



## **Regular Meeting of the City Council**

July 9, 2018 – 7:00 p.m.

City Hall

### **PROPOSED AGENDA**

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Approval of Agenda
- E. Approval of Minutes: June 18, 2018 Regular Meeting
- F. Agenda Items
  - 1. Plat Cork Tract 1 and Kenny Tract 1
  - 2. Plat Lots 1-3 Cottingham 2<sup>nd</sup> Addition
  - 3. Flynn Business Park 2<sup>nd</sup> Phase, JEO Services Agreement
  - 4. River Valley Phase 1 Easements
  - 5. Lakeshore Estates Storm Drainage Approval
  - 6. 2018 Surplus
- G. Community and Council Input
- H. Executive Session\*
  - 1. Personnel
- I. Approval of Bills
- J. Adjournment

\*SDCL 1-25-2 (sections 1-5) allows a majority of the body present to vote to close a meeting when discussion revolves around personnel, legal matters or contract negotiations. Meetings may also be closed for certain economic development matters (SDCL 9-34-19).

**UNAPPROVED**  
**North Sioux City, South Dakota**  
**City Council Regular Meeting Minutes**  
June 18, 2018

Meeting called to order at 7:00 p.m. by Mayor Fredericksen. Berg, Blaeser, Carpenter, Cropley, Green, Parks and Reiff were present. Absent: Slater. Also, in attendance was City Administrator Ted Cherry.

Mayor Fredericksen led the Pledge of Allegiance.

Motion by Cropley second by Reiff to approve the agenda as presented. All members present voted aye.

Motion by Berg second by Cropley to approve the June 4, 2018 Regular Council Meeting Minutes. All members present voted aye.

Motion by Reiff second by Cropley to enter Executive Session at 7:01 p.m. in accordance with SDCL 1-25-2 (sections 1 and 4) to discuss personnel matters. All members present voted aye.

Regular session resumed at 7:26 p.m.

Hearing – Transfer Alcohol Licenses

Motion by Cropley second by Parks to open hearing at 7:26 p.m.

Cropley asked why there were 5 licenses. Cherry explained it was required for the amount of lottery rooms there were at the business.

Motion by Parks second by Cropley to close hearing at 7:27 p.m.

Motion by Parks second by Green to approve the transfer of alcohol licenses from Freedom Inc. to Waddy's LLC. All members present voted aye.

Plat Cork Tract 1 and Kenny Tract 1

Cherry presented the Plat and explained the contents of the plat. Questions were asked about how wide the easement was at 60 feet wide. Parks made motion to approve and Blaeser seconded. Greg Meyer asked to present information and the motion was rescinded. Meyer gave information about the section line right of way that is 66 feet and the easement should match that. Plat and the section line do not match. Berg asked if the plat went before the planning commission and the response was it did.

Motion by Parks second by Cropley to table Cork Tract 1 and Kenny Tract 1 until further information can be given on the section line right of way. All members present voted aye.

Plat Lots 1-3 Cottington's 2nd Addition

Cherry presented the plat for Lots 1-3 Cottington's 2<sup>nd</sup> Addition for changing the lots in the Cottington Mobile Home Park. Lot 1 would be a single-family home lot, lot 2 would be the majority of the mobile homes in the park, and lot 3 which is another section of mobile homes. There were questions from planning and zoning regarding Lot 1 and how it extends to the East toward the fire hall as well as Cott's Drive being a City street. Cropley asked about the location of lot 3 and what the lot to North would be. Greg Stoscheing, surveyor, answered questions regarding the lots. Cropley presented concerns on the size of the mobile home park being over 15 acres as well as Cott's Drive being a dedicated City street. Tim Hogan stated we do snow removal initial plowing and replacement of blacktop. Would lot 3 of the 1<sup>st</sup> addition be able to be added to the trailer park, and that would not be able to happen unless the City approved. Cherry stated the administration could not tell the Council why the previous elected officials decided to take over Cott's Drive as a City street. Cherry stated the setbacks don't comply on the East side of Cotts Drive of 30 feet off the public street, but at this time those trailers are grandfathered in. Cropley would like to see this road abandoned. Reiff asked about a variance in the future regarding the size requirements of the park. Cherry stated he was not aware of what the process was for the City to abandon a street but would check on that with Darrell. Fredericksen thought it would be best to table until the next council meeting to be decided on and get legal advice. Berg asked why the questions asked were not brought forth in Planning and

Zoning. It was stated that the questions about the street and the tail of Lot 1 were discussed and questions were answered for them.

Fredericksen asked about the portion of Lot 1 with the access. Stoscheing stated it would just be for access and he would have to use a portion of Lot 3 of Cottingham's 1<sup>st</sup> Addition. Stoscheing stated the light grey area was the older lots they would be taking out. The plat states what areas are being vacated. The intention is to clean the plats up.

Motion by Cropley second by Berg to table Plat of Lots 1-3 Cottingham's 2<sup>nd</sup> Addition until legal review can happen. All members present voted aye.

Resolution 2018-03 South Derby Speed Limit Change

**CITY OF NORTH SIOUX CITY  
RESOLUTION 2018-03**

**A RESOLUTION SETTING THE SPEED LIMIT ON SOUTH DERBY LANE AT THE CITY  
LIMIT MOVING SOUTH TO 35MPH.**

WHEREAS, South Derby Lane at the City Limit moving South is not a residential street and a speed limit of 15mph has been set at this time; and

WHEREAS, the Big Sioux Township desires to have the speed limit changed to increase the speed of traffic; and

WHEREAS, The City of North Sioux City has the responsibility to set the speed limit on South Derby Lane at the City Limit moving South.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH SIOUX CITY, SOUTH DAKOTA;

THAT, the speed limit on South Derby Lane at the City Limit moving South shall be set at 35mph.

AND FURTHER BE IT RESOLVED, THAT it is necessary and appropriate to install new signage to inform residents of these speed limit changes to increase the safety of the community.

The above Resolution was moved by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_ and was approved by a vote of \_\_\_\_\_ to \_\_\_\_\_ at a meeting duly called and held on \_\_\_\_\_.

\_\_\_\_\_  
Randy Fredericksen, Mayor

ATTEST:

\_\_\_\_\_  
Susan Kloostra, Finance Officer

Cherry presented the information regarding the resolution. It would change the speed limit going out of town on South Derby to 35mph. Because it is in City Limits action must be taken by the City. The Big Sioux Township board would like to have this at 35mph going out of town. Carpenter asked where it would start, and it was stated it would right at the trailer court on South Derby.

Motion by Berg second by Cropley to approve Resolution 2018-03. All members present voted aye.

Lakeshore Estates Sewer Depth

Cherry presented information on the sewer depth. Meyer presented to the Council on what the sewer depth change entails. The sewer depth would be increased by 1.5 feet above the previously approved depth. Based on his calculations if the sewer was extended to the North it would all work with one house with foundation 4 feet

above the center line of the street. He would recommend approval of what is laid out in option one. Meyer stated there were some conditions.

1. A 20-foot-wide easement is provided at no cost to the City to align the sewer with 'E' street north to the property to the north. The property owner to the North provides a 40-foot-wide easement at no cost to the City, to allow sewer to be extended in the future to the west.
2. The developer commits to continuing the approved depth of sewer plus 1.5 feet and agrees to not return with another request of change in sewer elevation upon discovery of additional water issues. The developer agrees to not change the development in a manner that will negatively impact the extension of the sewer to the undeveloped property to the North along Bruneau Drive.
3. An agreement is provided for extension of the sewer to the North at such time as the property to the North is developed. The developer agrees to a completion date for the sewer in 'E' Street.

Reiff confirmed that Meyer was comfortable with the solution for the North property. He is anticipating they would run a gravity sewer line in the property. Meyer is comfortable with the solution.

Motion by Parks second by Cropley to approve raising the depth of the sewer in Lakeshore Estates by 1.5 feet above the previously approved depth with the three stipulations Meyer has provided. All members present voted aye.

Community/council input:

- 1) GOED Webinar – June 20, 10:30-11:30 am – Elected Officials and Economic Development – Contact Ted to register
- 2) SDML Elected Officials Workshop – July 18 – Contact Ted to register
- 3) SDML Budget Trainings – July 12 Rapid City, July 26, Sioux Falls – Contact Ted to register
- 4) Senator Round Staff Meeting – June 27, 10 am – Contact Ted to register
- 5) Cropley asked about the water pooling on River Drive. There is a blocked culvert due to construction happening.
- 6) Reiff asked about potholes by the Casey’s Lift Station. City is waiting on asphalt company to come fill them
- 7) Cropley asked if it was possible to have a council rep at planning and zoning or vice versa. Cherry will work on this.
- 8) Cropley asked about mobile home ordinance and properties being grandfathered. Cherry stated that if an individual trailer is removed the new trailer would follow current ordinances.
- 9) Cherry spoke with McCook Mobile Estates manager and they are doing more tree trimming, the mobile homes have skirting, and more shed cleanup is happening.
- 10) Cropley asked about the covenants on South Churchill. Discussion will be held at next meeting.

Motion by Parks second by Reiff to approve the bills as presented. All members present voted aye.

AFLAC	856.34	JUNE2018 PREMIUMS (2)
AVALOS, LUCERO	80.13	MLG REIMB-TRNG IN SIOUX FALLS
BENJI COTTER	100.00	LIB SUMMER READING EVENT 6/28
CHERRY, TED	190.37	MLG REIMB-TRNG IN SIOUX FALLS (2)
CITY OF SIOUX CITY IA	4497.52	REIMB OF COSTS FOR STREET CLNG
CITY OF SIOUX CITY	34210.08	MAY2018 SWR CHGS USAGE 15,838
ROCS-DAKOTA SR MLS	7500.00	2018 CNTRBTN FOR NSC
DAKOTA DUNES/NSC TIMES	856.34	MAY2018 PUBLISHING FEES
DIAMOND VOGEL PAINTS	141.13	BOAT RAMP-PAINT (5)
ELECTRIC INNOVATIONS	1880.00	MAY2018 TECH SUPP (4)
GILL HAULING	19618.46	APR-MAY 2018 RSDNTL WST
GR LINDBLADE & CO.	100.00	BUSINESS CARDS-CONLEY
H2O 4 U	58.50	CH-WATER (7)
HAWKINS, INC	3299.18	CHLORINE (16), POTASSIUM, PERMANGATE
CORE & MAIN LP	1815.12	BULK METERS (2)
INGRAM LIB SVS	484.43	BOOKS (47), DVD'S (3)
JACK'S UNIFORMS & EQ	1562.70	CLOTHING ALLOWANCE (6)
KEVIN ODELL ELECTRIC, INC.	427.04	CASEY'S LIFT STATION-LINES LOCATE, RPLC LAMP
SUSAN KLOOSTRA	69.13	MLG REIMB-SD GFOA CONF-SIOUX FALLS
LOCAL NO. 749	236.00	JULY2018 DUES
LONG LINES	809.86	JUNE2018 PHN & INT CHGS
MCCOOK LAKE ASSOCIATION	250.00	2018 FIREWORKS DONATION

MCLEOD'S PRGTG & OFFICE SUPP	228.41	WARNING TICKETS (1 BX)
MERCY BUSINESS HEALTH SVCS	53.33	JUNE2018 EAP
MIDAMERICAN ENERGY	12196.55	MAY2018 UTILITY CHGS
MJ MINOR UTLTY CONTRCTR	2300.44	LAKESHORE WATER BRK
ONE OFFICE SOLUTION	278.08	LIB-DESK CHAIR
PER MAR SECURITY SVCS	176.01	3Q2018 SECURITY MONITORING SVC
QUALIFIED PRESORT SVC, LLC	742.56	MAY2018 POSTAGE UTILITY BILLS
RICK HANSON PLUMBING INC.	270.41	SR CNTR-RPL DISPOSAL
ROBERTSON IMPLEMENT CO	511.64	MOWER PARTS (19)
ROSENQUIST, BRENNNA	43.93	EXP REIMB-CLAY-SUMMER REC PROG
SD MUNICIPAL LEAGUE	25.00	BUDGET TRNG-CARPENTER
SD ONE CALL	73.92	MAY2018 LOCATES (66)
SENSAPHONE, INC.	480.00	REMOTE MNTRNG SYSTEM 1 YR
SIOUX CITY JOURNAL	431.41	LIB SUBS
SIOUXLAND HUMANE SOCIETY	109.00	MAY2018 SVCS
SOUTHEAST SD TOURISM ASSOC.	240.00	MEMBERSHIP DUES
SPEEDY ROOTER PLUMBING	600.00	PD-CLEAN OUT WATER LINES
TOWN & COUNTRY LAWN SVC	481.00	JUNE2018 WEED CNTRL
US POSTOFFICE	156.00	BOX #650-ANNUAL RENEWAL
USBORNE BOOKS	311.64	BOOKS (108)
WELLMARK BLUE CROSS	21944.44	JUL2018 INSUR PREM
WEST SHORE ACRES	540.00	LIB-FLOWER POTS (6)
WOODHOUSE	140.21	UNIT 1-MANTNC

Motion by Reiff second by Berg to adjourn at 8:27 p.m. All members present voted aye.

**Approved**

---

**Randy Fredericksen, Mayor**

**Attested**

---

**Ted Cherry, City Administrator**



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City – City Council  
From: Ted Cherry, City Administrator  
Date: 7/9/2018  
Re: Cork Tract 1 and Kenny Tract 1

---

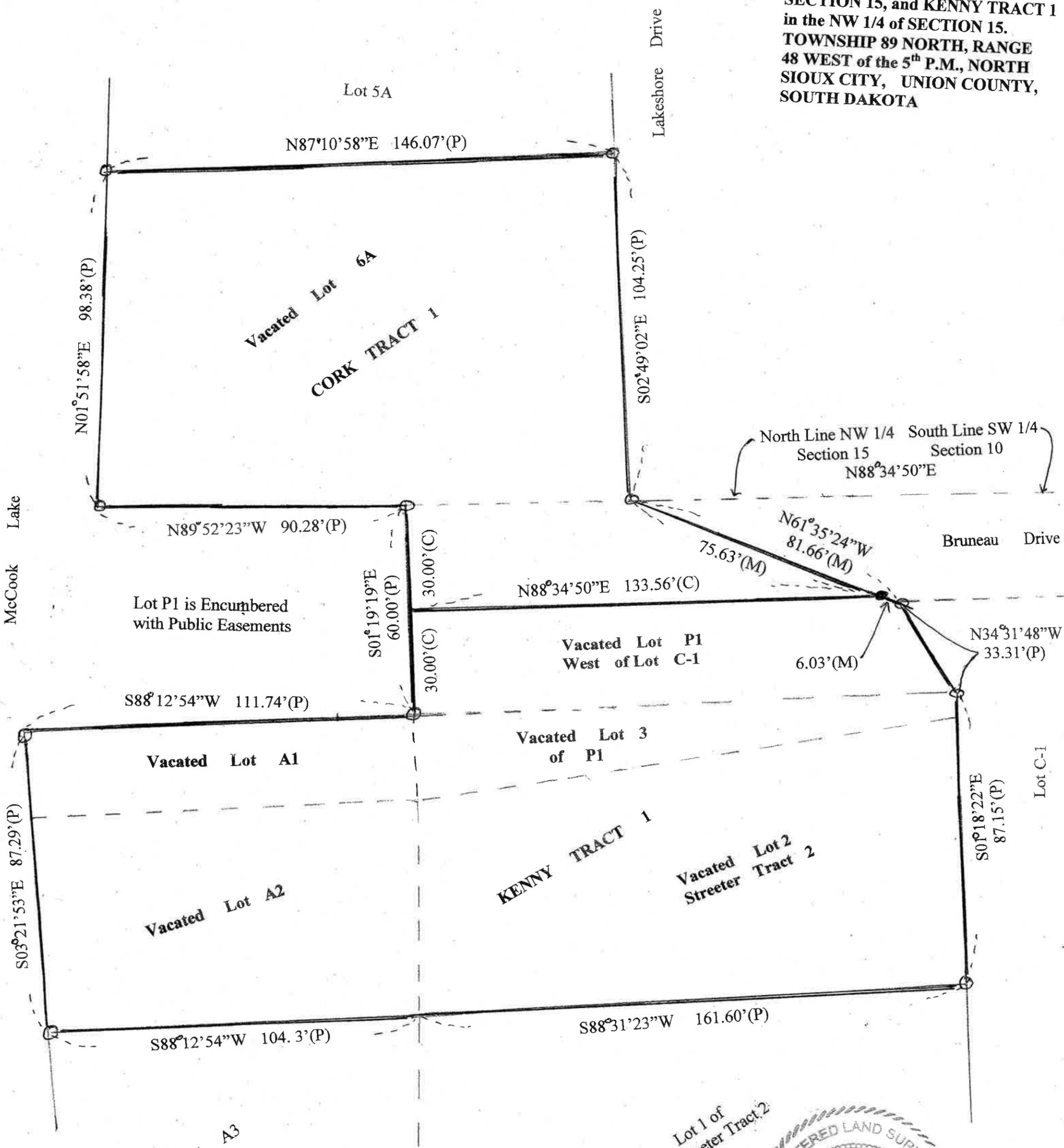
**Background:** At the previous meeting the Council discussed and tabled the Plat for Cork Tract 1 and Kenny Tract 1. Information was brought forward regarding the easement on the property and the section line right of way. There have been further discussions internally between Greg, Darrell, and myself regarding the Plat. Jeff Snoozy has been made aware of the issues and will work on creating a new plat for consideration.

**Financial Consideration:** none

**Recommendation:** Administration recommends the denial of the plat as presented.

**PLAT OF SURVEY**

CORK TRACT 1 in the SW 1/4 of SECTION 10, and NW 1/4 of SECTION 15, and KENNY TRACT 1 in the NW 1/4 of SECTION 15. TOWNSHIP 89 NORTH, RANGE 48 WEST of the 5<sup>th</sup> P.M., NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA



**CERTIFICATION:**

I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF SOUTH DAKOTA.

*Jeff Snoozy* 25-5/4/18  
 JEFF S. SNOOZY, PLS #6012 DATE 5/4/18  
 LICENSE RENEWAL DATE: DEC. 31, 2018 SHEETS COVERED BY THIS SEAL 5

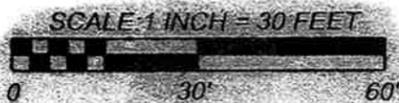
Notes: Bearings Assumed

Acreages	
Existing Lot 6 (Cork ownership)	0.35 Acres
Kenny Ownership	0.53 Acres
Streeter ownership	0.17 Acres
New Cork Tract 1	0.42 Acres
New Kenny Tract 1	0.63 Acres



**LEGEND**

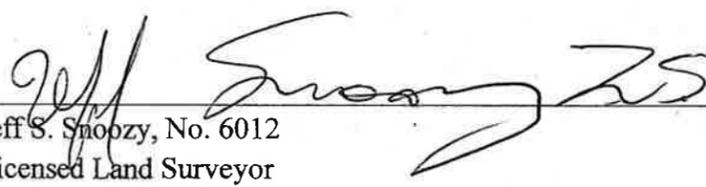
- FOUND 5/8" CAPPED RE UNLESS OTHERWISE NOTED
- NEBAR SET 5/8" X 30" CAPPED 6018
- (P) PLAT DISTANCE
- (M) MEASURED DISTANCE
- (C) CALCULATED DISTANCE



SURVEYOR'S CERTIFICATE

I, Jeff Snoozy, a Licensed Land Surveyor of the state of South Dakota, Do hereby certify that at the direction of the owners, I have surveyed Cork Tract 1, of Government Lot 4, "Bruneau Plat" in the Southwest One Quarter of Section 10, and part of Government Lot 1, the Northwest One Quarter of Section 15, and Kenny Tract 1, part of Government Lot 1, the Northwest One Quarter of Section 15, all in Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., North Sioux City, Union County, South Dakota, and that all dimensions are correct.

Pursuant to SDCL 11-3-20.1 to 11-3-20.4; Inclusive, the approval and filing of this plat vacates the following: Lot 6A of Tracts 22 and 23, Block 1 of Government Lot 4, "Bruneau Plat" in the Southwest One Quarter of Section 10, the balance of Lot P1 West of Lot C-1 of Government Lot 1, in the Northwest One Quarter of Section 15, Lot A1 and A2, Lot 2 of Streeter Tract 2, less Lot C-1 and Lot 3 of Lot P1 less Lot C-1 of Government Lot 1, the Northwest One Quarter of Section 15, all in Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., North Sioux City, Union County, South Dakota, recorded in Book of Plats 28, Page 20, Book of Plats 29, Page 29, Book of Plats 28, page 4, Book of Plats 24, Page 83 and Book of Plats 27, Page 12, respectively, therein as shown on the attached plat.

  
Jeff S. Snoozy, No. 6012  
Licensed Land Surveyor

5/4/18  
Date



RESOLUTION BY THE CITY COUNCIL:

Be it resolved by the City Council of North Sioux City, Union county, South Dakota, that the above plat represents Cork Tract 1, of Government Lot 4, "Bruneau Plat" in the Southwest One Quarter of Section 10, and part of Government Lot 1, the Northwest One Quarter of Section 15, and Kenny Tract 1, part of Government Lot 1, the Northwest One Quarter of Section 15, all in Township 89 North, Range 48 West of the 5<sup>th</sup> P.M. North Sioux City, Union County, South Dakota, and be and the same is hereby approved.

I, undersigned, City Finance Officer of the City of North Sioux City, Union County, South Dakota, do hereby certify that the above is a true and correct copy of the Resolution passed by the City of North Sioux City, Union County, South Dakota, at their regular meeting on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_

\_\_\_\_\_  
City Finance Officer, City of North Sioux City

\_\_\_\_\_  
Mayor, City of North Sioux city

OWNERS CERTIFICATE:

I, the undersigned, do hereby certify that we are the owners of all the land included in the above plat of Cork Tract 1, of Government Lot 4, "Bruneau Plat" in the Southwest One Quarter of Section 10, and part of Government Lot 1, the Northwest One Quarter of Section 15, all in Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., North Sioux City, Union County, South Dakota, and that said plat has been made at my request and in accordance with our instructions for the purpose of transfer, and we further certify that the development of this land shall conform to all existing applicable zoning, subdivision, erosion and sediment control regulations, and that said property is free of all encumbrances.

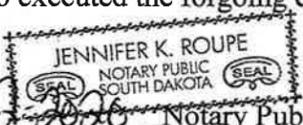
I further certify that this plat does hereby vacate the following:  
Lot 6A of Tracts 22 and 23, Block 1 of Government Lot 4, "Bruneau Plat" in the Southwest One Quarter of Section 10, Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., North Sioux City, Union County, South Dakota, filed in Book of Plats 28, Page 20.

Sheri K. Cork 5.28.18  
Sheri K. Cork, President Date  
SDDC, LLC  
SC DCQS

Acknowledgement of Owner

Be it remembered that on this 25 Day of May 2018,  
Before me the undersigned, a Notary Public, personally appeared Sheri K. Cork, known to me to be the person described in and who executed the forgoing certificate.

My Commission Expires: 02-12-2020 Notary Public: Jennifer K. Roupe



CERTIFICATE OF COUNTY TREASURER

State of South Dakota, County of Union.

I, the undersigned, County Treasurer of Union County, South Dakota, do hereby certify that all taxes which are liens upon the land included in this plat, are shown by the records of my office have been paid in full.

\_\_\_\_\_  
County Treasurer Date

OWNERS CERTIFICATE:

We, the undersigned, do hereby certify that we are the owners of all the land included in the above plat of Kenny Tract 1, of Government Lot 1, the Northwest One Quarter of Section 15, in Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., North Sioux City, Union County, South Dakota, and that said plat has been made at my request and in accordance with our instructions for the purpose of transfer, and we further certify that the development of this land shall conform to all existing applicable zoning, subdivision, erosion and sediment control regulations, and that said property is free of all encumbrances.

We further certify that this plat does hereby vacate the following:

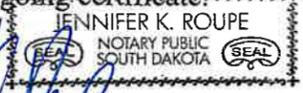
Lot A1 and A2, Lot 2 of Streeter Tract 2, less Lot C-1, and Lot 3 of Lot P1 less Lot C-1 of Government Lot 1, the Northwest One Quarter of Section 15, Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., North Sioux City, Union County, South Dakota, filed in Book of Plats 28, Page 4, Book of Plats 24, Page 83, and Book of Plats 27, Page 12, respectively.

Thomas J. Kenny 6-11-18  
Thomas J. Kenny Date

Holly M. Kenny 6/11/18  
Holly M. Kenny Date

Acknowledgement of Owner

Be it remembered that on this 11 Day of June 2018,  
Before me the undersigned, a Notary Public, personally appeared Thomas J. Kenny and Holly M. Kenny, known to me to be the person described in and who executed the forgoing certificate.

My Commission Expires: 02-12-2020 Notary Public Jennifer K. Roupe  


PLANNING COMMISSION CERTIFICATE

Be it resolved by the Planning Commission of North Sioux City, Union County, South Dakota, that the attached and foregoing plat of Cork Tract 1, of Government Lot 4, "Bruneau Plat" in the Southwest One Quarter of Section 10, and part of Government Lot 1, the Northwest One Quarter of Section 15, and Kenny Tract 1, part of Government Lot 1, the Northwest One Quarter of Section 15, all in Township 89 North, Range 48 West of the 5<sup>th</sup> P.M., North Sioux City, Union County, South Dakota, be and the same is true.

\_\_\_\_\_  
Chairman, Planning Commission, City of North Sioux City Date

CERTIFICATE OF DIRECTOR OF EQUALIZATION

State of South Dakota, County of Union

I, the undersigned, Director of Equalization of Union County, South Dakota, Do hereby certify that a copy of the above plat has been filed in my office.

\_\_\_\_\_  
Director of Equalization Date





# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City Planning and Zoning  
From: Ted Cherry, City Administrator  
Date: 6/13/2018  
Re: Plat – Lots 1-3 of Cottington's Second Addition

---

**Background:** Randy Cottington has asked for a new plat of the Cottington Mobile Home Park be made. As noted on the first page of the plat the plat vacates a number of previously platted parcels to create larger parcels of the mobile home park. Mostly, this is cleanup work done on the part of the property Owner.

The plat was presented and approved by the Planning and Zoning Board on 6/13/2018. There was one point of concern from that board regarding the section of Lot 1 that extends from the lot connected to Lakeshore estates and extends East toward the fire hall. There were also questions regarding Cott's Drive. Gregg from Frontier Consultants stated this would be for a second access point for the property.

At the previous meeting of the Council there was discussion on the plat and it was tabled to allow for further information to be gathered. A meeting was held between 2 members of the Planning Commission, 2 Council members, the attorney for McCook Mobile Estates, Gregg Stroschein, and myself. The attached letter was presented to all involved on the outcome of that meeting.

The City is unable to vacate a street without the consent of the surrounding property owners.

**Financial Consideration:** None

**Recommendation:** Administration would recommend the approval of the Plat of Lots 1-3 of Cottington's Second Addition.

Efforts will continue on trying to vacate Cott's Drive.

# SURVEY PLAT

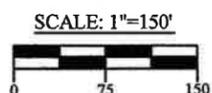
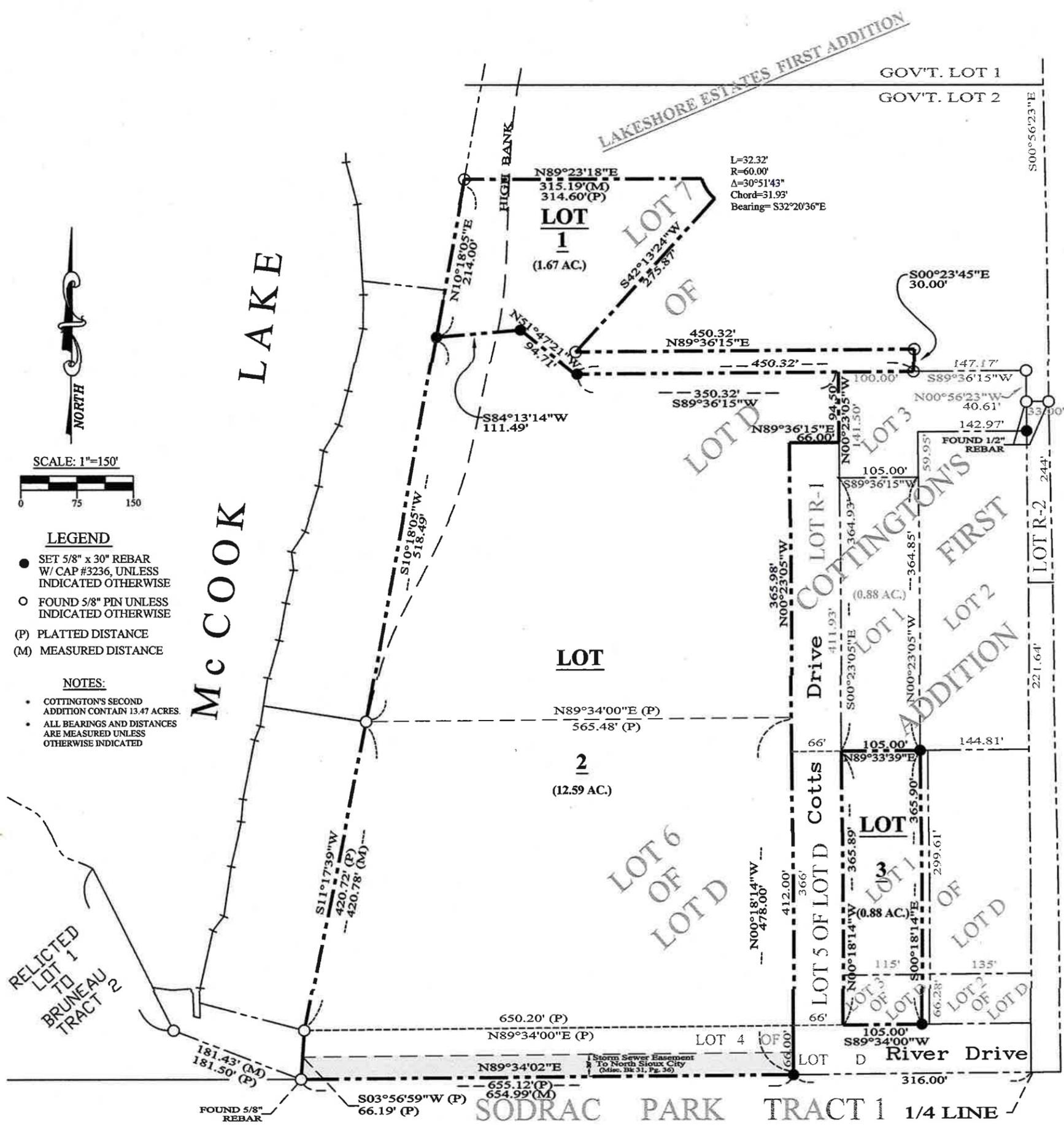
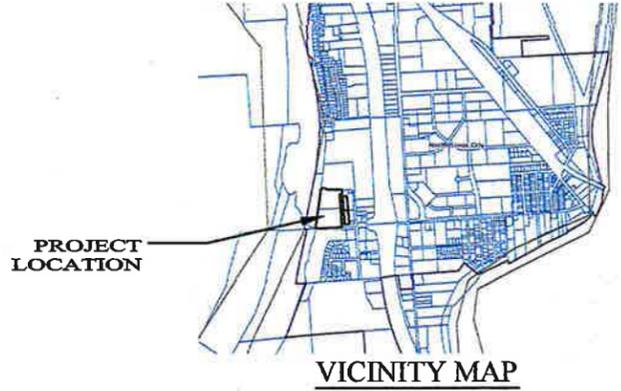
## Lots 1, 2 & 3 of Cottingham's Second Addition

IN GOVERNMENT LOT 1, GOVERNMENT LOT 2 AND THE SE 1/4 NW 1/4, SECTION 15, T89N, R48W OF THE 5TH P.M.,  
NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA

**Recording Note**

This Plat of Cottingham's Second Addition hereby vacates the previously platted parcels:

- Lot R-1 of Cottingham's First Addition
- The Westerly 105.00 Feet of Lots 1 and 3 of Lot D
- Lot 4 of Lot D
- Lot 5 of Lot D
- Lot 6 of Lot D
- All of Lot 7 of Lot D Lying South of Lakeshore Estates First Addition



**LEGEND**

- SET 5/8" x 30" REBAR W/ CAP #3236, UNLESS INDICATED OTHERWISE
- FOUND 5/8" PIN UNLESS INDICATED OTHERWISE
- (P) PLATTED DISTANCE
- (M) MEASURED DISTANCE

**NOTES:**

- COTTINGHAM'S SECOND ADDITION CONTAIN 13.47 ACRES
- ALL BEARINGS AND DISTANCES ARE MEASURED UNLESS OTHERWISE INDICATED

RELICTED LOT 1 TO BRUNEAU TRACT 2

**FRONTIER CONSULTANTS, INC.**  
401 S. Pearl St.  
Elk Point, SD 57025  
PH: 712-259-0483

DATE	6-04-18
DWG	Cottingham.dwg
PROJECT	#18-104
CLIENT	McCook Mobile Estates, Inc.
CONTACT	Randy Cottingham
BY	Gregg Stroschein, PLS
REVISED	

**SURVEY PLAT**

LOTS 1, 2 & 3 OF COTTINGHAM'S SECOND ADDITION  
IN GOVERNMENT LOT 1, GOVERNMENT LOT 2 AND THE  
NE 1/4 SE 1/4, SECTION 15, T89N, R48W OF THE 5TH P.M.,  
NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA  
SHEET 1 OF 1 #18-104



# SURVEY PLAT

## Lots 1, 2 & 3 of Cottington's Second Addition

IN GOVERNMENT LOT 1, GOVERNMENT LOT 2 AND THE SE 1/4 NW 1/4, SECTION 15, T89N, R48W OF THE 5TH P.M., NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA

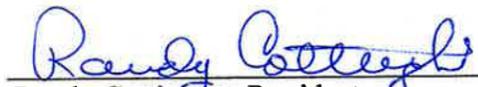
### SURVEYOR'S CERTIFICATE

I, Gregg A. Stroschein, a Licensed Land Surveyor of the State of South Dakota, do hereby certify that at the direction of the land owners, I have surveyed and platted Cottington's Second Addition being a Part of Government Lot 1, Government Lot 2 and the SE 1/4 NW 1/4 in Section 15, T89N, R48W, 5th P.M., North Sioux City, Union County, South Dakota, and that all dimensions as shown are true and correct.

  
Gregg A. Stroschein, PLS # 3236 Date 6-07-18

### OWNER'S CERTIFICATE

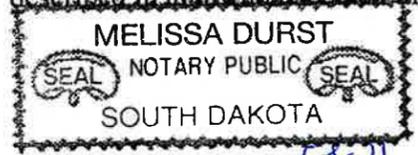
I, Randy Cottington, as President of McCook Mobile Estates, Inc., do hereby certify that I am the owner of Cottington's Second Addition being a Part of Government Lot 1, Government Lot 2 and the SE 1/4 NW 1/4 in Section 15, T89N, R48W, 5th P.M., North Sioux City, Union County, South Dakota, and that the survey and plat were made at my request and under my direction for the purposes of locating, marking and platting the same, and that said property is free of all encumbrances.

  
Randy Cottington, President Date 6-8-18  
McCook Mobile Estates, Inc.

### ACKNOWLEDGMENT OF OWNER

State of South Dakota County of Union

Be it remembered that on this 8th day of June, 2018, before me, the undersigned, a Notary Public, personally appeared, Randy Cottington, President of McCook Mobile Estates, Inc, described in and who executed the foregoing certificate.



My commission expires 5-3-21 Notary Public Melissa Durst

### CITY PLANNING COMMISSION CERTIFICATE

Be it resolved by the Planning Commission of the City of North Sioux City, Union County, South Dakota, that the attached and foregoing plat of Cottington's Second Addition being a Part of Government Lot 1, Government Lot 2 and the SE 1/4 NW 1/4 in Section 15, T89N, R48W, 5th P.M., City of North Sioux City, Union County, South Dakota, be and the same is hereby approved.

Chairman Planning Commission Date

### RESOLUTION OF CITY COUNCIL:

Be it resolved by the City Council of North Sioux City, Union County, South Dakota, that the above plat of Cottington's Second Addition being a Part of Government Lot 1, Government Lot 2 and the SE 1/4 NW 1/4 in Section 15, T89N, R48W, 5th P.M., North Sioux City, Union County South Dakota, be and the same is hereby approved.

I, Susan Kloostra, Finance Officer of North Sioux City, Union County, South Dakota, do hereby certify that the above is a true and correct copy of the resolution passed by the City Council of North Sioux City, South Dakota, at their regular meeting on \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Mayor, City of North Sioux City  
  
\_\_\_\_\_  
City Finance Officer

### DIRECTOR OF EQUALIZATION

I, Dawn Steckelberg, Director of Equalization of Union County, South Dakota, do hereby certify that a copy of the above plat has been filed at my office.

\_\_\_\_\_  
Dawn Steckelberg, Director of Equalization

### COUNTY TREASURER'S CERTIFICATE

I, Myron Hertel, Treasurer of Union County, South Dakota, do hereby certify that all taxes which are liens upon any land included in the above (and the foregoing) plats, as shown by the records of my office, have been fully paid.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Myron Hertel, Treasurer of Union County

### REGISTER OF DEEDS

Filed for record this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m., and recorded in Book \_\_\_\_\_ of Plats on Page \_\_\_\_\_ therein.

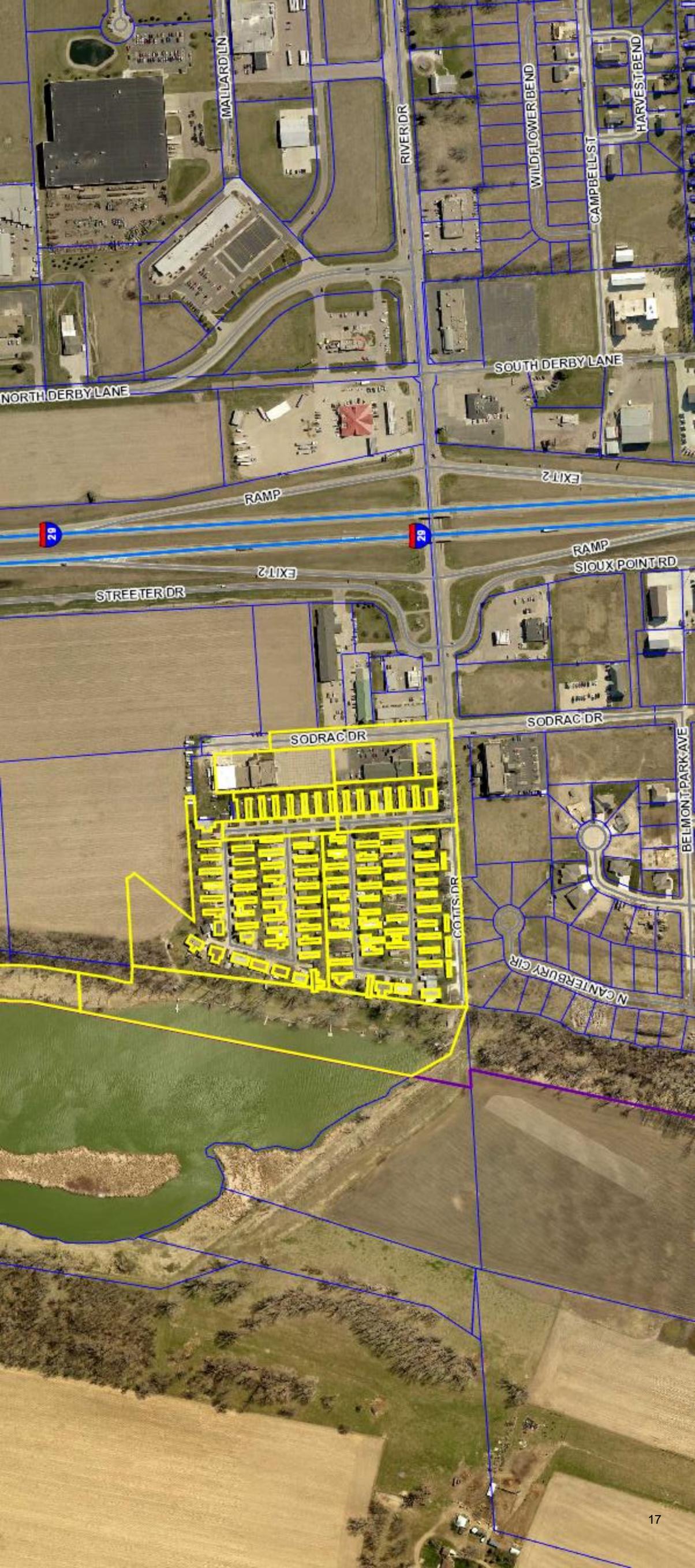
\_\_\_\_\_  
Jana Foltz, Register of Deeds  
Union County, South Dakota



DATE : 6-04-18  
DWG : Cottington.dwg  
PROJECT : #18-104  
CLIENT : McCook Mobile Estates, Inc.  
CONTACT : Randy Cottington  
BY : Gregg Stroschein, PLS  
REVISED :

**SURVEY PLAT**  
LOTS 1, 2 & 3 OF COTTINGTON'S SECOND ADDITION  
IN GOVERNMENT LOT 1, GOVERNMENT LOT 2 AND THE  
NE 1/4 SE 1/4, SECTION 15, T89N, R48W OF THE 5TH P.M.,  
NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA  
SHEET 2 OF 2 #18-104





MALLARD LN

RIVER DR

WILDFLOWER BEND

CAMPBELL ST

HARVEST BEND

SOUTH DERBY LANE

NORTH DERBY LANE

EXIT 2

RAMP

29

29

RAMP

SIoux POINT RD

STREETER DR

EXIT 2

SODRAC DR

SODRAC DR

BELMONT PARK AVE

COTTIS DR

N CANTEBURY CIR

Friday, June 29, 2018

Jeff Myers  
Hutchison, Myers, Eckert & Vohs  
705 Douglas St. #402  
Sioux City, IA 51101

Mr. Myers

Thank you for taking the time to meet with myself and other City representatives this morning. I wanted to follow up with a letter regarding the plat for Lots 1-3 of Cottington's 2<sup>nd</sup> Addition.

First, regarding lot 1 of the plat, Mr. Cottington would need to rezone this lot to R-1 of the City's ordinances. It is currently zoned as R-4 for mobile home use and R-1 would allow for a single-family home to be built. The rezoning process is simple and we can get started at any time.

The second item of discussion is the mobile home park's compliance with 17.36.050 of the current City code. Your clients should be aware of section 3 stating that "Each yard abutting on a public street or road shall be considered a front yard and shall have a minimum of thirty (30) feet of setback from the lot line." Due to the setback requirement homes on Cott's drive would not be able to be replaced if they were removed.

Third, in conjunction with item 2, it is the City's desire to vacate Cott's Drive and deed that land to the owner of the mobile home park. I believe a variance, for a park larger than 15 acres, would be granted by the Planning Commission. This would allow for mobile homes to be replaced on Cott's Drive in the event they are moved out. All public infrastructure would be turned over to the owner of the property. The City is willing to work through this process with the current or future owners of the park.

At this time, the plat mentioned above will be taken before the City Council on July 9<sup>th</sup> for their approval. Please work with your clients regarding items 2 and 3 and let me know if there is further discussion you would like to have.

Kind Regards,



Ted Cherry  
North Sioux City, City Administrator

Cc: Darrell Jesse, Lesa Crolley, Dan Parks, Don Streeter, Dave Mitchell, Gregg Stroschein

South Dakota Codified Laws  
Title 9. Municipal Government  
Chapter 9-45. Street and Alley Improvements (Refs & Annos)

SDCL § 9-45-7

9-45-7. Petition of property owners or landowners required for  
vacation of street, alley, or public ground--Plat--Verification of petition

Currentness

No street, alley, or public ground, or part thereof, shall be vacated by the governing body except upon the petition and consent in writing of all of the owners of the property adjoining the part of the street, alley, or public ground to be vacated. Such petition shall set forth the facts and the reasons for such vacation, accompanied by a plat of such street, alley, or public ground proposed to be vacated, and shall be verified by the oath of one or more of the petitioners, provided, in the event all the land subject to the proposed petition to vacate is located on the land of a landowner, the petition of the landowner shall be sufficient.

**Credits**

**Source:** SL 1890, ch 37, art XVI, § 13; RPoIC 1903, § 1301; RC 1919, § 6354; SDC 1939, § 45.1708; SL 1949, ch 186; SL 1951, ch 241, § 1; SL 1975, ch 91.

© 2018 by the State of South Dakota

S D C L § 9-45-7, SD ST § 9-45-7

Current through laws of the 2018 Regular Session effective March 23, 2018, and Supreme Court Rule 17-12

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

South Dakota Codified Laws Title 9. Municipal Government Chapter 9-45. Street and Alley Improvements (Refs & Annos)
---

SDCL § 9-45-8

9-45-8. Publication of notice of petition and hearing on vacation

Currentness

Upon the filing of a petition pursuant to § 9-45-7, the governing body, if it deems it expedient that the matter should be proceeded with, shall order the petition to be filed with the auditor or clerk, who shall give notice by publication once each week for at least two successive weeks, to the effect that the petition has been filed and stating in brief its object and that the petition will be heard and considered by the governing body, or a committee appointed by the governing body for that purpose, on a day specified not less than ten days from the last publication of the notice.

**Credits**

Source: SDC 1939, § 45.1708; SL 1949, ch 186; SL 1951, ch 241, § 1; SL 1972, ch 51, § 2; SL 2003, ch 46, § 1.

© 2018 by the State of South Dakota

SDCL § 9-45-8, SD ST § 9-45-8

Current through laws of the 2018 Regular Session effective March 23, 2018, and Supreme Court Rule 17-12

South Dakota Codified Laws  
Title 9. Municipal Government  
Chapter 9-45. Street and Alley Improvements (Refs & Annos)

SDCL § 9-45-9

9-45-9. Hearing and decision on vacation of street, alley, or public ground--Vote required

Currentness

The governing body or such committee at the time and place appointed shall investigate and consider the matter and shall hear the evidence and testimony of the parties interested. The governing body, after hearing the same or upon the report of such committee favoring the granting of such petition, may declare by resolution passed by a two-thirds vote of all the members, such street, alley, or public ground vacated.

**Credits**

**Source:** SL 1890, ch 37, art XVI, § 13; RPolC 1903, § 1301; RC 1919, § 6354; SDC 1939, § 45.1708; SL 1949, ch 186; SL 1951, ch 241, § 1.

© 2018 by the State of South Dakota

S D C L § 9-45-9, SD ST § 9-45-9

Current through laws of the 2018 Regular Session effective March 23, 2018, and Supreme Court Rule 17-12

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

South Dakota Codified Laws  
Title 9. Municipal Government  
Chapter 9-45. Street and Alley Improvements (Refs & Annos)

SDCL § 9-45-7

9-45-7. Petition of property owners or landowners required for  
vacation of street, alley, or public ground--Plat--Verification of petition

Currentness

No street, alley, or public ground, or part thereof, shall be vacated by the governing body except upon the petition and consent in writing of all of the owners of the property adjoining the part of the street, alley, or public ground to be vacated. Such petition shall set forth the facts and the reasons for such vacation, accompanied by a plat of such street, alley, or public ground proposed to be vacated, and shall be verified by the oath of one or more of the petitioners, provided, in the event all the land subject to the proposed petition to vacate is located on the land of a landowner, the petition of the landowner shall be sufficient.

**Credits**

**Source:** SL 1890, ch 37, art XVI, § 13; RPoIC 1903, § 1301; RC 1919, § 6354; SDC 1939, § 45.1708; SL 1949, ch 186; SL 1951, ch 241, § 1; SL 1975, ch 91.

© 2018 by the State of South Dakota

S D C L § 9-45-7, SD ST § 9-45-7

Current through laws of the 2018 Regular Session effective March 23, 2018, and Supreme Court Rule 17-12

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.

South Dakota Codified Laws Title 9. Municipal Government Chapter 9-45. Street and Alley Improvements (Refs & Annos)
---

SDCL § 9-45-8

9-45-8. Publication of notice of petition and hearing on vacation

Currentness

Upon the filing of a petition pursuant to § 9-45-7, the governing body, if it deems it expedient that the matter should be proceeded with, shall order the petition to be filed with the auditor or clerk, who shall give notice by publication once each week for at least two successive weeks, to the effect that the petition has been filed and stating in brief its object and that the petition will be heard and considered by the governing body, or a committee appointed by the governing body for that purpose, on a day specified not less than ten days from the last publication of the notice.

**Credits**

Source: SDC 1939, § 45.1708; SL 1949, ch 186; SL 1951, ch 241, § 1; SL 1972, ch 51, § 2; SL 2003, ch 46, § 1.

© 2018 by the State of South Dakota

SDCL § 9-45-8, SD ST § 9-45-8

Current through laws of the 2018 Regular Session effective March 23, 2018, and Supreme Court Rule 17-12

South Dakota Codified Laws  
Title 9. Municipal Government  
Chapter 9-45. Street and Alley Improvements (Refs & Annos)

SDCL § 9-45-9

9-45-9. Hearing and decision on vacation of street, alley, or public ground--Vote required

Currentness

The governing body or such committee at the time and place appointed shall investigate and consider the matter and shall hear the evidence and testimony of the parties interested. The governing body, after hearing the same or upon the report of such committee favoring the granting of such petition, may declare by resolution passed by a two-thirds vote of all the members, such street, alley, or public ground vacated.

**Credits**

**Source:** SL 1890, ch 37, art XVI, § 13; RPolC 1903, § 1301; RC 1919, § 6354; SDC 1939, § 45.1708; SL 1949, ch 186; SL 1951, ch 241, § 1.

© 2018 by the State of South Dakota

S D C L § 9-45-9, SD ST § 9-45-9

Current through laws of the 2018 Regular Session effective March 23, 2018, and Supreme Court Rule 17-12

---

End of Document

© 2018 Thomson Reuters. No claim to original U.S. Government Works.



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City – City Council  
From: Ted Cherry, City Administrator  
Date: 7/9/2018  
Re: JEO Services Agreement

**Background:** The North Sioux City Economic Development Corporation (NSCEDC) is finalizing plans to move forward with the construction of a new street in the Flynn Business Park. NSCEDC has found funding from SD GOED and the EDA along with the City’s involvement financially. The EDA has made their intent for the award for the infrastructure as well GOED giving their intent.

The design phase of the project needs to take place. NSCEDC has chosen JEO to do the design and project management of the new street. Due to NSCEDC IRS status they would have to pay sales tax to JEO for the project in the amount of approximately \$11,000. The discussion was had internally to allow for the City to have the contract with JEO to save on these costs. The attached agreement provides for the services to be given to the City with Andrew Nilges being the Designated Representative. The total estimated cost of design, platting, construction management, etc. is \$149,100. This amount could vary if services are not needed, or if additional services are added.

Previously, the Council has given the approval to move forward with the project and providing some funding from the 211 and 212 funds in the amount of \$712,062.09. The new EDA award is substantially higher than was first presented, but the engineers estimate is somewhat higher as well. We can currently expect the City’s portion of the funds to be \$724,661.00. MidAmerican will reimburse the City for their expenses as businesses hook into the lines. This would reduce the City’s costs to \$599,661. NSCEDC will also reimburse the City \$166,000 in land sales from the South portion of Flynn as it is sold, taking the City’s costs to \$433,661. This amount is substantially lower than what was first presented to the Council.

Engineer’s Estimate	\$ (1,536,246.00)	
MidAmerican	\$ (125,000.00)	Reimbursed as the property owners hook up to services
GOED Award	\$ 250,000.00	3/4 upfront 1/4 upon completion
EDA Award	\$ 686,585.00	
Total	\$ (724,661.00)	

In essence, the City would be responsible for \$724,661 in upfront costs, and upon reimbursements from MidAmerican and NSCEDC the risk would decrease to \$433,661. There are currently letters of intent on 16 acres of ground.

NSCEDC is also asking the City to be the primary contract holder when the construction is let out for Bid. This would additionally save approximately \$100,000 additional in sales tax. Current procedures would be followed in approval of the design

**Financial Consideration:** \$149,100 for the JEO Contract.

**Recommendation:** Administration would recommend the approval of the JEO agreement in for engineering services.

Also, would the City be willing to be primary contract holder on the infrastructure improvements to save additional tax. The applications with EOED and the EDA have all been joint applications between those entities, the City, and NSCEDC. If willing a motion would need to be made to allow the City to go out for Bid on the project when the design is complete. Andrew would still act as the primary contact for the project.

# [ Professional Agreement ]

FLYNN BUSINESS PARK ROAD EXTENSION  
North Sioux City, SD



Agreement for Professional Services between  
Owner and JEO CONSULTING GROUP INC

**STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES**

Prepared by  
ENGINEERS JOINT CONTRACT DOCUMENTS COMMITTEE

And

Issued and Published Jointly By

PROFESSIONAL ENGINEERS IN PRIVATE PRACTICE  
a practice division of the  
NATIONAL SOCIETY OF PROFESSIONAL ENGINEERS

---

AMERICAN CONSULTING ENGINEERS COUNCIL

---

AMERICAN SOCIETY OF CIVIL ENGINEERS

And

Amended By

JEO CONSULTING GROUP, INC.

Copyright ©1996 National Society of Professional Engineers  
1420 King Street, Alexandria, VA 22314

American Consulting Engineers Council  
1015 15<sup>th</sup> Street N.W., Washington, DC 20005

American Society of Civil Engineers  
345 East 47<sup>th</sup> Street, New York, NY 10017

**TABLE OF CONTENTS**

	<u>PAGE</u>
ARTICLE 1 – SERVICES OF ENGINEER.....	2
1.01 Scope.....	2
ARTICLE 2 – OWNER’S RESPONSIBILITES.....	2
2.01 General.....	2
ARTICLE 3 – TIMES FOR RENDERING SERVICES.....	2
3.01 General.....	2
3.02 Suspension.....	2
ARTICLE 4 – PAYMENTS TO ENGINEER.....	2
4.01 Methods of Payment for Services and Reimbursable Expense of ENGINEER.....	2
4.02 Other Provisions Concerning Payments.....	3
ARTICLE 5 – OPINIONS OF COST.....	3
5.01 Opinions of Probable Construction Cost.....	3
5.02 Designing to Construction Cost Limits.....	4
5.03 Opinions of Total Project Costs.....	4
ARTICLE 6 – GENERAL CONSIDERATIONS.....	4
6.01 Standards of Performance.....	4
6.02 Authorized Project Representatives.....	5
6.03 Design without Construction Phase Services.....	5
6.04 Use of Documents.....	5
6.05 Insurance.....	6
6.06 Termination.....	7
6.07 Controlling Law.....	7
6.08 Successors, Assigns, and Beneficiaries.....	7
6.09 Dispute Resolution.....	8
6.10 Hazardous Environmental Condition.....	8
6.11 Allocation of Risks.....	8
6.12 Notices.....	9
6.13 Survival.....	9
6.14 Severability.....	9
6.15 Waiver.....	9
6.16 Headings.....	9
ARTICLE 7 – DEFINITIONS.....	10
7.01 Defined Terms.....	10
ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS.....	13
8.01 Exhibits Included.....	13
8.02 Total Agreement.....	13

STANDARD FORM OF AGREEMENT  
BETWEEN OWNER AND ENGINEER  
FOR  
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of \_\_\_\_\_ (“Effective Date”) between  
North Sioux City, South Dakota (“OWNER”) and  
JEO Consulting Group, Inc. (“ENGINEER”).  
OWNER intends to see Attachment “1” Exhibit A (“Project”).  
OWNER and ENGINEER in consideration of their mutual covenants as set forth herein agree as follows:

## **ARTICLE 1 – SERVICES OF ENGINEER**

### **1.01 Scope**

- A. ENGINEER shall provide the Basic and Additional Service set forth herein and in Exhibit A.
- B. Upon this Agreement becoming effective, ENGINEER is authorized to begin Basic Services as set forth in Exhibit A.
- C. If authorized by OWNER, ENGINEER shall furnish Resident Project Representative(s) with duties, responsibilities and limitation of authority as set forth in Exhibit D.

## **ARTICLE 2 – OWNER’S RESPONSIBILITIES**

### **2.01 General**

- A. OWNER shall have the responsibilities set forth herein and in Exhibit B.

## **ARTICLE 3 – TIMES FOR RENDERING SERVICES**

### **3.01 General**

- A. ENGINEER’s services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Project through completion. Unless specific periods of time or specific dates for providing services are specified in this Agreement, ENGINEER’s obligation to render services hereunder will be for a period which may reasonably be required for the completion of said services.
- B. If in this Agreement specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of ENGINEER, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If OWNER has requested changes in the scope, extent, or character of the Project, the time of performance of ENGINEER’s services shall be adjusted equitably.
- C. For purposes of this Agreement the term “day” means a calendar day of 24 hours.

### **3.02 Suspension**

- A. If OWNER fails to give prompt written authorization to proceed with any phase of services after completion of the immediately preceding phase, or if ENGINEER’s services are delayed through no fault of ENGINEER, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement.
- B. If ENGINEER’s services are delayed or suspended in whole or in part by OWNER, or if ENGINEER’s services are extended by Contractor’s actions or inactions for more than 90 days through no fault of ENGINEER, ENGINEER shall be entitled to equitable adjustment of rates and amounts of compensation provided for elsewhere in this Agreement to reflect reasonable costs incurred by ENGINEER in connection with, among other things, such delay or suspension and reactivation and the fact that the time of performance under this Agreement has been revised.

## **ARTICLE 4 – PAYMENTS TO ENGINEER**

### **4.01 Methods of Payment for Services and Reimbursable Expenses of ENGINEER**

- A. *For Basic Services.* OWNER shall pay ENGINEER for Basic Services performed or furnished under Exhibit A, Part 1, as set forth in Exhibit C.
  - 1. OWNER shall pay ENGINEER for Resident Project Representative(s) (RPR) Services defined in Exhibit D, as set forth in Exhibit C.
- B. *For Additional Services.* OWNER shall pay ENGINEER for Additional Services performed or furnished under Exhibit A, Part 2, as set forth in Exhibit C.

- C. *For Reimbursable Expenses.* In addition to payments provided for in paragraphs 4.01A and 4.01.B, OWNER shall pay ENGINEER for Reimbursable Expenses incurred by ENGINEER and ENGINEER's Consultants as set forth on Exhibit C.

#### **4.02 Other Provisions Concerning Payments**

- A. *Preparation of Invoices.* Invoices will be prepared in accordance with ENGINEER's standard invoicing practices and will be submitted to OWNER by ENGINEER, unless otherwise agreed. The amount billed in each invoice will be calculated as set forth in Exhibit C.
- B. *Payments of Invoices.* Invoices are due and payable within 30 days of receipt. If OWNER fails to make any payments due ENGINEER for services and expenses within 30 days after receipt of ENGINEER's invoice therefore, the amounts due ENGINEER will be increased at the rate of 1.0% per month (or the maximum rate of interest permitted by law, if less) from said thirtieth day. In addition, ENGINEER may, after giving seven days written notice to OWNER, suspend services under this Agreement until ENGINEER has been paid in full all amounts due for services, expenses, and other related charges. Payments will be credited first to interest and then to principal.
- C. *Disputed Invoices.* In the event of a disputed or contested invoice, only that portion so contested may be withheld from payment, and the undisputed portion will be paid.
- D. *Payments Upon Termination:*
1. In the event of any termination under paragraph 6.06, ENGINEER will be entitled to invoice OWNER and will be paid in accordance with Exhibit C for all services performed or furnished and all Reimbursable Expenses incurred through the effective date of termination.
  2. In the event of termination by OWNER for convenience or by ENGINEER for cause, ENGINEER, in addition to invoicing for these items identified in subparagraph 4.02.D.1, shall be entitled to invoice OWNER and shall be paid a reasonable amount for services and expenses directly attributable to termination, both before and after the effective date of termination, such as reassignment of personnel, costs of terminating contracts with ENGINEER's Consultants, and other related close-out costs, using methods and rates for Additional Services as set forth in Exhibit C.
- E. *Records of ENGINEER's Costs.* Records of ENGINEER's costs pertinent to ENGINEER's compensation under this Agreement shall be kept in accordance with generally accepted accounting practices. To the extent necessary to verify ENGINEER's charges and upon OWNER's timely request, copies of such records will be made available to OWNER at cost.
- F. *Legislative Actions.* In the event of legislative actions after the Effective Date of the Agreement by any level of government that impose taxes, fees, or costs on ENGINEER's services or other costs in connection with this Project or compensation therefore, such new taxes, fees, or costs shall be invoiced to and paid by OWNER as a Reimbursable Expenses to which a Factor of 1.0 shall be applied. Should such taxes, fees, or costs be imposed, they shall be in addition to ENGINEER's estimated total compensation.

### **ARTICLE 5 – OPINIONS OF COST**

#### **5.01 Opinions of Probable Construction Cost**

- A. ENGINEER's opinion of probable Construction Cost provided for herein are to be made on the basis of ENGINEER's experience and qualifications and represent ENGINEER's best judgment as an experienced and qualified professional generally familiar with the industry. However, since ENGINEER 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, ENGINEER cannot and does not guarantee that proposals, bids, or actual Construction Cost will not vary

from opinions of probable Construction Cost prepared by ENGINEER. If OWNER wishes greater assurance as to probable Construction Cost, OWNER shall employ an independent cost estimator as provided in Exhibit B.

**5.02 Designing to Construction Cost Limit**

- A. If a Construction Cost Limit is established between OWNER and ENGINEER, such Construction Cost limit and a statement of ENGINEER's rights and responsibilities with respect thereto will be specifically set forth in Exhibit F, "Construction Cost Limit," to the Agreement.

**5.03 Opinions of Total Project Costs**

- A. ENGINEER assumes no responsibility for the accuracy of opinions of Total Project Costs.

**ARTICLE 6 – GENERAL CONSIDERATIONS**

**6.01 Standards of Performance**

- A. The standard of care for all professional engineering and related services performed or furnished by ENGINEER under the Agreement will be the care and skill ordinarily used by members of ENGINEER's profession practicing under similar circumstances at the same time and in the same locality. ENGINEER makes no warranties, express or implied, under this Agreement or otherwise, in connection with ENGINEER's services. Engineer shall be responsible for their own neglect in the design phase.
- B. ENGINEER shall be responsible for the technical accuracy of its services and documents resulting therefrom, and OWNER shall not be responsible for discovering deficiencies therein. ENGINEER shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in OWNER furnished information.
- C. ENGINEER shall perform or furnish professional engineering and related services in all phases of the Project to which this Agreement applies. ENGINEER shall serve as OWNER's prime professional for the Project. ENGINEER may employ such ENGINEER's Consultants as ENGINEER deems necessary to assist in the performance of furnishing of the services. ENGINEER shall not be required to employ any ENGINEER's Consultant unacceptable to ENGINEER.
- D. ENGINEER and OWNER shall comply with applicable Laws and Regulations and OWNER mandated standards. This Agreement is based on these requirements as of its Effective Date. Changes to these requirements after the Effective Date of this Agreement may be the basis for modifications to OWNER's responsibilities or to ENGINEER's scope of services, times of performance, or compensation.
- E. OWNER shall be responsible for, and ENGINEER may rely upon, the accuracy and completeness of all requirements, programs, instructions, reports, data, and other information furnished by OWNER to ENGINEER pursuant to this Agreement. ENGINEER may use such requirements, reports, data, and information in performing or furnishing services under this Agreement.
- F. OWNER shall make decisions and carry out its other responsibilities in a timely manner and shall bear all costs incident thereto so as not to delay the services of ENGINEER.
- G. Prior to the commencement of the Construction Phase, Owner shall notify ENGINEER of any variations from the language indicated in Exhibit E, "Recommendation of Acceptance," or of any other notice or certification that ENGINEER will be requested to provide to OWNER or third parties in connection with the Project. OWNER and ENGINEER shall reach agreement on the terms of any such requested notice or certification, and OWNER shall authorize such Additional Services as are necessary to enable ENGINEER to provide the notices or certifications requested.
- H. ENGINEER shall not be required to sign any documents, no matter by whom requested, that would result in the ENGINEER's having to certify, guarantee or warrant the existence of conditions whose existence the ENGINEER cannot ascertain. OWNER agrees not to

make resolution of any dispute with the ENGINEER or payment of any amount due to the ENGINEER in any way contingent upon the ENGINEER's signing any such certification.

- I. During the Construction Phase, ENGINEER shall not supervise, direct, or have control over Contractor's work, nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to the Contractor's work in progress, nor any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work.
- J. ENGINEER neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform the Work in accordance with the Contract Documents.
- K. ENGINEER shall not be responsible for the acts or omission of any Contractor(s), subcontractor or supplier, or of any of the Contractor's agents or employees or any other persons (except ENGINEER's own employees) at the Site or otherwise furnishing or performing any of the Contractor's work; or for any decision made on interpretations or clarifications of the Contract Documents given by OWNER without consultation and advice of ENGINEER.
- L. The General Conditions for any construction contract documents prepared hereunder are to be the "Standard General Conditions of the Construction Contract" as prepared by the Engineers Joint Contract Documents Committee (Document No. 1910-8, 1996 Edition) unless both parties mutually agree to use other General Conditions as specifically referenced in Exhibit J.

#### **6.02 Authorized Project Representatives**

- A. Contemporaneous with the execution of this Agreement, ENGINEER and OWNER shall designate specific individuals to act as ENGINEER's and OWNER's representatives with respect to the services to be performed or furnished by ENGINEER and responsibilities of OWNER under this Agreement. Such individuals shall have authority to transmit instructions, receive information, and render decisions relative to the Project on behalf of each respective party.

#### **6.03 Design without Construction Phase Services**

- A. Should OWNER provide Construction Phase services with either OWNER's representatives or a third party, ENGINEER's Basic Services under this Agreement will be considered to be completed upon completion of the Final Design Phase or Bidding or Negotiating Phase as outlined in Exhibit A.
- B. It is understood and agreed that if ENGINEER's Basic Services under this Agreement do not include Project observation, or review of the Contractor's performance, or any other Construction Phase services, and that such services will be provided by OWNER, then OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation or review and waives any claims against the ENGINEER that may be in any way connected thereto.

#### **6.04 Use of Documents**

- A. All Documents are instruments of service with respect to this Project, and ENGINEER shall retain an ownership and property interest therein (including the right of reuse at the discretion of the ENGINEER) whether or not the Project is completed.
- B. Copies of OWNER furnished data that may be relied upon by ENGINEER are limited to the printed copies (also known as hard copies) that are delivered to the ENGINEER pursuant to Exhibit B. Files in electronic media format of text, data, graphics, or other types that are furnished by OWNER to ENGINEER are only for convenience of ENGINEER. Any conclusion or information obtained or derived from such electronic files will be at user's sole risk.
- C. Copies of Documents that may be relied upon by OWNER are limited to the printed copies (also known as hard copies) that are signed or sealed by the ENGINEER. Files in

electronic media format of text, data, graphics, or of other types that are furnished by ENGINEER to OWNER are only for convenience of OWNER. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk.

- D. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it will perform acceptance tests or procedures within 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30 day acceptance period will be corrected by the party delivering the electronic files. ENGINEER shall not be responsible to maintain documents stored in electronic media format after acceptance by OWNER.
- E. When transferring documents in electronic media format, ENGINEER makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by ENGINEER at the beginning of this Project.
- F. OWNER may make and retain copies of Documents for information and reference in connection with use on the Project by OWNER. Such Documents are not intended or represented to be suitable for reuse by OWNER or others on extensions of the Project or on any other project. Any such reuse or modification without written verification or adaptation by ENGINEER, as appropriate for the specific purpose intended, will be at OWNER's sole risk and without liability or legal exposure to ENGINEER or to ENGINEER's Consultants. OWNER shall indemnify and hold harmless ENGINEER and ENGINEER's Consultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting therefrom.
- G. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.
- H. Any verification or adaptation of the Documents by ENGINEER for extensions of the Project or for any other project will entitle ENGINEER to further compensation at rates to be agreed upon by OWNER and ENGINEER.

#### **6.05 Insurance**

- A. ENGINEER shall procure and maintain insurance as set forth in Exhibit G, "Insurance."
- ~~B. OWNER shall procure and maintain insurance as set forth in Exhibit G, "Insurance." OWNER shall cause ENGINEER and ENGINEER's Consultants to be listed as additional insured on any general liability or property insurance policies carried by OWNER which are applicable to the Project.~~
- C. OWNER shall require Contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause ENGINEER and ENGINEER's Consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by Contractor for the Project.
- D. OWNER and ENGINEER shall each deliver to the other certificates of insurance evidencing the coverages indicated in Exhibit G. Such certificates shall be furnished prior to commencement of ENGINEER's services and at renewals thereafter during the life of the Agreement.
- E. All policies of property insurance shall contain provisions to the effect that ENGINEER's and ENGINEER's Consultants' interests are covered and that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.
- F. At any time, OWNER may request that ENGINEER, at OWNER's sole expense, provide additional insurance coverage, increased limits, or revised deductibles that are more protective than those specified in Exhibit G. If so requested by OWNER, with the concurrence of ENGINEER, and if commercially available, ENGINEER shall obtain and shall require ENGINEER's Consultants to obtain such additional insurance coverage, different limits, or revised deductibles for such periods of time as requested by OWNER, and Exhibit G will be supplemented to incorporate these requirements.

## 6.06 Termination

- A. The obligation to provide further services under this Agreement may be terminated:
1. *For cause,*
    - a. By either party upon thirty (30) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party.
    - b. By ENGINEER:
      1. upon seven (7) days written notice if ENGINEER believes that ENGINEER is being requested by OWNER to furnish or perform services contrary to ENGINEER's responsibilities as a licensed professional; or
      2. upon seven (7) days written notice if the ENGINEER's services for the Project are delayed or suspended for more than ninety (90) days for reasons beyond ENGINEER's control.
      3. ENGINEER shall have no liability to OWNER on account of such termination.
    - c. Notwithstanding the foregoing, this Agreement will not terminate as a result of such substantial failure if the party receiving such notice begins, within seven (7) days of receipt of such notice, to correct its failure within no more than thirty (30) days of receipt thereof; provided, however, that if and to the extent such substantial failure cannot be reasonably cured within such thirty (30) day period, and if such party has diligently attempted to cure the same, then the sure period provided for herein shall extend up to, but in no case more than, sixty (60) days after the date of receipt of the notice.
  2. *For convenience,*
    - a. By OWNER effective upon the receipt of notice by ENGINEER.
- B. The terminating party under paragraphs 6.06.A.1 or 6.06.A.2 may set the effective date of termination at a time up to thirty (30) days later than otherwise provided to allow ENGINEER to demobilize personnel and equipment from the Site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble Project materials in orderly files.

## 6.07 Controlling Law

- A. This Agreement is to be governed by the law of the state in which the Project is located.

## 6.08 Successors, Assigns, and Beneficiaries

- A. OWNER and ENGINEER each is hereby bound and the partners, successors, executors, administrators and legal representatives of OWNER and ENGINEER (and to the extent permitted by paragraph 6.08.B, the assigns of OWNER and ENGINEER) 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, with respect to all covenants, agreements and obligations of this Agreement.
- B. Neither OWNER nor ENGINEER may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this Agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or 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.
- C. Unless expressly provided otherwise in this Agreement:
1. Nothing in this Agreement shall be construed to create, impose, or give rise to any duty owed by OWNER or ENGINEER to any Contractor, Contractor's

subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.

2. All duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of OWNER and ENGINEER and not for the benefit of any other party. The OWNER agrees that the substance of the provisions of this paragraph 6.08.C shall appear in the Contract Documents.

#### **6.09 Dispute Resolution**

- A. OWNER and ENGINEER agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice prior to exercising their rights under the provisions of this Agreement, or under Law.

#### **6.10 Hazardous Environmental Condition**

- A. OWNER represents to ENGINEER that to the best of its knowledge a Hazardous Environmental Condition does not exist.
- B. OWNER has disclosed to the best of its knowledge to ENGINEER the existence of all Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Material located at or near the Site, including type, quantity and location.
- C. If a Hazardous Environmental Condition is encountered or alleged, ENGINEER shall have the obligation to notify OWNER and, to the extent of applicable Laws and Regulations, appropriate governmental officials.
- D. It is acknowledged by both parties that ENGINEER's scope of services does not include any services related to a Hazardous Environmental Condition. In the event ENGINEER or any other party encounters a Hazardous Environmental Condition, ENGINEER may, at its option and without liability for consequential or any other damages, suspend performance of services on the portion of the Project affected thereby until OWNER:
  1. retains appropriate specialist consultant(s) or contractor(s) to identify and, as appropriate, abate, remediate, or remove the Hazardous Environmental Condition; and
  2. warrants that the Site is in full compliance with applicable Laws and Regulations.
- E. OWNER acknowledges that ENGINEER is performing professional services for OWNER and that ENGINEER is not and shall not be required to become an "arranger," "operator," "generator," or "transporter" of hazardous substances, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1990 (CERCLA), which are or may be encountered at or near the Site in connection with ENGINEER's activities under this Agreement.
- F. If ENGINEER's services under this Agreement cannot be performed because of a Hazardous Environmental Condition, the existence of the condition shall justify ENGINEER's terminating this Agreement for cause on 30 days notice.

#### **6.11 Allocation of Risks**

- A. Indemnification
  1. To the fullest extent permitted by law, ENGINEER shall indemnify and hold harmless OWNER, OWNER's officers, directors, partners, and employees from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused solely by the negligent acts or omissions of ENGINEER or ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants in the performance and furnishing of ENGINEER's services under this Agreement.
  2. To the fullest extent permitted by law, OWNER shall indemnify and hold harmless ENGINEER, ENGINEER's officers, directors, partners, employees, and ENGINEER's Consultants from and against any and all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other

dispute resolution costs) caused solely by the negligent acts or omissions of OWNER or OWNER's officers, directors, partners, employees, and OWNER's consultants with respect to this Agreement or the Project.

3. To the fullest extent permitted by law, ENGINEER's total liability to OWNER and anyone claiming by, through, or under OWNER for any costs, losses, or damages caused in part by the negligence of ENGINEER and in part by the negligence of OWNER or any other negligent entity or individual, shall not exceed the percentage share that ENGINEER's negligence bears to the total negligence of OWNER, ENGINEER, and all other negligent entities and individuals.
4. In addition to the indemnity provided under paragraph 6.11.A.2 of this Agreement, and to the fullest extent permitted by Law, OWNER shall indemnify and hold harmless ENGINEER and its officers, directors, partners, employees, and ENGINEER's Consultants from and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) caused by, arising out of or resulting from a Hazardous Environmental Condition, provided that:
  - a. any such cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than completed Work), including the loss of use resulting therefrom, and
  - b. nothing in this paragraph 6.11.A.4 shall obligate OWNER to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence or willful misconduct.
5. The indemnification provision of paragraph 6.11.A.1 is subject to and limited by the provisions agreed to by OWNER and ENGINEER in Exhibit I, "Allocation of Risks," if any.

#### **6.12 Notices**

- A. Any notice required under this Agreement will be in writing, addressed to the appropriate party at its address on the signature page and given personally, or by registered or certified mail postage prepaid, or by a commercial courier services. All notices shall be effective upon the date of receipt.

#### **6.13 Survival**

- A. All express representations, indemnifications, or limitation of liability included in this Agreement will survive its completion or termination for any reason.

#### **6.14 Severability**

- A. Any provision or part of the Agreement held to be void or unenforceable under any Laws or Regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon OWNER and ENGINEER, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

#### **6.15 Waiver**

- A. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

#### **6.16 Headings**

- A. The headings used in this Agreement are for general reference only and do not have special significance.

## 6.17 E-Verify

- A. Engineer shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work will be performed. Engineer shall require the same of each subcontractor.

## **ARTICLE 7 – DEFINITIONS**

### 7.01 Defined Terms

- A. Wherever used in this Agreement (including the Exhibits hereto) and printed with initial or all capital letters, the terms listed below have the meanings indicated, which are applicable to both the singular and plural thereof:
1. *Addenda* – Written or graphic instruments issued prior to the openings of Bids which clarify, correct, or change the Bidding Documents.
  2. *Additional Services* – The services to be performed for or furnished to OWNER by ENGINEER in accordance with Exhibit A, Part 2, of this Agreement.
  3. *Agreement* – The “Standard Form of Agreement between OWNER and ENGINEER for Professional Services,” including the Exhibits listed in Article 8 hereof.
  4. *Application for Payment* – The form acceptable to ENGINEER which is to be used by the Contractor in requesting progress or final payments for the completion of its Work and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
  5. *Asbestos* – Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.
  6. *Basic Services* – The services to be performed for or furnished to Owner by ENGINEER in accordance with Exhibit A, Part 1, of this Agreement.
  7. *Bid* – The offer or proposal of the bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
  8. *Bidding Documents* – The advertisement or invitation to Bid, instruction to bidders, the Bid form and attachments, the Bid Bond, if any, the proposed Contract Documents, and all Addenda, if any.
  9. *Change Order* – A document recommended by ENGINEER, which is signed by Contractor and OWNER to authorize an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Construction Agreement.
  10. *Construction Agreement* – The written instruction which is evidence of the agreement, contained in the Contract Documents, between OWNER and Contractor covering the Work.
  11. *Construction Contract* – The entire and integrated written agreement between the OWNER and Contractor concerning the Work.
  12. *Construction Cost* – The cost to OWNER of those portions of the entire Project designated or specified by ENGINEER. Construction Cost does not include costs of services of ENGINEER or other design professionals and consultants, cost of land, rights-of-way, or compensation for damages to properties, or OWNER’s costs for legal, accounting, insurance counseling or auditing services, or interest and financing charge incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B

of this Agreement. Construction Cost is one of the items comprising Total Project Costs.

13. *Contract Documents* – Documents that establish the rights and obligations of the parties engaged in construction and include the Construction Agreement between OWNER and Contractor, Addenda (which pertain to the Contract Documents), Contractor's Bid (including documentation accompanying the bid and any post-Bid documentation submitted prior to the notice of award) when attached as an exhibit to the Construction Agreement, the notice to proceed, the bonds, appropriate certifications, the General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Construction Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Construction Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents.
14. *Contract Price* – The monies payable by OWNER to Contractor for completion of the Work in accordance with the Contract Documents and as stated in the Construction Agreement.
15. *Contract Times* – The number of days or the dates stated in the Construction Agreement to:
  - a. achieve Substantial Completion, and
  - b. complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of acceptance.
16. *Contractor* – An individual or entity with whom OWNER enters into a Construction Agreement.
17. *Correction Period* – The time after Substantial Completion during which Contractor must correct, at no cost to OWNER, any defective Work, normally one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee or specific provision of the Contract Documents.
18. *Defective* – An adjective which, when modifying the word Work, refers to Work that is unsatisfactory, faulty, or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test, or approved referred to in the Contract Documents, or has been damaged prior to ENGINEER's recommendation of final payment.
19. *Documents* – Data, reports, Drawings, Specifications, Record Drawings, and other deliverables, whether in printed or electronic media format, provided or furnished in appropriate phases by ENGINEER to OWNER pursuant to this Agreement.
20. *Drawings* – That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by Contractor. Shop Drawings are not Drawings as so defined.
21. *Effective Date of the Construction Agreement* – The date indicated in the Construction Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Construction Agreement is signed and delivered by the last of the two parties to sign and deliver.
22. *Effective Date of the Agreement* – The date indicated in this Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

23. *ENGINEER's Consultants* – Individuals or entities having a contract with ENGINEER to furnish services with respect to this Project as ENGINEER's independent professional associates, consultants, subcontractors, or vendors. The term ENGINEER includes ENGINEER's Consultants.
24. *Field Order* – A written order issued by ENGINEER which directs minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.
25. *General Conditions* – That part of the Contract Documents which sets forth terms, conditions, and procedures that govern the Work to be performed or furnished by Contractor with respect to the Project.
26. *Hazardous Environmental Condition* – The presence at the Site of Asbestos, PCB's, Petroleum, Hazardous Waste, or Radioactive Materials in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.
27. *Hazardous Waste* – The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.
28. *Laws and Regulations; Laws or Regulations* – Any and all applicable laws, rules, regulations, ordinances, codes, standards, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
29. *PCB's* – Polychlorinated biphenyls.
30. *Petroleum* – Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel, oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.
31. *Radioactive Materials* – Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.
32. *Record Drawings* – The Drawings as issued for construction on which the ENGINEER, upon completion of the Work, has shown changes due to Addenda or Change Orders and other information which ENGINEER considers significant based on record documents furnished by Contractor to ENGINEER and which were annotated by Contractor to show changes made during construction.
33. *Reimbursable Expenses* – The expenses incurred directly by ENGINEER in connection with the performing or furnishing of Basic and Additional Services for the Project for which OWNER shall pay ENGINEER as indicated in Exhibit C.
34. *Resident Project Representative* – The authorized representative of ENGINEER, if any, assigned to assist ENGINEER at the Site during the Construction Phase. The Resident Project Representative will be ENGINEER's agent or employee under ENGINEER's supervision. As used herein, the term Resident Project Representative includes any assistants of Resident Project Representative agreed to by OWNER. The duties and responsibilities of the Resident Project Representative are as set forth in Exhibit D.
35. *Samples* – Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.
36. *Shop Drawings* – All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for the Contractor and submitted by Contractor to ENGINEER to illustrate some portion of the Work.

37. *Site* – Land or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for use of Contractor.
38. *Specifications* – That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.
39. *Substantial Completion* – The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
40. *Supplementary Conditions* – That part of the Contract Documents which amends or supplements the General Conditions.
41. *Total Project Costs* – The sum of the Construction Cost, allowances for contingencies, the total costs of services of ENGINEER or other design professionals and consultants, cost of land, right-of-way, or compensation for damages to properties, or OWNER’s costs for legal, accounting, insurance counseling or auditing services, or interest and financing charges incurred in connection with the Project, or the cost of other services to be provided by others to OWNER pursuant to Exhibit B of this Agreement.
42. *Work* – The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents with respect to this Project. Work includes and is the result of performing or furnishing labor, services, and documentation necessary to produce such construction and furnishing, installing, and incorporating all materials and all equipment into such construction, all as required by the Contract Documents.
43. *Work Change Directive* – A written directive to Contractor issued on or after the Effective Date of the Construction Agreement and signed by OWNER upon recommendation of the ENGINEER, ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiation by the parties as to its effect, if any, on the Contract Price or Contract Times.
44. *Written Amendment* – A written amendment of the Contract Documents signed by OWNER and Contractor on or after the Effective Date of the Construction Agreement and normally dealing with the non-engineering or non-technical rather than strictly construction-related aspects of the Contract Documents.

## **ARTICLE 8 – EXHIBITS AND SPECIAL PROVISIONS**

### **8.01 Exhibits Included**

- A. Exhibit A, "ENGINEER's Services," consisting of 9 page(s).
  - 1. Attachment "1" to Exhibit A, "Scope of Services," consisting of 7 page(s).
- B. Exhibit B, "OWNER's Responsibilities," consisting of 3 page(s).
- C. Exhibit C, "Payments to ENGINEER for Services and Reimbursable Expenses," consisting of 3 page(s).
  - 1. Attachment "1" to Exhibit C, "Hourly Rate Schedule," consisting of 1 page(s).
- D. Exhibit D, "Duties, Responsibilities and Limitations of Authority of Resident Project Representative," consisting of 1 page(s).
- G. Exhibit G, "Insurance," consisting of 1 page(s).

### **8.02 Total Agreement**

- A. This Agreement (consisting of pages 1 to 15 inclusive, together with the Exhibits identified above) constitutes the entire agreement between OWNER and ENGINEER and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement, the Effective Date of which is indicated on page 1.

OWNER: North Sioux City, South Dakota

ENGINEER: JEO Consulting Group, Inc.

By: Randy Fredericksen

By: Ethan E. Joy, PE

Title: Mayor

Title: Branch Manager

Date Signed: \_\_\_\_\_

Date Signed: \_\_\_\_\_

Address for giving notices:

Address for giving notices:

504 River Drive

1909 Dakota Avenue

North Sioux City, SD 57049

South Sioux City, NE 68776

Designated Representative (paragraph 6.02.A):

Designated Representative (paragraph 6.02.A):

By: Andrew Nilges

By: Ethan E. Joy, PE

Title: NSCEDC Executive Director

Title: Branch Manager

Phone Number: 605.232.5410

Phone Number: 402.494.7019

Facsimile Number: \_\_\_\_\_

Facsimile Number: 402.494.1702

E-Mail Address: \_\_\_\_\_

E-Mail Address: [ejoy@jeo.com](mailto:ejoy@jeo.com)

[Andrew.Nilges@northsiouxcitydevelopment.com](mailto:Andrew.Nilges@northsiouxcitydevelopment.com)

Attest: Susan Kloostra

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

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

This is **EXHIBIT A**, consisting of 9 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services**.

## **ENGINEER's Services**

---

Article 1 of the Agreement is amended and supplemented to include the following agreement of the parties. ENGINEER shall provide Basic and Additional Services as set forth below.

### **PART 1 – BASIC SERVICES**

#### **A1.01 Study and Report Phase**

A. ENGINEER shall:

1. Consult with OWNER to define and clarify OWNER's requirements for the Project and available data.
2. Advise OWNER as to the necessity of OWNER's providing data or services of the types described in Exhibit B which are not part of ENGINEER's Basic Services, and assist OWNER in obtaining such data and services.
3. Identify, consult with, and analyze requirements of governmental authorities having jurisdiction to approve the portions of the Project designed or specified by ENGINEER, including but not limited to mitigating measures identified in the environmental assessment.
4. Identify and evaluate \_\_\_\_\_ alternate solutions available to OWNER and, after consultation with OWNER, recommend to OWNER those solutions which in ENGINEER's judgment meet OWNER's requirements for the Project.
5. Prepare a report (the "Report") which will, as appropriate, contain schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate the agreed-to requirements, considerations involved, and those alternate solutions available to OWNER which ENGINEER recommends. This Report will be accompanied by ENGINEER's opinion of Total Project Costs for each solution which is so recommended for the Project with each component including the following, which will be separately itemized: opinion of probable Construction Cost, allowances for contingencies and for the estimated total costs of design, professional, and related services provided by ENGINEER and, on the basis of information furnished by OWNER, allowances for other items and services included within the definition of Total Project Costs.
6. Perform or provide the following additional Study and Report Phase tasks or deliverables: See Attachment "1" to Exhibit A.
7. Furnish \_\_\_\_\_ review copies of the Report to OWNER within \_\_\_\_\_ days of authorization to begin services and review it with OWNER.
8. Revise the Report in response to OWNER's and other parties' comments, as appropriate, and furnish \_\_\_\_\_ final copies of the revised Report to the OWNER within \_\_\_\_\_ days after completion of reviewing it with OWNER.

B. ENGINEER's services under the Study and Report Phase will be considered complete on the date when the final copies of the revised Report have been delivered to OWNER.

#### **A1.02 Preliminary Design Phase**

A. Based upon OWNER's selection of a recommended solution and indication by OWNER of scope, extent, or design requirements, and upon authorization from OWNER, ENGINEER shall:

1. Prepare Preliminary Design Phase documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project desired by the OWNER.

2. Advise OWNER if additional reports, data, information, or services of the types described in Exhibit B are necessary and assist OWNER in obtaining such reports, data, information or services.
  3. Furnish the Preliminary Design Phase documents to and review them with OWNER.
  4. Provide Opinion of Probable Construction Cost.
  5. Perform or provide the following additional Preliminary Design Phase tasks or deliverables: See Attachment "1" to Exhibit A.
- B. ENGINEER's services under the Preliminary Design Phase will be considered complete on the date when the Preliminary Design Phase documents have been reviewed with the OWNER.

### **A1.03 Final Design Phase**

- A. After acceptance by OWNER of the Preliminary Design Phase documents and revised opinion of probable Construction Cost as determined in the Preliminary Design Phase, but subject to any OWNER-directed modifications or changes in the scope, extent, character, or design requirements of or for the Project, and upon authorization from OWNER, ENGINEER shall:
1. On the basis of the above acceptance, direction, and authorization, prepare final Drawings indicating the scope, extent, and character of the Work to be performed and furnished by Contractor. Specifications will be prepared, where appropriate, in general conformance with the JEO standard format of Construction Specifications.
  2. Provide technical criteria, written descriptions, and design data for OWNER's use in filing applications for permits from or approvals of governmental authorities having jurisdiction to review or approve the final design of the Project and assist OWNER in consultations with appropriate authorities.
  3. Advise OWNER of any adjustments to the opinion of probable Construction Cost and any adjustments to Total Project Costs known to ENGINEER.
  4. Perform or provide the following additional Final Design Phase tasks or deliverables: See Attachment "1" to Exhibit A.
  5. Prepare and furnish Bidding Documents for review and approval by OWNER, its legal counsel, and other advisors, as appropriate, and assist OWNER in the preparation of other documents.
- B. In the event that the Work designed or specified by the ENGINEER is to be performed or furnished under more than one prime contract, or if ENGINEER's services are to be separately sequenced with the work of one or more prime Contractors (such as in the case of fast-tracking), OWNER and ENGINEER shall, prior to commencement of the Final Design Phase, develop a schedule for performance of ENGINEER's services during the Final Design, Bidding or Negotiating, Construction, and Post-Construction Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate prime contracts. This schedule is to be prepared and included in or become an amendment to Exhibit A whether or not the work under such contracts is to proceed concurrently.
- C. The number of prime contracts for Work designed or specified by ENGINEER upon which the ENGINEER's compensation has been established under this Agreement is One (1).
- D. ENGINEER's services under the Final Design Phase will be considered complete on the date when the Final Plans and Specifications have been reviewed with the OWNER.

### **A1.04 Bidding or Negotiating Phase**

- A. After acceptance by OWNER of the Bidding Documents and the most recent opinion of probable Construction Cost as determined in the Final Design Phase, and upon authorization by OWNER to proceed, ENGINEER shall:

1. Assist OWNER in advertising for and obtaining bids or negotiating proposals for the Work and, where applicable, maintain a record of prospective bidders to whom Bidding Documents have been issued, and receive and process Contractor deposits or charges for the Bidding Documents.
  2. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents.
  3. Consult with OWNER as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by the Bidding Documents.
  4. Perform or provide the following Bidding and Negotiating Phase tasks or deliverables: See Attachment "1" to Exhibit A.
  5. Attend the Bid opening, prepare Bid tabulation sheets, and assist OWNER in evaluating Bids or proposals and in assembling and awarding contracts for the Work.
- B. The Bidding or Negotiating Phase will be considered complete upon commencement of the Construction Phase or upon cessation of negotiations with prospective Contractors.

#### **A1.05 Construction Phase**

- A. Upon successful completion of the Bidding and Negotiating Phase, and upon authorization from OWNER, ENGINEER shall:
1. *General Administration of Construction Contract.* Consult with OWNER and act as OWNER's representative as provided in the General Conditions. The extent and limitation of the duties, responsibilities and authority of ENGINEER as assigned in said General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of OWNER's instructions to Contractor will be issued through ENGINEER, who shall have authority to act on behalf of OWNER in dealings with Contractor to the extent provided in this Agreement and said General Conditions except as otherwise provided in writing.
  2. *Resident Project Representative (RPR).* If included in Attachment "1" of Exhibit A provide the services of an RPR at the Site to assist the ENGINEER and to provide more extensive observation of Contractor's work. Duties, responsibilities, and authority of the RPR are as set forth in Exhibit D. The furnishing of RPR's services will not exceed ENGINEER's responsibilities or authority beyond the specific limits set forth elsewhere in this Agreement.
  3. *Selecting Independent Testing Laboratory.* Assist OWNER in the selection of an independent testing laboratory to perform the services identified in paragraph B2.01.0.
  4. *Visits to Site by Project Engineer/Manager and Observation of Construction by Project Engineer/Manager.* In connection with observations of Contractor's work in progress while it is in progress:
    - a. Make 5 visits, not to exceed 20 hours, to the Site at intervals appropriate to the various stages of construction, as Project Engineer/Manager deems necessary, in order to observe as an experienced and qualified design professional the progress and quality of the work.  
Such visits and observations by Project Engineer/Manager, and the Resident Project Representative, if any, are not intended to be exhaustive or to extend to every aspect of Contractor's work in progress or to involve detailed inspections of Contractor's work in progress beyond the responsibilities specifically assigned to Project Engineer/Manager in this Agreement and the Contract Documents, but rather are to be limited to spot checking, selective sampling, and similar methods of general observation of the Work based on Project Engineer/Manager's exercise of professional judgment as assisted by

the Resident Project Representative, if any. Based on information obtained during such visits and such observations, Project Engineer/Manager will determine in general if Contractor's work is proceeding in accordance with the Contract Documents, and Project Engineer/Manager shall keep OWNER informed of the progress of the work.

- b. The purpose of Project Engineer/Manager's visits to, and representation by the Resident Project Representative, in any, at the Site, will be to enable Project Engineer/Manager to better carry out the duties and responsibilities assigned to and undertaken By Project Engineer/Manager during the Construction Phase, and, in addition, by the exercise of Project Engineer's/Manager efforts as an experienced and qualified design professional, to provide for OWNER a greater degree of confidence that the completed Work will conform in general to the Contract Documents and that the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents has been implemented and preserved by Contractor. Project Engineer/Manager shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall Project Engineer/Manager have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, or for any failure of Contractor to comply with Laws and Regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Project Engineer/Manager neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents.
5. *Defective Work.* Recommend to OWNER that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, ENGINEER believes that such work will not produce a completed Project that conforms generally to the Contract Documents or that it will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated in the Contract Documents.
6. *Clarifications and Interpretations; Field Orders.* Issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of Contractor's work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.
7. *Change Orders and Work Change Directives.* Recommend Change Orders and Work Change Directives to OWNER, as appropriate, and prepare Change Orders and Work Change Directives as required.
8. *Shop Drawings and Samples.* Review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents and compatibility with the design concept of the completed Project as a functioning whole as indicated in the Contract Documents. Such reviews and approvals or other action will not extend to means, methods, techniques, sequences or procedures of construction or to safety precautions and programs incident thereto. ENGINEER has an obligation to meet any Contractor's submittal schedule that has earlier been acceptable to ENGINEER.

9. *Substitutes and "or-equal."* Evaluate and determine the acceptability of substitute of "or equal" materials and equipment proposed by Contractor, but subject to the provisions of paragraph A2.02.A.2 of this Exhibit A.
10. *Inspections and Tests.* Require such special inspections or tests of Contractor's work as deemed reasonably necessary, and receive and review all certificates of inspections, test, and approvals required by Laws and Regulations or the Contract Documents. ENGINEER'S review of such certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such inspections, tests, or approvals comply with the requirements of the Contract Documents. ENGINEER shall be entitled to rely on the results of such tests.
11. *Disagreements between OWNER and Contractor.* Render formal written decisions on all claims of OWNER and Contractor relating to the acceptability of Contractor's work or the interpretation of the requirements of the Contract Documents pertaining to the execution and progress of Contractor's work. In rendering such decisions, ENGINEER shall be fair and not show partiality to OWNER or Contractor and shall not be liable in connection with any decision rendered in good faith in such capacity.
12. *Applications for Payment.* Based on ENGINEER'S observations as an experienced and qualified design professional and on review of Applications for Payment and accompanying supporting documentation:
  - a. Determine the amounts that ENGINEER recommends Contractor be paid. Such recommendations of payment will be in writing and will constitute ENGINEER'S representation to OWNER, based on such observations and review, that, to the best of ENGINEER'S knowledge, information and belief, Contractor's work has progressed to the point indicated, the quality of such work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents and to any other qualifications stated in the recommendation), and the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER'S responsibility to observe Contractor's work. In the case of unit price work, ENGINEER'S recommendations of payment will include final determinations of quantities and classifications of Contractor's work (subject to any subsequent adjustments allowed by the Contract Documents). The responsibilities of ENGINEER contained in paragraph A1.05.A.12.a are expressly subject to the limitations set forth in paragraph A1.05.A.12.b and other express or general limitations in this Agreement and elsewhere.
  - b. By recommending any payment, ENGINEER shall not thereby be deemed to have represented that observations made by ENGINEER to check the quality or quantity of Contractor's work as it is performed and furnished have been exhaustive, extended to every aspect of Contractor's work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in this Agreement and the Contract Documents. Neither ENGINEER'S review of Contractor's work for the purposes of recommending payments nor ENGINEER'S recommendation of any payment including final payment will impose on ENGINEER responsibility to supervise, direct, or control Contractor's work in progress or for the means, methods, techniques, sequences, or procedures of construction or safety precautions or programs incident thereto, or Contractor's compliance

with Laws and Regulations applicable to Contractor's furnishing and performing the Work. It will also not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes Contractor has used the moneys paid on account of the Contract Price, or to determine that title to any portion of the work in progress, materials, or equipment has passed to OWNER free and clear of any liens, claims, security interests, or encumbrances, or that there may not be other matters at issue between OWNER and Contractor that might affect the amount that should be paid.

13. *Contractor's Completion Documents.*
    - a. Receive and review maintenances and operating instructions, schedules, and guarantees.
    - b. Receive bonds, certificates, or other evidence of insurance not previously submitted and required by the Contract Documents, certificates of inspection, test and approvals, Shop Drawings, Samples and other data approved as provided under paragraph A1.05.A.8 and the annotated record documents which are to be assembled by the Contractor in accordance with the Contract Documents to obtain final payment. The extent of such ENGINEER'S review will be limited as provided in paragraph A1.05.A.8.
    - c. ENGINEER shall transmit these documents to OWNER.
  14. *Additional Tasks.* Perform or provide the following Construction Phase tasks or deliverables: See Attachment "1" to Exhibit A.
  15. *Final Notice of Acceptability of the Work.* Conduct a final inspection to determine if the completed Work of Contractor is acceptable so that ENGINEER may recommend, in writing, final payment to Contractor. Accompanying the recommendation for final payment, ENGINEER shall also provide a Recommendation of Acceptance that the Work is acceptable to the best of ENGINEER'S knowledge, information, and belief and based on the extent of the services provided by ENGINEER under this Agreement.
- B. *Duration of Construction Phase.* The Construction Phase will commence with the execution of the first Construction Agreement for the Project or any part thereof and will terminate upon written recommendation by ENGINEER for final payment to Contractors. If the Project involves more than one prime contract as indicated in paragraph A1.03.C, Construction Phase services may be rendered at different times in respect to the separate contracts.
- C. *Limitation of Responsibilities.* ENGINEER shall not be responsible for the acts or omissions of any Contractor, or of any of their subcontractors, suppliers, or of any other individual or entity performing or furnishing any of the Work. ENGINEER shall not be responsible for failure of any Contractor to perform or furnish the Work in accordance with the Contract Documents.

#### **A1.06 Post-Construction Phase**

- A. Upon authorization from OWNER, ENGINEER, during the Post-Construction Phase, shall, up to a maximum of 8 hours:
  1. In company with OWNER or OWNER'S representative, provide an inspection of the Project within two (2) months before the end of the Correction Period to ascertain whether any portion of the Work is subject to correction.
  2. Provide Engineering services necessary during the correction period.
- B. The Post-Construction Phase services may commence during the Construction Phase and, if not otherwise modified in this Exhibit A, will terminate at the end of the Correction Period.

## Part 2—ADDITIONAL SERVICES

### A2.01 Additional Services Requiring OWNER'S Authorization in ADVANCE

- A. If not specifically included in Exhibit A Part 1 basic services and if authorized by OWNER, ENGINEER shall furnish or obtain from others Additional Services of the types listed below. These services will be paid for by OWNER as indicated in Article 4 of the Agreement.
1. Preparation of applications and supporting documents (in addition to those furnished under Basic Services) for private or governmental grants, loans or advances in connection with the Project; preparation or review of environmental assessments and impact statements; review and evaluation of the effects on the design requirements for the Project of any such statements and documents prepared by others; and assistance in obtaining approvals of authorities having jurisdiction over the anticipated environmental impact of the Project.
  2. Services to make measured drawings of or to investigate existing conditions or facilities, or to verify the accuracy of drawings or other information furnished by OWNER.
  3. Services resulting from significant changes in the scope, extent, or character of the portions of the Project designed or specified by ENGINEER or its design requirements including, but not limited to, changes in size, complexity, OWNER'S schedule, character of construction, or method of financing; and revising previously accepted studies, reports, Drawings, Specifications, or Contract Documents when such revisions are required by changes in Laws and Regulations enacted subsequent to the Effective Date of this Agreement or are due to any other causes beyond ENGINEER'S control.
  4. Services resulting from OWNER'S request to evaluate additional Study and Report Phase alternative solutions beyond those identified in paragraph A1.01.A.4, if any.
  5. Services required as a result of OWNER'S providing incomplete or incorrect Project information with respect to Exhibit B.
  6. Providing renderings or models for OWNER'S use.
  7. Undertaking investigations and studies including, but not limited to, detailed consideration of operations, maintenance, and overhead expenses; the preparation of feasibility studies, cash flow and economic evaluations, rate schedules, and appraisals; assistance in obtaining financing for the Project; evaluating processes available for licensing, and assisting OWNER in obtaining process licensing; detailed quantity surveys of materials, equipment, and labor; and audits or inventories required in connection with construction performed by OWNER.
  8. Furnishing services of ENGINEER'S Consultants for other than Basic Services.
  9. Services attributable to more prime construction contracts than specified in paragraph A1.03.C.
  10. Services during out-of-town travel required of ENGINEER other than for visits to the Site or OWNER'S office.
  11. Preparing for, coordinating with, participating in and responding to structured independent review processes, including, but not limited to, construction management, cost estimating, project peer review, value engineering, and constructability review requested by OWNER; and performing or furnishing services required to revise studies, reports, Drawings, Specifications, or other Bidding Documents as a result of such review processes.
  12. Preparing additional Bidding Documents or Contract Documents for alternate bids or prices requested by OWNER for the Work or a portion thereof.

13. Determining the acceptability of substitute materials and equipment proposed during the Bidding or Negotiating Phase when substitution prior to the award of contracts is allowed by the Bidding Documents.
14. Assistance in connection with Bid protests, rebidding, or renegotiating contracts for construction, materials, equipment, or services.
15. Providing construction surveys and staking to enable Contractor to perform its work other than as defined in basic services and any type of property surveys or related engineering services needed for the transfer of interests in real property; and providing other special field surveys.
16. Providing Construction Phase services beyond the Contract Times set forth in the Project Specifications, including services not specifically listed or provided beyond the hours and dollars in Post-Construction Phase during correction period.
17. Providing assistance in resolving any Hazardous Environmental Condition in compliance with current Laws and Regulations.
18. Preparing and furnishing to OWNER Record Drawings showing appropriate record information based on Project annotated record documents received from Contractor.
19. Preparation of operation and maintenance manuals.
20. Provide assistance in connection with the testing and adjusting of Project equipment or system.
21. Assist OWNER in training OWNER'S staff to operate and maintain Project, equipment, and systems.
22. Assist OWNER in developing procedures for control of the operation and maintenance of, and record keeping for Project equipment and systems.
23. Preparing to serve or serving as a consultant or witness for OWNER in any litigation, arbitration or other dispute resolution process related to the Project.
24. Providing more extensive services required to enable ENGINEER to issue notices or certifications requested by OWNER under paragraph 6.01.G of the Agreement.
25. Other services performed or furnish by ENGINEER not otherwise provided for in this Agreement.

#### **A2.02 Required Additional Services**

- A. ENGINEER shall perform or furnish, without requesting or receiving specific advance authorization from OWNER, the Additional Services of the types listed below. ENGINEER shall advise OWNER in writing promptly after starting any such Additional Services.
  1. Services in connection with Work Change Directives and Change Orders to reflect changes requested by OWNER so as to make the compensation commensurate with the extent of the Additional Services rendered.
  2. Services in making revisions to Drawings and Specifications occasioned by the acceptance of substitute materials or equipment other than "or-equal" items; and services after the award of the Construction Agreement in evaluating and determining the acceptability of a substitution which is found to be inappropriate for the Project or an excessive number of substitutions.
  3. Services resulting from significant delays, changes, or price increases occurring as a direct or indirect result of materials, equipment, or energy shortages.
  4. Additional or extended services during construction made necessary by (1) emergencies or acts of God endangering the Work, (2) an occurrence of a Hazardous Environmental Condition, (3) Work damaged by fire or other cause during construction, (4) a significant amount of defective, neglected, or delayed

work by Contractor, (5) acceleration of the progress schedule involving services beyond normal working hours, (6) default by Contractor or (7) weather.

5. Services (other than Basic Services during the Post-Construction Phase) in connection with any partial utilization of any part of the Work by OWNER prior to Substantial Completion.
6. Evaluating an unreasonable claim or an excessive number of claims submitted by Contractor or others in connection with the Work.

This is **Attachment 1 to EXHIBIT A**, consisting of 7 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services**.

## **Scope of Services**

---

### **PROJECT UNDERSTANDING:**

This project will allow access to develop fourteen acres within the Flynn Business Park in North Sioux City, South Dakota.

The City is proposing to construct an access road that will be 1,750 feet long. The 31-foot wide curbed roadway section will consist of eight-inch thick Portland Cement Concrete (PCC) pavement over 18-inch thick subgrade preparation.

A new 12-inch water main will parallel the roadway to the south (approximately 1,750 linear feet).

A new storm sewer is anticipated to connect southeast of the paving terminus, near Rickenbacker Road. It is planned to consist of 3,950 linear feet of 42-inch Reinforced Concrete Pipe (RCP), 680 linear feet of 36-inch RCP, 790 linear feet of 30-inch RCP, 800 linear feet of 24-inch RCP, 647 linear feet of 18-inch RCP, and 270 linear feet of 12-inch RCP.

Construction of this project will entail trenching and general excavation to depths ranging from one to eight feet within the proposed right-of-way. The construction staging will be within City-owned property. Following construction, minor maintenance will occur as needed for the water main, storm sewer, and street paving. Ground disturbing activities are not anticipated for maintenance. This will be entirely new infrastructure.

Other work will include removals, seeding, and other appurtenances and accessories necessary to accomplish the paving and utility improvements. It is understood that the area will be served by sanitary sewer from the south, and therefore, no sanitary sewer is included in the project scope.

### **BASIC SERVICES (Lump Sum):**

#### **Project Management:**

- A. Provide project management oversight over all facets and phases of the project. Project management shall include the following services:
  1. Coordination of design disciplines including facilitating communication and transfer of documents between disciplines to minimize errors in the plans and specifications as well as ensure a timely project design.
  2. Provide timely and coordinated communication to and from the Owner for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.
  3. Provide oversight, monitor staff, and ensure proper staffing levels are maintained to ensure scope of services and schedule are met.
  4. Work with disciplines to identify potential risks and how to mitigate those risks.
  5. Review billed hours by design team and prepare invoice statements for Owner.

6. Provide timely and coordinated communication to and from the Contractor for requests for information and to receive and provide feedback.

### **Preliminary Design Phase**

#### **B. 30% Design Process**

1. Attend and facilitate one (1) kickoff meeting with Owner/Owner's representatives to review the project scope, schedule, requirements, and conduct an on-site review of the improvement locations.
2. Coordinate Geotechnical Investigation of the proposed project area. Engineer will work with a local sub-consultant, CTS, to perform a geotechnical investigation to analyze proposed soils, pavement, and trenching.
3. Conduct preliminary topographic surveying:
  - a. Survey the locations of all visible physical features (e.g. concrete, asphalt, gravel, rock, driveways, sidewalks, trees, utility poles, valves, manholes, signs, drainage structures, curb stops, water meter pits, terrain profiles, etc.) within the proposed site location.
  - b. Collect available utility location information and incorporate on preliminary plans (gas, telephone, electric, water, sanitary sewer, storm sewer connections, communications, etc.).
  - c. Create an electronic drawing illustrating elevations, site features, property boundaries, and existing utilities resulting from the surveys performed.
  - d. Perform a "One Call" for utility locates to be marked in the project corridor and together with other survey data, will map existing visible site conditions using Computer Aided Drafting and Design software.
  - e. Order a title search to obtain the deed information on the subject property.
4. Prepare a 30% complete preliminary set of plans, based on the concept documents, including a title sheet, location map, civil plan sheets, and appropriate plan and profile and details sheets to illustrate intersection, street paving, water, and storm sewer improvements.
5. Conduct an internal 30% QA/QC of the plan set.
6. Prepare a 30% engineer's opinion of cost and present to Owner.
7. Conduct a plan-in-hand review in the field with the Owner to confirm the proposed layout, survey information, and opinion of probable construction cost.

### **Final Design Phase:**

#### **A. 60% Design Process**

1. Revise design plans following receipt of 30% review comments from internal QA/QC and comments from Owner's representatives.
2. Prepare 60% complete preliminary plans and specifications. Plans and specifications to include:
  - a. General location maps.
  - b. Survey control sheets.
  - c. Concrete paving plan and preliminary profile including geometrics and grades
  - d. Intersection and storm sewer plan and profile with corresponding technical specifications.
  - e. Storm sewer sheets.

- f. Water main sheets.
    - g. Cross sections.
    - h. Erosion control plan.
    - i. Standard Details.
  - 3. Front end specifications complete with bidding, contract, and any required funding requirement documentation.
  - 4. Conduct an internal 60% QA/QC of the plan and specifications.
  - 5. Prepare a 60% engineer's opinion of probable cost.
  - 6. Attend one (1) meeting with the Owner to review the 60% complete preliminary design documents to Owner and review in detail with the Owner's designated representative(s).
    - a. Review routing of proposed storm sewer.
    - b. Review routing of water main.
    - c. Review intersection details.
    - d. Review full width street plans.
    - e. Review bidding and contract documents.
    - f. Review technical specifications for the water main, storm sewer, and paving.
  - 7. Utility plan coordination
    - a. Submit 60% complete plans to utility companies for review of potential conflicts. Owner is to provide names and addresses for utility companies licensed or permitted with the Owner that may have utilities in the project area.
- B. 90% Design Process**
- 1. Revise plans and specifications based on the 60% QA/QC comments and the 60% complete design meeting with the Owner.
  - 2. Prepare 90% complete plans and specifications.
  - 3. Completion of the special provisions section of the specifications.
  - 4. Prepare forms for Contract Documents including proposals, advertisements for bids, construction contracts, and payment and performance bonds as required, all subject to the approval of the Owner's legal counsel.
  - 5. Perform an internal QA/QC review of the 90% complete plans and specifications.
  - 6. Prepare a 90% engineer's opinion of probable cost.
  - 7. Prepare a Storm Water Pollution Prevention Plan (SWPPP) complying with state regulations.
- C. Design Finalization Process:**
- 1. Receive 90% comments and revise plans and specifications.
  - 2. Create final plan and specification set, signed and sealed by engineers and a coordinating professional all to be registered in the State of South Dakota.
  - 3. Prepare a final engineer's opinion of probable cost.
  - 4. Submit final plans and specifications to SD DENR for review and approval and issuance of a construction permit. Owner to pay all permit fees.
  - 5. Coordinate the Owner's signature and submit a Notice of Intent (NOI) to the SD DENR to obtain an NPDES Storm Water permit. Owner to pay all permit fees.
  - 6. Attend up to one (1) meeting to review final design documents and opinions of probable construction cost, obtain approval of the final plans, specifications and bid documents and receive authorization to submit final plans, specifications and bid documents to the appropriate agencies for review and approval.

## **Platting Phase**

- A. Preliminary Plat Preparation
  - 1. Attend one (1) meeting with the city planning commission to review the proposed subdivision and have an informal discussion of the project design details.
  - 2. Prepare and submit a preliminary plat of the proposed subdivision.
  - 3. Attend one (1) meeting of the city planning commission for a public hearing for preliminary plat consideration.
  - 4. Attend one (1) meeting of the city council for the public hearing for preliminary plat approval.
- B. Final Plat Preparation
  - 1. JEO will follow applicable State of South Dakota and City of North Sioux City zoning and subdivision regulations relative to platting lots, street right-of-way, and drainage and utility easements. JEO will survey the site using the South Dakota Coordinate System – South Zone, and will use appropriate horizontal and vertical datums. Post construction, all monuments will be placed at required lot corners, angle points, curve points, and other critical points to define the platted boundaries for each new parcel.
  - 2. Prepare and submit a final plat of the proposed subdivision after the construction is complete.
  - 3. Attend one (1) meeting of the city planning commission for the public hearing for final plat consideration.
  - 4. Attend one (1) meeting of the city council for the public hearing for final plat approval.
  - 5. Submit approved final plat for filing with the Union County Register of deeds.

## **Bidding and Negotiation Phase**

- A. Provide assistance with authorizing the advertisement for bids and setting the bid date, location, and time. It is expected that there will be one (1) bid opening for the project.
- B. Furnish copies of the plans, specifications, and contract documents of the project to prospective bidders, materials suppliers, and other interested parties upon their request and payment of the purchase cost established for the documents.
- C. Supply the Invitation to Bidders to the Owner for publication in the official media outlet(s).
- D. Assist the Owner in securing construction bids for the project.
- E. Respond to inquiries from prospective bidders, prepare any addenda required.
- F. Attend one (1) meeting with the Owner to assist at the Bid Opening, assist the Owner with receipt and tabulation of bids.
- G. Attend one (1) meeting to review bids received and make a formal recommendation of award to the Owner.
- H. Prepare Contract Documents (Notice of Award, Construction Contract, Notice to Proceed) for execution by the Prime Contractor and the Owner; provide cursory reviews of all insurance and bond submittals and present to Owner's legal and insurance counsel for approval; then advise the Owner to proceed with execution of all documents.
- I. Provide copies of all executed Contract Documents to the Owner and Prime Contractor. It is anticipated that there will be one (1) Prime Contractor on this project.

### **Construction Administration Phase:**

- A. Schedule and conduct a Pre-construction Conference, consisting of one (1) meeting prior to construction beginning. This conference (Pre-Con) will review the required timelines set forth in the specifications, lines of communication, key contacts of those involved, review any conflicts with utilities or schedules, review the schedule proposed by the Contractor, review any requirements of the Contractor for locates and staking needs, etc.
- B. Provide baseline survey for horizontal and vertical control for the proposed improvements, to be referenced by both the Engineer and Contractor during the construction of the project.
- C. Provide construction staking of the proposed improvements; including location and grade of the proposed storm sewer, water, and paving improvements. The paving will be staked for a full width paving operation; should the Contractor be allowed to pave the roadway in half width sections, then the Contractor will be responsible for additional staking costs per the Specifications.
- D. Review shop drawings (submittals) and related data supplied by the Contractor. This will provide the Engineer and Owner the opportunity to review the materials and equipment that will be supplied for the improvements prior to the Contractor securing and obtaining them; which allows the Engineer the chance to compare the selected materials and equipment against the specifications.
- E. Schedule and conduct up to eight (8) progress meetings with Owner and Contractor.
- F. Provide interpretation of the plans and specifications, when necessary.
- G. Review and process Contractor's monthly payment applications and change orders (if necessary) and provide to Owner for review and approval.
- H. Attend up to six (6) City Council meetings to present pay applications.
- I. Consult with and advise Owner during construction in regards to all aspects of the project.
- J. Coordinate and review geotechnical soil and concrete testing results. Construction material testing (compaction and concrete compressive strength) cost to be provided by a subconsultant (CTS). Any retesting and testing of the water distribution system are the responsibility of the Contractor.
- K. Conduct a final inspection of the project with the Contractor and Owner.
- L. Prepare a final punch-list of outstanding items needing completion prior to finalization of the project based on field observations and review by RPR, Owner, and Contractor.
- M. Attend one (1) meeting to recommend to the Owner the substantial completion the project, and complete the necessary certificate(s). This recommendation(s) will be based on the Engineer's observation of construction utilizing professional judgment and accepted tests to determine that the contractor(s) have completed their contracts in substantial compliance with the plans, specifications and contract documents.
- N. Deliverables to include pre-construction conference meeting minutes, field observation reports, and a formal Recommendation of Acceptance.

### **RESIDENT PROJECT REPRESENTATION (RPR) Phase (Hourly):**

- A. JEO will furnish a **part-time** Resident Project Representative (RPR) to observe construction progress and quality of the work.
- B. The duties and responsibilities of the RPR are described as follows:
  - 1. Review of contractors work for general compliance with the plans and specifications.
  - 2. Complete Construction Observation Reports when on site.
  - 3. Coordinate pay quantities with contractor and engineer.

4. Review of materials delivered to the site for specification compliance.
5. Assist the engineer in interpretation of the plans and specifications to the contractor.
6. Review and coordinate materials testing by assigned testing firm.
7. Attend progress meetings.
8. Compile records for use in preparing record drawings.

**POST-CONSTRUCTION PHASE:**

- A. Prepare post-construction record drawings from data gathered by the RPR and Contractor during the construction process.
- B. Conduct 6-month and 11-month warranty inspection with Owner.
- C. Issue a warranty period correction letter to the contractor for warranty repair items if necessary.
- D. Coordinate with Contractor to have warranty items addressed.

**MEETINGS INCLUDED WITHIN SCOPE OF SERVICES:**

- A. Design Phase:
  1. Kickoff Meeting (1 meeting)
  2. 30% Design Review / Plan-in-hand (1 meeting)
  3. 60% Design Review (1 meeting)
  4. 90% Design Review (1 meeting)
  5. City Council Updates on Design Progress (1 meeting)
- B. Bidding and Negotiation Phase:
  1. Bid Opening (1 meeting)
  2. City Council Update on Bid Results/Award of Contracts (1 meeting)
- C. Construction Phase:
  1. Preconstruction Conference (1 meeting)
  2. Construction Progress Meetings (8 meetings)
  3. City Council Updates on Construction Progress (6 meetings)
  4. City Council Recommendation of Acceptance (1 meeting)
- D. Platting Phase
  1. Informal Discussion Meeting (1 meeting)
  2. Preliminary Plat Public Hearing – Planning Commission (1 meeting)
  3. Preliminary Plat Public Hearing – City Council (1 meeting)
  4. Final Plat Public Hearing – Planning Commission (1 meeting)
  5. Final Plat Public Hearing – City Council (1 meeting)

**ADDITIONAL SERVICES, NOT INCLUDED:**

- A. Storm sewer and water line sizing and analysis (i.e. assumed based on concept documents).
- B. Sanitary Sewer Design (assumed to be provided off-site).
- C. Environmental permitting.
- D. Signing, marking, and traffic control plans.
- E. Sidewalk design.
- F. Street lighting design.
- G. Electrical distribution plat maps (existing and proposed).
- H. Marketing materials.

- I. Davis-Bacon Wage Rate administration review services.
- J. Environmental assessment report.
- K. Land appraisals.
- L. Contact, inform, present offers, answer questions and negotiate with property owners.
- M. Preparation of purchase agreements and/or payment to property owners.
- N. Installation or maintenance of best management practices (BMP's) corresponding to the implementation of a SWPPP.
- O. Payment of review and permitting fees.
- P. Zoning modifications necessary for the proposed improvements included in this project.
- Q. Meetings not outlined in the scope of services.

**Estimated Time Frame:**

- A. Preliminary Plat / Design Phase – 60 days from effective date of agreement
- B. Bidding Phase – estimated 45 days from Council authorization to bid the project.
- C. Construction Phase – TBD based upon funding requirements
- D. Post Construction Phase – Upon substantial completion of the project.
- E. Final Plat - Final Plat to be recorded upon final plat approval by the City of North Sioux City.

**Schedule of Fees:**

A. Project Management (Lump Sum):	\$ 4,500
B. Preliminary Design Phase (Lump Sum):	\$ 49,000
C. Final Design Phase (Lump Sum):	\$ 25,500
D. Platting Services (Lump Sum):	\$ 12,000
E. Bidding and Negotiation Phase (Lump Sum):	\$ 5,100
F. Construction Phase Services (Lump Sum):	\$ 21,000
G. RPR (Hourly, Not-to-Exceed):	\$ 30,000
H. Post Construction Phase (Lump Sum):	<u>\$ 2,000</u>
<b>Total Estimated Fee:</b>	<b>\$149,100</b>

**Owner Responsibility:**

- A. The Owner must provide the following information to the Engineer:
  - 1. Access to the project site.
  - 2. Contact information for utility companies within the right-of-way along the project route.
  - 3. Zoning or other regulations/information impacting the design and construction of the project.
  - 4. Previous studies, models, funding requirements, etc.

This is **EXHIBIT B**, consisting of 3 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services**.

## **OWNER's Responsibilities**

---

Article 2 of the Agreement is amended and supplemented to include the following agreement of the parties.

### **B2.01 Unless specifically set forth in Part 1 of Exhibit "A", and in addition to other responsibilities of OWNER as set forth in this Agreement, OWNER shall:**

- A. Provide ENGINEER with all criteria and full information as to OWNER'S requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility, and expandability, and any budgetary limitations; and furnish copies of all design and construction standards which OWNER will required to be included in the Drawings and Specifications; and furnish copies of OWNER'S standard forms, conditions, and related documents for ENGINEER to include in the Bidding Documents, when applicable.
- B. Furnish to ENGINEER any other available information pertinent to the Project including reports and data relative to previous designs, or investigation at or adjacent to the Site.
- C. Following ENGINEER'S assessment of initially-available Project information and data and upon ENGINEER'S request, furnish or otherwise make available such additional Project related information and data as is reasonably required to enable ENGINEER to complete its Basic and Additional Services. Such additional information or data would generally include the following:
  - 1. Property descriptions.
  - 2. Zoning, deed, and other land use restrictions.
  - 3. Property, boundary, easement, right-of-way, and other special surveys or data, including establishing relevant reference points.
  - 4. Explorations and tests of subsurface conditions at or contiguous to the Site, drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site, or hydrographic surveys, with appropriate professional interpretations thereof.
  - 5. Environmental assessments, audits, investigations and impact statements, and other relevant environmental or cultural studies as to the Project, the Site, and adjacent areas.
  - 6. Data or consultations as required for the Project but not otherwise identified in the Agreement or the Exhibits thereto.
- D. Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of a Hazardous Environmental Condition or of any other development that affects the scope or time of performance of ENGINEER'S services, or any defect or nonconformance in ENIGNEER'S services or in the work of any Contractor.
- E. Authorize ENGINEER to provide Additional Services as set forth in Part 2 of Exhibit A of the Agreement as required.
- F. Arrange for safe access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform services under the Agreement.
- G. Examine all alternate solutions, studies, reports, sketches, Drawings, Specifications, proposals, and other documents presented by ENGINEER (including obtaining advice of an attorney, insurance counselor, and other advisors or consultants as OWNER deems

- appropriate with respect to such examination) and render in writing timely decisions pertaining thereto.
- H. Provide reviews, approvals, and permits from all governmental authorities having jurisdiction to approve all phases of the Project designed or specified by ENGINEER and such reviews, approvals, and consents from others as may be necessary for completion of each phase of the Project.
  - I. Provide, as required for the Project:
    - 1. Accounting, bond and financial advisory, independent cost estimating, and insurance counseling services.
    - 2. Legal services with regard to issues pertaining to the Project as OWNER requires, Contractor raises, or ENGINEER reasonably requests.
    - 3. Such auditing services as OWNER requires to ascertain how or for what purpose Contractor has used the monies paid.
    - 4. Placement and payment for advertisement for Bids in appropriate publications.
  - J. Advise ENGINEER of the identity and scope of services of any independent consultants employed by OWNER to perform or furnish services in regard to the Project, including, but not limited to, cost estimating, project peer review, value engineering, and constructability review.
  - K. Furnish to ENGINEER data as to OWNER'S anticipated costs for services to be provided by others for OWNER so that ENGINEER may make the necessary calculations to develop and periodically adjust ENGINEER'S opinion of Total Project Costs.
  - L. If OWNER designates a construction manager or an individual or entity other than, or in addition to, ENGINEER to represent OWNER at the Site, define and set forth as an attachment to this Exhibit B the duties, responsibilities, and limitations of authority of such other party and the relation thereof to the duties, responsibilities, and authority of ENGINEER.
  - M. If more than one prime contract is to be awarded for the Work designed or specified by ENGINEER, designate a person or entity to have authority and responsibility for coordinating the activities among the various prime Contractors, and define and set forth the duties, responsibilities, and limitations of authority of such individual or entity and the relation thereof to the duties, responsibilities, and authority of ENGINEER as an attachment to this Exhibit B that is to be mutually agreed upon and made a part of this Agreement before such services begin.
  - N. Attend the pre-bid conference, bid opening, pre-construction conferences, construction progress and other job related meetings, and Substantial Completion and final payment inspections.
  - O. Provide the services of an independent testing laboratory to perform all inspections, tests, and approvals of Samples, materials, and equipment required by the Contract Documents, or to evaluate the performance of materials, equipment, and facilities of OWNER, prior to their incorporation into the Work with appropriate professional interpretation thereof.
  - P. Provide inspection or monitoring services by an individual or entity other than ENGINEER (and disclose the identity of such individual or entity to ENGINEER) as OWNER determines necessary to verify:
    - 1. That Contractor is complying with any Laws and Regulations applicable to Contractor's performing and furnishing the Work.
    - 2. That Contractor is taking all necessary precautions for safety of persons or property and complying with any special provisions of the Contract Documents applicable to safety.
  - Q. Provide ENGINEER with the findings and reports generated by the entities providing services pursuant to paragraphs B2.01.O and P.

R. Perform or provide the following additional services: None

This is **EXHIBIT C**, consisting of 3 pages, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services**.

**Payments to ENGINEER for Services and Reimbursable Expenses**

---

Article 4 of the Agreement is amended and supplemented to include the following agreement of the parties:

**ARTICLE 4 – PAYMENTS TO THE ENGINEER**

**C4.01 For Basic Services Having A Determined Scope—Lump Sum Method of Payment**

- A. OWNER shall pay ENGINEER for Basic Services set forth in Exhibit A, except for services of ENGINEER’S Resident Project Representative Services and NPDES Storm Water Permit Administration and Monitoring, if any, as follows:
1. A Lump Sum amount of \$119,100 based on the following assumed distribution of compensation:

<del>a.</del>	<del>Study and Report Phase</del>	<del>\$</del>	<del>_____</del>
a.	Project Management	\$	4,500
b.	Preliminary Design Phase	\$	49,000
c.	Final Design Phase	\$	25,500
d.	Platting Services	\$	12,000
e.	Bidding and Negotiating Phase	\$	5,100
f.	Construction Phase	\$	21,000
g.	Post-Construction Phase	\$	2,000
  2. The lump sum amount for Construction Phase as listed in C4.01A.1 includes up to a maximum of 5 site visits and 20 hours, as listed in A1.05.  
The lump sum amount for Post-Construction Phase listed on C4.01A.1 above, is for services listed in A1.06 up to a maximum of 8 hours.
  3. ENGINEER may alter the distribution of compensation between individual phases noted herein to be consistent with services actually rendered, but shall not exceed the total Lump Sum amount unless approved in writing by the OWNER.
  4. The Lump Sum includes compensation for ENGINEER’S services and services of ENGINEER’S Consultants, if any. Appropriate amounts have been incorporated in the Lump Sum to account for labor, overhead, profit, and Reimbursable Expenses.
  5. The portion of the Lump Sum amount billed for ENGINEER’S services will be based upon ENGINEER’S estimate of the proportion of the total services actually completed during the billing period to the Lump Sum. All fees for Post-Construction phase will be billed and paid at the end of Construction Phase.
  6. The Lump Sum is conditioned on Contract Times to complete the Work not exceeding 20 months. Should the Contract Times to complete the Work be extended beyond this period, the total compensation to ENGINEER shall be appropriately adjusted.
  7. If more prime contracts are awarded for Work designed or specified by ENGINEER for this Project that identified in Exhibit A, the ENGINEER shall be compensated an additional amount to be negotiated for all Basic Services for each prime.

#### C4.02 For Basic Services Having an Undetermined Scope—Standard Hourly Rates Method of Payment

- A. OWNER shall pay ENGINEER for Basic Services having an undetermined scope as follows:
1. *Resident Project Representative Services.* For services of ENGINEER'S Resident Project Representative, if any, under paragraph A1.05A.2 of Exhibit A, an amount equal to the cumulative hours, estimated to be 286 hours, charged to the Project by each (of ENGINEER'S) employees times Standard Hourly Rates for each employee for all Resident Project Representative services performed on the Project, plus Reimbursable Expenses and ENGINEER'S Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$30,000.
  2. ~~*NPDES Storm Water Permit Administration and Monitoring Services.* For services of ENGINEER and ENGINEER's Representative, if any under paragraph A1.05 and A1.06 of Exhibit A, an amount equal to the cumulative hours, estimated to be \_\_\_\_\_ hours, charged to the Project by each (of ENGINEER's) employees times Standard Hourly Rates for each employee for all NPDES Storm Water Permit Administration and Monitoring Services performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$\_\_\_\_\_.~~
  3. ~~*Environmental Sciences Services.* For services of ENGINEER's, if any under paragraph A1.01 through A1.06 of Exhibit A, an amount equal to the cumulative hours, estimated to be \_\_\_\_\_ hours, charged to the Project by each (of ENGINEER's) employee's times Standard Hourly Rates for each employee for all Environmental Sciences Services, including but not limited to wetland studies, NEPA documentation, endangered species surveys, and agency coordination, performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$\_\_\_\_\_.~~
  4. ~~*Permitting Services.* For services of ENGINEER's, if any under paragraph A1.01 through A1.06 of Exhibit A, an amount equal to the cumulative hours, estimated to be \_\_\_\_\_ hours, charged to the Project by each (of ENGINEER's) employee's times Standard Hourly Rates for each employee for all Permitting Services, including but not limited to NPDES Storm Water, Corps of Engineers 404, flood plain, railroad occupancy and undercrossing, and highway, street, road, occupancy and undercrossing, performed on the Project, plus Reimbursable Expenses and ENGINEER's Consultant's charges, if any. The total compensation under this paragraph is estimated to be \$\_\_\_\_\_.~~

#### C4.03 For Additional Services

- A. OWNER shall pay ENGINEER for Additional Services as follows:
1. *General.* For services of ENGINEER'S employees engaged directly on the Project pursuant to paragraph A2.01 or A2.02 of Exhibit A, except for services as a consultant or witness under paragraph A2.01A.23, an amount equal to the cumulative hours charged to the Project by each of ENGINEER'S employees times Standard Hourly Rates for each employee for all Additional Services performed on the Project, plus Reimbursable Expenses and ENGINEER'S Consultant's charges, if any.
  2. *Serving as a Witness.* For services performed by ENGINEER'S employees as witnesses giving testimony in any litigation, arbitration, or other legal or administrative proceeding under paragraph A2.01.A.23, at the rate of \$(to be negotiated) per day or any portion thereof (but compensation for time spent in preparing to testify in any such litigation, arbitration, or proceeding will be on the

basis provided in paragraph C4.03.A.1). Compensation for ENGINEER'S Consultants for such services will be on the basis provided in paragraph C4.06.

**C4.04 For Reimbursable Expenses**

- A. Reimbursable Expenses. ENGINEER typically includes most reimbursable expenses in hourly rates. To the extent not included, the OWNER will be notified and will be billed at cost times a factor of 1.1.

**C4.05 Standard Hourly Rates**

- A. Standard Hourly Rates are set forth in Attachment "1" to Exhibit C.
- B. The Standard Hourly Rates may change from time to time to reflect employee pay changes and associated overhead costs.

**C4.06 For ENGINEER'S Consultant Charges**

- A. Whenever compensation to ENGINEER herein is stated to include charges of ENGINEER'S Consultants, those charges shall be the amounts billed by ENGINEER'S Consultants to ENGINEER times a Factor of 1.1.

**C4.07 Factors**

- A. The ENGINEER'S Consultant's Factors include ENGINEER'S overhead and profit associated with ENGINEER'S responsibility for the administration of such services and costs.

**C4.08 Other Provisions Concerning Payment**

- A. *Progress Payments.* The portion of the amounts billed for ENGINEER'S services which are related to the services identified in paragraphs C4.02 and C4.03, will be during the billing period based on the cumulative hours charged to the Project by each of ENGINEER'S employees times the Standard Hourly Rate for each employee plus Reimbursable Expenses and ENGINEER'S Consultant's charges, if any.
- B. *Extended Contract Times.* Should the Contract Times to complete the Work be extended beyond the period identified in paragraph C4.01, payment for ENGINEER'S services shall be continued based on the Standard Hourly Rates Method of Payment, unless otherwise negotiated.
- C. *Estimated Compensation Amounts*
  - 1. ENGINEER'S estimate of the amounts that will become payable for Basic Services are only estimates for planning purposes, are not binding on the parties, and are not the minimum or maximum amounts payable to ENGINEER under the Agreement.
  - 2. When estimated compensation amounts have been stated herein and it subsequently becomes apparent to ENGINEER that a compensation amount thus estimated will be exceeded, ENGINEER shall give OWNER written notice thereof. Promptly thereafter OWNER and ENGINEER shall review the matter of services remaining to be performed and compensation for such services. OWNER shall either agree to such compensation exceeding said estimated amount or OWNER and ENGINEER shall agree to a reduction in the remaining services to be rendered by ENGINEER, so that total compensation for such services will not exceed said estimated amount when such services are completed. If ENGINEER exceeds the estimated amount before OWNER and ENGINEER have agreed to an increase in the compensation due ENGINEER or a reduction in the remaining services, the ENGINEER shall be paid for all services rendered hereunder.

This is **Attachment 1 to EXHIBIT C**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services**.

### **Hourly Rate Schedule**

---

Standard hourly rates are subject to periodic review and adjustment. Hourly rates for services in effect on the day of the Agreement are:

**JANUARY 1, 2018**

**JEO CONSULTING GROUP INC.  
CURRENT HOURLY RATE SCHEDULE RANGE**

**ACTUAL HOUR BASIS**

Project Managers:	\$150.00	-	\$250.00
Project Engineers/Architects:	\$115.00	-	\$200.00
Project Engineers (E.I.):	\$96.00	-	\$110.00
Engineering/Surveying/ Architectural/Planning/GIS Technicians:	\$70.00	-	\$155.00
Office/Administrative:	\$85.00	-	\$102.00
Principals:	\$200.00	-	\$250.00

NOTE: Cost of telephone calls, copying, postage, travel expenses, mileage, meals, lodging, etc. **are included** in our hourly rates and fees, and not charged separately. Hourly rates are subject to change on an annual basis.

This is **EXHIBIT D**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services**.

### **Duties, Responsibilities, and Limitation of Authority of Resident Project Representative**

Paragraph 1.01C of the Agreement is amended and supplemented to include the following agreement of the parties:

#### **D6.02 Resident Project Representative**

- A. ENGINEER shall furnish a Resident Project Representative (“RPR”), to assist the ENGINEER in observing progress and quality of the Work. The RPR under this Exhibit D will provide part-time representation during the Construction Phase of this project.
- B. Through such additional observations of Contractor’s work in progress and field checks of materials and equipment by the RPR, the ENGINEER shall endeavor to provide further protection for OWNER against defects and deficiencies in the Work. However, the ENGINEER shall not, during such visits or as a result of such observations of Contractor’s work in progress, supervise, direct, or have control over the Contractor’s Work nor shall ENGINEER have authority over or responsibility for the means, methods, techniques, sequences, or procedures selected by Contractor, for safety precautions and programs incident to the Contractor’s work in progress, for any failure of Contractor to comply with Laws and Regulations applicable to Contractor’s performing and furnishing the Work, or responsibility of construction for Contractor’s failure to furnish and perform the Work in accordance with the Contract Documents. In addition, the specific limitations set forth in section A.1.05 of Exhibit A of the Agreement are applicable.
- C. The duties and responsibilities of the RPR are limited and described as follows:
  1. During the Construction Phase, the Engineer shall furnish a part-time Resident Project Representative whose duties shall include, but are not limited to:
    - a. Review of Contractor’s work for general compliance with the plans and specifications.
    - b. Complete Construction Observation Reports when on site.
    - c. Coordinate pay quantities with Contractor and Engineer.
    - d. Review of materials delivered to the site for specification compliance.
    - e. Assist the Engineer in interpretation of the Plans and Specifications to the Contractor.
    - f. Review and coordinate materials testing by assigned testing firm.
    - g. Attend progress meetings.
    - h. Compile records for use in preparing Record Drawings.
    - i. Assist Engineer, as needed, to perform services to be provided by ENGINEER under A.1.05.

This is **EXHIBIT G**, consisting of 1 page, referred to in and part of the **Agreement between OWNER and ENGINEER for Professional Services**.

## **Insurance**

---

Paragraph 6.05 of the Agreement is amended and supplemented to include the following agreement of the parties.

### G6.05 *Insurance*

A. The limits of liability for the insurance required by paragraph 6.05.A and 6.05.B of the Agreement are as follows:

1. By ENGINEER:

a.	Workers' Compensation:	Statutory
b.	Employer's Liability --	
	1) Each Accident:	<u>\$500,000</u>
	2) Disease, Policy Limit:	<u>\$500,000</u>
	3) Disease, Each Employee:	<u>\$500,000</u>
c.	General Liability --	
	1) Each Occurrence (Bodily Injury and Property Damage):	<u>\$1,000,000</u>
	2) General Aggregate:	<u>\$2,000,000</u>
d.	Auto Liability--	
	1) Combined Single:	<u>\$1,000,000</u>
e.	Excess or Umbrella Liability --	
	1) Each Occurrence:	<u>\$1,000,000</u>
	2) General Aggregate:	<u>\$1,000,000</u>
f.	Other (specify):	<u>\$1,000,000</u> per occur.
	<u>Professional Liability</u>	<u>\$2,000,000</u> aggregate

2. By OWNER:

a. none



## City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City, City Council  
From: Ted Cherry, City Administrator  
Date: 7/9/2018  
Re: River Valley Easements

---

**Background:** Tim Brown from River Valley has been in communication with Greg Meyer regarding the storm water detention basin between Churchill and Canterbury circles. The Council should remember from previous conversations that the lots on N. and S. Churchill have areas platted for easements on the West side of their lots, but the easements were never filed with the County or defined for the purpose of storm water usage.

Lots are Churchill, Delmar, and Belmont do not currently have sidewalks. It has been the goal for the past 2 years to get the homeowners to sign covenants defining the stormwater areas and to get sidewalks put in. Some property owners have signed on to these, and some have not. The covenants also cover the shared sanitary sewer lines that were approved.

River Valley is asking for some kind of benefit we can give to the residents to get them to sign off on the covenants and get the proper easements on file. What they are asking is for the restrictions on the storm water detention to be lightened to allow for some trees, fence, and structures to be allowed. Greg has suggested this could be possible with some type of indemnification to the City that we are not responsible for any damage to those items.

**Financial Consideration:** None

**Recommendation:** Discussion for direction from the Council.

Honorable Randy Fredericksen, Mayor  
Members of the City Council  
City of North Sioux City  
504 River Drive  
North Sioux City, SD 57049

June 13, 2018

Mayor Fredericksen:  
Re: River Valley Easements

I am writing to request City Council direction on the matter of easements for the River Valley Phase One. There are two issues including the storm water detention basin in the back lots of North and South Churchill and the sewer easements for the duplexes.

One of the last issues resolved in the Final Plat for the Canterbury Lots was the easement width for the storm water detention basin. Shortly after the completion of the Canterbury Plat, I was contacted regarding a reduction in the detention basin easement for both Canterbury and Churchill lots. I asked the Register of Deeds office to provide the plats and covenants for the lots along Churchill that abut the detention basin and found the plats contained easements but the easements were not described on the plats. The covenants on North Churchill did provide some description of the easements but the covenants may be amended without City approval. I had previously thought that River Valley still owned property along North Churchill which would allow them to amend the covenants as desired. However, the attached information from James Wiederrich indicates that all of the lots in Tract Three which is North Churchill have been sold.

River Valley Tract Four includes South Churchill and Delmar and adds the issue of shared sewer services to the duplexes. Lots 76 & 77 have Covenants and Supplemental Declarations which provide the desired sewer service language. Lots 49B and 50B may have Covenants if covered by the documents for Lots 49A and 50A (which no longer exist).

Attached is an email from Tim Brown (dated May 30, 2018) which provides his interpretation and indicates his understanding of the issues with the home owners. I understand Tim's email and previous comments to represent the two issues are the homeowners do not want sidewalks and they would like a reduction in the detention basin size.

Is the City willing to drop the requirement for sidewalks? Would the City consider a relaxation of the detention basin usage in exchange for an indemnification, if acceptable to the home owners?

This may be more of a legal issue than an engineering issue. So, I would ask that you conduct a legal review of the issue and your methods of obtaining the protection and facilities needed.

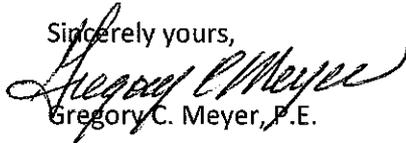
In addition to the email from Tim Brown, I have attached to this letter the documents attached to the Tim Brown email. I believe the document by James Wiederrich of Woods, Fuller, Shultz, & Smith to be

---

accurate based on the information that I have gathered to date. He describes the issues based on the issues that I provided for the Canterbury lots.

Thank you for your consideration of this request. Please feel free to contact this office if I can provide any additional information.

Sincerely yours,



Gregory C. Meyer, P.E.

Cc: Ted Cherry – City of North Sioux City  
Tim Hogan – City of North Sioux City

## **Buell Winter Mousel and Associates**

---

**From:** Tim Brown <tbrown@brownwegher.com>  
**Sent:** Wednesday, May 30, 2018 9:03 AM  
**To:** Buell Winter Mousel and Associates; Ted Cherry  
**Cc:** Tim Hogan; 'Randy Fredericksen'  
**Subject:** RE: Tr. 4 River Valley

Greg,

Yesterday, Woods Fuller arrived at the same information you did on the lots of South Churchill. We were missing information on the lot number platting changes that DeRocher Brothers made – so the title search information was not matching up to lot numbers of what we thought they were. Received information on that yesterday. Appreciate you reaching out to figure it out as well.

First observation, it would appear that the Dunham Company, when they were managing this development, did not get the base covenants in place for all of the lots. Cannot explain why. However, even if they would have, it would not have granted the City the access rights that it desires.

Second, after a number of duplexes had been built on South Churchill and Delmar, the City brought to our attention the need to have shared sanitary sewer easements for the duplex lots. The lots not built upon were owned by DeRocher Brothers Construction (DeRocher re-platted their lots for a few different reasons). River Valley worked with the Woods Fuller law firm (Jim Wiederich) to draw up covenant documents that could be utilized as templates in which River Valley would fill in the property info. J&M Real Estate then went to the existing homeowners to get them to sign and we would put the covenants into place. Issue was, to my understanding, that the homeowners were not agreeable to the covenants due to the city sidewalk requirement.

Woods Fuller did not prepare deeds for any lots.

To get the Homeowners to agree to covenants that address the storm water basin access needs for the City as well as getting the South Churchill residents to agree to the sanitary sewer covenants and sidewalk requirements is why I want to have a meeting to discuss options on the storm water basin. If we can present something to these homeowners that is of a benefit to them, getting agreement to sign off on covenants should be accomplishable.

I am assuming that the potential May 31 meeting is off the table now. I will be out of town next week – so would like to schedule something for after June 11<sup>th</sup>. Please let me know if there is a day/time that would work.

**TIM BROWN**  
PRESIDENT  
BROWN WEGHER CONSTRUCTION  
[tbrown@brownwegher.com](mailto:tbrown@brownwegher.com)  
(605) 232-4000 (EXT. 2310) OFFICE  
(712) 253-6243 MOBILE

---

**From:** Buell Winter Mousel and Associates <bwma.pc@evertek.net>  
**Sent:** Tuesday, May 29, 2018 8:22 PM  
**To:** Ted Cherry <Ted.Cherry@northsiouxcity-sd.gov>; Tim Brown <tbrown@brownwegher.com>  
**Cc:** Tim Hogan <Tim.Hogan@northsiouxcity-sd.gov>; 'Randy Fredericksen' <Randy.Fredericksen@northsiouxcity-sd.gov>  
**Subject:** FW: Tr. 4 River Valley

Ted and Tim:

Below is an email from Colleen Mead, Chief Deputy Register of Deeds regarding the recorded history of River Valley Tract 4. I will use the information from Colleen to explain my understanding of the status of 'easements' in River Valley Tract 4 as recorded in the Register of Deeds Office.

On February 16, 2016, River Valley filed "Declaration of Covenants, Easements, and Restrictions" for lots 76-77 of Tract 4 in River Valley.

Regarding the status of plats, Colleen States: (Please recall these were individual plats per lot, and not a project final plat.)

1. "So Lots 50A & 49A are now 50B & 49B." – The Register of Deeds Office has a Supplemental Declaration of Covenants, Easements, and Restrictions for lots 50A and 49A. A Supplemental Declaration for lots 50B and 49B was not found by Colleen.
2. "Lots 48A & 47A are still 48A & 47A." – A Supplemental Declaration for lots 48A and 47A was not found by Colleen.
3. "Lots 46A, 45A & 44A are now (revised by the writer) 45B & 46B." – A Supplemental Declaration for lots 45B and 46B was not found by Colleen.
4. A Supplemental Declaration for lot 51 was not found.

So all of the lots south of Belmont and along the storm water retention basin lack the protection of the basin and the ability to maintain the shared sewer system.

Is it appropriate to assume the other duplex lots do not have the easement language needed to maintain the shared sewer system?

I see that James Wiederrich prepared all of the recorded documents. Did he happen to prepare documents that are not on file for any of the other Tract 4 lots?

Did James Wiederrich prepare the deeds? Do the deeds reference the Covenants?

I have not researched the deeds, but will do so if necessary?

If you have information to correct the above, please let me know.

Greg

---

**From:** Colleen Mead [<mailto:ucrod2@unioncountysd.org>]

**Sent:** Friday, May 25, 2018 10:59 AM

**To:** Buell Winter Mousel and Associates

**Subject:** Tr. 4 River Valley

Jana gave me your search.

So Lots 50A & 49A are now 50B & 49B.

Lots 48A & 47A are still 48A & 47A.

Lots 46A, 45A & 44A are not 45B & 46B.

Lot 51 has not been replatted.

I have the original covenants for Tract 4, but no Supplemental Covenants for 44A thru 48A.

There are Supplemental Covenants for lots 49A & 50A. In Misc. Book 53 page 88, recorded 03/22/2016.

**Colleen Mead, Chief Deputy Reg. of Deeds**

**Union County Register of Deeds**

**209 E. Main St. Ste. 210**

**Elk Point, SD 57025**

Phone: 605-356-2191  
Fax: 605-356-3047  
[ucrod2@unioncountysd.org](mailto:ucrod2@unioncountysd.org)



May 30, 2018

James M. Wiederrich  
[Jim.Wiederrich@woodsfuller.com](mailto:Jim.Wiederrich@woodsfuller.com)  
Extension 651

**SENT VIA EMAIL ONLY**

Mr. Tim Brown

[tbrown@brownwegher.com](mailto:tbrown@brownwegher.com)

Re: River Valley Addition – Drainage Easements

Dear Tim:

You requested we review the status of drainage easements for Lots 25-29 in Tract 3 of River Valley Addition (the “Tract 3 Lots”) and for Lots 45B, 46B, 47A, 48A, 49B, 50B and Lot 51 in Tract 4 of River Valley Addition (the “Tract 4 Lots”). We received all of the title reports for these lots. We received numerous title reports for lots which do not abut the Canterbury lots. A summary of what we received and reviewed is set forth in the Summary of Drainage Rights for Lots which Abut Canterbury Lots.

**Tract 3 Lots**

For Lots 25-29 in Tract 3 of River Valley Addition, there are two documents which are relevant to the grant and enforcement of drainage easements. Those two documents are identified and attached to the Summary as follows:

- Exhibit A: Plat of Lots 25 through 42 of Tract 3 of River Valley Addition.
- Exhibit B: Declaration of Restrictions and Covenants to Run with the Land.

**Plats for Tract 3 Lots:**

The plats are not helpful with respect to the interpretation of the drainageway easements. All they do is identify drainage easements but provide no enforcement provisions. We might be able to find some case law which would interpret enforcement rights for drainageway easements when there are no such provisions set forth in writing. If you would like for us to research those questions, we can do so.

**Declaration for Tract 3 Lots:**

The Declaration of Restrictions and Covenants to Run with the Land (“Declaration”) contains the following provision regarding surface water drainage:

T. Brown  
May 30, 2018  
Page 2

**PART "B"**  
**EASEMENTS RESERVED**

Easements and rights of way for utility purposes, functions and surface water drainage are hereby expressly reserved to the Developer, its successors and assigns. Developer reserves an easement seven feet in width on either side of any lot line except lot lines that separate the lots from a city street. Lot lines that separate lots from city streets shall have an easement seven feet wide starting immediately inside that lot line. The side yard easements are in addition to any easements shown on final plat of lots. Such easements may be used for the location of underground electric, communication cables, water lines, sewer lines, gas lines or other utilities as may be needed. The Owner of said easement reserves the right to excavate, contract, repair and maintain the lines, however, the property must be repaired and returned as nearly as possible to its original condition.

The purchasers of Lots in River Valley Addition shall at their own cost and expenses keep and preserve the portion of the easement and right-of-way within their own property line at all times in a good condition of repair and maintenance and neither erect nor permit erection of any building or structure of any kind within said easements which might interfere in any way with the proper maintenance, use, operation, repair, reconstruction and patrolling of any of the utility services located therein.

Note the problems with the grant of the easement:

1. The easement is reserved to the developer and not the City of North Sioux City.
2. The easement is 7 feet in width on either side of any lot line and not as wide as set forth in the plat (43 feet).
3. There is no provision which requires the City of North Sioux City to approve any amendment to the easement.
4. There is no provision which allows the City of North Sioux City to enter the property to maintain the surface water drainage easement.

The Declaration also provides in part "C" the following provision regarding the grade of each lot:

C-6. Removal of Soil and Grade Level. No soil may be removed from this Development resulting from an excavation without the prior approval of

T. Brown  
May 30, 2018  
Page 3

Developer, and there shall be no material change in grade levels as it now exists without prior approval of Developer. The grade level at the lot line may not be changed without approval in writing from Developer.

The Declaration provides the Developer may amend the Declaration until all property in River Valley Addition has been sold. Part "D" provides in Section D-3 the following provision:

D-3. Amendments. Until all of the property in River Valley Addition is sold by the Developer, the Developer may amend these covenants, conditions and restrictions running with the land.

River Valley does not own any of the Lots 25-42 of Tract 3 of River Valley Addition. The Declaration may be amended only upon the unanimous approval from the homeowners of Lots 25-42. A list of the homeowners is attached.

**Tract 4 Lots:**

For the Tract 4 Lots, there are 4 plats, 2 Declarations and 2 Supplemental Declarations which are relevant to the grant and enforcement of drainage easements. Those documents are identified and attached to the Summary as follows:

*Not Included*

- Exhibit C: Plat of Lots 45B and 46B of Tract 4 of River Valley Addition.
- Exhibit D: Plat of Lots 47A and 48A of Tract 4 of River Valley Addition.
- Exhibit E: Plat of Lots 49B and 50B of Tract 4 of River Valley Addition.
- Exhibit F: Declaration of Restrictions and Covenants to Run with the Land for Lots 49B and 50B of Tract 4 of River Valley Addition.
- Exhibit G: Supplemental Declaration for Lots 49B and 50B of Tract 4 of River Valley Addition.
- Exhibit H: Plat of Lot 51 of Tract 4 of River Valley Addition.

**Plats for Tract 4 Lots:**

The plats are not helpful with respect to the interpretation of the drainageway easements. All they do is identify drainage easements but provide no enforcement provisions. We might be able to find some case law which would interpret enforcement rights for drainageway easements when there are no such provisions set forth in writing. If you would like for us to research those questions, we can do so.

**Declarations for Tract 4 Lots:**

The Declaration for Lots 49B and 50B contain the following provision regarding surface water drainage:

T. Brown  
May 30, 2018  
Page 4

4.3 Storm Sewer Easement. Owners may not obstruct the free flow of surface water to the storm sewer located, or to be located, within the storm sewer easement identified on the plat for the Property. Owners agree not to use the platted storm sewer easement area in a manner which will interfere with the City of North Sioux City's full enjoyment of the rights to erect, construct, install and lay, and thereafter use, operate, inspect, repair, maintain, replace and remove the storm sewer. Owners further agree not to erect or construct any building or other structure or other obstruction on the platted storm sewer easement area, or diminish or substantially add to the ground over the platted storm sewer easement area.

Note the reference to the rights of the City of North Sioux City. However, there is no provision which requires the City of North Sioux City to approve any amendment to the easement.

The Declaration also provides in Section 5.6 the following provision regarding the grade of each lot:

5.6 Removal of Soil and Grade Levels. An Owner may not make any material change to the grade level of a Lot, nor remove any excavated soil from the Property without the prior approval of Developer. If Developer consents to a soil excavation, it will have the first right to use the soil. Runoff and erosion must be controlled on site during construction with erosion control barriers. All disturbed areas of a building site must be sodded, seeded, covered with plants or mulch with appropriate landscaping materials. The construction of improvements on a Lot must be engineered in a manner which will ensure there will be proper drainage, not detrimental to neighboring Lots.

The Declaration provides the developer may amend the declaration until all property under the declaration has been sold. The amendment provision reads as follows:

7.2 Amendment or Termination. If Declarant owns at least one Lot subject to this Declaration, Declarant and Developer may jointly amend this Declaration at any time and from time-to-time. If Declarant does not own any Lots subject to this Declaration, Developer may unilaterally amend this declaration at any time and from time-to-time. Thereafter, with the exception of supplemental declarations provided for in Article 6, this Declaration may only be amended or terminated by recording an amendment or termination signed by at least 85% of the record Owners of the Property with the Union County Register of Deeds.

This Declaration covers Lots 76 and 77. The Supplemental Declaration adds Lots 49A and 50A. Note the Lots were described as "Lots 49A and 50A" instead of "lots 49B and 50B." The latest

T. Brown  
May 30, 2018  
Page 5

plat changed the descriptions from "A" to "B." Lot 76 is owned by Pamela J. Deets. Lot 77 is owned by Kathleen L. North, as Trustee of the Revocable Trust of Kathleen L. North, dated October 3, 2017. Lot 49B is owned by Robert Kull. Lot 50B is owned by Roxanne L. Ellis and Larry D. Ellis.

Let me know if you would like further information or have any questions. It will take the unanimous consent of all homeowners since each holds a 25% vote.

Very truly yours,

WOODS, FULLER, SHULTZ & SMITH P.C.

  
James M. Wiederrich

Attachments

List of Homeowners of Lots 25-42 of Tract 3  
River Valley Addition

Lot 25	Jerry McReavy and Audrey McReavy
Lot 26	Heaven Silvas and Sky Silvas
Lot 27	Jodi L. Jennings
Lot 28	Chad Schoenfelder and Jamie Schoenfelder
Lot 29	Walter E. Wendel and Beverly J. Wendel
Lot 30	Roger E. Tripp and Janett A. Tripp
Lot 31	Jonathan A. June and Holly J. June
Lot 32	Susan Tong-Danilson
Lot 33	Beverly J. Roth
Lot 34	LeAnn Rae Kurtz Gill
Lot 35	Steven Kiepke and Peggy Kiepke
Lot 36	Benjamin Sitzmann and Jill M. Sitzmann
Lot 37	Jessica Todd and Michael E. Todd II
Lot 38	Chad Waples and Katrina Waples
Lot 39	Cory L. Black and Charmaine R. Black
Lot 40	Bryce JG Snyder
Lot 41	Ronna A. Balliet and Gary A. Balliet
Lot 42	Nicholas L. Boelter and Brenda M. Boelter

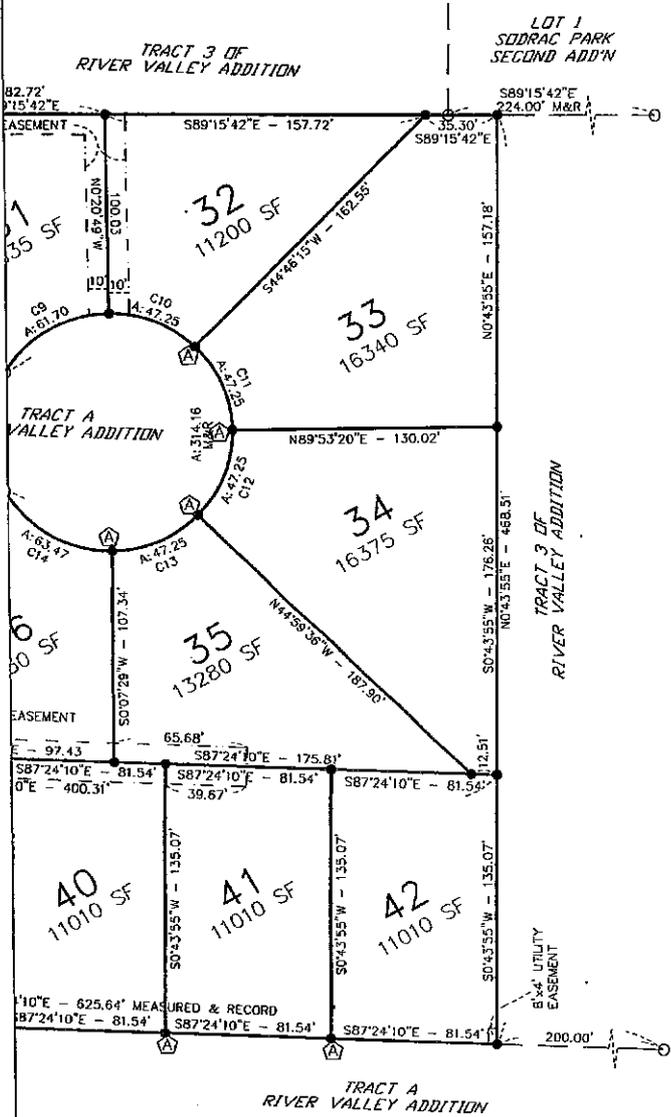
Summary of Drainage Rights  
for  
Lots which Abut Canterbury Lots

<b>Lot 25:</b>	Exhibit A:	Plat Book 29/Page 2	43' drainage easement with no easement terms
	Exhibit B:	Declaration Book M49/Page 29	Contains an easement for surface water drainage but no terms as requested by the City.
<b>Lot 26:</b>	Exhibit A:	Plat Book 29/Page 2	43' drainage easement with no easement terms
	Exhibit B:	Declaration Book M49/Page 29	Contains an easement for surface water drainage but no terms as requested by the City.
<b>Lot 27:</b>	Exhibit A:	Plat Book 29/Page 2	43' drainage easement with no easement terms
	Exhibit B:	Declaration Book M49/Page 29	Contains an easement for surface water drainage but no terms as requested by the City.
<b>Lot 28:</b>	Exhibit A:	Plat Book 29/Page 2	43' drainage easement with no easement terms
	Exhibit B:	Declaration Book M49/Page 29	Contains an easement for surface water drainage but no terms as requested by the City.
<b>Lot 29:</b>	Exhibit A:	Plat Book 29/Page 2	43' drainage easement with no easement terms
	Exhibit B:	Declaration Book M49/Page 29	Contains an easement for surface water drainage but no terms as requested by the City.
<b>Lot 30:</b>	Exhibit A:	Plat Book 29/Page 2	No easement for surface water drainage on this lot.
	Exhibit B:	Declaration Book M49/Page 29	No easement for surface water drainage on this lot. Does not appear to be needed.
<b>Lot 31:</b>	Exhibit A:	Plat Book 29/Page 2	No easement for surface water drainage on this lot. Does not appear to be needed.
	Exhibit B:	Declaration Book M49/Page 29	No easement for surface water drainage on this lot.
<b>Lot 45B:</b>	Exhibit C:	Plat Book 33/Page 59	43' drainage easement with no easement terms
<b>Lot 46B:</b>	Exhibit C:	Plat Book 33/Page 59	43' drainage easement with no easement terms
<b>Lot 47A:</b>	Exhibit D:	Plat Book 32/Page 42	43' drainage easement with no easement terms
<b>Lot 48A:</b>	Exhibit D:	Plat Book 32/Page 42	43' drainage easement with no easement terms

<b>Lot 49B:</b>	Exhibit E:	Plat Book 33/Page 10	43' drainage easement with no easement terms
	Exhibit F:	Declaration Book M53/Page 54	Section 4.3 describes a storm sewer easement, but does not include City requested language. This Declaration contained the same provisions as did the Declaration for the Canterbury lots before they were amended.
	Exhibit G:	Supplemental Declaration Book M53/Page 88	This Supplement expanded the Declaration to include Lot 49A, which is now known as Lot 49B.
<b>Lot 50B:</b>	Exhibit E:	Plat Book 33/Page 10	43' drainage easement with no easement terms
	Exhibit F:	Declaration Book M53/Page 54	Section 4.3 describes a storm sewer easement, but does not include City requested language. This Declaration contained the same provisions as did the Declaration for the Canterbury lots before they were amended.
	Exhibit G:	Supplemental Declaration Book M53, Page 88	This Supplement expanded the Declaration to include Lot 50A, which is now known as Lot 50B.
<b>Lot 51:</b>	Exhibit H:	Plat Book 32/Page 20	43' drainage easement with no easement terms

**PLAT OF  
LOTS 25 THRU 42 OF TRACT 3 OF  
RIVER VALLEY ADDITION  
NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA**

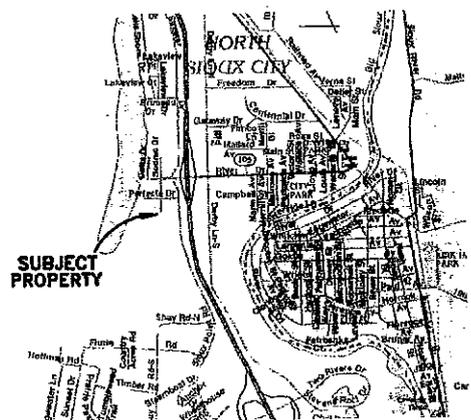
SHEET  
①  
MATCH  
POINT



○ INDICATES FOUND 1/2" IRON PIN  
UNLESS OTHERWISE INDICATED  
● INDICATES SET 1/2" IRON  
PIN W/ YELLOW CAP #4544  
TOTAL AREA IN ADDITION: 5.228 ACRES

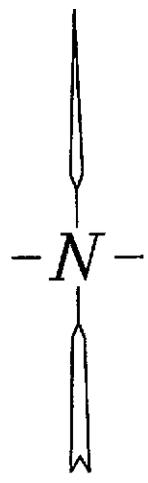
PLOT DATE: DECEMBER 12, 2011  
**SCALE: 1" = 60'**  
0 60 120  
SHEET 2 OF 3

**VICINITY MAP**

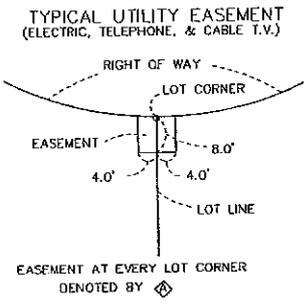


SHEET  
②  
MATCH  
POINT

PREPARED BY  
**MLS & ASSOCIATES, PLC**  
201 BENSON BUILDING  
SIOUX CITY, IOWA  
(712) 258-6844

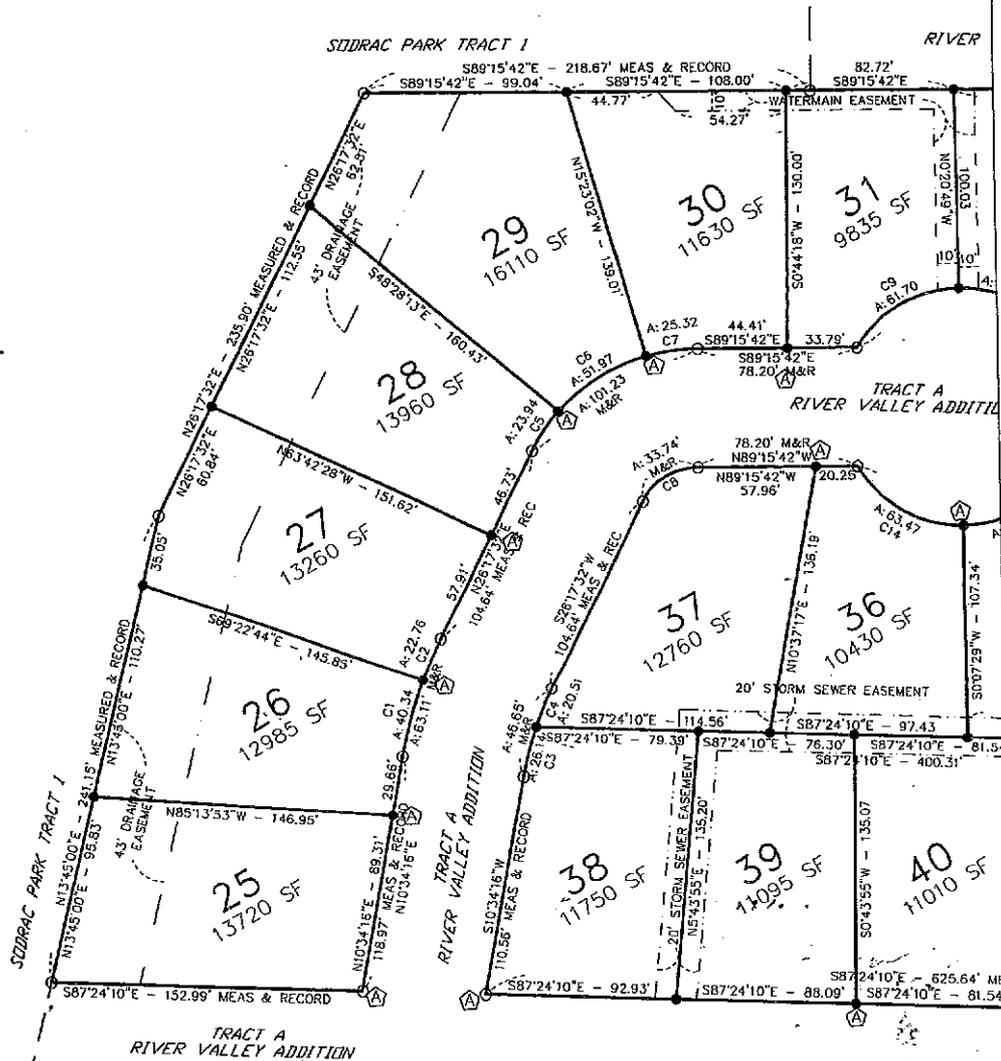
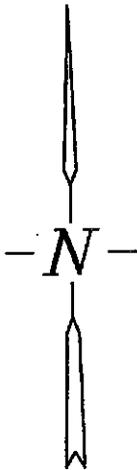


**TYPICAL EASEMENT**



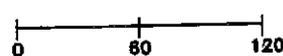
PLAT OF  
 LOTS 25 THRU 42 OF TRACT 3 OF  
 RIVER VALLEY ADDITION  
 NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA

SHEET  
 ①  
 MATCH  
 POINT



PLOT DATE: DECEMBER 12, 2011

SCALE: 1" = 60'



SHEET 1 OF 3

SHEET  
 ②  
 MATCH  
 POINT

**CURVE TABLE**

No.	Delta	Radius	Arc Length	Tangent	Chord
1	10°03'00"	230.00	40.34	20.22	40.29 N15°35'46"E
2	5°40'16"	230.00	22.76	11.39	22.76 N23°27'24"E
3	8°48'35"	170.00	26.14	13.10	26.11 N14°58'33"E
4	6°54'41"	170.00	20.51	10.27	20.48 N22°50'12"E
5	15°14'15"	90.00	23.94	12.04	23.86 N33°54'40"E
6	33°05'11"	90.00	51.97	26.73	51.25 N66°04'23"E
7	16°07'20"	90.00	25.32	12.75	25.24 N82°40'38"E
8	64°26'47"	30.00	33.74	18.91	31.98 N58°30'54"E
9	58°54'53"	60.00	61.70	33.89	59.01 N60°11'44"E
10	45°07'04"	60.00	47.25	24.93	46.04 S67°47'17"E
11	45°07'05"	60.00	47.25	24.93	46.04 S22°40'12"E
12	45°07'04"	60.00	47.25	24.93	46.04 S22°26'52"W
13	45°07'05"	60.00	47.25	24.93	46.04 S67°33'57"W
14	60°36'49"	60.00	63.47	35.07	60.56 N59°34'07"W

PREPARED BY  
**MLS & ASSOCIATES, PLC**  
 201 BENSON BUILDING  
 SIOUX CITY, IOWA  
 (712) 258-6844

**PLAT OF  
LOTS 25 THRU 42 OF TRACT 3 OF  
RIVER VALLEY ADDITION  
NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA**

PLOT DATE: DECEMBER 12, 2011  
SHEET 3 OF 3

NORTH SIOUX CITY PLANNING COMMISSION

BE IT RESOLVED BY THE NORTH SIOUX CITY PLANNING COMMISSION THAT THE ATTACHED PLAT OF LOTS 25 THRU 42 OF TRACT 3 OF RIVER VALLEY ADDITION, NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA, BE AND THE SAME IS HEREBY APPROVED.

DATED THIS 28<sup>th</sup> DAY OF Dec, 2011.

*Rick Minor*  
CHAIRMAN PLANNING COMMISSION

SURVEYOR'S CERTIFICATION

I, DOUGLAS J. MORDHORST, A REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT ON OR BEFORE DECEMBER 12, 2011, I HAVE SURVEYED AND PLATTED LOTS 25 THRU 42 OF TRACT 3 OF RIVER VALLEY ADDITION, NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA, WITH ACRES AND DIMENSIONS OF SAID PLATTED LOTS AS SHOWN ON THIS PLAT.

I FURTHER CERTIFY THAT TO THE BEST OF MY KNOWLEDGE, THE WITHIN AND FOREGOING PLAT HAS BEEN PREPARED FOLLOWING GENERALLY ACCEPTED PROFESSIONAL STANDARDS FOR TITLE SURVEYS. ANY CERTIFICATION EXPRESSED OR IMPLIED HEREIN APPLIES ONLY TO THE INDIVIDUAL(S), ASSOCIATION(S), AGENCY(S), AND/OR CORPORATION(S) EXPLICITLY LISTED. ANY CERTIFICATION, EXPRESSED OR IMPLIED HEREIN IS INVALID WITHOUT THE ORIGINAL SIGNATURE OF "DOUGLAS J. MORDHORST".

DATED THIS 12<sup>th</sup> DAY OF December, 2011.

*Douglas J. Mordhorst*  
DOUGLAS J. MORDHORST REG. NO. 4544



NORTH SIOUX CITY COUNCIL RESOLUTION

BE IT RESOLVED BY THE NORTH SIOUX CITY COUNCIL THAT THE ATTACHED PLAT OF LOTS 25 THRU 42 OF TRACT 3 OF RIVER VALLEY ADDITION, NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA, BE AND THE SAME IS HEREBY APPROVED.

I, *Tom Johnson*, CITY FINANCE OFFICER OF THE CITY OF NORTH SIOUX CITY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT THE WITHIN AND FOREGOING IS A TRUE AND CORRECT COPY OF THE RESOLUTION PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING ON

THE 3 DAY OF January, 2012.

*Tom Johnson*  
CITY FINANCE OFFICER

*Don Johnson*  
MAYOR



COUNTY TREASURER'S CERTIFICATE

I, THE UNDERSIGNED, COUNTY TREASURER FOR UNION COUNTY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT ALL TAXES WHICH ARE LIENS UPON ANY LAND INCLUDED IN THIS PLAT, AS SHOWN BY THE RECORDS OF MY OFFICE HAVE BEEN PAID IN FULL.

DATED THIS 20<sup>th</sup> DAY OF January, 2012.

*Maureen Husted*  
COUNTY TREASURER



DIRECTOR OF EQUALIZATION

I, THE UNDERSIGNED, COUNTY DIRECTOR OF EQUALIZATION FOR UNION COUNTY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT A COPY OF THE ABOVE PLAT HAS BEEN FILED AT MY OFFICE.

DATED THIS 20<sup>th</sup> DAY OF Jan, 2012.

*Debra Severson*  
DIRECTOR OF EQUALIZATION

*Adm. Asst*



REGISTER OF DEEDS

I, THE UNDERSIGNED, REGISTER OF DEEDS FOR UNION COUNTY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT THIS PLAT HAS BEEN FILED

FOR RECORD THIS 20<sup>th</sup> DAY OF January, 2012 AT 9:30 O'CLOCK A.M., AND HAS BEEN FILED IN BOOK 29 OF PLATS ON PAGE 2 THEREIN.

*20 chg*  
*ant*

*Jana Tolly*  
REGISTER OF DEEDS

OWNER'S CERTIFICATE

I/WE THE UNDERSIGNED, DO HEREBY CERTIFY THAT I/WE AM/ARE THE OWNER/OWNERS OF THE PROPERTY AS DESCRIBED ON THE ATTACHED CERTIFICATE OF DOUGLAS J. MORDHORST, THAT SAID PLAT HAS BEEN MADE AT MY/OUR REQUEST AND UNDER MY/OUR DIRECTION FOR THE PURPOSE OF TRANSFER, AND I/WE FURTHER CERTIFY THAT THE DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING ZONING, SUBDIVISION AND EROSION AND SEDIMENT CONTROL REGULATIONS AS ARE APPLICABLE TO THIS PROPERTY.

DATED THIS 13 DAY OF December, 2011

RIVER VALLEY, L.L.P.  
BY: *Donald A. Dunham Jr.*  
DONALD A. DUNHAM JR.  
MANAGING PARTNER

STATE OF South Dakota  
COUNTY OF Minnehaha } ss ACKNOWLEDGMENT

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON THE 13 DAY OF Dec, 2011, BY DONALD A. DUNHAM JR.

*Bonnie Mogen*  
NOTARY PUBLIC IN AND FOR UNION COUNTY, SOUTH DAKOTA  
*Minnehaha*





UNION COUNTY  
SOUTH DAKOTA

120322

2012 JAN 23 A 11:11

BK 1149 PG 29  
Register of Deeds *Jana Tolly*  
2871 # 1253  
Scan  \_\_\_\_\_  
Comp.  \_\_\_\_\_ *Dunham Co.*  
Indexed  \_\_\_\_\_  
Film  \_\_\_\_\_

**This Document Prepared By:**  
**Bonnie Mogen**  
**The Dunham Company**  
**230 South Phillips Avenue, Suite 202**  
**Sioux Falls, SD 57104**  
**605-339-9400**

**DECLARATION OF RESTRICTIONS AND COVENANTS  
TO RUN WITH THE LAND**

**PART "A"**

**PREAMBLE**

THIS INDENTURE, made the 18th day of January 2012, by River Valley, L.L.P. (hereinafter referred to as "Developer"), with its principal office located in Sioux Falls, South Dakota, being fully qualified and chartered to do business in the state of South Dakota.

WHEREAS, Developer is the owner of certain real property located within Union County, South Dakota, and described as follows:

Lots 25 thru 42 of Tract 3 of River Valley Addition, North Sioux City, Union County, South Dakota

WHEREAS, Developer intends to develop and improve said land and offer for sale the lots as shown in said plat, and is desirous of subjecting all of said lots to certain covenants, agreements, easements, restrictions, conditions and charges, as hereinafter set out.

NOW, THEREFORE, THIS INDENTURE WITNESSETH, that Developer does hereby impose and charge lots and blocks of River Valley Addition, an addition to the City of North Sioux City, South Dakota, with certain exceptions, with the covenants, agreements, easements, restrictions, conditions and charges as hereinafter set forth, hereby specifying that said declarations constitute on all parties and all persons claiming under them, and for the benefit of the limitations upon all future owners in said Development, said restrictions and covenants being designed to keep said Development uniform and to insure that highest and best residential development of said property.

## **PART "B"**

### **EASEMENTS RESERVED**

Easements and rights of way for utility purposes, functions and surface water drainage are hereby expressly reserved to the Developer, its successors and assigns. Developer reserves an easement seven feet in width on either side of any lot line except lot lines that separate the lots from a city street. Lot lines that separate lots from city streets shall have an easement seven feet wide starting immediately inside that lot line. The side yard easements are in addition to any easements shown on final plat of lots. Such easements may be used for the location of underground electric, communication cables, water lines, sewer lines, gas lines or other utilities as may be needed. The Owner of said easement reserves the right to excavate, contract, repair and maintain the lines, however the property must be repaired and returned as nearly as possible to its original condition.

The purchasers of Lots in River Valley Addition shall at their own cost and expenses keep and preserve the portion of the easement and right-of-way within their own property line at all times in a good condition of repair and maintenance and neither erect nor permit erection of any building or structure of any kind within said easements which might interfere in any way with the proper maintenance, use, operation, repair, reconstruction and patrolling of any of the utility services located therein.

## **PART "C"**

### **RESIDENTIAL AREA COVENANTS**

C-1. Approval of Plans. No building, fence, wall or other structure shall be commenced, erected or maintained nor shall any addition to or change or alteration herein be made until the plans and specifications showing the nature, kind, shape, heights, materials, floor plans, location and approximate cost of such structure shall have been submitted to and approved in writing by Developer, as provided for in paragraph C-3 below.

In the event said Developer fails to approve or disapprove such design and location within thirty days after said plans and specifications have been submitted to it, such approval will not be required and this covenant will be deemed to have been fully complied with.

However, City of North Sioux City can also disapprove such building, fence, wall or other structure at the time the building permit is applied for such structure at the City of North Sioux City.

C-2. Committee. The Managing Partner of Developer together with their consultants shall constitute the Committee. The Committee shall perform those duties and functions as set forth in this Indenture.

C-3. Building Code and Zoning. Building locations, building construction, landscaping and any and all other improvements made to lots located within this development must conform to ordinances of the City of North Sioux City, South Dakota, as amended, as minimum standards.

C-4. Outbuildings. Suitable or necessary outbuildings to serve the principal structure may be permanently constructed, but must conform in exterior appearance and design to the principal structure on the lot. All dwellings or structures shall be placed on a solid permanent foundation.

C-5. Temporary Structures. No structures of temporary character, trailer, basement, tent, shack, garage, barn or other outbuildings shall be used on any lot any time as a residence, either temporarily or permanently.

(a) Exception. A temporary sales office may be constructed by Developer or a home may be used by Developer as a sales office during the development period.

C-6. Removal of Soil and Grade Level. No soil may be removed from this Development resulting from an excavation without the prior approval of Developer, and there shall be no material change in grade levels as it now exists without prior approval of Developer. The grade level at the lot line may not be changed without approval in writing from Developer.

C-7. Hedges or Fences. No fences shall be erected, placed or altered on any lot nearer to any street than the minimum building setback line as provided by the ordinances of the City of North Sioux City.

C-8. Replatting or Subdividing. No one, except Developer, shall at any time ever re-plat, subdivide, or resubdivide any lot into a smaller lot, or in any other manner change the Plat of River Valley Addition, as the same is now shown on the recorded Plat of this Development, provided, however, lot owners may acquire land from adjacent lots for the purpose of increasing the size of their lot, but any lot so increased in size may never contain more than one detached single family dwelling; or one duplex dwelling on future Lots 1-20.

C-9. Livestock and Poultry. No animals, livestock or poultry of any kind shall be raised, bred, or kept on any lot except that dogs, cats or other household pets may be kept, provided that they are not kept, bred, or maintained for any commercial purpose.

C-10. Nuisances. No noxious or offensive trade or activity, as defined by law, shall be carried on upon any lot in said Development, nor shall anything be done which may be or become an annoyance or nuisance as defined by law, to the neighborhood or individuals residing or owning property therein.

C-11. Garbage and Refuse Disposal. No lot shall be used or maintained as a dumping ground for rubbish or trash. Trash, garbage or other waste shall not be kept except in sanitary containers.

C-12. Signs. No sign of any kind shall be displayed to the public view on any lot except one sign of not more than eight square feet advertising a residence for sale or rent, or signs used by a builder to advertise the property during the construction and sales period. On vacant lots, no signs shall be over five square feet.

C-13. Vacant Lots. Owners of vacant lots must keep them neat and clean in appearance and must maintain them by mowing at least twice a year. Upon failure to do this, and after a three day notice is given, Developer may perform such maintenance as necessary and bill the lot owner for the expense incurred.

C-14. Tree Planting. No box elder, cottonwood, Chinese elm, or poplar trees shall be planted on any lot in this Development.

C-15. No exterior television or radio antenna of any sort, and no satellite receiving stations (discs) over 18" in diameter, shall be permitted on any Lot.

C-16. No motor vehicle may be parked or stored outside on any Lot, except vehicles driven on a regular basis by the occupants of the dwelling located on such Lot. These vehicles must have current licenses and be in operable condition. However, this shall not apply to trucks, tractors or commercial vehicles which are necessary for construction of residential dwellings during their period of construction.

## **PART "D"**

### **GENERAL PROVISIONS**

D-1. Term. These covenants are to run with the land and shall be binding on all parties and all persons claiming under them for a period of twenty-five years from the date these covenants are recorded. After which time said covenants shall be automatically extended for successive periods of ten years. Covenants may be changed any time a majority of the owners sign and record an instrument to change said covenants in whole or part.

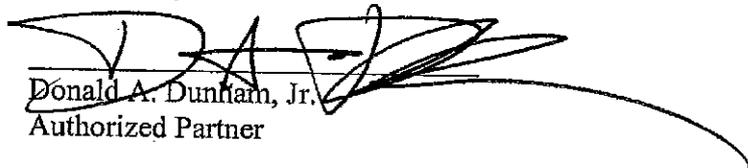
D-2. Enforcement. Enforcement shall be by proceedings at law or in equity against any person or persons violating or attempting to violate any covenant either to restrain violation or to recover damages.

D-3. Amendments. Until all of the property in River Valley Addition is sold by the Developer, the Developer, may amend these covenants, conditions and restrictions running with the land.

D-4. Severability. Invalidation of any one of these covenants by judgment or court order shall in no way affect any of the provisions which shall remain in full force and effect.

Dated the year and date first above written.

River Valley, L.L.P.

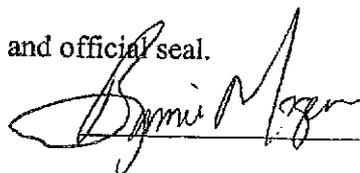
  
Donald A. Dunham, Jr.  
Authorized Partner

STATE OF SOUTH DAKOTA)  
:SS  
COUNTY OF MINNEHAHA)

On this 18 day of January, 2012, before me, the undersigned officer, personally appeared Donald A. Dunham, Jr. who acknowledged himself to be the Authorized Partner of River Valley, L.L.P., a limited liability partnership, and that he, as such Authorized Partner, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing the name of the partnership by himself as Authorized Partner.

In Witness Whereof, I hereunto set my hand and official seal.

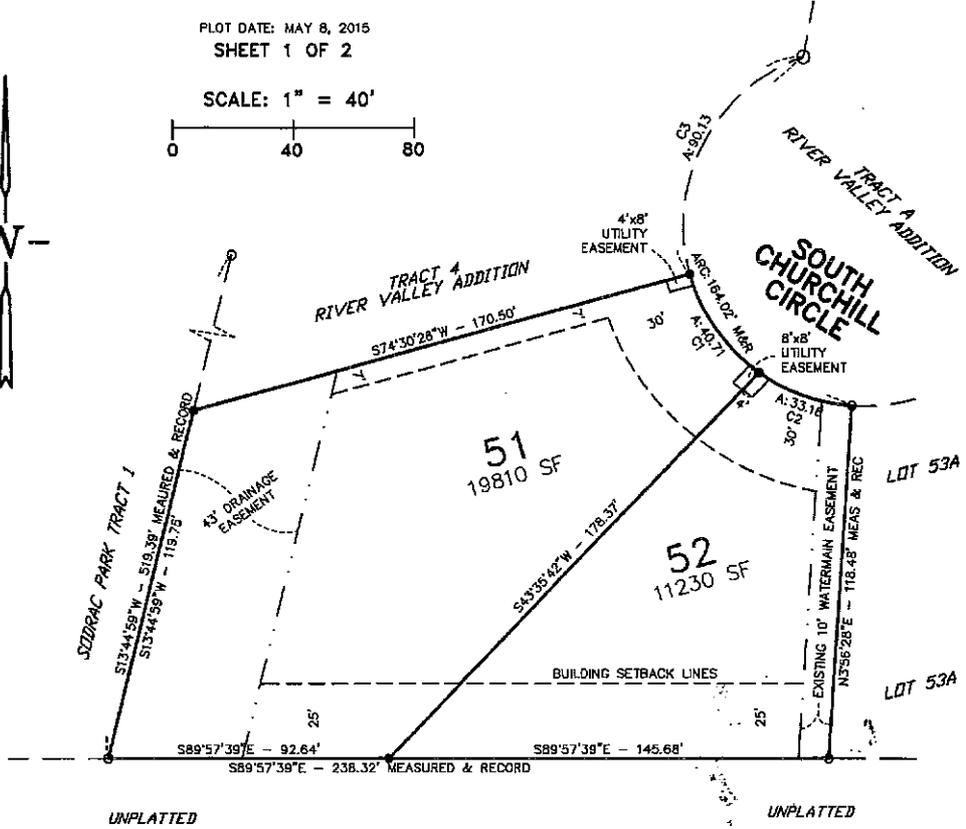
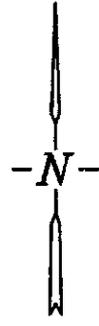
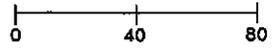


  
My Commission Expires: 10/19/12

**PLAT OF  
LOTS 51 & 52 OF TRACT 4 OF  
RIVER VALLEY ADDITION  
NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA**

PLOT DATE: MAY 8, 2015  
SHEET 1 OF 2

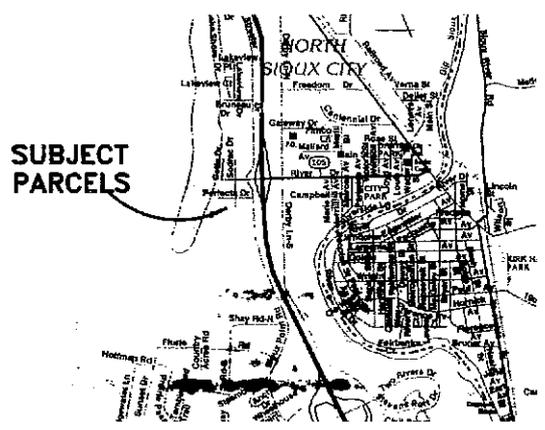
SCALE: 1" = 40'



**CURVE TABLE**

No.	Delta	Radius	Arc Length	Tangent	Chord
1	38°52'59"	60.00	40.72	21.18	39.94 N34°58'04"W
2	31°40'59"	60.00	33.18	17.03	32.78 N70°13'02"W
3	88°03'50"	60.00	90.13	56.01	81.89 N27°32'21"E

**VICINITY MAP**



- INDICATES FOUND 1/2" IRON PIN UNLESS OTHERWISE INDICATED
- INDICATES SET 1/2" IRON PIN W/ YELLOW CAP #4344

TOTAL AREA IN ADDITION: 0.713 ACRES

PREPARED BY  
**MLS & ASSOCIATES, PLC**  
201 BENSON BUILDING  
SIOUX CITY, IOWA  
(712) 258-6844

**PLAT OF  
LOTS 51 & 52 OF TRACT 4 OF  
RIVER VALLEY ADDITION  
NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA**

PLOT DATE: MAY 8, 2015  
SHEET 2 OF 2

NORTH SIOUX CITY PLANNING COMMISSION

BE IT RESOLVED BY THE NORTH SIOUX CITY PLANNING COMMISSION THAT THE ATTACHED PLAT OF LOTS 51 AND 52 OF TRACT 4 OF RIVER VALLEY ADDITION, NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA, BE AND THE SAME IS HEREBY APPROVED.

**SURVEYOR'S CERTIFICATION**

I, DOUGLAS J. MORDHORST, A REGISTERED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF SOUTH DAKOTA, DO HEREBY CERTIFY THAT ON OR BEFORE MAY 8, 2015, I HAVE SURVEYED AND PLATTED LOTS 51 AND 52 OF TRACT 4 OF RIVER VALLEY ADDITION, NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA, WITH ACRES AND DIMENSIONS OF SAID PLATTED LOTS AS SHOWN ON THIS PLAT.

I FURTHER CERTIFY THAT TO THE BEST OF MY KNOWLEDGE, THE WITHIN AND FOREGOING PLAT HAS BEEN PREPARED FOLLOWING GENERALLY ACCEPTED PROFESSIONAL STANDARDS FOR TITLE SURVEYS. ANY CERTIFICATION EXPRESSED OR IMPLIED HEREIN APPLIES ONLY TO THE INDIVIDUAL(S), ASSOCIATION(S), AGENCY(S), AND/OR CORPORATION(S) EXPLICITLY LISTED. ANY CERTIFICATION, EXPRESSED OR IMPLIED HEREIN IS INVALID WITHOUT THE ORIGINAL SIGNATURE OF "DOUGLAS J. MORDHORST".

DATED THIS 13<sup>th</sup> DAY OF May, 2015.

Donald Stutler  
CHAIRMAN PLANNING COMMISSION

**NORTH SIOUX CITY COUNCIL RESOLUTION**

BE IT RESOLVED BY THE NORTH SIOUX CITY COUNCIL THAT THE ATTACHED PLAT OF LOTS 51 AND 52 OF TRACT 4 OF RIVER VALLEY ADDITION, NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA, BE AND THE SAME IS HEREBY APPROVED.

I, Susan Kloostma CITY FINANCE OFFICER OF THE CITY OF NORTH SIOUX CITY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT THE WITHIN AND FOREGOING IS A TRUE AND CORRECT COPY OF THE RESOLUTION PASSED BY THE CITY COUNCIL AT ITS REGULAR MEETING ON  
THE 20 DAY OF May, 2015.

Susan Kloostma  
CITY FINANCE OFFICER



**OWNER'S CERTIFICATE**

I/WE THE UNDERSIGNED, DO HEREBY CERTIFY THAT I/WE AM/ARE THE OWNER/OWNERS OF THE PROPERTY AS DESCRIBED ON THE ATTACHED CERTIFICATE OF DOUGLAS J. MORDHORST, THAT SAID PLAT HAS BEEN MADE AT MY/OUR REQUEST AND UNDER MY/OUR DIRECTION FOR THE PURPOSE OF TRANSFER, AND I/WE FURTHER CERTIFY THAT THE DEVELOPMENT OF THIS LAND SHALL CONFORM TO ALL EXISTING ZONING, SUBDIVISION AND EROSION AND SEDIMENT CONTROL REGULATIONS AS ARE APPLICABLE TO THIS PROPERTY.

DATED THIS 11 DAY OF May, 2015

RIVER VALLEY, LLP  
Rick Wehger  
RICK WEHGER  
MANAGING PARTNER

I, THE UNDERSIGNED, COUNTY TREASURER FOR UNION COUNTY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT ALL TAXES WHICH ARE LIENS UPON ANY LAND INCLUDED IN THIS PLAT, AS SHOWN BY THE RECORDS OF MY OFFICE, HAVE BEEN PAID IN FULL.

DATED THIS 20<sup>th</sup> DAY OF May, 2015.  
Linda Rogers Deputy  
COUNTY TREASURER



**DIRECTOR OF EQUALIZATION**

I, THE UNDERSIGNED, COUNTY DIRECTOR OF EQUALIZATION FOR UNION COUNTY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT A COPY OF THE ABOVE PLAT HAS BEEN FILED AT MY OFFICE.

DATED THIS 20<sup>th</sup> DAY OF May, 2015.

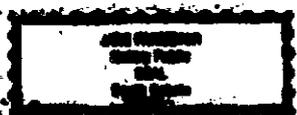


Jana MacLeland Admin Asst.  
DIRECTOR OF EQUALIZATION

STATE OF South Dakota }  
COUNTY OF Union } ss ACKNOWLEDGMENT

THIS INSTRUMENT WAS ACKNOWLEDGED BEFORE ME ON  
THE 11 DAY OF May, 2015, BY  
RICK WEHGER

Jane Parmiter  
NOTARY PUBLIC IN AND FOR SAIG COUNTY AND SAID STATE



Expires  
March 3, 2021

15-1970  
REGISTER OF DEEDS  
I, THE UNDERSIGNED, REGISTER OF DEEDS FOR UNION COUNTY, SOUTH DAKOTA, DO HEREBY CERTIFY THAT THIS PLAT HAS BEEN FILED  
FOR RECORD THIS 20<sup>th</sup> DAY OF May, 2015 AT  
3:25 O' CLOCK P.M., AND HAS BEEN FILED IN BOOK 32  
OF PLATS ON PAGE 20 THEREIN.

600 pd  
# 1504  
Jana Lilly  
REGISTER OF DEEDS



# City Council MEMO

504 River Drive  
North Sioux City, SD 57049  
Phone (605) 232-4276  
Fax (605) 232-0506

To: North Sioux City – City Council  
From: Ted Cherry, City Administrator  
Date: 7/9/2018  
Re: Lakeshore Estates Storm Sewer Drainage

---

**Background:** Lakeshore Estates have provided the new drawings for the development after the Council approved the sanitary sewer depth change. Due to the change in the sanitary sewer there were some changes made to the storm sewer as well.

Greg has been working with Lakeshore Estates on the information. He asked that the information be brought before the Council for their approval. A copy of the email chain has been provided. Items of note are below.

- Greg has suggested requiring full gaskets for the pipe for erosion purposes. There should not be a need for the half gaskets for ground water drainage due to the raised elevations being higher than the ground water table.
- Discharge rates on the property to the South and what detention should be allowed at.
- Evaluation of the outlet for the increased pipe capacity and velocity
- Backyard drainage

**Financial Consideration:** None

**Recommendation:** Greg believes these items are easily addressed for the developer. We would ask for the Council to approve subject to the developer finalizing the details with Greg regarding the storm water system in the development. The engineer has received preliminary approval from the state DENR subject to signed, sealed, and dated copies being presented to the state.

**From:** Buell Winter Mousel and Associates  
**To:** ["Bryan Wells"](#); ["Kyle Mullenix"](#)  
**Cc:** ["Ted Cherry"](#); ["Tim Hogan"](#); ["Bart Connelly"](#); ["Wes Hinnah"](#); ["Thomas Low"](#); ["Mark Wiley"](#)  
**Subject:** RE: North Sioux City Lakeshore Estates  
**Date:** Wednesday, July 04, 2018 7:00:44 PM

---

Bryan:

I will number my responses to coincide with my email of 6/29/2018 which is below.

- 1.) SD-DENR approval: - Please provide the drawings sent to the SD-DENR with the revisions.
- 2.) Pipe gaskets: - Your response is not accepted. The pipe capacity and velocity is increased with the increase in slope. I attribute your results to the omission of the back yard drainage. The back yard drainage should not be omitted. If you need larger pipe for the design rainfall intensities, adjust the pipe sizes. Back yard drainage easements have not worked well. If you wish to debate the use of gaskets in pipe joints, please provide the manufacturer's recommendation or other independent study to justify the risk of omitting the upper gaskets. Have you reviewed the ground water elevations recently? It appears the ground water elevation in the borings is below the storm sewer, so the open joints will not dewater the area. You could install a drain tile along the storm sewer near the bottom of trench without the risk of storm sewer joint issues for the City.
- 3.) Is Mr. Weinberg willing to accept the 0.2 cfs discharge rate? Regarding the ability of the existing storm sewer in Sodrac to provide drainage, didn't your firm previously indicated the capacity of the storm sewer to McCook Lake was consumed and could not take additional storm water? If you plan to use the Sodrac storm sewer, please provide the information to justify there is capacity available.
- 4.) I would recommend acceptance of your recommended sanitary sewer elevations to comply with the Council acceptance of your request to raise the sanitary sewer 1.5 feet.
- 5.) Please evaluate the outlet for the increased pipe capacity and velocity.
- 6.) Please update your drainage model to include the backyard drainage.

Greg

---

**From:** Bryan Wells [mailto:[bryan.wells@dgr.com](mailto:bryan.wells@dgr.com)]  
**Sent:** Tuesday, July 03, 2018 4:41 PM  
**To:** Buell Winter Mousel and Associates; Kyle Mullenix  
**Cc:** Ted Cherry; Tim Hogan; Bart Connelly ([bart@ctsbuilders.com](mailto:bart@ctsbuilders.com)); Wes Hinnah; Thomas Low; Mark Wiley  
**Subject:** RE: North Sioux City Lakeshore Estates

Greg,

Here is our response for items 2, 3, 5 and 6. For item 1, I spoke with SD DENR this morning. They noted a couple typos/graphic issues (sanitary sewer and water main elevation in profile) on three sheets that we will fix and email them revised plans for their approval. They noted they will have the approval letter ready. Kyle will send them a signed set next week but that they will provide approval this week.

Item 2. With the updated storm model and raising the 42" storm at middle intersection, the velocities in the 42" pipe have not changed from the original 3/7/18 approved plans. I attribute this to less head pressure in the pipe that offsets the steeper pipe slope. See attached storm model. With this information we should be able to keep the mastic in the bottom half and wrap the joints with fabric as recently suggested.

Item. 3. As noted on Friday (6/29/18), the 6/18/18 revised plans have lowered the 24" storm sewer P-10

that extends south of middle intersection from the original 3/7/18 approved plans to match the crown of the 42" storm to the west. This then provides 6" clear over the 6/18/18 approved sanitary sewer main (concrete support cradle noted in plans) elevation (1.5' higher than 3/7/18 plans). The 24" storm sewer in the 6/18/18 revised plans at the south stub is 1.69' lower than originally shown in 3/7/18 approved plans.

For the undeveloped property to the south, see attached pdf showing the area. We have included future Streeter Drive ROW (1 acre) and Connelly's property (3.1 acres) in the model. Connelly is expecting this property to be developed commercially in the future so storm water detention would be required with an allowed outflow of 0.2 cfs/ac. We have added in this known Q for his property in the model.

The 24" storm sewer @ 0.50% will run approximately 136' south of the middle intersection to a future intake in C Street (66' to be installed in the current project and the remaining to be installed in future project). From the future intake in C Street there is approximately 805 LF remaining to the NW corner of the shared property line of the Connelly/Weinberg properties. In order to serve Connelly's property, the remaining storm line is modeled as a 24" storm sewer at 0.25%. This will allow for an invert elevation of 1101.45 at the shared Connelly/Weinberg property line. The result is the HGL for the 100yr storm event is at or near existing ground level in all areas for the storm sewer system with the pipe sizes and grades as shown.

In order to serve Weinberg's additional 4 acres with the same future commercially developed requirement and storm water detention with an allowable outfall of 0.2cfs/ac as Connelly's property, the 24" storm sewer that extends south of the middle intersection would have to be up-sized to a 30" storm sewer installed at the same elevation of the 24" (this is to provide sanitary sewer clearances under) back to the future intake (approximately 136' south of the middle intersection) in C Street. The same 805LF of 24" storm sewer @ 0.25% could be installed to the shared Connelly/Weinberg property line with a downstream invert of 1099.74 (to match 0.8 points with the proposed 30" storm out) and an upstream invert of 1101.75 (compared to the upstream invert of 1101.45 if storm sewer just serves Connelly's property). The resultant HGL for the 100yr storm event is still at or near existing ground in all areas.

Note that either option maintains a pipe velocity greater than the request 2 fps min in the pipes from the shared Connelly/Weinberg property line to the middle intersection. The existing storm intake on Sodrac has an invert elevation of 1102.72 and is about 150' south of the NW corner of Connolly/Weinberg. This invert elevation is in front of Weinberg property and could be used for a future storm water outlet from a detention basin as well.

Item 5. The outlet velocity of the 42" storm in 100 yr storm event is the same as the original 3/7/18 approved plans. Same concept of less head pressure to offset the increase pipe slope.

Item 6. A pdf of the updated storm model is attached with notes. The backyard drains have been deleted out of the storm model to maintain higher storm intensities as requested with previously provided models.

**Bryan Wells, P.E.**



6115 Whispering Creek Drive  
Sioux City, IA 51106  
phone: 712-266-1554  
cell: 712-203-0548  
[www.dgr.com](http://www.dgr.com)

***Trusted. Professional. Solutions.***

---

**From:** Buell Winter Mousel and Associates <bwma.pc@evertek.net>

**Sent:** Friday, June 29, 2018 5:01 PM

**To:** Bryan Wells <bryan.wells@dgr.com>; Kyle Mullenix <kyle.mullenix@dgr.com>

**Cc:** Ted Cherry <Ted.Cherry@northsiouxcity-sd.gov>; Tim Hogan <Tim.Hogan@northsiouxcity-sd.gov>

**Subject:** North Sioux City Lakeshore Estates

Bryan:

I understand you will perform the following:

1. Advise the contractor to stop laying pipe until the SD-DENR approval is obtained.
2. Provide full gaskets in all of the storm sewer pipes as the high velocities cause me concern for erosion at the pipe joints.
3. Evaluate the ability of storm sewer to serve the southeast portion of the development. I misspoke during our conversation. The minimum slope for 2 fps in the 24" RCP would be 0.08% not 0.8% as I stated. Would you look at the drainage needs for the undeveloped property in the southeast portion of the development including the Weinberg property and evaluate if the proposed storm sewer changes will serve the future needs. I understand that Bart is willing to elevate his property with fill but that does not solve the drainage issues for the other properties. Your drawing for structure ST8 uses a slope of 0.5% for the 24" RCP to the south which should be flatter to accommodate the extension to the southeast property. Maybe a larger pipe should be used.
4. I corrected my previous comment #4 as you do appear to provide a 1.5 ft. rise in the sewer elevation.
5. The increase in velocity in the 42" storm sewer may impact the outlet basin which should be resolved before proceeding.
6. You will submit your drainage model for the revised storm sewer.

Greg

*Buell Winter Mousel and Associates P.C.  
705 Douglas St Suite 636  
Sioux City, IA 51101  
Phone 712-258-4202  
Fax 712-258-3304*



DEPARTMENT of ENVIRONMENT  
and NATURAL RESOURCES

JOE FOSS BUILDING  
523 EAST CAPITOL  
PIERRE, SOUTH DAKOTA 57501-3182

denr.sd.gov

July 3, 2018

The Honorable Randy Fredericksen  
City of North Sioux City  
504 River Drive  
North Sioux City, SD 57049

RE: North Sioux City – Lakeshore Estates Phase I Site Improvements  
P&S No. 17-099

Dear Mr. Fredericksen:

The Department of Environment and Natural Resources (DENR) received one electronic copy of the revised plans and specifications for the Lakeshore Estates Phase I Site Improvements in North Sioux City, South Dakota on June 19, 2017. The department has reviewed the revised plan sheets and hereby approves the plans and specifications for this project. The following are conditions of approval:

The South Dakota State Board of Technical Professions' requirements for sealing plans and specifications in accordance with South Dakota Codified Law (SDCL) 36-18A-45 are as follows: "The application of the licensee's seal and signature and the date constitutes certification that the work on which it was applied was done by the licensee or under the licensee's responsible charge. The seal, signature, and date shall be placed in such a manner that can be legibly reproduced on the following:

- (1) All originals, copies, tracings, or other reproducibles of all final drawings, specifications, reports, plats, plans, land surveys, design information, and calculations prepared by the licensee or under the licensee's responsible charge when presented to a client or any public or governmental agency. A licensee may not review or check technical submissions of another licensed professional or unlicensed person and seal the documents as the licensee's own work.

**The plans we reviewed were not signed, sealed and dated. As a condition of this approval, the licensees shall ensure each sheet of the final plans are appropriately signed, sealed, and dated. A copy of each plan sheet that has been revised shall be submitted to the department. Please ensure plan sheet D.02 is revised to show the pipe invert elevations match on the plan and profile views.**

This review is primarily to determine compliance with the minimum sanitary engineering requirements and does not cover items such as quality of material, structural soundness, or electrical

Randy Frederickson  
July 3, 2018  
Page 2 of 2

and mechanical design features. Approval of the plans and specifications does not in any way release the applicant from the responsibility that the project will be an operable facility when construction is completed.

If you have any questions, please contact us.

Sincerely,

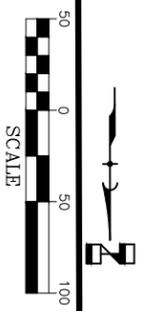
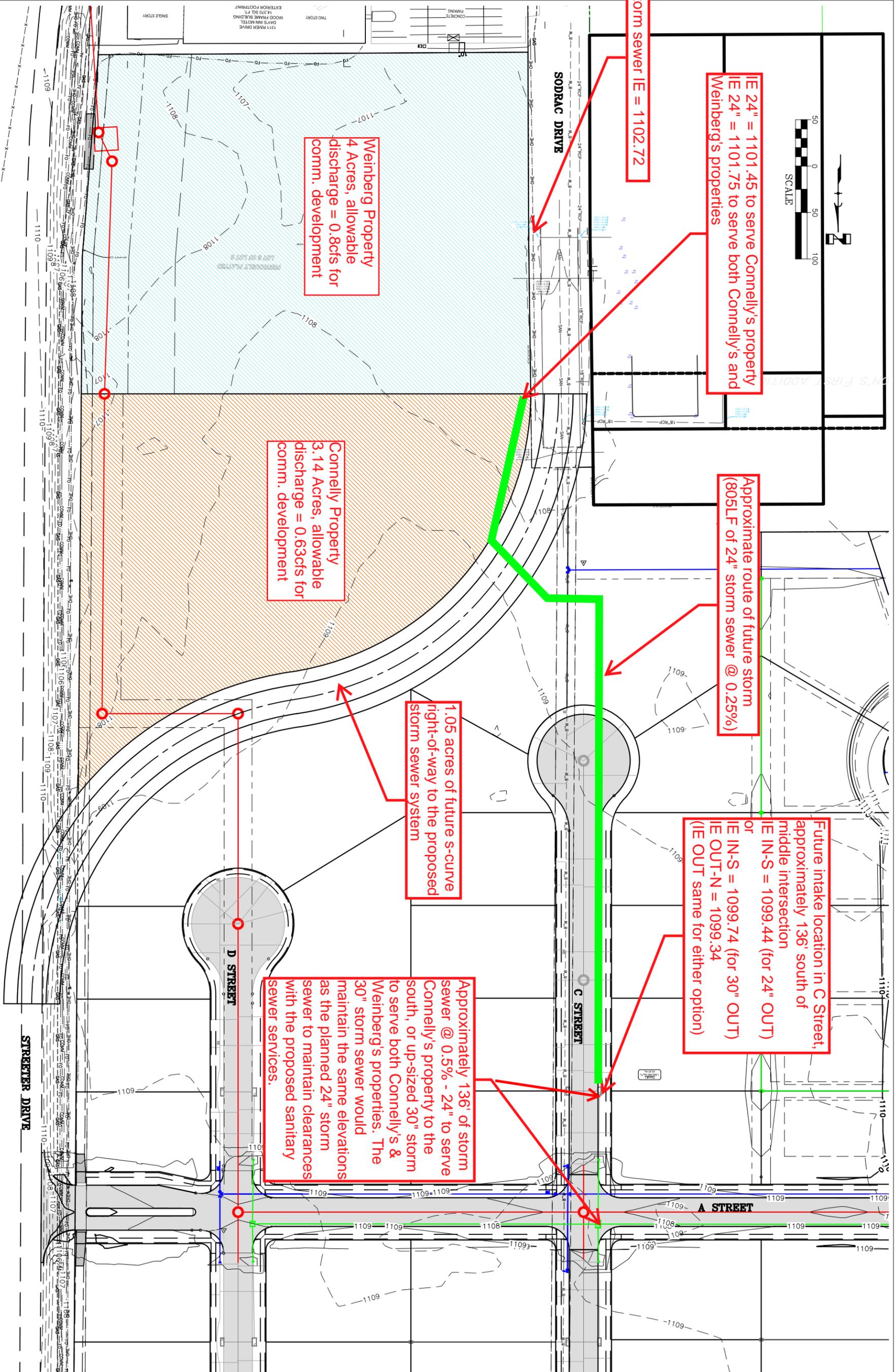


Kent R. Woodmansey, P.E.  
Engineering Manager  
Feedlot Permit Program  
(605) 773-3351



Mark A. McIntire, P.E.  
Natural Resources Engineer  
Drinking Water Program  
(605) 773-3754

cc: Kyle L. Mullenix, P.E., DGR Engineering, 6115 Whispering Creek Drive, Sioux City, IA  
51106



Ex. 15" storm sewer IE = 1102.72

IE 24" = 1101.45 to serve Connelly's property  
IE 24" = 1101.75 to serve both Connelly's and Weinberg's properties

Weinberg Property  
4 Acres, allowable discharge = 0.8cfs for comm. development

Connelly Property  
3.14 Acres, allowable discharge = 0.63cfs for comm. development

Approximate route of future storm (805LF of 24" storm sewer @ 0.25%)

1.05 acres of future s-curve right-of-way to the proposed storm sewer system

Future intake location in C Street, approximately 136' south of middle intersection  
IE IN-S = 1099.44 (for 24" OUT)  
or  
IE IN-S = 1099.74 (for 30" OUT)  
IE OUT-N = 1099.34  
(IE OUT same for either option)

Approximately 136' of storm sewer @ 0.5% - 24" to serve Connelly's property to the south, or up-sized 30" storm to serve both Connelly's & Weinberg's properties. The 30" storm sewer would maintain the same elevations as the planned 24" storm sewer to maintain sanitary sewer services.

To: Mayor Fredericksen  
 Council Members  
 From: Susan Kloostra, Finance Officer  
 Date: 6/26/2018  
 Re: Surplus Property

**Background:** SDCL 6-13-1 allows a governing board to dispose of any land, structures, equipment, or other property which the governing board has, by appropriate motion, determined is no longer necessary, useful, or suitable for the purpose for which it was acquired. Furthermore, no motion is required to sell, trade, loan, destroy, or otherwise dispose of consumable supplies, printed text, zoo animals, or subscriptions.

The following list are items to be surplus:

Item Description	Department	Serial #	Dispose/Sell
Paper cutter	Library	1347	Dispose
35 mm film	Police		Dispose
Alco-Sensor	Police	B12171	Dispose
Alco-Sensor III	Police	1080940	Dispose
Alco-Sensor III	Police	1035239	Dispose
Alco-Sensor III	Police	1223505	Dispose
Alco-Sensor III	Police	1045483	Dispose
Alco-Sensor III	Police	1223514	Dispose
AT&T wireless laptop connect device	Police	TR19B140NL	Dispose
AT&T wireless laptop connect device	Police	TR19B140YB	Dispose
AT&T wireless laptop connect device	Police	TR19B151ZF	Dispose
AT&T wireless laptop connect device	Police	TR19B150LJ	Dispose
AT&T wireless laptop connect device	Police	TR19B151Y9	Dispose
AT&T wireless laptop connect device	Police	TR19B140HW	Dispose
AT&T wireless laptop connect device	Police	TR19B1528V	Dispose
Black Computer Bag	Police		Dispose
Camera system (In car)	Police	22390	Dispose
Cell phone (flip)	Police		Dispose
Dell computer tower	Police	8F9YJG1	Dispose
Dell computer tower	Police	8F9XJG1	Dispose
Dell computer tower	Police	8FBZJG1	Dispose
Dell computer tower	Police	8F9ZJG1	Dispose
Dell Laptop	Police	H7DCXN1	Dispose
Dell Laptop	Police	C8DCXN1	Dispose
Dell Laptop	Police	JNFCXN1	Dispose
Dell Laptop	Police	B8DCXN1	Dispose
Dell Laptop	Police	G8DCXN1	Dispose
Dell Laptop	Police	G6M7HJ1	Dispose
Gateway Digital Camera	Police	1097913348	Dispose
GOVIDEO tape player	Police	8.4591E+11	Dispose
HP iPAQ palm pilot	Police	X1121204	Dispose
Kodak camera	Police	KCTFY64520698	Dispose
Kodak camera	Police	KCTFY64520699	Dispose
Laptop batteries (4)	Police		Dispose
Metal coat stand	Police		Dispose
Metal TV stand	Police		Dispose
Minolta 35 mm camera	Police	17221558	Dispose
Picture frames	Police		Dispose
Polaroid camera	Police		Dispose
Reflective police vests	Police		Dispose

Sanyo recorder	Police		Dispose
Shadow Box/Frame	Police		Dispose
Smith Corona typewriter	Police		Dispose
Sony recorder	Police		Dispose
Startech Console ext.	Police	E70011J100059	Dispose
Christmas/lights	Sr Center		Dispose
Lock box	Sr Center		Dispose
Toilet Tissue Dispensers (2)	Sr Center		Dispose
Wheelchair XL	Sr Center		Dispose
FIMCO 30 gal sprayer	Streets		Dispose
MISC SIGNS (Street, Stop, Etc.)	Streets		Dispose
RCA TV	Police	C363C21PA	Dispose
Acer Laptop	Library	LX4P02142110647401601	Sell/Dispose
Dell Monitor	Library	02H2VM-64180-22L/4XS	Sell/Dispose
Dell Tower	Library	2LV6XR1	Sell/Dispose
Gateway Laptop	Library	40490309	Sell/Dispose
Great Northern Popcorn Table	Library	n/a	Sell/Dispose
HP Laserjet Printer 425	Library	CNRXL86246	Sell/Dispose
Orange Patio Chairs	Library		Sell/Dispose
Projector/Audio Table	Library	n/a	Sell/Dispose
Avigilon surveillance camera	Police	1428565099	Sell
Avigilon surveillance camera	Police	1429566281	Sell
Cisco receiver	Police	PSZ164308HY	Sell
IR Bullet surveillance camera	Police	2.01312E+11	Sell
Vizio 42" TV	Police	BGLJPAPCH4228376	Sell
Chicago Pump	Sewer	9819916	Sell
Chicago Pump	Sewer	9013315	Sell
Chicago Pump	Sewer	9807786	Sell
Chicago Pump	Sewer	9809540	Sell
Chicago Pump	Sewer	61-270334	Sell
Chicago Pump	Sewer	9805348	Sell
Chicago Pump	Sewer	6812216	Sell
Chicago Pump	Sewer	6127034-A	Sell
Crown Sewage Pump	Sewer	P1620134	Sell
Baldor 30hp 70/35amp	Sewer/Water		Sell
Baldor 5hp 132/66amp	Sewer/Water	F1112152749/F1101121564	Sell
Emerson 25hp 54/20.5 amp	Sewer/Water		Sell
GE 10hp 23.8/11.5amp	Sewer/Water	4077313004	Sell
GE 5hp 23.8/11.9amp	Sewer/Water	F1101121564	Sell
Marstho 10hp 26/12.5amp	Sewer/Water	PEBRG-309	Sell
Sieman 10hp 25/12.5amp	Sewer/Water	L06T3032EE	Sell
Sieman motor 10hp 25/12.5amp	Sewer/Water	J06T3032EE	Sell
Tefc 10hp 26/13amp	Sewer/Water	282-450/998-414	Sell
Toshia 25hp 62/31amp	Sewer/Water	085P03669	Sell
Coffee pot 30 gal	Sr Center		Sell
Coffee pot 30 gal	Sr Center		Sell
Coffee pot 84 gal	Sr Center		Sell
Keyboard w/mouse	Sr Center		Sell
Wall light	Sr Center		Sell
Deck mower tiger	Streets	BD47763	Sell
Dodge Dump Truck 1998 Plow And Sander included	Streets	3B7MF3669WM275109	Sell
Flower pots	Streets		Sell
Ford Ranger 1997	Streets	1FTCR11X3VPA38647	Sell
Generator 6 cylinder cummings 3-71	Streets	63446-329	Sell
Grizzly fogger	Streets		Sell
John Deere mower	Streets		Sell
John Deere Z-trac	Streets	TES4ZTA060121	Sell
Street sweeper	Streets	1FDXH70P3	Sell
Paco water high service pump	Water	75-30957-140101-188	Sell

**Financial Consideration:** Advertising costs and miscellaneous revenue

**Recommendation:** A motion to declare the items as surplus and authorize for disposal or sale as presented.

**APPROVED MINUTES**  
**North Sioux City Planning Commission**  
**June 13, 2018**

The regular meeting of the North Sioux City Planning Commission was called to order by Streeter at 4:00 p.m.

Commission members present were: Holbrook, Linden, Mitchell and Streeter. Also in attendance were City Administrator Ted Cherry, Building Inspector Gary Roan and Finance Assistant Jennifer Roupe.

Motion by Linden, second by Holbrook to approve the agenda as presented. All members present voted aye.  
Motion by Mitchell, second by Linden to approve the May 9, 2018 minutes as presented. All members present voted aye.

**New Business**

Survey Plat - Lots 1, 2 & 3 of Cottington's Second Addition IN GOVERNMENT LOT 1, GOVERNMENT LOT 2 AND THE SE1/4 NW1/4, SECTION 15, T89N, R48W OF THE 5<sup>TH</sup> P.M., NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA

Gregg Strochein with Frontier Consultants presented the Plat and explained the differences. Mitchell questioned why the City still owns a street within the mobile home park. Streeter inquired why the City has not vacated the said street. Cherry will investigate and report back to the Planning Commission.

Motion by Mitchell, second by Holbrook to approve the survey plat as presented. All members present voted aye.

Survey Plat - CORK TRACT 1 in the SW ¼ of SECTION 10, and NW ¼ OF SECTION 15, and KENNY TRACT 1 in the NW ¼ OF SECTION 15. TOWNSHIP 89 NORTH, RANGE 48 WEST of the 5<sup>TH</sup> P.M., NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA

Motion by Mitchell, second by Linden to approve the survey plat as presented. All members present voted aye.

**Other Business:**

Roupe updated commission members of approved building permits by Roan, prior to meeting:

2 fence permits – 213 Delmar and 189 N Churchill Cir / Sign permit(s) 7 Panel Directory Signs Dakota Valley / Addition to Consumer Supply 718 N Derby Ln / 1 New Home 209 S Canterbury Cir

Motion by Linden, second by Holbrook to adjourn at 4:28 p.m. All members present voted aye.

Dated this June 13, 2018

Jennifer Roupe

Finance Assistant

**UNAPPROVED MINUTES**  
**North Sioux City Planning Commission**  
**June 27, 2018**

The regular meeting of the North Sioux City Planning Commission was called to order by Streeter at 4:00 p.m.

Commission members present were: Holbrook, Linden, Mitchell, Olson and Streeter. Also in attendance were City Administrator Ted Cherry, Building Inspector Gary Roan and Finance Assistant Jennifer Roupe.

Motion by Mitchell, second by Linden to approve the agenda as presented. All members present voted aye.  
Motion by Linden, second by Mitchell to approve the May 13, 2018 minutes as presented. All members present voted aye.

**New Business**

Variance Hearing for 27 Northshore Dr side yard setbacks – Public hearing was opened at 4:01 p.m.

Cherry informed commission members of the variance request dealing with the new lot lines that will make the setback from Karpuk's only 2.8 feet from the structure.

Greg Meyer referenced the plat and the building of the Karpuk house being build outside of the envelope.

Cherry reassured the members that the home was built within the guidelines.

Ted Karpuk, Lawyer for Phil Karpuk gave detail of the plat to show that the Karpuk's purchased a piece of land and the Dams will now be acquiring a sections of this piece which will make the distance between the lot line and the Karpuk home non-compliant. Olson brought up the fact of this being a civil court matter. Ted Karpuk stated that this was the court that it needs to be addressed at.

Jeff Meyer Lawyer for Craig Dam wanted address that there is litigation in the process between the Karpuk and Dam's. He addressed commission members to the unique situation and show the hardship between the two parties.

Cherry stated that if someone removed either of the structure there is a possibility that the setbacks of 7 feet are not compliant.

Daryl Jesse Lawyer for City of North Sioux City brought up the fact of conditions added to the wording of the variance request to include that any rebuild of a structure would need to abide to the 7 foot setback.

Lesa Crolley on behalf of the North Sioux City City Council questioned if a covenant could be filed so those conditions would be a permeant part of the plat.

Daryl suggested either having the wording changed on the owner certificate or having a signed affidavit of record filed. Daryl stated that this would not grandfather in the current situation but agreeing to comply if either structure was to be rebuild with the 7 foot setback or 14 feet between structures.

Motion by Olson, second by Mitchell to close the public hearing at 4:58 p.m. Motion by Mitchell second by Olson to table the variance request until the July 11, 2018 Commission Meeting. All members present voted aye.

Variance Hearing for 25 Northshore Dr side yard setbacks – Public hearing was opened at 5:00 p.m.

No input.

Motion by Mitchell, second by Linden to close the public hearing at 5:00 p.m. Motion by Mitchell second by Holbrook to table the variance request until the July 11, 2018 Commission Meeting. All members present voted aye.

**Plat – KARPUK TRACT 1 AND DAM TRACT 1 IN THE SOUTHEAST QUARTER OF SECTION 4, TOWNSHIP 89 NORTH, RANGE 48 WEST OF THE 5TH P.M., NORTH SIOUX CITY, UNION COUNTY, SOUTH DAKOTA**

Motion by Mitchell, second by Linden to table the plat until the July 11, 2018 Commission meeting. All members present voted aye.

**Other Business:**

Roupe updated commission members of approved building permits by Roan, prior to meeting:  
2 fence permits – 923 Harvest Bend and 216 Delmar Cir.

Motion by Olson, second by Holbrook to adjourn at 5:06 p.m. All members present voted aye.

Dated this June 27, 2018  
Jennifer Roupe  
Finance Assistant



Rural Office of Community Services, Inc.

Dakota Senior Meals

140 Hwy 50  
PO Box 70  
Lake Andes, SD 57356  
605-487-7634 Office  
605-487-7883 Fax



June 25, 2018



City of North Sioux City  
504 River Drive  
North Sioux City, SD 57049

To: City of North Sioux City Council Members,

On behalf of the North Sioux City Dakota Senior Meals program, I would like to thank you for the match money to the Dakota Senior Meals Program. Your generosity helps many people receive a healthy nutritious meal that otherwise may not.

If you have any questions you can call me at 605-487-7634

Sincerely,

Jennifer Grassrope  
Director  
Dakota Senior Meals

# STREET CLOSURE APPLICATION REQUEST

## CALENDAR YEAR 2018



City of North Sioux City  
504 River Drive • North Sioux City, SD 57049  
Phone (605) 232-4276 • Fax (605) 232-0506

To be considered for approval, you must submit a signed application and Liability Waiver, along with a \$50 deposit.

(PLEASE PRINT CLEARLY)

RESIDENT NAME: Judy Miller

RESIDENT ADDRESS: 216 Wallace Ave EMAIL ADDRESS: \_\_\_\_\_

PHONE NUMBER: HOME 712-635-1440 CELL 712-253-6591 WORK \_\_\_\_\_

EVENT DATE: 7-3-18 START TIME: 11:00 AM END TIME: the 5th

MAIN CROSS STREETS: \_\_\_\_\_

DESCRIPTION OF WHERE STREETS WILL BE BLOCKED OFF. (Include a drawing to show how it will be set up.)

corner of Resett and Wallace Ave to the corner of Lloyd Ave

Initial once you have read and agree.

I understand:

- JM I am responsible to pick up the needed barricades from the maintenance shop (300 Parkside Ave).
- JM barricades are available at a first come first serve basis.
- JM barricades must be returned to the maintenance shop before 3:30pm the next business day.
- JM I must ensure my neighbors and/or their guests have access to their homes throughout my event.
- JM emergency vehicles must have access and I am responsible for my guests not blocking barricades with their vehicle.
- JM the site of the closed street must be cleaned immediately following my event.
- JM a city employee must inspect the area before the deposit will be returned.

SIGNATURE: Judy Miller DATE: 6/13/18

HOW SHOULD WE CONTACT YOU WITH OUR RESPONSE?  PHONE  EMAIL  TEXT (Carrier name: \_\_\_\_\_)



### FOR OFFICE USE ONLY

REC'D CHECK NO. 1865  CASH

POLICE CHIEF SIGN OFF: \_\_\_\_\_

FINANCE OFFICER SIGN OFF: \_\_\_\_\_

EVENT APPROVED BY/DATE: \_\_\_\_\_

CITY APPROVE DEPOSIT RETURN: \_\_\_\_\_

MONEY RET'D TO: \_\_\_\_\_ DATE: \_\_\_\_\_

PERMISSION BY / TO: \_\_\_\_\_  SHRED CHECK

Email: Public Works

Example on Back



## Public Notice

### Public Participation Notice of Proposed Overall Annual Disadvantaged Business Enterprise (DBE) Goal

#### SIOUX CITY TRANSIT SYSTEM

NOTICE IS HEREBY GIVEN, of the Sioux City Transit System's (SCTS) intent to propose an Overall Annual Disadvantage Business Enterprise (DBE) Goal, applicable to contracting opportunities in SCTS's federally-assisted programs funded by the U.S. Department of Transportation (DOT) for the federal fiscal years beginning October 1, 2018 and ending September 30, 2021:

**DBE Goal 0.6%** (six tenths of one percent) of the SCTS operating budget.

SCTS's proposed overall annual goal and its rationale were developed pursuant to U.S. Department of Transportation's New Disadvantaged Business Enterprise Program Final Rule (49 CFR Part 26). A statement regarding this proposed goal and how it was established is available for inspection until July 30, 2018 (30 days from the date of this Notice), from 8:00 a.m. to 4:30 p.m., Central Standard Time, Monday through Friday at our principal place of business located at:

Sioux City Transit System  
509 Nebraska Street  
Sioux City, IA 51101

Written comments regarding the proposed DBE goal calculation process will be accepted until July 30, 2018. Comments can be forwarded to SCTS at the above business address or to Region 7 Federal Transit Administration Office, 901 Locust St., Suite 404, Kansas City, MO 64106, Attention Civil Rights Officer. For further information, write or visit the Sioux City Transit System or telephone the SCTS's Disadvantaged Business Enterprise Program Liaison Officer, Theo McElhose, at (712) 279-6259.

DBE-Public Notice-2018.doc

#### SIOUX CITY TRANSIT

##### ADMINISTRATION OFFICE

509 Nebraska Street  
Sioux City, IA 51101

PH 712-279-6405

FAX 712-279-6407

WEB [www.sioux-city.org](http://www.sioux-city.org)

##### MAINTENANCE GARAGE

2505 Fourth Street  
Sioux City, IA 51101

PH 712-279-6409

##### MARTIN LUTHER KING CENTER

505 Nebraska Street  
Sioux City, IA 51101

For route information call:

PH 712-279-6404



## Disadvantaged Business Enterprise Policy Statement

The Sioux City Transit System (SCTS) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. SCTS receives Federal financial assistance from the Department of Transportation. As a condition of receiving this assistance, SCTS has signed an assurance that it will comply with 49 CFR Part 26.

It is SCTS's policy to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also SCTS policy:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- To ensure the DBE Program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT assisted contracts;
- To assist with the development of firms that can compete successfully in the market place outside the DBE Program.

SCTS's Human Resource Specialist has been delegated as the DBE Liaison Officer. In that capacity, the Human Resource Specialist is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by SCTS in its financial assistance agreements with the Department of Transportation.

SCTS has disseminated this policy statement to the City of Sioux City and to all other divisions of the organization. SCTS has distributed this statement to DBE and non-DBE business associations that perform work for us on DOT-assisted contracts, and to the general public by a variety of methods. These include the posting of this statement on the SCTS website, in city and county offices, with the Association of General Contractors, Chambers of Commerce, and with community based organizations serving the disadvantaged business community.

Mike Collett   
Assistant City Manager

June 29, 2018  
Date

DBE-PolicySmt-2018

**SIoux CITY TRANSIT**  
**ADMINISTRATION OFFICE**  
509 Nebraska Street  
Sioux City, IA 51101  
  
PH 712-279-6405  
FAX 712-279-6407  
WEB www.sioux-city.org

**MAINTENANCE GARAGE**  
2505 Fourth Street  
Sioux City, IA 51101  
  
PH 712-279-6409

**MARTIN LUTHER KING CENTER**  
505 Nebraska Street  
Sioux City, IA 51101  
  
For route information call:  
PH 712-279-6404



**Noticia Pública**

**Aviso de Participación Pública del Proyecto Global**

**Objetivo de Empresa Comercial Desfavorecida Anual (DBE)**

**SISTEMA DE TRÁNSITO DE LA CIUDAD DE SIOUX**

SE PRESENTA AVISO, de la intención del Sistema de Tránsito de Sioux City (SCTS) de proponer una Meta Empresarial de Desventaja Anual Total (DBE), aplicable a oportunidades de contratación en los programas de SCTS financiados por el Departamento de Transporte de los Estados Unidos (DOT) para el años fiscales federales que comienzan el 1 de Octubre del 2018 y terminan el 30 de Septiembre del 2021:

**Objetivo DBE 0.6%** (seis décimas del uno por ciento) del presupuesto operativo de SCTS.

La meta anual general propuesta de SCTS y su fundamento se desarrollaron de conformidad con la nueva regla final del Programa de empresas comerciales desfavorecidas del Departamento de Transporte de los EE. UU. (49 CFR, Parte 26). Una declaración con respecto a este objetivo propuesto y cómo se estableció está disponible para inspección hasta el 30 de Julio del 2018 (30 días a partir de la fecha de este Aviso), de 8:00 a.m. a 4:30 p.m., hora estándar central, de Lunes a Viernes a las nuestro principal lugar de negocios ubicado en:

Sistema de Tránsito de Sioux City

509 Nebraska Street

Sioux City, IA 51101

Se aceptarán comentarios por escrito sobre el proceso de cálculo de objetivos DBE propuesto hasta el 30 de Julio del 2018. Los comentarios pueden enviarse a SCTS a la dirección comercial anterior o a la Oficina de Administración Federal de Tránsito de la Región 7, 901 Locust St., Suite 404, Kansas City, MO 64106, Atención Derechos Civiles de Oficial. Para más información, escriba o visite el Sistema de Tránsito de Sioux City o llame al Oficial de Enlace del Programa de Empresas en Desventaja de SCTS, Theo McElhose, al (712) 279-6259.

DBE-Public Notice-2018.doc

**SIOUX CITY TRANSIT**

**ADMINISTRATION OFFICE**

509 Nebraska Street  
Sioux City, IA 51101

PH 712-279-6405

FAX 712-279-6407

WEB [www.sioux-city.org](http://www.sioux-city.org)

**MAINTENANCE GARAGE**

2505 Fourth Street  
Sioux City, IA 51101

PH 712-279-6409

**MARTIN LUTHER KING CENTER**

505 Nebraska Street  
Sioux City, IA 51101

For route information call:

PH 712-279-6404



## Declaración de Objetivos y Políticas de DBE

Presione Entrar para mostrar todas las opciones, presionar Tabulador ir a la siguiente opción

### Empresa Comercial Desfavorecida Declaración de política

El Sistema de Tránsito de Sioux City (SCTS) ha establecido un programa Empresa en Desventaja (DBE) de acuerdo con las regulaciones del Departamento de Transporte de los EE. UU. (DOT), 49 CFR Parte 26. SCTS recibe asistencia financiera federal del Departamento de Transporte. Como condición para recibir esta asistencia, SCTS ha firmado la garantía de que cumplirá con 49 CFR Parte 26.

Es política de SCTS garantizar que los DBE, tal como se definen en la Parte 26, tengan la misma oportunidad de recibir y participar en los contratos asistidos por el DOT. También es la política de SCTS:

- Para garantizar la no discriminación en la adjudicación y administración de contratos asistidos por DOT;
- Crear un campo de juego nivelado en el que los DBE puedan competir de manera justa por contratos asistidos por DOT;
- Para garantizar que el Programa DBE se ajuste a medida de acuerdo con la legislación aplicable;
- Para garantizar que solo las empresas que cumplan completamente con los estándares de elegibilidad de 49 CFR Parte 26 puedan participar como DBE;
- Para ayudar a eliminar las barreras a la participación de DBE en contratos asistidos por DOT;
- Para ayudar con el desarrollo de empresas que pueden competir con éxito en el mercado fuera del Programa DBE.

El especialista en Recursos Humanos de SCTS ha sido delegado como el oficial de enlace DBE. En esa capacidad, el especialista en recursos humanos es responsable de implementar todos los aspectos del programa DBE. La implementación del programa DBE recibe la misma prioridad que el cumplimiento de todas las demás obligaciones legales contraídas por SCTS en sus acuerdos de asistencia financiera con el Departamento de Transporte.

SCTS ha diseminado esta declaración de política a la ciudad de Sioux City y a todas las otras divisiones de la organización. SCTS ha distribuido esta declaración a las asociaciones comerciales DBE y no DBE que realizan trabajos para nosotros en contratos asistidos por DOT, y al público en general por una variedad de métodos. Estos incluyen la publicación de esta declaración en el sitio web de SCTS, en las oficinas de la ciudad y el condado, con la Asociación de Contratistas Generales, Cámaras de Comercio, y con organizaciones comunitarias que prestan servicios a la comunidad empresarial desfavorecida.

Mike Collett,  
Asistente del Administrador Municipal Fecha

29 de Junio del 2018

DBE-PolicyStmt-2018

#### SIoux CITY TRANSIT

ADMINISTRATION OFFICE  
509 Nebraska Street  
Sioux City, IA 51101

PH 712-279-6405  
FAX 712-279-6407  
WEB [www.sioux-city.org](http://www.sioux-city.org)

MAINTENANCE GARAGE  
2505 Fourth Street  
Sioux City, IA 51101

PH 712-279-6409

MARTIN LUTHER KING CENTER  
505 Nebraska Street  
Sioux City, IA 51101

For route information call:  
PH 712-279-6404

May 24, 2018

Parks & Rec Board minutes.

Attendance were Adam Frisch, Brian Damon, Tim Jacobs and Vikki Jacobs

Tim Jacobs mentioned that Ted Cherry had not contacted him on alternate locations for the Splash Pad and the additional costs that may be involved. Until then, we are still moving forward fund raising for the Ferrari Park location.

We still need to place the new equipment. The new 5 pieces need to be bided out for cost to install. It was agreed that a movable piece be placed by the water plant. The rest of the new equipment could be installed on West Shore. We will have to contact Tim Hogan regarding what land the city owns there. Tim will take measurements and put white flags by equipment for the filler of the existing equipment.

We need to clarify that at least 2 years ago, the Parks Board closed the Lakeshore park. There is some confusion with the city council, thinking it is still a park. There are issues with swimmers at the boat ramp and Adam will go look at that to see if a trail could go down the water for people to fish.

The city maintenance department needs to remove the dead trees on River Drive. They have become an eyesore.

Brian met with Dakota Valley Business Council and distributed the Splash Pad packages. He is also researching a grant from the Gilcrest Foundation. Brian said Blankenship may send a check for undisclosed amount.

For those of you that have not attending the last 3 meetings, please let us know if you still want to be on the Park and Rec Board. The majority is changing the time of the meetings to 3:30. The next meeting will be on June 28 at Adams home. His address is 343 Lakeshore Drive.

Vikki Jacobs