection with the assembly, construction, installation supervision or erection of WhiteWater's equipment OR*
  - *arise out of or are otherwise related to personal injury or death caused by a defect in the design of, manufacture of, or installation of WhiteWater's equipment.*

However, if any information reasonably supports the possibility of Purchaser error in installing, operating, maintaining or servicing the WhiteWater's equipment or if the WhiteWater's equipment involved in such claim or lawsuit has been altered by or on behalf of Purchaser, without the express written consent of WhiteWater, then this Defense and Indemnity Contract shall have no force or effect.

- b. If such is the case, upon written request of WhiteWater, Purchaser shall, to the fullest extent permitted by law, defend, indemnify and hold WhiteWater (including any parent, subsidiary or related entity of WhiteWater, as well as their officers, directors, managers, employees, agents and servants) harmless from and against any claims, demands, causes of action or costs, including attorney fees, if such claims, demands or causes of action *arise out of or are otherwise related to any alleged negligence or other culpable conduct of any employee, subcontractor, general contractor or agent of Purchaser, in connection with the planning, approval, site preparation, assembly, construction, installation or erection of WhiteWater's equipment.*
- c. If Purchaser, (including any parent, subsidiary and/or related entity of Purchaser, as well as their officers, directors, managers, employees, agents and servants) also operates the equipment, upon written request of WhiteWater, Purchaser/Operator shall, to the fullest extent permitted by law, defend, indemnify and hold WhiteWater (including any parent, subsidiary or related entity of WhiteWater, as well as their officers, directors, managers, employees, agents and servants) harmless from and against any claims, demands, causes of action or costs, including attorney fees, if such claims, demands or causes of action *arise out of or are otherwise related to any alleged negligence, culpable conduct, error, or omission of Purchaser, or any third party in contract with or under the direction or control of Purchaser:*
- i. *in connection with the maintenance, repair, service, use or operation of the WhiteWater's equipment;*
  - ii. *in connection with the supervision of users of the WhiteWater's equipment;*
  - iii. *any modification of the WhiteWater's equipment made by or on behalf of Purchaser, except those made in accordance with the express written consent of WhiteWater;*
  - iv. *any alleged negligence or other culpable conduct of users of the WhiteWater's equipment;*

The Parties expressly recognize and agree that the Party operating the equipment is uniquely situated and is in the best position to insure and otherwise provide for the safety of the users of the WhiteWater equipment, and to ensure that the WhiteWater equipment is properly maintained and properly used by patrons. Therefore, the Parties agree that indemnity obligations provided by the entity operating the equipment) takes precedence over WhiteWater's indemnity obligations to Purchaser or Operator.

- d. **Notices** - Indemnitee shall notify Indemnitor of any claim or lawsuit which Indemnitee will assert. Indemnitor might be obligated to defend under this Section within fifteen (15) days of Indemnitee's receipt of notice of said claim or lawsuit. In addition to the forgoing, Indemnitee will use reasonable efforts to notify Indemnitor within fifteen (15) days of obtaining facts which suggest that Indemnitor may be obligated to defend and indemnify the Indemnitee in accordance with this provision. Failure to provide such notice in the preceding sentence shall not void the indemnity provision.

unless Indemnitor can prove that Indemnitee's failure to so notify Indemnitor materially impaired Indemnitor's ability to defend any claim arising from such facts.

- e. **Obligation to Report Incidents** - WhiteWater and Purchaser/Operator agree and recognize that timely investigation and analysis of any mishap, accident, injury, death, claim or demand is vital to the maintenance, improvement, and safe use of the WhiteWater's equipment. Purchaser/Operator shall report any mishap, accident or incident involving any bodily injury, damage or death, or injury to or destruction of tangible property, to WhiteWater within five (5) days of the reported incident, regardless of whether any claim or demand for damages is made.

## 2. Insurance

### a. **Installation Project Period: Insurance**

- i. Without in any respect limiting WhiteWater's obligations under the Defense, Indemnity and Hold Harmless provisions, WhiteWater, at its sole cost and expense, must provide Commercial General Liability Insurance including coverage for Bodily Injury, Property Damage, Personal Injury Liability, Completed Operations, Products Liability and non-owned Auto, with policy limits of liability through primary, umbrella and excess up to \$10,000,000 per occurrence and in the aggregate. The insurance shall include coverage for contractual indemnity for bodily injury or death or to injury or destruction of tangible property including the loss of use resulting therefrom. Project specific limits are not provided.

Such insurance shall name as Additional Insureds the parties indemnified in the Defense, Indemnity and Hold Harmless provisions during the performance of the work. Such insurance shall provide that it is primary insurance coverage over insurance where Purchaser is a named insured, and shall not be reduced by, nor contribute nor prorate with any other insurance available to Purchaser where Purchaser is a named insured; and shall contain a Waiver of Subrogation Clause. Additional Insureds are all entities where required by written contract with the insured and to whom a certificate of insurance has been issued and for the term specified by written contract.

Such policy shall provide thirty (30) days prior written notice to the additional insureds before termination of such policy before the end of the completion of the work. The additional insured status terminates at the end of the Correction Period twelve (12) months from the date of Commissioning regardless of whether notice is provided, or not. Such insurance shall be evidenced by certificates of insurance and a copy of relevant endorsement as might apply shall be submitted with the Certificate.

- ii. WhiteWater, at its sole cost and expense, must provide Employer's Liability and Worker's Compensation coverage of \$1,000,000 (USA coverage will be based on statutory limits for all states excluding monopolistic states) and shall ensure that any contractor or subcontractor hired by WhiteWater to provide services under WhiteWater's obligations per this Contract maintains the same.

### b. **Post Installation Period: Insurance**

- i. Without in any respect limiting the parties' obligations under the Defense, Indemnity and Hold Harmless provisions above, the parties agree, at their sole cost and expense, to maintain Commercial General Liability Insurance including coverage for Bodily Injury, Property Damage, Personal Injury Liability, Completed Operations, and Products Liability, with policy limits of liability through primary, umbrella and excess of no less than \$5,000,000 per occurrence and in the aggregate. The insurance shall include coverage for contractual indemnity for bodily injury or death or to injury or destruction of tangible property including the loss of use resulting therefrom.

## 3. Transfer of Risk and Title

Transfer of Risk takes place upon delivery based on Incoterms (2020) as selected under Specific Terms and Conditions - Delivery, Transfer of Risk and Ownership of the Equipment. Transfer of Title mirrors the transfer of risk.

## 4. Payment Bonds and Notice of Commencement

- a. Payment Bond: When project property cannot be subject to a Mechanical's Lien or is subject to Miller Act or Little Miller Acts, a payment bond will be required as a condition of WhiteWater providing services. Upon executing this contract, if the Purchaser has obtained or subsequently obtains a payment bond in connection with the construction project, the Purchaser shall furnish WhiteWater with a full and true copy of such payment bond within seven (7) calendar days of

WhiteWater's request or, if earlier, prior to WhiteWater commencing any work on the construction project.

- b. Notification of Changes: In the event of any changes, amendments, or modifications to the payment bond, the Purchaser shall promptly provide the WhiteWater with a copy of the amended or modified bond.
- c. Remedy for Failure to Provide: Failure of the Purchaser to furnish the requested payment bond or any updates to the bond, as stipulated above, may result in the WhiteWater suspending work until such time as the bond is provided, without incurring any penalties or liabilities for project delays.
- d. Claims Against the Bond: Nothing in this clause shall be construed to limit or restrict the WhiteWater's rights to make a claim against the payment bond, in accordance with the terms of the bond and any applicable laws.

## 5. Delays or Suspension by Purchaser

- a. The parties acknowledge that best effort has been made to take into consideration the increase in cost of materials including steel and fiberglass, labor and freight based on the expected period for the performance of the work. In the event of significant delay including delaying the start of the project and securing the materials or price increase of material, equipment or energy occurring during the performance of the contract through no fault of WhiteWater or its subcontractors, the contract sum, time of completion or contract requirements shall be equitably adjusted by change order. The effect of this escalation provision will be determined by considering the relevant price indexes and inflation between the expected period for the performance of the work and the actual period of the performance of the work. The parties agree that only major and significant changes will be considered under this escalation clause, and it is not the purpose of this clause to create unreasonable uncertainty for either party.
- b. Separate and apart from the costs set forth above, should Purchaser delay taking delivery of the materials when shipment should have taken place, any payment that would have become due if delivery has not been delayed by Purchaser, will be paid as if the materials had been delivered at the expected date. In addition, if WhiteWater is required to store work in progress and/or finished goods for a period of more than fourteen (14) days, WhiteWater shall be entitled reimbursement for the actual cost of such storage plus a ten percent (10%) administration fee.
- c. While WhiteWater is on site, if the project is delayed as a result of the actions of Purchaser, its Agents or its affiliates, Owner (as might apply), as well as their subcontractors then the project schedule shall be adjusted accordingly, and WhiteWater shall be entitled to an equitable adjustment of the Purchase Price. The project schedule and the Purchase Price shall be adjusted for the increase in the cost and time caused by the delay, interruption or suspension including overhead and profit. Costs to be reimbursed shall include costs related to demobilization and mobilization of equipment, crew and/or supervisory personnel but not exclusively such. No adjustment shall be made when performance would have been suspended, delayed or interrupted by another cause for which WhiteWater is responsible.
- d. It is understood by both parties that delay by Purchaser in making payments when due will result in delay in completion of subsequent milestones by WhiteWater and can increase duration of the work.

## 6. Delay in Payment and Interests

- a. It is understood by both parties that delay by Purchaser in making payments when due will result in delay in completion of subsequent milestones by WhiteWater and can increase duration of the work.
- b. When an invoice is required by Purchaser, such invoice will be issued 15 days before the milestone date and will be due and payable on the milestone date.
- c. Should either party fail to make payments as they become due under the terms of the contract or in any award by arbitration or by the courts, interest at the following rates on such unpaid amounts shall become due and payable until payment:
  - i. (1) 1% per annum above prime rate as set by Bank of America from time to time for the first 15 days from the due date. WhiteWater reserves the right to waive interest on any overdue payment without affecting any other right under this contract nor any future interest applicable under this clause 6.
  - (2) 2% per annum above prime rate as set by Bank of America from time to time for the next 45 days
  - (3) 4% per annum above prime rate as set by Bank of America from time to time after the first 60 days

If the above rates exceed the legal rate prevailing from time to time at the place where the project is located, then the rate will be reduced to that legal rate.

## 7. Delays by WhiteWater

- a. If the project is delayed as a result of WhiteWater not meeting schedule milestones, then the project schedule will be adjusted accordingly.
- b. When WhiteWater is the sole cause of the delay to the Commissioning and Substantial Completion and delay is not caused by an event of Force Majeure or by the Purchaser's failure to make payments in accordance with the Contract or to provide required information to WhiteWater when contemplated in the Contract, Purchaser shall be entitled to liquidated damages in the sum at the daily rate of \$1,000.00, beginning fourteen (14) days from written notice given by Purchaser, up to a maximum liquidated damage aggregate of Five Percent (5%) of the contract price of the equipment delayed.

## 8. Impossibility/Impracticability

When a party is excused of his or her responsibilities because performance has been made excessively burdensome—impracticable—by a supervening event that was not caused by the party seeking to be excused and that is inconsistent with the basic assumption of the parties at the time the contract was made, all deadlines and dates shall be adjusted and extended, and WhiteWater shall not be liable whatsoever for any delays in delivery or any failure to deliver the goods. WhiteWater shall have such additional time to ship and/or deliver the goods as may be reasonable or appropriate under all circumstances.

## 9. Waiver of Consequential Damages

In no event shall one party be liable to the other or any other entity for loss of use, loss of profits or for any consequential, incidental, indirect, extra-contractual or special damages of any type which might be suffered by the other party, regardless whether the party has been advised of their applicability.

## 10. Termination

- a. The Purchaser acknowledges that once an order is placed with WhiteWater, considerable expense is incurred by WhiteWater to provide the Design Services, and manufacturing the equipment and accordingly, this Contract may not be terminated by the Purchaser unless following sub-clauses (b) and (c) below:
- b. Termination for Cause. If WhiteWater materially defaults in carrying out its duties under this Contract, the Purchaser will give WhiteWater notice of the default in which case WhiteWater will have ten (10) days to remedy the default or propose a satisfactory remedy to cure the default and Purchaser shall not unreasonably refuse such remedy. If WhiteWater is unable to make such remedy, the Purchaser may elect to terminate the Contract.
- c. Termination for Convenience. The Purchaser can terminate this Contract, without cause. If the Contract is terminated before performance is completed, WhiteWater will be paid only for the prorate of the Contract Price corresponding to work satisfactorily performed and work in progress, cost incurred or that cannot be avoided including orders that cannot be cancelled or returned at the time of the termination and for which costs can be substantiated. In addition, a cancellation fee equivalent to 20% of the value of the amount above is also payable but in no circumstances will the aggregate amount paid exceed the total Purchase Price. All work in progress will become the property of the Customer and will be turned over promptly by WhiteWater and put at the disposal of Purchaser at its current location.
- d. Termination for Payment Default. If the Purchaser should fail or wrongfully refuse to approve or refuse to make payment in accordance with this Contract, then WhiteWater may elect to terminate the contract, by notice in writing. WhiteWater shall be entitled to collect from Purchaser, payment for all completed contracted work and to recover all direct costs prorated from contract amounts, incurred up to the time of termination. If Purchaser cures its nonpayment within fifteen (15) days, then WhiteWater's notice of termination will be rendered ineffective.

## 11. Completion

- a. Following installation and testing of the equipment, WhiteWater will provide Purchaser with a Certificate of Substantial Completion, along with a deficiency list of unfinished items, if any, to

illustrate the Substantial Completion of the Work. Substantial Completion is defined as the date in which the Work is ready to be used, or is being used, for the purposes for which it was intended.

- b. Both parties in writing shall agree upon the value of each item on the deficiency list. In the case WhiteWater is responsible for Installation of the Equipment or there is any material has not yet been delivered, the allowable dollar amount to be retained by the Purchaser after the date of Commissioning is the total agreed upon value of the deficiencies or parts multiplied by two.
- c. Total Completion is achieved when WhiteWater completes the items on the deficiency list which are part of WhiteWater's scope of work. At such time WhiteWater shall issue a Certificate of Final Completion to be executed by Purchaser as proof of their acceptance and full completion of the Work.

## 12. Correction Period and Express Limited Warranties

- a. Correction Period. For a period of twelve (12) months from the date of Commissioning, WhiteWater shall repair or replace at its sole option, parts, or portion of the equipment subject to any defect in material, workmanship, or design outcome; provided the Equipment has been paid in full, installed according to and in full compliance with engineering drawings and used in accordance with the Operation and Maintenance Manuals. The operator is required to report in writing any alleged defect within ten (10) days of its appearance, or the correction might be at the sole cost of the operator or the operator might become responsible for the additional cost of repair resulting for letting the issue unreported and unresolved for a longer period. Act of God, damages from extreme weather, intentional physical damages and damages from impacts are not covered and all other warranties expressed or implied are rejected unless noted herein. In no case shall WhiteWater be liable for any consequential damages.
- b. Express Limited Warranties. Correction Period covers peeling, cracking, blistering, and or delamination, under conditions of normal use, which are the result of improper surface preparation or manufacturing by WhiteWater.
  - i. The following warranties are offered in regard of fiberglass reinforced panels.
    - Replacement or repair for parts installed according to engineering drawings that have structurally failed within three (3) years of installation, unless such failure is at a result of installation crews constraining straight sections (when not installed by WhiteWater) or when site preparation and/or foundations did not comply with WhiteWater's engineering drawings).
    - Resurfacing or repair for parts that are subject to any severe latent defect in clearcoat and/or gelcoat within three (3) years of installation, unless the operator cannot provide reasonable records showing that operation and maintenance have been performed in compliance with the Operations and Maintenance Manual.
  - ii. The following warranties are offered in regard of structural steel.
    - Replacement or repair for structural steel members installed according to engineering drawings that are defective within three (3) years of installation, unless such defect is at a result of installation error (when not installed by WhiteWater) or when site preparation and/or foundations did not comply with WhiteWater's engineering drawings.

These warranties are subject to guidance, limitations and requirements outlined in the relevant sections of the Operations & Maintenance Manual.

## 13. Change Orders

- a. Without affecting the validity of any of the terms of this Contract, the parties reserve the right to make reasonable changes to the scope of work, provided that and only when such changes are affected through a written change order executed by both parties. Once a party formally send a request for a change order, the other party will endeavor to review and confirm feasibility, schedule adjustment and impact on price of the proposed change within five (5) business days of the receipt of all the required information. If the reviewing party fails to respond, the change order will be considered to be accepted and the requesting party will be entitled to send notice of such on the sixth day.
- b. During the initiation stage of the project, WhiteWater and Purchaser will work closely to finalize the details of the design documented in this Contract by incorporating minor changes, if any, necessary to proceed to the detailed engineering as per estimated schedule.

- c. Once the detailed engineering has begun any proposed change will require an adjustment of schedule and price as per Paragraph 8.a above.

#### **14. Third Party Review Requirements**

The Purchaser agrees that unless expressly documented in this contract, there is no requirement for a 3rd party review of design, manufacturing, installation or operation of the WhiteWater supplied equipment. If a 3rd party review including reviews by local, state or federal authorities is required, and not documented in this Contract, WhiteWater will have the opportunity to review the requirements and provide a change order to document the change to the sell price and project schedule as a result of this inclusion.

#### **15. Design Code and Special Design Considerations**

The purchaser agrees that the standards referenced in the annexes of this Contract are the only ones applicable to the design of this project. Any other standards, specifications, or similar requirements not identified in the contract will be subject to WhiteWater review and approval and may result in a change order if approved.

#### **16. Standard of Care**

WhiteWater shall perform its services in accordance with the standards noted above consistent with the professional skill and care ordinarily provided by designers and engineers practicing in the same or similar jurisdiction under the same or similar circumstances. WhiteWater shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progresses of the work.

#### **17. Safety**

WhiteWater's employees, agents, representatives, independent contractors or individuals acting under WhiteWater's direction will at all time abide and follow the Safety Procedures in place on the project site in addition to WhiteWater's Safety Procedures.

#### **18. Assignment**

- a. WhiteWater may not assign a portion of this contract to other parties without the written consent of the Purchaser. WhiteWater may use subcontractors in the fulfillment of the contract.
- b. The Purchaser may not assign the contract without the written consent of WhiteWater.

#### **19. Independent Contractor**

WhiteWater shall at all times be an independent contractor in performing its obligations pursuant to this Contract. Nothing contained in this Contract shall in any way be construed to create an employer/employee relationship, agency relationship, partnership or joint venture between the parties.

#### **20. Taxes**

Unless otherwise contemplated in the Specific Terms and Conditions, all payments to be made under this Contract shall be made in cleared funds, without any deduction or set-off and free and clear of and without deduction for or on account of any taxes, levies, imports, duties, charges, fees and withholdings of any nature now or hereafter imposed by any governmental, fiscal or other authority from the country of destination save as required by law. If the Purchaser is compelled to make any such deduction, it will make additional payments to ensure that the WhiteWater receives the full amount before such deductions.

#### **21. Jurisdiction**

This Contract shall be construed in accordance with, and will be subject to, the laws of the jurisdiction in which the project is located unless stated otherwise.

#### **22. Language**

All official WhiteWater's communications, contractual documents and project documentation will be issued in English which will be considered the language of the contract. Any translation/interpretation of project documentation will be the sole responsibility of the Purchaser, unless otherwise stated in this Contract.

### **23. Electronic Delivery**

This Contract may be executed and delivered in one or more counterparts and by facsimile, electronic means or otherwise, each of which when executed and delivered will be deemed an original, and all of which will constitute one and the same document. Facsimile signatures shall be deemed to be original signatures.

### **24. Project Images**

Purchaser shall grant WhiteWater the right to use video, picture or other representation of the equipment and its surrounding in the possession of Purchaser and Purchaser agrees to provide such from time to time upon reasonable request by WhiteWater. WhiteWater may also acknowledge Purchaser in any promotional material utilizing video, picture or print material that depicts the Attraction, including limited use of Purchaser's trademarks, trade name and trade dress or Purchaser's guests' likeness.

END OF SECTION

## Execution and Acceptance

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This contract is made on the latest date of signing by both parties. By execution of this document, the SELLER and the PURCHASER have reviewed and agree to all terms and conditions, including Appendices referenced and attached that are made part of this contract. The parties acknowledge that these documents unless otherwise expressed herein represents the full extent of the agreement.

**SELLER: WHITEWATER WEST INDUSTRIES LTD.**

-----  
**SIGNATURE**

-----  
NAME

-----  
TITLE

-----  
DATE

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**PURCHASER:**

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SIGNATURE

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NAME

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TITLE

-----  
DATE

## Appendix 1 Equipment Supply Services - Specifications

EQUIPMENT					
APPLICABLE TO:	ITEM	ITEM DESCRIPTION	SPEC	SELLER	BUYER
	<b>3.1</b>	<b>Fiberglass Waterslides</b>	<b>WS</b>		
SK-20, AP-RF5C Custom	3.1.1	Fiberglass waterslide parts		■	
	3.1.2	Fasteners for all flume to flume connections		■	
	3.1.3	SikaFlex® 1A brand or equivalent caulking as necessary for all flume to flume connections.		■	
	3.1.4	Waterslide vehicles			■
	3.1.5	Safety Signage			■
	3.1.6	Safety Equipment for Inspections and Maintenance			■
	3.1.7	Fiberglass effects: 31 Sections of AquaLucent (SK-20) 17 Sections of AquaLucent (AP-RF5C Custom)			■
	<b>3.2</b>	<b>Steel Slide Support System (Galvanized &amp; Painted)</b>	<b>ST</b>		
SK-20, AP-RF5C Custom	3.2.1	Steel Columns (Galvanized & Painted)		■	
	3.2.2	Steel Arms (Galvanized & Painted)		■	
	3.2.3	Steel Yokes (Galvanized & Painted)		■	
	3.2.4	All fasteners for WhiteWater equipment according to engineering specifications		■	
	<b>3.3</b>	<b>Start Towers (Galvanized &amp; Painted)</b>	<b>ST</b>		
SK-20	3.3.1	Detailed framing and connections		■	
	3.3.2	Guardrails - Galvanized Steel Picket Railing		■	
	3.3.3	Handrails - Galvanized Steel		■	
	3.3.4	Composite Lumber Stair Treads		■	
	3.3.5	FRP Pan Platforms with Concrete Infill (Concrete by others)		■	
	3.3.6	Fabric Canopy (If Applicable)			■

	3.3.7	All fasteners for WhiteWater equipment according to engineering specifications			■
	3.3.8	Weigh Scales (2 units)			■
	<b>3.4</b>	<b>Concrete Works and Foundations</b>			
SK-20	3.4.1	Concrete sumps			■
	3.4.2	Grating over sumps and under shutdown lane (if required)			■
	3.4.3	Concrete waterproofing			■
	3.4.4	Concrete infill for tower platforms			■
SK-20, AP-RF5C Custom	3.4.5	Shutdown Lane slabs			■
SK-20, 6	3.4.6	Concrete pedestals			■
	3.4.7	Reinforcing steel for concrete works			■
	3.4.8	Grout below base plates			■
	3.4.9	Anchor bolts		■	
	3.4.10	Embed Plates		■	
	3.4.11	Anchor bolt steel templates (for cast in place anchor bolts)		■	
SK-6, 13m Wave Pool	3.4.12	Foundations and slabs			■
SK-6, 13m Wave Pool	3.4.13	Pool that meets WWI defined water elevations and dimensions			■
	<b>3.5</b>	<b>Mechanical</b>			
SK-20, 6	3.5.1	Pumps			■
	3.5.2	Flow Meters (Installed in an accessible location)			■
SK-20	3.5.3	Piping for all pumps, sprayers, and drains complete with Plumbing supports			■
	3.5.4	Valves, filters, fittings, etc.			■
SK-6	3.5.5	Piping/Valves/Fittings/Filters/etc to supply water from the Mechanical Room to WWI Specified Stub Ups			■
	3.5.6	Piping/Valves/Fittings/Filters to supply water from WWI Specified Stub ups to the Waterslides and Interactives		■	
SK-6, 13m Wave Pool	3.5.7	Pool that meets WWI defined water elevations and dimensions			■
SK-20, 6	3.5.8	VFD for Pump			■

	3.5.9	Mechanical room (Plant room)			■
	<b>3.6</b>	<b>Electrical</b>			
SK-20, 6	3.6.1	Power to pumps			■
	3.6.2	Pump and motor disconnects (as required)			■
	3.6.3	E-Stops as required by local codes			■
	3.6.4	Pump and motor cables			■
	3.6.5	Grounding and Bonding			■
	3.6.6	Conduit (supply and layout)			■
SK-20	3.6.7	Control Panel and Operator Console	DPS	■	
	3.6.8	Two Sets of Photo Eyes for each lane	DPS	■	
	3.6.9	Sensors and junction boxes	DPS	■	
	3.6.10	Interconnecting wiring for WWI supplied equipment	DPS		■
	3.6.11	Electrical supply to WWI supplied equipment	DPS		■
	3.6.12	Mounting	DPS		■
	3.6.13	Power to weigh scale control unit	SC		■
	3.6.14	Weigh scale interconnecting wiring	SC	■	
	3.6.15	Mounting	SC		■
	3.6.16	Weigh scale control panel	SC	■	
	<b>3.7</b>	<b>Rider Dispatch System</b>	DPS	■	
SK-20 (All Slides)	3.7.1	Red/Green Traffic light for each slide		■	
	<b>3.8</b>	<b>AquaPlay</b>	AP		
SK-6	3.8.1	AquaPlay AP-RF5C Custom Unit		■	
	3.8.2	Theme Level: Lexan Polycarbonate Guardrails		■	
SK-6	<b>3.9</b>	<b>AquaSplash</b>	AS	■	
	<b>3.10</b>	<b>LifeFloor</b>		■	
n/a	3.10.1	Life Floor under and around AP unit (Area: 4690 ft2) (Transition strips excluded)	LF	■	
	<b>3.11</b>	<b>Wave Equipment</b>	WV	■	

Wave Pool	3.11.1	Air Fan Sets			■	
	3.11.2	Caisson Valves			■	
	3.11.3	Pneumatic Control System			■	
	3.11.4	Master Control Panel			■	
	3.11.5	Remote Control Panel			■	
	3.11.6	Air Compressor Set			■	
	3.11.7	Ductwork			■	
	3.11.8	Anticipated Spares for first year of operation			■	
	3.11.9	Mountings, hold down bolts, supports			■	
	3.11.10	Noise Attenuation Equipment			■	
	3.11.11	Equipment room ventilation			■	
	3.11.12	Acoustic Doors			■	
	3.11.13	Caisson safety grilles			■	
	3.11.14	Warning Horn			■	
	3.11.15	All electrical wiring and conduit			■	
	3.11.16	Civil Works – excavation, forming, concrete, rebar, all civil works			■	
	FlowRider Double	<b>3.12</b>	<b>FlowRider Double</b>			<b>FR</b>
		3.12.1	Main structure			■
		3.12.2	Tension structure			■
3.12.3		Recovery structure			■	
3.12.4		Pumps			■	
3.12.5		Electrical Control Panel – Variable Frequency Drives			■	
3.12.6		Padding system			■	

3.12.7	Drainage System		■	
3.12.8	Ride surface		■	
3.12.9	Flow Fence		■	
3.12.1 0	FlowRider boards		■	
3.12.1 1	Mountings, epoxy anchor hold down bolts, supports		■	
3.12.1 2	Safety signage		■	
3.12.1 3	Civil Works – excavation, forming, concrete, rebar, all civil works			■
3.12.1 4	Walkways, walkway coverings, handrails and splash guards			■
3.12.1 5	Mechanical – filtration pumps, valves, piping, filters, fittings etc.			■
3.12.1 6	Mechanical and Electrical Room (including A/C)			■
3.12.1 7	Electrical – power to electrical control panel, wiring, conduit etc.			■

**WS****SPEC-WS  
Specification – Waterslides****1. Flume**

All waterslide parts are produced to engineered laminate schedules in variable thickness to be compliant with relevant regulatory requirements including ASTM (F846, F853, F1193, F2376, and F2974), ISO 9000-2008 (Manufacturing) and EN 1069-01.

The base layer of isophthalic polyester resin is coated with ISO/NPG gel coat enabled with UV resistant properties along with protection against water fading and blistering from osmosis.

Waterslide Risers: All flumes come with necessary risers for safety and to reduce water splash-out.

- 1.4 Entry box: All waterslides come with pre-plumbed entry box complete with pipe stub and flexible coupler.
- 1.5 Drilling: All flanges are pre-drilled.
- 1.6 Fasteners: Flume to flume fasteners are hot-dipped galvanized steel for indoor application and stainless steel for outdoor application.
- 1.7 Grabrails: All necessary grabrails which affix to the entry box are stainless steel and are included.
- 1.8 Labeling: All parts are labeled with a part code number for easy identification.

**1. Fabrication**

- 1.1 All steel is fabricated in certified shops under Canadian Welding Bureau Standard CSA W47.1, or American Structural Welding Code AWS D1.1.

**2. Materials**

- 2.1 All steel is new and conforms to ASTM designation as per the engineering drawings.
- 2.2 All steel (excluding stainless steel when used) is provided hot dipped galvanized according to ASTM A123/A123M & ASTM A153/A153M.

**3. Level of Fabrication**

- 3.1 All steel is provided for bolt-up assembly. Columns are complete with clips for arms and braces, end caps, and baseplates. Arms have knee brace attached and all clips for attachment. All fasteners according to engineering specifications are supplied.
- 3.2 All steel is provided for bolt-up assembly, unless specific design requirement calls for field welded connections.
- 3.3 All columns are complete with base plates, clips, end plates, welded on.

**4. FINISH (IF PAINTED)**

- 4.1 All Steel painted in customer's choice of color Painted finish. Steel is painted to Grade B Industrial Finish. All painted steel will be cleaned and prepped before receiving a two part Epoxy primer coat and Urethane Topcoat.

**ST****SPEC-ST  
Specification – Steel**

**DPS****SPEC-DPS  
Specification – Rider Dispatch System****1. General Performance**

- 1.1 This system is not designed as a replacement for slide operators – it is an aid to operators to provide for a safe ride experience.
- 1.2 The rider dispatch system consists of a red and green traffic light located at the slide start that is used by riders and operators to indicate when the slide is ready for a rider to enter the slide.
- 1.3 Photo-eyes located at the start and end of the slide determine whether the slide is occupied or free.
- 1.4 For slides equipped with run-out lanes at their finish, there is an operator controlled CLEAR button which must be activated in order to clear the slide for the next rider – this is provided in order to verify that the previous rider has successfully exited the run-out lane. At any time, the operator at the slide exit can press the HOLD button which will cause the red traffic light to remain on until the hold situation is cleared.

**2. Electrical Controls**

- 2.1 The main control panel requires a 110VAC to 240VAC supply at 2A max (maximum is for a 6 slide configuration). It is an IP65 rated polyester cabinet.
- 2.2 Traffic lights are 24VDC LED devices, rated IP65.
- 2.3 Photo-eyes are 24VDC devices, rated IP65.
- 2.4 Operator controls are 24VDC devices. They use IP65 rated polyester enclosures.

**3. MOUNTING**

- 3.1 The main control panel is typically located either at the slide entry area or at the base of the tower.
- 3.2 The photo-eyes are mounted behind clear windows on the slide and finished flush in order to provide a smooth slide surface.
- 3.3 The traffic lights are typically mounted to one side of the slide entry tub to be visible to the rider waiting to slide.
- 3.4 The operator buttons are typically mounted in an area easily accessible to the operators working at the end of the slide(s).

**SPEC-AP****Specification—AquaPlay™****1. General Performance:**

- 1.1 AquaPlay™ is the original multi-level aquatic play structure that includes interactive water features, Waterslides, and/or an iconic Tipping Bucket. AquaPlay™ products are intended for use in Waterparks, Municipalities, and Hotel & Resorts and are designed for use by all ages.

**2. References (Standard Compliance)****2.1 ASTM International Standards**

- 2.1.1 ASTM F2461 Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Aquatic Play Equipment.

**2.2 European Standards**

- 2.2.1 EN 1176 Playground Equipment and Surfacing – Part 1 – General Safety Requirement.
- 2.2.2 EN 1069-1 Water Slides Safety Requirements and Test Methods.
- 2.2.3 EN13451-3:2011+A3:2016 Swimming Pool Equipment. Additional specific safety requirements and test methods for inlets and outlets and water/air-based water leisure features.

**3. Materials****3.1 Structural Frame:**

- 3.1.1 Materials: All steel is new and conforms to ASTM designation as per the design drawings. Main piping of the structure is minimum schedule 40 steel pipe, or as per design drawings or equivalent substitution material.
- 3.1.2 Fabrication: All steel is fabricated in certified shops under Canadian Welding Bureau standard 2.1, CSA W47.1. or American Welding Standards
- 3.1.3 Finish: All steel is provided hot dipped galvanized as per ASTM A123/A123M Standard Specification for Zinc (Hot-Dip Galvanized) Coating on Iron and Steel products in accordance with ASTM385/A385M Standard Practice for Providing High-Quality Zinc Coatings (Hot-Dip), and shop painted per section 11 below.
- 3.1.4 All steel is provided for bolt-up assembly, unless specific design requirement calls for field welded connections.
- 3.1.5 All parts not required to be structural may be fabricated from material as specified per design drawings

**AP**

- 3.1.6 Primary structural fasteners (bolts, nuts, washers and screws) are stainless steel or galvanized. Secondary fasteners are stainless steel where required (slides and skirting). Unfinished plain steel hardware is not permitted for use.
- 3.2 Mechanical
- 3.2.1 The play system has an integrated manifold system for regulating the water flows and pressures to the water effects. The manifold is constructed of PVC, steel or fiberglass and utilizes suitable valves, or material as per design drawings. The system is accessible for adjustment and each valve will be labeled as to the location it controls.
- 3.3 Fiberglass Decks and Stairs
- 3.3.1 All fiberglass decks and stairs shall have non-slip finish on exposed traffic surfaces. All corners are rounded with no exposed square edges allowed.
- 3.3.2 All areas below platforms and stairs less than 1.8 m (6') high are blocked off from the public access with solid panels or Netting. All panels are finished with ultra-violet resistant finish.
- 3.4 Fiberglass Waterslides
- 3.4.1 Standard waterslide flume sections – refer to Waterslide standard SPEC.
- 3.5 Paint
- 3.5.1 All exposed galvanized metal and exterior PVC components are first prepped then primed with two coats of catalyzed epoxy primer then painted with two coats of catalyzed polyurethane topcoat that is chemical and ultraviolet resistant. This topcoat provides a high gloss finish that is extremely hard and damage resistant. FRP components may alternately use High Quality Gelcoat.
4. Product Requirement
- 4.1.1 Designed for water depth 0" – 12"
- 4.1.2 Safety clearance around the perimeter of the AquaPlay™ product must be 6' or greater, matching the use zone shown in the plan drawing, per ASTM requirements.
- 4.1.3 The surface areas of concrete slab under the footprints of AquaPlay standpipes escutcheon cap, column base plates, slide supports, shutdown lanes, stair entrances, and ADA access shall be flat, levelled, and at constant elevation for the installation and function of the WWI components. Regions outside the specified areas can be contoured, with maximum 2% slope, to drain as required by the pool design and the local codes or standards. Trenches, pits, abrupt elevation changes, etc., in concrete slab shall be positioned away from WWI components to avoid supporting zone encroachment. For planning purpose, the extents of supporting zone shall be at least two times of the slab thickness from the edge of the WWI component's footprint unless otherwise stated on WWI drawings. Note: drawing shall be provided as part of the contract that specifies these areas.
- 4.1.4 Requirements to thickness and details of the reinforced concrete slab supporting the structure shall be confirmed with the construction drawings issued by WWI. For new concrete slab, concrete material shall possess minimum 28-days compressive strength of 30 MPa (4.35 ksi), and reinforcing steel shall be deformed rebar with minimum yield strength of 400 MPa (60 ksi). For preliminary planning purpose, minimum thickness of the concrete slab shall be 200 mm (8 inches) for models AP50 through AP750 and shall be 250 mm (10 inches) for models AP1050 or larger.
- 4.1.5 Slab-on-grade supporting the structure shall be constructed over compacted sub-base soil (or fill) with minimum net allowable bearing capacity of 95 kPa (2000 psf). Settlement of slab at any location shall not exceed 25 mm (1 inch), and differential settlement between any two locations shall not exceed 1:500 (vertical: horizontal). The client shall retain a geotechnical engineer to design, to review, and to approve the sub-base preparation. Frost-protection to slab-on-grade shall be the responsibility of the client's engineers.
- 4.1.6 Suspended supporting structures shall be designed by the client's structural engineer with the layout and loadings of the structure provided by Whitewater West Industries.
- 4.1.7 Theming must follow the approved layout represented in the thematic rendering of the AquaPlay model or the theme map provided. Any deviation will be considered a custom structure unless otherwise approved.
- 4.1.8 The AquaPlay structure is not intended to be used as a "building" for shelter or long-term occupancy. It shall be designed to withstand its self-weight, imposed live load from patrons, climatic loads, and seismic effects as required by the latest standard and the relevant Structural

Design Codes applicable at the project site location; whichever is more stringent. The design will be conducted in general accordance with acceptable design practices for the principles of life safety under severe natural events.

- i. Typical AquaPlay models are designed up to basic snow load of 10 psf (0.5 kPa), the basic design wind speed shall be in accordance with the wind speed specified by the local building code, in the absence of a specified local building code, basic design wind speed shall be 130 mph (58 m/s) [3-second peak gust], or quasi-static lateral earthquake force of 60% seismic weight as per ASCE 7 16 If any of these criteria is exceeded, custom design of the AquaPlay unit would be required.
- ii. Geographic exclusions for typical AquaPlay models include but are not limited to the following regions: West Coast of North America, Florida, Arctic Circle region, West Coast of South America, Hawaiian Islands, Mariana Islands, Caribbean Countries, Madagascar, Sri Lanka, Iran, Pakistan, Bangladesh, Myanmar (Burma), Fiji, Philippines, Indonesia, Taiwan, Japan, Korea, New Zealand, and all coastal regions. In the regions of exclusion outside Canada and USA, official site specific climatic and seismic data shall be provided to WWI for structural review.

## SPEC-AS

### Specification—AquaSplash

#### 1. Description

AquaSplash is a ground mounted Splash Pad aquatic play product line that includes both interactive spray features and passive spray features.

- Refer to project drawing set for site plan and specifications, foundation, loading and plumbing requirements as well as color and theming options.
- Refer to installation drawing set for anchoring details and plumbing connection locations.

#### 2. PRODUCTION CONSTRUCTION:

- 2.1 Above ground aquatic play features shall be constructed of Stainless-Steel Type A304 or A304L, schedule 40 or 10. Stainless steel base plate materials will be 2B finish at 3/8" thick. Each spray fixture shall have a 1 1/2" NPT coupling water inlet.
- 2.2 In-ground aquatic play features shall be 2 1/2" schedule 40 or 6" schedule 40, type A304 stainless steel canisters with a machined nozzle seat. Each fixture will have a 1" NPT coupler water inlet. Each fixture shall have mounting holes to accommodate stainless steel L-type anchor bolts to be set in a concrete footing.
- 2.3 Aquatic play features are to meet ADA compliance for handicap accessibility and meet or exceed current ASTM playground safety standards.
- 2.4 Aquatic play features will be supplied with all necessary anchoring hardware and installation templates to accommodate site work.
- 2.5 Aquatic play features anchoring system shall provide the ability to add, remove and interchange products without having to change infrastructure and footings. The component shall be fastened directly to the base flange with an EPDM gasket to provide a watertight seal between the component flange and the base flange. The base must be flush-to-grade with no visible hardware or dome cover. The base must have the ability to attach a grounding lug.
- 2.6 All aquatic play features shall have fittings that allow for winter close off.
- 2.7 All aquatic play features of below grade design shall address winterization.

## AS

#### 3. NOZZLES:

- 3.1 Aquatic play feature nozzles shall be constructed of acetal copolymer or urethane. Nozzles shall be non-corrosive, impervious to galling, precision machined. Brass and Nylon are not acceptable. A mechanical workbook must be supplied to

- show individual flow rates for each feature including maximum and average flow for each pre-programmed sequence step.
- 3.2 Nozzles shall be secured using stainless steel fasteners.
4. COATINGS:
- 4.1 Fixtures shall receive a pre-treatment stainless steel epoxy primer followed by a coat of weather-resistant super durable TGIC free polyester powder, baked application. Standard powder coatings are not acceptable. Brushed stainless finish is the exception.
- 4.2 Powder coatings shall be weather resistant and have ultraviolet inhibitors. Coatings shall have a high gloss finish, have ultraviolet inhibitors, withstand 1/10th no removal @160 in/lb, exceed all specifications of organic coatings, and a film thickness of between 2.5 to 3.0 mils (determined by color and finish). Where theme graphics are applied, a base clear coat system will be applied. Supply aerosol primer and touch up paint, color code as specified for aquatic play features.
- 4.3 Equipment must be packaged in a three-step packaging process as follows:
- 4.4 The first layer is open cell 1/8" foam wrapping.
- 4.5 The second layer is a corrugated cardboard.
- 4.6 The final layer is a waterproof polyethylene tarp wrap.
- 4.7 Product must be shipped in dedicated nose load shipments secured with strapping.
5. ELECTRICAL:
- 5.1 All electronic operating systems shall be provided by the Manufacturer, British Columbia Canada, or approved equal.
- 5.2 All electrical control panels shall be UL/CUL approved specifically for aquatic play area operations and must bear certification logos.
- 5.3 All wiring to be specified by the manufacturer of the aquatic play features.
- 5.4 The actuating device shall be encapsulated within a 304 stainless steel casing and be UV, moisture, graffiti, and impact resistant.
- 5.5 All control system materials are to be of industrial grade quality and controller enclosures shall be rated @ NEMA 4.
- 5.6 All AquaSplash components shall be grounded using bare #6 AWG wire and an approved ground lug. Consult local electrical inspector for local codes and final inspection.
- 5.7 Electrical connection shall be 1" National Pipe Thread (NPT) coupler to be located near the bottom of the component.
- 5.8 Power supply to the control panel shall be 120V AC, with a 15amp GFCI dedicated breaker
- 5.9 All wire connections must be watertight.
- 5.10 Solenoid valves must be PVC, and of type having 24V AC, 0.250 mA max. holding current coil rating with flow control (Rainbird PGA series or equal). Valve wire shall be #18 AWG type R90, one per valve, plus one common back to the controller location.
6. WATER DISTRIBUTION MANAGEMENT SYSTEM:
- 6.1 Main line pipe and fittings to be schedule 40 PVC or greater. The distribution laterals and fittings are to be schedule 40 PVC or greater. Ensure that a proper slope is consistently applied to all piping to ensure positive gravity-assisted drainage of the entire system. Ensure all fittings are secured to close openings (off season) to protect from water entry of water back into the piping system. (See nozzles section).
- 6.2 Solenoid valves must be PVC, and of type having 24V AC, 0.250 mA max. holding current coil rating with flow control (Rainbird PGA series or equal). Valve wire shall be #18 AWG type R90, one per valve, plus one common back to the controller location.
7. ACCESSORIES:
- 7.1 All hardware, fittings and fastenings shall be as indicated on the shop drawings and may be required to complete the installation. Anchor fasteners to be stainless steel.
- 7.2 Lag bolts shall be stainless steel with flat type vandal-proof head in size indicated on plans. Anchors shall be stainless steel in size required. (tamper proof hardware shall be stainless steel, complete with owner supplied hardware security tools).
8. FEATURE SPECIFICATIONS
- 8.1 Available upon request


**LF**
**SPEC-LF  
Specification – Life Floor™**

Life Floor is a closed cell foam-rubber tile specifically engineered for use in aquatic environments. It is a modular safety surface that provides traction

and cushioning to prevent slip-and-fall and abrasion injuries. Life Floor is installed on stairs, platforms, pool decks, splash pads, zero depth entries, restroom facilities, and underneath structures to enhance the safety and overall aesthetic appearance of any area where it is installed.

1. system description
  - 1.1 Material:  
Life Floor™ is a factory-molded surface composed of EVAtrax™, an ethyl vinyl acetate copolymer.
  - 1.2 Thickness and Weight:  
3/8" standard: 2lb or 0.9kg; 7/8": 4.4lbs or 2kg
  - 1.3 Shock Attenuation (ASTM F1292) – 3/8" meets 1' critical fall height; 7/8" meets 4' critical fall height; 1 1/4" meets 6' critical fall height
  - 1.4 Gmax - Less than 200.
  - 1.5 Head Injury Criteria - Less than 1000.
  - 1.6 Flammability (ASTM E648) – Class 1
  - 1.7 Toxic Characteristic Leaching Procedure (TCLP) (RCRA) by Method 3010 – Pass.
2. delivery, storage & handling
  - 2.1 General: Comply with Division 1 Product Requirement Section.
  - 2.2 Delivery: Deliver materials in manufacturer's original, unopened, undamaged containers with identification labels intact.
  - 2.3 Storage and Protection: Store materials protected from exposure to harmful environmental conditions and at a minimum temperature of 20 degrees F (-7 degrees C) and a maximum temperature of 100 degrees F (38 degrees C).
3. project/site conditions
  - 3.1 Environmental Requirements: Install surfacing system when minimum ambient temperature is 60 degrees F (15.6 degree C) and maximum ambient temperature is 90 degrees F (32 degrees C). Do not install in rain.
4. warranty
 

WhiteWater shall transfer directly to the Buyer the warranty provided by our exclusive manufacturer LifeFloor.

  - 4.1 Warranty Period:
    - 4.1.1 Life Floor warrants all 7/8" and 3/8" thick Life Floor for a term of five (5) years from the date of delivery except as below.

- 4.1.2 Life Floor warrants all 3/16" thick Life Floor tiles for a term of three (3) years from the date of delivery except as below.
- 4.1.3 Life Floor warrants all above Products in areas of extreme traffic, extreme UV exposure, and extreme chemical exposure for a term of two (2) years from the date of delivery of the Products.
- 4.2 Limitation of Warranty:  
Warranty does not cover color changes of any kind.
- 4.3 Limitations to the warranty period include areas of extreme traffic, very high/extreme UV exposure, and extreme chemical exposure.
  - 4.3.1 Extreme traffic defined by areas with annual traffic of 250,000 users or greater.
  - 4.3.2 "Extreme" or "Very High" UV exposure as defined by the World Health Organization is more than 90 days of daytime in the "extreme" or "very high" category with a UV Index of 10 or higher within a 365 day period.
- 4.4 If the installation is done by WhiteWater, Installation Warranty is one (1) years from the date of completion. Otherwise, no installation warranty is provided.

#### 5. PRELIMINARY WORKS:

The Preparation Procedures and application to be carried out as per Manufacturer's Instructions and under appropriate atmospheric and working conditions (no dust, sand, etc.). Verify that the substrate was allowed to cure (meaning chemically neutral, not only dry) as per Manufacturer's Instruction. The area has to be secured and / or fenced day and night to avoid walking across the surface before it is cured. Surrounding areas to be protected against stains from binder or material mix. Minimum of 72 hours curing before use with chlorinated water. (subject to atmospheric conditions)

#### 6. RESURFACING CONDITIONS:

- 6.1 Site and Material Condition: Indoor Installation
  - 6.1.1 Approved Interior Substrates: Properly prepared concrete (on-grade, below-grade, or above-grade, APA underlayment, metal, cementitious terrazzo, and ceramic floors;

- 6.1.2 Maintain a consistent temperature of room, subfloor, tile, and adhesive for at least 24 hours prior to installation and 24 hours after installation. Ideal temperatures are a min. of 65 degrees F, and max. of 85 degrees F.
- 6.1.3 Allow tile to acclimate to temperature for 24 hours prior to installation.
- 6.2 Site and Material Condition: Outdoor Installation
- 6.2.1 Approved Exterior Substrates: Properly prepared concrete (on-grade, below-grade, above-grade).
- 6.2.2 Store Life Floor™ tiles in a cool, dry location out of direct sunlight and moisture.
- 6.2.3 Avoid installing tiles during significant changes in temperature (more than 20 degrees F in 8 hours).
- 6.2.4 Protect the installation from rain. If this is not possible, the tiles should NOT be installed at this time.
- 6.3 Surface Preparation:
- 6.3.1 Ensure that the concrete, metal, wood, tile, or fiberglass substrate is level or uniformly sloped since surface variations will be telegraphed through to the rubber tile surface.
- 6.4 Concrete Requirements:
- 6.4.1 Concrete must conform to ACI 302 standards, be dry, fully cured (28 days), a minimum density of 100 lbs per ft<sup>3</sup> as well as having a compressive strength greater than 3000 psi for residential installations and 4350 psi for commercial installations.
- 6.4.2 The substrate must be dry, structurally sound, and dimensionally stable. It should be free of any substance or condition that may reduce or prevent the adhesive bond to substrate. This includes, but is not limited to, concrete sealers, curing agents, dirt, wax, tar, paint, and loose toppings. If present, these agents must be mechanically removed. The use of solvents (with the exception of acetone), adhesive remover or acid etching is not recommended.
- 6.4.3 Concrete porosity should be noted. It is always a good practice to perform bond tests before large scale installations. Excessively absorbent (porous) or rough concrete surfaces can cause an increase in adhesive usage. Surface grinding can be used to smooth an excessively porous or rough surface.
- 6.4.4 New concrete surfaces prepared for Life Floor should have a troweled smooth finish to be diamond ground before install. If needed mechanical shot-blasting can be used to roughen an excessively smooth surface. Overtrowled slabs are not acceptable.
- 6.4.5 Substrate should be sloped properly towards drains to allow for proper drainage. Refer to the Model Aquatic Health Code (MAHC) for sloping requirements for your application and facility.
- 6.4.6 Concrete surface prep: Remove protrusions, bumps and ridges by grinding or chipping. Repair, fill & level cracks, holes, depressions, rough or chipped areas of substrate. Slab to have a light broom finish (hand troweled finish, or power finish. Not a burned power, troweled finish) when tile is installed.
- 6.4.7 If planning on recessing slabs to accommodate for the 3/8" tile depth, then you should target a 1/4" max recess. This will help avoid raised drains, floor jets, and adjacent surfaces once Life Floor is installed. On-site installers can grind concrete down around these areas to balance out the height if needed, but raising the level of the concrete is more costly.
- Note:** A high alkali slab (with a 10 to 14 ph) can signify a moisture problem. If a ph problem is found, the slab should be tested for moisture.
- 6.5 Floor Preparation:
- 6.5.1 The substrate needs to be cleaned from all dirt and debris.
- 6.5.2 The substrate needs to be dry with a relative humidity of less than 90 %.
- Note: A high alkali slab (with a 10 to 14 ph) can signify a moisture problem. If a ph problem is found, the slab should be tested for moisture.
- 6.5.3 The substrate must be well intact (ie: not crumbling or chipping up). If the substrate is not intact then grinding or skim coating the floor may be required.
- 6.5.4 The substrate should be relatively smooth. A light broom finish surface is ideal. Very rough surfaces with high and low areas may not allow for enough surface area to

come in contact with the substrate and could negatively affect the adhesion.

- 6.5.5 Ensure the substrate properly drains
- 6.5.6 Failure to properly prepare the substrate will affect the adhesion and may result in installation failure.

**FURTHER EXCLUSIONS(TO BE PROVIDED BY OTHERS):**

- a. Modifications if any to the pool.
- b. Temporary utilities. Fresh water supply for our use within 30 yards of waterslide work area. Dumpster.
- c. To provide pool, slide and play structure water drainage as required for continuous work flow.
- d. Where a specific number of days are provided for in a quotation, it is assumed to include for two days of travel so actual on-site days will be adjusted accordingly.
- e. To provide 240 x 60 amps and 120 x 30 amp electrical supplies at convenient locations within 100 ft. of work area throughout the job site to enable crews to perform the work.
- f. The owner agrees to grant additional time to the schedule at no cost to WhiteWater for delays due to inclement weather, equipment malfunctions, shipping delays or other schedule impacts beyond the control of WhiteWater or the owner.
- g. Purchaser agrees to allow WhiteWater to utilize photos and statements to promote and market at its discretion
- h. Substrate repairs and leveling is NOT included; if required, Change Work Order will be issued.
- i. Whitewater shall not be held responsible for any damage to underground services that have not been identified prior to works commencement.

**SPEC-WV**

**Specification – Waves (13m)**

The Whitewater West Industries Ltd. Wave generator is of the pneumatic type, utilizing blowers and caisson control valves all controlled by a programmable logic control system. The wave generator is manufactured from all industrial class components and with corrosion resistance in mind.

**Wave Patterns:** Diamond, Parallel, Half Parallel, Diagonal left and right and Double Diamond

**Wave height:** 1.2 m (4') on diamond pattern

**Frequency:** Approximately 2.5 seconds

1. Scope of Supply

The wave generator comprises of the following equipment:

- 1.1 Air Fan Set(s): The centrifugal fans are of the heavy duty industrial type complete with an inspection door and all necessary stiffeners and are generally to the following specifications:
  - 1.1.1 Type: Backward curve centrifugal.
  - 1.1.2 Casing: Galvanized Steel.
  - 1.1.3 Motor: Totally Enclosed Fan Cooled, Tee frame.
  - 1.1.4 Power requirements: 380 V, 3 phase, 50 hertz (or to suit local supply).
  - 1.1.5 Drive: Direct
  - 1.1.6 Impeller: Backward curve, shaft mounted.
  - 1.1.7 Base: Two coats of primer and two coats of epoxy enamel.
  - 1.1.8 Anti-vibration: Rubber/spring isolators
- 1.2 Caisson Valves:
  - 1.2.1 The caisson control valves are actuated through pneumatically operated cylinders and result in a fast action movement combined with maximum reliability:
    - 1.2.1.1 The valve pneumatics are actuated by the pneumatic control valve which receives its air from the air compressor set and electrical signals from the master control panel.
  - 1.2.2 Model: Whitewater two position Wave Control Valve.
  - 1.2.3 Material: 316L stainless steel, aluminum, and PVC.
  - 1.2.4 Hardware: All nuts, bolts etc. are of stainless steel.
  - 1.2.5 Actuator: One (1) air cylinder per valve.
  - 1.2.6 Speed Control: Needle valves on each actuator.
  - 1.2.7 Deflector Sleeves: One (1) FRP for each caisson valve.
- 1.3 Pneumatic control system:
  - 1.3.1 Valves: Solenoid valves mounted on each air cylinder.
  - 1.3.2 Ancillaries: Included is air line filter and regulation.
- 1.4 Master Control Panel:
  - 1.4.1 The master control equipment and switchgear is housed in a NEMA 12 enclosure constructed of sheet steel with top



cable entry and door interlocked isolators. The master control panel is designed for but not limited to the following:

- 1.4.1.1 Power supply of 380 V, 3 phase, 50 hertz (or to suit local supply).
- 1.4.1.2 The cabinet contains solid state starter for the fan sets to provide smooth acceleration and to minimize the mechanical and electrical shock associated with starting.
- 1.4.1.3 A direct-on-line starter for the air compressor.
- 1.4.1.4 Single phase protection for the motors.
- 1.4.1.5 All necessary fuses, breakers and thermal overload protection devices.
- 1.5 Indicator lights or displays for the following conditions:
  - 1.5.1 Power on
  - 1.5.2 On/off switch for each fan.
  - 1.5.3 On/off switch for each compressor and low air pressure
  - 1.5.4 Motor run and trip indication for each fan, and compressor.
- 1.6 Also included in the panel is the microprocessor, which is programmed to monitor and control the various activities of the wave generator. These activities include, but are not limited to:
  - 1.6.1 Control of the equipment sequencing and operation.
  - 1.6.2 Control of the caisson control valves.
  - 1.6.3 Output to a horn and/or light (to be supplied by others) to provide warning prior to the wave cycle starting.
  - 1.6.4 Output to the system status lights.
  - 1.6.5 Monitoring of the system air pressure.
- 1.7 Remote Control Panel:
  - 1.7.1 The remote control panel and emergency stops are supplied to allow control of the wave generator from an area close to the pool. All wiring out to the remote control panel is 24 volts DC. The remote control panel consists of a computer touch screen that performs the following functions:
    - 1.7.1.1 The stop/start switch allows direct control of the wave equipment.
    - 1.7.1.2 The "Timer" mode allows for the wave machine to cycle on and off on a pre-determined cycle as dictated by the timer.
    - 1.7.1.3 The timer allows for independent adjustment of the run and rest cycles of the wave machine.
    - 1.7.1.4 An emergency stop status indication.
    - 1.7.1.5 Status display of all motors.
    - 1.7.1.6 Emergency stop push button.
- 1.8 Air Compressor Set:
  - 1.8.1 The air compressors supplied are of the air cooled type driven by an electric motor and mounted on a vertical air receiver.
    - 1.8.1.1 Motor: Open drip Proof.
    - 1.8.1.2 Power requirements: 380 V, 3 phase, 50 hertz (or to suit local supply).
- 1.9 Ductwork:
  - 1.9.1 Ductwork elbows for interconnecting the caisson control valves to customer supplied concrete plenum are supplied by Whitewater to the following specifications:
    - 1.9.1.1 Ductwork: One (1) set
    - 1.9.1.2 Material: Fiberglass
    - 1.9.1.3 Hardware: All hardware and supports are of 316L stainless steel or galvanized.
    - 1.9.1.4 Length: As per Whitewater's drawings.
- 1.10 Spares:
  - 1.10.1 A spares kit is included consisting of a complete set of spare parts anticipated to be required for the first year of operation.
- 1.11 Miscellaneous:
  - 1.11.1 In addition to the above we include for all mountings, hold-down bolts and supports.
- 1.12 Start-up and Performance:
  - 1.12.1 Whitewater shall provide one engineer for the start-up, adjustment and fine tuning of the wave machine and at this time shall also demonstrate to the Owner and his Architect over a continuous four hour period that the WhiteWater wave generator is able to make waves as specified on a 12 minute on and 12 minute off cycle.
- 1.13 Operating and Maintenance Instructions:
  - 1.13.1 Our price includes for the provision of fully comprehensive operating and maintenance instructions in electronic form. These are published in English.
- 1.14 Operator Training:
  - 1.14.1 During the start-up period we request that the owner assign one of his representatives to receive training in all aspects of the maintenance and operation of the WhiteWater wave machine. Upon completion of the operator training

WhiteWater shall provide the Owner with a statement signed by the trainee and the Owner's Consultant stating that adequate training was given.

1.15 Warranty:

1.15.1 The wave generator is warranted against all defects in workmanship and materials for a period of one year. The warranty runs from the date of final commissioning and equipment hand over. This warranty covers only the cost of replacing the defective materials and does not cover normal wear and tear or failures due to negligence by the owner or his representatives.

2. Supplied by Others

The following is a list of items normally excluded unless otherwise agreed:

- 2.1 Noise attenuation equipment
- 2.2 Equipment room ventilation
- 2.3 Acoustic doors
- 2.4 The caisson safety grilles
- 2.5 Supply of all electrical wiring and conduit
- 2.6 Installation of all equipment
- 2.7 Warning horn

**SPEC-FR**

**Specification – FlowRider® Double Equipment**

The FlowRider® package is a complete system and is intended for installation in a containment tank constructed by the client. Origin of equipment manufactured to include Canada, United States, China, and Europe to include Germany, Sweden, and the United Kingdom.

1. Scope of Supply

- 1.1 FlowRider® Double including
  - 1.1.1 Stainless steel main structure
    - Two Nozzle Assemblies
    - Two Pump Tube Assemblies
    - Two Inlet Assembly
    - Two Drive Train Mounting Frames
  - 1.1.2 Tension Structures
    - Stainless Steel Side Tension System Left
    - Stainless Steel Side Tension System Right

- Stainless Steel Rear Tension System
- 1.1.3 Recovery structures
  - Rear Recovery Structure
  - Front Run-out Structure
- 1.2 Pumps
  - 1.2.1 Pumping System: Two Submersible Pumps (Tariff Code: 8413702004)  
If the Electrical Control Panel is placed adjacent (touching) to the rear or side wall, then sufficient pump cabling (19m / 62') will be provided to reach the panel. If the Electrical Control Panel is placed remotely then the Purchaser shall provide a junction box at the Attraction and run cabling to the panel at Purchasers expense.
- 1.3 Electrical
  - 1.3.1 Electrical Control Panel (Tariff code "TC": 8536.50.40)
  - 1.3.2 Remote electrical control podium
  - 1.3.3 Remote emergency hatch shut off switch
  - 1.3.4 Cable routing clamps
  - 1.3.5 Lockout/tagout kit for electrical panel
- 1.4 Padding System
  - 1.4.1 Vinyl Fabric (TC: 3921 9060 0000H)
  - 1.4.2 High density foam padding
  - 1.4.3 Foam adhesives
    - 1.4.4Material primers
    - 1.4.5Material cleaners
    - 1.4.6Caulking
  - 1.5 Drainage System
    - 1.5.1 Max Recovery water drainage system (Tariff Code: 39181010)
- 1.6 Ride Surface
  - 1.6.1 Composite Membrane Ride Surface (CMRS) (TC: 3921 9060 0000H)
- 1.7 Flow Fence (1 unit)
  - 1.7.1 FF pump
  - 1.7.2 FF Mounting supports
- 1.8 Installation supervision
- 1.9 FlowRider® boards – Twelve (12) FlowRider® bodyboards and Six (6) FlowRider® “Outlaw” Standup Boards
- 1.10 FlowRider® logo will appear on the Attraction as shown in



2. Operator Training

- 2.1 During the commissioning we request that the Operator assign one of his representatives to receive training in all aspects of the maintenance and operation of the FlowRider®.

This list may include parts that may be omitted, modified, or replaced as Seller deems necessary in its sole discretion for proper installation of the Attraction.

- 1.9 Light Outputs: Each scale comes standard with one 12VDC LED light system that is weight activated, switching between red and green illumination. The scale's upper and lower weight limits are easily programmable by the park and can also activate a built-in audible alarm. Every scale comes with two individually programmable light outputs where an optional second light unit can be added to the system for multiple-ride use.

## SPEC-SC

### Specification – Scales

SC

- 1.1 Whitewater agrees to supply scale(s) in accordance with the following specification:
- 1.2 Non-Slip Surface: The surface of the scale has a polyurea coating infused with an aggregate to provide a highly durable nonslip surface.
- 1.3 Max Weight: 2000 lb / 880 kg
- 1.4 Display Resolution: 2 lb / 1 kg
- 1.5 Accuracy: 0.2% +/- 1 digit of displayed resolution
- 1.6 Power Output: 12V 2000 mA DC. Power supply mounted within the display box. The operating temperature range is 40F - 95F (5C - 35C).
- 1.7 Power Input: 100-240VAC at 50-60hz.
- 1.8 Display Housing: NEMA 4x enclosure with latching door. Boxes are supplied with 3/4" pushlock fittings for liquid tight conduit and an external sealed zero/weigh button.

## Appendix 2 On-Site Services - Specifications

INSTALLATION					
APPLICABLE TO:	ITEM	ITEM DESCRIPTION	SPEC	SELLER	BUYER
All	<b>4</b>	<b>Installation Advisory Services of WhiteWater supplied equipment:</b>		■	
	4.1	Ensure the work will be performed in accordance with WhiteWater's engineering drawings and specifications		■	
	4.2	Follow commonly accepted principles of good workmanship		■	
	4.3	Provide an initial inventory of all WhiteWater supplied materials delivered to the site		■	
	4.4	Work with the project stakeholders to develop and maintain a construction plan that will meet the overall project schedule		■	
	4.5	Provide the owner with an on-site representative to attend any scheduled site meetings and ensure effective communication between them and WhiteWater – acting as the primary on-site liaison between		■	
	4.6	The following conditions apply to the specified duration of man days included in the contract: - Duration is based on a seven-day work week and continuous work on site. If there are any “down days” where they are prevented from accessing the project site or if there is no installation crew available on certain days, these “down days” will be counted as part of the specified duration. - In case compliance with local labor laws or safety procedures on site - whichever is the more stringent – prevents a seven-day workweek, in consultation with Purchaser, schedule and price will be adjusted to reflect such compliance. - If the Installation Advisory Service extends past the specified duration for any reason outside of the control of WhiteWater, the Purchaser shall reimburse WhiteWater at a specified daily rate of \$1450 USD/day. - If the Install Advisor must leave the project site for reasons caused by the Purchaser or others, then all costs for return trips are reimbursable by the Purchaser.			■
	4.7	To provide and pay for travel to the project site, local travel, lodging and per diem for the Installation Advisor for the duration specified herein.		■	
	<b>*** NOTE: Prior to WWI's arrival to site and equipment placement, a survey by a qualified land surveyor must be provided to WWI that shows the correct placement and orientation of the items in 5.11 below: all foundations, footings, concrete columns and piers, complete with placing steel embed plates and / or anchor bolts in the correct locations and orientations.</b>			■	

All	<b>5</b>	<b>Installation of WhiteWater supplied equipment:</b>		■	
	5.1	Special Inspections required: Buyer shall be responsible for the following inspections (whichever applicable in the project) as per IBC or AISC carried out by qualified personnel: 1. Soil Compliance (As per Table 1705.6, 2015 IBC) 2. Concrete Construction (As per Table 1705.3, 2015 IBC) 3. Structural Steel Welding (As per Table N5.4, AISC 360-16) 4. High strength Bolts (As per Table N5.6, AISC 360-16) 5. Pier Deep Foundation (As per Table 1705.7&8, 2015 IBC) Notes: Local code requirements shall take precedence if more stringent.			■
	5.2	Ensure the work will be performed during regular hours and there are no encumbrance for lifting or building.			■
	5.3	Provide necessary labour, tools, and equipment to complete installation of WhiteWater supplied equipment		■	
	5.4	Clean interior and exterior of slide, ready for public use		■	
	5.5	Wax interior of slide, ready for public use		■	
	5.6	Erect all structural steel supports and tower plumb and level in accordance with WhiteWater engineering drawings		■	
	5.7	Install conveyor unit(s) including start-up and adjustment as necessary (if applicable)			■
	5.8	All required demolition and removal of existing structures and equipment.			■
	5.9	Crew expenses, including all transportation, lodging, per diem and other per diems during construction		■	
5.10	Adequate lay-down area for equipment pre-assembly and for storage of the equipment, convenient to the site and close to the final position of the equipment. The lay-down area must be hard surfaced and accessible for trucks, cranes, fork lifts and other equipment necessary for the installation of the WhiteWater supplied equipment.			■	

5.11 All site work including, but not limited to: soil tests, stripping, grubbing, filling, site grading, site drainage, all foundations, footings, concrete columns and piers (and grouting of all column baseplates), complete with placing steel embed plates and / or anchor bolts in the correct locations and orientations as surveyed by a qualified land surveyor.

**NOTE:** The successful installation of the WhiteWater equipment will require accurate installation of all foundations, pedestals and anchor bolts. These need to be within the tolerances documented in the WhiteWater engineering drawings. WhiteWater's suggested best practice for constructing the foundations would include the following steps:

- Pre-construction meeting with WhiteWater, Purchaser and Concrete contractor to discuss the details of the WhiteWater Engineering drawings and the best approach for construction.
- Lay out the location for each foundation and then confirm the center of the pedestal rebar cages by a surveyor before placing concrete.
- Pour the foundations.
- Once the anchor bolts have been placed inside the rebar cages projecting from the poured foundations, have a surveyor confirm the location and elevation for 1 bolt on each of the X and Y axes for each pedestal to ensure they are within the required tolerances and adjust as needed before placing concrete. This survey information should be shared with WhiteWater for review.
- Once it has been confirmed by the surveyor that the positions of the anchors are within tolerance, proceed with pouring the pedestal concrete.

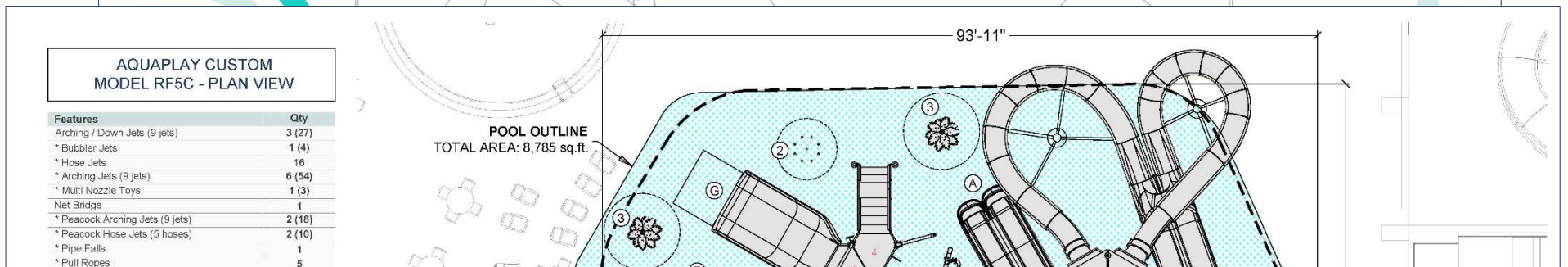
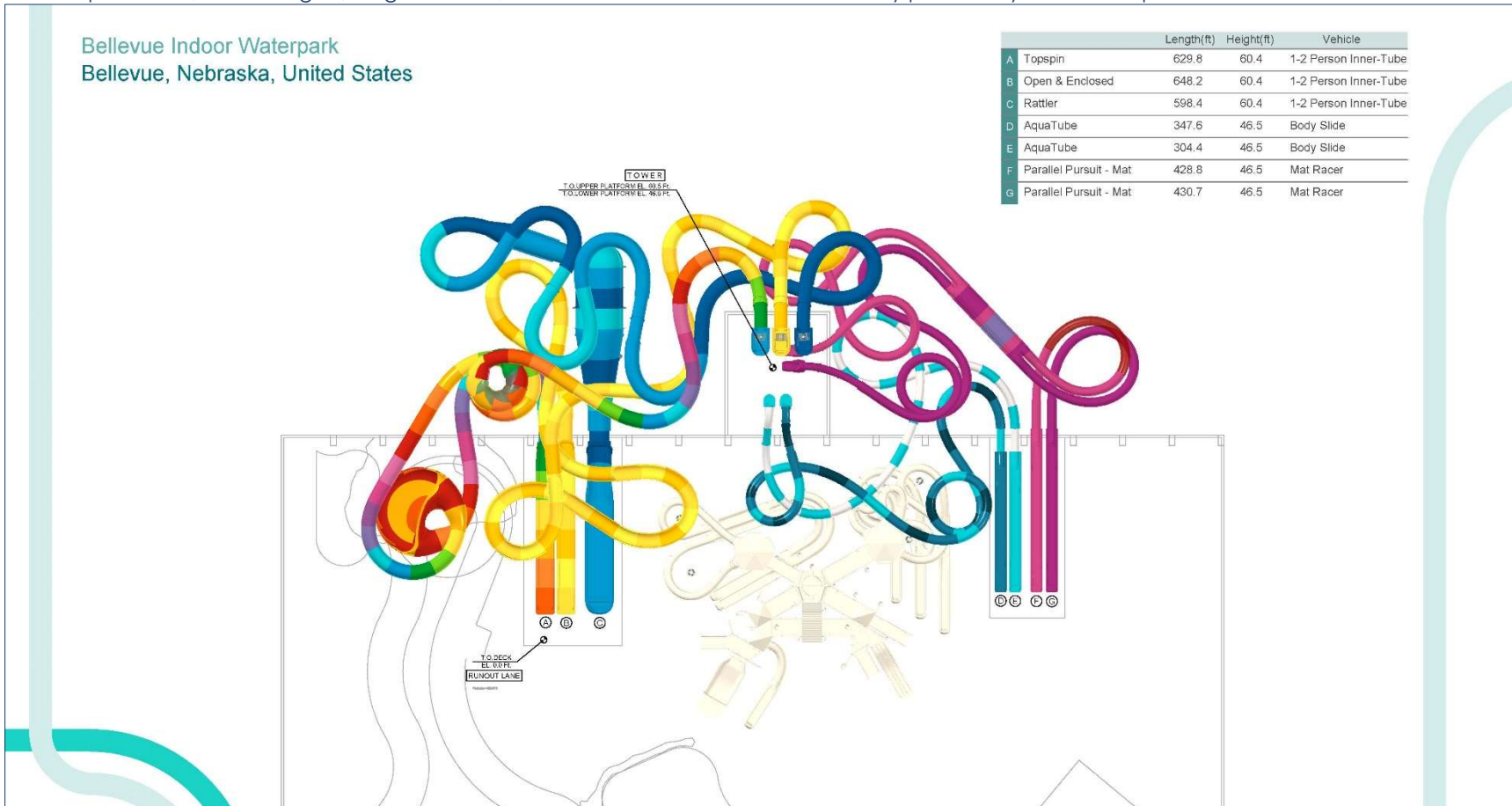
5.12	All required site welding carried out by a certified professional welder		■	
5.13	Building and sealing of building wall penetrations or enclosures, if required.			■
5.14	All slabs on grade for shutdown lanes and / or pool decks.			■
5.15	Construction of all pools, including pumps, valves, piping, filters, fittings, VFD's, starters, etc. This includes connection of water supply pipes to WWI equipment.			■
5.16	The necessary block-outs in the pool walls and slabs to accommodate the slide pieces and to complete and finish this area after the slide is installed.			■
5.17	All concrete work on tower platforms, stairways and walkways			■
5.18	Adequate protection for the WhiteWater supplied equipment against paint over-spray, debris, concrete splatter or misuse by trades during the completion of the project.			■
5.19	Cleanup of all concrete spatters and drips that fall on any fiberglass slide parts, support steel, or tower steel.			■
5.20	Electrical connections, conduit and field wiring to any WhiteWater supplied electrical equipment. This includes grounding.			■
5.21	Adequate water and electrical supplied within reasonable access to the work area for construction activities.			■
5.22	Adequate toilet facilities within reasonable access to the work area.			■

5.23	Adequate waste disposal containers.				■	
	5.24	All buildings, mechanical rooms, change rooms etc. as required for the project.				■
	5.25	Adequate access to the site for trucks, cranes, fork lifts, and other equipment necessary for the installation of the WhiteWater supplied equipment.				■
	5.26	Assume the risk of loss or theft of the construction materials, tools and equipment on site and is responsible to provide adequate security and fencing.				■
	5.27	Any other expenses not specifically defined in WhiteWater's obligations.				■

COMMISSIONING					
APPLICABLE TO:	ITEM	ITEM DESCRIPTION	SPEC	SELLER	BUYER
All	<b>6</b>	<b>Commissioning</b>			
	6.1	Testing the Whitewater supplied equipment		■	
	6.2	Certify that the equipment is compliant with WhiteWater's engineering drawings and applicable standards before the equipment is deemed ready for operations.		■	
	6.3	Provide basic training for operation and maintenance of WhiteWater supplied equipment.		■	
	6.4	Costs associated with any on site local authority inspections, permits, 3rd party certifications			■
	6.5	Client provide test riders of various sizes for test runs during Commissioning.			■
	*6.6	Safety Signage is installed as per WWI Operations Manual			■
	*6.7	All mechanical systems (including flow meters) and structures required to operate the ride will be complete, calibrated, and operable			■
	*6.8	All electrical systems required to power and control the ride will be complete and operable			■
	*6.9	At the purchaser's expense, filtered and treated water will be available in advance of testing			■
		*If, as a result of delays caused by the Purchaser or others, and the Installation Advisor is unable to certify the equipment during the specified duration, then all costs for return trips are reimbursable by the Purchaser.			
	<b>7</b>	<b>Post-Commissioning</b>			
	7.1	Final Operations and maintenance manual		■	

### Appendix 3 Indicative Preliminary Design included

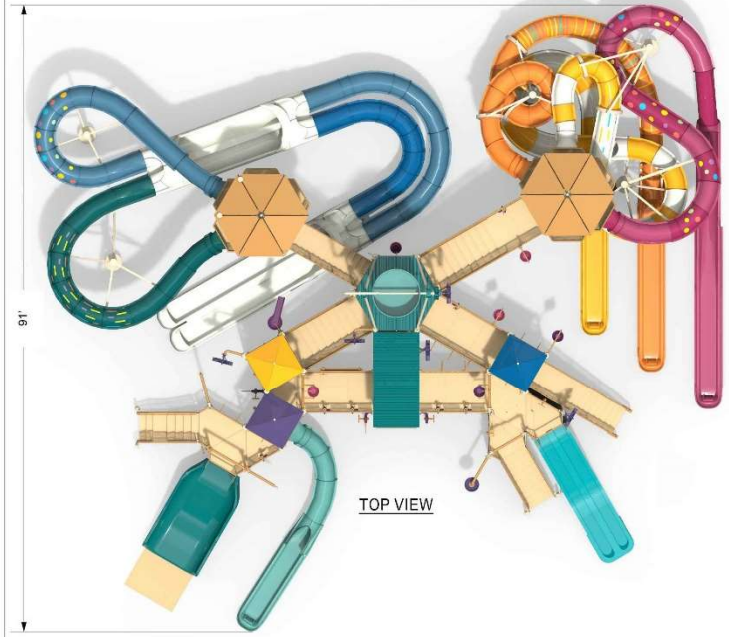
Indicative Preliminary Design is a compilation of drawings, specifications and notes intended to provide the Owner with an indication of feasibility of design to the proposed project scope, including a general arrangement of WhiteWater's products (within provided site boundary) and showing an indication of the functional requirements, tower heights, length of rides, slides or interactive structures at a very preliminary and conceptual level.







FRONT VIEW



TOP VIEW



ISOMETRIC VIEW

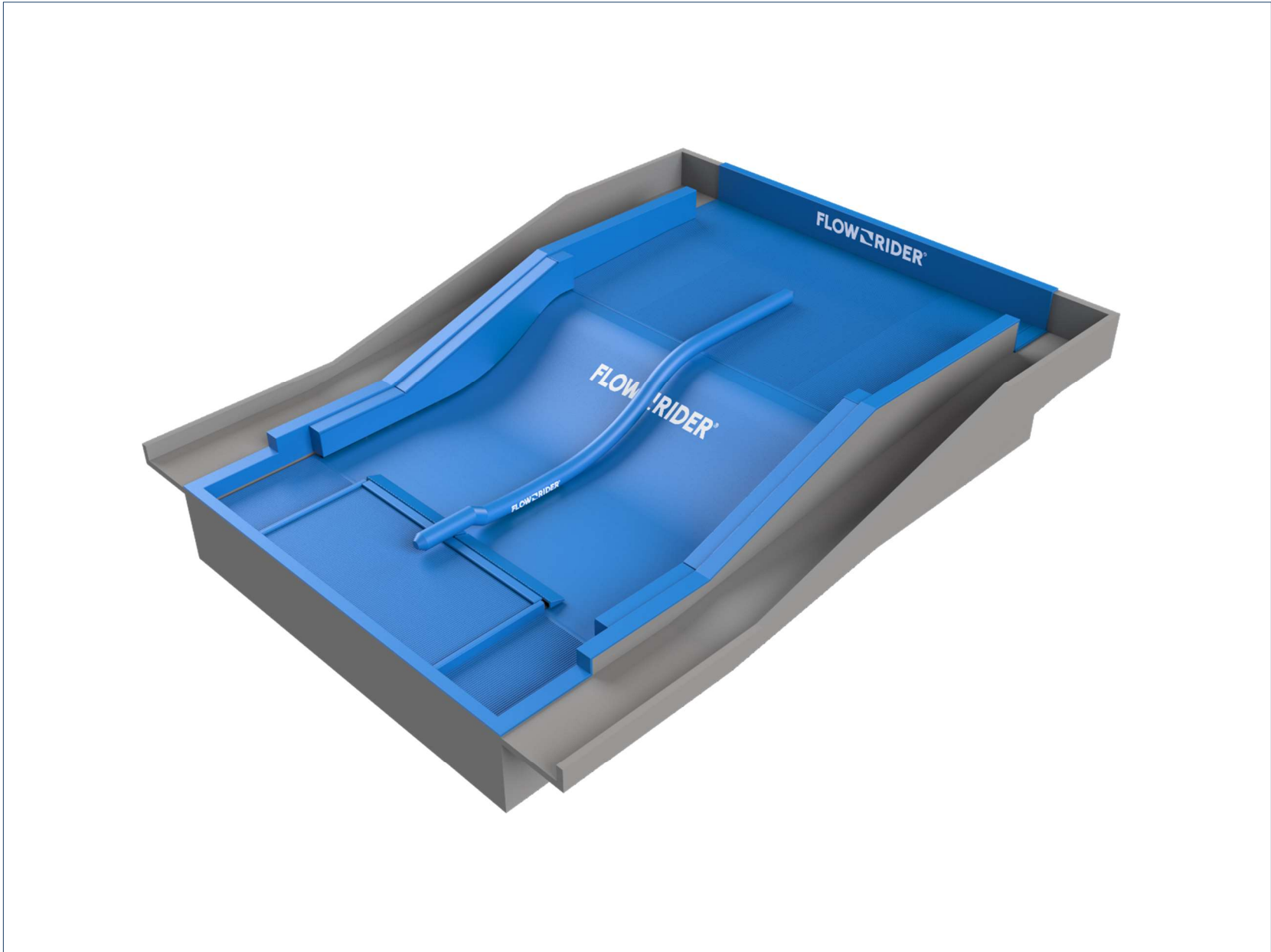
48542 | Bellevue Indoor Waterpark / IN / United States | SK Drawing  
DESIGNED BY : H.B. | DRAWN BY : K.L. | CHECKED BY : H.B. / R.M.  
SK : 48542-6 | Model : RF5C CUSTOM | Slide Model : 40030V41 | Page 2 of 3 | AUG 23,2024



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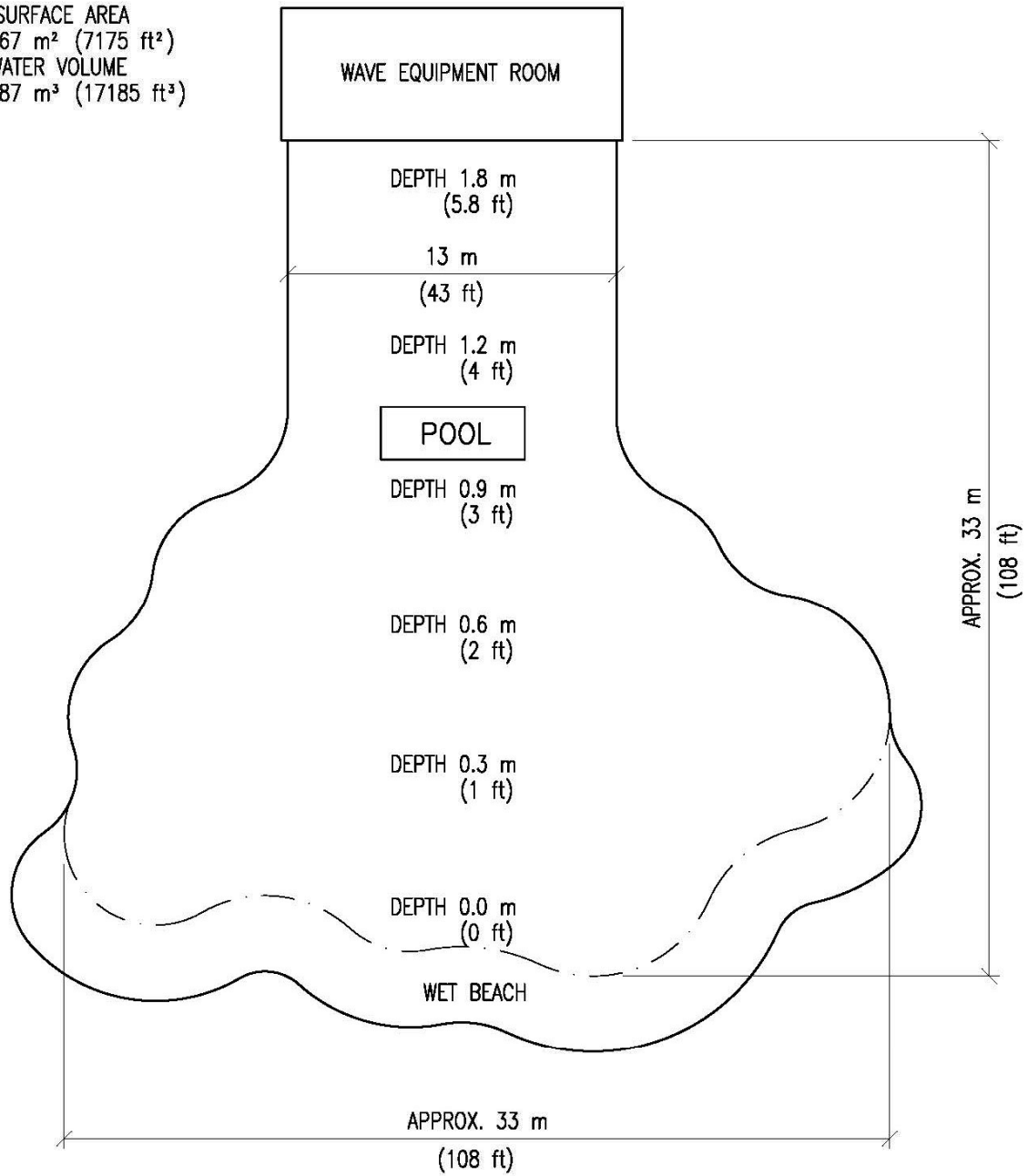






POOL DATA

WATER SURFACE AREA  
667 m<sup>2</sup> (7175 ft<sup>2</sup>)  
TOTAL WATER VOLUME  
487 m<sup>3</sup> (17185 ft<sup>3</sup>)



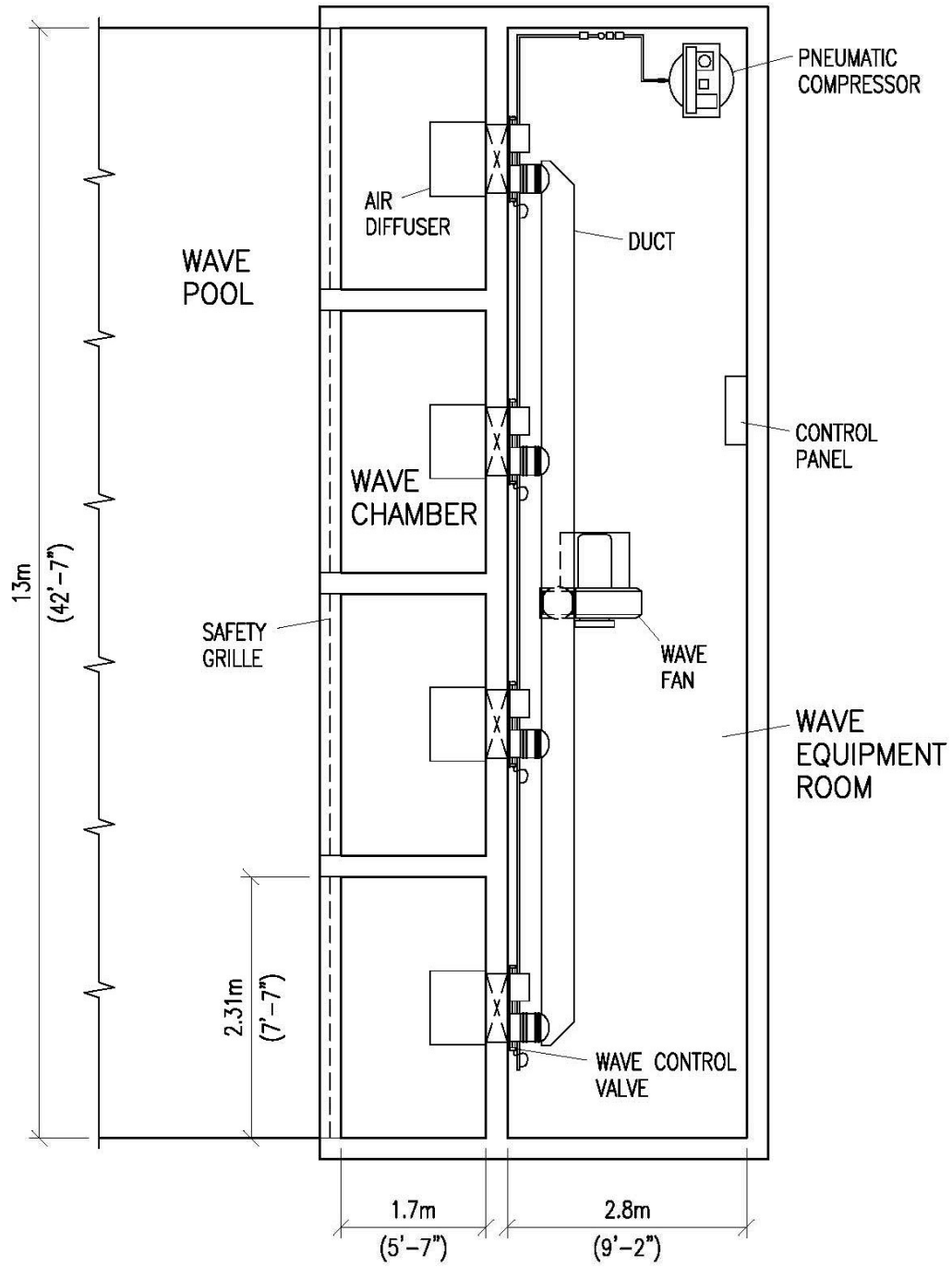
**POOL PLAN**

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Model: 13m(43ft) Wave Pool Drafter: KCH  
Date: - Scale: N.T.S.  
Designer: AT



**WHITEWATER.**  
EST. 1980



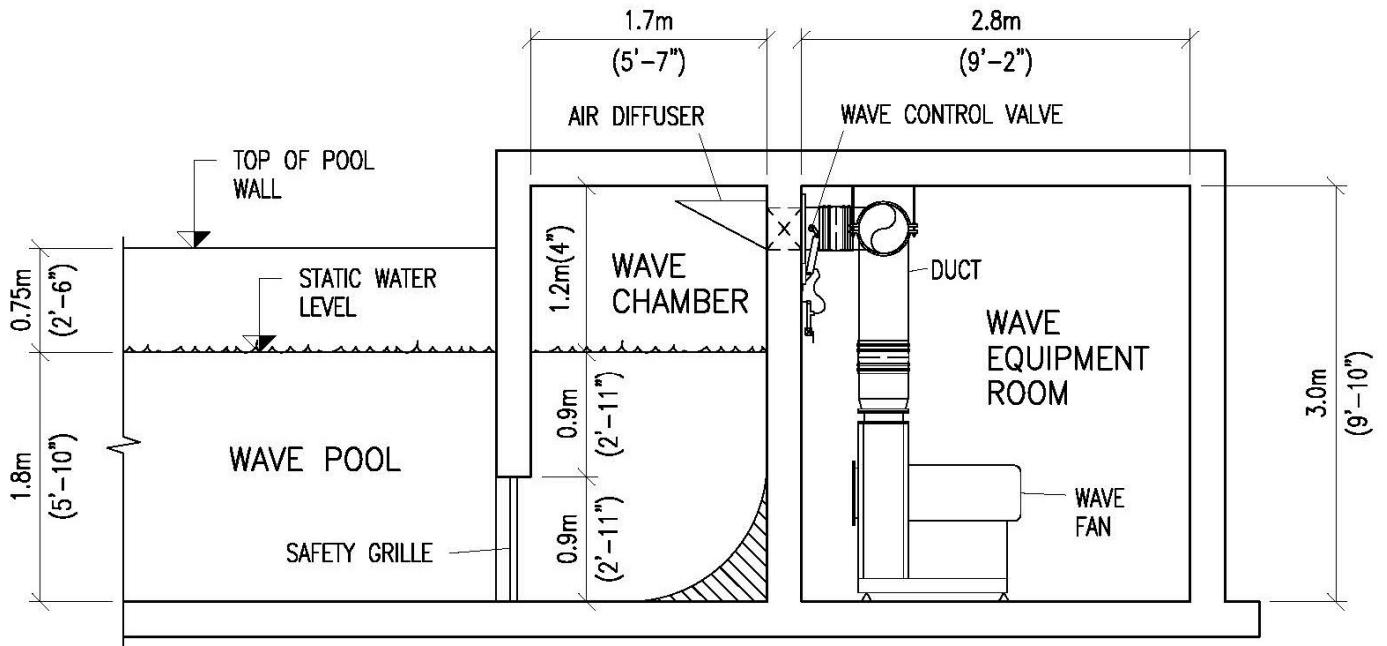
### EQUIPMENT ROOM PLAN

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Model: 13m(43ft) Wave Pool Drafter: KCH  
 Date: - Scale: -  
 Designer: AT



**WHITEWATER.**  
EST. 1980



### EQUIPMENT ROOM SECTION

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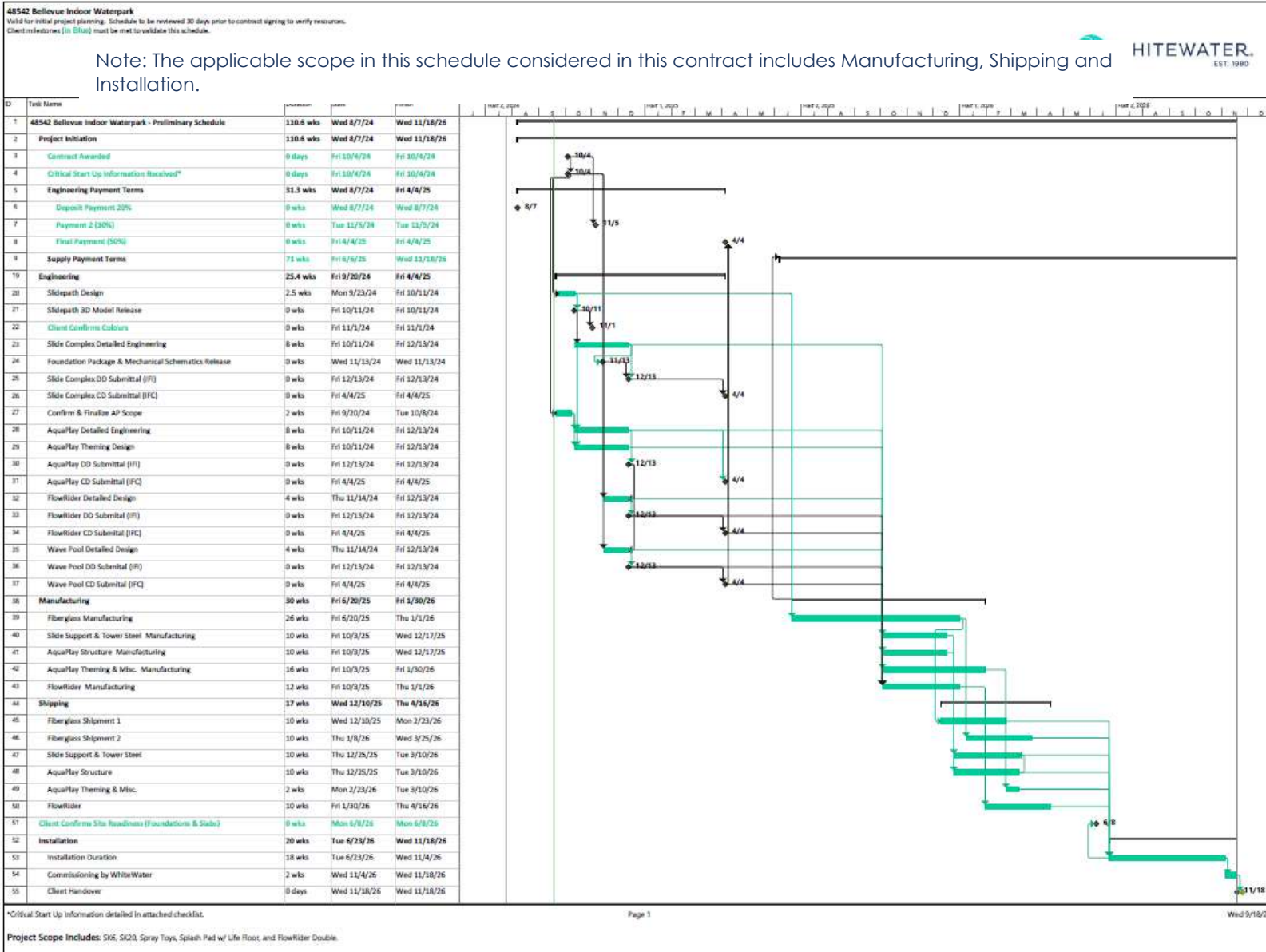
Model: 13m(43ft) Wave Pool Drafter: KCH  
 Date: - Scale: -  
 Designer: AT






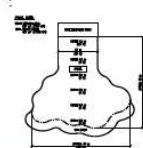

## Appendix 4 Preliminary Schedule

Purchaser has reviewed the Work Schedule

Purchaser's initial \_\_\_\_\_



## Appendix 5 Purchase Price Breakdown

	ALL-IN-ONE SLIDE COMPLEX	AQUAPLAY RF5C CUSTOM (Includes Polycarbonate Guardrails)	TOYS AROUND THE AP (14)	13M WAVE POOL	FLOWRIDER DOUBLE
					
<b>DRAWING</b>	SK-20	SK-6	SK-6	13M WAVE POOL	FLOWRIDER DOUBLE
EQUIPMENT SUPPLY AND INSTALLATION ADVISORY (Includes FRP & Galvanized Slide Supports)	\$3,168,309	\$1,657,978	\$153,662	\$133,294	\$830,889
EQUIPMENT SUPPLY TOWER (Including Trex Stairs, Concrete with FRP Pans Platforms) (Concrete by others)	\$277,031				
<b>COMPLEX TOTAL (USD)</b>	<b>\$3,445,340</b>	<b>\$1,657,978</b>	<b>\$153,662</b>	<b>\$133,294</b>	<b>\$830,889</b>
<b>SUB TOTAL</b>	<b>\$6,221,163</b>				
Installation Services	\$1,196,892	\$445,267	\$27,130		
Painted Tower and Slide Supports	\$174,759				
AquaLucent Fiberglass Effects	\$95,896 (31 Sections)	\$50,175 (17 Sections)			
Standard Dispatch System for All Slides	\$29,302				
Weight Scales (x2)	\$22,708				
Life Floor Under AP Unit (4690 ft <sup>2</sup> ) (Excl. Life Floor on AP)		\$155,255			
<b>COMPLEX TOTAL (USD)</b>	<b>\$5,063,122</b>	<b>\$2,355,255</b>	<b>\$185,987</b>	<b>\$133,294</b>	<b>\$830,889</b>
<b>GRAND TOTAL</b>	<b>\$8,418,547</b>				
PERFORMANCE BOND & ADVANCED PAYMENT BONDS				\$188,707	
<b>GRAND TOTAL INCLUDING BONDS (USD)</b>	<b>\$8,607,254</b>				



## Appendix 6 Safe Use and Maintenance of the Attraction

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The following terms apply to the Purchaser signatory of this contract when it is also the Operator or when Purchaser is not the Operator of the FlowRider®, these terms will apply to the Operator who is made part of this contract in that regard and as a condition for the Operator to gain the benefits included herein.

The Purchaser represents as a condition of his performance under this contract, that he has informed the Operator and has obtained agreement from the Operator of these terms.

To promote the safe use and maintenance of the Attraction, Operator will maintain and operate the Attraction in accordance with the FlowRider® Operations and Procedures Manual ("Manual"); post and maintain all warnings and notices as issued by Seller and which is shown as Attachment 5; modify or alter the Attraction only with the express prior written authorization of Seller; increase or decrease the discharge flow rate or velocity of the Attraction only with the express prior written authorization of Seller; and use only Seller approved body-boards and flow-boards.

Operator, shall require all persons, including but not limited to paying or complimentary guests, employees, staff, or any other riders on the Attraction to sign a Release of Liability Agreement with the form and substance as shown as Attachment 6 or with Seller written consent, a modified version for purposes of enforceability.

A failure to abide by the above by Operator or Purchaser as might apply, will result in all indemnifications and warranties offered herein to be null and void. When the Purchaser has failed to obtain agreement from the Operator, there will be no obligation by Seller to complete the commissioning of the equipment nor to provide certification that the equipment is fit for general use without any liability to Seller. Once the defaults have been corrected, Seller will resume the performance of the work up to final acceptance.

Subject to the above, Seller shall provide FlowRider video and print marketing materials to Operator, as requested. Seller may also acknowledge Operator in any promotional material utilizing video or print material that depicts the Attraction.

Acknowledged read, understood, and accepted by:

By: \_\_\_\_\_

Acting on behalf of Operator: \_\_\_\_\_

By: \_\_\_\_\_

Acting on behalf of Purchaser: \_\_\_\_\_

## Appendix 7 FlowRider Special Instructions and Clauses

### 1 – Notices, Instructions & Warnings

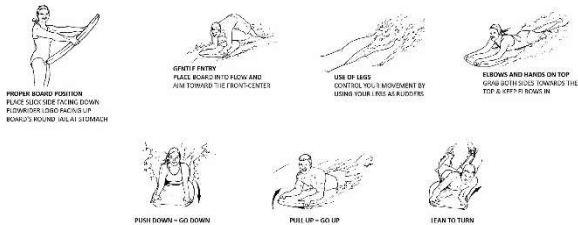


## TAKE TIME TO READ THESE IMPORTANT NOTICES, INSTRUCTIONS & WARNINGS

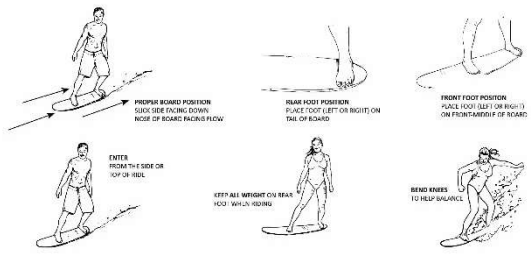
1. This is a very strenuous ride. The moving water is extremely turbulent, and the ride surface is firm.
2. Bodyboarding or Stand Up Riding on this sheet wave is a body-active, participatory sport. As with all sports, care must be taken to avoid a mishap and to avoid possible injury.
3. Participants must be in good physical condition and free from any physical limitations to participate. Pregnant women and persons that have had a recent surgery or illness, has a heart condition, neck, back or bone ailments, high blood pressure or aneurysms, or are under the influence of drugs, alcohol or prescription medications should not ride.
4. Participants must be 48" (1.22 m) tall to Stand Up Ride and 42" (1.07 m) tall to Bodyboard. First-time participants must start by bodyboarding and must enter the ride from the bottom on the right or left side.
5. Jewelry, hats, footwear, eyeglasses, or loose articles of any type are not recommended on the ride as they may injure the participant.
6. Loose clothing or bathing suits may be pulled off by the flowing water. Cover-ups are suggested.
7. Entering the ride. After receiving instruction from the Wave Operator, follow these instructions carefully:
  - a. If bodyboarding: place your bodyboard onto the flow of water slick side down. Lie down on your stomach, head facing the flow of water, with your hips along the rear edge of the board. Your legs should be extended straight behind you to serve as rudders. Grab both sides toward the front of the board. Keep fingers, hands and elbows on top of your board to minimize water splashed into eyes. Gently push into the flow. You may also ride in a kneeling position.
  - b. If Stand Up Riding: holding the nose of the board, place your flowboard onto the flow of water slick side down. Place your back foot approximately at the tail of the board, and position your front foot above the mid-point of the board. Place your weight primarily on your back foot. Gently push into the flow. Remember to keep your weight on your back foot at all times.
8. Avoid jumping into or entering the ride at high speed; avoid placing weight on front foot. **YOU WILL WIPE OUT!**
9. Steer your board into the center of the flowing water. You can control your board by gently shifting your weight. Try to keep your board pointed in the direction of the oncoming flow of water. Edge control is the key. When Stand Up riding, keep weight on your back foot!
10. If you wipe out, do not hold onto your board. Release the board immediately, cover your head, and keep limbs close to your body and try to brace for impact with feet first.
11. Single riding only is permitted. No tandem riders or multi-person riding is allowed.
12. Participants, or those waiting to participate, shall not be on or inside the attraction at anytime unless they are physically riding the FlowRider.
13. To reduce the risk of a tear or injury, trimmed finger and toe nails are recommended.
14. **CAUTION!** The ride surface of this ride is very slippery. **DO NOT** attempt to walk on the ride surface. You may only stand to walk and exit after coming to a complete stop on the blue drain grating.
15. Obey the Wave Operations Staff at all times.
16. It is recommended that first-time participants observe other participants riding the attraction before attempting to ride.

### HOW TO BODYBOARD

ALL FIRST TIME PARTICIPANTS OF THE FLOWRIDER MUST BODYBOARD AND ENTER THE RIDE FROM THE BOTTOM LEFT OR RIGHT. PRIOR TO STAND-UP RIDING, ALL PARTICIPANTS MUST BODYBOARD.



### HOW TO STAND UP RIDE



### WARNING! TO MINIMIZE RISK OF INJURY:

- DO NOT STEP OFF BOARD ONTO INCLINED RIDE SURFACE
- AVOID THE SIDES OF SURFACE WHERE WATER FLOW IS MINIMAL
- ONLY USE BOARDS MADE BY AND/OR APPROVED BY FLOWRIDER, INC.



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www.flowrider.com/patents

www.flowrider.com

www.flowhouse.com

www.flowboarders.com



# ATTENTION: READ BEFORE RIDING!

## WAVE RIDING DISCLOSURE & ASSUMPTION OF RISK

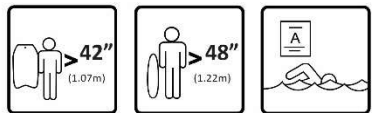


**IF YOU WOULD NOT SKATEBOARD, WAKEBOARD, OR SNOWBOARD, THEN YOU SHALL NOT STAND UP RIDE ON ANY FLOWRIDER ATTRACTION. IF YOU ARE NOT ACTIVELY PARTICIPATING ON THE FLOWRIDER, YOU SHALL NOT ENTER THE RIDE AREA!**

The FlowRider® is a very aggressive white water attraction. You will fall and/or unavoidably achieve body positions that result in the potential for severe personal injury during your participation on the FlowRider. The tricks, stunts or body positions that you may (or inadvertently do) achieve will be based upon your real or perceived physical abilities and skill level. There is a risk of self-inflicted injury or injury caused by others that can result from such tricks, stunts or body positions which exceed your skill level (and which may occur irrespective of your skill level). For instance, you may sustain injury as a result of slipping on or striking surrounding ride elements, e.g., firm ride surface, flow fence divider, support structures, ride vehicles, containment walls, entering/exiting patrons, Wave Operators, or other ride components. In addition, since the attraction and its ride vehicles (flowboards/bodyboards) may contain fiberglass, plastic, wood, metal or other hard and potentially dangerous materials, contact with them may also cause injury. Such ride vehicles may also have foot straps or board-to-body attachments that may cause injury. Furthermore, riding may result in the flow of water picking you up and pitching you head-over-heels onto a fiberglass/steel sub-surface that may be exposed or partially covered by one inch of foam or ½ inch of vinyl matting. After this initial dump you may subsequently collide into structural elements that lie directly in the path of the water flow. All of the above is risky, and although many before you have ridden unscathed, severe injury and/or death is possible.

Riding this attraction involves certain inherent risks of severe injury or death. By choosing to participate, you agree to hold harmless and waive any and all claims against FlowRider, Inc., WhiteWater West Industries, Ltd., \_\_\_\_\_ and all of their respective officers, directors, members, agents, subsidiaries, parent companies, employees, insurers, including but not limited to claims for personal injury, death, or property damage, incurred in any way related to your use of and participation in the activity of riding the FlowRider.

**WHO CAN RIDE THE FLOWRIDER**  
 For your safety, participate only if in good health. Only **YOU** know your physical condition or limitations. If you suspect that your health or safety could be at risk, or you could aggravate a pre-existing condition of any kind, **DO NOT RIDE!**



You must be at least 42" tall to bodyboard (1.07m) | You must be at least 48" tall to Stand Up ride (1.22m) | You must be able to swim in fast moving, turbulent water

Do NOT participate if you have any of the following conditions:



Or any other physical or mental condition that could affect your ability to participate in this aggressive activity. If you have any questions of your ability to participate in this aggressive activity, you should consult with your physician.

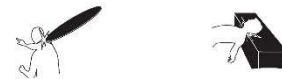
**THERE ARE RISKS!**  
 Riding a FlowRider is a very aggressive & strenuous activity, particularly for first-time participants. All participants must be in good general health & must have a good level of overall balance & fitness.

**BEFORE ATTEMPTING TO RIDE, WATCH THE SAFETY VIDEO TO UNDERSTAND THE RISKS OF THIS ACTIVITY**

**RIDING THE FLOWRIDER IS AN EXTREME SPORT & HIGH-RISK RECREATIONAL ACTIVITY. YOU WILL FALL ON SOFT & HARD SURFACES.**



**FALLING MAY RESULT IN THE BOARD STRIKING YOUR BODY OR YOUR BODY STRIKING THE RIDE SURFACE WITH GREAT FORCE.**



**READ & OBEY ALL POSTED INSTRUCTIONAL SIGNS. FAILURE TO COMPLY MAY INCREASE THE RISK OF SEVERE PERMANENT INJURIES OR EVEN DEATH.**

**THE FOLLOWING TECHNIQUES MAY HELP MINIMIZE THE RISK OF INJURY:**



TUCK INTO A BALL AS YOU BEGIN TO FALL | COVER YOUR HEAD & FACE WITH BOTH ARMS & HANDS | TRY TO ORIENT FEET FIRST BEFORE HITTING ANY SURFACE

**THERE ARE INHERENT RISKS IN THE PARTICIPATION OF ANY AMUSEMENT RIDE, DEVICE, OR ATTRACTION. YOUR PARTICIPATION IN THIS ACTIVITY IS VOLUNTARY, AND AS SUCH, YOU ARE ASSUMING SUCH RISKS.**

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## 2 – FlowRider® Voluntary Acknowledgement of Risks, Release of Liability and Indemnity Agreement

First Name		Last Name		Middle Initial
Street Address		City	State	Zip
Email Address			Telephone Number	
Birth Date	Age	State Driver's License/ID Card Number	Issuing State	Expiration Date
Emergency Contact Name			Emergency Contact Telephone	

**Are you a first-time patron of the FlowRider? (circle one) YES NO**

RIDING ON THE FLOWRIDER® IS AN EXTREME SPORT AND HIGH-RISK RECREATIONAL ACTIVITY. SHEET WAVE SURFING ON, OR IN PROXIMITY TO, THE FLOWRIDER MAY RESULT IN **SERIOUS** PHYSICAL OR MENTAL INJURY, SERIOUS INJURY TO HEAD, NECK, BACK, HIPS, ILLNESS OR DISEASE, PARALYSIS OR DEATH.

This document affects your legal rights. By writing your signature below, you acknowledge that a) if you are a first-time participant to the FlowRider, you are required to start by bodyboarding prior to stand-up riding, b) you have read and understood any and all instructions and signage having to do with the FlowRider attraction and c) you have read and understood the disclosure of risks, voluntarily and willingly accept those risks, and agree to be bound by all terms of this Release of Liability and Indemnity Agreement.

My signature acknowledges that I, or the minor for whom I am a legal guardian, (collectively referred to as "I", "me", or "my") have voluntarily chosen to participate in the sheet wave surfing attraction known as the FlowRider or use a Bodyboard or Flowboard (collectively referred to as the "Activities") and to use the facilities at [Insert Facility Name], including but not limited to the FlowRider (collectively referred to as the "Facilities").

In consideration of the permission to participate in the Activities and use the Facilities, I hereby acknowledge, agree, promise and covenant on behalf of myself, my heirs, assigns, personal representatives and estate with WHITEWATER WEST INDUSTRIES LTD., FLOWRIDER INC., [Insert Operator's name] and [Insert Facility Name] each of their lessors, parent companies, subsidiaries, related companies, Thomas J. Lochtefeld, and business concerns, past and present, and each of them, as well as each of their partners, trustees, directors, officers, members, intellectual property holders, agents, attorneys, servants and employees, past and present, and each of them (collectively referred to as "Releasees") as follows:

**ACKNOWLEDGEMENTS OF RISKS:** I UNDERSTAND AND ACKNOWLEDGE that the Activities in which I am about to voluntarily engage bear certain known and inherent risks and unanticipated risks that could result in **SERIOUS** PHYSICAL OR MENTAL INJURY, SERIOUS INJURY TO HEAD, NECK, BACK, HIPS, ARMS, LEGS, ILLNESS OR DISEASE, PARALYSIS OR DEATH OR OTHER DAMAGE to me or my property. I understand and acknowledge those risks may result in claims against Releasees. However, I am making an informed choice to voluntarily accept and assume such risks due to the thrills, excitement, and benefits of the Activities, and I agree that the benefit of the Activities outweigh the risks, which include but in no way are limited to:

- (1) The acts, omissions or negligence in any degree of Releasees, or their agents or employees;
- (2) the risks inherent in the Activities, including but not limited to any injuries such as a) broken bones, b) dislocations, c) torn ligaments and tendons, d) sprains and strains, e) cuts to the head, body and/or limbs, f) torn nails, and g) bumps and bruises suffered while riding these extreme sporting attractions;
- (3) latent or apparent defects or conditions of the Activities or the Facilities;
- (4) improper or inadequate instruction or supervision regarding the Activities or use of the Facilities
- (5) the behavior of co-participants;
- (6) accidents or incidents in the Facilities, including but not limited to accidents or incidents in wet areas, such as pool decks, tiled, concrete or other wet surfaces; and/or
- (7) first aid, emergency treatment or services rendered or failed to be rendered by Releasees, or their agents or employees.

I UNDERSTAND AND ACKNOWLEDGE that the above list is not complete or exhaustive, and that other risks, known or unknown, identified, or unidentified, **anticipated, or unanticipated** may also result in serious injury, paralysis, death, illness, disease, or damage to me or to my property. I FURTHER ACKNOWLEDGE that I am in good physical and mental health, and not suffering from any condition, disease or disablement which would or could potentially affect participation in the Activities or use of the Facilities. Further, I acknowledge that I am not purchasing or leasing the attraction, but rather, am being afforded a non-exclusive right to use the attraction. Additionally, I acknowledge that Releasees are providing recreational services and that I am freely and voluntarily agreeing to be considered an active participant in this Activity.

**VOLUNTARY ACCEPTANCE AND ASSUMPTION OF RISK AND RESPONSIBILITY:** I EXPRESSLY AND VOLUNTARILY AGREE, COVENANT AND PROMISE TO ACCEPT AND ASSUME ALL RESPONSIBILITIES, AND RISK FOR INJURY, DEATH, ILLNESS OR DISEASE OR DAMAGE to me or to my property arising from the participation in the Activities or use of the Facilities.

**RELEASE AND INDEMNITY:** I VOLUNTARILY RELEASE AND FOREVER DISCHARGE AND COVENANT NOT TO SUE Releasees and all other persons or entities affiliated therewith, from any and all liability, claims, demands, actions or rights or action, which are related to, arise out of, or are in any way connected with my active participation in the Activities or use of the Facilities, **including, but specifically not limited to any and all negligence or fault of Releasees.** I UNDERSTAND THIS IS A RELEASE OF LIABILITY THAT IS VALID FOREVER and will apply to all current and future participation in the Activities or use of the Facilities. I understand that this RELEASE OF LIABILITY will prevent me, my child, my heirs or my estate from bringing any action at law, suit in equity, or other jurisdictional proceeding or making any claim for damages, injury or death in the event of damage, injury or death arising from participation in the Activities or use of the Facilities. I FURTHER AGREE, PROMISE AND COVENANT TO HOLD HARMLESS AND TO INDEMNIFY Releasees, and all other persons or entities from all defense costs, including attorneys' fees, or any other costs incurred in connection with claims for mental or bodily injury, wrongful death or property damage that may be filed by me, my child, my heirs or my estate. Such indemnity and defense obligation shall further extend to any claim, loss or lawsuit which alleges that I negligently or intentionally caused any injury, death or damage to spectators or other third parties in the course of my participation in the Activities.

**RELEASE OF ALL RIGHTS RELATED TO MY AUDIO AND PHOTOGRAPHIC IMAGE:** I hereby agree to a blanket release of all rights related to my audio and photographic image that may arise out of my participation in the Activities or use of the Facilities. I understand that this release includes any and all marketing, promotion or advertising that may occur anywhere and anytime on any media as later used by Releasees. Further, I hereby grant full permission for Releasees, to record any or all of my participation, and my name and likeness in the Activities for photos, motion pictures, TV, radio, Internet, recordings, videotapes, and other media, known or unknown, and to use them in perpetuity, no matter by whom taken or recorded, in any manner for publicity, promotions, advertising, trade or commercial purposes, without any reimbursement of any kind due to me, or the need to pay me any fee whatsoever. I agree that Releasees will be the exclusive owner of all rights, including but not limited to the copyrights, in and to the recordings and the results and proceeds of my participation hereunder ("Materials"). I agree that the Materials shall constitute a "work made for hire" pursuant to the United States Copyright Act. To the extent any of the Materials are not considered a "work made for hire," I hereby assign all rights in the Materials to Releasees. Such assignment shall be deemed irrevocable and coupled with an interest.

**ENTIRE AGREEMENT, SEVERABILITY AND VENUE:** I understand that this is the entire Agreement between the undersigned and Releasees, and that it cannot be modified or changed in any way by the representations or statements of Releasees or any employee or agent of Releasees, or by the undersigned. I understand and agree that this Agreement is severable and that if any clause is found to be invalid, the balance of the contract will remain in effect and will be valid and enforceable. I agree that any action will be brought in a court in the Province of British Columbia, Canada. Any disputes will be subject to and determined under the laws of the Province of British Columbia.

I have taken the time to read this waiver and I understand its contents. I acknowledge that this document, in it of itself, has provided me the information necessary to understand my rights which I am hereby waiving.

Participant's Legal Name (please print): \_\_\_\_\_

Participant's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

(If Participant is a minor) Legal Guardian Name: \_\_\_\_\_

(If Participant is a minor) Legal Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

**AFFIDAVIT OF PARENT OR LEGAL GUARDIAN**

I, the undersigned, declare that I am the parent of, or the legal guardian of, the below named minor, and have the capacity to execute documents on behalf of such minor. I understand that as a condition to participate in sheet wave surfing on the FlowRider the parent or legal guardian of the minor participant must sign certain legal documents, including but not limited to Acknowledgements of Risks, Releases, and Indemnity Agreements. I am signing those documents, freely, without any fraud or duress and acknowledge that I have read and understand the same. In the event that it is determined that I am not the parent or legal guardian of the minor, or did not have the legal capacity to execute the documents on behalf of said minor, then I agree to defend and indemnify: WHITEWATER WEST INDUSTRIES LTD., FLOWRIDER INC., [Insert Operator's name] and [Insert Facility Name] each of their lessors, parent companies, subsidiaries, related companies and business concerns, past and present, and each of them, as well as each of their partners, trustees, directors, officers, members, intellectual property holders, agents, attorneys, servants and employees, past and present, and each of them, if any litigation is instituted, as a result of any injury or death or claim for damage arising out of, relating to, or in any way connected with, minor's participation in sheet wave surfing on the FlowRider or use of the Facilities. I understand that this indemnity provision is in addition to (and not in lieu of) any other indemnity provision found in this document.

Participant's Legal Name (please print): \_\_\_\_\_  
Legal Guardian Name: \_\_\_\_\_  
Legal Guardian Signature: \_\_\_\_\_ Date: \_\_\_\_\_

## 3 – Grant of License to Install, Operate and Promote Attraction

1. License to Operate Attraction.
  - 1.1 Seller hereby grants to Purchaser, and Purchaser accepts a limited license to:
    - 1.1.1 install the Equipment, and operate and maintain the Attraction solely at the Site; and
    - 1.1.2 use the Attraction and the Attraction Images for the sole purpose of promoting the Site's ordinary course of business and use the Attraction for on-site sponsorship. Purchaser cannot, however, unilaterally allow the Attraction or Attraction Images to be used for any third-party advertising, television/motion picture production, sponsorship, or promotion without Seller's prior written consent. For example, Purchaser can enter into a contract allowing a third party to have a banner or sign near the Attraction but cannot enter into a contract with a third party allowing that third party to use images of the Attraction to sell or showcase their products in commercials without Seller's prior written consent.
2. Limitation on Licensed Rights.
  - 2.1 This Agreement does not provide any ownership interest in or to the Patents, Proprietary Information, Improvements or Licensed Rights nor any right to sublicense or divide any of the rights granted herein. Purchaser shall not register any intellectual property rights related in any way to the Patents, Proprietary Information, or Improvements.
  - 2.2 Purchaser shall not resell or reinstall the Attraction, reverse engineer the Attraction, or manufacture install or operate any derivative stationary wave inside or outside of the Site.
  - 2.3 The rights and licenses granted herein are personal and non-assignable and are granted herein only as specifically enumerated above and no other rights are intended by the parties or shall be implied by this Agreement, by any custom in the trade or by any course or history of dealing between the parties. All other rights are reserved by Seller.
3. Use and Ownership of the Marks in the Promotion and Operation of the Attraction.
  - 3.1 Seller places great value on the Marks and the goodwill associated with the Marks. Therefore, it is the intent of the parties that the terms and conditions of this Agreement shall be adequate and reasonable to assure the consuming public and the industry that the Attraction advertised and promoted by Purchaser under the Marks are of the same consistently high quality as that offered by Seller and others licensed under the Marks. Accordingly, Purchaser shall use the Marks, if at all, only in the form and under the specific conditions as set forth herein. Without limitation Purchaser acknowledges and agrees that:
    - 3.1.1 Seller shall provide the Attraction with the Seller and FlowRider Marks displayed on the Attraction as indicated in the Proposal and Scope of Work, which Marks Purchaser shall maintain throughout the life of the Attraction.
    - 3.1.2 Purchaser will advertise and promote the Attraction in compliance with all applicable laws and shall at all times conduct its activities under this Agreement in a lawful manner;
    - 3.1.3 Purchaser will abide by the policies and procedures established by Seller regarding proper trademark usage as set forth in the FlowRider Brand Book. Purchaser shall submit to Seller for its prior approval any new uses of the Marks that do not follow the trademark usage guide set forth therein.
    - 3.1.4 Purchaser will not engage or become involved in any activities that diminish or tarnish the image or reputation of the Marks or of Seller.
    - 3.1.5 In no event shall Purchaser have the right to modify the Marks or use them in combination with other marks not licensed herein, or use the Marks as a trade name, company name, trade style, d.b.a. or fictitious name. Seller may, in its sole discretion, prohibit Purchaser from using the Marks on or in connection with the advertising or promotion of any goods or services which fail to conform to the high-quality

- standards prescribed by Seller. Upon notification from Seller, Purchaser shall immediately discontinue its use of the Marks in connection with any such substandard goods or services.
- 3.1.6 All uses by Purchaser of the Marks, whether authorized or not, shall inure solely to the benefit of Seller. Purchaser further agrees that it has not and will not seek to obtain, either directly or indirectly, any registration of the Marks in any countries and that any such registrations so obtained are hereby irrevocably assigned to Seller.
  - 3.2 Purchaser agrees to allow the marking of the Attraction with a patent notice in compliance with applicable patent marking requirements or as Seller shall otherwise specify from time-to-time.
  - 3.3 Purchaser agrees that it will not take any action, either directly or indirectly, challenging the validity of the Patents or the Marks or any other of the Licensed Rights or Seller's lawful possession of the Licensed Rights anywhere in the world.
  4. Membership in FLOW (Flowboarding League Of the World).
    - 4.1 To develop the sport of Flowboarding, Seller has established FLOW to develop consistent competitive rules and regulations to promote increased participation at the local level and coordinate local marketing with Seller's national and international marketing and advertising efforts. FLOW currently operates, sanctions and supports the United States FLOW Tour, International Flowboarding Championships and the World FlowRider Championships,
    - 4.2 Purchaser shall be a member of FLOW at no additional cost and as such, shall be granted the potential opportunity at Seller's and Purchaser's mutual agreement to be a FLOW competitive event venue and part of a FLOW tour event.
    - 4.3 Purchaser agrees that FLOW shall be the exclusive sanctioning body for all FLOW competitive events and agrees to abide by all FLOW guidelines when conducting competitive events and that Seller shall retain a sole reservation of media and sponsor rights specific to all FLOW competitions.
  5. FlowRider Merchandise.
    - 5.1 Seller shall provide to Purchaser the opportunity to purchase flowboards, bodyboards and FlowRider® branded clothing and other Merchandise. Purchaser, however, has no independent merchandising rights to the Attraction, Attraction Images or any trademark rights associated with the Attraction or related goods and services, except to the extent set forth herein.
  6. Flow-through of rights to end Owner and/or Operator.
    - 6.1 The rights granted herein flow through to end user of the FlowRider, provided that subsequent agreements between the Purchaser and the end Owner and/or Operator or intermediate parties incorporate this Agreement in its' entirety in those subsequent Agreements.

## 4 – Pump Manufacturer Warranty

### OEM — Whitewater West Industries

#### Flygt Model PL-7061.705s / 140-hp Electric Submersible Propeller Pump

#### Warranty Level: 100%

**Warranty Duration: 24-Months** from commissioning or 30 months warranty on Equipment after shipment to Whitewater West/FlowRider Inc.

For the period defined, Xylem, Inc.—Flygt offers a commercial warranty to the original End User against defects in workmanship and material.

#### COVERAGE:

Xylem, Inc. will pay the cost of parts and labor during the warranty period, provided that the product, with cable attached, is returned prepaid to a Xylem, Inc. – Flygt Products Authorized Service Facility for repairs. 100% coverage for parts and labor will be provided for the period of 24-months. The warranty period shall begin from date of start-up of the installed Flygt PL-7061.705s/140-hp propeller pump product installed in the *FlowRider* surfing attraction.

A Start-up for a permanently installed pump must occur within six (6) months from the date of shipment from Xylem, Inc. — Flygt manufacturing facility or warranty will automatically default to ship date as start of warranty. When using a date other than ship date as the beginning of the warranty period then a copy of the Start-up Report and a copy of the document outlining the acceptance date will be required to support a Warranty Claim.

Xylem, Inc. — Flygt's sole obligation under this Warranty shall be to replace, repair or grant credit for product upon Xylem, Inc. — Flygt's exclusive determination that the product does not conform to the above warranty. In the event that the product is replaced, warranty on the replacement product will be equal to the balance remaining on the original product or ninety (90) days, whichever is greater.

#### MISUSE:

This Warranty shall not apply to any product or part of product which (i) has been subjected to misuse, misapplication, accident, alteration, neglect, or physical damage (ii) has been installed, operated, used or maintained in a manner and/or in an application contrary to Xylem, Inc., Flygt's printed instructions for installation, operation and maintenance, including without limitation operation without being connected to monitoring devices supplied with specific products for protection; or (iii) has been damaged due to a defective power supply, improper electrical protection, faulty installation or repair, ordinary wear and tear, corrosion or chemical attack, an act of God, an act of war or by an act of terrorism; or (iv) has been damaged resulting from the use of accessory equipment not sold by Xylem, Inc., Flygt or not approved by Xylem, Inc., Flygt in connection with the product.

**DISCLAIMERS:**

(i) Xylem, Inc., Flygt's warranties are null and void when the product is exported outside of the United States of America without the knowledge and written consent of Xylem, Inc., Flygt ; (ii) Xylem, Inc., Flygt makes no independent warranty or representation with respect to parts or products manufactured by others and provided by Xylem, Inc., Flygt (however, Xylem, Inc., Flygt will extend to the Purchaser any warranty received from Xylem, Inc., Flygt's supplier of such parts or products).

**LIMITATIONS:**

XYLEM, INC. — FLYGT NEITHER ASSUMES, NOR AUTHORIZES ANY PERSON OR COMPANY TO ASSUME FOR XYLEM, INC., ANY OTHER OBLIGATION IN CONNECTION WITH THE SALE OF ITS EQUIPMENT. ANY ENLARGEMENT OR MODIFICATION OF THIS WARRANTY BY A DISTRIBUTOR, OR OTHER SELLING AGENT SHALL BECOME THE EXCLUSIVE RESPONSIBILITY OF SUCH ENTITY. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF WHATEVER NATURE RELATING TO THE PRODUCT(S), INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. PURCHASER'S EXCLUSIVE REMEDY AND XYLEM, INC. — FLYGT'S AGGREGATE LIABILITY FOR BREACH OF ANY OF THE FOREGOING WARRANTIES IS LIMITED TO REPAIRING OR REPLACING THE PRODUCT AND SHALL IN ALL CASES BE LIMITED TO THE AMOUNT PAID BY THE PURCHASER HEREUNDER. IN NO EVENT IS XYLEM, INC. — FLYGT LIABLE FOR ANY OTHER FORM OF DAMAGES, WHETHER DIRECT, INDIRECT, LIQUIDATED, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR REVENUE, LOSS OF INCOME, LOSS OF BUSINESS, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY OR LOSS OF REPUTATION. XYLEM, INC. — FLYGT WILL NOT BE HELD RESPONSIBLE FOR TRAVEL EXPENSES, RENTED EQUIPMENT, OUTSIDE CONTRACTOR'S FEES, EXPENSES PERFORMED BY AN UNAUTHORIZED REPAIR SHOP, UNAUTHORIZED ALTERATIONS, OR FOR PUMPS USED WITHOUT XYLEM, INC., — FLYGT SUPPLIED CABLE OR CONTROLS UNLESS IT CAN BE PROVEN SUCH ANCILLARY EQUIPMENT IS SUITABLE FOR THE PURPOSE AND EQUAL TO XYLEM, INC. — FLYGT CABLES OR CONTROLS THAT WOULD ORIGINALLY BE SUPPLIED WITH THE TYPE OF EQUIPMENT IN USE. REIMBURSEMENT COSTS FOR CRANES AND/OR ANY SPECIAL EQUIPMENT USED IN CONJUNCTION FOR THE REMOVAL OR REINSTALLATION OF ANY XYLEM, INC. — FLYGT EQUIPMENT IS NOT COVERED UNDER THIS WARRANTY.

**STORAGE:**

Should a delay occur between ship date and the date of start-up, maintenance as outlined in Xylem, Inc., — Flygt's *Care & Maintenance Manual* must be performed by the "CONTRACTOR" and/or "OWNER" during any such period of storage. Documentation providing proof and outlining what maintenance was performed must be provided to Xylem, Inc. — Flygt or its representative within thirty (30) days of said maintenance, or the Xylem, Inc. — Flygt warranty could be considered void.

## 5 – Electrical Controls Warranty

The Electrical Controls Supplier shall warrant the Equipment from the dates indicated below which covers Shipment, Commissioning or Certification from any defects in materials; workmanship or design provided the Equipment has been installed according to engineering drawings and used in accordance with the Manual. Act of God or Force Majeure (as defined in the General Terms & Conditions section above) and extreme weather events are specifically excluded from this warranty including damages by airborne or waterborne debris. This warranty shall be limited to repair or replacement, at the option of Supplier. In no case shall Supplier be liable for any consequential damages. This warranty does not cover the cost(s) to return the warranted item(s)/unit(s).

The earlier of:

Two (2) Year Warranty on Equipment after Commissioning or Certification from any defects in materials. As a requirement from the Electrical Controls manufacturer, the Electrical Controls must be registered at the time of Commissioning by the Purchaser and/or final user.

Or

Two and a half (2.5) Year Warranty on Equipment after Shipment to WhiteWater West/FlowRider, Inc.

## Appendix 8 Insurance

### Commercial General Liability policy written on ISO Commercial General Liability Form CG 0001 0413 issued by Liberty Mutual Insurance Company (A rating A.M. Best Co and Standard & Poor's)

Policy aggregate limits.

- General Aggregate ..... \$2,000,000
- Products and Completed Operations Aggregate ..... \$2,000,000
- Personal and Advertising Injury ..... \$2,000,000
- Damage to Rented Premises ..... \$2,000,000
- Each Occurrence ..... \$2,000,000
- Medical Expense Limit – Each Person..... \$10,000
- Medical Expense Limit – Each Accident ..... \$25,000
- Non-Owned Automobile Liability..... \$2,000,000
  
- This policy provides coverage for loss or damage arising out of the use or operation of any automobile that is not owned or that is hired, resulting from bodily injury or property damage
- Professional services that are an integral part of other work performed by or on behalf of the Insured or are incidental to the manufacture, installation, sale, handling or distribution of the Insured's products.
- All entities where required by written contract with the Named Insured and to whom a certificate of insurance has been issued to are added as Additional Insured but only with respect to liability arising out of the operations of the Named Insured. Architect or Project Engineers are not indemnified parties and are not added as Additional Insured.
- Commercial general Liability is Primary and Non-Contributory and includes Contractual Liability and a Waiver of Subrogation where required by written contract.

### Workers' compensation and Employers' Liability policy issued by Liberty Mutual Insurance Group

- Workers' Compensation ..... Statutory limit
- Employers' Liability – Bodily Injury by Accident, Each Accident ..... \$1,000,000
- Employers' Liability – Bodily Injury by Disease, Each Employee ..... \$1,000,000
- Employers' Liability – Bodily Injury by Disease, Policy Limit..... \$1,000,000
- US Longshoreman and Harbor Workers' Compensation Act ..... \$1,000,000
- Stop gap employers' liability in monopolistic states (ND, OH, WA and WY)
- Waiver of Subrogation where required by written contract with the Insured

### Umbrella Additional aggregate limits to Commercial General Liability and Employer's Liability policies

- Aggregate..... \$8,000,000
- Each Occurrence ..... \$8,000,000

Should one of the above-noted policies be cancelled before their expiry date, the insurer will endeavor to provide 30 days written notice to the certificate holder.

Initial      DS

*JK*      *AJF*



OpenAire Sales Inc.  
 2360B Cornwall Road  
 Oakville, Ontario, Canada, L6J 7T9  
 Tel: 905-901-8535 Fax: 905-901-9662

September 17, 2024

Tyler Adams  
 Meyers Carlisle Leapley Construction  
 14558 Portal Circle  
 Omaha, Nebraska 68138

Subject: OpenAire Waterpark Enclosure  
 City of Bellevue  
 Bellevue, Nebraska  
 Project No.: 22-166

Dear Tyler:

OpenAire Sales Inc. is pleased to submit its Contract for the above referenced project. This Contract is to design and build a retractable roof waterpark enclosure in accordance with the schematic OpenAire shop drawings 1 through 19 dated July 5, 2024.

Note: There are no specifications for this project. Glass and paint are per OpenAire standards.

This Contract includes:

**Main Enclosure:**

One (1) freestanding curved roof enclosure measuring 185'-0" x 316'-8" (cl/cl of outer rafters/columns), with:

- One (1) sidewall measuring 316'-8" long x 35'-2 5/8" high supported by a 2'-0" high concrete wall by others. For a length of 33'-4", and full height of the sidewall, the sidewall is open (no glass) at the interface with the Tower Enclosure described below.
- One (1) sidewall measuring 316'-8" long x 35'-2 5/8" high supported by a 2'-0" high concrete wall by others. For a length of 233'-4", and a height of 24'-0", the sidewall is open where it interfaces with a conventional building (by others).
- Two (2) gable ends measuring 185'-0" at the base with the sides measuring 35'-2 5/8" high from top of the 2' high supporting wall (by others).

**Main Enclosure Notes:**

- A. The roof of the enclosure, with a length of 316'-8", is divided into 19 bays measuring 16'-8" with 13 of the bays having two opening roof panels (one on each side of the apex), and two bays having one opening roof panel. The roof panels retract down from the apex over the fixed glazing below.
- B. The enclosure is supported by a 2'-0" high concrete wall (by others), which must be adequate to support the loads imposed by the enclosure. Doors within the enclosure extend to the waterpark floor.

City of Bellevue, Nebraska  
 Contract  
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C. At the area where the sidewall interfaces with the conventional construction, the columns extend to the 2'-0" high concrete piers (by others) at the floor. The area between the columns at the interface is open with the area extending above the roof being glazed with glass.

**Tower Enclosure:**

One curved roof tower measuring 33'-4" x 39'-3" with:

- One (1) front wall measuring 33'-4" x 74'-7 1/8" high,
- One (1) back wall measuring 33'-4" x 38'-9" high (roof of enclosure to tower eave),
- Two (2) gable ends measuring 39'-3" at the base.

**Tower Notes:**

- A. The tower length of 33'-4" is divided into two (2) bays with both bays having two opening roof panels (1 on each side of the apex), that retract down from the apex over the fixed glazing below.
- B. The tower is supported by a 2'-0" concrete wall (by others) which must be adequate to support the loads imposed by the tower.

**The Enclosures include the following specific items:**

- 1) Design and engineering including shop drawings – **under separate contract.**
- 2) OpenAire's thermally broken extruded aluminum frame.
- 3) All aluminum exposed to view will be painted with a standard color baked on finish meeting AAMA 2604.

- Notes: A. Additional colors are available, but extra costs may result depending on color chosen.  
 B. Hardware is stainless steel and is not painted.  
 C. Door thresholds are not painted.

- 4) Sloped glazing to be 1" (25mm) multi-wall polycarbonate.
- 5) Vertical glazing to be 1" insulating glass consisting of:
  - 1/4" clear tempered with a Low E coating
  - 1/2" air space
  - 1/4" clear tempered

Glass Notes: A. The vertical glass is based on the following performance:

- Visible Light Transmission = 61%
- U Value = .28
- Solar Heat Gain Coefficient = .32
- Shading Coefficient = .36

B. The above values are approximate and OpenAire reserves the right to source glass from various manufacturers who meet this performance.

- 6) A total of thirty-two (32) motorized opening roof panels including one motor per panel, control box and wiring between the control box and motors.
- 7) Thirty-two (32) motorized pivot windows measuring 16'-0" x 6'-0" glazed with 1" glass.
- 8) One (1) motorized upward door measuring 10'-0" x 10'-0" glazed with 1" insulating glass.

**Note for Items 6, 7 and 8:**

Wire is supplied by OpenAire but installation of wire between the motors and the control box and any required conduit is by others.

City of Bellevue, Nebraska  
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- 9) Six (6) swing doors measuring 3'-0" x 7'-0" high, glazed with 1" insulating glass and equipped with panic hardware.
- 10) Five (5) bi-fold doors measuring 16'-0" x 10'-0" high, glazed with 1" insulating glass.
- 11) Aluminum flashing between the enclosure and adjacent construction.
- 12) Fasteners required to anchor the enclosure to the foundation/piers.
- 13) Complete installation by OpenAire's non-union crew.

- Notes: A. Additional costs will be charged if a union crew or prevailing wage is required.
- B. It is assumed the enclosure will be installed after the foundation is in place and before pools, slides and waterpark amenities are installed.
- C. Enclosure is maintained using man lifts and articulating booms. Floor must be adequate to support the weight of this equipment. OpenAire is not responsible for damage to underground utilities.
- D. If necessary during unloading and installation, closing of streets (including all permits), buying of parking meters and any police or security detail is by others.
- E. The City of Bellevue agrees to make ready and keep open and available the project site for purposes of overtime work during the course of the weekdays and for Saturday work. The City understands that by doing so it will keep the project open and available for OpenAire so OpenAire may increase and/or adjust manpower as needed in order to achieve timely completion.

- 14) Delivery of materials to the jobsite.
- 15) State Sales Tax.
- 16) Standard 5 year OpenAire warranty against defective design, materials and construction. Paint, polycarbonate and glass are warranted against defective materials and defects in manufacturing per the manufacturer's standard warranties.
- 17) Performance Bond.

**AT A TOTAL PRICE OF ..... \$ 11,234,800.00 US Dollars**

*Eleven Million, Two Hundred Thirty Four Thousand, Eight Hundred*

ALTERNATE #1:

Should a rain sensor be desired to automatically close the roof in the event of rain,

ADD..... \$10,000.00 US Dollars

*Ten Thousand*

Note: The panels do not automatically re-open when the rain stops.  
The roof is to be opened at the control box.

Initial for Acceptance \_\_\_\_\_

Note: Included in OpenAire's structural design is a total provisional allowance of 4 lbs. per sq. ft. for ancillary systems by others (lights, HVAC, fire suppression systems, supplemental wiring etc.), to be supported by the structure. OpenAire must be notified if the net sum of all such systems (not by OpenAire), or any additional items supported by the roof, exceeds this limit so the structure can be designed accordingly.

City of Bellevue, Nebraska  
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This Contract is made for acceptance within thirty-(30) days. Acceptance after thirty-(30) days shall not be binding upon OpenAire, Inc., and might be subject to escalation.

**Items not included in this Contract:**

- 1) Engineering and Shop Drawings – under separate contract.
- 2) Supporting foundation including 2'-0" high supporting concrete walls and piers.
- 3) Permits and bonds.
- 4) Power to the control panel.
- 5) Installation of wire and supply and install of all required conduit.
- 6) Final cleaning (stickers, labels and excess caulk will be removed).
- 7) Grounding of the building.
- 8) Provision and removal of dumpsters.
- 9) Inspection fees.
- 10) Protection of surrounding construction.
- 11) Protection of work after installation.
- 12) If necessary during unloading and installation, closing of streets (including all permits), buying of parking meters and any police or security detail.
- 13) Conventional construction.

**Payment Terms – per Schedule of Values:**

OpenAire agrees to supply a set of specifications and shop drawings for the City's approval, prior to any manufacturing. Receipt of Approved Shop Drawings is authorization for OpenAire Inc. to commence fabrication. Extra charges will be passed to the City should OpenAire incur additional engineering costs due to coordination with other trades, and/or more than two (2) shop drawing submittals are required. Once shop drawings have been approved, any alteration or deviation from the approved shop drawings shall be executed upon written change orders and will become an extra charge. The City is to carry All Risk Insurance including fire, theft and other necessary insurances for the above-specified material once delivered to site.

All payments are non-refundable. Any payments due and unpaid under this Contract shall bear interest of 1.5% monthly from the date the payments are due. In the event of breach of this agreement and OpenAire has to collect through a third party, the City agrees to pay all legal fees, court costs and collections fees incurred by OpenAire in enforcing its rights under the terms of this Contract. OpenAire retains the right to access the job site in order to inspect materials that have been delivered.

The City must dispute in writing any invoice within fifteen (15) days of the date of invoice. The failure to provide a written dispute of any invoice shall render an account stated.

The City is to ensure OpenAire a workable construction site. In the event of rain, the City will provide and install gravel as necessary to provide adequate access of men and equipment around the enclosure. All costs associated with towing and removal of equipment from mud or snow will be borne by the City. In the event of snow, the City will remove as necessary to provide access of men and equipment around the enclosure. The City is to provide a staging and storage area clear of mud and snow.

City of Bellevue, Nebraska  
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**Indemnity:**

The City shall indemnify, defend and hold harmless OpenAire from and against any loss, liability, damage, costs and expenses whatsoever, (including attorney's fees), arising from any violation of any law, ordinance or regulation, or any claimed personal injury, death, or damage to property occasioned by the ordered goods or by their design, ownership, possession, transportation, operation, use, or maintenance and shall immediately notify OpenAire of any of the foregoing. The indemnities and assumptions of liability contained in this paragraph shall continue in full force and effect notwithstanding the cancellation or termination of this order for any reason.

It is expressly agreed that OpenAire's liability for all losses and damages from any order or any other claim whatsoever shall be limited to the stated purchase price of the specific materials at issue, not to exceed actual damages incurred to the extent permitted by law. OpenAire shall not be liable for incidental, consequential, direct, indirect, or special damages.

**Delay, Suspension or Cancellation of Contract:**

In the event of delay or suspension order by the City, OpenAire shall be entitled to collect the cost and profit for the percentage of the project which is completed at the date of the suspension. The amount due shall be pro-rated per the above payment terms and based on the percentage of completion.

If the City orders a delay or suspension, OpenAire will be entitled to an equitable adjustment of the contract time and contract sum. Adjustments shall be made for the increased cost of design and manufacturing including, but not limited to, cost for demobilization and re-mobilization, storage, increases in materials, wages, per diem, motels and airfare.

If the City terminates the contract for convenience, written notice shall be delivered to OpenAire. Upon receipt of such written notice, OpenAire shall stop any work and not enter into any further sub contracts or purchase orders. The City agrees to immediately pay OpenAire for all costs incurred, including a restocking fee for any material ordered prior to termination of the contract. The City further agrees to pay for any custom materials ordered specifically for this project prior to termination of the contract.

**Arbitration:**

Any controversy or claim arising out of or related to this Contract, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Construction Industry Arbitration Rules and judgement on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The prevailing party in any arbitration or action shall be awarded reasonable attorneys' fees and costs and arbitration fees and charges.

**Severability:**

If any provision of this Contract for the Sale of Goods is determined or held to be illegal, unenforceable, or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions hereof, but such provision shall be fully severable and this Contract shall be construed and enforced as if the illegal, unenforceable, or invalid provision had never been included herein.

**Non-Assignment Agreement:**

The City and OpenAire may not assign, sublease or otherwise transfer its rights, duties or obligations under this Contract without prior written consent of the other, which consent shall not unreasonably be withheld.

City of Bellevue, Nebraska  
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**Standard of Care:**

OpenAire shall perform its obligations under this Contract for Sale of Goods consistent with the standard of care for Sellers similarly situated and located, performing the same or similar obligations as Seller.

**Force Majeure:**

In the event that either party hereto shall be delayed or hindered in or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, riots, insurrection, war, pandemic, or other reason of like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Contract, then performance of such act shall be excused for the period of the delay and the period for the performance of any act shall be extended for a period equivalent to the period of such delay. Notwithstanding the foregoing, financial impecuniosities shall not be considered an event of force majeure.

**Future Marketing Opportunities:**

The City hereby agrees that OpenAire may at any time during and/or after installation of the OpenAire enclosure take pictures for use in future OpenAire marketing opportunities including, but not limited to, print, video, social media or other promotional activities. The City hereby releases OpenAire, its employees, representatives, and subsidiaries from all claims, demands and expenses whatsoever which the City may ever have arising out of any publication, presentation and/or use of the OpenAire product images.

Notwithstanding anything in this agreement to the contrary, including without limitation the above paragraph with respect to force majeure, the Vendor and the City agree that time is of the essence regarding this Contract. Therefore, it is understood that the entire Contract must be completed no later than 365 days from the date of signing and in accordance with an agreed upon construction schedule. Failure to complete this contract within 365 days might subject the prices contained herein to escalation.

Pricing, specifications (subject to approved shop drawings), terms and conditions listed herein are satisfactory and are hereby accepted.

**Vendor:**  
OpenAire Sales, Inc.

**Meyers Carlisle Leapley Construction:**

\_\_\_\_\_  
Mark Albertine - President

\_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Initial DS



# AIA® Document A133® – 2019 Exhibit A

## Guaranteed Maximum Price Amendment

This Amendment dated the Fourth day of February in the year Two Thousand Twenty-Five, is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the Sixteenth day of September in the year Two Thousand Twenty-Four (the “Agreement”)

*(In words, indicate day, month, and year.)*

for the following **PROJECT:**

*(Name and address or location)*

Bellevue Bay Indoor Water Park  
Highway 75 and 34; Northwest Corner

**THE OWNER:**

*(Name, legal status, and address)*

City of Bellevue  
Nebraska Municipality  
1500 Wall Street  
Bellevue, NE 68005

**THE CONSTRUCTION MANAGER:**

*(Name, legal status, and address)*

Meyers, Carlisle, Leapley Construction Company, Inc.  
(d/b/a MCL Construction)  
14558 Portal Circle  
La Vista, NE 68138  
Office: 402-339-2221

### TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

### ARTICLE A.1 GUARANTEED MAXIMUM PRICE

#### § A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

#### § A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed

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**User Notes:**

(67a3d2f3884d6a31ecbe9973)

### ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Twenty Million Nine Hundred and Twenty-Four Thousand Sixty-Two Dollars and Zero Cents (\$ 20,924,062.00 ), subject to additions and deductions by Change Order as provided in the Contract Documents.

**§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price.** Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager’s contingency; alternates; the Construction Manager’s Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.  
(Provide itemized statement below or reference an attachment.)

- Exhibit “B” – MCL GMP Amendment #2 Cost Breakdown letter dated 02/04/2025
- Exhibit “C” – Pink Grading, Inc. proposal dated 11/22/2024
- Exhibit “D” – Pink Grading, Inc. additional tree removal proposal dated 01/27/2025
- Exhibit “E” – Olsson surcharge survey and monitoring proposal dated 01/02/2025
- Exhibit “F” – Olsson Surcharge Drawing Index

**§ A.1.1.3** The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement.

**§ A.1.1.4** The method of adjustment of the Construction Manager’s Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

**§ A.1.1.5 Alternates**

**§ A.1.1.5.1** Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
N/A	

**§ A.1.1.5.2** Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.  
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

**§ A.1.1.6** Unit prices, if any:

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

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

**ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**§ A.2.1** The date of commencement of the Work shall be:

(Check one of the following boxes.)

- The date of execution of this Amendment.
- Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)

Per Section 3.3.1.2 of the executed AIA A133-2019 Agreement

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

**§ A.2.2** Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

**§ A.2.3 Substantial Completion**

**§ A.2.3.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

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

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

By the following date:

**§ A.2.3.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	

**§ A.2.3.3** If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

**ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**

**§ A.3.1** The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

**§ A.3.1.1** The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
N/A			

**§ A.3.1.2** The following Specifications:  
*(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)*

Section	Title	Date	Pages
N/A			

**§ A.3.1.3** The following Drawings:  
*(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)*

Number	Title	Date
N/A		

**§ A.3.1.4** The Sustainability Plan, if any:  
*(If the Owner identified a Sustainable Objective in the Owner’s Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner’s and Construction Manager’s roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)*

Title	Date	Pages
N/A		

Other identifying information:

**§ A.3.1.5** Allowances, if any, included in the Guaranteed Maximum Price:  
*(Identify each allowance.)*

Item	Price
N/A	

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:  
*(Identify each assumption and clarification.)*

See Exhibit "B"

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:  
*(List any other documents or information here, or refer to an exhibit attached to this Amendment.)*

See Exhibit "B"

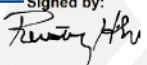
**ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS**

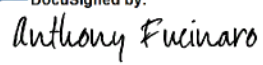
§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:

*(List name, discipline, address, and other information.)*

N/A

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

Signed by:  
  
 \_\_\_\_\_  
 OWNER (Signature)  
 BY: Rusty Hike, Mayor  
 \_\_\_\_\_  
*(Printed name and title)*

DocuSigned by:  
  
 \_\_\_\_\_  
 CONSTRUCTION MANAGER (Signature)  
 BY: Anthony J, Fucinaro III, Managing Principal  
 \_\_\_\_\_  
*(Printed name and title)*



**Meyers Carlisle Leapley Construction**  
 14558 Portal Circle  
 La Vista, NE 68138  
 O 402-339-2221 F 402-339-2114  
[mclconstruction.com](http://mclconstruction.com)

Date: 02/04/2025

Re: Bellevue Bay Indoor Water Park Project  
 Exhibit B - GMP Amendment #02

To: Harrison Johnson  
 Director of Economic and Community Development

Mr. Johnson,

Per your request, please see a breakdown of the anticipated values that will be included in GMP Amendment #02 for the Bellevue Bay Indoor Waterpark project.

GMP AMENDMENT 01 (Previous)

1. MCL Preconstruction fee:	\$15,000.00
2. Whitewater West Package:	\$8,418,547.00
3. Whitewater West Performance & Payment bond (2.24%):	\$188,707.00
4. OpenAire Package:	\$11,014,800.00
5. OpenAire Performance & Payment bond (2.00%)	<u>\$220,000.00</u>
SUBTOTAL-1:	\$19,857,054.00
6. MCL fee (2.00%) on items 1-5 above:	<u>\$397,141.00</u>
SUBTOTAL-2:	<b>\$20,254,195.00</b>



**Meyers Carlisle Leapley Construction**  
14558 Portal Circle  
La Vista, NE 68138  
O 402-339-2221 F 402-339-2114  
[mclconstruction.com](http://mclconstruction.com)

**GMP Amendment 01 Clarifications (Previous):**

1. The Whitewater West figure of \$8,607,254.00 is based on their proposal dated 09/27/2024. This figure does not include any pre-payments that have/may have occurred prior to this date. Any modifications to the scope of the proposal dated 09/27/2024 (additive or deductive) may entitle MCL Construction to an equitable adjustment in contract time and/or Guaranteed Maximum Price.
2. The OpenAire figure of \$11,234,800.00 is based on their proposal dated 09/17/2024. This figure does not include any pre-payments that have/may have occurred prior to this date. Any modifications to the scope of the proposal dated 09/27/2024 (additive or deductive) may entitle MCL Construction to an equitable adjustment in contract time and/or Guaranteed Maximum Price.
3. GMP Amendment #01 is a partial amendment and does not represent the full or final cost of the Bellevue Bay Indoor Water Park project.
4. MCL Construction is proceeding under directive from the City of Bellevue for material procurement purposes and to mitigate potential cost escalation associated with items listed above.
5. This current GMP Amendment does not include any General Conditions required to execute the work identified above - this will need to be added in a subsequent GMP Amendment.
6. This current GMP Amendment cannot be built without the balance of the complete project scope being approved by forthcoming GMP Amendment(s).
7. MCL Construction is not responsible for any change or cancellation fees directed by the Owner related to the items included in this GMP Amendment – any such fees will be passed on directly to the Owner.
8. MCL Construction is not responsible for design services – approval of this Amendment assumes the Architect and all coordinating professionals are conforming with all applicable and governing codes and requirements related to this scope of work.
9. MCL Construction will invoice per Subcontractor payment schedules listed in the attached proposals.



**Meyers Carlisle Leapley Construction**  
 14558 Portal Circle  
 La Vista, NE 68138  
 O 402-339-2221 F 402-339-2114  
[mclconstruction.com](http://mclconstruction.com)

**GMP AMENDMENT 02 (Current)**

1. OpenAire sales tax credit	<b>\$(210,000.00)</b>
2. Surcharge grading scope (Pink Grading)	\$724,547.00
3. Tree removal and haul-off (Pink Grading)	\$38,800.00
4. Pink Grading Performance & Payment bond (2.00%)	\$15,267.00
5. Surveying & Surcharge Monitoring	\$30,900.00
6. MCL Supervision (8 weeks)	\$38,090.00
7. Construction Contingency (3.00%)	<u>\$19,128.00</u>
SUBTOTAL-1:	\$656,732.00
8. MCL fee (2.00%) on items 1-7 above:	<u>\$13,135.00</u>
SUBTOTAL-2:	<b>\$669,867.00</b>

**GMP SUMMARY**

1. GMP Amendment 01	\$20,254,195.00
2. GMP Amendment 02	<u>\$669,867.00</u>
UPDATED GMP:	<b>\$20,924,062.00</b>

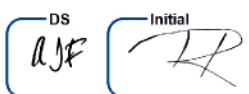
**GMP Amendment 02 Clarifications (Current):**

1. GMP Amendment 02 includes an adjustment to the existing GMP for work identified on the Mass Grading & Surcharge drawings dated 11/15/2024 as issued by Olsson Engineering.
2. The OpenAire sales tax credit of \$210,000.00 was discovered during the final stages of negotiation of this contract – OpenAire had included sales tax in their proposal in error.
3. The Pink Grading figure of \$739,037.00 is based on their proposal dated 11/22/2024 and the Olsson drawings identified in item #1 above.
4. The Pink Grading figure of \$38,800.00 is based on their proposal dated 01/27/2025 and the groups of trees identified on the attached aerial photo. This early tree removal is being performed to prevent project delay due to potential non-construction activity during raptor and migratory bird nesting periods.
5. The Olsson Surveying & Surcharge Monitoring figure of \$30,900.00 is based on their proposal dated 1/2/2025 and the drawings identified in item #1 above.
6. MCL Supervision is based on the estimated duration of oversight needed for construction activity related to GMP Amendment 02 only.

Respectfully,

*Tyler Adams*

Tyler Adams  
 Project Executive  
 MCL Construction





**Project:** Bellevue Waterpark  
**Addendums:**  
**Date:** November 22, 2024  
**Contact Info:** (O) 402-592-1034 ; (F) 402-591-1035  
 4920 S 66th Plz, Omaha, NE 68117  
 John : 402-681-2930  
 Evan : 402-590-7784

	Scope of work:	Totals
01	Mobilization	\$ -
02	Strip and stockpile topsoil onsite.	\$ -
03	Erosion Control; Install silt fence and construction entrance.	\$ -
04	Overexcavation of southern exterior footings to 3' below footing elevation 1113.5 and recompact to subgrade of 1119.33.	\$ -
05	Overexcavation of support building footings to 3' below footing elevation 1100 and recompact to subgrade of 1119.33. To occur prior to surcharge install.	\$ -
06	Grading; Use excess cut from overexcavation in structural fill. Import remaining structural fill required to meet subgrade elevation.	\$ -
07	Install surcharge. Dirt for surcharge to be borrowed from source inside LOD.	\$ -
08	Remove surcharge & return dirt borrowed onsite and return lot to original grade.	\$ -
09	Furnish & Install pipe, riser and rip rap required for basin.	\$ -
10		\$ -
11		\$ -
12		\$ -

Add 2% to base bid if bond required

Pink Grading Inc, is pleased to submit the following proposal:

<b>Grand Total</b>	\$	724,547.00
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**Inclusions:** If not specifically included within, then it is excluded

**Exclusions:** LABOR SALES TAX, PERMITS, BOND, LAYOUT & STAKING, TESTING, DEWATERING, REMOVAL OF ANY UNKNOWN OR HIDDEN UNDERGROUND ITEMS, BUILD PCC & ASPHALT PAVEMENT, PAVEMENT SUBGRADE PREPARATION, BUILD SANITARY & STORM SEWERS, DISCONNECTING & CAPPING OR SEALING & REMOVING UTILITIES, EXCAVATE & BACKFILL UTILITY TRENCHES, UTILITIES INSTALLATIONS, UTILITY & FOOTING SPOILS, SIGNAGE & PAVEMENT MARKINGS, PAVEMENT SAWCUT, TEMPORARY BARRIERS, TRAFFIC CONTROL, CONSTRUCT BUILDING FOOTINGS, EXCAVATE FOR FOOTINGS, MAINTENANCE & REMOVAL OF SILT FENCE, ANY EROSION CONTROL ITEM NOT LISTED, REMOVE & REPLACE FROST LADEN SOIL, TEMPORARY OR PERMANENT SEEDING AND SOD REMOVAL OF ANY HAZARDOUS OR CONTAMINATED SOILS & MATERIALS, TEMPORARY ROCK FOR LAYOUT/HAULROADS/CONSTRUCTION TRAILERS, RETAINING WALL BACKFILL & EXCAVATION, STORM RETENTION EXCAVATION & BACKFILL, IMPORT OF TOPSOIL, FINE GRADE FOR SIDEWALKS, NIGHT WORK, SEE ADDITIONAL EXCLUSIONS ABOVE

**Extras:**

- 1) Recycled concrete can be delivered for \$15/Ton
- 2) Spoils can be removed for \$170/Load
- 3)

This proposal is valid for 15 calendar days unless stated otherwise within.

**Pink Grading Inc.**  
 EST. 1970

DS Initial



**Project:** Waterpark - Tree Clearing  
**Addendums:**  
**Date:** January 27, 2025  
**Contact Info:** (O) 402-592-1034 ; (F) 402-591-1035  
 4920 S 66th Plz, Omaha, NE 68117  
 John : 402-681-2930  
 Evan : 402-590-7784

	Scope of work:	Totals
01	Mobilization	\$ -
02	Tear down and pile all trees and stumps highlighted in attached.	\$ -
03	Grind and haul off tree/stump piles.	\$ -
04		\$ -
05	<b>All trees will be down prior to 2/15 and all trees will be hauled off site by 4/1.</b>	\$ -
06		\$ -
07		\$ -
08		\$ -
09		\$ -
10		\$ -
11		\$ -
12		\$ -
13		\$ -
14		\$ -

Add 2% to base bid if bond required

Pink Grading Inc, is pleased to submit the following proposal:

<b>Grand Total</b>	<b>\$ 38,800.00</b>
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**Inclusions:** If not specifically included within, then it is excluded

**Exclusions:** LABOR SALES TAX, PERMITS, BOND, LAYOUT & STAKING, TESTING, DEWATERING, REMOVAL OF ANY UNKNOWN OR HIDDEN UNDERGROUND ITEMS, BUILD PCC & ASPHALT PAVEMENT, PAVEMENT SUBGRADE PREPARATION, BUILD SANITARY & STORM SEWERS, DISCONNECTING & CAPPING OR SEALING & REMOVING UTILITIES, EXCAVATE & BACKFILL UTILITY TRENCHES, UTILITIES INSTALLATIONS, UTILITY & FOOTING SPOILS, SIGNAGE & PAVEMENT MARKINGS, PAVEMENT SAWCUT, TEMPORARY BARRIERS, TRAFFIC CONTROL, CONSTRUCT BUILDING FOOTINGS, EXCAVATE FOR FOOTINGS, MAINTENANCE & REMOVAL OF SILT FENCE, ANY EROSION CONTROL ITEM NOT LISTED, REMOVE & REPLACE FROST LADEN SOIL, TEMPORARY OR PERMANENT SEEDING AND SOD REMOVAL OF ANY HAZARDOUS OR CONTAMINATED SOILS & MATERIALS, TEMPORARY ROCK FOR LAYOUT/HAULROADS/CONSTRUCTION TRAILERS, RETAINING WALL BACKFILL, STORM RETENTION EXCAVATION & BACKFILL, IMPORT OF TOPSOIL, SURCHARGE, OVEREXCAVATION, FINE GRADE FOR SIDEWALKS, NIGHT WORK, SEE ADDITIONAL EXCLUSIONS ABOVE

**Extras:**

- 1) Recycled concrete can be delivered for \$18/Ton
- 2) Spoils can be removed for \$170/Load
- 3)

This proposal is valid for 15 calendar days unless stated otherwise within.

**Pink Grading Inc.**  
EST. 1970

DocuSign Envelope ID: 81CC1237-DB4A-4114-B7D6-06A212633ED0



DS Initial  
RJR



## LETTER AGREEMENT FOR PROFESSIONAL SERVICES

January 2, 2025

MCL Construction  
Attn: Tyler Adams  
Project Executive  
14558 Portal Cir,  
Omaha, NE 68138

Re: **LETTER AGREEMENT FOR PROFESSIONAL SERVICES**  
Bellevue Water Park ("Project") Bellevue, NE

Dear Tyler:

It is our understanding that MCL Construction ("Client") requests Olsson, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence.

Olsson shall provide the following services ("Scope of Services") to Client for the Project: as more specifically described in "Scope of Services" attached hereto. Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

## SCHEDULE FOR OLSSON'S SERVICES

Unless otherwise agreed, Olsson expects to perform its services under the Agreement as follows:

Anticipated Start Date:                    Upon receipt of signed proposal.

Anticipated Completion Date:

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

## COMPENSATION

Client shall pay to Olsson for the performance of the Scope of Services, the actual time of personnel performing such services, and all actual reimbursable expenses in accordance with the Labor Billing Rate Schedule(s) and the Reimbursable Expense Schedule attached to this Agreement. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

Olsson's Scope of Services will be provided on a time and expense **fee estimate of Thirty Thousand and Nine Hundred Dollars. (\$30,900).**

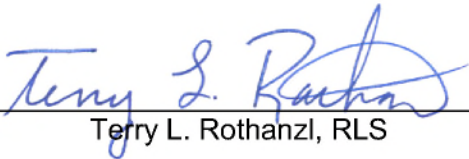
## TERMS AND CONDITIONS OF SERVICE

We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative shall be Tyler Adams. 402-339-2221.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of maximum 30 days from the date set forth above, unless changed by us in writing.

**OLSSON, INC.**

By   
Terry L. Rothanzl, RLS

By   
Dan Hanna

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

**MCL Construction**

By \_\_\_\_\_  
Signature

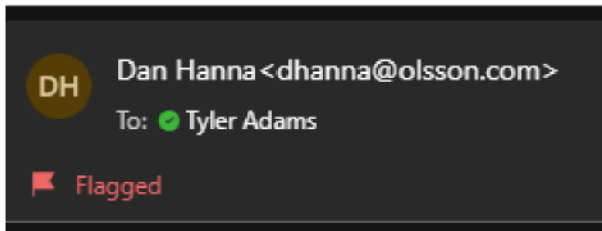
Print Name \_\_\_\_\_

Title \_\_\_\_\_

Dated \_\_\_\_\_

Attachments

- General Provisions
- Scope of Services
- Standard Labor Rate Schedule
- Reimbursable Expense Schedule



DH Dan Hanna <dhanna@olsson.com>  
To: ● Tyler Adams  
Flagged

## SCOPE OF SERVICES

This exhibit is hereby attached to and made a part of the Letter Agreement for Professional Services dated January 2, 2025, between MCL Construction ("Client") and Olsson, Inc. ("Olsson") providing for professional services. Olsson's Scope of Services for the Agreement is indicated below.

### PROJECT DESCRIPTION AND LOCATION

Project will be located at: Bellevue Water Park ("Project")  
Bennington, NE

Project Description: Construction Staking Mass Grading & Surcharge Package

### SCOPE OF SERVICES

Olsson shall provide the following services (Scope of Services) to Client for the Project:

#### SURVEY SERVICES

##### Task 1 – Grading

- Stake perimeter Toe and Tops of Surcharge Limits, Over X areas and silt basin.

##### Task 2 – SF - LOD

- Stake all Silt Fence and Limits of disturbance lines 50' on tangents and 25' along curves.

##### Task 3 – Storm Sewer

- Stake the storm lines on an offset at a minimum of 50 feet with grades to the rim and invert elevations.

##### Task 4 – Control

- Stake new or mark up existing control as specified by the client.

##### Task 5 – Verify Surcharge

- Olsson will provide a topographic exhibit of the surcharge and over x areas for verification.

##### Task 6 – Settlement Plate Monitoring

- Olsson will provide Bi-weekly or weekly readings per the clients request.

#### Assumptions:

Olsson Survey will not install settlement plate as part of this scope and fee.

## **ADDITIONAL ITEMS**

- **Any staking outside of the Scope of Services will be billed at Time and Expense as outlined on attached 2025 Rate Schedule.**
- **Re-staking will be discussed and documented by an Olsson representative and a representative from MCL Construction prior to being staked. Both parties must agree and sign off on staking and time associated with it (See attached Additional Services Sheet). Re-staking will be billed Time and Expense as outlined on attached 2024 Rate Schedule.**



## 2024 Survey Services Labor Billing Rate Schedule

Service	Rate
Survey	
Survey Intern	\$ 60.00/hr
Assistant Technician/Surveyor	\$ 85.00/hr
Associate Technician/Surveyor	\$ 115.00/hr
Senior Technician/Surveyor	\$140.00/hr
Technical Manager/Senior Surveyor	\$194.00/hr
Survey Group Leader	\$150.00/hr
1-Person Survey Crew	\$140.00/hr
2-Person Survey Crew	\$200.00/hr
3-Person Survey Crew	\$260.00/hr
3D HD Scanning Crew	\$250.00/hr
UAV Pilot	\$250.00/hr
UAV Assistant	\$85.00/hr

**General Terms and Conditions for All Services:**

- These Unit Fees are in effect until January 1, 2024. Services and fees not listed above will be quoted upon request.
- Services provided on weekends, holidays, and in excess of 8 hours/day will be charged at 1.5 times the Unit Fee.

**CURRENT REIMBURSABLE EXPENSE DETAIL**

**Travel**

Personal Vehicles 0.545 /mile  
 Suburban/Pickups 0.75 /mile

**OA Fleet Cars/Vans/SUV**

Under 150 Miles 0.545 /mile  
 Over 150 Miles 85.00 /day

**Office Expenses\***

Copies BW - All 0.15 /each  
*Konica & Textronix*  
 Copies Color 8.5 x 11 0.50 /each  
 Copies Color 8.5 x 14 0.50 /each  
 Copies Color 11 x 17 1.00 /each  
 KIP Bond 0.20 /sq ft  
 KIP Vellum 0.70 /sq ft  
 KIP Film-Mylar 3.00 /sq ft  
 HP DesignJet BW - Bond 0.20 /sq ft  
 HP DesignJet BW - Film-Mylar 3.00 /sq ft  
 Large Format Print-Color 2.50 /sq ft  
 Large Format Print-Presentation 5.00 /sq ft

**Miscellaneous Materials/Supplies/Services**

Supplies Cost +10%  
 Outside Billings Cost +10%  
 Telephone Cost +10%  
 Consultants Cost +10%  
 Laboratory Cost +10%

**Filing Fees**

City 2.50 /each  
 Rural 5.00 /each

**Survey Supplies & Equipment\***

Survey Supplies	Estimated Costs
Wood Lath - Various Sizes	0.70 /each*
Wood Hubs (2x2x8)	0.35 /each*
Wood Guards (Stakes) (1x2x18)	0.35 /each*
Pipe	5.25 /each
Flags	0.10 /each
Flagging Tape	1.50 /roll
Paint	4.40 /can
Rebar (1/2")	1.20 /each
Rebar (3/4")	1.75 /each
Rebar (5/8")	1.66 /each

**Equipment**

GPS	25.00 /hour
EDM ( Total Station-A)	10.00 /hour
EDM ( Total Station-B)	5.00 /hour
4-WD ATV	60.00 /day
Jack Hammer	Current Rental Rates

Field Tests*	Estimated Costs
Aggregate	30.00 /test
Concrete	65.00 /test
Troxler Nuclear Density Gauge	25.00 /test
(Compaction Tests)	100.00 /day max
Cylinder Breaks	10.00 /break
Cylinder Breaks Reserve	4.00 /each

\*This does not reflect a complete list of items that are chargeable by OA. Costs subject to change.

**Shaded costs are estimates only and vary by region. Consult your local survey team for current billing rates.**



### Additional Survey Services

Contractor/Client \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Project Name: \_\_\_\_\_

Olsson Project # \_\_\_\_\_

1 Man Survey Crew \_\_\_\_\_ No. of Hours \_\_\_\_\_

2 Man Survey Crew \_\_\_\_\_ No. of Hours \_\_\_\_\_

Description of Work:

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\_\_\_\_\_  
Client Representative

Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Olsson Associates Representative

Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_

## GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated January 2, 2025 between MCL Construction ("Client") and Olsson, Inc. ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

As used herein, the term "this Agreement" refers to these General Provisions, the applicable Letter Agreement or Master Agreement, and any other exhibits or attachments thereto as if they were part of one and the same document.

### **SECTION 1—OLSSON'S SCOPE OF SERVICES**

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

### **SECTION 2—ADDITIONAL SERVICES**

2.1 Unless otherwise expressly included, Scope of Services does not include the categories of additional services set forth in Sections 2.2 and 2.3.

2.2 If Client and Olsson mutually agree for Olsson to perform any optional additional services as set forth in this Section 2.2 ("Optional Additional Services"), Client will provide written approval of the agreed-upon Optional Additional Services, and Olsson shall perform or obtain from others such services and will be entitled to an increase in compensation at rates provided in this Agreement. Olsson may elect not to perform all or any of the Optional Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project(s); preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from changes in the general scope, extent or character of the Project(s) or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Services resulting from the discovery of conditions or circumstances which were not contemplated by Olsson at the commencement of this Agreement. Olsson shall notify Client of the newly discovered conditions or circumstances and Client and Olsson shall renegotiate, in good faith, the compensation for this Agreement, if amended terms cannot be agreed upon, Olsson may terminate this Agreement and Olsson shall be paid for its services through the date of termination.

2.2.5 Providing renderings or models.

2.2.6 Preparing documents for alternate bids requested by Client.

2.2.7 Analysis of operations, maintenance or overhead expenses; value engineering; the preparation of rate schedules; earnings or expense statements; cash flow or economic evaluations or; feasibility studies, appraisals or valuations.

2.2.8 Furnishing the services of independent professional associates or consultants for work beyond the Scope of Services.

2.2.9 Services necessary due to the Client's award of more than one prime contract for the Project(s); services necessary due to the construction contract containing cost plus or incentive-savings provisions; services necessary in order to arrange for performance by persons other than the prime contractor; or those services necessary to administer Client's contract(s).

2.2.10 Services in connection with staking out the work of contractor(s).

2.2.11 Services during out-of-town travel or visits to the site beyond those specifically identified in this Agreement.

2.2.12 Preparation of operating and maintenance manuals.

2.2.13 Services to redesign some or all of the Project(s).

2.2.14 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding.

2.2.15 Services relating to Construction Observation, Certification, Inspection, Construction Cost Estimating, project observation, construction management, construction scheduling, construction phasing or review of Contractor's performance means or methods.

2.3 Whenever, in its sole discretion, Olsson determines additional services as set forth in this Section 2.3 are necessary to avoid a delay in the completion of the Project(s) ("Necessary Additional Services"), Olsson shall perform or obtain from others such services without waiting for specific instructions from Client, and Olsson will be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any:

2.3.1 Services in connection with work directive changes and/or change orders directed by the Client to any contractors.

2.3.2 Services in making revisions to drawings and specifications occasioned by the acceptance of substitutions proposed by contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor(s); or evaluating an unreasonable or extensive number of claims submitted by contractor(s) or others in connection with the Project(s).

2.3.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.3.4 Additional or extended services during construction made necessary by (1) work damaged during construction, (2) a defective, inefficient or neglected work by any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any contractor.

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project(s); designate and identify in writing a person to act with authority on Client's behalf in respect of all aspects of the Project(s); examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's services.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of thirteen percent (13%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item which is finally resolved in Client's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven (7) days written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all amounts due for services, expenses and charges and Client will not obtain any license to any Work Product or be entitled to retain or use any Work Product pursuant to Section 7.1 unless and until Olsson has been paid in full and Client has fully satisfied all of its obligations under this Agreement.

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project(s) or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused the need for additional services. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless and until Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any existing and/or required borings, probings or subsurface explorations; hydrographic surveys; laboratory tests or inspections of samples, materials or equipment; appropriate professional interpretations of any of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic or

utility surveys; property descriptions; and/or zoning or deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property reasonably necessary to perform its services on the Project(s).

3.4.3 Provide such legal, accounting, independent cost estimating or insurance counseling services as may be required for the Project(s); any auditing service required in respect of contractor(s)' applications for payment; and/or any inspection services to determine if contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction unless specifically included in Olsson's Scope of Services.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project(s).

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating and interfacing the activities of the various prime contractors.

3.5 Client shall pay all costs incident to obtaining bids or proposals from contractor(s).

3.6 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project(s).

3.7 Contemporaneously with the execution of this Agreement, Client shall designate in writing an individual to act as its duly authorized Project(s) representative.

3.8 Client shall bear sole responsibility for:

3.8.1 Jobsite safety. Neither the professional activities of Olsson, nor the presence of Olsson or its employees or sub-consultants at the Project shall impose any duty on Olsson relating to any health or safety laws, regulations, rules, programs or procedures.

3.8.2 Notifying third parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project(s) site.

3.8.3 Providing and updating Olsson with accurate information regarding existing conditions, including the existence of hazardous or dangerous materials, proposed Project(s) site uses, any change in Project(s) plans, and all subsurface installations, such as pipes, tanks, cables and utilities within the Project(s) site.

3.8.4 Providing and assuming all responsibility for: interpretation of contract documents; Construction Observations; Certifications; Inspections; Construction Cost Estimating; project observations; construction management; construction scheduling; construction phasing; and review of Contractor's performance, means and methods. Client waives any claims against Olsson and releases Olsson from liability relating to or arising out of such services and agrees, to the

fullest extent permitted by law, to indemnify and hold Olsson harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to such actions and services.

3.9 Client releases Olsson from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others.

3.10 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the site, Olsson may immediately stop work in the affected area and report the condition to Client. Client shall be solely responsible for retaining independent consultant(s) to determine the nature of the material and to abate or remove the material. Olsson shall not be required to perform any services or work relating to or in the area of such material until the material has been removed or rendered harmless and only after approval, if necessary of the government agency with jurisdiction.

#### **SECTION 4—MEANING OF TERMS**

4.1 The "Cost of Construction" of the entire Project(s) (herein referred to as "Cost of Construction") means the total cost to Client of those portions of the entire Project(s) designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project(s) or the cost of other services to be provided by others to Client pursuant to Section 3.

4.2 The "Salary Costs": Used as a basis for payment mean salaries and wages (base and incentive) paid to all Olsson's personnel engaged directly on the Project(s), including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.3 "Certify" or "a Certification": If included in the Scope of Services, such services shall be limited to a statement of Olsson's opinion, to the best of Olsson's professional knowledge, information and belief, based upon its periodic observations and reasonable review of reports and tests created by Olsson or provided to Olsson. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that any certifications based upon discrete sampling observations and that such observations indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services and certification does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any

laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Olsson shall sign pre-printed form certifications only if (a) Olsson approves the form of such certification prior to the commencement of its services, (b) such certification is expressly included in the Scope of Services, (c) the certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee, express or implied. It is understood that any certification by Olsson shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.4 "Opinion of Probable Cost": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work on the Project(s) will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.5 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.6 "Construction Observation": If included in the Scope of Services, such services during construction shall be limited to periodic visual observation and testing of the work to determine that the observed work generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of Construction Observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor. Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees shall notify Olsson at least twenty-four (24) hours in advance of any field tests and observations required by the construction documents.

4.7 "Inspect" or "Inspection": If included in the Scope of Services, such services shall be limited to the periodic visual observation of the contractor's completed work to permit Olsson, as an experienced and qualified professional, to determine that the observed work, generally conforms to the contract

documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Client, or its designees, shall notify Olsson at least twenty-four (24) hours in advance of any inspections required by the construction documents.

4.8 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the Project(s) made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the Record Documents.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement, for cause upon giving the other party not less than seven (7) calendar days written notice of default for any of the following reasons; provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.2 Assignment of this Agreement or transfer of the Project(s) by either party to any other entity without the prior written consent of the other party;

5.1.3 Suspension of the Project(s) or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days after receiving Olsson's final invoice, pay Olsson for all services rendered and all reimbursable costs incurred by Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.2.1 In the event of a "for cause" termination of this Agreement by Client and (a) a final determination of default is entered against Olsson under Section 6.2 and (b) Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product pursuant to Section 7.1.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by Olsson in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, any fees, costs or expenses incurred by Olsson in preparing or negotiating any proposals submitted to Client for Olsson's Scope of Services or Optional Additional Services under this Agreement and all other expenses directly resulting from the termination and a reasonable profit of ten percent (10%) of Olsson's actual costs (including overhead) incurred.

## **SECTION 6—DISPUTE RESOLUTION**

### **6.1. Mediation**

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, and then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

### **6.2 Arbitration or Litigation**

6.2.1 Olsson and Client agree that from time to time, there may be conflicts, disputes and/or disagreements between them, arising out of or relating to the services of Olsson, the Project(s), or this Agreement (hereinafter collectively referred to as "Disputes") which may not be resolved through mediation. Therefore, Olsson and Client agree that all Disputes shall be resolved by binding arbitration or litigation at the sole discretion and choice of Olsson. If Olsson chooses arbitration, the arbitration proceeding shall proceed in accordance with the Construction Industry Arbitration Rules of the AAA.

6.2.2 Client hereby agrees that Olsson shall have the right to include Client, by consolidation, joinder or other manner, in any arbitration or litigation involving Olsson and a subconsultant or subcontractor of Olsson or Olsson and any other person or entity, regardless of who originally initiated such proceedings.

6.2.3 If Olsson chooses arbitration or litigation, either may be commenced at any time prior to or after completion of

the Project(s), provided that if arbitration or litigation is commenced prior to the completion of the Project(s), the obligations of the parties under the terms of this Agreement shall not be altered by reason of the arbitration or litigation being conducted. Any arbitration hearings or litigation shall take place in Lincoln, Nebraska, the location of Olsson's home office.

6.2.4 The prevailing party in any arbitration or litigation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute.

### **6.3 Certification of Merit**

Client agrees that it will not assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against Olsson, or any Olsson subconsultant, unless Client has first provided Olsson with a sworn certificate of merit affidavit setting forth the factual and legal basis for such Claim (the "Certificate"). The Certificate shall be executed by an independent engineer ("Certifying Engineer") currently licensed and practicing in the jurisdiction of the Project site. The Certificate must contain: (a) the name and license number of the Certifying Engineer; (b) the qualifications of the Certifying Engineer, including a list of all publications authored in the previous 10 years and a list of all cases in which the Certifying Engineer testified within the previous 4 years ; (c) a statement by the Certifying Engineer setting forth the factual basis for the Claim; (d) a statement by the Certifying Engineer of each and every act, error, or omission that the Certifying Engineer contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Certifying Engineer of all opinions the Certifying Engineer holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Certifying Engineer; and (g) a list of every individual who provided Certifying Engineer with any information regarding the Project. The Certificate shall be provided to Olsson not less than thirty (30) days prior to any arbitration or litigation commenced by Client or not less than ten (10) days prior to the initial response submitted by Client in any arbitration or litigation commenced by someone other than Client. The Certificate is a condition precedent to the right of Client to assert any Claim in any litigation or arbitration and Client's failure to timely provide a Certificate to Olsson will be grounds for automatic dismissal of the Claim with prejudice.

## **SECTION 7—MISCELLANEOUS**

### **7.1 Reuse of Documents**

All documents, including drawings, specifications, reports, boring logs, maps, field data, data, test results, information, recommendations, or opinions prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement ("Work Product"), are all Olsson's instruments of service, do not constitute goods or products, and are copyrighted works of Olsson. Olsson shall retain an ownership and property interest in such Work Product whether or not the Project(s) is completed. If Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product and Client may make and retain copies of Work Product for use in

connection with the Project(s); however, such Work Product is for the exclusive use and benefit of Client or its agents in connection with the Project(s), are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project(s). Such Work Product is not intended or represented to be suitable for reuse by Client or others on extensions of the Project(s) or on any other Project(s). Client will not distribute or convey such Work Product to any other persons or entities without Olsson's prior written consent which shall include a release of Olsson from liability and indemnification by the third party. Any reuse of Work Product without written verification or adaptation by Olsson for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Olsson, or to Olsson's independent professional associates or consultants, and Client shall indemnify and hold harmless Olsson and Olsson's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation of Work Product will entitle Olsson to further compensation at rates to be agreed upon by Client and Olsson.

### **7.2 Electronic Files**

By accepting and utilizing any electronic file of any Work Product or other data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files. It shall be Client's responsibility to confirm the accuracy of the information contained in the electronic file and that it accurately reflects the information needed by the Client. Client shall not retransmit any electronic files, or any portion thereof, without including this disclaimer as part of any such transmissions. In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Olsson, its officers, directors, employees and sub consultants against any and all damages, liabilities, claims or costs, including reasonable attorney's and expert witness fees and defense costs, arising from any changes made by anyone other than Olsson or from any reuse of the electronic files without the prior written consent of Olsson.

### **7.3 Opinion of Probable Cost**

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the

contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's Opinion of Probable Cost provided for herein is made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. Client acknowledges and agrees that Olsson cannot and does not guarantee proposals or bids and that actual total Project(s) or construction costs may reasonably vary from Olsson's Opinion of Probable Cost. If prior to the bidding or negotiating phase Client wishes greater assurance as to total Project(s) or construction costs, Client shall employ an independent cost estimator as provided in paragraph 3.4.3. If Olsson's Opinion of Probable Cost was performed in accordance with its standard of care and was reasonable under the total circumstances, any services performed by Olsson to modify the contract documents to bring the construction cost within any limitation established by Client will be considered Optional Additional Services and paid for as such by Client. If, however, Olsson's Opinion of Probable Cost was not performed in accordance with its standard of care and was unreasonable under the total circumstances and the lowest negotiated bid for construction of the Project(s) unreasonably exceeds Olsson's Opinion of Probable Cost, Olsson shall modify its work as necessary to adjust the Project(s)' size, and/or quality to reasonably comply with the Client's budget at no additional cost to Client. Under such circumstances, Olsson's modification of its work at no cost shall be the limit of Olsson's responsibility with regard to any unreasonable Opinion of Probable Cost.

#### **7.4 Prevailing Wages**

It is Client's responsibility to determine whether the Project(s) is covered under any prevailing wage regulations. Unless Client specifically informs Olsson in writing that the Project(s) is a prevailing wage project and is identified as such in the Scope of Services, Client agrees to reimburse Olsson and to defend, indemnify and hold harmless Olsson from and against any liability, including costs, fines and attorneys' fees, resulting from a subsequent determination that the Project(s) was covered under any prevailing wage regulations.

#### **7.5 Samples**

All material testing samples shall remain the property of the Client. If appropriate, Olsson shall preserve samples obtained no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples. After that date, Olsson may dispose of the samples or return them to Client at Client's cost.

#### **7.6 Standard of Care**

Olsson will strive to perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of Olsson's profession providing similar services in the same locality under similar circumstances at the time Olsson's services are performed. This Agreement creates no other representation, warranty or guarantee, express or implied.

#### **7.7 Force Majeure**

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused

by or is the result of any acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions, boycotts, fires, explosions, floods, shortages of material or energy, or other unforeseeable causes beyond the control and without the fault or negligence of the party so affected. The affected party shall give prompt notice to the other party of such cause, and shall take promptly whatever reasonable steps are necessary to relieve the effect of such cause.

#### **7.8 Equal Employment Opportunity**

Olsson and any sub-consultant or subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

#### **7.9 Confidentiality**

In performing this Agreement, the parties may disclose to each other written, oral, electronic, graphic, machine-readable, tangible or intangible, non-public, confidential or proprietary data or information in any form or medium, including but not limited to: (1) information of a business, planning, marketing, conceptual, design, or technical nature; (2) models, tools, hardware, software or source code; and (3) any documents, videos, photographs, audio files, data, studies, reports, flowcharts, works in progress, memoranda, notes, files or analyses that contain, summarize or are based upon any non-public, proprietary or confidential information (hereafter referred to as the "Information"). The Information is not required to be marked as confidential.

7.9.1 Therefore, Olsson and Client agree that the party receiving Information from the other party to this Agreement (the "Receiving Party") shall keep Information confidential and not use the Information in any manner other than in the performance of this Agreement without prior written approval of the party disclosing Information (the "Disclosing Party") unless Client is a public entity and the release of Information is required by law or legal process.

7.9.2 Prior to the start of construction on the Project, the existence of discussions between the parties, the purpose of this Agreement, and this Agreement shall be considered Information subject to the confidentiality provisions of this Agreement.

7.9.3 Notwithstanding anything to the contrary herein, the Receiving Party shall have no obligation to preserve the confidentiality of any Information which:

7.9.3.1 was previously known to the Receiving Party free of any obligation to keep it confidential; or

7.9.3.2 is or becomes publicly available by other than unauthorized disclosures; or

7.9.3.3 is independently developed by the Receiving Party without a breach of this Agreement; or

7.9.3.4 is disclosed to third parties by the Disclosing Party without restrictions; or

7.9.3.5 is received from a third party not subject to any confidentiality obligations.

7.9.4 In the event that the Receiving Party is required by law or legal process to disclose any of Information of the Disclosing Party, the Receiving Party required to disclose such Information shall provide the Disclosing Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.9.5 Notwithstanding anything to the contrary herein (or to the contrary of any existing or future nondisclosure, confidentiality or similar agreement between the parties), Olsson is authorized, to use, display, reproduce, publish, transmit, and distribute Information (including, but not limited to, videos and photographs of the Project) on and in any and all formats and media (including, but not limited to, Olsson's internet website) throughout the world and in all languages in connection with or in any manner relating to the marketing, advertising, selling, qualifying, proposing, commercializing, and promotion of Olsson and/or its services and business and in connection with any other lawful purpose of Olsson. In the event of any conflict or inconsistency between the provisions of this section and any other prior or future nondisclosure, confidentiality or similar agreement between the parties, the terms of this section shall take precedence.

7.9.6 Nothing contained in this Agreement shall be construed as altering any rights that the Disclosing Party has in the Information exchanged with or disclosed to the Receiving Party, and upon request, the Receiving Party will return all Information received in tangible form to the Disclosing Party, or at the Receiving Party's option, destroy all such Information. If the Receiving Party exercises its option to destroy the Information, the Receiving Party shall certify such destruction to the Disclosing Party.

7.9.7 The parties acknowledge that disclosure or use of Information in violation of this Agreement could cause irreparable harm for which monetary damages may be difficult to ascertain or constitute an inadequate remedy. Each party therefore agrees that the Disclosing Party shall be entitled in addition to its other rights to seek injunctive relief for any violation of this Agreement.

7.9.8 The obligations of confidentiality set forth herein shall survive termination of this Agreement but shall only remain in effect for a period of one (1) year from the date the Information is first disclosed.

#### **7.10 Damage or Injury to Subterranean Structures or Utilities, Hazardous Materials, Pollution and Contamination**

7.10.1 To the extent that work pursuant to this Agreement requires any sampling, boring, excavation, ditching or other disruption of the soil or subsurface at the Site, Olsson shall confer with Client prior to such activity and Client will be

responsible for identifying, locating and marking, as necessary, any private subterranean structures or utilities and Olsson shall be responsible for arranging investigation of public subterranean structures or utilities through an appropriate utility one-call provider. Thereafter, Olsson shall take all reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified by Client or the one-call provider. Olsson shall not be responsible for any damage, liability or costs, for any property damage, injury or economic loss arising or allegedly arising from damages to subterranean structures or utilities caused by subsurface penetrations in locations approved by Client and/or the one call provider or not correctly shown on any plans, drawings or utility clearance provided to Olsson, except for damages caused by the negligence of Olsson in the use of such information.

7.10.2 It is understood and agreed that any assistance Olsson may provide Client in the disposal of waste materials shall not result in Olsson being deemed as a generator, arranger, transporter or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Title to all samples and waste materials remains with Client, and at no time shall Olsson take title to the above material. Client may authorize Olsson to execute Hazardous Waste Manifest, Bill of Lading or other forms as agent of Client. If Client requests Olsson to execute such documents as its agent, the Hazardous Waste Manifest, Bill of Lading or other similar documents shall be completed in the name of the Client. Client agrees to indemnify and hold Olsson harmless from any and all claims that Olsson is a generator, arranger, transporter, or disposer of hazardous waste as a result of any actions of Olsson, including, but not limited to, Olsson signing a Hazardous Waste Manifest, Bill of Lading or other form on behalf of Client.

7.10.3 At any time, Olsson can request in writing that Client remove samples, cuttings and hazardous substances generated by the Project(s) from the project site or other location. Client shall promptly comply with such request, and pay and be responsible for the removal and lawful disposal of samples, cuttings and hazardous substances, unless other arrangements are mutually agreed upon in writing.

7.10.4 Client shall release Olsson of any liability for, and shall defend and indemnify Olsson against any and all claims, liability and expense resulting from operations under this Agreement on account of injury to, destruction of, or loss or impairment of any property right in or to oil, gas, or other mineral substance or water, if at the time of the act or omission causing such injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of the earth, and for any loss or damage to any formation, strata, reservoir beneath the surface of the earth.

7.10.5 Notwithstanding anything to the contrary contained herein, it is understood and agreed by and between Olsson and Client that the responsibility for pollution and contamination shall be as follows:

7.10.5.1 Unless otherwise provided herein, Client shall assume all responsibility for, including control and removal of, and protect, defend and save harmless Olsson from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants,

motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in Olsson's possession and control and directly associated with Olsson's equipment.

7.10.5.2 In the event a third party commits an act or omission which results in pollution or contamination for which either Olsson or Client, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between Olsson and Client, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.

#### 7.11 Controlling Law and Venue

The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Nebraska. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Nebraska.

#### 7.12 Subconsultants

Olsson may utilize as necessary in its discretion subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

#### 7.13 Assignment

7.13.1 Client and Olsson each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.13.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.13.2 Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate to assist in the performance of services under this Agreement.

7.13.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

#### 7.14 Indemnity

Olsson and Client mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party property damage and arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that each party is responsible for such damages, liabilities or costs on a comparative basis of fault.

#### 7.15 Limitation on Damages

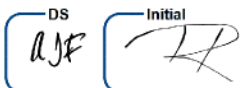
7.15.1 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project(s) or to this Agreement.

7.15.2 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Olsson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the Client and Olsson shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

7.15.3 Notwithstanding any other provision of this Agreement, Client agrees that, to the fullest extent permitted by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Olsson under this Agreement, shall not exceed the amount of Olsson's fee earned under this Agreement. Client acknowledges that such causes include, but are not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. This limitation of liability shall apply to all phases of Olsson's services performed in connection with the Project(s), whether subsequent to or prior to the execution of this Agreement.

#### 7.16 Entire Agreement

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson.

DS Initial  






# AIA® Document A133® – 2019 Exhibit A

## Guaranteed Maximum Price Amendment

This Amendment dated the Twentieth day of May in the year Two Thousand Twenty-Five, is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the Sixteenth day of September in the year Two Thousand Twenty-Four (the “Agreement”)

*(In words, indicate day, month, and year.)*

for the following **PROJECT:**  
*(Name and address or location)*

Bellevue Bay Indoor Water Park  
Highway 75 and 34; Northwest Corner

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

City of Bellevue  
Nebraska Municipality  
1500 Wall Street  
Bellevue, NE 68005

**THE CONSTRUCTION MANAGER:**  
*(Name, legal status, and address)*

Meyers, Carlisle, Leapley Construction Company, Inc.  
(d/b/a MCL Construction)  
14558 Portal Circle  
La Vista, NE 68138  
Office: 402-339-2221

### TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER’S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

#### ARTICLE A.1 GUARANTEED MAXIMUM PRICE

##### § A.1.1 Guaranteed Maximum Price

Pursuant to Section 3.2.6 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager’s Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

##### § A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed

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User Notes:

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#### ADDITIONS AND DELETIONS:

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

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

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Twenty-Six Million Eight Hundred and Sixty-Five Thousand Five Hundred Fifty-Seven Dollars and Zero Cents (\$ 26,865,557.00 ), subject to additions and deductions by Change Order as provided in the Contract Documents.

**§ A.1.1.2 Itemized Statement of the Guaranteed Maximum Price.** Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager’s contingency; alternates; the Construction Manager’s Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.  
(Provide itemized statement below or reference an attachment.)

- Exhibit “B” – MCL GMP Amendment #3 Cost Summary & Clarifications

**§ A.1.1.3** The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement.

**§ A.1.1.4** The method of adjustment of the Construction Manager’s Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

**§ A.1.1.5 Alternates**

**§ A.1.1.5.1** Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
N/A	

**§ A.1.1.5.2** Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.  
(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
N/A		

**§ A.1.1.6** Unit prices, if any:

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

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

**ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

**§ A.2.1** The date of commencement of the Work shall be:

(Check one of the following boxes.)

- The date of execution of this Amendment.
- Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)

Per Section 3.3.1.2 of the executed AIA A133-2019 Agreement

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

**§ A.2.2** Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

**§ A.2.3 Substantial Completion**

**§ A.2.3.1** Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

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

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

[ X ] By the following date:  
To Be Determined

§ A.2.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	

§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

**ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
N/A			

§ A.3.1.2 The following Specifications:  
(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)

Section	Title	Date	Pages
N/A			

§ A.3.1.3 The following Drawings:  
(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)

Number	Title	Date
N/A		

§ A.3.1.4 The Sustainability Plan, if any:  
(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)

Title	Date	Pages
N/A		

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:  
(Identify each allowance.)

Item	Price
N/A	

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:  
(Identify each assumption and clarification.)

See Exhibit "B"

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:  
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

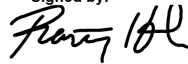
See Exhibit "B"


**ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS**

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:  
(List name, discipline, address, and other information.)

N/A

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

Signed by:  
  
\_\_\_\_\_  
OWNER (Signature)  
BY: Rusty Hike, Mayor  
\_\_\_\_\_  
(Printed name and title)

DocuSigned by:  
  
\_\_\_\_\_  
CONSTRUCTION MANAGER (Signature)  
BY: Anthony J, Fucinaro III, Managing Principal  
\_\_\_\_\_  
(Printed name and title)



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**Project:** Bellevue Bay Indoor Water Park  
**Owner:** City of Bellevue  
**Architect:** HBA

**Date:** 3/28/2025  
**Estimator:** Trevor Roberts  
**Building GSF:** 100,000

**Direct Costs Summary - Water Park**

Division	Description	Cost	Building Cost per SF	% of Project
<b>01</b>	<b>GENERAL REQUIREMENTS</b>	<b>\$1,765,043</b>	<b>\$17.65</b>	<b>7.51%</b>
1.1	Supervision & Project Management	\$1,426,248	-	-
1.2	Deliveries	\$46,349	-	-
1.3	Regulatory Requirements / Safety	\$26,810	-	-
1.4	Temporary Utilities	\$44,875	-	-
1.5	Temporary Office	\$180,461	-	-
1.6	Dumpsters	\$40,300	-	-
<b>02</b>	<b>EXISTING CONDITIONS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>03</b>	<b>CONCRETE</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>04</b>	<b>MASONRY</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>05</b>	<b>METALS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>06</b>	<b>WOOD, PLASTICS, AND COMPOSITES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>07</b>	<b>THERMAL AND MOISTURE PROTECTION</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>08</b>	<b>OPENINGS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>09</b>	<b>FINISHES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>10</b>	<b>SPECIALTIES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>11</b>	<b>EQUIPMENT</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>12</b>	<b>FURNISHINGS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>13</b>	<b>SPECIAL CONSTRUCTION</b>	<b>\$19,632,054</b>	<b>\$196.32</b>	<b>83.51%</b>
13.1	Water Slides	\$8,607,254	-	-
13.2	Pre-Engineered Buildings	\$11,024,800	-	-
<b>14</b>	<b>CONVEYING</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>21</b>	<b>FIRE SUPPRESSION</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>22</b>	<b>PLUMBING</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>23</b>	<b>HEATING, VENTILATING, AND AIR CONDITIONING</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>24</b>	<b>COMPLETE MECHANICAL</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>26</b>	<b>ELECTRICAL</b>	<b>\$36,608</b>	<b>\$0.37</b>	<b>0.16%</b>
26.1	Generators	\$36,608	-	-
<b>27</b>	<b>COMMUNICATIONS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>28</b>	<b>ELECTRONIC SAFETY AND SECURITY</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>

<b>Total Building Costs</b>	<b>\$21,433,705</b>	<b>\$214.34</b>	<b>91.17%</b>
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Division	Description	Cost	Site Cost per SF	% of Project
<b>31</b>	<b>EARTHWORK</b>	<b>\$778,474</b>	<b>\$7.78</b>	<b>3.31%</b>
31.1	Surcharge Package	\$747,574	-	-
31.2	Staking / Surcharge Monitoring	\$30,900	-	-
<b>32</b>	<b>EXTERIOR IMPROVEMENTS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>33</b>	<b>UTILITIES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>

<b>Total Site Costs</b>	<b>\$778,474</b>	<b>\$7.78</b>	<b>3.31%</b>
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<b>SUBTOTAL</b>	<b>\$22,212,179</b>	<b>\$222.12</b>	<b>per GBSF</b>
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**DRAFT**  
 1401 E. 14th Cir.  
 La Vista, NE 68138  
 Phone: (402) 339-2221

**Project:** Bellevue Bay Indoor Water Park  
**Owner:** City of Bellevue  
**Architect:** HBA

**Date:** 3/28/2025  
**Estimator:** Trever Roberts  
**Building GSF:** 100,000

**Indirect Costs Summary**

Description	Cost	Remarks
Preconstruction Services	\$15,000	
Building Permit & Plan Review Fees	\$0	
Capital Facility Fees	\$0	
Design & Engineering Fees	\$0	
Builder's Risk Insurance	\$26,655	
Payment and Performance Bond	\$144,379	
Design Contingency	\$0	
Construction Contingency (3.00%)	\$666,365	
MCL Fee (2.00%)	\$444,244	

**Total Indirect Costs** **\$1,296,643**

**PROJECT TOTAL** **\$23,508,822** **\$235.09** *per GBSF*

**Project Alternates**

N/A

**Project Allowances [Included] Summary**

N/A



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La Vista, NE 68138  
Phone: (402) 339-2221

**Project:** Bellevue Bay Indoor Water Park  
**Owner:** City of Bellevue  
**Architect:** HBA

**Date:** 3/28/2025  
**Estimator:** Trevor Roberts  
**Building GSF:** 100,000

**Direct Costs Summary - Site**

Division	Description	Cost	Building Cost per SF	% of Project
<b>01</b>	<b>GENERAL REQUIREMENTS</b>	<b>\$828,113</b>	<b>\$8.28</b>	<b>24.67%</b>
1.1	Supervision & Project Management	\$655,800	-	-
1.2	Lift / Lull & UTV	\$152,700	-	-
1.3	Dewatering	\$19,613	-	-
<b>02</b>	<b>EXISTING CONDITIONS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>03</b>	<b>CONCRETE</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>04</b>	<b>MASONRY</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>05</b>	<b>METALS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>06</b>	<b>WOOD, PLASTICS, AND COMPOSITES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>07</b>	<b>THERMAL AND MOISTURE PROTECTION</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>08</b>	<b>OPENINGS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>09</b>	<b>FINISHES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>10</b>	<b>SPECIALTIES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>11</b>	<b>EQUIPMENT</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>12</b>	<b>FURNISHINGS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>13</b>	<b>SPECIAL CONSTRUCTION</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>14</b>	<b>CONVEYING</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>21</b>	<b>FIRE SUPPRESSION</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>22</b>	<b>PLUMBING</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>23</b>	<b>HEATING, VENTILATING, AND AIR CONDITIONING</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>24</b>	<b>COMPLETE MECHANICAL</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>26</b>	<b>ELECTRICAL</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>27</b>	<b>COMMUNICATIONS</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>
<b>28</b>	<b>ELECTRONIC SAFETY AND SECURITY</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>

<b>Total Building Costs</b>		<b>\$828,113</b>	<b>\$8.28</b>	<b>24.67%</b>
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Division	Description	Cost	Site Cost per SF	% of Project
<b>31</b>	<b>EARTHWORK</b>	<b>\$2,309,329</b>	<b>\$23.09</b>	<b>68.80%</b>
31.1	Sitework Requirements	\$319,890	-	-
31.2	Earthwork, Tree Removal, Roads & Maintenance	\$1,989,439	-	-
<b>32</b>	<b>EXTERIOR IMPROVEMENTS</b>	<b>\$36,175</b>	<b>\$0.36</b>	<b>1.08%</b>
32.1	Exterior Improvement Requirements	\$36,175	-	-
<b>33</b>	<b>UTILITIES</b>	<b>\$0</b>	<b>\$0.00</b>	<b>0.00%</b>

<b>Total Site Costs</b>		<b>\$2,345,504</b>	<b>\$23.46</b>	<b>69.87%</b>
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<b>SUBTOTAL</b>		<b>\$3,173,617</b>	<b>\$31.74</b>	<b>per GBSF</b>
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**DRAFT**  
1401 E. 14th Cir.  
La Vista, NE 68138  
Phone: (402) 339-2221

**Project:** Bellevue Bay Indoor Water Park  
**Owner:** City of Bellevue  
**Architect:** HBA

**Date:** 3/28/2025  
**Estimator:** Trever Roberts  
**Building GSF:** 100,000

**Indirect Costs Summary**

Description	Cost	Remarks
Preconstruction Services	\$0	
Building Permit & Plan Review Fees	\$0	
Capital Facility Fees	\$0	
Design & Engineering Fees	\$0	
Builder's Risk Insurance	\$3,808	
Payment and Performance Bond	\$20,629	
Design Contingency	\$0	
Construction Contingency (3.00%)	\$95,209	
MCL Fee (2.00%)	\$63,472	

**Total Indirect Costs** **\$183,118**

**PROJECT TOTAL** **\$3,356,735** **\$33.57** *per GBSF*

**Project Alternates**

N/A

**Project Allowances [Included] Summary**

N/A



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**GENERAL REQUIREMENTS**

01

GMP Amendment 03 is a partial amendment and does not represent the full or final cost of the Bellevue Bay Indoor Waterpark project.

MCL Construction is proceeding under directive from the City of Bellevue for material procurement purposes and to mitigate potential cost escalation associated with some items included in this GMP.

This current GMP Amendment cannot be built without the balance of the complete project scope being approved by subsequent GMP Amendment(s).

MCL Construction is not responsible for any change or cancellation fees directed by the Owner related to items included in this GMP Amendment - any such fees will be passed on directly to the Owner.

MCL Construction is not responsible for design services - approval of this Amendment assumes the Architect and all coordinating professionals are conforming with all applicable and governing codes and requirements related to scopes of work contained within.

MCL Construction will invoice per Subcontractor payment schedules as identified in individual proposals. General Requirements as identified on the Cost Summary are included.

**EXISTING CONDITIONS**

02

**CONCRETE**

03

**MASONRY**

04

**STEEL**

05

**WOODS, PLASTICS, AND COMPOSITES**

06

**THERMAL & MOISTURE PROTECTION**

07



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**OPENINGS** 08

**FINISHES** 09

**SPECIALTIES** 10

**EQUIPMENT** 11

**FURNISHINGS** 12

**SPECIAL CONSTRUCTION** 13

The Whitewater West figure of \$8,607,254.00 is based upon their proposal dated 09/27/2024. This figure does not include any pre-payments that have/may have occurred prior to this date. Any modifications to the scope of this proposal (additive or deductive) may entitle MCL Construction to an equitable adjustment in contract time and/or Guaranteed Maximum Price.

The OpenAire figure of \$11,024,800.00 is based upon their proposal dated 09/17/2024. This figure does not include any pre-payments that have/may have occurred prior to this date. Any modifications to the scope of this proposal (additive or deductive) may entitle MCL Construction to an equitable adjustment in contract time and/or Guaranteed Maximum Price.

**CONVEYING** 14

**FIRE SUPPRESSION** 21

**PLUMBING** 22

**HEATING, VENTILATION, AND AIR CONDITIONING** 23



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14558 Portal **DRAFT**  
La Vista, NE 68138  
Phone: (402) 339-2221

**ELECTRICAL** 26

**COMMUNICATIONS** 27

**ELECTRONIC SAFETY AND SECURITY** 28

**EARTHWORK** 31

Tree removal to prevent project delay due to potential non-construction activity during raptor and migratory bird nesting periods is included.

Surcharge grading (by Pink Excavating) per Olsson Engineering drawings dated 11/22/2024 is included.

Surveying and Surcharge Monitoring by Olsson is included.

Mass Grading (by Pink Excavating) per Olsson Engineering drawings dated 01/31/2025 is included.

A temporary rock road to allow adjacent residents to access their rental home(s) is included.

Maintenance of the temporary rock road above is included.

Material testing (by Terracon) is excluded (direct agreement with Owner).

**EXTERIOR IMPROVEMENTS** 32

**UTILITIES** 33

DS Initial



Phase	Item	Location	Description	Takeoff Quantity		Labor Amount	Material Amount	Sub Amount	Sub Name	Equip Amount	Other Amount	Total Amount
<b>Waterpark</b>												
013000			<b>Supervision</b>									
	10	01 - GC's	Superintendent	108.00	wk	514,210						514,210
	30	01 - GC's	Project Manager	108.00	wk	595,728						995,728
	40	01 - GC's	Project Engineer	108.00	wk	316,310						316,310
013080			<b>Travel</b>									
	90	01 - GC's	Material & Supply Deliveries	432.00	hr	33,389				10,800	2,180	46,349
014100			<b>Regulatory Requirements</b>									
	02	01 - GC's	Safety Inspection	108.00	wk	14,310						14,310
	10	01 - GC's	Safety Supplies and PPE	25.00	mo						2,500	2,500
	95	01 - GC's	Safety Equipment	25.00	mo					10,000		10,000
015100			<b>Utilities: Temporary</b>									
	47	01 - GC's	MIFI - Internet Gateway	25.00	mo					2,375		2,375
	50	01 - GC's	Temp Water - See Calculator	25.00	mo						20,000	20,000
	60	01 - GC's	Temp Toilet (6 ea)	150.00	mo						22,500	22,500
015200			<b>Temporary Office</b>									
	10	01 - GC's	Office - See Calculator	25.00	mo						87,285	87,285
	20	01 - GC's	Office Set Up - Lab	2.00	ea						4,710	4,710
	25	01 - GC's	Office Supplies	25.00	mo						1,250	1,250
	30	01 - GC's	Drinking Water / Ice	25.00	mo						2,125	2,125
	52	01 - GC's	Open Space	1.00	ls						15,000	15,000
	56	01 - GC's	Project Photography - See Calculator	1.00	ls						6,000	6,000
	58	01 - GC's	Job Management Software - Unit Rate = /\$1,000	60,000.00	k						50,000	50,000
	60	01 - GC's	Jobsite Signage	50.00	ea	966	1,250					2,216
	70	01 - GC's	Copier - For Large Projects	25.00	mo					7,125		7,125
	75	01 - GC's	Drawings	1.00	ls						1,000	1,000
	80	01 - GC's	Storage Container	25.00	mo						3,750	3,750
017400			<b>Clean Up / Unload</b>									
	50	01 - GC's	Dumpsters	130.00	ea						40,300	40,300
266000			<b>Electrical Requirements</b>									
	40	02 - Support Building	Generators	4.00	mo					36,608		36,608
131413			<b>Water Slides - Sub</b>									
	10	03 - Open Aire Building	Water Slides	1.00	ls			8,607,254	WhiteWater West			8,607,254
133400			<b>Pre-Engineered Buildings - Sub</b>									
	10	03 - Open Aire Building	Pre-Engineered Building - Sub	58,960.00	gsf			11,024,800	OpenAire			11,024,800
310010			<b>Earthwork</b>									
	10	03 - Open Aire Building	Surcharge Package	1.00	ls			747,574	Pink Grading			747,574
	15	03 - Open Aire Building	Surveying	1.00	ls			30,900	Otsson			30,900
												22,212,179

<b>Phase 1 - Site</b>												
013000			<b>Supervision</b>									
	20	06 - Site	Assistant Superintendent	100.00	wk	362,920						362,920
	45	06 - Site	Field Engineer	100.00	wk	292,880						292,880
015400			<b>Temp: Tools &amp; Equipment</b>									
	20	06 - Site	Lift / Lull - 12K	25.00	mo					122,950		122,950
	33	06 - Site	UTV	25.00	mo					29,750		29,750
015700			<b>Temporary Controls</b>									
	50	06 - Site	Misc. Dewatering	360.00	hr	18,893				720		19,613
310001			<b>Sitework Requirements</b>									
	05	06 - Site	Foreman	1,080.00	hr	83,441						83,441
	23	06 - Site	Bobcat	25.00	mo					60,400		60,400
	24	06 - Site	Bobcat Sweeper Attachment Closed	25.00	mo					24,950		24,950
	25	06 - Site	Bobcat Brush Cutter	25.00	mo					22,250		22,250
	32	06 - Site	FOG	50.00	mo						12,500	12,500
	71	06 - Site	Water Pumps (2 electric, 2 gas)	19.00	mo	39,885				20,064		59,949
	88	06 - Site	Construction Fence and Entrances	3,134.00	lf					47,010		47,010
	89	06 - Site	Fence Fabric	3,756.00	lf/mo					9,390		9,390
310010			<b>Earthwork</b>									
	10	06 - Site	Tree Removal	1.00	ls			31,040	Pink Grading			31,040
	16	06 - Site	Surveying - EIA	27.00	acre			9,100	EIA			9,100
	23	06 - Site	Laydown & Removal Of Rock	75,000.00	sf			281,250				281,250
	23	06 - Site	Temporary Road	30,000.00	sf			112,500				112,500
	43	06 - Site	Mass Grading	1.00	ls			1,483,549	Pink Grading			1,483,549
312500			<b>Silt Fence / Bank Protection</b>									
	40	06 - Site	Temp Road Maintenance (2 ea)	60,000.00	sf			72,000				72,000
320001			<b>Exterior Improvement Requirements</b>									
	65	06 - Site	Craft Trailer	25.00	mo						36,175	36,175
												3,173,617

Waterpark Totals		
Description	Amount	Totals
<b>Waterpark Subtotal</b>	<b>22,212,179</b>	
Building Permit	0	
Preconstruction Fee	15,000	
Builders Risk (.0012)	26,655	
Subcontractor Bond	0	
Performance Bond (.0065)	144,379	
Design Contingency	0	
Construction Contingency (3.00%)	666,365	
Overhead & Profit (2.00%)	444,244	
Design Fees	0	
White Water Initial Design	0	
Open Aire Pre-payment	0	
FF & E	0	
AV Allowance	0	
<b>Total</b>	<b>23,508,822</b>	

Phase 1 Site Totals		
Description	Amount	Totals
<b>Phase 1 Site Subtotal</b>	<b>3,173,617</b>	
Building Permit	0	
Preconstruction Fee	0	
Builders Risk (.0012)	3,808	
Subcontractor Bond	0	
Performance Bond (.0065)	20,629	
Design Contingency	0	
Construction Contingency (3.00%)	95,209	
Overhead & Profit (2.00%)	63,472	
Design Fees	0	
White Water Initial Design	0	
Open Aire Pre-payment	0	
FF & E	0	
AV Allowance	0	
<b>Total</b>	<b>3,356,735</b>	

**COMBINED GMP 03 TOTAL: 26,865,557**

DS Initial  





**Meyers Carlisle Leapley Construction**  
 14558 Portal Circle  
 LaVista, Nebraska 68138  
 O (402) 339-2221 F  
[mclconstruction.com](http://mclconstruction.com)

11/29/2024

Whitewater West Industries Ltd  
 180-6651 Fraserwood Place  
 Richmond, British Columbia V6W 1J3

RE: Bellevue Bay Indoor Water Park  
 Contract No: 24139-01

Enclosed are the following documents regarding the above referenced project, please sign and return all pages:

<u>DocuSign Document</u>	<u>Sign and Return</u>	<u>Keep for your file</u>
One (1) copy of the Subcontract	<b>X</b>	
One (1) Subcontractor’s Training Agreement	<b>X</b>	
One (1) Tax Form 13 NE Resale or Exempt Sale Certificate		X
One (1) Tax Form 17 Purchasing Agent Appointment		X
One (1) Subcontractor’s Safety Responsibilities	<b>X</b>	

*Be advised that MCL Construction’s insurance requirements have changed and any and all project certificates will now be accepted. Please read the attached Insurance Requirements for Subcontractors and provide a new insurance certificate as needed. **Note: MCL Construction and Owner must be listed as primary, non-contributory additional insured for general liability, including ongoing and completed operations, auto liability and umbrella, if required by written contract. Waiver of Subrogation will apply to general liability, auto liability, umbrella and workers' compensation for the additional insureds, if required by written contract.***

For Tax Exempt Projects, Tax Form 13-NE Resale or Exempt Sale Certificate and Tax Form 17-Purchasing Agent Appointment will be provide for your files.

All “Application(s) for Payment” must be received by the **20th** of the month. Applications need to be e-mailed to [ap@mclconstruction.com](mailto:ap@mclconstruction.com). **Any “Application(s) for Payment” received after the 20th of the month will be processed the following month and will cause delays in receiving payment. All pay applications associated with a contract must be submitted on AIA forms.**

Please e-mail a current COI (Certificate of Insurance) to [COI@mclconstruction.com](mailto:COI@mclconstruction.com).

Very truly yours,

MCL Construction

## SUBCONTRACT

(Standard Form)

THIS SUBCONTRACT, Made this day of **11/29/2024**, by and between MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC dba **MCL Construction of 14558 Portal Circle, LaVista, Nebraska 68138**, hereinafter called the Contractor, and of, **Whitewater West Industries Ltd of 180-6651 Fraserwood Place, Richmond, British Columbia V6W 1J3**, hereinafter called the Subcontractor. WHEREAS, The Contractor has heretofore entered in to a contract with **City of Bellevue of 1510 Wall Street, Bellevue, Nebraska 68005**, hereinafter called the Owner, to perform certain labor and furnish certain material for the erection and completion of **Bellevue Bay Indoor Water Park at Highway 75 & 34 Northwest Corner, Bellevue, Nebraska 68123**, hereinafter called the Project, pursuant to plans and specifications, including Addenda No. **N/A**, inclusive, prepared by **Holland Basham Architects**, Architect/Engineer which contract consisting of the invitation to bidders, the instructions to bidders, the proposal form, the contract form, the plans and specifications, the general conditions, the supplementary general conditions, the special conditions, the bond, if any, Alternate Nos. **N/A**, and any amendments to any of the foregoing, is hereinafter collectively referred to as the General Contract; and WHEREAS, all of the above documents have been or will be made available to the Supplier upon his request prior to and at any time subsequent to signing this Subcontract.

### THE SUBCONTRACTOR AGREES AS FOLLOWS:

I. DESCRIPTION OF WORK--To furnish all labor, material, skill and instrumentalities, to secure all field measurements and layout necessary or required and to perform all work necessary or incidentally required for that part of the construction of the Project, as follows:

#### SEE ATTACHMENT 1

II. BEGINNING AND COMPLETION OF WORK – To begin the work herewith contracted for as soon as the Project upon which work is to be done is ready for such work or, in any event, within five (5) calendar days after being notified by the Contractor so to do, and to complete the several portions of the whole thereof within the time or times following, namely:

When as not to delay completion of the project.

III. Bond – To obtain and furnish to the Contractor and maintain in effect during the life of this Subcontract, if required so to do in the space provided below, a surety bond in form and with sureties acceptable to the Contractor and in an amount equal to the Subcontract price including any changes, conditioned upon and covering the faithful performance of and compliance with all the terms, provisions and conditions of this Subcontract, the premium therefor to be paid by the Subcontractor unless otherwise provided for.

Bond Required  Bond Not Required  (Check One)

### THE CONTRACTOR AGREES AS FOLLOWS:

A. To employ and does hereby employ the Subcontractor to do the work described in paragraph I hereof, subject to the provisions of this Subcontract.

B. To pay the Subcontractor for the full, faithful and prompt performance of this Subcontract, subject to all the terms and conditions hereof the sum of Eight Million Six Hundred Seven Thousand Two Hundred Fifty-Four Dollars And Zero Cents (\$8,607,254.00)

C. To include in his monthly estimate to the Owner the value of all work, labor and materials of the Subcontractor incorporated into the Project in accordance with the provisions of this Subcontract for which estimates have been furnished by the Subcontractor and approved by the Contractor.

D. To pay the Subcontractor, so long as the Subcontractor is not in default hereunder, 90% of the Subcontractor's monthly estimate, provided that:

- (1) Subcontractor's monthly estimate has been approved by the Architect/Engineer and/or the Owner; and
- (2) Subcontractor's certificates of insurance and surety bond, if required, are received by the Contractor; and
- (3) The Owner has paid the Contractor for the value of the work, labor and materials incorporated into the Project.

Contractor shall make final payment to the Subcontractor within ten (10) days after receiving final payment for the Project, provided the terms of this Subcontract have been fully carried out.

### THE PARTIES HERETO FURTHER AGREE:

1. If notification of any claims have been made against the Subcontractor or the Contractor arising out of labor or materials furnished the Project or otherwise on account of any actions or failures to act by the Subcontractor in the performance of the Subcontract, the Contractor may, at his discretion, withhold such amounts otherwise due hereunder to cover said claims and any costs or expenses arising or to arise in connection therewith pending legal settlement thereof. This right of the Contractor shall not be exclusive of any other rights of the Contractor herein or by law provided.

2. In the event of the termination of the General Contract between the Contractor and the Owner, this Subcontract shall also be terminated, upon written notice of the Contractor to the Subcontractor, and the Contractor shall only be liable for labor and materials furnished and/or materials ordered for the Project, up to the date of receipt of the written notice of termination, but only to the extent the Subcontractor is liable.

3. That Appendix "A" shall be included and made a part of this Subcontract.

4. This subcontract constitutes the entire understanding of the parties and supersedes any prior proposals or agreements.

5. To comply with the additional provisions as listed on the reverse side of this Subcontract.

WHEREFORE, the Contractor and Subcontractor have signed this agreement to be effective on the above date.

**WHITEWATER WEST INDUSTRIES LTD**

SUBCONTRACTOR:

By:  DocuSigned by:  
4752073C08E344C...

Title: Director Legal & Risk Management

Date: 11/29/2024

**MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC**

CONTRACTOR:

By:  DocuSigned by:  
D7045938E7884A7...

Title: Project Executive

Date: 11/30/2024

**ADDITIONAL PROVISIONS****THE SUBCONTRACTOR FURTHER AGREES AS FOLLOW:**

- a. **PAYMENT OF BILLS** – To pay for all materials, skill, labor and instrumentalities used in, or in connection with the performance of the Subcontract, when and as bills or claims therefore become due, and to save and protect the Project, the Owner and the Contractor from all claims and mechanics' liens on account thereof, and to furnish satisfactory evidence to the Contractor, when and if required, that he has complied with the above requirements. This provision shall not be construed as a waiver of the right of the Subcontractor to file and enforce a lien claim against the Owner in the event of the Contractor's failure to pay the Subcontractor.
- b. **PROCEED WITH WORK** – To proceed with the work in the sequence directed by the Contractor and to abide by the Contractor's decision as to the allotment of all storage and working space on the Project.
- c. **EXTENSIONS OF TIME** – That any requests for extension of time of performance of the Subcontract shall be subject to approval in writing by the Contractor. An extension of time will not be approved by the Contractor unless the delay which occasions the request is caused by circumstances recognized in the General Contract as a basis for extension of time. The Subcontractor agrees to make any claims for extras, for extensions of time, or for damages for delays or following that in which the claim is originated.
- d. **INSURANCE – SUBCONTRACTOR'S LIABILITY** – To obtain, maintain and pay for such workmen's compensation insurance as may be required by the General Contract or by law; general liability insurance and automobile liability insurance, protecting the Subcontractor and Contractor against claims for bodily injury or death or for damage to property occurring upon, in or about the Project, with limits in amounts at least equal to the greater of those specified in the General Contract or those specified in any Appendix hereto; to furnish to the Contractor, before starting work, satisfactory evidence that it has complied with this paragraph and Subcontractor shall be responsible to notify General Contractor of any cancellation, modification or reduction in coverage.
- e. **DAMAGE AND CLEAN-UP** – To accept responsibility for all damage and clean-up caused by the Subcontractor which shall be deemed to include, without limiting the generality of the foregoing, the following: cleaning up, on a daily basis, of rubbish and debris resulting for the Subcontractor's work and removal of same from the Project; cleaning of walls, floors, ceilings and other surfaces soiled by the Subcontractor; repairing walls, floors, ceilings and other surfaces damaged by the Subcontractor's work or required to be repaired as an immediate part of such work; and replacing all glass broken by the Subcontractor; provided, however, that the Subcontractor shall not be responsible for any damage of glass breakage existing at the time the Subcontractor begins work of which the Subcontractor notifies the Contractor in writing prior to commencing work hereunder.
- f. **PROTECTION OF WORK** - To adequately and properly protect the work to be performed by it hereunder, to be responsible for damages to persons and property occasioned by its failure so to do, and to be responsible for any defective or improper work or material caused by its failure so to do, it being understood that the standards of protection shall not be less than those specified in the General Contract or required by law.
- g. **ASSIGNING AND SUBLETTING** – Not to assign or sublet this Subcontract or any part thereof and not to assign any money due or to become due hereunder without first obtaining the written consent of the Contractor.
- h. **COMPLIANCE WITH GENERAL CONTRACT** – To be bound to the Contractor by the terms of the General Contract, to conform to and comply with the provisions of the General Contract, and to assume toward the Contractor all the obligations and responsibilities that the Contractor assumes in and by the General Contract toward the Owner, insofar as they are applicable to this Subcontract; to furnish such shop drawings and samples as may be required and to route all shop drawings and correspondence with the Architect or Owner through the Contractor's office.
- i. **SUBCONTRACTOR'S EMPLOYEES** – To employ no person on or in connection with this Subcontract whose employment may be objectionable to the Contractor, and to remove any such person from the job when requested to do so by the Contractor.
- j. **CONTRACT REVISIONS**- That the Contractor shall have the right to order in writing the omission or addition of any parts of the work or materials as omitted from or added to the General Contract by the Architect/Engineer and/or Owner, that fair deductions or increases shall be made in the Contract price for such omitted or added work or materials; and that no extra work shall be allowed or changes made by the Subcontractor, or paid for by the Contractor UNLESS AND UNTIL AUTHORIZED BY AN OFFICER OF THE CONTRACTOR IN WRITING BEFORE THE WORK AND/OR CHANGES ARE BEGUN.
- k. **GUARANTEE OF WORK** – To guarantee its work to the same extent that the Contractor is obligated to guarantee its work under the General Contract, but in any event to guarantee its work against all defects in materials or workmanship for a period of one year from the date of final acceptance of the Project by the Owner. Subcontractor shall repair or replace work deemed defective within the specified time period and include labor costs and all other costs incurred correcting the defective work.
- l. **DEFECTIVE WORK AND/OR NONPERFORMANCE** – That in case the Subcontractor shall fail to correct, replace and/or re-execute faulty or defective work done and/or materials furnished under this Subcontract, when and is required by the Contractor, or shall fail for any reason to complete or diligently proceed with this Subcontract within the time herein provided for, the Contractor upon three (3) business days written notice to the Subcontractor shall have the right to correct, replace and/or re-execute such faulty or defective work, or take over this Subcontract and complete same either through its own employees or through a contractor or subcontractor of its choice, and to charge the cost thereof to the Subcontractor, together with and damages, liquidated or otherwise, caused by the delay in the performance of this Subcontract.
- m. **SUBCONTRACTOR'S MATERIAL AND EQUIPMENT** – That in case of default on the part of the Subcontractor under the terms of this Subcontract, the material and equipment of the Subcontractor shall be left on the job for the use of the Contractor in completing the work covered by this Subcontractor.
- n. **COMPLIANCE WITH LAWS** – To comply with all Federal and State laws, codes and regulations and all municipal ordinances and regulations effective where the work under this Subcontract is to be performed, and to pay all costs and expenses connected with such compliance, to pay all fees and taxes, including sales and use taxes, and also to pay all taxes imposed by any State or Federal law for any employment insurance, pensions, old age retirement funds or any similar purpose and to furnish all necessary reports and information to the appropriate federal, state and municipal agencies with respect to all of the foregoing, the same as though the Subcontractor was in fact the Contractor, each other subcontractor and the Owner harmless from any and all loss or damage occasioned by the failure of the Subcontractor to comply with the terms of this paragraph.
- o. **CONTRACTOR'S EQUIPMENT** – The Contractor's equipment shall be available to the Subcontractor only at the Contractor's discretion and on mutually satisfactory terms.
- p. **ROYALTIES AND FEES** – To pay all royalties and license fees; to defend all suits or claims for infringement of any patent rights involved in the work of the Subcontractor under this Subcontract; and to save the Contractor harmless from loss, cost or expense on account of such use or infringement by the Subcontractor.
- q. **ACCEPTANCE OF PRIOR WORK** – If the proper performance of any item of work to be performed hereunder by the Subcontractor depends upon the proper performance of any item of work by the Contractor or another subcontractor whose work precedes in time the work of the Subcontractor, to admit by commencing the item of work to be performed hereunder that the work which precedes such item of work to be done hereunder by the Subcontractor has been done in a proper manner.
- r. **LIQUIDATED DAMAGES** – The damages arising from the non-fulfillment of this Subcontract in the required time, shall be deducted from the subcontract amount, and be as liquidated damages and not in the nature of a penalty, and the amount of such liquidated damages shall be in the same amount as specified in the General Contract.
- s. **SUBCONTRACTOR SIGNAGE** – Any project signage installed on the project site must be approved by the General Contractor prior to installation.

ATTACHMENT NO. 1

SUBCONTRACT AGREEMENT NO. 24139-01

RE:Water Slides

Everything necessary to complete all Water Slides work where and as indicated on the drawings and in accordance with, but not by way of limitation, section N/A of the specifications as prepared by Holland Basham Architects as part of their documents dated (drawings) and (specifications).

The following is included as part of this agreement:

**This Attachment No. 1 and all its Exhibits attached or referred to are part of the Subcontract and provide Special Terms & Conditions that modify the Standard Form, the Additional Provisions, Appendix A and Insurance Requirements for Subcontractors.**

**1. Contract Documents**

**1. The following documents form the entire contract between Contractor and Subcontractor to the exclusion of others.**

- 1. This Attachment No. 1**
- 2. Exhibits A-F**
- 3. Subcontract Standard Form**
- 4. Subcontract Additional Provisions**
- 5. Subcontract Appendix "A"**

**2. General Provisions**

- 1. Provide all supervision, management, labor, materials, equipment, and everything else necessary to complete this Scope of Work as defined in the Construction Documents and as noted in the respective responsibilities of the parties in Exhibit B.**
- 2. Responsible for all off-site insurances.**
- 3. The Work description, conditions, and all attachments are intended to cover all the Work. Work includes all equipment, labor, materials, and services not indicated herein unless as noted in the respective responsibilities of the parties in Exhibit B, but which would be necessary to complete any or all the Work in a proper, substantial and workmanlike manner, and as required to make a system function as intended and is included in the Work without additional cost. Adjustments to the Subcontract due to absence of details, sizes, piping, components, or any other information required for complete and fully operational systems will not be accepted.**
- 4. Layout for own work.**
- 5. Coordination with other trades for proper sequencing of Work.**
- 6. All permits, inspection fees and aid to construction associated with this scope of work but excluding building permit.**
- 7. Attic stock for all materials per the contract documents.**
- 8. Lifts and/or scaffold for own work.**
- 9. Material delivery, unloading and handling for own work.**
- 10. Regular cleanup for own work.**
- 11. Promptly prepare and forward all submittals to ensure timely procurement and delivery of materials as to not impact the Construction Schedule. Project or Construction delays as a result of failure to do so will be at the expense of the Subcontractor.**
- 12. Provide sufficient labor resources to complete your scope of work in accordance with MCL's Construction Schedule.**
- 13. Details shown are for reference only and in no way indicate the limits of scope. Contractor must perform said responsibility at all like conditions.**
- 14. Markup on subcontractor change orders shall be limited to 10.00%. Markup on sub-subcontractor change orders shall be limited to 5.00%.**
- 15. Attend and participate in BIM coordination meeting with MCL.**
- 16. All on-site personnel to have a One-Source level 2 background check - verification numbers to be provided to MCL minimum one week prior to onsite presence.**
- 17. Dual obligee Performance and Payment bonds are required for this project, naming MCL Construction and City of Bellevue. Subcontractor to provide all bonding documents to MCL.**
- 18. Subcontractor will begin work on a mutually agreed upon date, and after any required information and payment due to Subcontractor have been received.**
- 19. Correction Period and Express Limited Warranties**
  - 1. Correction Period. For a period of twelve (12) months from the date of Commissioning, WhiteWater shall repair or replace at its sole option, parts, or portion of the equipment subject to any defect in material, workmanship, or design outcome; provided the Equipment has been paid in full, installed according to and in full compliance with engineering drawings and used in accordance with the Operation and Maintenance Manuals. The operator is required to report in writing any alleged defect within ten (10) days of its appearance, or the correction might be at the sole cost of the operator or the operator might become responsible for the additional cost of repair resulting for letting the issue unreported and unresolved for a**

- longer period. Act of God, damages from extreme weather, intentional physical damages and damages from impacts are not covered and all other warranties expressed or implied are rejected unless noted herein. In no case shall WhiteWater be liable for any consequential damages.
2. **Express Limited Warranties.** Correction Period covers peeling, cracking, blistering, and or delamination, under conditions of normal use, which are the result of improper surface preparation or manufacturing by WhiteWater.
  3. **The following warranties are offered in regard of fiberglass reinforced panels:**
    1. Replacement or repair for parts installed according to engineering drawings that have structurally failed within three (3) years of installation, unless such failure is at a result of installation crews constraining straight sections (when not installed by WhiteWater) or when site preparation and/or foundations did not comply with WhiteWater's engineering drawings).
    2. Resurfacing or repair for parts that are subject to any severe latent defect in clearcoat and/or gelcoat within three (3) years of installation, unless the operator cannot provide reasonable records showing that operation and maintenance have been performed in compliance with the Operations and Maintenance Manual.
  4. **The following warranties are offered in regard of structural steel.**
    1. Replacement or repair for structural steel members installed according to engineering drawings that are defective within three (3) years of installation, unless such defect is at a result of installation error (when not installed by WhiteWater) or when site preparation and/or foundations did not comply with WhiteWater's engineering drawings.
  5. These warranties are subject to guidance, limitations and requirements outlined in the relevant sections of the Operations & Maintenance Manual.
20. **Payment terms will be per the following schedule. MCL is a paid-when-paid Contractor - payments will be issued only after receipt of payment from Owner. It is the Subcontractor's responsibility to submit timely payment applications to achieve their desired reimbursement dates.**
1. **Deposit: 10%**
  2. **Factory booking: 15%**
  3. **Materials order: 15%**
  4. **Manufacturing: 15%**
  5. **Manufacturing complete: 15%**
  6. **Shipping initiation: 10%**
  7. **Shipping completion: 10%**
  8. **Pre-installation: 5%**
  9. **Final payment: 5%**
21. **Delays by Subcontractor**
1. **If the project is delayed as a result of WhiteWater not meeting schedule milestones, then the project schedule will be adjusted accordingly. When WhiteWater is the sole cause of the delay to the Commissioning and Substantial Completion and delay is not caused by an event of Force Majeure or by the Purchaser's failure to make payments in accordance with the Contract or to provide required information to WhiteWater when contemplated in the Contract, Purchaser shall be entitled to liquidated damages in the sum at the daily rate of \$1,000.00, beginning fourteen (14) days from written notice given by Purchaser, up to a maximum liquidated damage aggregate of Five Percent (5%) of the contract price of the equipment delayed.**
22. **Delays or Suspension by Owner**
1. **The parties acknowledge that best effort has been made to take into consideration the increase in cost of materials including steel and fiberglass, labor and freight based on the expected period for the performance of the work. In the event of significant delay including delaying the start of the project and securing the materials or price increase of material, equipment or energy occurring during the performance of the contract through no fault of WhiteWater or its subcontractors, the contract sum, time of completion or contract requirements shall be equitably adjusted by change order. The effect of this escalation provision will be determined by considering the relevant price indexes and inflation between the expected period for the performance of the work and the actual period of the performance of the work. The parties agrees that only major and significant changes will be considered under this escalation clause, and it is not the purpose of this clause to create unreasonable uncertainty for either party.**
  2. **Separate and apart from the costs set forth above, should Owner delay taking delivery of the materials when shipment should have taken place, any payment that would have become due if delivery has not been delayed by Owner, will be paid as if the materials had been delivered at the expected date. In addition, if WhiteWater is required to store work in progress and/or finished goods for a period of more than fourteen (14) days, WhiteWater shall be entitled reimbursement for the actual cost of such storage plus a ten percent (10%) administration fee.**

- 3. While WhiteWater is on site, if the project is delayed as a result of the actions of Owner, its Agents or its affiliates, Owner (as might apply), as well as their subcontractors then the project schedule shall be adjusted accordingly, and WhiteWater shall be entitled to an equitable adjustment of the Purchase Price. The project schedule and the Purchase Price shall be adjusted for the increase in the cost and time caused by the delay, interruption or suspension including overhead and profit. Costs to be reimbursed shall include costs related to demobilization and mobilization of equipment, crew and/or supervisory personnel but not exclusively such. No adjustment shall be made when performance would have been suspended, delayed or interrupted by another cause for which WhiteWater is responsible.
- 4. It is understood by both parties that delay by Owner in making payments when due will result in delay in completion of subsequent milestones by WhiteWater and can increase duration of the work.

23.

Waiver of Consequential Damages

- 1. In no event shall one party be liable to the other or any other entity for loss of use, loss of profits of for any consequential, incidental, indirect, extra-contractual or special damages of any type which might be suffered by the other party, regardless whether the party has been advised of their applicability.

3. Scope of Work

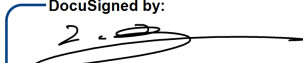
- 1. All materials, equipment, labor and incidental costs to provide all scope as identified in Exhibit "A" - Abbreviated Scope of Work (1 page) and in more detail in Exhibit B - Equipment Supply Services.
- 2. All materials, equipment, labor and incidental costs to provide all scope as identified in Exhibit "B" - Equipment Supply Services - Specifications (28 pages).
- 3. Exhibit "C" - Purchase Price Breakdown (1 page).
- 4. Exhibit "D" - Pump Manufacturer Warranty (2 pages).
- 5. Exhibit "E" - Electrical Controls Warranty (1 page).
- 6. Exhibit "F" - Insurance (16 pages).

The following is excluded as part of this agreement:

- 1. Sales tax.
- 2. LEED requirements.
- 3. Foundations for features in this scope of work.

WHITEWATER WEST INDUSTRIES LTD

SUBCONTRACTOR:

DocuSigned by:  
 By:   
 4752073C08E344C...

Title: Director Legal & Risk Management

Date: 11/29/2024

MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC

CONTRACTOR:

DocuSigned by:  
 By:   
 D7045938E7884A7...

Title: Project Executive

Date: 11/30/2024



**APPENDIX "A" - Continued**

- (16) Subcontractor shall coordinate their work with all other trades and project conditions. Coordination includes, but is not limited to, jobsite meetings, BIM deliverables as defined in project BIM Execution Plan, 2D coordination drawings, information sharing, participation in job-specific technology platforms and attendance to facilitate project coordination.
- (17) Subcontractor shall comply with all LEED project requirements. If under any circumstances their material, performance or documentation causes the project to miss a LEED credit, Subcontractor shall be held liable for costs to recover or replace the credit(s).
- (18) Subcontractor shall comply with all commissioning requirements as defined in contract documents and as required by equipment manufacturers.
- (19) Subcontractor shall locate existing utilities and structures, provide traffic control and provide dust control as required for their own work.
- (20) Performance Clause: Notwithstanding any other provisions of this Contract, it is understood that contracts will be awarded and labor be employed on the project herein described without discrimination as to whether employees of any contractor, subcontractor, or those employed by the Owner of the project are members or non-members of any labor organizations and the subcontractor accepts this contract with that understanding. No dispute between labor organizations and the subcontractor shall be permitted to occur or be manifested on the project described herein. The subcontractor agrees to employ personnel and mechanics on the project who will at all times perform their designated job on the jobsite.
- (21) Right to Replace: Notwithstanding any other provisions of this agreement, should there be a work stoppage caused by a strike, picketing, boycott, or any other voluntary cessation of work by employees of the subcontractor which, in the judgement of the contractor or owner, will cause or is likely to cause an unreasonable delay in the progress of construction, then, upon twenty-four (24) hours written notice, the contractor shall have the right to declare the subcontractor in default of this understanding and agreement and take such steps as are necessary to finish the uncompleted portion of the work and/or re-award the contract to another subcontractor.
- (22) Replacement Procedures: In the event the contractor or owner takes steps to finish the uncompleted portion of the work, the contractor or owner shall have the right to take possession of and use all of the subcontractor's materials (exclusive of tools) intended for use on the work. The cost of completion shall be charged against the subcontractor's remaining interest in the contract price. If the subcontractor's remaining interest in the contract exceeds the cost of completion, the subcontractor shall be entitled to the difference. If, however, the cost of the completion exceeds the subcontractor's remaining interest in the contract price, then the subcontractor agrees to pay the contractor or owner such excess has been made upon him by either the contractor or owner.
- (23) Additional Subcontractor Provisions document included with this Subcontract Agreement. Yes \_\_\_\_\_ No  X
- (24) Subcontractor shall provide dewatering for their scope of work.
- (25) Subcontractor shall recognize and abide by MCL Construction's Quality Management Program.

**INSURANCE REQUIREMENTS FOR SUBCONTRACTORS**

**SUBCONTRACT AGREEMENT NO. 24139-01**

**RE:Water Slides**

Prior to commencement of the Work, the Subcontractor shall procure, and at all times thereafter until the Subcontractor's obligations under this Subcontract Agreement are fully discharged, maintain with insurers acceptable to the Contractor, the following minimum insurance insuring the Subcontractor, the Contractor and the Owner against liability from damages because of injuries, including death, suffered by persons, including employees of the Subcontractor, and liability from damages to property arising from and in any way connected with the Subcontractor's operations, including its subcontractors' and suppliers' operations, in connection with the performance of this Subcontract Agreement. If the terms of the Contract require higher limits or additional coverage or both, the Contractor reserves the right to require the Subcontractor to provide, at the Subcontractor's expense, such higher limits or additional coverage, or both.

**General Liability:**

Limits of at least: \$1,000,000 Per Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Completed Operations Aggregate  
\$1,000,000 Personal and Advertising Injury

- Coverage shall be provided by a standard form Commercial General Liability Policy covering bodily injury, property damage including loss of use, and personal injury.
- General Aggregate to apply on a Per Project Basis
- Meyers Carlisle Leapley Construction Co., Inc. dba MCL Construction and owner shall be named as Additional Insured on a primary and non-contributory basis including completed operations by using form CG 2010 04/13 for ongoing operations, CG 2037 04/13 for completed operations and CG 2038 04/13 for non-direct contract/ongoing operations or their equivalent. Additional Insured status shall be maintained for two (2) years after final acceptance and payment.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- Contractual liability coverage shall be on a broad form basis and shall not be amended by any limiting endorsements.
- If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- If applicable, coverage for EIFS-related work will be included.
- Completed Operations shall provide coverage for work performed by subcontractors.
- Products and completed operations shall be maintained for duration of work and shall be further maintained for a minimum period of two (2) years after final acceptance and payment.
- Coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below surface of ground (XCU coverage).
- Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations. (As per standard CG0001 Pollution Exclusion or equivalent.)
- If applicable, Subcontractor shall maintain electronic data liability insurance, covering liability arising out of damage to, loss of use of, corruption of, inability to access, or inability to properly manipulate, electronic data, and with a limit of \$500,000.

**Automobile Liability:**

Limits of at least: \$1,000,000 CSL Per Accident

- Coverage shall apply to all Owned, Hired, and Non-Owned Autos.
- Contractor, Owner and their respective agents, officers, directors, and employees shall be listed as an Additional Insured on a primary and non-contributory basis.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- If applicable, Pollution Liability Coverage shall be provided using the ISO endorsement CA 9948 or equivalent and the MCS-90 endorsement shall be attached.

**Workers Compensation:**

Limits: Statutory coverage for the state where the project is located.

Liability limits: \$500,000 Each Accident  
\$500,000 Disease - Per Person  
\$500,000 Disease - Policy Limit

- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- Where applicable, coverage for U.S. Longshore and Harbor Workers' Compensation Act and Jones Act.

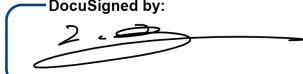
**Umbrella / Excess:**

Limits of at least: \$5,000,000 Per Occurrence

- Policy shall provide liability coverage over the specified Workers Compensation/Employers Liability, Commercial General Liability and Auto Liability.
- Policy shall be Primary/Noncontributory coverage over the specified Commercial General Liability and Auto Liability policies.
- Contractor, Owner and their respective agents, officers, directors, and employees shall be listed as an Additional Insured on a primary and non-contributory basis.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.

**WHITEWATER WEST INDUSTRIES LTD**

SUBCONTRACTOR:

DocuSigned by:  
By:   
4752073C08E344C...

Title: Director Legal & Risk Management

Date: 11/29/2024

**MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC**

CONTRACTOR:

DocuSigned by:  
By:   
D7045938E7884A7...

Title: Project Executive

Date: 11/30/2024

**INSURANCE REQUIREMENTS FOR SUBCONTRACTORS - Continued**

**SUBCONTRACT AGREEMENT NO. 24139-01** **RE:Water Slides**

**Pollution Liability:**

Limits of at least:                   \$1,000,000 Per Occurrence  
  \$1,000,000 Aggregate

- If the Subcontractor's or its Sub-subcontractor's work includes but not limited to remediating, handling, processing or disposing of hazardous material including but not limited to asbestos containing materials, silica, lead, PCB's, contaminated soil, etc., coverage shall be provided for bodily injury, property damage and clean-up costs resulting for pollution conditions.

**Professional Liability (Applicable for subcontractors providing or responsible for providing design/ engineering/ surveying services):**

Limits of at least:                   \$1,000,000 Per Occurrence  
  \$1,000,000 Per Occurrence

- Policy shall provide for a retroactive date prior to the starting date of services for which this agreement applies.
- Policy shall not exclude bodily injury, property damage, or pollution liability.
- Coverage shall remain in force for a minimum of three (3) years following substantial completion of construction through either policy renewal or the purchase of an Extended Reporting Provision.
- Subcontractor shall inform Contractor at any time during the project, and for three (3) years following substantial completion, or any claim or reserve that reduces the policy limit by more than 10%. Contractor will have the option to require subcontractor to purchase additional coverage to comply with the minimum limits listed above.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.

**Rigger's Liability (if applicable):**

- Should work involve the moving, lifting, lowering, rigging or hoisting of property or equipment Subcontractor shall carry Rigger's Liability Insurance to insure against physical loss or damage to the property or equipment on a Replacement Cost Basis.

**Cargo Coverage (if applicable):**

- Should work involve hauling of Materials or Equipment owned by Contractor, Owner and their respective agents, officers, directors and employees, Subcontractor is responsible for providing Cargo coverage for the Replacement Cost of the goods.

**Builders Risk:**

- MCL Construction or Owner may provide builder's risk insurance on the work to the extent required by the Contract. The subcontractor remains at risk for all its work in accordance with Article 13. Further, the subcontractor understands that there is a deductible. Costs incurred by the subcontractor up to the deductible amount shall be the sole responsibility of the subcontractor and the subcontractor shall hold MCL Construction and Owner harmless from all claims or costs up to said deductible.

**Subcontractor's Insurance for Other Losses:**

- Subcontractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the contract, including tools, machinery, equipment, storage devices, containers, scaffolding and the like owned or rented by Subcontractor, or Subcontractor's agents, subs, suppliers or employees.
- Subcontractor shall insure and assume full responsibility for all loss or damage from any cause whatsoever to any tools, machinery, equipment, storage devices, containers, scaffolding and the like borrowed, leased or rented from MCL Construction.
- Subcontractor waives all rights of subrogation against Contractor, Owner, and their respective agents, officers, directors and employees for recovery of damages.
- In connection with the above, Subcontractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of rights of subrogation against MCL Construction.

Evidence of such insurance coverage in effect shall be provided to MCL Construction in the form of an Accord certificate of insurance executed by a licensed representative of the participating insurer(s) and must contain a clause granting at least thirty (30) days prior written notice to MCL Construction of intent to effect cancellation.

Failure of MCL Construction to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of MCL Construction to identify a deficiency from evidence provided by subcontractor shall not be construed as a waiver of subcontractor's obligation to maintain such insurance.

By requiring insurance under this contract, MCL Construction does not represent that the coverage and limits required will necessarily be adequate to protect the subcontractor's interest in the work. Such coverage and limits shall not be deemed or construed to be any limitation on the subcontractor's liabilities under any indemnification obligations provided to MCL Construction under this contract.

MCL Construction  
Subcontractors' Safety Responsibilities

TO ALL SUBCONTRACTORS:

Reference is made to SAFETY in APPENDIX "A", Item #4, concerning the Subcontractor's SAFETY responsibilities. Every Subcontractor must comply with, and be bound by, the following SAFETY rules and regulations.

- I. All local, state and federal Regulations concerning SAFETY.
  - II. ALL SAFETY regulations established by the associations, organizations, or labor groups, with whom the Subcontractor is normally associated by virtue of the particular trade or trades included in the Subcontractor's operations.
  - III. Standard SAFETY practices, established by Meyers-Carlisle-Leapley Construction Co., Inc., as published in the MCL Construction Safety Manual, to be complied with by each Subcontractor. Safety practices include, but are not limited to, those listed here.
1. Good housekeeping must be maintained at all times.
  2. Hard hats must be worn at all times.
  3. Safety glasses that comply with ANSI Z87.1 must be worn at all times.
  4. Proper work clothing is required on the jobsite. Minimum accepted apparel is a high-visibility T-shirt, long pants and work boots.
  5. Only full body harnesses shall be worn when there is exposure to falls where practical. Body belts are allowed for position work only.
  - 6 Job Superintendent must be notified when firefighting equipment has been used to allow proper replacement or servicing.
  7. All openings larger than 2" in diameter must be barricaded, adequately covered or protected by standard handrails. This includes: floor openings, shafts, and open perimeters. If these protective devices have to be removed for working purposes, they are to be replaced immediately after work is completed.
  8. All work platforms must be a minimum of two (2) planks wide. Work areas on scaffolds should be fully planked.
  9. Scaffolding over six (6) feet high must have a standard handrail system.
  10. No one is to ride scaffolds, material hoists or forklifts.
  11. All ladders should extend to three (3) feet above the access point and be tied off. Stake ladder when based on unstable soil.
  12. Protruding nails in lumber, dismantled forms, scaffolds, etc., and any other protruding nails must be pulled or bent down as soon as they are exposed.
  13. All electrical equipment and power tools must be grounded. All requirements (OSHA) will be met for ground fault protection. Employers shall use either ground fault circuit interrupters or establish and implement assured equipment grounding conductor program. (OSHA Rules and Regulations, Subpart K, Electrical)
  14. "Hot" electrical panels will be protected with plywood or other suitable materials. Cardboard will not be used to protect employees from live parts.
  15. All guards on power equipment and tools must be kept in good working condition and must be in place whenever such equipment is operating.

16. Workers will not remove SAFETY guards except for repairing or servicing. Machine will be off for such work.
17. No machines will be operated unless properly guarded. Guards must be in good condition, in place, and operative.
18. All defective equipment must be reported to the Superintendent.
19. All requirements (OSHA) will be met for eye protection when so required by SAFETY rules and regulations.
20. All accidents are to be reported immediately.
21. There will be no personal radios or MP3 players allowed at any time.
22. All personnel are encouraged and invited to attend weekly SAFETY meetings.
23. Sides of trenches, greater than five (5) feet in depth, shall be shored, sheeted, braced, sloped, or otherwise supported by means of sufficient strength to protect the employees within them. Daily visual inspections must be made to determine class of soil.
24. All Subcontractors shall provide, upon request, a copy of their Hazard Communication program. Copies of this program will be kept in the office of the jobsite Superintendent.

SUBCONTRACTOR'S SUPERINTENDENT WILL IMPLEMENT THE SAFETY STATEMENT IN COOPERATION WITH, AND APPROVAL OF, MCL CONSTRUCTION SAFETY DIRECTOR.

Bellevue Bay Indoor Water Park

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PROJECT NAME

Whitewater West Industries Ltd

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COMPANY NAME

Luc Benac

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SUBCONTRACTOR'S REPRESENTATIVE

11/29/2024

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DATE



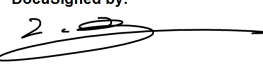
**Meyers Carlisle Leapley Construction**  
14558 Portal Circle  
LaVista, Nebraska 68138  
O (402) 339-2221 F  
[mclconstruction.com](http://mclconstruction.com)

**THIS DOCUMENT MUST BE RETURNED TO  
MCL Construction**

By signing this document, Whitewater West Industries Ltd (“Subcontractor”) is stating that all employees who are assigned to work at any and all MCL Construction jobsites will be trained in all aspects of the work contracted to be performed prior to arrival.

Furthermore, Subcontractor states that all employees performing work for MCL Construction, prior to arrival at the jobsite, will be trained in any and all safety and health rules and regulations pertaining to the type of work being performed by the Subcontractor and the type of work being performed onsite.

Furthermore, Subcontractor agrees to provide a Competent Person” as defined by the OSHA Standards on all MCL Construction jobsites on a daily basis when engaged in work activities, especially those activities involving trenching and excavation, fall protection and scaffolding.

DocuSigned by:  
  
4752073C00E344C...  
Authorized Agent of Whitewater West Industries Ltd.

11/29/2024  
\_\_\_\_\_  
Date of Signature

## Specific Terms and Conditions

### 1. Abbreviated Scope of Work

Included in the scope of this proposal or contract are the following Products and Services:

PRODUCTS	As per drawing	
Slide A: Topspin – 1-2 Person Inner-Tube	48542 SK-20	
Slide B: Open & Enclosed – 1-2 Person Inner-Tube		
Slide C: Rattler – 1-2 Person Inner-Tube		
Slide D: AquaTube – Body Slide		
Slide E: AquaTube – Body Slide		
Slide F: Parallel Pursuit – Mat Racer		
Slide G: Parallel Pursuit – Mat Racer		
AquaPlay AP-RF5C Custom (Includes Polycarbonate Guardrails) (Un-Themed)	48542 SK-6	
AquaSplash Toys (14 units): GS Straight Up x 6 units GS Group Volcano x 1 unit FS Poly Palm Windy x 3 units FS Waterfall 3 x 1 unit Fs Crabbie 1 x 1 unit FS Seastar x 1 unit FS Spiral Tunnel x 1 unit		
Life Floor around AP unit		n/a
FlowRider Double		FlowRider Double
13m Wave Pool		13m Wave Pool

STEEL ADDITIONS	Steel Finish	Notes & Specifications
<input checked="" type="checkbox"/> Start tower(s) for slides	Painted	
<input checked="" type="checkbox"/> Slide supports	Painted	

ON-SITE SERVICES	Number of man-days	Notes
<input checked="" type="checkbox"/> Installation of WhiteWater Supplied Equipment	Included	Non-Prevailing Wages <sup>1</sup>
<input checked="" type="checkbox"/> Installation Advisory		based on a seven day workweek <sup>1</sup>
<input checked="" type="checkbox"/> Ride Commissioning		based on a seven day workweek <sup>1</sup>

For further information please refer to Appendices for Specifications.

**Notes:**

<sup>1</sup> Duration and price are based on a seven-day workweek and assume continuous working conditions without major interruption. In case compliance with local labor laws or safety procedures on site - whichever is the more stringent – prevents a seven-day workweek, in consultation with Purchaser, schedule and price will be adjusted to reflect such compliance.

## Appendix 1 Equipment Supply Services - Specifications

EQUIPMENT					
APPLICABLE TO:	ITEM	ITEM DESCRIPTION	SPEC	SELLER	BUYER
	<b>3.1</b>	<b>Fiberglass Waterslides</b>	<b>WS</b>		
SK-20, AP-RF5C Custom	3.1.1	Fiberglass waterslide parts		■	
	3.1.2	Fasteners for all flume to flume connections		■	
	3.1.3	SikaFlex® 1A brand or equivalent caulking as necessary for all flume to flume connections.		■	
	3.1.4	Waterslide vehicles			■
	3.1.5	Safety Signage			■
	3.1.6	Safety Equipment for Inspections and Maintenance			■
	3.1.7	Fiberglass effects: 31 Sections of AquaLucent (SK-20) 17 Sections of AquaLucent (AP-RF5C Custom)			■
	<b>3.2</b>	<b>Steel Slide Support System (Galvanized &amp; Painted)</b>	<b>ST</b>		
SK-20, AP-RF5C Custom	3.2.1	Steel Columns (Galvanized & Painted)		■	
	3.2.2	Steel Arms (Galvanized & Painted)		■	
	3.2.3	Steel Yokes (Galvanized & Painted)		■	
	3.2.4	All fasteners for WhiteWater equipment according to engineering specifications		■	
	<b>3.3</b>	<b>Start Towers (Galvanized &amp; Painted)</b>	<b>ST</b>		
SK-20	3.3.1	Detailed framing and connections		■	
	3.3.2	Guardrails - Galvanized Steel Picket Railing		■	
	3.3.3	Handrails - Galvanized Steel		■	
	3.3.4	Composite Lumber Stair Treads		■	
	3.3.5	FRP Pan Platforms with Concrete Infill (Concrete by others)		■	
	3.3.6	Fabric Canopy (If Applicable)			■

	3.3.7	All fasteners for WhiteWater equipment according to engineering specifications			■
	3.3.8	Weigh Scales (2 units)			■
	<b>3.4</b>	<b>Concrete Works and Foundations</b>			
SK-20	3.4.1	Concrete sumps			■
	3.4.2	Grating over sumps and under shutdown lane (if required)			■
	3.4.3	Concrete waterproofing			■
	3.4.4	Concrete infill for tower platforms			■
SK-20, AP-RF5C Custom	3.4.5	Shutdown Lane slabs			■
SK-20, 6	3.4.6	Concrete pedestals			■
	3.4.7	Reinforcing steel for concrete works			■
	3.4.8	Grout below base plates			■
	3.4.9	Anchor bolts		■	
	3.4.10	Embed Plates		■	
	3.4.11	Anchor bolt steel templates (for cast in place anchor bolts)		■	
SK-6, 13m Wave Pool	3.4.12	Foundations and slabs			■
SK-6, 13m Wave Pool	3.4.13	Pool that meets WWI defined water elevations and dimensions			■
	<b>3.5</b>	<b>Mechanical</b>			
SK-20, 6	3.5.1	Pumps			■
	3.5.2	Flow Meters (Installed in an accessible location)			■
SK-20	3.5.3	Piping for all pumps, sprayers, and drains complete with Plumbing supports			■
	3.5.4	Valves, filters, fittings, etc.			■
SK-6	3.5.5	Piping/Valves/Fittings/Filters/etc to supply water from the Mechanical Room to WWI Specified Stub Ups			■
	3.5.6	Piping/Valves/Fittings/Filters to supply water from WWI Specified Stub ups to the Waterslides and Interactives		■	
SK-6, 13m Wave Pool	3.5.7	Pool that meets WWI defined water elevations and dimensions			■
SK-20, 6	3.5.8	VFD for Pump			■

	3.5.9	Mechanical room (Plant room)			■
	<b>3.6</b>	<b>Electrical</b>			
SK-20, 6	3.6.1	Power to pumps			■
	3.6.2	Pump and motor disconnects (as required)			■
	3.6.3	E-Stops as required by local codes			■
	3.6.4	Pump and motor cables			■
	3.6.5	Grounding and Bonding			■
	3.6.6	Conduit (supply and layout)			■
SK-20	3.6.7	Control Panel and Operator Console	DPS	■	
	3.6.8	Two Sets of Photo Eyes for each lane	DPS	■	
	3.6.9	Sensors and junction boxes	DPS	■	
	3.6.10	Interconnecting wiring for WWI supplied equipment	DPS		■
	3.6.11	Electrical supply to WWI supplied equipment	DPS		■
	3.6.12	Mounting	DPS		■
	3.6.13	Power to weigh scale control unit	SC		■
	3.6.14	Weigh scale interconnecting wiring	SC	■	
	3.6.15	Mounting	SC		■
	3.6.16	Weigh scale control panel	SC	■	
	<b>3.7</b>	<b>Rider Dispatch System</b>	DPS	■	
SK-20 (All Slides)	3.7.1	Red/Green Traffic light for each slide		■	
	<b>3.8</b>	<b>AquaPlay</b>	AP		
SK-6	3.8.1	AquaPlay AP-RF5C Custom Unit		■	
	3.8.2	Theme Level: Lexan Polycarbonate Guardrails		■	
SK-6	<b>3.9</b>	<b>AquaSplash</b>	AS	■	
	<b>3.10</b>	<b>LifeFloor</b>		■	
n/a	3.10.1	Life Floor under and around AP unit (Area: 4690 ft2) (Transition strips excluded)	LF	■	
	<b>3.11</b>	<b>Wave Equipment</b>	WV	■	

Wave Pool	3.11.1	Air Fan Sets			■	
	3.11.2	Caisson Valves			■	
	3.11.3	Pneumatic Control System			■	
	3.11.4	Master Control Panel			■	
	3.11.5	Remote Control Panel			■	
	3.11.6	Air Compressor Set			■	
	3.11.7	Ductwork			■	
	3.11.8	Anticipated Spares for first year of operation			■	
	3.11.9	Mountings, hold down bolts, supports			■	
	3.11.1 0	Noise Attenuation Equipment			■	
	3.11.1 1	Equipment room ventilation			■	
	3.11.1 2	Acoustic Doors			■	
	3.11.1 3	Caisson safety grilles			■	
	3.11.1 4	Warning Horn			■	
	3.11.1 5	All electrical wiring and conduit			■	
	3.11.1 6	Civil Works – excavation, forming, concrete, rebar, all civil works			■	
		<b>3.12 FlowRider Double</b>			<b>FR</b>	
	FlowRider Double	3.12.1	Main structure			■
		3.12.2	Tension structure			■
3.12.3		Recovery structure			■	
3.12.4		Pumps			■	
3.12.5		Electrical Control Panel – Variable Frequency Drives			■	
3.12.6		Padding system			■	

3.12.7	Drainage System		■	
3.12.8	Ride surface		■	
3.12.9	Flow Fence		■	
3.12.1 0	FlowRider boards		■	
3.12.1 1	Mountings, epoxy anchor hold down bolts, supports		■	
3.12.1 2	Safety signage		■	
3.12.1 3	Civil Works – excavation, forming, concrete, rebar, all civil works			■
3.12.1 4	Walkways, walkway coverings, handrails and splash guards			■
3.12.1 5	Mechanical – filtration pumps, valves, piping, filters, fittings etc.			■
3.12.1 6	Mechanical and Electrical Room (including A/C)			■
3.12.1 7	Electrical – power to electrical control panel, wiring, conduit etc.			■

**WS****SPEC-WS  
Specification – Waterslides****1. Flume**

All waterslide parts are produced to engineered laminate schedules in variable thickness to be compliant with relevant regulatory requirements including ASTM (F846, F853, F1193, F2376, and F2974), ISO 9000-2008 (Manufacturing) and EN 1069-01.

The base layer of isophthalic polyester resin is coated with ISO/NPG gel coat enabled with UV resistant properties along with protection against water fading and blistering from osmosis.

Waterslide Risers: All flumes come with necessary risers for safety and to reduce water splash-out.

- 1.4 Entry box: All waterslides come with pre-plumbed entry box complete with pipe stub and flexible coupler.
- 1.5 Drilling: All flanges are pre-drilled.
- 1.6 Fasteners: Flume to flume fasteners are hot-dipped galvanized steel for indoor application and stainless steel for outdoor application.
- 1.7 Grabrails: All necessary grabrails which affix to the entry box are stainless steel and are included.
- 1.8 Labeling: All parts are labeled with a part code number for easy identification.

**1. Fabrication**

- 1.1 All steel is fabricated in certified shops under Canadian Welding Bureau Standard CSA W47.1, or American Structural Welding Code AWS D1.1.

**2. Materials**

- 2.1 All steel is new and conforms to ASTM designation as per the engineering drawings.
- 2.2 All steel (excluding stainless steel when used) is provided hot dipped galvanized according to ASTM A123/A123M & ASTM A153/A153M.

**3. Level of Fabrication**

- 3.1 All steel is provided for bolt-up assembly. Columns are complete with clips for arms and braces, end caps, and baseplates. Arms have knee brace attached and all clips for attachment. All fasteners according to engineering specifications are supplied.
- 3.2 All steel is provided for bolt-up assembly, unless specific design requirement calls for field welded connections.
- 3.3 All columns are complete with base plates, clips, end plates, welded on.

**4. FINISH (IF PAINTED)**

- 4.1 All Steel painted in customer's choice of color Painted finish. Steel is painted to Grade B Industrial Finish. All painted steel will be cleaned and prepped before receiving a two part Epoxy primer coat and Urethane Topcoat.

**ST****SPEC-ST  
Specification – Steel**

**DPS****SPEC-DPS  
Specification – Rider Dispatch System****1. General Performance**

- 1.1 This system is not designed as a replacement for slide operators – it is an aid to operators to provide for a safe ride experience.
- 1.2 The rider dispatch system consists of a red and green traffic light located at the slide start that is used by riders and operators to indicate when the slide is ready for a rider to enter the slide.
- 1.3 Photo-eyes located at the start and end of the slide determine whether the slide is occupied or free.
- 1.4 For slides equipped with run-out lanes at their finish, there is an operator controlled CLEAR button which must be activated in order to clear the slide for the next rider – this is provided in order to verify that the previous rider has successfully exited the run-out lane. At any time, the operator at the slide exit can press the HOLD button which will cause the red traffic light to remain on until the hold situation is cleared.

**2. Electrical Controls**

- 2.1 The main control panel requires a 110VAC to 240VAC supply at 2A max (maximum is for a 6 slide configuration). It is an IP65 rated polyester cabinet.
- 2.2 Traffic lights are 24VDC LED devices, rated IP65.
- 2.3 Photo-eyes are 24VDC devices, rated IP65.
- 2.4 Operator controls are 24VDC devices. They use IP65 rated polyester enclosures.

**3. MOUNTING**

- 3.1 The main control panel is typically located either at the slide entry area or at the base of the tower.
- 3.2 The photo-eyes are mounted behind clear windows on the slide and finished flush in order to provide a smooth slide surface.
- 3.3 The traffic lights are typically mounted to one side of the slide entry tub to be visible to the rider waiting to slide.
- 3.4 The operator buttons are typically mounted in an area easily accessible to the operators working at the end of the slide(s).

**SPEC-AP****Specification—AquaPlay™****1. General Performance:**

- 1.1 AquaPlay™ is the original multi-level aquatic play structure that includes interactive water features, Waterslides, and/or an iconic Tipping Bucket. AquaPlay™ products are intended for use in Waterparks, Municipalities, and Hotel & Resorts and are designed for use by all ages.

**2. References (Standard Compliance)****2.1 ASTM International Standards**

- 2.1.1 ASTM F2461 Standard Practice for Classification, Design, Manufacture, Construction, and Operation of Aquatic Play Equipment.

**2.2 European Standards**

- 2.2.1 EN 1176 Playground Equipment and Surfacing – Part 1 – General Safety Requirement.
- 2.2.2 EN 1069-1 Water Slides Safety Requirements and Test Methods.
- 2.2.3 EN13451-3:2011+A3:2016 Swimming Pool Equipment. Additional specific safety requirements and test methods for inlets and outlets and water/air-based water leisure features.

**3. Materials****3.1 Structural Frame:**

- 3.1.1 Materials: All steel is new and conforms to ASTM designation as per the design drawings. Main piping of the structure is minimum schedule 40 steel pipe, or as per design drawings or equivalent substitution material.
- 3.1.2 Fabrication: All steel is fabricated in certified shops under Canadian Welding Bureau standard 2.1, CSA W47.1. or American Welding Standards
- 3.1.3 Finish: All steel is provided hot dipped galvanized as per ASTM A123/A123M Standard Specification for Zinc (Hot-Dip Galvanized) Coating on Iron and Steel products in accordance with ASTM385/A385M Standard Practice for Providing High-Quality Zinc Coatings (Hot-Dip), and shop painted per section 11 below.
- 3.1.4 All steel is provided for bolt-up assembly, unless specific design requirement calls for field welded connections.
- 3.1.5 All parts not required to be structural may be fabricated from material as specified per design drawings

**AP**

- 3.1.6 Primary structural fasteners (bolts, nuts, washers and screws) are stainless steel or galvanized. Secondary fasteners are stainless steel where required (slides and skirting). Unfinished plain steel hardware is not permitted for use.
- 3.2 Mechanical
- 3.2.1 The play system has an integrated manifold system for regulating the water flows and pressures to the water effects. The manifold is constructed of PVC, steel or fiberglass and utilizes suitable valves, or material as per design drawings. The system is accessible for adjustment and each valve will be labeled as to the location it controls.
- 3.3 Fiberglass Decks and Stairs
- 3.3.1 All fiberglass decks and stairs shall have non-slip finish on exposed traffic surfaces. All corners are rounded with no exposed square edges allowed.
- 3.3.2 All areas below platforms and stairs less than 1.8 m (6') high are blocked off from the public access with solid panels or Netting. All panels are finished with ultra-violet resistant finish.
- 3.4 Fiberglass Waterslides
- 3.4.1 Standard waterslide flume sections – refer to Waterslide standard SPEC.
- 3.5 Paint
- 3.5.1 All exposed galvanized metal and exterior PVC components are first prepped then primed with two coats of catalyzed epoxy primer then painted with two coats of catalyzed polyurethane topcoat that is chemical and ultraviolet resistant. This topcoat provides a high gloss finish that is extremely hard and damage resistant. FRP components may alternately use High Quality Gelcoat.
4. Product Requirement
- 4.1.1 Designed for water depth 0" – 12"
- 4.1.2 Safety clearance around the perimeter of the AquaPlay™ product must be 6' or greater, matching the use zone shown in the plan drawing, per ASTM requirements.
- 4.1.3 The surface areas of concrete slab under the footprints of AquaPlay standpipes escutcheon cap, column base plates, slide supports, shutdown lanes, stair entrances, and ADA access shall be flat, levelled, and at constant elevation for the installation and function of the WWI components. Regions outside the specified areas can be contoured, with maximum 2% slope, to drain as required by the pool design and the local codes or standards. Trenches, pits, abrupt elevation changes, etc., in concrete slab shall be positioned away from WWI components to avoid supporting zone encroachment. For planning purpose, the extents of supporting zone shall be at least two times of the slab thickness from the edge of the WWI component's footprint unless otherwise stated on WWI drawings. Note: drawing shall be provided as part of the contract that specifies these areas.
- 4.1.4 Requirements to thickness and details of the reinforced concrete slab supporting the structure shall be confirmed with the construction drawings issued by WWI. For new concrete slab, concrete material shall possess minimum 28-days compressive strength of 30 MPa (4.35 ksi), and reinforcing steel shall be deformed rebar with minimum yield strength of 400 MPa (60 ksi). For preliminary planning purpose, minimum thickness of the concrete slab shall be 200 mm (8 inches) for models AP50 through AP750 and shall be 250 mm (10 inches) for models AP1050 or larger.
- 4.1.5 Slab-on-grade supporting the structure shall be constructed over compacted sub-base soil (or fill) with minimum net allowable bearing capacity of 95 kPa (2000 psf). Settlement of slab at any location shall not exceed 25 mm (1 inch), and differential settlement between any two locations shall not exceed 1:500 (vertical: horizontal). The client shall retain a geotechnical engineer to design, to review, and to approve the sub-base preparation. Frost-protection to slab-on-grade shall be the responsibility of the client's engineers.
- 4.1.6 Suspended supporting structures shall be designed by the client's structural engineer with the layout and loadings of the structure provided by Whitewater West Industries.
- 4.1.7 Theming must follow the approved layout represented in the thematic rendering of the AquaPlay model or the theme map provided. Any deviation will be considered a custom structure unless otherwise approved.
- 4.1.8 The AquaPlay structure is not intended to be used as a "building" for shelter or long-term occupancy. It shall be designed to withstand its self-weight, imposed live load from patrons, climatic loads, and seismic effects as required by the latest standard and the relevant Structural

Design Codes applicable at the project site location; whichever is more stringent. The design will be conducted in general accordance with acceptable design practices for the principles of life safety under severe natural events.

- i. Typical AquaPlay models are designed up to basic snow load of 10 psf (0.5 kPa), the basic design wind speed shall be in accordance with the wind speed specified by the local building code, in the absence of a specified local building code, basic design wind speed shall be 130 mph (58 m/s) [3-second peak gust], or quasi-static lateral earthquake force of 60% seismic weight as per ASCE 7 16 If any of these criteria is exceeded, custom design of the AquaPlay unit would be required.
- ii. Geographic exclusions for typical AquaPlay models include but are not limited to the following regions: West Coast of North America, Florida, Arctic Circle region, West Coast of South America, Hawaiian Islands, Mariana Islands, Caribbean Countries, Madagascar, Sri Lanka, Iran, Pakistan, Bangladesh, Myanmar (Burma), Fiji, Philippines, Indonesia, Taiwan, Japan, Korea, New Zealand, and all coastal regions. In the regions of exclusion outside Canada and USA, official site specific climatic and seismic data shall be provided to WWI for structural review.

**SPEC-AS**  
**Specification—AquaSplash**

1. Description

AquaSplash is a ground mounted Splash Pad aquatic play product line that includes both interactive spray features and passive spray features.

- Refer to project drawing set for site plan and specifications, foundation, loading and plumbing requirements as well as color and theming options.
- Refer to installation drawing set for anchoring details and plumbing connection locations.

2. PRODUCTION CONSTRUCTION:

- 2.1 Above ground aquatic play features shall be constructed of Stainless-Steel Type A304 or A304L, schedule 40 or 10. Stainless steel base plate materials will be 2B finish at 3/8" thick. Each spray fixture shall have a 1 1/2" NPT coupling water inlet.
- 2.2 In-ground aquatic play features shall be 2 1/2" schedule 40 or 6" schedule 40, type A304 stainless steel canisters with a machined nozzle seat. Each fixture will have a 1" NPT coupler water inlet. Each fixture shall have mounting holes to accommodate stainless steel L-type anchor bolts to be set in a concrete footing.
- 2.3 Aquatic play features are to meet ADA compliance for handicap accessibility and meet or exceed current ASTM playground safety standards.
- 2.4 Aquatic play features will be supplied with all necessary anchoring hardware and installation templates to accommodate site work.
- 2.5 Aquatic play features anchoring system shall provide the ability to add, remove and interchange products without having to change infrastructure and footings. The component shall be fastened directly to the base flange with an EPDM gasket to provide a watertight seal between the component flange and the base flange. The base must be flush-to-grade with no visible hardware or dome cover. The base must have the ability to attach a grounding lug.
- 2.6 All aquatic play features shall have fittings that allow for winter close off.
- 2.7 All aquatic play features of below grade design shall address winterization.

**AS**

3. NOZZLES:

- 3.1 Aquatic play feature nozzles shall be constructed of acetal copolymer or urethane. Nozzles shall be non-corrosive, impervious to galling, precision machined. Brass and Nylon are not acceptable. A mechanical workbook must be supplied to

- show individual flow rates for each feature including maximum and average flow for each pre-programmed sequence step.
- 3.2 Nozzles shall be secured using stainless steel fasteners.
4. COATINGS:
- 4.1 Fixtures shall receive a pre-treatment stainless steel epoxy primer followed by a coat of weather-resistant super durable TGIC free polyester powder, baked application. Standard powder coatings are not acceptable. Brushed stainless finish is the exception.
- 4.2 Powder coatings shall be weather resistant and have ultraviolet inhibitors. Coatings shall have a high gloss finish, have ultraviolet inhibitors, withstand 1/10th no removal @160 in/lb, exceed all specifications of organic coatings, and a film thickness of between 2.5 to 3.0 mils (determined by color and finish). Where theme graphics are applied, a base clear coat system will be applied. Supply aerosol primer and touch up paint, color code as specified for aquatic play features.
- 4.3 Equipment must be packaged in a three-step packaging process as follows:
- 4.4 The first layer is open cell 1/8" foam wrapping.
- 4.5 The second layer is a corrugated cardboard.
- 4.6 The final layer is a waterproof polyethylene tarp wrap.
- 4.7 Product must be shipped in dedicated nose load shipments secured with strapping.
5. ELECTRICAL:
- 5.1 All electronic operating systems shall be provided by the Manufacturer, British Columbia Canada, or approved equal.
- 5.2 All electrical control panels shall be UL/CUL approved specifically for aquatic play area operations and must bear certification logos.
- 5.3 All wiring to be specified by the manufacturer of the aquatic play features.
- 5.4 The actuating device shall be encapsulated within a 304 stainless steel casing and be UV, moisture, graffiti, and impact resistant.
- 5.5 All control system materials are to be of industrial grade quality and controller enclosures shall be rated @ NEMA 4.
- 5.6 All AquaSplash components shall be grounded using bare #6 AWG wire and an approved ground lug. Consult local electrical inspector for local codes and final inspection.
- 5.7 Electrical connection shall be 1" National Pipe Thread (NPT) coupler to be located near the bottom of the component.
- 5.8 Power supply to the control panel shall be 120V AC, with a 15amp GFCI dedicated breaker
- 5.9 All wire connections must be watertight.
- 5.10 Solenoid valves must be PVC, and of type having 24V AC, 0.250 mA max. holding current coil rating with flow control (Rainbird PGA series or equal). Valve wire shall be #18 AWG type R90, one per valve, plus one common back to the controller location.
6. WATER DISTRIBUTION MANAGEMENT SYSTEM:
- 6.1 Main line pipe and fittings to be schedule 40 PVC or greater. The distribution laterals and fittings are to be schedule 40 PVC or greater. Ensure that a proper slope is consistently applied to all piping to ensure positive gravity-assisted drainage of the entire system. Ensure all fittings are secured to close openings (off season) to protect from water entry of water back into the piping system. (See nozzles section).
- 6.2 Solenoid valves must be PVC, and of type having 24V AC, 0.250 mA max. holding current coil rating with flow control (Rainbird PGA series or equal). Valve wire shall be #18 AWG type R90, one per valve, plus one common back to the controller location.
7. ACCESSORIES:
- 7.1 All hardware, fittings and fastenings shall be as indicated on the shop drawings and may be required to complete the installation. Anchor fasteners to be stainless steel.
- 7.2 Lag bolts shall be stainless steel with flat type vandal-proof head in size indicated on plans. Anchors shall be stainless steel in size required. (tamper proof hardware shall be stainless steel, complete with owner supplied hardware security tools).
8. FEATURE SPECIFICATIONS
- 8.1 Available upon request


**LF**
**SPEC-LF  
Specification – Life Floor™**

Life Floor is a closed cell foam-rubber tile specifically engineered for use in aquatic environments. It is a modular safety surface that provides traction

and cushioning to prevent slip-and-fall and abrasion injuries. Life Floor is installed on stairs, platforms, pool decks, splash pads, zero depth entries, restroom facilities, and underneath structures to enhance the safety and overall aesthetic appearance of any area where it is installed.

1. system description
  - 1.1 Material:  
Life Floor™ is a factory-molded surface composed of EVAtrax™, an ethyl vinyl acetate copolymer.
  - 1.2 Thickness and Weight:  
3/8" standard: 2lb or 0.9kg; 7/8": 4.4lbs or 2kg
  - 1.3 Shock Attenuation (ASTM F1292) – 3/8" meets 1' critical fall height; 7/8" meets 4' critical fall height; 1 ¼" meets 6' critical fall height
  - 1.4 Gmax - Less than 200.
  - 1.5 Head Injury Criteria - Less than 1000.
  - 1.6 Flammability (ASTM E648) – Class 1
  - 1.7 Toxic Characteristic Leaching Procedure (TCLP) (RCRA) by Method 3010 – Pass.
2. delivery, storage & handling
  - 2.1 General: Comply with Division 1 Product Requirement Section.
  - 2.2 Delivery: Deliver materials in manufacturer's original, unopened, undamaged containers with identification labels intact.
  - 2.3 Storage and Protection: Store materials protected from exposure to harmful environmental conditions and at a minimum temperature of 20 degrees F (-7 degrees C) and a maximum temperature of 100 degrees F (38 degrees C).
3. project/site conditions
  - 3.1 Environmental Requirements: Install surfacing system when minimum ambient temperature is 60 degrees F (15.6 degree C) and maximum ambient temperature is 90 degrees F (32 degrees C). Do not install in rain.
4. warranty  
WhiteWater shall transfer directly to the Buyer the warranty provided by our exclusive manufacturer LifeFloor.
  - 4.1 Warranty Period:
    - 4.1.1 Life Floor warrants all 7/8" and 3/8" thick Life Floor for a term of five (5) years from the date of delivery except as below.

- 4.1.2 Life Floor warrants all 3/16" thick Life Floor tiles for a term of three (3) years from the date of delivery except as below.
- 4.1.3 Life Floor warrants all above Products in areas of extreme traffic, extreme UV exposure, and extreme chemical exposure for a term of two (2) years from the date of delivery of the Products.
- 4.2 Limitation of Warranty:  
Warranty does not cover color changes of any kind.
- 4.3 Limitations to the warranty period include areas of extreme traffic, very high/extreme UV exposure, and extreme chemical exposure.
  - 4.3.1 Extreme traffic defined by areas with annual traffic of 250,000 users or greater.
  - 4.3.2 "Extreme" or "Very High" UV exposure as defined by the World Health Organization is more than 90 days of daytime in the "extreme" or "very high" category with a UV Index of 10 or higher within a 365 day period.
- 4.4 If the installation is done by WhiteWater, Installation Warranty is one (1) years from the date of completion. Otherwise, no installation warranty is provided.

#### 5. PRELIMINARY WORKS:

The Preparation Procedures and application to be carried out as per Manufacturer's Instructions and under appropriate atmospheric and working conditions (no dust, sand, etc.). Verify that the substrate was allowed to cure (meaning chemically neutral, not only dry) as per Manufacturer's Instruction. The area has to be secured and / or fenced day and night to avoid walking across the surface before it is cured. Surrounding areas to be protected against stains from binder or material mix. Minimum of 72 hours curing before use with chlorinated water. (subject to atmospheric conditions)

#### 6. RESURFACING CONDITIONS:

- 6.1 Site and Material Condition: Indoor Installation
  - 6.1.1 Approved Interior Substrates: Properly prepared concrete (on-grade, below-grade, or above-grade, APA underlayment, metal, cementitious terrazzo, and ceramic floors;

- 6.1.2 Maintain a consistent temperature of room, subfloor, tile, and adhesive for at least 24 hours prior to installation and 24 hours after installation. Ideal temperatures are a min. of 65 degrees F, and max. of 85 degrees F.
- 6.1.3 Allow tile to acclimate to temperature for 24 hours prior to installation.
- 6.2 Site and Material Condition: Outdoor Installation
- 6.2.1 Approved Exterior Substrates: Properly prepared concrete (on-grade, below-grade, above-grade).
- 6.2.2 Store Life Floor™ tiles in a cool, dry location out of direct sunlight and moisture.
- 6.2.3 Avoid installing tiles during significant changes in temperature (more than 20 degrees F in 8 hours).
- 6.2.4 Protect the installation from rain. If this is not possible, the tiles should NOT be installed at this time.
- 6.3 Surface Preparation:
- 6.3.1 Ensure that the concrete, metal, wood, tile, or fiberglass substrate is level or uniformly sloped since surface variations will be telegraphed through to the rubber tile surface.
- 6.4 Concrete Requirements:
- 6.4.1 Concrete must conform to ACI 302 standards, be dry, fully cured (28 days), a minimum density of 100 lbs per ft<sup>3</sup> as well as having a compressive strength greater than 3000 psi for residential installations and 4350 psi for commercial installations.
- 6.4.2 The substrate must be dry, structurally sound, and dimensionally stable. It should be free of any substance or condition that may reduce or prevent the adhesive bond to substrate. This includes, but is not limited to, concrete sealers, curing agents, dirt, wax, tar, paint, and loose toppings. If present, these agents must be mechanically removed. The use of solvents (with the exception of acetone), adhesive remover or acid etching is not recommended.
- 6.4.3 Concrete porosity should be noted. It is always a good practice to perform bond tests before large scale installations. Excessively absorbent (porous) or rough concrete surfaces can cause an increase in adhesive usage. Surface grinding can be used to smooth an excessively porous or rough surface.
- 6.4.4 New concrete surfaces prepared for Life Floor should have a troweled smooth finish to be diamond ground before install. If needed mechanical shot-blasting can be used to roughen an excessively smooth surface. Overtroweled slabs are not acceptable.
- 6.4.5 Substrate should be sloped properly towards drains to allow for proper drainage. Refer to the Model Aquatic Health Code (MAHC) for sloping requirements for your application and facility.
- 6.4.6 Concrete surface prep: Remove protrusions, bumps and ridges by grinding or chipping. Repair, fill & level cracks, holes, depressions, rough or chipped areas of substrate. Slab to have a light broom finish (hand troweled finish, or power finish. Not a burned power, troweled finish) when tile is installed.
- 6.4.7 If planning on recessing slabs to accommodate for the 3/8" tile depth, then you should target a 1/4" max recess. This will help avoid raised drains, floor jets, and adjacent surfaces once Life Floor is installed. On-site installers can grind concrete down around these areas to balance out the height if needed, but raising the level of the concrete is more costly.
- Note:** A high alkali slab (with a 10 to 14 ph) can signify a moisture problem. If a ph problem is found, the slab should be tested for moisture.
- 6.5 Floor Preparation:
- 6.5.1 The substrate needs to be cleaned from all dirt and debris.
- 6.5.2 The substrate needs to be dry with a relative humidity of less than 90 %.
- Note: A high alkali slab (with a 10 to 14 ph) can signify a moisture problem. If a ph problem is found, the slab should be tested for moisture.
- 6.5.3 The substrate must be well intact (ie: not crumbling or chipping up). If the substrate is not intact then grinding or skim coating the floor may be required.
- 6.5.4 The substrate should be relatively smooth. A light broom finish surface is ideal. Very rough surfaces with high and low areas may not allow for enough surface area to

come in contact with the substrate and could negatively affect the adhesion.

- 6.5.5 Ensure the substrate properly drains
- 6.5.6 Failure to properly prepare the substrate will affect the adhesion and may result in installation failure.

**FURTHER EXCLUSIONS(TO BE PROVIDED BY OTHERS):**

- a. Modifications if any to the pool.
- b. Temporary utilities. Fresh water supply for our use within 30 yards of waterslide work area. Dumpster.
- c. To provide pool, slide and play structure water drainage as required for continuous work flow.
- d. Where a specific number of days are provided for in a quotation, it is assumed to include for two days of travel so actual on-site days will be adjusted accordingly.
- e. To provide 240 x 60 amps and 120 x 30 amp electrical supplies at convenient locations within 100 ft. of work area throughout the job site to enable crews to perform the work.
- f. The owner agrees to grant additional time to the schedule at no cost to WhiteWater for delays due to inclement weather, equipment malfunctions, shipping delays or other schedule impacts beyond the control of WhiteWater or the owner.
- g. Purchaser agrees to allow WhiteWater to utilize photos and statements to promote and market at its discretion
- h. Substrate repairs and leveling is NOT included; if required, Change Work Order will be issued.
- i. Whitewater shall not be held responsible for any damage to underground services that have not been identified prior to works commencement.

**SPEC-WV**

**Specification – Waves (13m)**

The Whitewater West Industries Ltd. Wave generator is of the pneumatic type, utilizing blowers and caisson control valves all controlled by a programmable logic control system. The wave generator is manufactured from all industrial class components and with corrosion resistance in mind.

**Wave Patterns:** Diamond, Parallel, Half Parallel, Diagonal left and right and Double Diamond

**Wave height:** 1.2 m (4') on diamond pattern

**Frequency:** Approximately 2.5 seconds

1. Scope of Supply

The wave generator comprises of the following equipment:

- 1.1 Air Fan Set(s): The centrifugal fans are of the heavy duty industrial type complete with an inspection door and all necessary stiffeners and are generally to the following specifications:
  - 1.1.1 Type: Backward curve centrifugal.
  - 1.1.2 Casing: Galvanized Steel.
  - 1.1.3 Motor: Totally Enclosed Fan Cooled, Tee frame.
  - 1.1.4 Power requirements: 380 V, 3 phase, 50 hertz (or to suit local supply).
  - 1.1.5 Drive: Direct
  - 1.1.6 Impeller: Backward curve, shaft mounted.
  - 1.1.7 Base: Two coats of primer and two coats of epoxy enamel.
  - 1.1.8 Anti-vibration: Rubber/spring isolators
- 1.2 Caisson Valves:
  - 1.2.1 The caisson control valves are actuated through pneumatically operated cylinders and result in a fast action movement combined with maximum reliability:
    - 1.2.1.1 The valve pneumatics are actuated by the pneumatic control valve which receives its air from the air compressor set and electrical signals from the master control panel.
  - 1.2.2 Model: Whitewater two position Wave Control Valve.
  - 1.2.3 Material: 316L stainless steel, aluminum, and PVC.
  - 1.2.4 Hardware: All nuts, bolts etc. are of stainless steel.
  - 1.2.5 Actuator: One (1) air cylinder per valve.
  - 1.2.6 Speed Control: Needle valves on each actuator.
  - 1.2.7 Deflector Sleeves: One (1) FRP for each caisson valve.
- 1.3 Pneumatic control system:
  - 1.3.1 Valves: Solenoid valves mounted on each air cylinder.
  - 1.3.2 Ancillaries: Included is air line filter and regulation.
- 1.4 Master Control Panel:
  - 1.4.1 The master control equipment and switchgear is housed in a NEMA 12 enclosure constructed of sheet steel with top



cable entry and door interlocked isolators. The master control panel is designed for but not limited to the following:

- 1.4.1.1 Power supply of 380 V, 3 phase, 50 hertz (or to suit local supply).
- 1.4.1.2 The cabinet contains solid state starter for the fan sets to provide smooth acceleration and to minimize the mechanical and electrical shock associated with starting.
- 1.4.1.3 A direct-on-line starter for the air compressor.
- 1.4.1.4 Single phase protection for the motors.
- 1.4.1.5 All necessary fuses, breakers and thermal overload protection devices.
- 1.5 Indicator lights or displays for the following conditions:
  - 1.5.1 Power on
  - 1.5.2 On/off switch for each fan.
  - 1.5.3 On/off switch for each compressor and low air pressure
  - 1.5.4 Motor run and trip indication for each fan, and compressor.
- 1.6 Also included in the panel is the microprocessor, which is programmed to monitor and control the various activities of the wave generator. These activities include, but are not limited to:
  - 1.6.1 Control of the equipment sequencing and operation.
  - 1.6.2 Control of the caisson control valves.
  - 1.6.3 Output to a horn and/or light (to be supplied by others) to provide warning prior to the wave cycle starting.
  - 1.6.4 Output to the system status lights.
  - 1.6.5 Monitoring of the system air pressure.
- 1.7 Remote Control Panel:
  - 1.7.1 The remote control panel and emergency stops are supplied to allow control of the wave generator from an area close to the pool. All wiring out to the remote control panel is 24 volts DC. The remote control panel consists of a computer touch screen that performs the following functions:
    - 1.7.1.1 The stop/start switch allows direct control of the wave equipment.
    - 1.7.1.2 The "Timer" mode allows for the wave machine to cycle on and off on a pre-determined cycle as dictated by the timer.
    - 1.7.1.3 The timer allows for independent adjustment of the run and rest cycles of the wave machine.
    - 1.7.1.4 An emergency stop status indication.
    - 1.7.1.5 Status display of all motors.
    - 1.7.1.6 Emergency stop push button.
- 1.8 Air Compressor Set:
  - 1.8.1 The air compressors supplied are of the air cooled type driven by an electric motor and mounted on a vertical air receiver.
    - 1.8.1.1 Motor: Open drip Proof.
    - 1.8.1.2 Power requirements: 380 V, 3 phase, 50 hertz (or to suit local supply).
- 1.9 Ductwork:
  - 1.9.1 Ductwork elbows for interconnecting the caisson control valves to customer supplied concrete plenum are supplied by Whitewater to the following specifications:
    - 1.9.1.1 Ductwork: One (1) set
    - 1.9.1.2 Material: Fiberglass
    - 1.9.1.3 Hardware: All hardware and supports are of 316L stainless steel or galvanized.
    - 1.9.1.4 Length: As per Whitewater's drawings.
- 1.10 Spares:
  - 1.10.1 A spares kit is included consisting of a complete set of spare parts anticipated to be required for the first year of operation.
- 1.11 Miscellaneous:
  - 1.11.1 In addition to the above we include for all mountings, hold-down bolts and supports.
- 1.12 Start-up and Performance:
  - 1.12.1 Whitewater shall provide one engineer for the start-up, adjustment and fine tuning of the wave machine and at this time shall also demonstrate to the Owner and his Architect over a continuous four hour period that the WhiteWater wave generator is able to make waves as specified on a 12 minute on and 12 minute off cycle.
- 1.13 Operating and Maintenance Instructions:
  - 1.13.1 Our price includes for the provision of fully comprehensive operating and maintenance instructions in electronic form. These are published in English.
- 1.14 Operator Training:
  - 1.14.1 During the start-up period we request that the owner assign one of his representatives to receive training in all aspects of the maintenance and operation of the WhiteWater wave machine. Upon completion of the operator training

WhiteWater shall provide the Owner with a statement signed by the trainee and the Owner's Consultant stating that adequate training was given.

1.15 Warranty:

1.15.1 The wave generator is warranted against all defects in workmanship and materials for a period of one year. The warranty runs from the date of final commissioning and equipment hand over. This warranty covers only the cost of replacing the defective materials and does not cover normal wear and tear or failures due to negligence by the owner or his representatives.

2. Supplied by Others

The following is a list of items normally excluded unless otherwise agreed:

- 2.1 Noise attenuation equipment
- 2.2 Equipment room ventilation
- 2.3 Acoustic doors
- 2.4 The caisson safety grilles
- 2.5 Supply of all electrical wiring and conduit
- 2.6 Installation of all equipment
- 2.7 Warning horn

**SPEC-FR**

**Specification – FlowRider® Double Equipment**

The FlowRider® package is a complete system and is intended for installation in a containment tank constructed by the client. Origin of equipment manufactured to include Canada, United States, China, and Europe to include Germany, Sweden, and the United Kingdom.

1. Scope of Supply

- 1.1 FlowRider® Double including
  - 1.1.1 Stainless steel main structure
    - Two Nozzle Assemblies
    - Two Pump Tube Assemblies
    - Two Inlet Assembly
    - Two Drive Train Mounting Frames
  - 1.1.2 Tension Structures
    - Stainless Steel Side Tension System Left
    - Stainless Steel Side Tension System Right

- Stainless Steel Rear Tension System
- 1.1.3 Recovery structures
  - Rear Recovery Structure
  - Front Run-out Structure
- 1.2 Pumps
  - 1.2.1 Pumping System: Two Submersible Pumps (Tariff Code: 8413702004)  
If the Electrical Control Panel is placed adjacent (touching) to the rear or side wall, then sufficient pump cabling (19m / 62') will be provided to reach the panel. If the Electrical Control Panel is placed remotely then the Purchaser shall provide a junction box at the Attraction and run cabling to the panel at Purchasers expense.
- 1.3 Electrical
  - 1.3.1 Electrical Control Panel (Tariff code "TC": 8536.50.40)
  - 1.3.2 Remote electrical control podium
  - 1.3.3 Remote emergency hatch shut off switch
  - 1.3.4 Cable routing clamps
  - 1.3.5 Lockout/tagout kit for electrical panel
- 1.4 Padding System
  - 1.4.1 Vinyl Fabric (TC: 3921 9060 0000H)
  - 1.4.2 High density foam padding
  - 1.4.3 Foam adhesives
    - 1.4.4Material primers
    - 1.4.5Material cleaners
    - 1.4.6Caulking
  - 1.5 Drainage System
    - 1.5.1 Max Recovery water drainage system (Tariff Code: 39181010)
- 1.6 Ride Surface
  - 1.6.1 Composite Membrane Ride Surface (CMRS) (TC: 3921 9060 0000H)
- 1.7 Flow Fence (1 unit)
  - 1.7.1 FF pump
  - 1.7.2 FF Mounting supports
- 1.8 Installation supervision
- 1.9 FlowRider® boards – Twelve (12) FlowRider® bodyboards and Six (6) FlowRider® “Outlaw” Standup Boards
- 1.10 FlowRider® logo will appear on the Attraction as shown in



2. Operator Training

- 2.1 During the commissioning we request that the Operator assign one of his representatives to receive training in all aspects of the maintenance and operation of the FlowRider®.

This list may include parts that may be omitted, modified, or replaced as Seller deems necessary in its sole discretion for proper installation of the Attraction.

- 1.9 Light Outputs: Each scale comes standard with one 12VDC LED light system that is weight activated, switching between red and green illumination. The scale's upper and lower weight limits are easily programmable by the park and can also activate a built-in audible alarm. Every scale comes with two individually programmable light outputs where an optional second light unit can be added to the system for multiple-ride use.

## SPEC-SC

### Specification – Scales

SC

- 1.1 Whitewater agrees to supply scale(s) in accordance with the following specification:
- 1.2 Non-Slip Surface: The surface of the scale has a polyurea coating infused with an aggregate to provide a highly durable nonslip surface.
- 1.3 Max Weight: 2000 lb / 880 kg
- 1.4 Display Resolution: 2 lb / 1 kg
- 1.5 Accuracy: 0.2% +/- 1 digit of displayed resolution
- 1.6 Power Output: 12V 2000 mA DC. Power supply mounted within the display box. The operating temperature range is 40F - 95F (5C - 35C).
- 1.7 Power Input: 100-240VAC at 50-60hz.
- 1.8 Display Housing: NEMA 4x enclosure with latching door. Boxes are supplied with 3/4" pushlock fittings for liquid tight conduit and an external sealed zero/weigh button.

## Appendix 2 On-Site Services - Specifications

INSTALLATION					
APPLICABLE TO:	ITEM	ITEM DESCRIPTION	SPEC	SELLER	BUYER
All	<b>4</b>	<b>Installation Advisory Services of WhiteWater supplied equipment:</b>		■	
	4.1	Ensure the work will be performed in accordance with WhiteWater's engineering drawings and specifications		■	
	4.2	Follow commonly accepted principles of good workmanship		■	
	4.3	Provide an initial inventory of all WhiteWater supplied materials delivered to the site		■	
	4.4	Work with the project stakeholders to develop and maintain a construction plan that will meet the overall project schedule		■	
	4.5	Provide the owner with an on-site representative to attend any scheduled site meetings and ensure effective communication between them and WhiteWater – acting as the primary on-site liaison between		■	
	4.6	The following conditions apply to the specified duration of man days included in the contract: - Duration is based on a seven-day work week and continuous work on site. If there are any “down days” where they are prevented from accessing the project site or if there is no installation crew available on certain days, these “down days” will be counted as part of the specified duration. - In case compliance with local labor laws or safety procedures on site - whichever is the more stringent – prevents a seven-day workweek, in consultation with Purchaser, schedule and price will be adjusted to reflect such compliance. - If the Installation Advisory Service extends past the specified duration for any reason outside of the control of WhiteWater, the Purchaser shall reimburse WhiteWater at a specified daily rate of \$1450 USD/day. - If the Install Advisor must leave the project site for reasons caused by the Purchaser or others, then all costs for return trips are reimbursable by the Purchaser.			■
	4.7	To provide and pay for travel to the project site, local travel, lodging and per diem for the Installation Advisor for the duration specified herein.		■	
	***	<b>NOTE: Prior to WWI's arrival to site and equipment placement, a survey by a qualified land surveyor must be provided to WWI that shows the correct placement and orientation of the items in 5.11 below: all foundations, footings, concrete columns and piers, complete with placing steel embed plates and / or anchor bolts in the correct locations and orientations.</b>			■

All	<b>5</b>	<b>Installation of WhiteWater supplied equipment:</b>		■	
	5.1	Special Inspections required: Buyer shall be responsible for the following inspections (whichever applicable in the project) as per IBC or AISC carried out by qualified personnel: 1. Soil Compliance (As per Table 1705.6, 2015 IBC) 2. Concrete Construction (As per Table 1705.3, 2015 IBC) 3. Structural Steel Welding (As per Table N5.4, AISC 360-16) 4. High strength Bolts (As per Table N5.6, AISC 360-16) 5. Pier Deep Foundation (As per Table 1705.7&8, 2015 IBC) Notes: Local code requirements shall take precedence if more stringent.			■
	5.2	Ensure the work will be performed during regular hours and there are no encumbrance for lifting or building.			■
	5.3	Provide necessary labour, tools, and equipment to complete installation of WhiteWater supplied equipment		■	
	5.4	Clean interior and exterior of slide, ready for public use		■	
	5.5	Wax interior of slide, ready for public use		■	
	5.6	Erect all structural steel supports and tower plumb and level in accordance with WhiteWater engineering drawings		■	
	5.7	Install conveyor unit(s) including start-up and adjustment as necessary (if applicable)			■
	5.8	All required demolition and removal of existing structures and equipment.			■
	5.9	Crew expenses, including all transportation, lodging, per diem and other per diems during construction		■	
5.10	Adequate lay-down area for equipment pre-assembly and for storage of the equipment, convenient to the site and close to the final position of the equipment. The lay-down area must be hard surfaced and accessible for trucks, cranes, fork lifts and other equipment necessary for the installation of the WhiteWater supplied equipment.			■	

5.11 All site work including, but not limited to: soil tests, stripping, grubbing, filling, site grading, site drainage, all foundations, footings, concrete columns and piers (and grouting of all column baseplates), complete with placing steel embed plates and / or anchor bolts in the correct locations and orientations as surveyed by a qualified land surveyor.

**NOTE:** The successful installation of the WhiteWater equipment will require accurate installation of all foundations, pedestals and anchor bolts. These need to be within the tolerances documented in the WhiteWater engineering drawings. WhiteWater's suggested best practice for constructing the foundations would include the following steps:

- Pre-construction meeting with WhiteWater, Purchaser and Concrete contractor to discuss the details of the WhiteWater Engineering drawings and the best approach for construction.
- Lay out the location for each foundation and then confirm the center of the pedestal rebar cages by a surveyor before placing concrete.
- Pour the foundations.
- Once the anchor bolts have been placed inside the rebar cages projecting from the poured foundations, have a surveyor confirm the location and elevation for 1 bolt on each of the X and Y axes for each pedestal to ensure they are within the required tolerances and adjust as needed before placing concrete. This survey information should be shared with WhiteWater for review.
- Once it has been confirmed by the surveyor that the positions of the anchors are within tolerance, proceed with pouring the pedestal concrete.

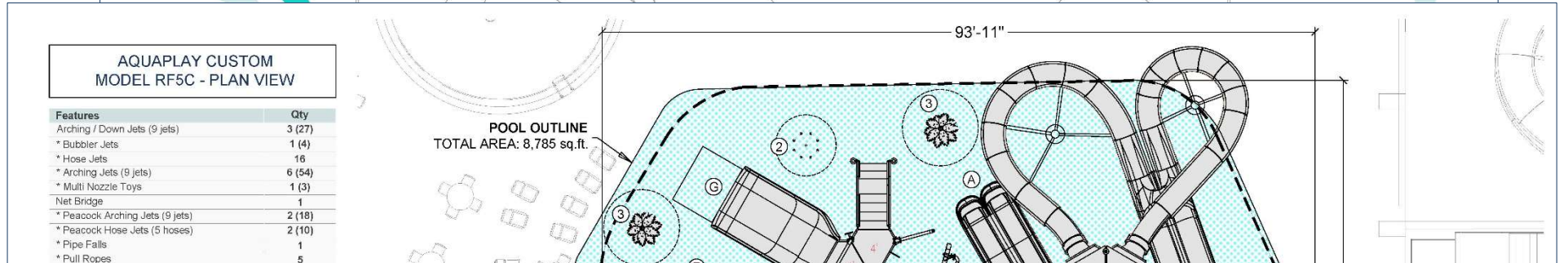
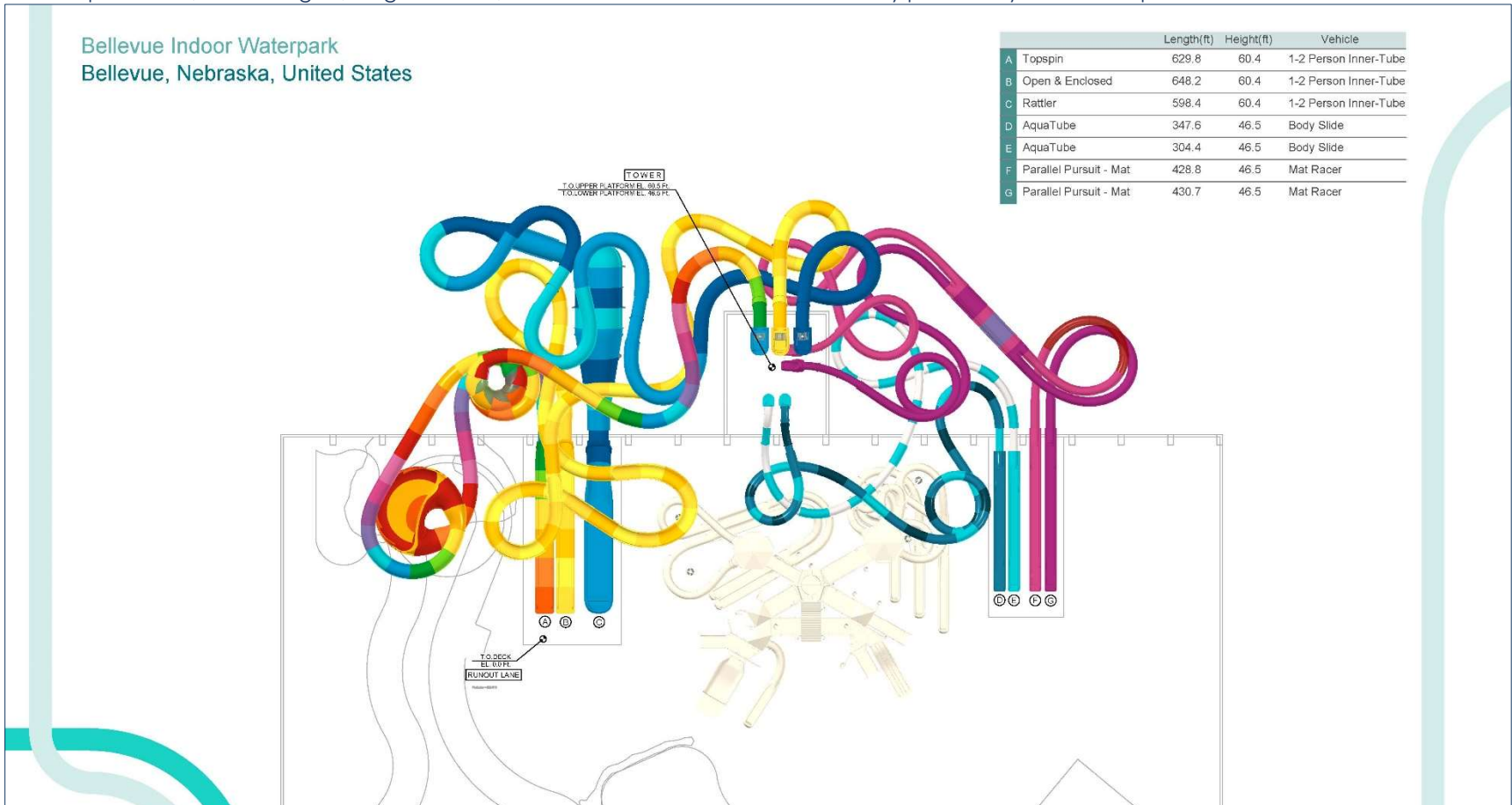
5.12	All required site welding carried out by a certified professional welder		■	
5.13	Building and sealing of building wall penetrations or enclosures, if required.			■
5.14	All slabs on grade for shutdown lanes and / or pool decks.			■
5.15	Construction of all pools, including pumps, valves, piping, filters, fittings, VFD's, starters, etc. This includes connection of water supply pipes to WWI equipment.			■
5.16	The necessary block-outs in the pool walls and slabs to accommodate the slide pieces and to complete and finish this area after the slide is installed.			■
5.17	All concrete work on tower platforms, stairways and walkways			■
5.18	Adequate protection for the WhiteWater supplied equipment against paint over-spray, debris, concrete splatter or misuse by trades during the completion of the project.			■
5.19	Cleanup of all concrete spatters and drips that fall on any fiberglass slide parts, support steel, or tower steel.			■
5.20	Electrical connections, conduit and field wiring to any WhiteWater supplied electrical equipment. This includes grounding.			■
5.21	Adequate water and electrical supplied within reasonable access to the work area for construction activities.			■
5.22	Adequate toilet facilities within reasonable access to the work area.			■

5.23	Adequate waste disposal containers.				■
	5.24	All buildings, mechanical rooms, change rooms etc. as required for the project.			■
	5.25	Adequate access to the site for trucks, cranes, fork lifts, and other equipment necessary for the installation of the WhiteWater supplied equipment.			■
	5.26	Assume the risk of loss or theft of the construction materials, tools and equipment on site and is responsible to provide adequate security and fencing.			■
	5.27	Any other expenses not specifically defined in WhiteWater's obligations.			■

COMMISSIONING					
APPLICABLE TO:	ITEM	ITEM DESCRIPTION	SPEC	SELLER	BUYER
All	<b>6</b>	<b>Commissioning</b>			
	6.1	Testing the Whitewater supplied equipment		■	
	6.2	Certify that the equipment is compliant with WhiteWater's engineering drawings and applicable standards before the equipment is deemed ready for operations.		■	
	6.3	Provide basic training for operation and maintenance of WhiteWater supplied equipment.		■	
	6.4	Costs associated with any on site local authority inspections, permits, 3rd party certifications			■
	6.5	Client provide test riders of various sizes for test runs during Commissioning.			■
	*6.6	Safety Signage is installed as per WWI Operations Manual			■
	*6.7	All mechanical systems (including flow meters) and structures required to operate the ride will be complete, calibrated, and operable			■
	*6.8	All electrical systems required to power and control the ride will be complete and operable			■
	*6.9	At the purchaser's expense, filtered and treated water will be available in advance of testing			■
		*If, as a result of delays caused by the Purchaser or others, and the Installation Advisor is unable to certify the equipment during the specified duration, then all costs for return trips are reimbursable by the Purchaser.			
	<b>7</b>	<b>Post-Commissioning</b>			
	7.1	Final Operations and maintenance manual		■	

### Appendix 3 Indicative Preliminary Design included

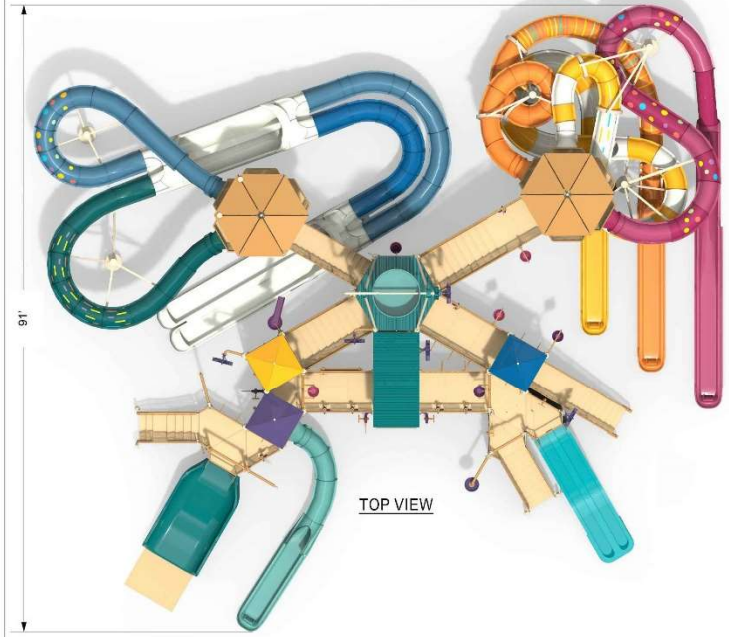
Indicative Preliminary Design is a compilation of drawings, specifications and notes intended to provide the Owner with an indication of feasibility of design to the proposed project scope, including a general arrangement of WhiteWater's products (within provided site boundary) and showing an indication of the functional requirements, tower heights, length of rides, slides or interactive structures at a very preliminary and conceptual level.







FRONT VIEW



TOP VIEW



ISOMETRIC VIEW

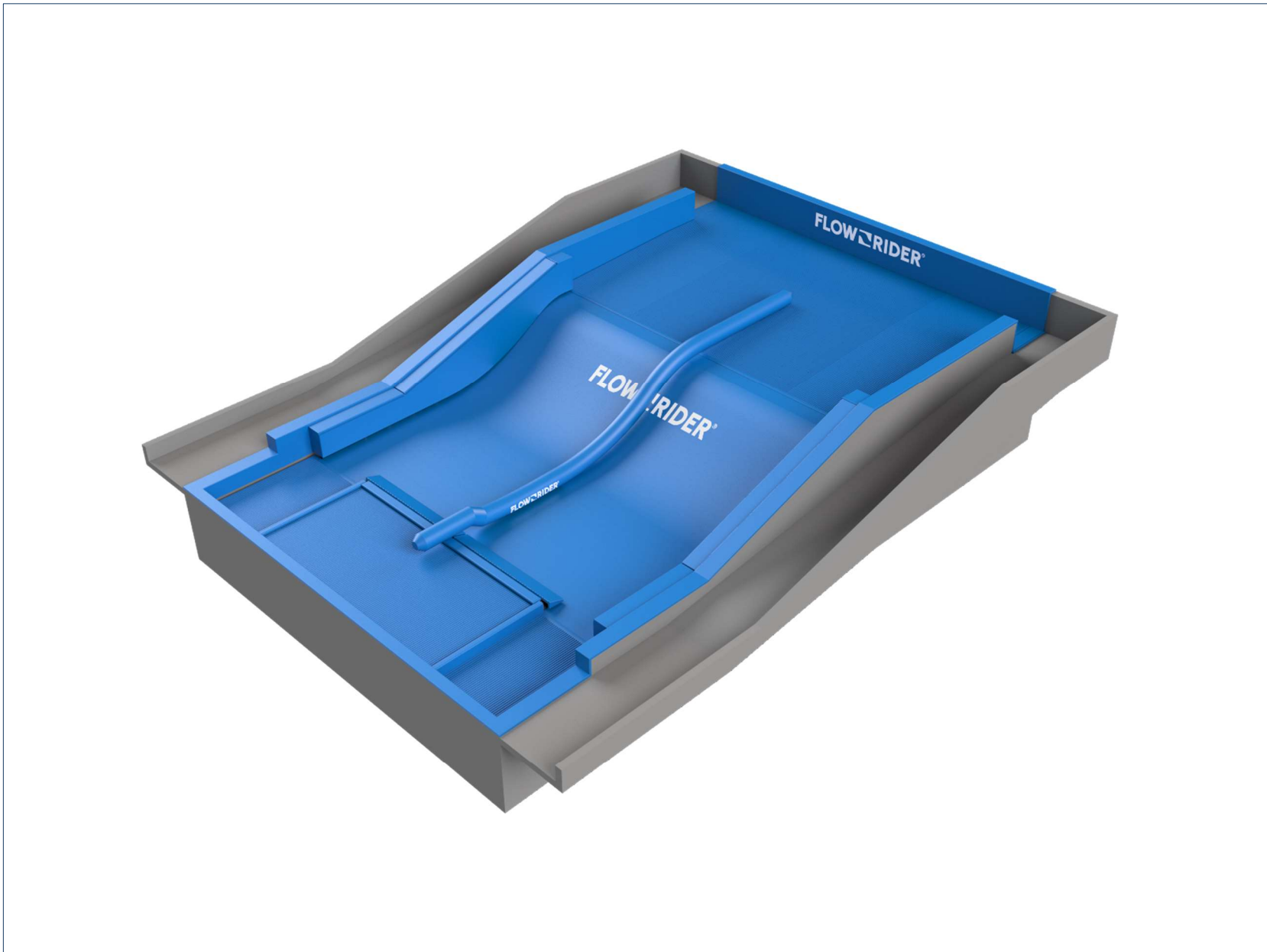
48542 | Bellevue Indoor Waterpark / IN / United States | SK Drawing  
DESIGNED BY : H.B. | DRAWN BY : K.L. | CHECKED BY : H.B. / R.M.  
SK : 48542-6 | Model : RF5C CUSTOM | Slide Model : 40030V41 | Page 2 of 3 | AUG 23,2024



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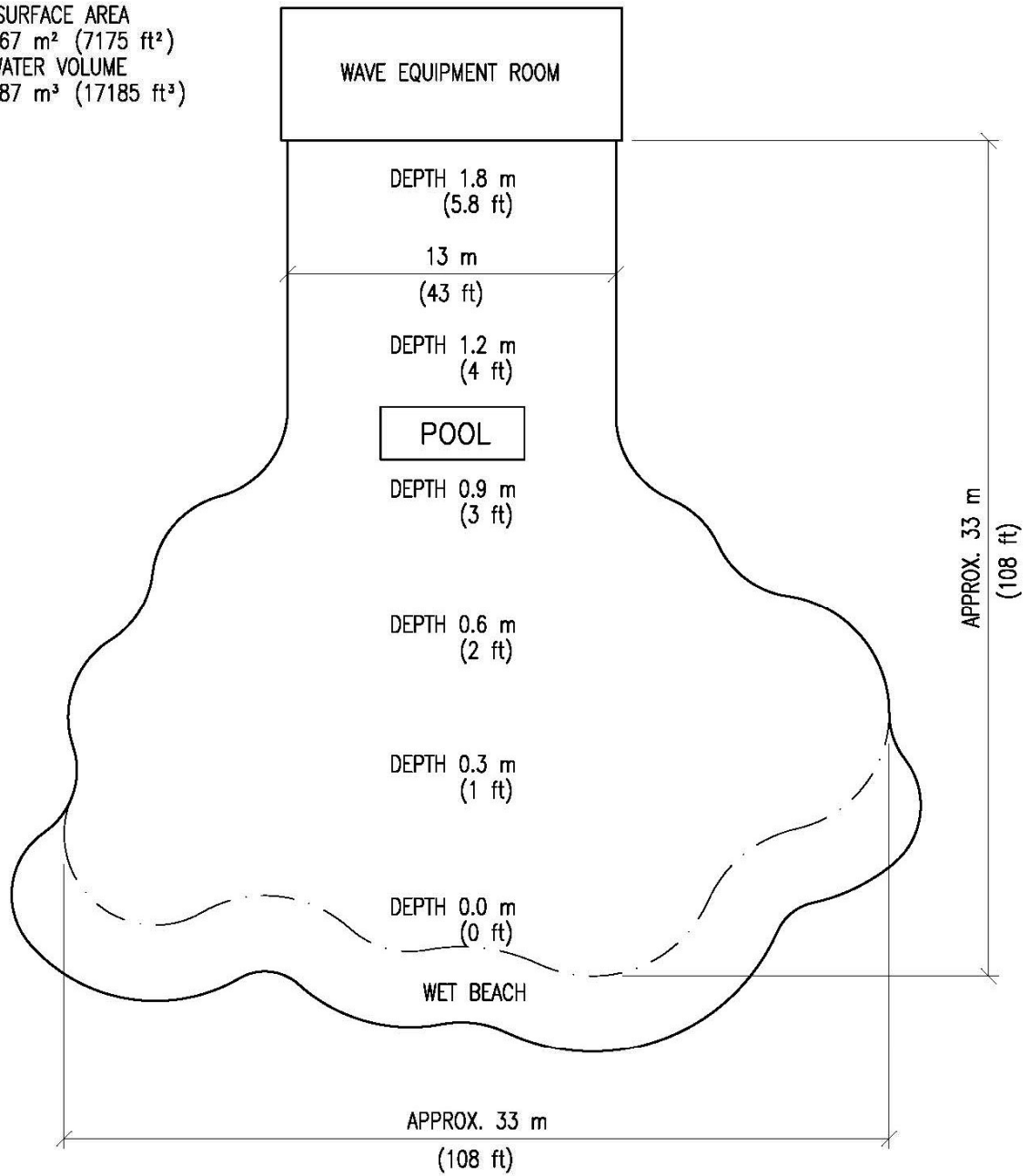






POOL DATA

WATER SURFACE AREA  
667 m<sup>2</sup> (7175 ft<sup>2</sup>)  
TOTAL WATER VOLUME  
487 m<sup>3</sup> (17185 ft<sup>3</sup>)



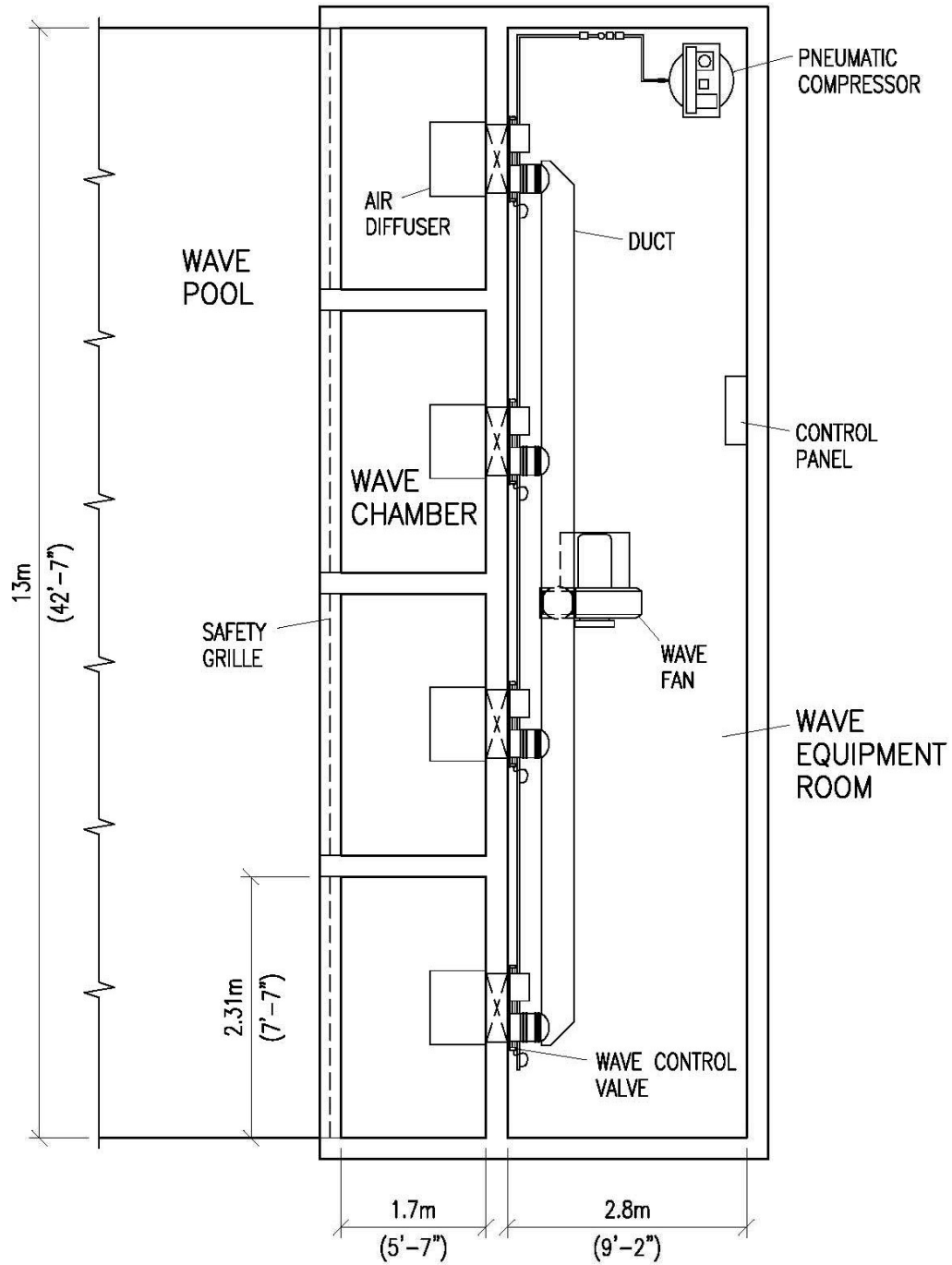
**POOL PLAN**

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Model: 13m(43ft) Wave Pool Drafter: KCH  
Date: - Scale: N.T.S.  
Designer: AT



**WHITEWATER.**  
EST. 1980



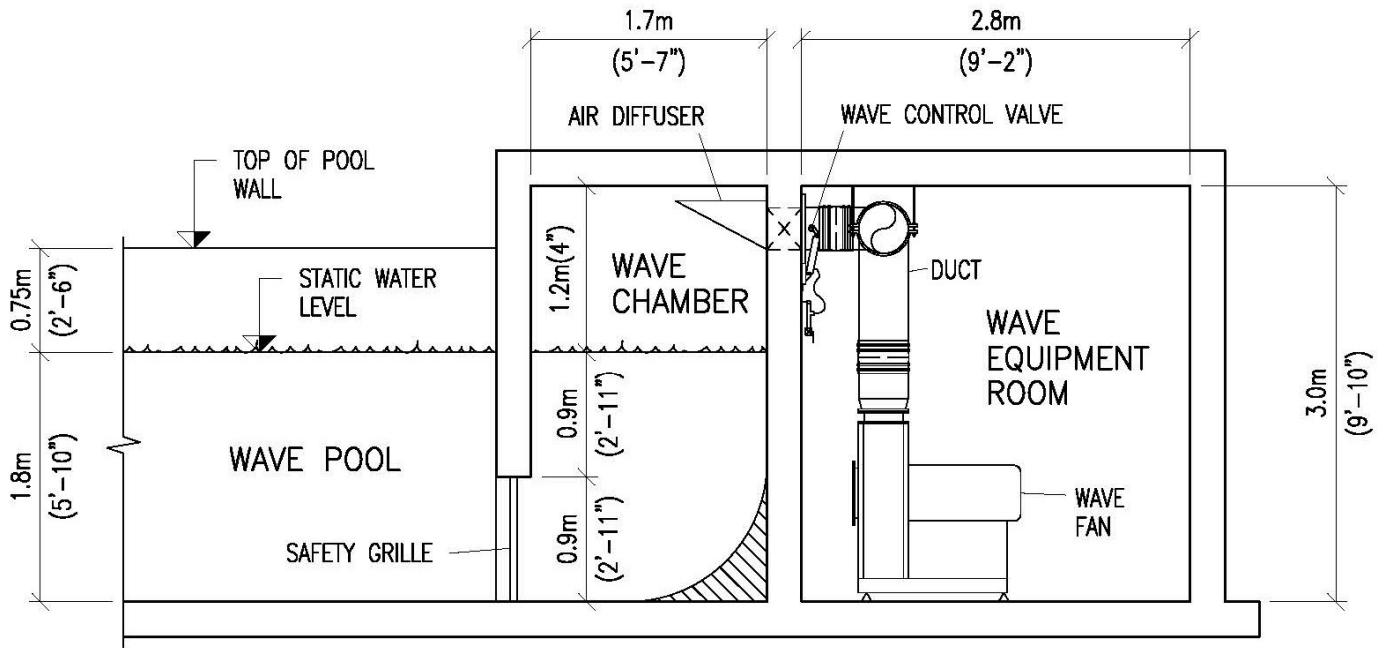
### EQUIPMENT ROOM PLAN

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Model: 13m(43ft) Wave Pool Drafter: KCH  
 Date: - Scale: -  
 Designer: AT



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EST. 1980



## EQUIPMENT ROOM SECTION




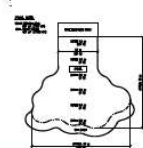

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Model: 13m(43ft) Wave Pool Drafter: KCH  
 Date: - Scale: -  
 Designer: AT



**WHITEWATER.**  
EST. 1980

## Appendix 5 Purchase Price Breakdown

	ALL-IN-ONE SLIDE COMPLEX	AQUAPLAY RF5C CUSTOM (Includes Polycarbonate Guardrails)	TOYS AROUND THE AP (14)	13M WAVE POOL	FLOWRIDER DOUBLE
					
<b>DRAWING</b>	SK-20	SK-6	SK-6	13M WAVE POOL	FLOWRIDER DOUBLE
EQUIPMENT SUPPLY AND INSTALLATION ADVISORY (Includes FRP & Galvanized Slide Supports)	\$3,168,309	\$1,657,978	\$153,662	\$133,294	\$830,889
EQUIPMENT SUPPLY TOWER (Including Trex Stairs, Concrete with FRP Pans Platforms) (Concrete by others)	\$277,031				
<b>COMPLEX TOTAL (USD)</b>	<b>\$3,445,340</b>	<b>\$1,657,978</b>	<b>\$153,662</b>	<b>\$133,294</b>	<b>\$830,889</b>
<b>SUB TOTAL</b>	<b>\$6,221,163</b>				
Installation Services	\$1,196,892	\$445,267	\$27,130		
Painted Tower and Slide Supports	\$174,759				
AquaLucent Fiberglass Effects	\$95,896 (31 Sections)	\$50,175 (17 Sections)			
Standard Dispatch System for All Slides	\$29,302				
Weight Scales (x2)	\$22,708				
Life Floor Under AP Unit (4690 ft <sup>2</sup> ) (Excl. Life Floor on AP)		\$155,255			
<b>COMPLEX TOTAL (USD)</b>	<b>\$5,063,122</b>	<b>\$2,355,255</b>	<b>\$185,987</b>	<b>\$133,294</b>	<b>\$830,889</b>
<b>GRAND TOTAL</b>	<b>\$8,418,547</b>				
PERFORMANCE BOND & ADVANCED PAYMENT BONDS				\$188,707	
<b>GRAND TOTAL INCLUDING BONDS (USD)</b>	<b>\$8,607,254</b>				

## 4 – Pump Manufacturer Warranty

### **OEM — Whitewater West Industries**

#### **Flygt Model PL-7061.705s / 140-hp Electric Submersible Propeller Pump**

#### **Warranty Level: 100%**

**Warranty Duration: 24-Months** from commissioning or 30 months warranty on Equipment after shipment to Whitewater West/FlowRider Inc.

For the period defined, Xylem, Inc.—Flygt offers a commercial warranty to the original End User against defects in workmanship and material.

#### **COVERAGE:**

Xylem, Inc. will pay the cost of parts and labor during the warranty period, provided that the product, with cable attached, is returned prepaid to a Xylem, Inc. – Flygt Products Authorized Service Facility for repairs. 100% coverage for parts and labor will be provided for the period of 24-months. The warranty period shall begin from date of start-up of the installed Flygt PL-7061.705s/140-hp propeller pump product installed in the *FlowRider* surfing attraction.

A Start-up for a permanently installed pump must occur within six (6) months from the date of shipment from Xylem, Inc. — Flygt manufacturing facility or warranty will automatically default to ship date as start of warranty. When using a date other than ship date as the beginning of the warranty period then a copy of the Start-up Report and a copy of the document outlining the acceptance date will be required to support a Warranty Claim.

Xylem, Inc. — Flygt's sole obligation under this Warranty shall be to replace, repair or grant credit for product upon Xylem, Inc. — Flygt's exclusive determination that the product does not conform to the above warranty. In the event that the product is replaced, warranty on the replacement product will be equal to the balance remaining on the original product or ninety (90) days, whichever is greater.

#### **MISUSE:**

This Warranty shall not apply to any product or part of product which (i) has been subjected to misuse, misapplication, accident, alteration, neglect, or physical damage (ii) has been installed, operated, used or maintained in a manner and/or in an application contrary to Xylem, Inc., Flygt's printed instructions for installation, operation and maintenance, including without limitation operation without being connected to monitoring devices supplied with specific products for protection; or (iii) has been damaged due to a defective power supply, improper electrical protection, faulty installation or repair, ordinary wear and tear, corrosion or chemical attack, an act of God, an act of war or by an act of terrorism; or (iv) has been damaged resulting from the use of accessory equipment not sold by Xylem, Inc., Flygt or not approved by Xylem, Inc., Flygt in connection with the product.

**DISCLAIMERS:**

(i) Xylem, Inc., Flygt's warranties are null and void when the product is exported outside of the United States of America without the knowledge and written consent of Xylem, Inc., Flygt ; (ii) Xylem, Inc., Flygt makes no independent warranty or representation with respect to parts or products manufactured by others and provided by Xylem, Inc., Flygt (however, Xylem, Inc., Flygt will extend to the Purchaser any warranty received from Xylem, Inc., Flygt's supplier of such parts or products).

**LIMITATIONS:**

XYLEM, INC. — FLYGT NEITHER ASSUMES, NOR AUTHORIZES ANY PERSON OR COMPANY TO ASSUME FOR XYLEM, INC., ANY OTHER OBLIGATION IN CONNECTION WITH THE SALE OF ITS EQUIPMENT. ANY ENLARGEMENT OR MODIFICATION OF THIS WARRANTY BY A DISTRIBUTOR, OR OTHER SELLING AGENT SHALL BECOME THE EXCLUSIVE RESPONSIBILITY OF SUCH ENTITY. THE FOREGOING WARRANTY IS EXCLUSIVE AND IN LIEU OF ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES, GUARANTEES, CONDITIONS OR TERMS OF WHATEVER NATURE RELATING TO THE PRODUCT(S), INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WHICH ARE HEREBY EXPRESSLY DISCLAIMED AND EXCLUDED. PURCHASER'S EXCLUSIVE REMEDY AND XYLEM, INC. – FLYGT'S AGGREGATE LIABILITY FOR BREACH OF ANY OF THE FOREGOING WARRANTIES IS LIMITED TO REPAIRING OR REPLACING THE PRODUCT AND SHALL IN ALL CASES BE LIMITED TO THE AMOUNT PAID BY THE PURCHASER HEREUNDER. IN NO EVENT IS XYLEM, INC. – FLYGT LIABLE FOR ANY OTHER FORM OF DAMAGES, WHETHER DIRECT, INDIRECT, LIQUIDATED, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY OR SPECIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF USE, LOSS OF PROFIT, LOSS OF ANTICIPATED SAVINGS OR REVENUE, LOSS OF INCOME, LOSS OF BUSINESS, LOSS OF PRODUCTION, LOSS OF OPPORTUNITY OR LOSS OF REPUTATION. XYLEM, INC. — FLYGT WILL NOT BE HELD RESPONSIBLE FOR TRAVEL EXPENSES, RENTED EQUIPMENT, OUTSIDE CONTRACTOR'S FEES, EXPENSES PERFORMED BY AN UNAUTHORIZED REPAIR SHOP, UNAUTHORIZED ALTERATIONS, OR FOR PUMPS USED WITHOUT XYLEM, INC., — FLYGT SUPPLIED CABLE OR CONTROLS UNLESS IT CAN BE PROVEN SUCH ANCILLARY EQUIPMENT IS SUITABLE FOR THE PURPOSE AND EQUAL TO XYLEM, INC. — FLYGT CABLES OR CONTROLS THAT WOULD ORIGINALLY BE SUPPLIED WITH THE TYPE OF EQUIPMENT IN USE. REIMBURSEMENT COSTS FOR CRANES AND/OR ANY SPECIAL EQUIPMENT USED IN CONJUNCTION FOR THE REMOVAL OR REINSTALLATION OF ANY XYLEM, INC. — FLYGT EQUIPMENT IS NOT COVERED UNDER THIS WARRANTY.

**STORAGE:**

Should a delay occur between ship date and the date of start-up, maintenance as outlined in Xylem, Inc., — Flygt's *Care & Maintenance Manual* must be performed by the "CONTRACTOR" and/or "OWNER" during any such period of storage. Documentation providing proof and outlining what maintenance was performed must be provided to Xylem, Inc. — Flygt or its representative within thirty (30) days of said maintenance, or the Xylem, Inc. — Flygt warranty could be considered void.

## 5 – Electrical Controls Warranty

The Electrical Controls Supplier shall warrant the Equipment from the dates indicated below which covers Shipment, Commissioning or Certification from any defects in materials; workmanship or design provided the Equipment has been installed according to engineering drawings and used in accordance with the Manual. Act of God or Force Majeure (as defined in the General Terms & Conditions section above) and extreme weather events are specifically excluded from this warranty including damages by airborne or waterborne debris. This warranty shall be limited to repair or replacement, at the option of Supplier. In no case shall Supplier be liable for any consequential damages. This warranty does not cover the cost(s) to return the warranted item(s)/unit(s).

The earlier of:

Two (2) Year Warranty on Equipment after Commissioning or Certification from any defects in materials. As a requirement from the Electrical Controls manufacturer, the Electrical Controls must be registered at the time of Commissioning by the Purchaser and/or final user.

Or

Two and a half (2.5) Year Warranty on Equipment after Shipment to WhiteWater West/FlowRider, Inc.

## Appendix 8 Insurance

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### Commercial General Liability policy written on ISO Commercial General Liability Form CG 0001 0413 issued by Liberty Mutual Insurance Company (A rating A.M. Best Co and Standard & Poor's)

Policy aggregate limits.

- General Aggregate ..... \$2,000,000
- Products and Completed Operations Aggregate ..... \$2,000,000
- Personal and Advertising Injury ..... \$2,000,000
- Damage to Rented Premises ..... \$2,000,000
- Each Occurrence ..... \$2,000,000
- Medical Expense Limit – Each Person..... \$10,000
- Medical Expense Limit – Each Accident ..... \$25,000
- Non-Owned Automobile Liability..... \$2,000,000
  
- This policy provides coverage for loss or damage arising out of the use or operation of any automobile that is not owned or that is hired, resulting from bodily injury or property damage
- Professional services that are an integral part of other work performed by or on behalf of the Insured or are incidental to the manufacture, installation, sale, handling or distribution of the Insured's products.
- All entities where required by written contract with the Named Insured and to whom a certificate of insurance has been issued to are added as Additional Insured but only with respect to liability arising out of the operations of the Named Insured. Architect or Project Engineers are not indemnified parties and are not added as Additional Insured.
- Commercial general Liability is Primary and Non-Contributory and includes Contractual Liability and a Waiver of Subrogation where required by written contract.

### Workers' compensation and Employers' Liability policy issued by Liberty Mutual Insurance Group

- Workers' Compensation ..... Statutory limit
- Employers' Liability – Bodily Injury by Accident, Each Accident ..... \$1,000,000
- Employers' Liability – Bodily Injury by Disease, Each Employee ..... \$1,000,000
- Employers' Liability – Bodily Injury by Disease, Policy Limit..... \$1,000,000
- US Longshoreman and Harbor Workers' Compensation Act ..... \$1,000,000
- Stop gap employers' liability in monopolistic states (ND, OH, WA and WY)
- Waiver of Subrogation where required by written contract with the Insured

### Umbrella Additional aggregate limits to Commercial General Liability and Employer's Liability policies

- Aggregate..... \$8,000,000
- Each Occurrence ..... \$8,000,000

Should one of the above-noted policies be cancelled before their expiry date, the insurer will endeavor to provide 30 days written notice to the certificate holder.



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/30/2023

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> BFL CANADA Risk and Insurance Services Inc. Suite 200 - 1177 West Hastings Street Vancouver, BC V6E 2K3 This certificate has been issued by BFL CANADA Risk and Insurance Services Inc. on behalf of Liberty Mutual Insurance Company with their permission	<b>CONTACT NAME:</b> George Lagaditis <b>PHONE (A/C No. Ext):</b> 604-678-5447 <b>E-MAIL ADDRESS:</b> glagaditis@bflcanada.ca	<b>FAX (A/C No.):</b> 604-683-9316
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> Whitewater West Industries Ltd. a/o Whitewater West Industries Inc. a/o FlowRider Inc. 180-6651 Fraserwood Place Richmond, BC V6W 1J3	<b>INSURER A:</b> Liberty Mutual Insurance Company	
	<b>INSURER B:</b> Arch Insurance Canada Ltd.	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES** **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBM WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GENL AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJCT <input type="checkbox"/> LOC OTHER:			TB1-B71-170574-013 / 1000122366-17	11/30/2023	11/30/2024	EACH OCCURRENCE \$2,000,000 USD PREMISES (Per occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$2,000,000 USD PRODUCTS - COMP/DP AGG \$2,000,000 USD Non-Owned Automobile Liability \$2,000,000 USD
	<input type="checkbox"/> <b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Per accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	<input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			1000047349-17	11/30/2023	11/30/2024	EACH OCCURRENCE \$5,000,000 USD AGGREGATE \$5,000,000 USD
	<input type="checkbox"/> <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/EMPLOYEE EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				PER STATUTE OFFER EL EACH ACCIDENT \$ EL DISEASE - EAEMPLOYEE \$ EL DISEASE - POLICY LIMIT \$
B	Excess Liability (Per Occurrence)			LFP 0060828-06	11/30/2023	11/30/2024	\$3,000,000 USD Each Occurrence and in the Aggregate in Excess of the underlying Umbrella Liability Limits

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b> To Whom It May Concern	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. BFL CANADA Insurance Services Inc. Per: <i>G. Lagaditis</i>
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COMMERCIAL GENERAL LIABILITY  
CG 20 01 04 13

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**PRIMARY AND NONCONTRIBUTORY –  
OTHER INSURANCE CONDITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

**Primary And Noncontributory Insurance**

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

POLICY NUMBER: TB1-B71-170574-010

COMMERCIAL GENERAL LIABILITY  
CG 20 10 04 13

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
  2. Available under the applicable Limits of Insurance shown in the Declarations;
- whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations,

**SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s)</b>	<b>Location(s) Of Covered Operations</b>
<b>All entities where required by contract with the Insured and to whom a certificate of insurance has been issued.</b>	<b>As required by written contract or written agreement</b>
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **AMENDMENT OF INSURED CONTRACT DEFINITION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART  
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The definition of "insured contract" in the Definitions section is replaced by the following:

"Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;
- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization, provided the "bodily injury" or "property damage" is caused, in whole or in part, by you or by those acting on your behalf. However, such part of a contract or agreement shall only be considered an "insured contract" to the extent your assumption of the tort liability is permitted by law. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, road-beds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
  - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
  - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.



### Endorsement No. 36

#### WAIVER OF TRANSFER OF THE RIGHTS OF RECOVERY

Effective Date: 11/30/2020

Policy Number: 1000122366-14

Issued to: Whitewater West Industries Ltd., Whitewater Composites Ltd., 398314 BC Ltd., Whitewater International LLC, FlowRider Surf Ltd., Chutter Recreations Ltd., Vantage Smart Parks Ltd., Chutter Attraction (Shanghai) Co. Ltd.

Issued by: Liberty Mutual Insurance Company

Broker: BFL Canada Insurance Services Inc. – Vancouver

1. Notwithstanding Condition 15. Subrogation of SECTION VIII – CONDITIONS, the Insurer waives any right of recovery that it may have against any indemnitee of the “Insured” under the terms of an “insured contract” for payments the Insurer makes for injury or damage arising out of the “Insured’s” operations or the “Insured’s work”.
2. This Endorsement only applies to a person or organization with whom/which the “Insured” has executed an “insured contract” prior to the happening of an “occurrence”.

Premium: Not Applicable

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

*Paulette Sharma*

Authorized Representative of  
Liberty Mutual Insurance Company

December 10, 2020

Date

Update: 01.12



Commercial General Liability Policy

Liberty Mutual Insurance Company



**Endorsement No. 23**  
**NON-OWNED AUTOMOBILE**

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Effective Date:	11/30/2020
Policy Number:	1000122366-14
Issued to:	Whitewater West Industries Ltd., Whitewater Composites Ltd., 398314 BC Ltd., Whitewater International LLC, FlowRider Surf Ltd., Chutter Recreations Ltd., Vantage Smart Parks Ltd., Chutter Attraction (Shanghai) Co. Ltd.
Issued by:	Liberty Mutual Insurance Company
Broker:	BFL Canada Insurance Services Inc. – Vancouver

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This policy provides coverage for loss or damage arising out of the use or operation of any “automobile” not owned in whole or in part by or licensed in the name of the “Insured”, and resulting from “bodily injury” or “property damage” provided always that the Insurer will not be liable:

- (a) for any liability which arises out of the use or operation of any “automobile” while personally driven by the “Insured” if the “Insured” is an individual, or
- (b) \*for liability imposed upon or assumed by the “Insured” under any Worker’s Compensation Statute or for assessment by any Worker’s Compensation Board, except, claims arising out of the liability imposed upon the “Insured” at common law as extended by statute for injuries to employees of the “Insured”. This exclusion shall not apply to claims arising out of any liability assumed by the “Insured” under contract;  
 \*not applicable in the province of Ontario.
- (c) for loss or damage to property carried in or upon an “automobile” personally driven by any “Insured” or to any property owned or rented by, or in the care, custody or control of any such person; or
- (d) for any amount in excess of the Limit of Liability stated in the Declarations and expenditures provided for in the Additional Agreements of this endorsement; subject always to the provisions of the section of the Insurance Act (Automobile Insurance part) relating to the Nuclear Energy Hazard.

**ADDITIONAL AGREEMENTS OF THE INSURER**

It is agreed that the Insurer will:

- (i) be liable up to minimum limit(s) prescribed for that jurisdiction in which the accident occurred if that limit(s) is higher than the limit stated in the Declarations; and
- (ii) not set up any defense to a claim that might not be set up if the policy were a motor vehicle liability policy issued in any jurisdiction in which the accident occurred.

**REIMBURSEMENT OF THE INSURER**

The “Insured” will reimburse the Insurer, upon demand, in the amount which the Insurer has paid by reason of the provision of any statute relating to automobile insurance and which the Insurer would not otherwise be liable to pay under this Policy.



Commercial General Liability Policy  
 Liberty Mutual Insurance Company



GENERAL PROVISIONS AND DEFINITIONS

1. ADDITIONAL INSURED

The Insurer agrees to indemnify in the same manner and to the same extent as if named herein as the "Insured", every partner, director, officer or employee who, with the consent of the "Insured", personally drives

- (a) in the business of the "Insured" any "automobile" not owned in whole or in part by or licensed in the name of the "Insured", such additional person or any person in the household(s) of which the Insured or such additional insured person is a member; or
(b) any "automobile" hired or leased in the name of the "Insured" or such additional insured for use in the business of the "Insured" and for incidental personal use except an "automobile" owned, in whole or, in part by or licensed in the name of such additional insured person.

2. HIRED AUTOMOBILES

The term "hired automobiles" as used in this endorsement, means "automobiles" hired or leased from others with or without drivers for periods not exceeding 30 days, used under the control of the "Insured" in the business of the "Insured" and for incidental personal use but shall not include any "automobile" owned in whole or in part by or licensed in the name of the "Insured" or any partner, director, officer, employee or shareholder of the "Insured".

3. TWO OR MORE AUTOMOBILES

When two or more "automobiles" are insured hereunder, coverage under this policy will apply separately to each "automobile", but a motor vehicle and trailer or trailers attached thereto will be deemed to be one "automobile" as respects the Limits of Liability.

STATUTORY CONDITIONS

The Statutory Conditions of the Non Owned Automobile Policy as set out in the Insurance Act of the Province in which this Policy is issued will be deemed to form part of this Policy except the Termination Condition of this Policy will apply in place of the termination conditions therein.

Premium: Not Applicable

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

Handwritten signature of Padma Sharma

Authorized Representative of Liberty Mutual Insurance Company

December 10, 2020

Date

Update: 01.12



**Endorsement No. 25**  
**POLLUTION EXCLUSION**  
**LIMITED SUDDEN AND ACCIDENTAL COVERAGE WITH TIME ELEMENT**

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Effective Date:	11/30/2020
Policy Number:	1000122366-14
Issued to:	Whitewater West Industries Ltd., Whitewater Composites Ltd., 398314 BC Ltd., Whitewater International LLC, FlowRider Surf Ltd., Chutter Recreations Ltd., Vantage Smart Parks Ltd., Chutter Attraction (Shanghai) Co. Ltd.
Issued by:	Liberty Mutual Insurance Company
Broker:	BFL Canada Insurance Services Inc. – Vancouver

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1. Exclusion 16. **Pollution Liability of SECTION VI – EXCLUSIONS** is deleted in its entirety.
2. This insurance does not apply to:
  - (a) any liability based on, attributable to, arising out of or in any way related, either directly or indirectly, to the actual, alleged, potential or threatened spill, discharge, emission, dispersal, seepage, leakage, migration, release, or escape of “pollutants”:
    - (i) at or from any premises, site or location which is or was at any time owned or occupied by, or rented or loaned to, any “Insured”;
    - (ii) at or from any premises, site or location which is or was at any time used by or for any “Insured” or others for the handling, storage, disposal, processing or treatment of “waste”;
    - (iii) which are or were at any time transported, handled, stored, treated, disposed of or processed as “waste” by or for any “Insured” or any person or organization for whom any “Insured” may be legally responsible; or
    - (iv) at or from any premises, site or location on which any “Insured”, contractors or subcontractors working directly or indirectly on any “Insured’s” behalf are performing operations:
      - a. if the “pollutants” are brought on or to the premises, site or location in connection with such operations by such “Insured”, contractor or subcontractor; or
      - b. if the operations are to test for, monitor, clean up, remove, contain, treat, detoxify, decontaminate, stabilize, remediate or neutralize or in any way respond to or assess the effect of “pollutants”; and
  - (b) any loss, cost or expense arising out of any request, demand or order that any “Insured” or others test for, monitor, clean up, remove, contain, treat, detoxify, decontaminate, stabilize, remediate or neutralize or in any way respond to or assess the effect of “pollutants”, unless such loss, cost or expense is consequent upon “bodily injury” or “property damage” otherwise covered by this Policy and not excluded by paragraph 2.(a) of this Endorsement.
3. Sub-paragraphs 2.(a)(i) and 2.(a)(iv)a. above do not apply to “bodily injury” or “property damage” caused by:



- (a) heat, smoke or fumes from a fire which becomes uncontrollable or breaks out from where it was intended to be; or
  - (b) an unexpected or unintentional spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants", provided that such discharge, emission, dispersal, seepage, leakage, migration, release or escape of "pollutants":
    - (i) results in the injurious presence of "pollutants" in or upon land, the atmosphere, drainage or sewage system, watercourse or body of water;
    - (ii) is detected within 120 hours after the commencement of the spill, discharge, emission, dispersal, seepage, leakage, migration, release or escape;
    - (iii) is reported to the Insurer within 120 hours of being detected; and
    - (iv) does not occur in a quantity or with a quality that is routine or usual to the business of the "Insured".
4. As used in this Endorsement:
- (a) "pollutants" means any solid, liquid, gaseous or thermal irritant or contaminant, including smoke, odour, vapour, soot, fumes, acids, alkalis, chemicals and "waste"; and
  - (b) "waste" includes materials to be recycled, reconditioned or reclaimed.
5. (a) The Limit of Liability stated in Item 4(a) of the Declarations is the most the Insurer will pay for damages covered by this Endorsement arising out of any one "occurrence";
- (b) The Policy Period Aggregate Limit stated below is the most the Insurer will pay for damages covered by this Endorsement during the "policy period"; and
- (c) The Deductible stated below applies to all damages and "loss adjustment expense" covered by this Endorsement arising out of any one "occurrence".

Policy Period Aggregate Limit: \$2,000,000  
 Deductible: \$5,000

Premium: Not Applicable

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

*Padmaja Sharma*

Authorized Representative of  
Liberty Mutual Insurance Company

December 10, 2020

Date

Update: 01.12

2 2

Commercial General Liability Policy  
Liberty Mutual Insurance Company



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/30/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b>  Liberty Mutual Insurance 175 Berkeley Street Boston, MA 02116	<b>CONTACT NAME:</b> Hillary Parker
	<b>PHONE (AG, No, Ext):</b> (403) 663-2807 <b>FAX (AG, No):</b>
	<b>E-MAIL ADDRESS:</b> hillary_parker@libertymutual.com
	<b>INSURER(S) AFFORDING COVERAGE</b> <b>NAIC #</b>
	<b>INSURER A:</b> Employers Insurance Company of Wausau
	<b>INSURER B:</b>
	<b>INSURER C:</b>
	<b>INSURER D:</b>
	<b>INSURER E:</b>
	<b>INSURER F:</b>

**COVERAGES**      **CERTIFICATE NUMBER:**      **REVISION NUMBER:**

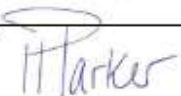
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJEC <input type="checkbox"/> LOC OTHER:						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADJ INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) (If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WCC-871-170574-033	11/30/2023	11/30/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER EL EACH ACCIDENT \$ 1,000,000 EL DISEASE - EA EMPLOYEE \$ 1,000,000 EL DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Workers Compensation includes coverage for all states of the USA, excluding Monopolistic states.

Employers Liability includes coverage for all states of the USA (Stop Gap Employers Liability for Monopolistic states).

<b>CERTIFICATE HOLDER</b>  To Whom It May Concern	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE 
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ACORD 25 (2014/01)

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**WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT**

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

Not applicable in NJ.

The waiver does not apply to any right to recover payments which the Minnesota Workers Compensation Reinsurance Association may have or pursue under M.S. 79.36.

Schedule

Where required by contract or written agreement prior to loss and allowed by law.

In the states of AR, AZ, CO, IN, NY and RI, the premium charge is 2% of the total manual premium, subject to a minimum premium of \$250 per policy.

In the states of CT and FL, the premium charge is 1% of the total manual premium, subject to a minimum premium of \$250 per policy.

In the states of MN and NV, the premium charge is 2% of the total manual premium, subject to a minimum premium of \$100 per policy.

In the state of WI, the premium charge is 2% of the total manual premium, subject to a minimum premium of \$50 per policy.

Issued by Employers Insurance Company of Wausau 15555

For attachment to Policy No. WCC-B71-170574-029      Effective Date      Premium \$

Issued to Whitewater West Industries Inc.

WC 00 03 13  
Ed. 04/01/1984

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Page 1 of 1



**SCHEDULE OF UNDERLYING INSURANCE ENDORSEMENT**

- **Coverage: Commercial General Liability**

**Insurer:** Liberty Mutual Insurance Company  
**Policy Number:** 1000122366-17  
**Policy Period:** 11/30/2023 to 11/30/2024

**Limits:**  
 Each Occurrence: USD \$2,000,000  
 General Aggregate - Other than Products/Completed Ops: USD \$5,000,000  
 Products/Completed Operations Aggregate: USD \$2,000,000  
 Personal Injury & Advertising Injury: USD \$2,000,000  
 Employee Benefits: USD \$2,000,000  
 Tenants Legal Liability: USD \$2,000,000  
 Non-Owned Automobile Liability: USD \$2,000,000

- **Coverage: Foreign Employer's Liability (United States of America)**

**Insurer:** Employers Insurance Company of Wausau  
**Policy Number:** WCC-B71-170574-032  
**Policy Period:** 11/30/2023 to 11/30/2024

**Limits:**  
 Each Accident: USD \$1,000,000  
 Aggregate - Disease: USD \$1,000,000  
 Each Employee - Disease: USD \$1,000,000

**Description:** US-EL  
 Liberty Mutual Insurance.

- **Coverage: Foreign Employer's Liability**

**Insurer:** Chubb Insurance Company of Canada  
**Policy Number:** ADV6453023  
**Policy Period:** 11/30/2023 to 11/30/2024

**Limits:**  
 Bodily Injury by Accident:  
 CAD \$1,000,000 Each Accident  
 Bodily Injury by Disease:

CAD \$1,000,000 Each Employee

Bodily Injury by Disease:

CAD \$1,000,000 Policy Limit

2	2
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CA ALL 688 04 13

Liberty Mutual Insurance Company



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/30/2023

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

<b>PRODUCER</b> BFL CANADA Risk and Insurance Services Inc. Suite 200 - 1177 West Hastings Street Vancouver, BC V6E 2K3 This certificate has been issued by BFL CANADA Risk and Insurance Services Inc. on behalf of Liberty Mutual Insurance Company with their permission	<b>CONTACT NAME:</b> George Lagadtis <b>PHONE (A/C No, Ext):</b> 604-678-5447 <b>FAX (A/C No):</b> 604-683-9316 <b>E-MAIL ADDRESS:</b> glagadtis@bflcanada.ca <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <th style="text-align: left;">INSURER(S) AFFORDING COVERAGE</th> <th style="text-align: left;">NAIC#</th> </tr> <tr> <td>INSURER A: Liberty Mutual Insurance Company</td> <td></td> </tr> <tr> <td>INSURER B:</td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> </tr> </table>	INSURER(S) AFFORDING COVERAGE	NAIC#	INSURER A: Liberty Mutual Insurance Company		INSURER B:		INSURER C:		INSURER D:		INSURER E:		INSURER F:	
INSURER(S) AFFORDING COVERAGE	NAIC#														
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INSURER B:															
INSURER C:															
INSURER D:															
INSURER E:															
INSURER F:															
<b>INSURED</b>  Whitewater West Industries Ltd. a/o Whitewater West Industries Inc. 180-6651 Fraserswood Place Richmond, BC V6W 1J3															

**COVERAGES      CERTIFICATE NUMBER:      REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	AUG INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>COMMERCIAL GENERAL LIABILITY</b> <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GENL AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PROJ.JECT <input type="checkbox"/> LOC <input type="checkbox"/> OTHER						EACH OCCURRENCE \$ MAXIMUM COVERED PREMISES (ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N		N/A			<input type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER EL EACH ACCIDENT \$ EL DISEASE - EA EMPLOYEE \$ EL DISEASE - POLICY LIMIT \$
A	Professional Liability (Claims Made)			PLVAAAW9SR011	11/30/2023	11/30/2024	Each Covered Incident \$2,000,000 USD Aggregate Limit \$2,000,000 USD

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

<b>CERTIFICATE HOLDER</b>  To Whom it May Concern	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  BFL CANADA Insurance Services Inc. Per: <i>G. Lagadtis</i>
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ACORD 25 (2014/01)

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**Meyers Carlisle Leapley Construction**  
 14558 Portal Circle  
 LaVista, Nebraska 68138  
 O (402) 339-2221 F  
[mclconstruction.com](http://mclconstruction.com)

01/28/2025

OpenAire USA Corp  
 3165 S Carrier Pkwy  
 Grand Prairie, Texas 75052

RE: Bellevue Bay Indoor Water Park  
 Contract No: 24139-02

Enclosed are the following documents regarding the above referenced project, please sign and return all pages:

<u>DocuSign Document</u>	<u>Sign and Return</u>	<u>Keep for your file</u>
One (1) copy of the Subcontract	<b>X</b>	
One (1) Subcontractor’s Training Agreement	<b>X</b>	
One (1) Tax Form 13 NE Resale or Exempt Sale Certificate		X
One (1) Tax Form 17 Purchasing Agent Appointment		X
One (1) Subcontractor’s Safety Responsibilities	<b>X</b>	

*Be advised that MCL Construction’s insurance requirements have changed and any and all project certificates will now be accepted. Please read the attached Insurance Requirements for Subcontractors and provide a new insurance certificate as needed. **Note: MCL Construction and Owner must be listed as primary, non-contributory additional insured for general liability, including ongoing and completed operations, auto liability and umbrella, if required by written contract. Waiver of Subrogation will apply to general liability, auto liability, umbrella and workers’ compensation for the additional insureds, if required by written contract.***


For Tax Exempt Projects, Tax Form 13-NE Resale or Exempt Sale Certificate and Tax Form 17-Purchasing Agent Appointment will be provide for your files.

All “Application(s) for Payment” must be received by the **20th** of the month. Applications need to be e-mailed to [ap@mclconstruction.com](mailto:ap@mclconstruction.com). **Any “Application(s) for Payment” received after the 20th of the month will be processed the following month and will cause delays in receiving payment. All pay applications associated with a contract must be submitted on AIA forms.**

Please e-mail a current COI (Certificate of Insurance) to [COI@mclconstruction.com](mailto:COI@mclconstruction.com).

Very truly yours,

MCL Construction

DocuSigned by:  
  
 D7045938E7884A7...

Project Executive

**SUBCONTRACT**  
(Standard Form)

THIS SUBCONTRACT, Made this day of **01/28/2025**, by and between MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC dba **MCL Construction of 14558 Portal Circle, LaVista, Nebraska 68138**, hereinafter called the Contractor, and of, **OpenAire USA Corp of 3165 S Carrier Pkwy, Grand Prairie, Texas 75052**, hereinafter called the Subcontractor. WHEREAS, The Contractor has heretofore entered in to a contract with **City of Bellevue of 1510 Wall Street, Bellevue, Nebraska 68005**, hereinafter called the Owner, to perform certain labor and furnish certain material for the erection and completion of **Bellevue Bay Indoor Water Park at Highway 75 & 34 Northwest Corner, Bellevue, Nebraska 68123**, hereinafter called the Project, pursuant to plans and specifications, including Addenda No. **N/A**, inclusive, prepared by **Holland Basham Architects**, Architect/Engineer which contract consisting of the invitation to bidders, the instructions to bidders, the proposal form, the contract form, the plans and specifications, the general conditions, the supplementary general conditions, the special conditions, the bond, if any, Alternate Nos. **N/A**, and any amendments to any of the foregoing, is hereinafter collectively referred to as the General Contract; and WHEREAS, all of the above documents have been or will be made available to the Supplier upon his request prior to and at any time subsequent to signing this Subcontract.

**THE SUBCONTRACTOR AGREES AS FOLLOWS:**

I. DESCRIPTION OF WORK--To furnish all labor, material, skill and instrumentalities, to secure all field measurements and layout necessary or required and to perform all work necessary or incidentally required for that part of the construction of the Project, as follows:

**SEE ATTACHMENT 1**

II. BEGINNING AND COMPLETION OF WORK – To begin the work herewith contracted for as soon as the Project upon which work is to be done is ready for such work or, in any event, within five (5) calendar days after being notified by the Contractor so to do, and to complete the several portions of the whole thereof within the time or times following, namely:

When as not to delay completion of the project.

III. Bond – To obtain and furnish to the Contractor and maintain in effect during the life of this Subcontract, if required so to do in the space provided below, a surety bond in form and with sureties acceptable to the Contractor and in an amount equal to the Subcontract price including any changes, conditioned upon and covering the faithful performance of and compliance with all the terms, provisions and conditions of this Subcontract, the premium therefor to be paid by the Subcontractor unless otherwise provided for.

Bond Required  Bond Not Required  (Check One)

**THE CONTRACTOR AGREES AS FOLLOWS:**

A. To employ and does hereby employ the Subcontractor to do the work described in paragraph I hereof, subject to the provisions of this Subcontract.

B. To pay the Subcontractor for the full, faithful and prompt performance of this Subcontract, subject to all the terms and conditions hereof the sum of Eleven Million Twenty-Four Thousand Eight Hundred Dollars And Zero Cents (\$11,024,800.00)

C. To include in his monthly estimate to the Owner the value of all work, labor and materials of the Subcontractor incorporated into the Project in accordance with the provisions of this Subcontract for which estimates have been furnished by the Subcontractor and approved by the Contractor.

D. To pay the Subcontractor, so long as the Subcontractor is not in default hereunder, 90% of the Subcontractor’s monthly estimate, provided that:

- (1) Subcontractor’s monthly estimate has been approved by the Architect/Engineer and/or the Owner; and
- (2) Subcontractor’s certificates of insurance and surety bond, if required, are received by the Contractor; and
- (3) The Owner has paid the Contractor for the value of the work, labor and materials incorporated into the Project.

Contractor shall make final payment to the Subcontractor within ten (10) days after receiving final payment for the Project, provided the terms of this Subcontract have been fully carried out.

**THE PARTIES HERETO FURTHER AGREE:**

1. If notification of any claims have been made against the Subcontractor or the Contractor arising out of labor or materials furnished the Project or otherwise on account of any actions or failures to act by the Subcontractor in the performance of the Subcontract, the Contract may, at his discretion, withhold such amounts otherwise due hereunder to cover said claims and any costs or expenses arising or to arise in connection therewith pending legal settlement thereof. This right of the Contractor shall not be exclusive of any other rights of the Contractor herein or by law provided.

2. In the event of the termination of the General Contract between the Contractor and the Owner, this Subcontract shall also be terminated, upon written notice of the Contractor to the Subcontractor, and the Contractor shall only be liable for labor and materials furnished and/or materials ordered for the Project, up to the date of receipt of the written notice of termination, but only to the extent the Subcontractor is liable.

3. That Appendix “A” shall be included and made a part of this Subcontract.

4. This subcontract constitutes the entire understanding of the parties and supersedes any prior proposals or agreements.

5. To comply with the additional provisions as listed on the reverse side of this Subcontract.

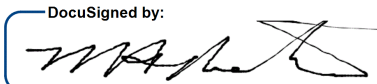
WHEREFORE, the Contractor and Subcontractor have signed this agreement to be effective on the above date.

**OPENAIRE USA CORP**

**MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC**

SUBCONTRACTOR:

CONTRACTOR:

By:  DocuSigned by:   
47EB7900AB4A476...

By:  DocuSigned by:   
D7045938E7684A7...

Title: President

Title: Project Executive

Date: 1/31/2025

Date: 1/31/2025

**ADDITIONAL PROVISIONS****THE SUBCONTRACTOR FURTHER AGREES AS FOLLOW:**

- a. **PAYMENT OF BILLS** – To pay for all materials, skill, labor and instrumentalities used in, or in connection with the performance of the Subcontract, when and as bills or claims therefore become due, and to save and protect the Project, the Owner and the Contractor from all claims and mechanics' liens on account thereof, and to furnish satisfactory evidence to the Contractor, when and if required, that he has complied with the above requirements. This provision shall not be construed as a waiver of the right of the Subcontractor to file and enforce a lien claim against the Owner in the event of the Contractor's failure to pay the Subcontractor.
- b. **PROCEED WITH WORK** – To proceed with the work in the sequence directed by the Contractor and to abide by the Contractor's decision as to the allotment of all storage and working space on the Project.
- c. **EXTENSIONS OF TIME** – That any requests for extension of time of performance of the Subcontract shall be subject to approval in writing by the Contractor. An extension of time will not be approved by the Contractor unless the delay which occasions the request is caused by circumstances recognized in the General Contract as a basis for extension of time. The Subcontractor agrees to make any claims for extras, for extensions of time, or for damages for delays or following that in which the claim is originated.
- d. **INSURANCE – SUBCONTRACTOR'S LIABILITY** – To obtain, maintain and pay for such workmen's compensation insurance as may be required by the General Contract or by law; general liability insurance and automobile liability insurance, protecting the Subcontractor and Contractor against claims for bodily injury or death or for damage to property occurring upon, in or about the Project, with limits in amounts at least equal to the greater of those specified in the General Contract or those specified in any Appendix hereto; to furnish to the Contractor, before starting work, satisfactory evidence that it has complied with this paragraph and Subcontractor shall be responsible to notify General Contractor of any cancellation, modification or reduction in coverage.
- e. **DAMAGE AND CLEAN-UP** – To accept responsibility for all damage and clean-up caused by the Subcontractor which shall be deemed to include, without limiting the generality of the foregoing, the following: cleaning up, on a daily basis, of rubbish and debris resulting for the Subcontractor's work and removal of same from the Project; cleaning of walls, floors, ceilings and other surfaces soiled by the Subcontractor; repairing walls, floors, ceilings and other surfaces damaged by the Subcontractor's work or required to be repaired as an immediate part of such work; and replacing all glass broken by the Subcontractor; provided, however, that the Subcontractor shall not be responsible for any damage of glass breakage existing at the time the Subcontractor begins work of which the Subcontractor notifies the Contractor in writing prior to commencing work hereunder.
- f. **PROTECTION OF WORK** - To adequately and properly protect the work to be performed by it hereunder, to be responsible for damages to persons and property occasioned by its failure so to do, and to be responsible for any defective or improper work or material caused by its failure so to do, it being understood that the standards of protection shall not be less than those specified in the General Contract or required by law.
- g. **ASSIGNING AND SUBLETTING** – Not to assign or sublet this Subcontract or any part thereof and not to assign any money due or to become due hereunder without first obtaining the written consent of the Contractor.
- h. **COMPLIANCE WITH GENERAL CONTRACT** – To be bound to the Contractor by the terms of the General Contract, to conform to and comply with the provisions of the General Contract, and to assume toward the Contractor all the obligations and responsibilities that the Contractor assumes in and by the General Contract toward the Owner, insofar as they are applicable to this Subcontract; to furnish such shop drawings and samples as may be required and to route all shop drawings and correspondence with the Architect or Owner through the Contractor's office.
- i. **SUBCONTRACTOR'S EMPLOYEES** – To employ no person on or in connection with this Subcontract whose employment may be objectionable to the Contractor, and to remove any such person from the job when requested to do so by the Contractor.
- j. **CONTRACT REVISIONS**- That the Contractor shall have the right to order in writing the omission or addition of any parts of the work or materials as omitted from or added to the General Contract by the Architect/Engineer and/or Owner, that fair deductions or increases shall be made in the Contract price for such omitted or added work or materials; and that no extra work shall be allowed or changes made by the Subcontractor, or paid for by the Contractor UNLESS AND UNTIL AUTHORIZED BY AN OFFICER OF THE CONTRACTOR IN WRITING BEFORE THE WORK AND/OR CHANGES ARE BEGUN.
- k. **GUARANTEE OF WORK** – To guarantee its work to the same extent that the Contractor is obligated to guarantee its work under the General Contract, but in any event to guarantee its work against all defects in materials or workmanship for a period of one year from the date of final acceptance of the Project by the Owner. Subcontractor shall repair or replace work deemed defective within the specified time period and include labor costs and all other costs incurred correcting the defective work.
- l. **DEFECTIVE WORK AND/OR NONPERFORMANCE** – That in case the Subcontractor shall fail to correct, replace and/or re-execute faulty or defective work done and/or materials furnished under this Subcontract, when and is required by the Contractor, or shall fail for any reason to complete or diligently proceed with this Subcontract within the time herein provided for, the Contractor upon three (3) business days written notice to the Subcontractor shall have the right to correct, replace and/or re-execute such faulty or defective work, or take over this Subcontract and complete same either through its own employees or through a contractor or subcontractor of its choice, and to charge the cost thereof to the Subcontractor, together with and damages, liquidated or otherwise, caused by the delay in the performance of this Subcontract.
- m. **SUBCONTRACTOR'S MATERIAL AND EQUIPMENT** – That in case of default on the part of the Subcontractor under the terms of this Subcontract, the material and equipment of the Subcontractor shall be left on the job for the use of the Contractor in completing the work covered by this Subcontractor.
- n. **COMPLIANCE WITH LAWS** – To comply with all Federal and State laws, codes and regulations and all municipal ordinances and regulations effective where the work under this Subcontract is to be performed, and to pay all costs and expenses connected with such compliance, to pay all fees and taxes, including sales and use taxes, and also to pay all taxes imposed by any State or Federal law for any employment insurance, pensions, old age retirement funds or any similar purpose and to furnish all necessary reports and information to the appropriate federal, state and municipal agencies with respect to all of the foregoing, the same as though the Subcontractor was in fact the Contractor, each other subcontractor and the Owner harmless from any and all loss or damage occasioned by the failure of the Subcontractor to comply with the terms of this paragraph.
- o. **CONTRACTOR'S EQUIPMENT** – The Contractor's equipment shall be available to the Subcontractor only at the Contractor's discretion and on mutually satisfactory terms.
- p. **ROYALTIES AND FEES** – To pay all royalties and license fees; to defend all suits or claims for infringement of any patent rights involved in the work of the Subcontractor under this Subcontract; and to save the Contractor harmless from loss, cost or expense on account of such use or infringement by the Subcontractor.
- q. **ACCEPTANCE OF PRIOR WORK** – If the proper performance of any item of work to be performed hereunder by the Subcontractor depends upon the proper performance of any item of work by the Contractor or another subcontractor whose work precedes in time the work of the Subcontractor, to admit by commencing the item of work to be performed hereunder that the work which precedes such item of work to be done hereunder by the Subcontractor has been done in a proper manner.
- r. **LIQUIDATED DAMAGES** – The damages arising from the non-fulfillment of this Subcontract in the required time, shall be deducted from the subcontract amount, and be as liquidated damages and not in the nature of a penalty, and the amount of such liquidated damages shall be in the same amount as specified in the General Contract.
- s. **SUBCONTRACTOR SIGNAGE** – Any project signage installed on the project site must be approved by the General Contractor prior to installation.

ATTACHMENT NO. 1

SUBCONTRACT AGREEMENT NO. 24139-02

RE:OpenAire Structure

Everything necessary to complete all OpenAire Structure work where and as indicated on the drawings and in accordance with, but not by way of limitation, section N/A of the specifications as prepared by Holland Basham Architects as part of their documents dated (drawings) and (specifications).

The following is included as part of this agreement:

1. Contract Documents

1. N/A

2. General Provisions

1. Provide all supervision, management, labor, materials, equipment, and everything else necessary to complete this Scope of Work as defined in the OpenAire drawings.
2. Responsible for all off-site insurances.
3. Include all required systems and accessories indicated by the Contract Documents. The Work description, conditions, and all attachments are intended to cover all the Work. Work includes all equipment, labor, materials, and services not indicated. herein, but which would be necessary to complete any or all the Work in a proper, substantial and workmanlike manner, and as required to make a system function as intended and is included in the Work without additional cost. Adjustments to the Subcontract due to absence of details, sizes, piping, components, or any other information required for complete and fully operational systems will not be accepted.
4. Layout for own work.
5. Coordination with other trades for proper sequencing of Work.
6. All permits, inspection fees and aid to construction associated with this scope of work.
7. Attic stock for all materials per the contract documents.
8. Lifts and/or scaffold for own work.
9. Material delivery and handling for own work.
10. Regular cleanup for own work.
11. Promptly prepare and forward all submittals to ensure timely procurement and delivery of materials as to not impact the Construction Schedule. Project or Construction delays as a result of failure to do so will be at the expense of the Subcontractor.
12. Provide sufficient labor resources to complete your scope of work in accordance with MCL's Construction Schedule.
13. Details shown are for reference only and in no way indicate the limits of scope. Contractor must perform said responsibility at all like conditions.
14. Markup on subcontractor change orders shall be limited to 10.00%. Markup on sub-subcontractor change orders shall be limited to 5.00%.
15. All on-site personnel to have a One-Source level 2 background check.
16. OpenAire proposal is based on OpenAire shop drawings issued July 5, 2024 (issued under separate contract)
17. Payment terms to be per the attached OpenAire Schedule of Values. MCL is a paid-when-paid Contractor - payments will be issued only after receipt of payment from Owner. It is the Subcontractor's responsibility to submit timely payment applications to achieve their desired reimbursement dates.
18. Edits to Subcontractor Additional Provisions as follows:
  1. Part "l": Change to (7) business days for Contractor to have the right to correct, replace and/or re-execute
  2. Part "m": Clarification - material and equipment shall be left on site if paid for by Contractor

19. Edits to Appendix "A" as follows:

1. Part "9": Subcontractor will not be responsible for materials or equipment purchased by Contractor
2. Part "24": Delete in its entirety

3. Scope of Work1. Main Enclosure:

1. One (1) freestanding curved roof enclosure measuring 185'-0" x 316'-8" (cl/cl of outer rafters/columns), with:
  1. One (1) sidewall measuring 316'-8" long x 35'-2 5/8" high supported by a 2'-0" high concrete wall by others. For a length of 33'-4", and full height of the sidewall, the sidewall is open (no glass) at the interface with the Tower Enclosure described below.
  2. One (1) sidewall measuring 316'-8" long x 35'-2 5/8" high supported by a 2'-0" high concrete wall by others. For a length of 233'-4", and a height of 24'-0", the sidewall is open where it interfaces with a conventional building (by others).

3. Two (2) gable ends measuring 185'-0" at the base with the sides measuring 35'-2 5/8" high from top of the 2' high supporting wall (by others).

4. Main Enclosure Notes:

1. The roof of the enclosure, with a length of 316'-8", is divided into 19 bays measuring 16'-8" with 13 of the bays having two opening roof panels (one on each side of the apex), and two bays having one opening roof panel. The roof panels retract down from the apex over the fixed glazing below.
2. The enclosure is supported by a 2'-0" high concrete wall (by others), which must be adequate to support the loads imposed by the enclosure. Doors within the enclosure extend to the waterpark floor.
3. At the area where the sidewall interfaces with the conventional construction, the columns extend to the 2'-0" high concrete piers (by others) at the floor. The area between the columns at the interface is open with the area extending above the roof being glazed with glass.

## 2. Tower Enclosure:

1. One curved roof tower measuring 33'-4" x 39'-3" with:

1. One (1) front wall measuring 33'-4" x 74'-7 1/8" high,
2. One (1) back wall measuring 33'-4" x 38'-9" high (roof of enclosure to tower eave),
3. Two (2) gable ends measuring 39'-3" at the base.

2. Tower Notes:

1. The tower length of 33'-4" is divided into two (2) bays with both bays having two opening roof panels (1 on each side of the apex), that retract down from the apex over the fixed glazing below.
2. The tower is supported by a 2'-0" concrete wall (by others) which must be adequate to support the loads imposed by the tower.

## 3. Enclosures:

1. The Enclosures include the following specific items:

1. Design and engineering including shop drawings – under separate contract.
2. OpenAire's thermally broken extruded aluminum frame.
3. All aluminum exposed to view will be painted with a standard color baked on finish meeting AAMA 2604.

1. Notes:

1. Additional colors are available, but extra costs may result depending on color chosen.
2. Hardware is stainless steel and is not painted.
3. Door thresholds are not painted.

4. Sloped glazing to be 1" (25mm) multi-wall polycarbonate.

5. Vertical glazing to be 1" insulating glass consisting of:

1. 1/4" clear tempered with a Low E coating
2. 1/2" air space
3. 1/4" clear tempered

6. Glass Notes:

1. The vertical glass is based on the following performance:
2. Visible Light Transmission = 61%
3. U Value = .28
4. Solar Heat Gain Coefficient = .32
5. Shading Coefficient = .36
6. The above values are approximate and OpenAire reserves the right to source glass from various manufacturers who meet this performance.

7. A total of thirty-two (32) motorized opening roof panels including one motor per panel, control box and wiring between the control box and motors.

8. Thirty-two (32) motorized pivot windows measuring 16'-0" x 6'-0" glazed with 1" glass.

9. One (1) motorized upward door measuring 10'-0" x 10'-0" glazed with 1" insulating glass.

10. Note for Items 6, 7 and 8:

1. Wire is supplied by OpenAire but installation of wire between the motors and the control box and any required conduit is by others.
11. Six (6) swing doors measuring 3'-0" x 7'-0" high, glazed with 1" insulating glass and equipped with panic hardware.
12. Five (5) bi-fold doors measuring 16'-0" x 10'-0" high, glazed with 1" insulating glass.
13. Aluminum flashing between the enclosure and adjacent construction.
14. Fasteners required to anchor the enclosure to the foundation/piers.
15. Complete installation by OpenAire's non-union crew.

#### 1. Notes

1. Additional costs will be charged if a union crew or prevailing wage is required.
2. It is assumed the enclosure will be installed after the foundation is in place and before pools, slides and waterpark amenities are installed.
3. Enclosure is maintained using man lifts and articulating booms. Floor must be adequate to support the weight of this equipment. OpenAire is not responsible for damage to underground utilities.
4. If necessary during unloading and installation, closing of streets (including all permits), buying of parking meters and any police or security detail is by others.
5. The City of Bellevue agrees to make ready and keep open and available the project site for purposes of overtime work during the course of the weekdays and for Saturday work. The City understands that by doing so it will keep the project open and available for OpenAire so OpenAire may increase and/or adjust manpower as needed in order to achieve timely completion.
16. Delivery of materials to the jobsite.
17. Standard 5 year OpenAire warranty against defective design, materials and construction. Paint, polycarbonate and glass are warranted against defective materials and defects in manufacturing per the manufacturer's standard warranties.
18. Performance Bond.
19. Included in OpenAire's structural design is a total provisional allowance of 4 lbs. per sq. ft. for ancillary systems by others (lights, HVAC, fire suppression systems, supplemental wiring etc.), to be supported by the structure. OpenAire must be notified if the net sum of all such systems (not by OpenAire), or any additional items supported by the roof, exceeds this limit so the structure can be designed accordingly.

#### 4. Labor Rates (standard rates)

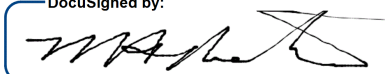
1. Labor for change orders: TBD

The following is excluded as part of this agreement:

1. Taxes
2. Engineering and Shop Drawings – under separate contract.
  1. Design contract (signed with Holland Basham Architects - value = \$493,200.00)
  2. Materials contract (signed with City of Bellevue - value = \$2,237,000.00)
    1. \$2,192,000.00 aluminum materials
    2. \$45,000.00 bond
3. Supporting foundation including 2'-0" high supporting concrete walls and piers.
4. Permits.
5. Power to the control panel.
6. Installation of wire and supply and install of all required conduit.
7. Final cleaning (stickers, labels and excess caulk will be removed).
8. Grounding of the building.
9. Provisions and removal of dumpsters.
10. Inspection fees.
11. Protection of surrounding construction.
12. Protection of work after installation.
13. If necessary during unloading and installation, closing of streets (including all permits), buying of parking meters and any police or security detail.
14. Conventional construction.
15. Pollution Liability section of the Insurance Requirements for Subcontractors
16. Rain sensor (\$10,000.00 if added at a later date)

**OPENAIRE USA CORP**

SUBCONTRACTOR:

By:    
 DocuSigned by: 47EB7900AD4A476...

Title: President

Date: 1/31/2025

**MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC**

CONTRACTOR:

By:    
 DocuSigned by: D7045938E7004A7...

Title: Project Executive

Date: 1/31/2025



**APPENDIX "A" - Continued**

- (16) Subcontractor shall coordinate their work with all other trades and project conditions. Coordination includes, but is not limited to, jobsite meetings, BIM deliverables as defined in project BIM Execution Plan, 2D coordination drawings, information sharing, participation in job-specific technology platforms and attendance to facilitate project coordination.
- (17) Subcontractor shall comply with all LEED project requirements. If under any circumstances their material, performance or documentation causes the project to miss a LEED credit, Subcontractor shall be held liable for costs to recover or replace the credit(s).
- (18) Subcontractor shall comply with all commissioning requirements as defined in contract documents and as required by equipment manufacturers.
- (19) Subcontractor shall locate existing utilities and structures, provide traffic control and provide dust control as required for their own work.
- (20) Performance Clause: Notwithstanding any other provisions of this Contract, it is understood that contracts will be awarded and labor be employed on the project herein described without discrimination as to whether employees of any contractor, subcontractor, or those employed by the Owner of the project are members or non-members of any labor organizations and the subcontractor accepts this contract with that understanding. No dispute between labor organizations and the subcontractor shall be permitted to occur or be manifested on the project described herein. The subcontractor agrees to employ personnel and mechanics on the project who will at all times perform their designated job on the jobsite.
- (21) Right to Replace: Notwithstanding any other provisions of this agreement, should there be a work stoppage caused by a strike, picketing, boycott, or any other voluntary cessation of work by employees of the subcontractor which, in the judgement of the contractor or owner, will cause or is likely to cause an unreasonable delay in the progress of construction, then, upon twenty-four (24) hours written notice, the contractor shall have the right to declare the subcontractor in default of this understanding and agreement and take such steps as are necessary to finish the uncompleted portion of the work and/or re-award the contract to another subcontractor.
- (22) Replacement Procedures: In the event the contractor or owner takes steps to finish the uncompleted portion of the work, the contractor or owner shall have the right to take possession of and use all of the subcontractor's materials (exclusive of tools) intended for use on the work. The cost of completion shall be charged against the subcontractor's remaining interest in the contract price. If the subcontractor's remaining interest in the contract exceeds the cost of completion, the subcontractor shall be entitled to the difference. If, however, the cost of the completion exceeds the subcontractor's remaining interest in the contract price, then the subcontractor agrees to pay the contractor or owner such excess has been made upon him by either the contractor or owner.
- (23) Additional Subcontractor Provisions document included with this Subcontract Agreement. Yes \_\_\_\_\_ No  X
- (24) Subcontractor shall provide dewatering for their scope of work.
- (25) Subcontractor shall recognize and abide by MCL Construction's Quality Management Program.

**INSURANCE REQUIREMENTS FOR SUBCONTRACTORS**

**SUBCONTRACT AGREEMENT NO. 24139-02**

**RE:OpenAire Structure**

Prior to commencement of the Work, the Subcontractor shall procure, and at all times thereafter until the Subcontractor's obligations under this Subcontract Agreement are fully discharged, maintain with insurers acceptable to the Contractor, the following minimum insurance insuring the Subcontractor, the Contractor and the Owner against liability from damages because of injuries, including death, suffered by persons, including employees of the Subcontractor, and liability from damages to property arising from and in any way connected with the Subcontractor's operations, including its subcontractors' and suppliers' operations, in connection with the performance of this Subcontract Agreement. If the terms of the Contract require higher limits or additional coverage or both, the Contractor reserves the right to require the Subcontractor to provide, at the Subcontractor's expense, such higher limits or additional coverage, or both.

**General Liability:**

Limits of at least: \$1,000,000 Per Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Completed Operations Aggregate  
\$1,000,000 Personal and Advertising Injury

- Coverage shall be provided by a standard form Commercial General Liability Policy covering bodily injury, property damage including loss of use, and personal injury.
- General Aggregate to apply on a Per Project Basis
- Meyers Carlisle Leapley Construction Co., Inc. dba MCL Construction and owner shall be named as Additional Insured on a primary and non-contributory basis including completed operations by using form CG 2010 04/13 for ongoing operations, CG 2037 04/13 for completed operations and CG 2038 04/13 for non-direct contract/ongoing operations or their equivalent. Additional Insured status shall be maintained for two (2) years after final acceptance and payment.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- Contractual liability coverage shall be on a broad form basis and shall not be amended by any limiting endorsements.
- If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- If applicable, coverage for EIFS-related work will be included.
- Completed Operations shall provide coverage for work performed by subcontractors.
- Products and completed operations shall be maintained for duration of work and shall be further maintained for a minimum period of two (2) years after final acceptance and payment.
- Coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below surface of ground (XCU coverage).
- Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations. (As per standard CG0001 Pollution Exclusion or equivalent.)
- If applicable, Subcontractor shall maintain electronic data liability insurance, covering liability arising out of damage to, loss of use of, corruption of, inability to access, or inability to properly manipulate, electronic data, and with a limit of \$500,000.

**Automobile Liability:**

Limits of at least: \$1,000,000 CSL Per Accident

- Coverage shall apply to all Owned, Hired, and Non-Owned Autos.
- Contractor, Owner and their respective agents, officers, directors, and employees shall be listed as an Additional Insured on a primary and non-contributory basis.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- If applicable, Pollution Liability Coverage shall be provided using the ISO endorsement CA 9948 or equivalent and the MCS-90 endorsement shall be attached.

**Workers Compensation:**

Limits: Statutory coverage for the state where the project is located.

Liability limits: \$500,000 Each Accident  
\$500,000 Disease - Per Person  
\$500,000 Disease - Policy Limit

- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- Where applicable, coverage for U.S. Longshore and Harbor Workers' Compensation Act and Jones Act.

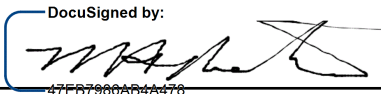
**Umbrella / Excess:**

Limits of at least: \$5,000,000 Per Occurrence

- Policy shall provide liability coverage over the specified Workers Compensation/Employers Liability, Commercial General Liability and Auto Liability.
- Policy shall be Primary/Noncontributory coverage over the specified Commercial General Liability and Auto Liability policies.
- Contractor, Owner and their respective agents, officers, directors, and employees shall be listed as an Additional Insured on a primary and non-contributory basis.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.

**OPENAIRE USA CORP**

SUBCONTRACTOR:

By:    
47EB7900AB4A476...

Title: President

Date: 1/31/2025

**MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC**

CONTRACTOR:

By:    
D7045998E7684A7...

Title: Project Executive

Date: 1/31/2025

**INSURANCE REQUIREMENTS FOR SUBCONTRACTORS - Continued**  
**SUBCONTRACT AGREEMENT NO. 24139-02** **RE:OpenAire Structure**

**Pollution Liability:**

Limits of at least:                   \$1,000,000 Per Occurrence  
   \$1,000,000 Aggregate

- If the Subcontractor's or its Sub-subcontractor's work includes but not limited to remediating, handling, processing or disposing of hazardous material including but not limited to asbestos containing materials, silica, lead, PCB's, contaminated soil, etc., coverage shall be provided for bodily injury, property damage and clean-up costs resulting for pollution conditions.

**Professional Liability (Applicable for subcontractors providing or responsible for providing design/ engineering/ surveying services):**

Limits of at least:                   \$1,000,000 Per Occurrence  
   \$1,000,000 Per Occurrence

- Policy shall provide for a retroactive date prior to the starting date of services for which this agreement applies.
- Policy shall not exclude bodily injury, property damage, or pollution liability.
- Coverage shall remain in force for a minimum of three (3) years following substantial completion of construction through either policy renewal or the purchase of an Extended Reporting Provision.
- Subcontractor shall inform Contractor at any time during the project, and for three (3) years following substantial completion, or any claim or reserve that reduces the policy limit by more than 10%. Contractor will have the option to require subcontractor to purchase additional coverage to comply with the minimum limits listed above.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.

**Rigger's Liability (if applicable):**

- Should work involve the moving, lifting, lowering, rigging or hoisting of property or equipment Subcontractor shall carry Rigger's Liability Insurance to insure against physical loss or damage to the property or equipment on a Replacement Cost Basis.

**Cargo Coverage (if applicable):**

- Should work involve hauling of Materials or Equipment owned by Contractor, Owner and their respective agents, officers, directors and employees, Subcontractor is responsible for providing Cargo coverage for the Replacement Cost of the goods.

**Builders Risk:**

- MCL Construction or Owner may provide builder's risk insurance on the work to the extent required by the Contract. The subcontractor remains at risk for all its work in accordance with Article 13. Further, the subcontractor understands that there is a deductible. Costs incurred by the subcontractor up to the deductible amount shall be the sole responsibility of the subcontractor and the subcontractor shall hold MCL Construction and Owner harmless from all claims or costs up to said deductible.

**Subcontractor's Insurance for Other Losses:**

- Subcontractor shall assume full responsibility for all loss or damage from any cause whatsoever to any tools owned, rented or used in connection with the contract, including tools, machinery, equipment, storage devices, containers, scaffolding and the like owned or rented by Subcontractor, or Subcontractor's agents, subs, suppliers or employees.
- Subcontractor shall insure and assume full responsibility for all loss or damage from any cause whatsoever to any tools, machinery, equipment, storage devices, containers, scaffolding and the like borrowed, leased or rented from MCL Construction.
- Subcontractor waives all rights of subrogation against Contractor, Owner, and their respective agents, officers, directors and employees for recovery of damages.
- In connection with the above, Subcontractor shall cause or require any applicable insurance related to physical damage of the same to provide a waiver of rights of subrogation against MCL Construction.

Evidence of such insurance coverage in effect shall be provided to MCL Construction in the form of an Accord certificate of insurance executed by a licensed representative of the participating insurer(s) and must contain a clause granting at least thirty (30) days prior written notice to MCL Construction of intent to effect cancellation.

Failure of MCL Construction to demand such certificate(s) or other evidence of full compliance with these insurance requirements or failure of MCL Construction to identify a deficiency from evidence provided by subcontractor shall not be construed as a waiver of subcontractor's obligation to maintain such insurance.

By requiring insurance under this contract, MCL Construction does not represent that the coverage and limits required will necessarily be adequate to protect the subcontractor's interest in the work. Such coverage and limits shall not be deemed or construed to be any limitation on the subcontractor's liabilities under any indemnification obligations provided to MCL Construction under this contract.

MCL Construction  
Subcontractors' Safety Responsibilities

TO ALL SUBCONTRACTORS:

Reference is made to SAFETY in APPENDIX "A", Item #4, concerning the Subcontractor's SAFETY responsibilities. Every Subcontractor must comply with, and be bound by, the following SAFETY rules and regulations.

- I. All local, state and federal Regulations concerning SAFETY.
  - II. ALL SAFETY regulations established by the associations, organizations, or labor groups, with whom the Subcontractor is normally associated by virtue of the particular trade or trades included in the Subcontractor's operations.
  - III. Standard SAFETY practices, established by Meyers-Carlisle-Leapley Construction Co., Inc., as published in the MCL Construction Safety Manual, to be complied with by each Subcontractor. Safety practices include, but are not limited to, those listed here.
1. Good housekeeping must be maintained at all times.
  2. Hard hats must be worn at all times.
  3. Safety glasses that comply with ANSI Z87.1 must be worn at all times.
  4. Proper work clothing is required on the jobsite. Minimum accepted apparel is a high-visibility T-shirt, long pants and work boots.
  5. Only full body harnesses shall be worn when there is exposure to falls where practical. Body belts are allowed for position work only.
  6. Job Superintendent must be notified when firefighting equipment has been used to allow proper replacement or servicing.
  7. All openings larger than 2" in diameter must be barricaded, adequately covered or protected by standard handrails. This includes: floor openings, shafts, and open perimeters. If these protective devices have to be removed for working purposes, they are to be replaced immediately after work is completed.
  8. All work platforms must be a minimum of two (2) planks wide. Work areas on scaffolds should be fully planked.
  9. Scaffolding over six (6) feet high must have a standard handrail system.
  10. No one is to ride scaffolds, material hoists or forklifts.
  11. All ladders should extend to three (3) feet above the access point and be tied off. Stake ladder when based on unstable soil.
  12. Protruding nails in lumber, dismantled forms, scaffolds, etc., and any other protruding nails must be pulled or bent down as soon as they are exposed.
  13. All electrical equipment and power tools must be grounded. All requirements (OSHA) will be met for ground fault protection. Employers shall use either ground fault circuit interrupters or establish and implement assured equipment grounding conductor program. (OSHA Rules and Regulations, Subpart K, Electrical)
  14. "Hot" electrical panels will be protected with plywood or other suitable materials. Cardboard will not be used to protect employees from live parts.
  15. All guards on power equipment and tools must be kept in good working condition and must be in place whenever such equipment is operating.

16. Workers will not remove SAFETY guards except for repairing or servicing. Machine will be off for such work.
17. No machines will be operated unless properly guarded. Guards must be in good condition, in place, and operative.
18. All defective equipment must be reported to the Superintendent.
19. All requirements (OSHA) will be met for eye protection when so required by SAFETY rules and regulations.
20. All accidents are to be reported immediately.
21. There will be no personal radios or MP3 players allowed at any time.
22. All personnel are encouraged and invited to attend weekly SAFETY meetings.
23. Sides of trenches, greater than five (5) feet in depth, shall be shored, sheeted, braced, sloped, or otherwise supported by means of sufficient strength to protect the employees within them. Daily visual inspections must be made to determine class of soil.
24. All Subcontractors shall provide, upon request, a copy of their Hazard Communication program. Copies of this program will be kept in the office of the jobsite Superintendent.

SUBCONTRACTOR'S SUPERINTENDENT WILL IMPLEMENT THE SAFETY STATEMENT IN COOPERATION WITH, AND APPROVAL OF, MCL CONSTRUCTION SAFETY DIRECTOR.

Bellevue Bay Indoor Water Park

PROJECT NAME

OpenAire USA Corp

DocuSigned by:

COMPANY NAME



47EB7088AB4A478...  
SUBCONTRACTOR'S REPRESENTATIVE  
1/31/2025

DATE



**Meyers Carlisle Leapley Construction**  
 14558 Portal Circle  
 LaVista, Nebraska 68138  
 O (402) 339-2221 F  
[mclconstruction.com](http://mclconstruction.com)

**THIS DOCUMENT MUST BE RETURNED TO  
 MCL Construction**

By signing this document, OpenAire USA Corp (“Subcontractor”) is stating that all employees who are assigned to work at any and all MCL Construction jobsites will be trained in all aspects of the work contracted to be performed prior to arrival.

Furthermore, Subcontractor states that all employees performing work for MCL Construction, prior to arrival at the jobsite, will be trained in any and all safety and health rules and regulations pertaining to the type of work being performed by the Subcontractor and the type of work being performed onsite.

Furthermore, Subcontractor agrees to provide a Competent Person” as defined by the OSHA Standards on all MCL Construction jobsites on a daily basis when engaged in work activities, especially those activities involving trenching and excavation, fall protection and scaffolding.

DocuSigned by:

47EB708CAB4A478...

Authorized Agent of OpenAire USA Corp

1/31/2025

Date of Signature



# Nebraska Resale or Exempt Sale Certificate for Sales Tax Exemption

FORM 13

<b>Name and Mailing Address of Purchaser</b>			<b>Name and Mailing Address of Seller</b>		
Name <b>MCL Construction</b>			Name		
Legal Name <b>MCL Construction</b>					
Street or Other Mailing Address <b>14558 Portal Circle</b>			Street or Other Mailing Address		
City <b>La Vista</b>	State <b>NE</b>	Zip Code <b>68138</b>	City	State	Zip Code

**Check Type of Certificate**

Single Purchase If single purchase is checked, enter the related invoice or purchase order number \_\_\_\_\_

Blanket If blanket is checked, this certificate is valid until revoked in writing by the purchaser.

I hereby certify that the purchase, lease, or rental by the above purchaser is exempt from the Nebraska sales tax for the following reason:

**Check One**  Purchase for Resale (Complete Section A.)  Exempt Purchase (Complete Section B.)  Contractor (Complete Section C.)

**Section A — Nebraska Resale Certificate**

Description of Property or Service Purchased

I hereby certify that the purchase, lease, or rental of \_\_\_\_\_ from the seller listed above is exempt from the Nebraska sales tax as a purchase for resale, rental, or lease in the normal course of our business. The property or service will be resold either in the form or condition in which it was purchased, or as an ingredient or component part of other property or service to be resold.

I further certify that we are engaged in business as a:  Wholesaler  Retailer  Manufacturer  Lessor of \_\_\_\_\_

My Nebraska Sales Tax ID Number is 01- \_\_\_\_\_

If none, state the reason \_\_\_\_\_

or Foreign State Sales Tax Number \_\_\_\_\_ State \_\_\_\_\_

**Section B — Nebraska Exempt Sale Certificate**

The basis for this exemption is exemption category 01 (See the list of Exemption Categories and corresponding numbers on reverse side).

If exemption category 2 or 5 is claimed, enter the following information:

Description of Property or Service Purchased <u>(see page 2)</u>	Intended Use of Property or Service Purchased
---	---

If exemption category 3 or 4 is claimed, enter your Nebraska Certificate of Exemption State ID number. 05- \_\_\_\_\_ Do not enter your Federal Employer ID Number.

If exemption category 6 is claimed, the seller must enter the following information and sign this form below:

Description of Items Sold	Date of Seller's Original Purchase	Was tax paid when purchased by seller? <input type="checkbox"/> Yes <input type="checkbox"/> No	Was item depreciable? <input type="checkbox"/> Yes <input type="checkbox"/> No
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**Section C — For Contractors Only**

**1. Purchase of building materials or fixtures.**

As an Option 1 or Option 3 contractor, I hereby certify that the purchase of building materials and fixtures from the seller listed above are exempt from Nebraska sales tax. My Nebraska Sales or Use Tax ID Number is: \_\_\_\_\_

**2. Purchases made by an Option 2 contractor under a Purchasing Agent Appointment on behalf of \_\_\_\_\_** (exempt entity)

As an Option 2 contractor, I hereby certify that the purchase of building materials and fixtures from the seller listed above is exempt from Nebraska sales tax pursuant to the **attached** Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17.

Any purchaser, agent, or other person who completes this certificate for any purchase which is not for resale, lease, or rental in the regular course of the purchaser's business, or is not otherwise exempted from sales and use taxes is subject to a penalty of \$100 or ten times the tax, whichever amount is larger, for each instance of presentation and misuse. With regard to a blanket certificate, this penalty applies to each purchase made during the period the blanket certificate is in effect. Under penalties of law, I declare that I am authorized to sign this certificate, and to the best of my knowledge and belief, it is correct and complete.

sign here

Marie Wood  
Authorized Signature  
**MARIE WOOD**  
Authorized Signature Name (please print)

Purchasing Agent  
Title 12/24/24  
Date

**Do not send this certificate to the Nebraska Department of Revenue (DOR). Keep it as part of your records. Sellers cannot accept incomplete certificates.**

The DOR is committed to the fair administration of the Nebraska tax laws. It is unlawful to claim an exemption for purchases of property or services that are subject to tax. Sellers are encouraged to notify the DOR of any unlawful use of this form.

**revenue.nebraska.gov, 800-742-7474 (NE and IA), 402-471-5729**

## Instructions

**Who May Issue a Resale Certificate.** Purchasers are to give the seller a properly completed Form 13, Section A, when making purchases of property or taxable services that will subsequently be resold in the purchaser's normal course of business. The property or services must be resold in the same form or condition as when purchased, or as an ingredient or component part of other property that will be resold.

**Who May Issue an Exempt Sale Certificate.** Form 13, Section B, may be completed and issued by governmental units or organizations that are exempt from paying Nebraska sales and use taxes. See this list in the [Nebraska Sales Tax Exemptions Chart](#). Most nonprofit organizations are **not** exempt from paying sales and use tax. Enter the appropriate number from "Exemption Categories" (listed below) that properly reflects the basis for your exemption.

For additional information about proper issuance and use of this certificate, please review [Reg-1-013, Sale for Resale – Resale Certificate](#), and [Reg-1-014, Exempt Sale Certificate](#).

**Contractors.** Contractors complete Form 13, Section C, part 1 or part 2 based on the option elected on the [Contractor Registration Database](#).

To make tax-exempt purchases of building materials and fixtures, Option 1 or Option 3 contractors must complete Form 13, Section C, Part 1. To make tax-exempt purchases of building materials and fixtures pursuant to a construction project for an exempt governmental unit or an exempt nonprofit organization, Option 2 contractors must complete Form 13, Section C, Part 2. The contractor must also attach a copy of a properly completed [Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17](#), to the Form 13, and both documents must be given to the supplier when purchasing building materials. See the [contractor information guides](#) and [Reg-1-017, Contractors](#), for additional information. Also, see the Important Note under "Exemption Categories" number 3.

**When and Where to Issue.** The Form 13 must be given to the seller at the time of the purchase to document why sales tax does not apply to the purchase. The Form 13 must be kept with the seller's records for audit purposes.

**Sales Tax Number.** A purchaser who is engaged in business as a wholesaler or manufacturer is not required to provide an ID number when completing Section A. Out-of-state purchasers may provide their home state sales tax number. Section B does not require a Nebraska ID number when exemption category 1, 2, or 5 is indicated.

**Fully Completed Resale or Exempt Sale Certificate.** A fully completed resale or exempt sale certificate is proof for the retailer that the sale was for resale or is exempt. For a resale certificate to be fully completed, it must include: (1) identification of the purchaser and seller, type of business engaged in by the purchaser; (2) sales tax permit number; (3) signature of an authorized person; and (4) the date of issuance.

For an exempt sale certificate to be fully completed, it must include: (1) identification of purchaser and seller; (2) a statement that the certificate is for a single purchase or is a blanket certificate covering future sales; (3) a statement of the basis for exemption, including the type of activity engaged in by the purchaser; (4) signature of an authorized person; and (5) the date of issuance.

**Penalties.** Any purchaser who gives a Form 13 to a seller for any purchase which is other than for resale, lease, or rental in the normal course of the purchaser's business, or is not otherwise exempted from sales and use tax under the Nebraska Revenue Act, is subject to a penalty of \$100 or ten times the tax, whichever is greater, for each instance of fraudulently and misuse. In addition, any purchaser, or their agent, who fraudulently signs a Form 13 may be found guilty of a Class IV misdemeanor.

### Exemption Categories

(Insert appropriate number from the list below in Section B)

1. Governmental units, identified in [Neb. Rev. Stat. §§ 77-2704.15, Reg-1-072, United States Government and Federal Corporations](#), and [Reg-1-093, Governmental Units](#). Governmental units are not assigned exemption numbers.

Sales to the U.S. government, its agencies, instrumentalities, and corporations wholly owned by the U.S. government are exempt from sales tax. However, sales to institutions chartered or created under federal authority, but which are not directly operated and controlled by the U.S. government for the benefit of the public, generally are taxable.

Purchases by governmental units that are **not** exempt from Nebraska sales and use taxes include, but are not limited to: governmental units of other states or countries; sanitary and improvement districts; rural water districts; railroad transportation safety districts; and county historical societies.

2. Purchases when the intended use renders it exempt. See [Nebraska Sales Tax Exemptions Chart](#).
3. Purchases made by organizations that have been issued a [Nebraska Exempt Organization Certificate of Exemption](#) (Certificate of Exemption). [Reg-1-090, Nonprofit Organizations](#); [Reg-1-091, Religious Organizations](#); and [Reg-1-092, Educational Institutions](#), identify these organizations. These organizations are issued a Certificate of Exemption with a state ID number which must be entered in Section B of Form 13.

**Important Note:** Nonprofit educational institutions must be accredited regionally or nationally and have their primary campus in Nebraska to be exempt from sales and use tax. Also nonprofit organizations providing any of the types of health care or services that qualify to be exempt must be licensed or certified by the Nebraska Department of Health and Human Services (DHHS) to be exempt from sales and use taxes. There is no sales and use tax exemption prior to these entities being accredited, licensed, or certified. They CANNOT issue either a [Resale or Exempt Sale Certificate, Form 13](#), or a [Purchasing Agent Appointment, Form 17](#), to any retailer or contractor relating to purchases of building materials for construction or repair projects performed prior to being accredited, licensed, or certified. After an entity becomes accredited, licensed, or certified upon completion of the construction project, it may submit a [Nebraska Exemption Application for Sales and Use Tax, Form 4](#).

Nonprofit **health care organizations** that hold a Certificate of Exemption are exempt for purchases for use at their facility, or portion of the facility, covered by the license issued under the Nebraska Health Care Facility Licensure Act. Only specific types of health care facilities and activities are exempt. Purchases of items for use at facilities that are not covered under the license, or for any other activities that are not specifically exempt, are taxable. The exemption is not for the entire organization that offers different levels of health care or other activities, but is limited to the specific type of health care that is exempt. Purchases for non-exempt types of health care are taxable.

4. Purchases of motor vehicles, trailers, semitrailers, watercraft, and aircraft used predominately as common or contract carrier vehicles; accessories that physically become part of the common or contract carrier vehicle; and repair and replacement parts for these vehicles. The exemption ID number must be entered in Section B of the Form 13. An individual or business that has been issued a common or contract carrier certificate of exemption may only use it to purchase those items described above prior to the expiration date on the certificate. The certificate of exemption expires every 5 years. (See [Nebraska Common or Contract Carrier Information Guide](#)).
5. Purchases of manufacturing machinery and equipment made by a person engaged in the business of manufacturing, including repair and replacement parts or accessories, for use in manufacturing.
6. Occasional sales of used business or farm machinery or equipment productively used by the seller as a depreciable capital asset for more than one year in his or her business. The seller must have previously paid tax on the item being sold. The seller must complete, sign, and give the Exempt Sale Certificate to the purchaser. (See [Reg-1-022, Occasional Sales](#)). The Form 13 must be kept with the purchaser's records for audit purposes.

Nebraska Department of  
**REVENUE**

# Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax

**DRAFT  
FORM  
17**

PURCHASING AGENT APPOINTMENT			
Name and Address of Prime Contractor		Name and Address of Governmental Unit or Exempt Organization	
Name <i>MCL</i>		Name	
Street or Other Mailing Address <i>14558 Portal Cir</i>		Street or Other Mailing Address <b>CITY OF BELLEVUE</b>	
City <i>La Vista</i> State <i>NE</i> Zip Code <i>68138</i>		City <b>BELLEVUE, NE 68005-2237</b> Code	
Name and Location of Project		Appointment Information	
Name <i> Hwy 34 + Hwy 15</i>		Effective Date (see Instructions) <i>12/26/2024</i>	
Street or Other Mailing Address		Expiration Date <i>12/25/2025</i>	
City <i>Bellevue</i> State <i>NE</i> Zip Code		Nebraska Exemption Number (Exempt Organizations Only)	
Identify Project			

The undersigned governmental unit or exempt organization appoints the above-named contractor and the contractor's delegated subcontractors as its agent to purchase and pay for building materials that will be annexed to real estate by them into the tax exempt construction project stated above.

**sign here**  Authorized Signature of Governmental Unit or Exempt Organization

Purchasing Agent *[Signature]* 12/24/24  
Title Date

DELEGATION OF PRIME CONTRACTOR'S AUTHORITY			
Name and Address of Subcontractor		Delegation Information	
Name <b>OpenAire USA Corp</b>		Effective Date <b>12/26/2024</b>	
Street or Other Mailing Address <b>3165 South Carrier Parkway</b>		Expiration Date <b>12/25/2025</b>	
City <b>Grand Prairie</b> State <b>TX</b> Zip Code <b>75052</b>		Portion of Project <b>New Indoor Water Park</b>	

The undersigned prime contractor hereby delegates authority to act as the purchasing agent of the named governmental unit or exempt organization to the above-named subcontractor.

**sign here**  **Tyler Adams** Digitally signed by Tyler Adams  
Signature of Prime Contractor or Authorized Representative

Project Executive 12/26/2024  
Title Date

## INSTRUCTIONS

**WHO MUST FILE.** Any governmental unit or organization that is **exempt** from sales and use tax may appoint as its agent a prime contractor to purchase building materials and/or fixtures that will be annexed to property that belongs to or will belong to the governmental unit or exempt organization pursuant to a construction contract with the governmental unit or exempt organization. The appointment of the prime contractor as its agent is completed by issuing a Purchasing Agent Appointment and Delegation of Authority for Sales and Use Tax, Form 17, to the prime contractor. The Form 17 is required to be given to the contractor **BEFORE** he or she annexes building materials. The governmental unit or exempt organization must identify the project (e.g., east wing, chapel construction, or new school auditorium). Most

nonprofit organizations are **NOT** exempt from sales tax in Nebraska. In addition, not all governmental units are exempt from Nebraska sales tax. Refer to Contractor Information on our Web site for additional information on exempt entities. A contractor can confirm the exempt status of a governmental unit or exempt organization by contacting the Nebraska Department of Revenue.

The exemption from the payment of the Nebraska and local option sales and use taxes only applies if the governmental unit or exempt organization directly, or through its contractor, pays for the building materials. **IMPORTANT NOTE:** When an organization that requires licensure in order to be exempt (i.e., nonprofit hospitals), but is not licensed at the time of the construction project, the exempt organization **CANNOT**

revenue.nebraska.gov, (800) 742-7474 (toll free in NE and IA), (402) 471-5729



**Schedule of Values  
City of Bellevue – Waterpark  
Fabrication-Installation Contract  
Bellevue, Nebraska**

Contract – Notice to Proceed			
Material Draw (10%)	Jan-31-2025		\$1,102,480
Materials/Fabrication (50%)			\$ 5,512,400
Due Monthly throughout Fabrication			
	Mar-30-2025	\$501,127	
	Apr-30-2025	\$501,127	
	May-30-2025	\$501,127	
	Jun-30-2025	\$501,127	
	Jul-30-2025	\$501,127	
	Aug-30-2025	\$501,127	
	Sep-30-2025	\$501,127	
	Oct-30-2025	\$501,127	
	Nov-30-2025	\$501,127	
	Dec-30-2025	\$501,127	
	Jan-30-2026	\$501,130	
Installation (40%) (onsite October 2025)			\$4,409,920
Due Monthly Throughout Installation			
	Oct-30-2025	\$440,992	
	Nov-30-2025	\$440,992	
	Dec-30-2025	\$440,992	
	Jan-30-2026	\$440,992	
	Feb-28-2026	\$440,992	
	Mar-30-2026	\$440,992	
	Apr-01-2026	\$440,992	
	May-30-2026	\$440,992	
	Jun-30-2026	\$440,992	
	Jul-30-2026	\$440,992	

**Total Contract Amount**

**\$11,024,800**

10% Retention held on all payments



Meyers Carlisle Leapley Construction
14558 Portal Circle
LaVista, Nebraska 68138
O (402) 339-2221 F
mclconstruction.com

02/17/2025

Pink Grading Inc
4920 S 66 Plaza
Omaha, Nebraska 68117

RE: Bellevue Bay Indoor Water Park
Contract No: 24139-03

Enclosed are the following documents regarding the above referenced project, please sign and return all pages:

Table with 3 columns: DocuSign Document, Sign and Return, Keep for your file. Rows include Subcontract, Training Agreement, Tax Form 13, Tax Form 17, and Safety Responsibilities.

Be advised that MCL Construction's insurance requirements have changed and any and all project certificates will now be accepted. Please read the attached Insurance Requirements for Subcontractors and provide a new insurance certificate as needed. Note: MCL Construction and Owner must be listed as primary, non-contributory additional insured for general liability, including ongoing and completed operations, auto liability and umbrella, if required by written contract. Waiver of Subrogation will apply to general liability, auto liability, umbrella and workers' compensation for the additional insureds, if required by written contract.

For Tax Exempt Projects, Tax Form 13-NE Resale or Exempt Sale Certificate and Tax Form 17-Purchasing Agent Appointment will be provide for your files.

All "Application(s) for Payment" must be received by the 20th of the month. Applications need to be e-mailed to ap@mclconstruction.com. Any "Application(s) for Payment" received after the 20th of the month will be processed the following month and will cause delays in receiving payment. All pay applications associated with a contract must be submitted on AIA forms.

Please e-mail a current COI (Certificate of Insurance) to COI@mclconstruction.com.

Very truly yours,

MCL Construction

DocuSigned by: Tyler Adams
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Project Executive



**ADDITIONAL PROVISIONS****THE SUBCONTRACTOR FURTHER AGREES AS FOLLOW:**

- a. **PAYMENT OF BILLS** – To pay for all materials, skill, labor and instrumentalities used in, or in connection with the performance of the Subcontract, when and as bills or claims therefore become due, and to save and protect the Project, the Owner and the Contractor from all claims and mechanics' liens on account thereof, and to furnish satisfactory evidence to the Contractor, when and if required, that he has complied with the above requirements. This provision shall not be construed as a waiver of the right of the Subcontractor to file and enforce a lien claim against the Owner in the event of the Contractor's failure to pay the Subcontractor.
- b. **PROCEED WITH WORK** – To proceed with the work in the sequence directed by the Contractor and to abide by the Contractor's decision as to the allotment of all storage and working space on the Project.
- c. **EXTENSIONS OF TIME** – That any requests for extension of time of performance of the Subcontract shall be subject to approval in writing by the Contractor. An extension of time will not be approved by the Contractor unless the delay which occasions the request is caused by circumstances recognized in the General Contract as a basis for extension of time. The Subcontractor agrees to make any claims for extras, for extensions of time, or for damages for delays or following that in which the claim is originated.
- d. **INSURANCE – SUBCONTRACTOR'S LIABILITY** – To obtain, maintain and pay for such workmen's compensation insurance as may be required by the General Contract or by law; general liability insurance and automobile liability insurance, protecting the Subcontractor and Contractor against claims for bodily injury or death or for damage to property occurring upon, in or about the Project, with limits in amounts at least equal to the greater of those specified in the General Contract or those specified in any Appendix hereto; to furnish to the Contractor, before starting work, satisfactory evidence that it has complied with this paragraph and Subcontractor shall be responsible to notify General Contractor of any cancellation, modification or reduction in coverage.
- e. **DAMAGE AND CLEAN-UP** – To accept responsibility for all damage and clean-up caused by the Subcontractor which shall be deemed to include, without limiting the generality of the foregoing, the following: cleaning up, on a daily basis, of rubbish and debris resulting for the Subcontractor's work and removal of same from the Project; cleaning of walls, floors, ceilings and other surfaces soiled by the Subcontractor; repairing walls, floors, ceilings and other surfaces damaged by the Subcontractor's work or required to be repaired as an immediate part of such work; and replacing all glass broken by the Subcontractor; provided, however, that the Subcontractor shall not be responsible for any damage of glass breakage existing at the time the Subcontractor begins work of which the Subcontractor notifies the Contractor in writing prior to commencing work hereunder.
- f. **PROTECTION OF WORK** - To adequately and properly protect the work to be performed by it hereunder, to be responsible for damages to persons and property occasioned by its failure so to do, and to be responsible for any defective or improper work or material caused by its failure so to do, it being understood that the standards of protection shall not be less than those specified in the General Contract or required by law.
- g. **ASSIGNING AND SUBLETTING** – Not to assign or sublet this Subcontract or any part thereof and not to assign any money due or to become due hereunder without first obtaining the written consent of the Contractor.
- h. **COMPLIANCE WITH GENERAL CONTRACT** – To be bound to the Contractor by the terms of the General Contract, to conform to and comply with the provisions of the General Contract, and to assume toward the Contractor all the obligations and responsibilities that the Contractor assumes in and by the General Contract toward the Owner, insofar as they are applicable to this Subcontract; to furnish such shop drawings and samples as may be required and to route all shop drawings and correspondence with the Architect or Owner through the Contractor's office.
- i. **SUBCONTRACTOR'S EMPLOYEES** – To employ no person on or in connection with this Subcontract whose employment may be objectionable to the Contractor, and to remove any such person from the job when requested to do so by the Contractor.
- j. **CONTRACT REVISIONS**- That the Contractor shall have the right to order in writing the omission or addition of any parts of the work or materials as omitted from or added to the General Contract by the Architect/Engineer and/or Owner, that fair deductions or increases shall be made in the Contract price for such omitted or added work or materials; and that no extra work shall be allowed or changes made by the Subcontractor, or paid for by the Contractor UNLESS AND UNTIL AUTHORIZED BY AN OFFICER OF THE CONTRACTOR IN WRITING BEFORE THE WORK AND/OR CHANGES ARE BEGUN.
- k. **GUARANTEE OF WORK** – To guarantee its work to the same extent that the Contractor is obligated to guarantee its work under the General Contract, but in any event to guarantee its work against all defects in materials or workmanship for a period of one year from the date of final acceptance of the Project by the Owner. Subcontractor shall repair or replace work deemed defective within the specified time period and include labor costs and all other costs incurred correcting the defective work.
- l. **DEFECTIVE WORK AND/OR NONPERFORMANCE** – That in case the Subcontractor shall fail to correct, replace and/or re-execute faulty or defective work done and/or materials furnished under this Subcontract, when and is required by the Contractor, or shall fail for any reason to complete or diligently proceed with this Subcontract within the time herein provided for, the Contractor upon three (3) business days written notice to the Subcontractor shall have the right to correct, replace and/or re-execute such faulty or defective work, or take over this Subcontract and complete same either through its own employees or through a contractor or subcontractor of its choice, and to charge the cost thereof to the Subcontractor, together with and damages, liquidated or otherwise, caused by the delay in the performance of this Subcontract.
- m. **SUBCONTRACTOR'S MATERIAL AND EQUIPMENT** – That in case of default on the part of the Subcontractor under the terms of this Subcontract, the material and equipment of the Subcontractor shall be left on the job for the use of the Contractor in completing the work covered by this Subcontractor.
- n. **COMPLIANCE WITH LAWS** – To comply with all Federal and State laws, codes and regulations and all municipal ordinances and regulations effective where the work under this Subcontract is to be performed, and to pay all costs and expenses connected with such compliance, to pay all fees and taxes, including sales and use taxes, and also to pay all taxes imposed by any State or Federal law for any employment insurance, pensions, old age retirement funds or any similar purpose and to furnish all necessary reports and information to the appropriate federal, state and municipal agencies with respect to all of the foregoing, the same as though the Subcontractor was in fact the Contractor, each other subcontractor and the Owner harmless from any and all loss or damage occasioned by the failure of the Subcontractor to comply with the terms of this paragraph.
- o. **CONTRACTOR'S EQUIPMENT** – The Contractor's equipment shall be available to the Subcontractor only at the Contractor's discretion and on mutually satisfactory terms.
- p. **ROYALTIES AND FEES** – To pay all royalties and license fees; to defend all suits or claims for infringement of any patent rights involved in the work of the Subcontractor under this Subcontract; and to save the Contractor harmless from loss, cost or expense on account of such use or infringement by the Subcontractor.
- q. **ACCEPTANCE OF PRIOR WORK** – If the proper performance of any item of work to be performed hereunder by the Subcontractor depends upon the proper performance of any item of work by the Contractor or another subcontractor whose work precedes in time the work of the Subcontractor, to admit by commencing the item of work to be performed hereunder that the work which precedes such item of work to be done hereunder by the Subcontractor has been done in a proper manner.
- r. **LIQUIDATED DAMAGES** – The damages arising from the non-fulfillment of this Subcontract in the required time, shall be deducted from the subcontract amount, and be as liquidated damages and not in the nature of a penalty, and the amount of such liquidated damages shall be in the same amount as specified in the General Contract.
- s. **SUBCONTRACTOR SIGNAGE** – Any project signage installed on the project site must be approved by the General Contractor prior to installation.

ATTACHMENT NO. 1

SUBCONTRACT AGREEMENT NO. 24139-03

RE: Surcharge Grading &amp; Tree Clearing / Removal

Everything necessary to complete all Surcharge Grading & Tree Clearing / Removal work where and as indicated on the drawings and in accordance with, but not by way of limitation, section N/A of the specifications as prepared by Holland Basham Architects as part of their documents dated November 15, 2024 (drawings) and November 15, 2024 (specifications).

The following is included as part of this agreement:

**1. Contract Documents**

1. Construction drawings dated 11/15/2024 issued by Olsson Engineering (9 pages)
2. Sheet C3.0 (revision 1) issued 11/20/2024
3. Sheet C3.0 (revision 2) issued 11/21/2024

**2. General Provisions**

1. Provide all supervision, management, labor, materials, equipment, and everything else necessary to complete this Scope of Work as defined in the Construction Documents.
2. Responsible for all off-site insurances.
3. Layout for own work.
4. Coordination with other trades for proper sequencing of Work.
5. All permits, inspection fees and aid to construction associated with this scope of work but excluding building permit.
6. Material delivery, unloading and handling for own work.
7. Regular cleanup for own work.
8. Promptly prepare and forward all submittals to ensure timely procurement and delivery of materials as to not impact the Construction Schedule. Project or Construction delays as a result of failure to do so will be at the expense of the Subcontractor.
9. Provide sufficient labor resources to complete your scope of work in accordance with MCL's Construction Schedule.
10. Details shown are for reference only and in no way indicate the limits of scope. Contractor must perform said responsibility at all like conditions.
11. Markup on subcontractor change orders shall be limited to 10.00%. Markup on sub-subcontractor change orders shall be limited to 5.00%.
12. All on-site personnel to have a One-Source level 2 background check - verification numbers to be provided to MCL minimum one week prior to onsite presence.
13. Dual obligee Performance and Payment bonds are required for this project, naming MCL Construction and City of Bellevue. Subcontractor to provide all bonding documents to MCL.

**3. Scope of Work**

1. Mobilization
2. Clear and grub all trees and/or shrubbery at work area
  1. Cut down / level all trees as shown in the six (6) yellow outlined areas on the attached Olsson aerial photo by 02/14/2025
  2. Stockpile trees near road for Hughes tree service
  3. Hughes tree service shall grind / haul off all trees from this removal process by 04/01/2025
  4. Stump removal included
3. Strip and stockpile topsoil onsite
4. Erosion control as shown
5. Silt fence and straw wattles
6. Stabilized construction entrance
7. Diversion dike with check dams
8. Provide all piping, structures and rip rap as shown for sediment basin
9. Over-excavation and re-compaction per the contract documents
10. Rough grading per the contract documents
11. Install surcharge per the contract documents
12. Remove surcharge, return dirt borrowed onsite and return lot to original grade
13. Achieve moisture and compaction requirements as identified in the geotechnical report and/or contract documents
14. Dual obligee performance and payment bond

**4. Unit Pricing**

1. Material rates
  1. Recycled concrete (delivered): \$15.00/ton
  2. Spoil removal: \$170/load

The following is excluded as part of this agreement:

- 1. Taxes
- 2. Layout & staking
- 3. Testing
- 4. Removal of any unknown or hidden underground items
- 5. Temporary or permanent seeding
- 6. Removal of any hazardous or contaminated soils or materials

**PINK GRADING INC**

SUBCONTRACTOR:

DocuSigned by:

*Evan Pink*

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By: \_\_\_\_\_

Title: Project Manager

Date: 2/18/2025

**MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC**

CONTRACTOR:

DocuSigned by:

*Tyler Adams*

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By: \_\_\_\_\_

Title: Project Executive

Date: 2/19/2025



**APPENDIX "A" - Continued**

- (16) Subcontractor shall coordinate their work with all other trades and project conditions. Coordination includes, but is not limited to, jobsite meetings, BIM deliverables as defined in project BIM Execution Plan, 2D coordination drawings, information sharing, participation in job-specific technology platforms and attendance to facilitate project coordination.
- (17) Subcontractor shall comply with all LEED project requirements. If under any circumstances their material, performance or documentation causes the project to miss a LEED credit, Subcontractor shall be held liable for costs to recover or replace the credit(s).
- (18) Subcontractor shall comply with all commissioning requirements as defined in contract documents and as required by equipment manufacturers.
- (19) Subcontractor shall locate existing utilities and structures, provide traffic control and provide dust control as required for their own work.
- (20) Performance Clause: Notwithstanding any other provisions of this Contract, it is understood that contracts will be awarded and labor be employed on the project herein described without discrimination as to whether employees of any contractor, subcontractor, or those employed by the Owner of the project are members or non-members of any labor organizations and the subcontractor accepts this contract with that understanding. No dispute between labor organizations and the subcontractor shall be permitted to occur or be manifested on the project described herein. The subcontractor agrees to employ personnel and mechanics on the project who will at all times perform their designated job on the jobsite.
- (21) Right to Replace: Notwithstanding any other provisions of this agreement, should there be a work stoppage caused by a strike, picketing, boycott, or any other voluntary cessation of work by employees of the subcontractor which, in the judgement of the contractor or owner, will cause or is likely to cause an unreasonable delay in the progress of construction, then, upon twenty-four (24) hours written notice, the contractor shall have the right to declare the subcontractor in default of this understanding and agreement and take such steps as are necessary to finish the uncompleted portion of the work and/or re-award the contract to another subcontractor.
- (22) Replacement Procedures: In the event the contractor or owner takes steps to finish the uncompleted portion of the work, the contractor or owner shall have the right to take possession of and use all of the subcontractor's materials (exclusive of tools) intended for use on the work. The cost of completion shall be charged against the subcontractor's remaining interest in the contract price. If the subcontractor's remaining interest in the contract exceeds the cost of completion, the subcontractor shall be entitled to the difference. If, however, the cost of the completion exceeds the subcontractor's remaining interest in the contract price, then the subcontractor agrees to pay the contractor or owner such excess has been made upon him by either the contractor or owner.
- (23) Additional Subcontractor Provisions document included with this Subcontract Agreement. Yes \_\_\_\_\_ No  X
- (24) Subcontractor shall provide dewatering for their scope of work.
- (25) Subcontractor shall recognize and abide by MCL Construction's Quality Management Program.

**INSURANCE REQUIREMENTS FOR SUBCONTRACTORS**

**SUBCONTRACT AGREEMENT NO. 24139-03**

**RE: Surcharge Grading & Tree Clearing /**

**Removal**

Prior to commencement of the Work, the Subcontractor shall procure, and at all times thereafter until the Subcontractor's obligations under this Subcontract Agreement are fully discharged, maintain with insurers acceptable to the Contractor, the following minimum insurance insuring the Subcontractor, the Contractor and the Owner against liability from damages because of injuries, including death, suffered by persons, including employees of the Subcontractor, and liability from damages to property arising from and in any way connected with the Subcontractor's operations, including its subcontractors' and suppliers' operations, in connection with the performance of this Subcontract Agreement. If the terms of the Contract require higher limits or additional coverage or both, the Contractor reserves the right to require the Subcontractor to provide, at the Subcontractor's expense, such higher limits or additional coverage, or both.

**General Liability:**

Limits of at least: \$1,000,000 Per Occurrence  
\$2,000,000 General Aggregate  
\$2,000,000 Completed Operations Aggregate  
\$1,000,000 Personal and Advertising Injury

- Coverage shall be provided by a standard form Commercial General Liability Policy covering bodily injury, property damage including loss of use, and personal injury.
- General Aggregate to apply on a Per Project Basis
- Meyers Carlisle Leapley Construction Co., Inc. dba MCL Construction and owner shall be named as Additional Insured on a primary and non-contributory basis including completed operations by using form CG 2010 04/13 for ongoing operations, CG 2037 04/13 for completed operations and CG 2038 04/13 for non-direct contract/ongoing operations or their equivalent. Additional Insured status shall be maintained for two (2) years after final acceptance and payment.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- Contractual liability coverage shall be on a broad form basis and shall not be amended by any limiting endorsements.
- If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- If applicable, coverage for EIFS-related work will be included.
- Completed Operations shall provide coverage for work performed by subcontractors.
- Products and completed operations shall be maintained for duration of work and shall be further maintained for a minimum period of two (2) years after final acceptance and payment.
- Coverage for demolition of any building or structure, collapse, explosion, blasting, excavation and damage to property below surface of ground (XCU coverage).
- Policy shall not contain a total or absolute pollution exclusion. Coverage shall be provided for pollution exposures arising from products and completed operations. (As per standard CG0001 Pollution Exclusion or equivalent.)
- If applicable, Subcontractor shall maintain electronic data liability insurance, covering liability arising out of damage to, loss of use of, corruption of, inability to access, or inability to properly manipulate, electronic data, and with a limit of \$500,000.

**Automobile Liability:**

Limits of at least: \$1,000,000 CSL Per Accident

- Coverage shall apply to all Owned, Hired, and Non-Owned Autos.
- Contractor, Owner and their respective agents, officers, directors, and employees shall be listed as an Additional Insured on a primary and non-contributory basis.
- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- If work is being done near a railroad track, the 50' railroad right of way exclusion must be deleted.
- If applicable, Pollution Liability Coverage shall be provided using the ISO endorsement CA 9948 or equivalent and the MCS-90 endorsement shall be attached.

**Workers Compensation:**

Limits: Statutory coverage for the state where the project is located.

Liability limits: \$500,000 Each Accident  
\$500,000 Disease - Per Person  
\$500,000 Disease - Policy Limit

- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.
- Where applicable, coverage for U.S. Longshore and Harbor Workers' Compensation Act and Jones Act.

**Umbrella / Excess:**

Limits of at least: \$5,000,000 Per Occurrence

- Policy shall provide liability coverage over the specified Workers Compensation/Employers Liability, Commercial General Liability and Auto Liability.
- Policy shall be Primary/Noncontributory coverage over the specified Commercial General Liability and Auto Liability policies.
- Contractor, Owner and their respective agents, officers, directors, and employees shall be listed as an Additional Insured on a primary and non-contributory basis.

**PINK GRADING INC**

SUBCONTRACTOR:

By: DocuSigned by: Evan Pink  
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Title: Project Manager

Date: 2/18/2025

**MEYERS-CARLISLE-LEAPLEY CONSTRUCTION CO INC**

CONTRACTOR:

By: DocuSigned by: Tyler Adams  
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Title: Project Executive

Date: 2/19/2025

- Subcontractor agrees to waive its rights of recovery. Subcontractor's insurer shall endorse the policy to waive subrogation against Contractor, Owner and their respective agents, officers, directors and employees.



MCL Construction  
Subcontractors' Safety Responsibilities

TO ALL SUBCONTRACTORS:

Reference is made to SAFETY in APPENDIX "A", Item #4, concerning the Subcontractor's SAFETY responsibilities. Every Subcontractor must comply with, and be bound by, the following SAFETY rules and regulations.

- I. All local, state and federal Regulations concerning SAFETY.
  - II. ALL SAFETY regulations established by the associations, organizations, or labor groups, with whom the Subcontractor is normally associated by virtue of the particular trade or trades included in the Subcontractor's operations.
  - III. Standard SAFETY practices, established by Meyers-Carlisle-Leapley Construction Co., Inc., as published in the MCL Construction Safety Manual, to be complied with by each Subcontractor. Safety practices include, but are not limited to, those listed here.
1. Good housekeeping must be maintained at all times.
  2. Hard hats must be worn at all times.
  3. Safety glasses that comply with ANSI Z87.1 must be worn at all times.
  4. Proper work clothing is required on the jobsite. Minimum accepted apparel is a high-visibility T-shirt, long pants and work boots.
  5. Only full body harnesses shall be worn when there is exposure to falls where practical. Body belts are allowed for position work only.
  6. Job Superintendent must be notified when firefighting equipment has been used to allow proper replacement or servicing.
  7. All openings larger than 2" in diameter must be barricaded, adequately covered or protected by standard handrails. This includes: floor openings, shafts, and open perimeters. If these protective devices have to be removed for working purposes, they are to be replaced immediately after work is completed.
  8. All work platforms must be a minimum of two (2) planks wide. Work areas on scaffolds should be fully planked.
  9. Scaffolding over six (6) feet high must have a standard handrail system.
  10. No one is to ride scaffolds, material hoists or forklifts.
  11. All ladders should extend to three (3) feet above the access point and be tied off. Stake ladder when based on unstable soil.
  12. Protruding nails in lumber, dismantled forms, scaffolds, etc., and any other protruding nails must be pulled or bent down as soon as they are exposed.
  13. All electrical equipment and power tools must be grounded. All requirements (OSHA) will be met for ground fault protection. Employers shall use either ground fault circuit interrupters or establish and implement assured equipment grounding conductor program. (OSHA Rules and Regulations, Subpart K, Electrical)
  14. "Hot" electrical panels will be protected with plywood or other suitable materials. Cardboard will not be used to protect employees from live parts.
  15. All guards on power equipment and tools must be kept in good working condition and must be in place whenever such equipment is operating.

16. Workers will not remove SAFETY guards except for repairing or servicing. Machine will be off for such work.
17. No machines will be operated unless properly guarded. Guards must be in good condition, in place, and operative.
18. All defective equipment must be reported to the Superintendent.
19. All requirements (OSHA) will be met for eye protection when so required by SAFETY rules and regulations.
20. All accidents are to be reported immediately.
21. There will be no personal radios or MP3 players allowed at any time.
22. All personnel are encouraged and invited to attend weekly SAFETY meetings.
23. Sides of trenches, greater than five (5) feet in depth, shall be shored, sheeted, braced, sloped, or otherwise supported by means of sufficient strength to protect the employees within them. Daily visual inspections must be made to determine class of soil.
24. All Subcontractors shall provide, upon request, a copy of their Hazard Communication program. Copies of this program will be kept in the office of the jobsite Superintendent.

SUBCONTRACTOR'S SUPERINTENDENT WILL IMPLEMENT THE SAFETY STATEMENT IN COOPERATION WITH, AND APPROVAL OF, MCL CONSTRUCTION SAFETY DIRECTOR.

Bellevue Bay Indoor Water Park

PROJECT NAME

Pink Grading Inc

DocuSigned by:

COMPANY NAME

*Evan Pink*

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SUBCONTRACTOR'S REPRESENTATIVE

2/18/2025

DATE



Meyers Carlisle Leapley Construction  
14558 Portal Circle  
LaVista, Nebraska 68138  
O (402) 339-2221 F  
mclconstruction.com

**THIS DOCUMENT MUST BE RETURNED TO  
MCL Construction**

By signing this document, Pink Grading Inc (“Subcontractor”) is stating that all employees who are assigned to work at any and all MCL Construction jobsites will be trained in all aspects of the work contracted to be performed prior to arrival.

Furthermore, Subcontractor states that all employees performing work for MCL Construction, prior to arrival at the jobsite, will be trained in any and all safety and health rules and regulations pertaining to the type of work being performed by the Subcontractor and the type of work being performed onsite.

Furthermore, Subcontractor agrees to provide a Competent Person” as defined by the OSHA Standards on all MCL Construction jobsites on a daily basis when engaged in work activities, especially those activities involving trenching and excavation, fall protection and scaffolding.

DocuSigned by:

*Evan Pink*

12EF66D66DC44BC...

Authorized Agent of Pink Grading Inc

2/18/2025

Date of Signature





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### Subcontractor Change Order

TO: Pink Grading Inc  
4920 S 66 Plaza  
Omaha, Nebraska 68117

**Contract Revision:**I-001  
**Date:**04/01/2025  
**Project:**Bellevue Bay Indoor Water Park

**Subcontract #24139-03**

**Owner/Architect:**City of Bellevue/  
Holland Basham Architects

**Owner/Architect Project Number:**24-053  
**MCL Project Number:**24-139

To Whom it May Concern:

We are making the following changes in your Contract in connection with the above-referenced project. All work covered by this Change Order shall be performed under the same Terms and Conditions as that included in the Original Contract

These Changes are as follows:

Provide all labor, materials, equipment, and supervision necessary to complete the following in accordance with the Contract Documents, but not by way of limitation:

CE #MCL-003 - Pink Grading - add cost code 310010-25

Adding cost code 310010-25 to Pink's contract so we can bill for tree removal on the Site portion of the owner pay app.

#	Cost Code	Description	Type	Amount
1	31-310010-25 - Tree Removal	New cost code for billing	Subcontract	\$0.00
			<b>Grand Total:</b>	<b>\$0.00</b>

The original (Contract Sum)	\$ 778,614.00
Net change by previously authorized Change Orders	\$ 0.00
The contract sum prior to this Change Order was	\$ 778,614.00
The contract sum will not be changed by this Change Order in the amount of	\$ 0.00
The new contract sum including this Change Order will be	\$ 778,614.00
The contract time will not be changed by this Change Order by	

**PLEASE SIGN AND RETURN ONE COPY TO MCL CONSTRUCTION**

Please sign one copy and return to this office within three (3) days.

SUBCONTRACTOR  
Pink Grading Inc  
4920 S 66 Plaza Omaha, Nebraska  
68117

CONTRACTOR  
**MCL Construction**  
14558 Portal Circle LaVista, Nebraska  
68138

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
By

\_\_\_\_\_  
By

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



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# Subcontractor Change Order

TO: Pink Grading Inc  
 4920 S 66 Plaza  
 Omaha, Nebraska 68117

**Contract Revision:**I-002  
**Date:**05/30/2025  
**Project:**Bellevue Bay Indoor Water Park

**Subcontract #24139-03**

**Owner/Architect:**City of Bellevue/  
 Holland Basham Architects

**Owner/Architect Project Number:**24-053  
**MCL Project Number:**24-139

To Whom it May Concern:

We are making the following changes in your Contract in connection with the above-referenced project. All work covered by this Change Order shall be performed under the same Terms and Conditions as that included in the Original Contract

These Changes are as follows:

Provide all labor, materials, equipment, and supervision necessary to complete the following in accordance with the Contract Documents, but not by way of limitation:

CE #MCL-001 - Mass Grading Package

Provide all labor, equipment, material and incidental costs to complete the Mass Grading scope per Olsson drawing package dated 01/31/2025.

1. Inclusions:

1. Olsson drawing sheets C0.0 through C4.2 dated 01/31/2025
2. Initial install of erosion control measures
3. Removal of existing Northern Natural gas line (\$12,000 value)
4. Cover crop / temporary seeding per the contract documents
5. Bonds

2. Exclusions

1. Taxes
2. Survey & staking
3. Special inspections and testing
4. Maintenance of erosion control measures
5. Temporary rock road for adjacent residents (will be performed on a T&M basis)
6. Key note "D" on sheet C1.2 related to removal of existing power (by MCL)

3. Unit Pricing

1. Recycled Concrete
  1. Delivered: \$16.00/ton
  2. Spread: \$5.00/ton
2. Spoils
  1. Removed from site: \$170/load

#	Cost Code	Description	Type	Amount
1	31-310010-10 - Earthwork - Sub	Mass Grading - Base bid-1	Subcontract	\$900,000.00
2	31-310010-10 - Earthwork - Sub	Remove existing Northern Natural Gas line	Subcontract	\$12,000.00



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#	Cost Code	Description	Type	Amount
3	31-310010-10 - Earthwork - Sub	Deduct for Surcharge + Mass Grading efficiency	Subcontract	\$(50,000.00)
4	31-310010-10 - Earthwork - Sub	Bond (1.50%)	Subcontract	\$21,924.00
5	31-310010-10 - Earthwork - Sub	Mass Grading - Base bid-2	Subcontract	\$599,625.00
			<b>Grand Total:</b>	<b>\$ 1,483,549.00</b>

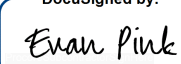
The original (Contract Sum)	\$ 778,614.00
Net change by previously authorized Change Orders	\$ 0.00
The contract sum prior to this Change Order was	\$ 778,614.00
The contract sum will would be changed by this Change Order in the amount of	\$ 1,483,549.00
The new contract sum including this Change Order will be	\$ 2,262,163.00
The contract time will not be changed by this Change Order by 0 days	

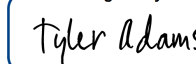
**PLEASE SIGN AND RETURN ONE COPY TO MCL CONSTRUCTION**

Please sign one copy and return to this office within three (3) days.

SUBCONTRACTOR  
 Pink Grading Inc  
 4920 S 66 Plaza Omaha, Nebraska  
 68117

CONTRACTOR  
**MCL Construction**  
 14558 Portal Circle LaVista, Nebraska  
 68138

DocuSigned by:  
  
 (Signature)

DocuSigned by:  
  
 (Signature)

Evan Pink  
 \_\_\_\_\_  
 By  
 \_\_\_\_\_  
 5/27/2025  
 \_\_\_\_\_  
 Date

Tyler Adams  
 \_\_\_\_\_  
 By  
 \_\_\_\_\_  
 5/28/2025  
 \_\_\_\_\_  
 Date





**Project:** Waterpark Mass Grade  
**Addendums:**  
**Date:** February 25, 2025  
**Contact Info:** (O) 402-592-1034 ; (F) 402-591-1035  
 4920 S 66th Plz, Omaha, NE 68117  
 John : 402-681-2930  
 Evan : 402-590-7784

	Scope of work:	Totals
01	Mobilization	\$ -
02	Removals: All Removals per C1.2 notes A-P.	\$ -
03	Removal of Erosion Control and Temporary Basin from Surcharge Phase.	\$ -
04	Furnish and install silt fence, straw wattle, rip rap & permanent seeding.	\$ -
05	Furnish and install new temporary silt basins with associated utility work.	\$ -
06	Strip, stockpile & spread topsoil.	\$ -
07	Spread topsoil from previous stockpile on surcharge phase.	\$ -
08	Mass grading of site per plans. Includes all cut & fill.	\$ -
09	Remobilize and mass grade protection zone following gas line relocation.	\$ -
10	<b>Pink to use well water for grading purposes prior to abandonment of well.</b>	\$ -
11		\$ -
12	<b>ADD ALT: Removal of existing gas line following relocation.</b>	\$ 12,000.00
13	<b>Exclusions Below:</b>	\$ -
14	This proposal excludes any grading and rock for temporary roads.	\$ -
15	This proposal excludes any erosion control maintenance.	\$ -
16		\$ -
17	<b>If awarded both surcharge and mass grading phases; deduct \$50,000.</b>	\$ -
18		\$ -

Add 1.5% to base bid if bond required

Pink Grading Inc, is pleased to submit the following proposal:

<b>Grand Total</b>	<b>\$</b>	<b>1,499,625.00</b>
--------------------	-----------	---------------------

**Inclusions:** If not specifically included within, then it is excluded

**Exclusions:** LABOR SALES TAX, PERMITS, BOND, LAYOUT & STAKING, TESTING, DEWATERING, REMOVAL OF ANY UNKNOWN OR HIDDEN UNDERGROUND ITEMS, BUILD PCC & ASPHALT PAVEMENT, PAVEMENT SUBGRADE PREPARATION, BUILD SANITARY & STORM SEWERS, DISCONNECTING & CAPPING OR SEALING & REMOVING UTILITIES, EXCAVATE & BACKFILL UTILITY TRENCHES, UTILITIES INSTALLATIONS, UTILITY & FOOTING SPOILS, SIGNAGE & PAVEMENT MARKINGS, PAVEMENT SAWCUT, TEMPORARY BARRIERS, TRAFFIC CONTROL, CONSTRUCT BUILDING FOOTINGS, EXCAVATE FOR FOOTINGS, MAINTENANCE & REMOVAL OF SILT FENCE, ANY EROSION CONTROL ITEM NOT LISTED, REMOVE & REPLACE FROST LADEN SOIL, TEMPORARY OR PERMANENT SEEDING AND SOD REMOVAL OF ANY HAZARDOUS OR CONTAMINATED SOILS & MATERIALS, TEMPORARY ROCK FOR LAYOUT/HAULROADS/CONSTRUCTION TRAILERS, RETAINING WALL BACKFILL, STORM RETENTION EXCAVATION & BACKFILL, IMPORT OF TOPSOIL, SURCHARGE, OVEREXCAVATION, FINE GRADE FOR SIDEWALKS, NIGHT WORK, SEE ADDITIONAL EXCLUSIONS ABOVE

**Extras:**

- 1) Recycled concrete can be delivered for \$16/Ton and spread for \$5/Ton
- 2) Spoils can be removed for \$170/Load
- 3)

This proposal is valid for 15 calendar days unless stated otherwise within.

**Pink Grading Inc.**  
**EST. 1970**



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### Subcontractor Change Order

TO: Pink Grading Inc  
4920 S 66 Plaza  
Omaha, Nebraska 68117

**Contract Revision:**I-003  
**Date:**06/20/2025  
**Project:**Bellevue Bay Indoor Water Park

**Subcontract #24139-03**

**Owner/Architect:**City of Bellevue/  
Holland Basham Architects

**Owner/Architect Project Number:**24-053  
**MCL Project Number:**24-139

To Whom it May Concern:

We are making the following changes in your Contract in connection with the above-referenced project. All work covered by this Change Order shall be performed under the same Terms and Conditions as that included in the Original Contract

These Changes are as follows:

Provide all labor, materials, equipment, and supervision necessary to complete the following in accordance with the Contract Documents, but not by way of limitation:

CE #MCL-004 - Resident rock road

Time & material cost to install the temporary rock road for residents per the attached backup.

#	Cost Code	Description	Type	Amount
1	31-310010-10 - Earthwork - Sub	Resident rock roac	Subcontract	\$61,708.15
<b>Grand Total:</b>				<b>\$61,708.15</b>

The original (Contract Sum)	\$ 778,614.00
Net change by previously authorized Change Orders	\$ 1,483,549.00
The contract sum prior to this Change Order was	\$ 2,262,163.00
The contract sum will be increased by this Change Order in the amount of	\$ 61,708.15
The new contract sum including this Change Order will be	\$ 2,323,871.15
The contract time will not be changed by this Change Order by 0 days	

**PLEASE SIGN AND RETURN ONE COPY TO MCL CONSTRUCTION**

Please sign one copy and return to this office within three (3) days.

SUBCONTRACTOR  
Pink Grading Inc  
4920 S 66 Plaza Omaha, Nebraska  
68117

CONTRACTOR  
**MCL Construction**  
14558 Portal Circle LaVista, Nebraska  
68138

Signed by:  
  
\_\_\_\_\_  
(Signature)

DocuSigned by:  
  
\_\_\_\_\_  
(Signature)

Evan Pink  
\_\_\_\_\_  
By  
6/16/2025  
\_\_\_\_\_  
Date

Tyler Adams  
\_\_\_\_\_  
By  
6/16/2025  
\_\_\_\_\_  
Date



**Project:** Waterpark  
**Change Order Request #:** 2  
**Date:** June 16, 2025  
**Contact Info:** (O) 402-592-1034 ; (F) 402-591-1035  
 4920 S 66th Plz, Omaha, NE 68117  
 John : 402-681-2930  
 Evan : 402-590-7784

Change Order Request		
	Scope of work:	Totals
01	Furnish, Deliver & Install 1.5" Recycled Concrete. 382.48 Tons @ \$21/T	\$ 8,032.08
02	Furnish, Deliver & Install 1.5" Recycled Concrete. 983.57 Tons @ \$21/T	\$ 20,654.97
03	Furnish Limestone. 661.58 Tons @ \$40/T	\$ 26,463.20
04	Deliver Limestone. 661.58 Tons @ \$5/T	\$ 3,307.90
05	Install Limestone. 25 Trucking Hours @ 130/Hr	\$ 3,250.00
06		\$ -
07		\$ -
08		\$ -
09		\$ -
10		\$ -

Pink Grading Inc, is pleased to submit the following change request:

<b>Grand Total</b>	<b>\$ 61,708.15</b>
--------------------	---------------------

Inclusions:

Exclusions:

This proposal is valid for 15 calendar days unless stated otherwise within.

Acceptance of proposal:

Signature : \_\_\_\_\_  
 Pink Grading Inc.

Date : \_\_\_\_\_

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

Date : \_\_\_\_\_



## LETTER AGREEMENT FOR PROFESSIONAL SERVICES

January 2, 2025

MCL Construction  
Attn: Tyler Adams  
Project Executive  
14558 Portal Cir,  
Omaha, NE 68138

Re: **LETTER AGREEMENT FOR PROFESSIONAL SERVICES**  
Bellevue Water Park ("Project") Bellevue, NE

Dear Tyler:

It is our understanding that MCL Construction ("Client") requests Olsson, Inc. ("Olsson") to perform the services described herein pursuant to the terms of this Letter Agreement for Professional Services, Olsson's General Provisions and any exhibits attached hereto (all documents constitute and are referred to herein as the "Agreement") for the Project.

Olsson has acquainted itself with the information provided by Client relative to the Project and based upon such information offers to provide the services described below for the Project. Client warrants that it is either the legal owner of the property to be improved by this Project or that Client is acting as the duly authorized agent of the legal owner of such property. Client acknowledges that it has reviewed the General Provisions and any exhibits attached hereto, which are expressly made a part of and incorporated into the Agreement by this reference. In the event of any conflict or inconsistency between this Letter Agreement, and the General Provisions regarding the services to be performed by Olsson, the terms of the General Provisions shall take precedence.

Olsson shall provide the following services ("Scope of Services") to Client for the Project: as more specifically described in "Scope of Services" attached hereto. Should Client request work in addition to the Scope of Services, Olsson shall invoice Client for such additional services (Optional Additional Services) at the standard hourly billing labor rate charged for those employees performing the work, plus reimbursable expenses if any. Olsson shall not commence work on Optional Additional Services without Client's prior written approval.

Olsson agrees to provide all of its services in a timely, competent and professional manner, in accordance with applicable standards of care, for projects of similar geographic location, quality and scope.

## SCHEDULE FOR OLSSON'S SERVICES

Unless otherwise agreed, Olsson expects to perform its services under the Agreement as follows:

Anticipated Start Date: Upon receipt of signed proposal.

Anticipated Completion Date:

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

## COMPENSATION

Client shall pay to Olsson for the performance of the Scope of Services, the actual time of personnel performing such services, and all actual reimbursable expenses in accordance with the Labor Billing Rate Schedule(s) and the Reimbursable Expense Schedule attached to this Agreement. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

Olsson's Scope of Services will be provided on a time and expense **fee estimate of Thirty Thousand and Nine Hundred Dollars. (\$30,900).**

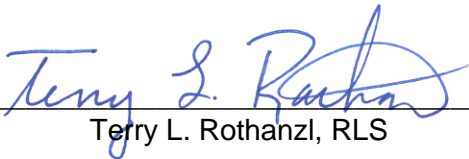
## TERMS AND CONDITIONS OF SERVICE


We have discussed with you the risks, rewards and benefits of the Project, the Scope of Services, and our fees for such services and the Agreement represents the entire understanding between Client and Olsson with respect to the Project. The Agreement may only be modified in writing signed by both parties.

Client's designated Project Representative shall be Tyler Adams. 402-339-2221.

If this Agreement satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain one original for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of maximum 30 days from the date set forth above, unless changed by us in writing.

**OLSSON, INC.**

By   
Terry L. Rothanzl, RLS

By   
Dan Hanna

By signing below, you acknowledge that you have full authority to bind Client to the terms of the Agreement. If you accept the terms set forth herein, please sign:

**MCL Construction**

DocuSigned by:  
By   
93B1D725DAEA4B6...  
Signature

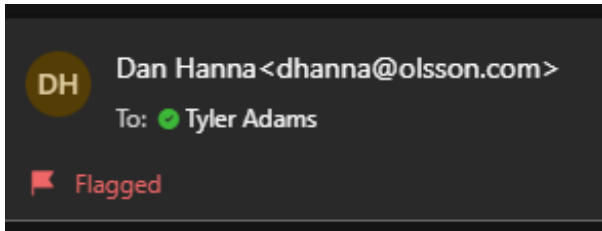
Print Name Tyler Adams

Title PROJECT EXECUTIVE

Dated 2/12/2025

Attachments

- General Provisions
- Scope of Services
- Standard Labor Rate Schedule
- Reimbursable Expense Schedule



## SCOPE OF SERVICES

This exhibit is hereby attached to and made a part of the Letter Agreement for Professional Services dated January 2, 2025, between MCL Construction ("Client") and Olsson, Inc. ("Olsson") providing for professional services. Olsson's Scope of Services for the Agreement is indicated below.

### PROJECT DESCRIPTION AND LOCATION

Project will be located at: Bellevue Water Park ("Project")  
Bennington, NE

Project Description: Construction Staking Mass Grading & Surcharge Package

### SCOPE OF SERVICES

Olsson shall provide the following services (Scope of Services) to Client for the Project:

#### SURVEY SERVICES

##### Task 1 – Grading

- Stake perimeter Toe and Tops of Surcharge Limits, Over X areas and silt basin.

##### Task 2 – SF - LOD

- Stake all Silt Fence and Limits of disturbance lines 50' on tangents and 25' along curves.

##### Task 3 – Storm Sewer

- Stake the storm lines on an offset at a minimum of 50 feet with grades to the rim and invert elevations.

##### Task 4 – Control

- Stake new or mark up existing control as specified by the client.

##### Task 5 – Verify Surcharge

- Olsson will provide a topographic exhibit of the surcharge and over x areas for verification.

##### Task 6 – Settlement Plate Monitoring

- Olsson will provide Bi-weekly or weekly readings per the clients request.

#### Assumptions:

Olsson Survey will not install settlement plate as part of this scope and fee.

**ADDITIONAL ITEMS**

- Any staking outside of the Scope of Services will be billed at Time and Expense as outlined on attached 2025 Rate Schedule.
- Re-staking will be discussed and documented by an Olsson representative and a representative from MCL Construction prior to being staked. Both parties must agree and sign off on staking and time associated with it (See attached Additional Services Sheet). Re-staking will be billed Time and Expense as outlined on attached 2024 Rate Schedule.



## 2024 Survey Services Labor Billing Rate Schedule

Service	Rate
<b>Survey</b>	
Survey Intern	\$ 60.00/hr
Assistant Technician/Surveyor	\$ 85.00/hr
Associate Technician/Surveyor	\$ 115.00/hr
Senior Technician/Surveyor	\$140.00/hr
Technical Manager/Senior Surveyor	\$194.00/hr
Survey Group Leader	\$150.00/hr
1-Person Survey Crew	\$140.00/hr
2-Person Survey Crew	\$200.00/hr
3-Person Survey Crew	\$260.00/hr
3D HD Scanning Crew	\$250.00/hr
UAV Pilot	\$250.00/hr
UAV Assistant	\$85.00/hr

### General Terms and Conditions for All Services:

- These Unit Fees are in effect until January 1, 2024. Services and fees not listed above will be quoted upon request.
- Services provided on weekends, holidays, and in excess of 8 hours/day will be charged at 1.5 times the Unit Fee.

**CURRENT REIMBURSABLE EXPENSE DETAIL**

**Travel**

Personal Vehicles 0.545 /mile  
 Suburban/Pickups 0.75 /mile

**OA Fleet Cars/Vans/SUV**

Under 150 Miles 0.545 /mile  
 Over 150 Miles 85.00 /day

**Office Expenses\***

Copies BW - All 0.15 /each  
*Konica & Textronix*  
 Copies Color 8.5 x 11 0.50 /each  
 Copies Color 8.5 x 14 0.50 /each  
 Copies Color 11 x 17 1.00 /each  
 KIP Bond 0.20 /sq ft  
 KIP Vellum 0.70 /sq ft  
 KIP Film-Mylar 3.00 /sq ft  
 HP DesignJet BW - Bond 0.20 /sq ft  
 HP DesignJet BW - Film-Mylar 3.00 /sq ft  
 Large Format Print-Color 2.50 /sq ft  
 Large Format Print-Presentation 5.00 /sq ft

**Miscellaneous Materials/Supplies/Services**

Supplies Cost +10%  
 Outside Billings Cost +10%  
 Telephone Cost +10%  
 Consultants Cost +10%  
 Laboratory Cost +10%

**Filing Fees**

City 2.50 /each  
 Rural 5.00 /each

**Survey Supplies & Equipment\***

Survey Supplies	Estimated Costs
Wood Lath - Various Sizes	0.70 /each*
Wood Hubs (2x2x8)	0.35 /each*
Wood Guards (Stakes) (1x2x18)	0.35 /each*

Pipe	5.25 /each
Flags	0.10 /each
Flagging Tape	1.50 /roll
Paint	4.40 /can
Rebar (1/2")	1.20 /each
Rebar (3/4")	1.75 /each
Rebar (5/8")	1.66 /each

**Equipment**

GPS	25.00 /hour
EDM ( Total Station-A)	10.00 /hour
EDM ( Total Station-B)	5.00 /hour
4-WD ATV	60.00 /day

Jack Hammer Current Rental Rates

Field Tests*	Estimated Costs
Aggregate	30.00 /test
Concrete	65.00 /test
Troxler Nuclear Density Gauge	25.00 /test
(Compaction Tests)	100.00 /day max
Cylinder Breaks	10.00 /break
Cylinder Breaks Reserve	4.00 /each

\*This does not reflect a complete list of items that are chargeable by OA. Costs subject to change.

**Shaded costs are estimates only and vary by region. Consult your local survey team for current billing rates.**



### Additional Survey Services

Contractor/Client \_\_\_\_\_ Date: \_\_\_\_/\_\_\_\_/\_\_\_\_

Project Name: \_\_\_\_\_

Olsson Project # \_\_\_\_\_

1 Man Survey Crew \_\_\_\_\_ No. of Hours \_\_\_\_\_

2 Man Survey Crew \_\_\_\_\_ No. of Hours \_\_\_\_\_

Description of Work:

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\_\_\_\_\_  
Client Representative

Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_

\_\_\_\_\_  
Olsson Associates Representative

Date Signed \_\_\_\_/\_\_\_\_/\_\_\_\_

## GENERAL PROVISIONS

These General Provisions are attached to and made a part of the respective Letter Agreement or Master Agreement, dated January 2, 2025 between MCL Construction ("Client") and Olsson, Inc. ("Olsson") for professional services in connection with the project or projects arising under such Letter Agreement or Master Agreement (the "Project(s)").

As used herein, the term "this Agreement" refers to these General Provisions, the applicable Letter Agreement or Master Agreement, and any other exhibits or attachments thereto as if they were part of one and the same document.

### **SECTION 1—OLSSON'S SCOPE OF SERVICES**

Olsson's scope of services for the Project(s) is set forth in the applicable Letter Agreement or Master Agreement ("Scope of Services").

### **SECTION 2—ADDITIONAL SERVICES**

2.1 Unless otherwise expressly included, Scope of Services does not include the categories of additional services set forth in Sections 2.2 and 2.3.

2.2 If Client and Olsson mutually agree for Olsson to perform any optional additional services as set forth in this Section 2.2 ("Optional Additional Services"), Client will provide written approval of the agreed-upon Optional Additional Services, and Olsson shall perform or obtain from others such services and will be entitled to an increase in compensation at rates provided in this Agreement. Olsson may elect not to perform all or any of the Optional Additional Services without cause or explanation:

2.2.1 Preparation of applications and supporting documents for governmental financial support of the Project(s); preparation or review of environmental studies and related services; and assistance in obtaining environmental approvals.

2.2.2 Services to make measured drawings of or to investigate existing conditions of facilities.

2.2.3 Services resulting from changes in the general scope, extent or character of the Project(s) or major changes in documentation previously accepted by Client where changes are due to causes beyond Olsson's control.

2.2.4 Services resulting from the discovery of conditions or circumstances which were not contemplated by Olsson at the commencement of this Agreement. Olsson shall notify Client of the newly discovered conditions or circumstances and Client and Olsson shall renegotiate, in good faith, the compensation for this Agreement, if amended terms cannot be agreed upon, Olsson may terminate this Agreement and Olsson shall be paid for its services through the date of termination.

2.2.5 Providing renderings or models.

2.2.6 Preparing documents for alternate bids requested by Client.

2.2.7 Analysis of operations, maintenance or overhead expenses; value engineering; the preparation of rate schedules; earnings or expense statements; cash flow or economic evaluations or; feasibility studies, appraisals or valuations.

2.2.8 Furnishing the services of independent professional associates or consultants for work beyond the Scope of Services.

2.2.9 Services necessary due to the Client's award of more than one prime contract for the Project(s); services necessary due to the construction contract containing cost plus or incentive-savings provisions; services necessary in order to arrange for performance by persons other than the prime contractor; or those services necessary to administer Client's contract(s).

2.2.10 Services in connection with staking out the work of contractor(s).

2.2.11 Services during out-of-town travel or visits to the site beyond those specifically identified in this Agreement.

2.2.12 Preparation of operating and maintenance manuals.

2.2.13 Services to redesign some or all of the Project(s).

2.2.14 Preparing to serve or serving as a consultant or witness or assisting Client with any litigation, arbitration or other legal or administrative proceeding.

2.2.15 Services relating to Construction Observation, Certification, Inspection, Construction Cost Estimating, project observation, construction management, construction scheduling, construction phasing or review of Contractor's performance means or methods.

2.3 Whenever, in its sole discretion, Olsson determines additional services as set forth in this Section 2.3 are necessary to avoid a delay in the completion of the Project(s) ("Necessary Additional Services"), Olsson shall perform or obtain from others such services without waiting for specific instructions from Client, and Olsson will be entitled to an increase in compensation for such services at the standard hourly billing rate charged for those employees performing the services, plus reimbursable expenses, if any:

2.3.1 Services in connection with work directive changes and/or change orders directed by the Client to any contractors.

2.3.2 Services in making revisions to drawings and specifications occasioned by the acceptance of substitutions proposed by contractor(s); services after the award of each contract in evaluating and determining the acceptability of an unreasonable or excessive number of substitutions proposed by contractor(s); or evaluating an unreasonable or extensive number of claims submitted by contractor(s) or others in connection with the Project(s).

2.3.3 Services resulting from significant delays, changes or price increases occurring as a direct or indirect result of material, equipment or energy shortages.

2.3.4 Additional or extended services during construction made necessary by (1) work damaged during construction, (2) a defective, inefficient or neglected work by any contractor, (3) acceleration of the progress schedule involving services beyond normal working hours, or (4) default by any contractor.

### **SECTION 3—CLIENT'S RESPONSIBILITIES**

3.1. Client shall provide all criteria and full information as to Client's requirements for the Project(s); designate and identify in writing a person to act with authority on Client's behalf in respect of all aspects of the Project(s); examine and respond promptly to Olsson's submissions; and give prompt written notice to Olsson whenever Client observes or otherwise becomes aware of any defect in the Olsson's services.

3.2 Client agrees to pay Olsson the amounts due for services rendered and expenses within thirty (30) days after Olsson has provided its invoice for such services. In the event Client disputes any invoice item, Client shall give Olsson written notice of such disputed item within fifteen (15) days after receipt of such invoice and shall pay to Olsson the undisputed portion of the invoice according to the provisions hereof. If Client fails to pay any invoiced amounts when due, interest will accrue on each unpaid amount at the rate of thirteen percent (13%) per annum from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item which is finally resolved in Client's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due.

3.2.1 If Client fails to make any payment due Olsson for services and expenses within thirty (30) days after receipt of Olsson's statement therefore, Olsson may, after giving seven (7) days written notice to Client, suspend services to Client under this Agreement until Olsson has been paid in full all amounts due for services, expenses and charges and Client will not obtain any license to any Work Product or be entitled to retain or use any Work Product pursuant to Section 7.1 unless and until Olsson has been paid in full and Client has fully satisfied all of its obligations under this Agreement.

3.3 Payments to Olsson shall not be withheld, postponed or made contingent on the construction, completion or success of the Project(s) or upon receipt by the Client of offsetting reimbursements or credit from other parties who may have caused the need for additional services. No withholdings, deductions or offsets shall be made from Olsson's compensation for any reason unless and until Olsson has been found to be legally liable for such amounts.

3.4 Client shall also do the following and pay all costs incident thereto:

3.4.1 Furnish to Olsson any existing and/or required borings, probings or subsurface explorations; hydrographic surveys; laboratory tests or inspections of samples, materials or equipment; appropriate professional interpretations of any of the foregoing; environmental assessment and impact statements; property, boundary, easement, right-of-way, topographic or

utility surveys; property descriptions; and/or zoning or deed restrictions; all of which Olsson may rely upon in performing services hereunder.

3.4.2 Guarantee access to and make all provisions for Olsson to enter upon public and private property reasonably necessary to perform its services on the Project(s).

3.4.3 Provide such legal, accounting, independent cost estimating or insurance counseling services as may be required for the Project(s); any auditing service required in respect of contractor(s)' applications for payment; and/or any inspection services to determine if contractor(s) are performing the work legally.

3.4.4 Provide engineering surveys to establish reference points for construction unless specifically included in Olsson's Scope of Services.

3.4.5 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project(s).

3.4.6 If more than one prime contractor is to be awarded the contract for construction, designate a party to have responsibility and authority for coordinating and interfacing the activities of the various prime contractors.

3.5 Client shall pay all costs incident to obtaining bids or proposals from contractor(s).

3.6 Client shall pay all permit application review costs for government authorities having jurisdiction over the Project(s).

3.7 Contemporaneously with the execution of this Agreement, Client shall designate in writing an individual to act as its duly authorized Project(s) representative.

3.8 Client shall bear sole responsibility for:

3.8.1 Jobsite safety. Neither the professional activities of Olsson, nor the presence of Olsson or its employees or sub-consultants at the Project shall impose any duty on Olsson relating to any health or safety laws, regulations, rules, programs or procedures.

3.8.2 Notifying third parties including any governmental agency or prospective purchaser, of the existence of any hazardous or dangerous materials located in or around the Project(s) site.

3.8.3 Providing and updating Olsson with accurate information regarding existing conditions, including the existence of hazardous or dangerous materials, proposed Project(s) site uses, any change in Project(s) plans, and all subsurface installations, such as pipes, tanks, cables and utilities within the Project(s) site.

3.8.4 Providing and assuming all responsibility for: interpretation of contract documents; Construction Observations; Certifications; Inspections; Construction Cost Estimating; project observations; construction management; construction scheduling; construction phasing; and review of Contractor's performance, means and methods. Client waives any claims against Olsson and releases Olsson from liability relating to or arising out of such services and agrees, to the

fullest extent permitted by law, to indemnify and hold Olsson harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to such actions and services.

3.9 Client releases Olsson from liability for any incorrect advice, judgment or decision based on inaccurate information furnished by Client or others.

3.10 If reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including hazardous materials, encountered on the site, Olsson may immediately stop work in the affected area and report the condition to Client. Client shall be solely responsible for retaining independent consultant(s) to determine the nature of the material and to abate or remove the material. Olsson shall not be required to perform any services or work relating to or in the area of such material until the material has been removed or rendered harmless and only after approval, if necessary of the government agency with jurisdiction.

#### **SECTION 4—MEANING OF TERMS**

4.1 The "Cost of Construction" of the entire Project(s) (herein referred to as "Cost of Construction") means the total cost to Client of those portions of the entire Project(s) designed and specified by Olsson, but it will not include Olsson's compensation and expenses, the cost of land, rights-of-way, or compensation for or damages to, properties unless this Agreement so specifies, nor will it include Client's legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project(s) or the cost of other services to be provided by others to Client pursuant to Section 3.

4.2 The "Salary Costs": Used as a basis for payment mean salaries and wages (base and incentive) paid to all Olsson's personnel engaged directly on the Project(s), including, but not limited to, engineers, architects, surveyors, designers, draftsmen, specification writers, estimators, other technical and business personnel; plus the cost of customary and statutory benefits, including, but not limited to, social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation and holiday pay and other group benefits.

4.3 "Certify" or "a Certification": If included in the Scope of Services, such services shall be limited to a statement of Olsson's opinion, to the best of Olsson's professional knowledge, information and belief, based upon its periodic observations and reasonable review of reports and tests created by Olsson or provided to Olsson. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that any certifications based upon discrete sampling observations and that such observations indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services and certification does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any

laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Olsson shall sign pre-printed form certifications only if (a) Olsson approves the form of such certification prior to the commencement of its services, (b) such certification is expressly included in the Scope of Services, (c) the certification is limited to a statement of professional opinion and does not constitute a warranty or guarantee, express or implied. It is understood that any certification by Olsson shall not relieve the Client or the Client's contractors of any responsibility or obligation they may have by industry custom or under any contract.

4.4 "Opinion of Probable Cost": An opinion of probable construction cost made by Olsson. In providing opinions of probable construction cost, it is recognized that neither the Client nor Olsson has control over the costs of labor, equipment or materials, or over the contractor's methods of determining prices or bidding. The opinion of probable construction costs is based on Olsson's reasonable professional judgment and experience and does not constitute a warranty, express or implied, that the contractor's bids or the negotiated price of the work on the Project(s) will not vary from the Client's budget or from any opinion of probable cost prepared by Olsson.

4.5 "Day": A calendar day of 24 hours. The term "days" shall mean consecutive calendar days of 24 hours each, or fraction thereof.

4.6 "Construction Observation": If included in the Scope of Services, such services during construction shall be limited to periodic visual observation and testing of the work to determine that the observed work generally conforms to the contract documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of Construction Observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor or for the contractor's safety precautions and programs nor for failure by the contractor to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor. Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor or any subcontractor. Client, or its designees shall notify Olsson at least twenty-four (24) hours in advance of any field tests and observations required by the construction documents.

4.7 "Inspect" or "Inspection": If included in the Scope of Services, such services shall be limited to the periodic visual observation of the contractor's completed work to permit Olsson, as an experienced and qualified professional, to determine that the observed work, generally conforms to the contract

documents. Olsson shall not be responsible for constant or exhaustive observation of the work. Client understands and agrees that such visual observations are discrete sampling procedures and that such procedures indicate conditions that exist only at the locations and times the observations were performed. Performance of such observation services does not constitute a warranty or guarantee of any type, since even with diligent observation, some construction defects, deficiencies or omissions in the work may occur. Olsson shall have no responsibility for the means, methods, techniques, sequences or procedures selected by the contractor(s) or for the contractor's safety precautions and programs nor for failure by the contractor(s) to comply with any laws or regulations relating to the performance or furnishing of any work by the contractor(s). Client shall hold its contractor(s) solely responsible for the quality and completion of the Project(s), including construction in accordance with the construction documents. Any duty under this Agreement is for the sole benefit of the Client and not for any third party, including the contractor(s) or any subcontractor(s). Client, or its designees, shall notify Olsson at least twenty-four (24) hours in advance of any inspections required by the construction documents.

4.8 "Record Documents": Drawings prepared by Olsson upon the completion of construction based upon the drawings and other data furnished to Olsson by the Contractor and others showing significant changes in the work on the Project(s) made during construction. Because Record Documents are prepared based on unverified information provided by others, Olsson makes no warranty of the accuracy or completeness of the Record Documents.

## **SECTION 5—TERMINATION**

5.1 Either party may terminate this Agreement, for cause upon giving the other party not less than seven (7) calendar days written notice of default for any of the following reasons; provided, however, that the notified party shall have the same seven (7) calendar day period in which to cure the default:

5.1.1 Substantial failure by the other party to perform in accordance with the terms of this Agreement and through no fault of the terminating party;

5.1.2 Assignment of this Agreement or transfer of the Project(s) by either party to any other entity without the prior written consent of the other party;

5.1.3 Suspension of the Project(s) or Olsson's services by the Client for more than ninety (90) calendar days, consecutive or in the aggregate.

5.2 In the event of a "for cause" termination of this Agreement by either party, the Client shall, within fifteen (15) calendar days after receiving Olsson's final invoice, pay Olsson for all services rendered and all reimbursable costs incurred by Olsson up to the date of termination, in accordance with the payment provisions of this Agreement.

5.2.1 In the event of a "for cause" termination of this Agreement by Client and (a) a final determination of default is entered against Olsson under Section 6.2 and (b) Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product pursuant to Section 7.1.

5.3 The Client may terminate this Agreement for the Client's convenience and without cause upon giving Olsson not less than seven (7) calendar days written notice. In the event of any termination that is not the fault of Olsson, the Client shall pay Olsson, in addition to payment for services rendered and reimbursable costs incurred, for all expenses reasonably incurred by Olsson in connection with the orderly termination of this Agreement, including but not limited to demobilization, reassignment of personnel, associated overhead costs, any fees, costs or expenses incurred by Olsson in preparing or negotiating any proposals submitted to Client for Olsson's Scope of Services or Optional Additional Services under this Agreement and all other expenses directly resulting from the termination and a reasonable profit of ten percent (10%) of Olsson's actual costs (including overhead) incurred.

## **SECTION 6—DISPUTE RESOLUTION**

### **6.1. Mediation**

6.1.1 All questions in dispute under this Agreement shall be submitted to mediation. On the written notice of either party to the other of the election to submit any dispute under this Agreement to mediation, each party shall designate their representatives and shall meet within ten (10) days after the service of the notice. The parties themselves shall then attempt to resolve the dispute within ten (10) days of meeting.

6.1.2 Should the parties themselves be unable to agree on a resolution of the dispute, and then the parties shall appoint a third party who shall be a competent and impartial party and who shall be acceptable to each party, to mediate the dispute. Any third party mediator shall be qualified to evaluate the performance of both of the parties, and shall be familiar with the design and construction progress. The third party shall meet to hear the dispute within ten (10) days of their selection and shall attempt to resolve the dispute within fifteen (15) days of first meeting.

6.1.3 Each party shall pay the fees and expenses of the third party mediator and such costs shall be borne equally by both parties.

### **6.2 Arbitration or Litigation**

6.2.1 Olsson and Client agree that from time to time, there may be conflicts, disputes and/or disagreements between them, arising out of or relating to the services of Olsson, the Project(s), or this Agreement (hereinafter collectively referred to as "Disputes") which may not be resolved through mediation. Therefore, Olsson and Client agree that all Disputes shall be resolved by binding arbitration or litigation at the sole discretion and choice of Olsson. If Olsson chooses arbitration, the arbitration proceeding shall proceed in accordance with the Construction Industry Arbitration Rules of the AAA.

6.2.2 Client hereby agrees that Olsson shall have the right to include Client, by consolidation, joinder or other manner, in any arbitration or litigation involving Olsson and a subconsultant or subcontractor of Olsson or Olsson and any other person or entity, regardless of who originally initiated such proceedings.

6.2.3 If Olsson chooses arbitration or litigation, either may be commenced at any time prior to or after completion of

the Project(s), provided that if arbitration or litigation is commenced prior to the completion of the Project(s), the obligations of the parties under the terms of this Agreement shall not be altered by reason of the arbitration or litigation being conducted. Any arbitration hearings or litigation shall take place in Lincoln, Nebraska, the location of Olsson's home office.

6.2.4 The prevailing party in any arbitration or litigation relating to any Dispute shall be entitled to recover from the other party those reasonable attorney fees, costs and expenses incurred by the prevailing party in connection with the Dispute.

### **6.3 Certification of Merit**

Client agrees that it will not assert any claim, including but not limited to, professional negligence, negligence, breach of contract, misconduct, error, omission, fraud, or misrepresentation ("Claim") against Olsson, or any Olsson subconsultant, unless Client has first provided Olsson with a sworn certificate of merit affidavit setting forth the factual and legal basis for such Claim (the "Certificate"). The Certificate shall be executed by an independent engineer ("Certifying Engineer") currently licensed and practicing in the jurisdiction of the Project site. The Certificate must contain: (a) the name and license number of the Certifying Engineer; (b) the qualifications of the Certifying Engineer, including a list of all publications authored in the previous 10 years and a list of all cases in which the Certifying Engineer testified within the previous 4 years; (c) a statement by the Certifying Engineer setting forth the factual basis for the Claim; (d) a statement by the Certifying Engineer of each and every act, error, or omission that the Certifying Engineer contends supports the Claim or any alleged violation of any applicable standard of care; (e) a statement by the Certifying Engineer of all opinions the Certifying Engineer holds regarding the Claim or any alleged violation of any applicable standard of care; (f) a list of every document related to the Project reviewed by the Certifying Engineer; and (g) a list of every individual who provided Certifying Engineer with any information regarding the Project. The Certificate shall be provided to Olsson not less than thirty (30) days prior to any arbitration or litigation commenced by Client or not less than ten (10) days prior to the initial response submitted by Client in any arbitration or litigation commenced by someone other than Client. The Certificate is a condition precedent to the right of Client to assert any Claim in any litigation or arbitration and Client's failure to timely provide a Certificate to Olsson will be grounds for automatic dismissal of the Claim with prejudice.

## **SECTION 7—MISCELLANEOUS**

### **7.1 Reuse of Documents**

All documents, including drawings, specifications, reports, boring logs, maps, field data, data, test results, information, recommendations, or opinions prepared or furnished by Olsson (and Olsson's independent professional associates and consultants) pursuant to this Agreement ("Work Product"), are all Olsson's instruments of service, do not constitute goods or products, and are copyrighted works of Olsson. Olsson shall retain an ownership and property interest in such Work Product whether or not the Project(s) is completed. If Client has fully satisfied all of its obligations under this Agreement, Olsson shall grant Client a limited license to use the Work Product and Client may make and retain copies of Work Product for use in

connection with the Project(s); however, such Work Product is for the exclusive use and benefit of Client or its agents in connection with the Project(s), are not intended to inform, guide or otherwise influence any other entities or persons with respect to any particular business transactions, and should not be relied upon by any entities or persons other than Client or its agents for any purpose other than the Project(s). Such Work Product is not intended or represented to be suitable for reuse by Client or others on extensions of the Project(s) or on any other Project(s). Client will not distribute or convey such Work Product to any other persons or entities without Olsson's prior written consent which shall include a release of Olsson from liability and indemnification by the third party. Any reuse of Work Product without written verification or adaptation by Olsson for the specific purpose intended will be at Client's sole risk and without liability or legal exposure to Olsson, or to Olsson's independent professional associates or consultants, and Client shall indemnify and hold harmless Olsson and Olsson's independent professional associates and consultants from all claims, damages, losses and expenses including attorneys' fees arising out of or resulting therefrom. Any such verification or adaptation of Work Product will entitle Olsson to further compensation at rates to be agreed upon by Client and Olsson.

### **7.2 Electronic Files**

By accepting and utilizing any electronic file of any Work Product or other data transmitted by Olsson, the Client agrees for itself, its successors, assigns, insurers and all those claiming under or through it, that by using any of the information contained in the attached electronic file, all users agree to be bound by the following terms. All of the information contained in any electronic file is the work product and instrument of service of Olsson, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights, unless the same have previously been transferred in writing to the Client. The information contained in any electronic file is provided for the convenience to the Client and is provided in "as is" condition. The Client is aware that differences may exist between the electronic files transferred and the printed hard-copy original signed and stamped drawings or reports. In the event of a conflict between the signed original documents prepared by Olsson and the electronic files, which may be transferred, the signed and sealed original documents shall govern. Olsson specifically disclaims all warranties, expressed or implied, including without limitation, and any warranty of merchantability or fitness for a particular purpose with respect to any electronic files. It shall be Client's responsibility to confirm the accuracy of the information contained in the electronic file and that it accurately reflects the information needed by the Client. Client shall not retransmit any electronic files, or any portion thereof, without including this disclaimer as part of any such transmissions. In addition, Client agrees, to the fullest extent permitted by law, to indemnify and hold harmless Olsson, its officers, directors, employees and sub consultants against any and all damages, liabilities, claims or costs, including reasonable attorney's and expert witness fees and defense costs, arising from any changes made by anyone other than Olsson or from any reuse of the electronic files without the prior written consent of Olsson.

### **7.3 Opinion of Probable Cost**

Since Olsson has no control over the cost of labor, materials, equipment or services furnished by others, or over the

contractor(s)' methods of determining prices, or over competitive bidding or market conditions, Olsson's Opinion of Probable Cost provided for herein is made on the basis of Olsson's experience and qualifications and represent Olsson's best judgment as an experienced and qualified professional engineer, familiar with the construction industry. Client acknowledges and agrees that Olsson cannot and does not guarantee proposals or bids and that actual total Project(s) or construction costs may reasonably vary from Olsson's Opinion of Probable Cost. If prior to the bidding or negotiating phase Client wishes greater assurance as to total Project(s) or construction costs, Client shall employ an independent cost estimator as provided in paragraph 3.4.3. If Olsson's Opinion of Probable Cost was performed in accordance with its standard of care and was reasonable under the total circumstances, any services performed by Olsson to modify the contract documents to bring the construction cost within any limitation established by Client will be considered Optional Additional Services and paid for as such by Client. If, however, Olsson's Opinion of Probable Cost was not performed in accordance with its standard of care and was unreasonable under the total circumstances and the lowest negotiated bid for construction of the Project(s) unreasonably exceeds Olsson's Opinion of Probable Cost, Olsson shall modify its work as necessary to adjust the Project(s)' size, and/or quality to reasonably comply with the Client's budget at no additional cost to Client. Under such circumstances, Olsson's modification of its work at no cost shall be the limit of Olsson's responsibility with regard to any unreasonable Opinion of Probable Cost.

#### **7.4 Prevailing Wages**

It is Client's responsibility to determine whether the Project(s) is covered under any prevailing wage regulations. Unless Client specifically informs Olsson in writing that the Project(s) is a prevailing wage project and is identified as such in the Scope of Services, Client agrees to reimburse Olsson and to defend, indemnify and hold harmless Olsson from and against any liability, including costs, fines and attorneys' fees, resulting from a subsequent determination that the Project(s) was covered under any prevailing wage regulations.

#### **7.5 Samples**

All material testing samples shall remain the property of the Client. If appropriate, Olsson shall preserve samples obtained no longer than forty-five (45) days after the issuance of any document that includes the data obtained from those samples. After that date, Olsson may dispose of the samples or return them to Client at Client's cost.

#### **7.6 Standard of Care**

Olsson will strive to perform its services in a manner consistent with that level of care and skill ordinarily exercised by members of Olsson's profession providing similar services in the same locality under similar circumstances at the time Olsson's services are performed. This Agreement creates no other representation, warranty or guarantee, express or implied.

#### **7.7 Force Majeure**

Any delay in the performance of any of the duties or obligations of either party hereto (except the payment of money) shall not be considered a breach of this Agreement and the time required for performance shall be extended for a period equal to the period of such delay, provided that such delay has been caused

by or is the result of any acts of God, acts of the public enemy, insurrections, riots, embargoes, labor disputes, including strikes, lockouts, job actions, boycotts, fires, explosions, floods, shortages of material or energy, or other unforeseeable causes beyond the control and without the fault or negligence of the party so affected. The affected party shall give prompt notice to the other party of such cause, and shall take promptly whatever reasonable steps are necessary to relieve the effect of such cause.

#### **7.8 Equal Employment Opportunity**

Olsson and any sub-consultant or subcontractor shall abide by the requirements of 41 CFR 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, disability or veteran status.

#### **7.9 Confidentiality**

In performing this Agreement, the parties may disclose to each other written, oral, electronic, graphic, machine-readable, tangible or intangible, non-public, confidential or proprietary data or information in any form or medium, including but not limited to: (1) information of a business, planning, marketing, conceptual, design, or technical nature; (2) models, tools, hardware, software or source code; and (3) any documents, videos, photographs, audio files, data, studies, reports, flowcharts, works in progress, memoranda, notes, files or analyses that contain, summarize or are based upon any non-public, proprietary or confidential information (hereafter referred to as the "Information"). The Information is not required to be marked as confidential.

7.9.1 Therefore, Olsson and Client agree that the party receiving Information from the other party to this Agreement (the "Receiving Party") shall keep Information confidential and not use the Information in any manner other than in the performance of this Agreement without prior written approval of the party disclosing Information (the "Disclosing Party") unless Client is a public entity and the release of Information is required by law or legal process.

7.9.2 Prior to the start of construction on the Project, the existence of discussions between the parties, the purpose of this Agreement, and this Agreement shall be considered Information subject to the confidentiality provisions of this Agreement.

7.9.3 Notwithstanding anything to the contrary herein, the Receiving Party shall have no obligation to preserve the confidentiality of any Information which:

7.9.3.1 was previously known to the Receiving Party free of any obligation to keep it confidential; or

7.9.3.2 is or becomes publicly available by other than unauthorized disclosures; or

7.9.3.3 is independently developed by the Receiving Party without a breach of this Agreement; or

7.9.3.4 is disclosed to third parties by the Disclosing Party without restrictions; or

7.9.3.5 is received from a third party not subject to any confidentiality obligations.

7.9.4 In the event that the Receiving Party is required by law or legal process to disclose any of Information of the Disclosing Party, the Receiving Party required to disclose such Information shall provide the Disclosing Party with prompt oral and written notice, unless notice is prohibited by law (in which case such notice shall be provided as early as may be legally permissible), of any such requirement so that the Disclosing Party may seek a protective order or other appropriate remedy.

7.9.5 Notwithstanding anything to the contrary herein (or to the contrary of any existing or future nondisclosure, confidentiality or similar agreement between the parties), Olsson is authorized, to use, display, reproduce, publish, transmit, and distribute Information (including, but not limited to, videos and photographs of the Project) on and in any and all formats and media (including, but not limited to, Olsson's internet website) throughout the world and in all languages in connection with or in any manner relating to the marketing, advertising, selling, qualifying, proposing, commercializing, and promotion of Olsson and/or its services and business and in connection with any other lawful purpose of Olsson. In the event of any conflict or inconsistency between the provisions of this section and any other prior or future nondisclosure, confidentiality or similar agreement between the parties, the terms of this section shall take precedence.

7.9.6 Nothing contained in this Agreement shall be construed as altering any rights that the Disclosing Party has in the Information exchanged with or disclosed to the Receiving Party, and upon request, the Receiving Party will return all Information received in tangible form to the Disclosing Party, or at the Receiving Party's option, destroy all such Information. If the Receiving Party exercises its option to destroy the Information, the Receiving Party shall certify such destruction to the Disclosing Party.

7.9.7 The parties acknowledge that disclosure or use of Information in violation of this Agreement could cause irreparable harm for which monetary damages may be difficult to ascertain or constitute an inadequate remedy. Each party therefore agrees that the Disclosing Party shall be entitled in addition to its other rights to seek injunctive relief for any violation of this Agreement.

7.9.8 The obligations of confidentiality set forth herein shall survive termination of this Agreement but shall only remain in effect for a period of one (1) year from the date the Information is first disclosed.

## **7.10 Damage or Injury to Subterranean Structures or Utilities, Hazardous Materials, Pollution and Contamination**

7.10.1 To the extent that work pursuant to this Agreement requires any sampling, boring, excavation, ditching or other disruption of the soil or subsurface at the Site, Olsson shall confer with Client prior to such activity and Client will be

responsible for identifying, locating and marking, as necessary, any private subterranean structures or utilities and Olsson shall be responsible for arranging investigation of public subterranean structures or utilities through an appropriate utility one-call provider. Thereafter, Olsson shall take all reasonable precautions to avoid damage or injury to subterranean structures or utilities which were identified by Client or the one-call provider. Olsson shall not be responsible for any damage, liability or costs, for any property damage, injury or economic loss arising or allegedly arising from damages to subterranean structures or utilities caused by subsurface penetrations in locations approved by Client and/or the one call provider or not correctly shown on any plans, drawings or utility clearance provided to Olsson, except for damages caused by the negligence of Olsson in the use of such information.

7.10.2 It is understood and agreed that any assistance Olsson may provide Client in the disposal of waste materials shall not result in Olsson being deemed as a generator, arranger, transporter or disposer of hazardous materials or hazardous waste as defined under any law or regulation. Title to all samples and waste materials remains with Client, and at no time shall Olsson take title to the above material. Client may authorize Olsson to execute Hazardous Waste Manifest, Bill of Lading or other forms as agent of Client. If Client requests Olsson to execute such documents as its agent, the Hazardous Waste Manifest, Bill of Lading or other similar documents shall be completed in the name of the Client. Client agrees to indemnify and hold Olsson harmless from any and all claims that Olsson is a generator, arranger, transporter, or disposer of hazardous waste as a result of any actions of Olsson, including, but not limited to, Olsson signing a Hazardous Waste Manifest, Bill of Lading or other form on behalf of Client.

7.10.3 At any time, Olsson can request in writing that Client remove samples, cuttings and hazardous substances generated by the Project(s) from the project site or other location. Client shall promptly comply with such request, and pay and be responsible for the removal and lawful disposal of samples, cuttings and hazardous substances, unless other arrangements are mutually agreed upon in writing.

7.10.4 Client shall release Olsson of any liability for, and shall defend and indemnify Olsson against any and all claims, liability and expense resulting from operations under this Agreement on account of injury to, destruction of, or loss or impairment of any property right in or to oil, gas, or other mineral substance or water, if at the time of the act or omission causing such injury, destruction, loss or impairment, said substance had not been reduced to physical possession above the surface of the earth, and for any loss or damage to any formation, strata, reservoir beneath the surface of the earth.

7.10.5 Notwithstanding anything to the contrary contained herein, it is understood and agreed by and between Olsson and Client that the responsibility for pollution and contamination shall be as follows:

7.10.5.1 Unless otherwise provided herein, Client shall assume all responsibility for, including control and removal of, and protect, defend and save harmless Olsson from and against all claims, demands and causes of action of every kind and character arising from pollution or contamination (including naturally occurring radioactive material) which originates above the surface of the land or water from spills of fuels, lubricants,

motor oils, pipe dope, paints, solvents, ballast, bilge and garbage, except unavoidable pollution from reserve pits, wholly in Olsson's possession and control and directly associated with Olsson's equipment.

7.10.5.2 In the event a third party commits an act or omission which results in pollution or contamination for which either Olsson or Client, for whom such party is performing work, is held to be legally liable, the responsibility therefore shall be considered as between Olsson and Client, to be the same as if the party for whom the work was performed had performed the same and all of the obligations regarding defense, indemnity, holding harmless and limitation of responsibility and liability, as set forth herein, shall be specifically applied.

#### **7.11 Controlling Law and Venue**

The parties agree that this Agreement and any legal actions concerning its validity, interpretation or performance shall be governed by the laws of the State of Nebraska. It is further agreed that any legal action between the parties arising out of this Agreement or the performance of services shall be brought in a court of competent jurisdiction in Nebraska.

#### **7.12 Subconsultants**

Olsson may utilize as necessary in its discretion subconsultants and other subcontractors. Olsson will be paid for all services rendered by its subconsultants and other subconsultants as set forth in this Agreement.

#### **7.13 Assignment**

7.13.1 Client and Olsson each are hereby bound and the partners, successors, executors, administrators and legal representatives of Client and Olsson (and to the extent permitted by paragraph 7.13.2 the assigns of Client and Olsson) are hereby bound to the other party to this Agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, in respect of all covenants, agreements and obligations of this Agreement.

7.13.2 Neither Client nor Olsson shall assign, sublet or transfer any rights under or interest in (including, but without limitation, moneys that may become due or moneys that are due) this Agreement without the written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent Olsson from employing such subconsultants and other subcontractors as Olsson may deem appropriate to assist in the performance of services under this Agreement.

7.13.3 Nothing under this Agreement shall be construed to give any rights or benefits in this Agreement to anyone other than Client and Olsson, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of Client and Olsson and not for the benefit of any other party. There are no third-party beneficiaries of this Agreement.

#### **7.14 Indemnity**

Olsson and Client mutually agree, to the fullest extent permitted by law, to indemnify and hold each other harmless from any and all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, relating to third party personal injury or third party property damage and arising from their own negligent acts, errors or omissions in the performance of their services under this Agreement, but only to the extent that each party is responsible for such damages, liabilities or costs on a comparative basis of fault.

#### **7.15 Limitation on Damages**

7.15.1 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither party's individual employees, principals, officers or directors shall be subject to personal liability or damages arising out of or connected in any way to the Project(s) or to this Agreement.

7.15.2 Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither Client nor Olsson, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any delay damages, any punitive damages or any incidental, indirect or consequential damages arising out of or connected in any way to the Project(s) or to this Agreement. This mutual waiver of delay damages and consequential damages shall include, but is not limited to, disruptions, accelerations, inefficiencies, increased construction costs, increased home office overhead, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other delay or consequential damages that either party may have incurred from any cause of action including, but not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. Both the Client and Olsson shall require similar waivers of consequential damages protecting all the entities or persons named herein in all contracts and subcontracts with others involved in the Project(s).

7.15.3 Notwithstanding any other provision of this Agreement, Client agrees that, to the fullest extent permitted by law, Olsson's total liability to the Client for any and all injuries, claims, losses, expenses, damages, or claims expenses of any kind arising from any services provided by or through Olsson under this Agreement, shall not exceed the amount of Olsson's fee earned under this Agreement. Client acknowledges that such causes include, but are not limited to, negligence, statutory violations, misrepresentation, fraud, deceptive trade practices, breach of fiduciary duties, strict liability, breach of contract and/or breach of strict or implied warranty. This limitation of liability shall apply to all phases of Olsson's services performed in connection with the Project(s), whether subsequent to or prior to the execution of this Agreement.

#### **7.16 Entire Agreement**

This Agreement supersedes all prior communications, understandings and agreements, whether oral or written. Amendments to this Agreement must be in writing and signed by the Client and Olsson.

THROUGH 7/31/2025:		Column	1	2	3	4	5	6	7	8	9	10
Commit.	Vendor	Scope	Original Value	COs issued	Current Value	Billed to date	Balance to bill	Paid to date	Balance to Pay	Pending Payments (Awaiting Payment from Owner)	BTP after Pending Payments	Current Retainage Being Held (included in Column 9)*
24139-01	WhiteWater West	Water slides	\$ 8,607,254.00	\$ -	\$ 8,607,254.00	\$ 3,367,418.80	\$ 5,239,835.20	\$ 3,030,676.92	\$ 5,576,577.08	\$ -	\$ 5,576,577.08	\$ 336,741.88
24139-02	OpenAire	Wet Enclosure	\$ 11,024,800.00	\$ -	\$ 11,024,800.00	\$ 2,605,861.00	\$ 8,418,939.00	\$ 2,345,274.90	\$ 8,679,525.10	\$ -	\$ 8,679,525.10	\$ 260,586.10
24139-03	Pink Grading	Earthwork	\$ 778,614.00	\$ 1,545,257.15	\$ 2,323,871.15	\$ 1,585,881.15	\$ 737,990.00	\$ 1,428,819.67	\$ 895,051.48	\$ -	\$ 895,051.48	\$ 157,061.48
24139-04	Olsson	Staking	\$ 30,900.00	\$ -	\$ 30,900.00	\$ 14,405.50	\$ 16,494.50	\$ 10,197.49	\$ 20,702.51	\$ -	\$ 20,702.51	\$ 1,445.56

\* This Exhibit is for Subcontractor Payment Obligations through 7/31/2025



BELLEVUE BAY INDOOR WATER PARK  
EXHIBIT "D" - ENTITLED COMPENSATION

	Labor	Equipment	Subcontractor	Other	MCL 2% Fee	Total			
Total cost of work performed as of 7/31/2025	\$ 289,599.78	\$ 300.00	\$ 7,573,566.45	\$ 27,194.51	\$ 157,813.21	\$ 8,048,473.95			
Total payments received for billed cost through 7/31/2025						\$ (7,048,922.29)			
Total cost of work not reimbursed						\$ 243,716.64			
Anticipated Assignment Cost and Expenses						\$ 105,475.00			
<b>Total Payment Due:</b>						\$ 349,191.64			
<b>COST AS OF 7/31/2025</b>									
Total cost of work	\$ 8,048,473.95								
Total billed cost as of 7/31/2025	\$ 7,832,135.90								
Remaining unbilled cost of work performed as of 7/31/25	\$ 216,338.05								
<b>WORK NOT REIMBURSED</b>									
Unpaid invoice for billed cost through 7/31/2025	\$ -						<b>Current Retainage Updated Summary</b>		
Current retainage held	\$ 27,378.59						Current Retainage held (including subcontractor retainage)	\$ 783,213.61	
Remaining unbilled cost of work performed as of 7/31/2025	\$ 216,338.05						Less current subcontractor retainage amount assumed by Owner	\$ (755,835.02)	
	\$ 243,716.64						Current retainage held for MCL non-subcontractor costs	\$ 27,378.59	

**GENERAL CONTRACTOR'S CONDITIONAL WAIVER AND RELEASE UPON PROGRESS PAYMENT**

**From:** MCL Construction  
**To:** City of Bellevue  
**Project:** Bellevue Bay Indoor Water Park  
MCL Job. No. 24-139

1. The undersigned General Contractor does hereby waive and release to the Owner any and all claims and liens and rights to liens upon the Project resulting from labor, materials, subcontract work, equipment, fixtures, apparatus, rents, services or supplies heretofore furnished by or at the request of the undersigned for the construction, improvement, alteration or additions to the above-described Project, but only to the extent of the Payment Amount referenced below and with the exception of the Final Payment Amount as referenced in the Assignment and Assumption Agreement.
2. Upon receipt of and in consideration for the sum of **\$1,141,717.64 (One Million One Hundred Forty One Thousand Seven Hundred Seventeen Dollars and Sixty Four Cents) (the "Payment Amount")**, the sufficiency of which is hereby acknowledged, the undersigned does hereby waive, release and forever quit claim any and all liens and/or rights to claim of lien to the extent of the Payment Amount, which it may have against the Project herein described by reason of having furnished labor and/or materials or services for the construction of said property, which are the subject of the General Contractor's Entitled Compensation and Assignment Facilitation Fee each as defined and more particularly set forth in the Assignment and Assumption Agreement between the General Contractor, The City of Bellevue and ARCO/Murray National Holdings, Inc., a Delaware corporation, dated \_\_\_\_\_, 2025. This waiver and release does not apply to any retention withheld; any items, modifications, or changes pending approval; disputed items and claims; or items furnished or invoiced after the payment period covered by the Payment Amount.
3. The undersigned certifies that all applicable state, federal, and local tax laws have been paid on the above work performed to date and that all applicable pension, health, and welfare and apprenticeship payments have been made.
4. The undersigned further certifies that we have complied with federal, state, and local tax laws, including social security, unemployment compensation, and workmen's compensation laws insofar as applicable to the performance of this Contract.
5. The undersigned further warrants and represents that he is duly authorized and empowered to sign and execute this release on behalf of the company for which he is signing; that the Contractor has properly performed all Work in accordance with the Contract Documents; and that the Contractor has paid or will use the money the undersigned receives from this Progress Payment to pay in full for all the labor, materials, equipment and services it has used or supplied to the Project through the date of this Application for Payment.

Dated this Choose day. day of October, 2025

State of Nebraska

County of Sarpy

The foregoing instrument was acknowledged before me  
this Choose day. day of October, 2025

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

**MCL CONSTRUCTION**

By: \_\_\_\_\_

Title: Managing Principal



**GENERAL CONTRACTOR'S UNCONDITIONAL WAIVER OF LIEN**

---

**From:** MCL Construction  
**To:** City of Bellevue  
**Project:** Bellevue Bay Indoor Water Park  
MCL Job. No. 24-139

---

The undersigned General Contractor does hereby waive and release to the Owner any and all claims and liens and rights to liens upon the Project resulting from labor, materials, subcontract work, equipment, fixtures, apparatus, rents, services or supplies heretofore furnished by or at the request of the undersigned for the construction, improvement, alteration or additions to the above-described Project.

This release is given for and in consideration of the sum of \$ \_\_\_\_\_ ( \_\_\_\_\_ Dollars and \_\_\_\_\_ Cents) **(AMOUNT PAID TO DATE)**. The sufficiency of which is hereby acknowledged, the undersigned does hereby waive, release and forever quit claim any and all liens and/or rights to claim of lien which it may have against the Project herein described by reason of having furnished labor and/or materials or services for the construction of said property.

The undersigned certifies that all applicable state, federal, and local taxes have been paid on the above work performed to date and that all applicable pension, health, and welfare and apprenticeship payments have been made.

The undersigned further certifies that the General Contractor has complied with federal, state, and local tax laws, including social security, unemployment compensation, and workmen's compensation laws insofar as applicable to the performance of this Contract.

The undersigned further warrants and represents that he is duly authorized and empowered to sign and execute this release on behalf of the company for which he is signing; that the General Contractor has properly performed all Work in accordance with the Contract Documents; and that the General Contractor has paid for all labor, materials, equipment and services it has used or supplied to the Project through \_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

State of Nebraska

County of Sarpy

The foregoing instrument was acknowledged before me  
this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

Notary Public \_\_\_\_\_

My commission expires \_\_\_\_\_

**MCL CONSTRUCTION**

---

By: \_\_\_\_\_

Title: Managing Principal

## EXHIBIT G

### Joint Statement

The City of Bellevue and MCL Construction announce the strategic transition of the Bellevue Bay Waterpark development to ARCO/Murray National Holdings, Inc. This change will take effect immediately, ensuring uninterrupted project progress.

All parties are collaborating to ensure a seamless transition that maintains the high standards established by MCL Construction. The City of Bellevue appreciates MCL Construction's significant contributions to the project and its work toward building the Bellevue Bay Water Park.

The strategic transition demonstrates the commitment of all parties to delivering excellence in what will become the 4<sup>th</sup> largest indoor water park in the United States, Bellevue Bay Waterpark. MCL Construction remains a valued partner in the Bellevue community and continues to support the successful realization of this landmark project. Community members are encouraged to follow ongoing updates through the City of Bellevue's website.

Oct 1, 2025

**Administration**

- Prairie Hills Farm Development meeting for NC3 project and infrastructure planning.
- Weekly United Cities meeting.
- Meeting with BPOA retirement committee.
- Meeting with project developers for Entertainment district.
- Samsara update meetings.
- Meeting with Cox Communication regarding agreement.
- City Insurance meetings.
- Sarpy leadership tour.
- Meeting with Councilman Casey and McCaw regarding sidewalks.
- Meeting with Sen. Rountree for legislative issues.
- Inland Port Authority meeting.
- Platteview Expressway meeting with staff.
- Food Pantry campaign launch.
- Meeting with HBA for project review and update.
- Townhall tax meeting.
- Budget meeting
- Several meetings with citizens to solve concerns.
- Meeting with Councilman Burnis and Mr. Edquist concerning zoning.
- Presentation to retired Bellevue teachers.
- 

Permits:

- No report available this month due to workload

Planning:

- Planning Conducted a land use workshop with City of Papillion for the joint housing resiliency plan
  - Met with state floodplain office for community contact/outreach discussion
- Continued meetings on the Bellevue Bay Waterpark construction/infrastructure:

**Police:( See Attached)**

**Library: ( See Attached)**

**Fire: (See Attached)**

**Finance(See Attached)**

CITY OF BELLEVUE  
ADMINISTRATION REPORT

*Public Works(See Attached)*

# ***BELLEVUE POLICE DEPARTMENT*** **MEMORANDUM**

TO: Mr. Ristow

FROM: Ken Clary

SUBJECT: September 2025 Directors Report

DATE: September 30, 2025



- 9/09 – Mayor’s Youth Council
- 9/11 – SDLEA Board Meeting
  - 9/11 Ceremony – American Heroes Park
- 9/15 – Meeting with 55thSF Lt.Col. Ferguson
- 9/16 – City Council Meeting
- 9/18 – Budget Hearing
- 9/22 – National Policing Institute Executive Fellows Call
- 9/23 – Special Budget Meeting
  - Mayor’s Youth Council
- 9/29 – Nebraska Traffic Stop Data and Analysis Advisory Board Meeting
- 9/30 – Mayor’s Youth Council Meeting



We Influence The World!

City of Bellevue  
Library

2206 Longo Dr., Suite 100 • Bellevue, Nebraska • 68005 • 402-293-3157

**M e m o**

**To: Jim Ristow, City Administrator**

**From: Julie Dinville, Library Director**

**Date: 10/1/2025**

- Crystal Anderson, Teen Librarian, and Macie Hargis, Youth Services clerk, attended the 31<sup>st</sup> Annual Joint Youth Services Retreat held Aug. 28 and 29 hosted by the Regional Library Systems at Camp Joy Holling. The retreat is designed as a time for fellow colleagues to connect and learn. Both Anderson and Hargis received scholarships from the Three Rivers Library System to attend.
- Laura Mischke, Head of Adult Services, will start a True Crime book club on a regular basis in October. This is an offshoot of a program that was held during this spring's Adult Library Program. Because this book club was so popular, it will become a regular monthly offering.
- The Major Isaac Sadler-La Belle Vue Chapter of the National Society Daughters of the American Revolution set up a display in the library (near the adult self-checks) to highlight Constitution Week, which was celebrated Sept. 17-23.
- Alice Sage Wasser of Bellevue has joined the library team as the new Assistant Children's Librarian. She began her duties on Sept. 17<sup>th</sup>. Sage Wasser has a bachelor's degree in library science from the University of Nebraska-Omaha. She has already begun leading storytimes for children and their families and continues her training in other library tasks.
- The Bellevue Public Library Advisory Board held a regular monthly meeting on Wednesday, Sept. 17. The Board heard a review of the 2025 Children's and Teen Summer Library Programs (SLPs) from Michelle Bullock, Head of Youth Services. Bullock shared that over 200 teens signed up for the Teen reading challenge and other activities, with kits and contests recording 1,100 participants. The Children's SLP saw a 40 percent increase in participation from the previous year with 1,220 children registered. There were over 125 programs offered with 5,840 participants. In other business, the Board approved the 2025-2026 Fiscal Year holiday schedule and reviewed plans for members to attend the 2025 Nebraska Library Association annual conference Oct. 22-24 in York, NE.
- Connie Barnard, Adult Services/Technology Librarian who leads the library's Pens & Prose writers group, attended the Nebraska Get Lit! Literary Conference & Expo held September 12-13 at the Papillion Landing Community Recreation Center. The two-day event brought together authors, librarians, and book lovers from all over to talk about how better to connect to their communities through literature.
- On Sept. 16, the library hosted a National Voter Registration event through the Nonprofit VOTE organization. Michelle Boyland from the Sarpy County Election Commission set up a table in the library and visited with people about voter registration and answered voter/election related questions. She also shared pamphlets on Nebraska's new voter ID law. This year new Election Commissioner David Jones also stopped by during the event.



# City of Bellevue

## Fire Department

211 West 22<sup>nd</sup> • Bellevue, Nebraska 68005 • (402) 293-3153

### Bellevue Fire Department Council Report

Report Date 9/28/2025

#### A. General Items:

- QA/QI
- New recruit class with Papillion and Offutt fire starting 10/6/2025
- ESO for fire and EMS reporting went live on 9/29/2025
- Concrete and steel structure completed and walls being installed at the training site building.
- Five paramedic students have passed National Registry. One has a remediation plan
- EMS Committee meets next week (quarterly scheduled meeting)
- Chest Pain Committee Meeting with UNMC next week
- Run reviews with Dr. Ernest this week
- Meeting this week to discuss the captain assigned to EMS training tasks

#### B. Training:

- Crews completed tours/ preplans on both OPPD plant and wastewater treatment plant.
- 2nd wave of tech rescue will be finishing up end of Oct.
- Creating new SOPs for tech rescue.
- Hands on school bus extraction.

#### C. Inspections:

- Plan review remodel 215 W Mission Ave.
- Fire sprinkler plan review VASA Fitness 909 Fort Crook Rd.
- Remodel plan review Bellevue Med. 2500 BMC Dr. MRI room.
- Fire alarm plan review Autism Care Facility 2206 Longo Dr.
- Fire alarm test VASA Fitness 909 Fort Crook Rd.
- Final inspection VASA Fitness 909 Fort Crook Rd.
- Plan review 15575 Bayfront Blvd. Bellevue Bay.
- Fire alarm plan review 7515 S. 25<sup>th</sup> St.
- Plan review remodel 13029 S. 13<sup>th</sup> St.
- Plan review remodel 2219 Franklin St. Dip Cravers.
- Final inspection VASA Fitness 909 Fort Crook Rd.
- Plan review remodel Quick Trip 1311 Fort Crook Rd.





# City of Bellevue

## Fire Department

211 West 22<sup>nd</sup> • Bellevue, Nebraska 68005 • (402) 293-3153

### D. Fire Prevention/Public Education

- 3 Station tours
- 2 community based rig, show and tell visits
- 1 smoke detector swap out.
- 1 school visit
- 1 Dept provided detector install.
- Career Fair was well received with a lot of interest in the fire department

### E. Calls: August 26<sup>th</sup> through September 29<sup>th</sup>

Fire – 171

Rescue – 471

### F. Ambulance Billing

August 1-31,2025

\$ 286,364.40 in claims sent to health insurance companies August 1 - 31, 2025 (327 insurance claims).

<\$128,863.98> approximate amount we will have to write off due to mandatory adjustments/write-offs

(45% of \$286,364.40)

=====

\$ 157,500.42 is the anticipated, approximate net revenue from these insurance billings

Deposited into Bank:

\$ 141,184.48 deposited into the bank August 1 - 31, 2025

8,580.10 additional revenue in Credit/Debit/HSA card payments

=====

\$ 149,764.58 TOTAL August 1 - 31, 2025 rescue fee revenue

\$ 312,614.46 This figure represents the total "patient responsibility" balance due for the past 30-180 day



# City of Bellevue

## Fire Department

211 West 22<sup>nd</sup> • Bellevue, Nebraska 68005 • (402) 293-3153

### F. Manpower Report Staffing

#### Staffing Report from 8/25/2025 through 8/31/2025

Monday	AM	Full		
Monday	PM	Full		
Tuesday	AM	Full		
Tuesday	PM	Full		
Wednesday	AM	Full		
Wednesday	PM	Full		
Thursday	AM	E1	3 Person	
Thursday	PM	T21, E1	3 Person	
Friday	AM	T31	3 Person	
Friday	PM	T21, E41	3 Person	
Saturday	AM	T21, E41	3 Person	
Saturday	PM	E1, T21, E31, E41	3 Person	NO EMS
Sunday	AM	T21, E31, E41	3 Person	
Sunday	PM	T21, E31, E41	3 Person	

#### Staffing Report from 9/1/2025 through 9/7/2025

Monday	AM	T21, E31, E41	3 Person	
Monday	PM	E1, T31	3 Person	
Tuesday	AM	E41	3 Person	
Tuesday	PM	Full		
Wednesday	AM	Full		
Wednesday	PM	Full		
Thursday	AM	Full		
Thursday	PM	Full		
Friday	AM	Full		
Friday	PM	Full		
Saturday	AM	E1, T21, E41	3 Person	
Saturday	PM	T21	3 Person	
Sunday	AM	E41	3 Person	
Sunday	PM	Full		



# City of Bellevue

## Fire Department

211 West 22<sup>nd</sup> • Bellevue, Nebraska 68005 • (402) 293-3153

### Staffing Report from 9/8/2025 through 9/14/2025

Monday	AM	Full		
Monday	PM	Full		
Tuesday	AM	Full		
Tuesday	PM	Full		
Wednesday	AM	E1, E21	3 Person	
Wednesday	PM	Full		
Thursday	AM	Full		
Thursday	PM	Full		
Friday	AM	Full		
Friday	PM	T31, E21	3 Person	
Saturday	AM	E41	3 Person	
Saturday	PM	E1, T21, E41	3 Person	
Sunday	AM	E1, E41	3 Person	NO EMS
Sunday	PM	E41	3 Person	

### Staffing Report from 9/15/2025 through 9/21/2025

Monday	AM	T31	3 Person	
Monday	PM	Full		
Tuesday	AM	Full		
Tuesday	PM	Full		
Wednesday	AM	Full		
Wednesday	PM	Full		
Thursday	AM	Full		
Thursday	PM	Full		
Friday	AM	Full		
Friday	PM	Full		
Saturday	AM	E1, E41	3 Person	NO EMS
Saturday	PM	E1	3 Person	NO EMS
Sunday	AM	T21, E1	3 Person	
Sunday	PM	Full		



# City of Bellevue

## Fire Department

211 West 22<sup>nd</sup> • Bellevue, Nebraska 68005 • (402) 293-3153

### Staffing Report from 9/22/2025 through 9/28/2025

Monday	AM	Full		
Monday	PM	Full		NO EMS
Tuesday	AM	Full		
Tuesday	PM	Full		
Wednesday	AM	T31	3 Person	
Wednesday	PM	Full		
Thursday	AM	Full		
Thursday	PM	E1, E41	3 Person	
Friday	AM	Full		
Friday	PM	E41	3 Person	
Saturday	AM	E1, T21, E31, E41	3 Person	NO EMS
Saturday	PM	E1, T21, E31, E41	3 Person	
Sunday	AM	T21, E31, E41	3 Person	
Sunday	PM	T21, E31	3 Person	

**Financials**

*The full year preliminary results for the 2024-2025 fiscal year indicates that the City will exit the year with a surplus (the budget was a \$3 million deficit).*

*The City exits the fiscal year with debt totaling \$98,295,000.00.*

The City has filed a 2025-2026 Budget that balances anticipated revenues with spending.

**City of Bellevue  
Adopted Budget  
2025 – 2026**

<b>Forecasted Fund Balance (Cash) at 9/30/2025</b>	<b>\$ 45,632,077.25</b>
<b>Plus FYE2026 Budgeted Revenues</b>	<b><u>197,094,581.00</u></b>
<b>FYE2026 Budgeted Total Resources Available</b>	<b>242,726,658.25</b>
<b>Less FYE2026 Budgeted Expenditures</b>	<b><u>197,094,581.00</u></b>
<b>Budgeted Balance of Cash Reserves at 9/30/2026</b>	<b>\$ 45,632,077.25</b>
	<b>=====</b>

The following summarizes changes between the proposed budget published on 9/3/2025 for the public hearing and the final submitted budget.

CITY OF BELLEVUE, NEBRASKA 2025-2026 BUDGET					
FINAL BUDGET INFORMATION				CHANGE FROM 9/3/2025 NOTICE OF BUDGET HEARING AND BUDGET SUMMARY	
2023-2024 Actual Disbursements & Transfers	\$ 124,822,016.86			1.	\$ 1,890,350.04
2024-2025 Actual/Estimated Disbursements & Transfers	\$ 151,376,877.83			2.	\$ (14,048,432.45)
2025-2026 Proposed Budget of Disbursements & Transfers	\$ 197,094,581.00			3.	\$ 2,055,831.36
2025-2026 Necessary Cash Reserve	\$ 45,632,077.25			4.	\$ 5,640,274.66
2025-2026 Total Resources Available	\$ 242,726,658.25			5.	\$ 7,696,106.02
Total 2025-2026 Personal & Real Property Tax Requirement	\$ 39,456,562.89			6.	\$ (25,242.26)
Unused Budget Authority Created For Next Year	\$ 2,314,156.77			7.	\$ 372,528.07
<b>Breakdown of Property Tax:</b>					
Personal and Real Property Tax Required for Non-Bond Purposes	\$ 31,047,787.19			8.	\$ (667,105.47)
Personal and Real Property Tax Required for Bonds	\$ 8,408,775.70			9.	\$ 641,863.21
FINAL TAX REQUEST INFORMATION					
	2024	2025	Change		2024
Operating Budget	198,504,004.54	197,094,581.00	-1%	10.	-
Property Tax Request	\$ 37,175,267.52	\$ 39,456,562.89	6%	11.	\$ (25,242.26)
Valuation	6,094,306,149	6,468,288,999	6%	12.	121,544,492.00
Tax Rate	0.610000	0.610000	0%	13.	-
Tax Rate if Prior Tax Request was at Current Valuation	0.574731			14.	-

**Reasons for Change**

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. Actual amounts updated for audit adjustments.</li> <li>2. Amount was reduced due to timing of capital expenditures, some which will occur in 2025-2026.</li> <li>3. Budget increased for delayed 2024-2025 disbursements that will occur in 2025-2026.</li> <li>4. Cash reserve amount reduced for disbursements and cost-share revenues.</li> <li>5. Change resulted from changes in 3 &amp; 4 above.</li> <li>6. Change resulted from the change in non-bond and bond tax requests.</li> <li>7. Change due to Public Safety Services Exception, lower growth and higher tax request.</li> </ol> | <ol style="list-style-type: none"> <li>8. Reduced non-bond tax request for capital expenditures.</li> <li>9. Increased bond tax request for additional FYE2026 bonds.</li> <li>10. Budget increased for carry-over projects.</li> <li>11. Change resulted from the change in non-bond and bond tax requests.</li> <li>12. Amended Certification of Taxable Value and Growth Value letter.</li> <li>13. No change</li> <li>14. No change</li> </ol> |
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We Influence The World!

City of Bellevue  
Public Works Administration  
1510 Wall St • Bellevue, Nebraska • 68005 • 402-293-3025

## Public Works Director's Report

September 30, 2025

*Disclaimer: The following is a synopsis of the department reports submitted weekly to the Public Works Director. This is not an all inclusive list of work details or responsibilities submitted by each department. This list may be altered as unforeseen situations dictate.*

### ***Public Works Administration:***

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- Working with Consultant to develop PW Dept Strategic Plan
- 2025 Construction Projects Underway
- 2025/26 Budget and C.I.P. approved and reviewing for next Budget Year
- Reviewing various Traffic concerns

### ***Engineering:***

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- Various project management projects
  - 2025 Concrete Rehab Projects
  - Mission Ave Streetscape Project
  - Haworth Park and Bluff Street Lift Station Project
  - 2025 Asphalt Overlay Projects
- Planning and P&I plan review as needed
- Projecting 2026 Projects and getting Proposals for Engineering work

### ***Parks & Recreation:***

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- Fall Recreation Programs beginning
- Playground Inspections and Mulching
- Tree Trimming and Removal as Needed
- Closing out Summer phase beginning Fall Phase

### ***Street Maintenance:***

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- Repairing signs and facilities damaged in recent windstorms
- Pothole repairs
- Sign and signal repairs
- Summer maintenance operations closing, Fall maintenance beginning
- Concrete and asphalt repairs

***Waste Water:***

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- Jetting
- Lift station inspections
- Projects let and awarded
  - CIPP Design Process
  - Bluff Street Lift Station plan
  - Haworth Park Lift Station plan review
- Prevent maintenance on vehicles and preparing for cold weather season

***Fleet:***

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- Typical City vehicle maintenance
- Annual Maintenance of warm weather equipment
- Prepping equipment for Fall and Winter Usage
- Assisting departments in purchasing of Capital funded vehicles

***Building Maintenance:***

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- Misc Painting jobs
- Typical maintenance all city facilities
- Winterizing Restrooms and all non-heated facilities