

**TENTATIVE AGENDA**  
**SCOTT COUNTY BOARD OF SUPERVISORS**  
**November 4 - 8, 2013**

**Tuesday, November 5, 2013**

**Committee of the Whole - 8:00 am**  
**Board Room, 1st Floor, Administrative Center**

- \_\_\_ 1. Roll Call: Hancock, Minard, Sunderbruch, Cusack, Earnhardt

**Facilities & Economic Development**

- \_\_\_ 2. Approval of the Final Plat of Venwoods Estates Third Addition, a Minor Subdivision being the replat of Lots 25, 26, 27, 28, 1) and Outlot B of Venwoods Estates, located in part of the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 6 and Part of the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 7, Pleasant Valley Township. (Item 2)
- \_\_\_ 3. Approval of the Final Plat of Century Comtower Addition, a Minor Subdivision of part of the N $\frac{1}{2}$  N $\frac{1}{2}$  of Section 1, Buffalo Township (Item 3)
- \_\_\_ 4. Approval of property tax abatement on previously held County Tax Deeds. (Item 4)
- \_\_\_ 5. Discussion of City of LeClaire's proposed Urban Renewal Plan Amendment to allow use of Tax Increment Financing of City sewer and street improvement projects. (Item 5)
- \_\_\_ 6. Approval of a contract with Bracke, Hayes, Miller and Mahon Architects for the 503 Scott Street project in the amount not to exceed \$18,000. (Item 6)
- \_\_\_ 7. Approval of a contract with Wold Architects for courthouse design services in the amount of \$116,625.00. (Item 7)

**Human Resources**

- \_\_\_ 8. Approval of personnel actions. (Item 8)

**Finance & Intergovernmental**

- \_\_\_ 9. Approval of a contract with Baker Tilly Virchow Krause LLP, for accounting and business practices of the Eastern Iowa MH/DS Regional service system in an amount not to exceed \$45,000 AND a technical assistance grant contract with Iowa Department of Human Services not to exceed \$50,000. (Item 9)
- \_\_\_ 10. Approval of beer/liquor license renewals for Pleasant Valley Amoco and Lady Di's Parkview Inn.

## **Other Items of Interest**

\_\_\_ 11. Other items of interest.

## **Thursday, November 7, 2013**

**Regular Board Meeting - 5:00 pm  
Board Room, 1st Floor, Administrative Center**

**PLANNING & DEVELOPMENT**

500 West Fourth Street  
Davenport, Iowa 52801-1106  
E-mail: [planning@scottcountyiaowa.com](mailto:planning@scottcountyiaowa.com)  
Office: (563) 326-8643 Fax: (563) 326-8257



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Timothy Huey  
Director

To: Dee F Bruemmer, County Administrator

From: Timothy Huey, Planning Director

Date: October 29, 2013

**Re: A request by Bankland LLC to approve the Final Plat of VenWoods Estates 3<sup>rd</sup> Addition, a proposed one (3) lot subdivision, being a replat of Lots 25, 26, 27, 28, and Outlot B of Venwoods Estates, located in part of the SW<sup>1</sup>/<sub>4</sub> SE<sup>1</sup>/<sub>4</sub> of Section 6 and Part of the NW<sup>1</sup>/<sub>4</sub> NE<sup>1</sup>/<sub>4</sub> of Section 7, Pleasant Valley Township located south of Wells Ferry Road and at the end of 247<sup>th</sup> Avenue.**

The Planning Commission unanimously recommended approval of the Final Plat in accordance with staff recommendations. This plat will combine four lots and the open space outlot located at the end of 247<sup>th</sup> Avenue into two lots for residential development and also relocate the pedestrian access easement to the common open space outlot located to the south of these properties.

One of the neighboring property owners was in attendance with questions on how this replat would affect access to his property and the existing drainage easement on the property. He was told that this replat would not change the existing access to his property and the existing drainage easement would also remain unchanged.

The Planning Commission determined that approval of this Final Plat would result in a decrease in two development lots in this subdivision and that access to the open space would be retained in an alternate location.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission recommends approval of the Final Plat of VenWoods Estates 3<sup>rd</sup> Addition.



PLANNING & ZONING COMMISSION  
STAFF REPORT  
September 3, 2013



- Applicant:** Bankland, LLC
- Request:** Sketch Plan/Final Plat review and approval of a Minor Subdivision Plat
- Legal Description:** Lots 25, 26, 27, 28, and Outlot B of Venwoods Estates, located in part of the SW $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 6 and Part of the NW $\frac{1}{4}$  NE $\frac{1}{4}$  of Section 7, Pleasant Valley Township
- General Location:** Venwoods Estates First Addition: 19100 block of 247<sup>th</sup> Avenue south of Wells Ferry Road
- Existing Zoning:** Single-Family Residential (R-1)
- Surrounding Zoning:**
- North:** Single-Family Residential (R-1)
  - South:** Single-Family Residential (R-1)
  - East:** Single-Family Residential (R-1)
  - West:** Single-Family Residential (R-1)

**GENERAL COMMENTS:** This is a proposed replat of Lots 25, 26, 27, 28, and Outlot B in Venwoods Estates First Addition. Lot 28 and Part of Lot 27 are being replatted to form a new Lot 1 totaling approximately 0.84 acres, and Lots 25, 26, and part of Lot 27 are being replatted to form a new Lot 2 totaling approximately 2.93 acres, all part of Venwoods Estates Third Addition. The access to Outlot B is being relocated between the new Lots 1 and 2, and its size slightly reduced from 2.15 acres to approximately 2.13 acres.

**STAFF REVIEW:** Staff has reviewed the Sketch Plan and Final Plat for compliance with the requirements of *Chapter 9: Subdivision Ordinance* and *Chapter 6: Zoning Ordinance* of Scott County Code. The subdivision regulations allow a plat to be reviewed as a Minor Plat if it creates less than five (5) lots and does not involve the extension of any new streets or public services. This plat creates two (2) new lots as part of a Third Addition, but reduces the overall number of lots in Venwoods Estates. Lots 1 and 2 meet the R-1 zoning district minimum required lot size of 30,000 ft<sup>2</sup> or 0.69 acres. Both lots also meet the required minimum lot frontage of 20 feet, and the required minimum lot width of 100 feet. Both lots retain a development right for a single-family dwelling unit. Outlot B will remain dedicated for recreational open space, storm water detention, and future sanitary sewer easements, in accordance with its original designation during final platting of Venwoods Estates First Addition in 2006.



PLANNING & ZONING COMMISSION  
STAFF REPORT  
September 3, 2013



Both the Scott County Health Department and the Scott County Engineer were notified of this request for review and comment. Neither Department had any comments or concerns.

This property lies within the two-mile extraterritorial review authority of the City of Bettendorf. Therefore, the City of Bettendorf will also need to review and approve the Final Plat prior to final approval by the Board of Supervisors.

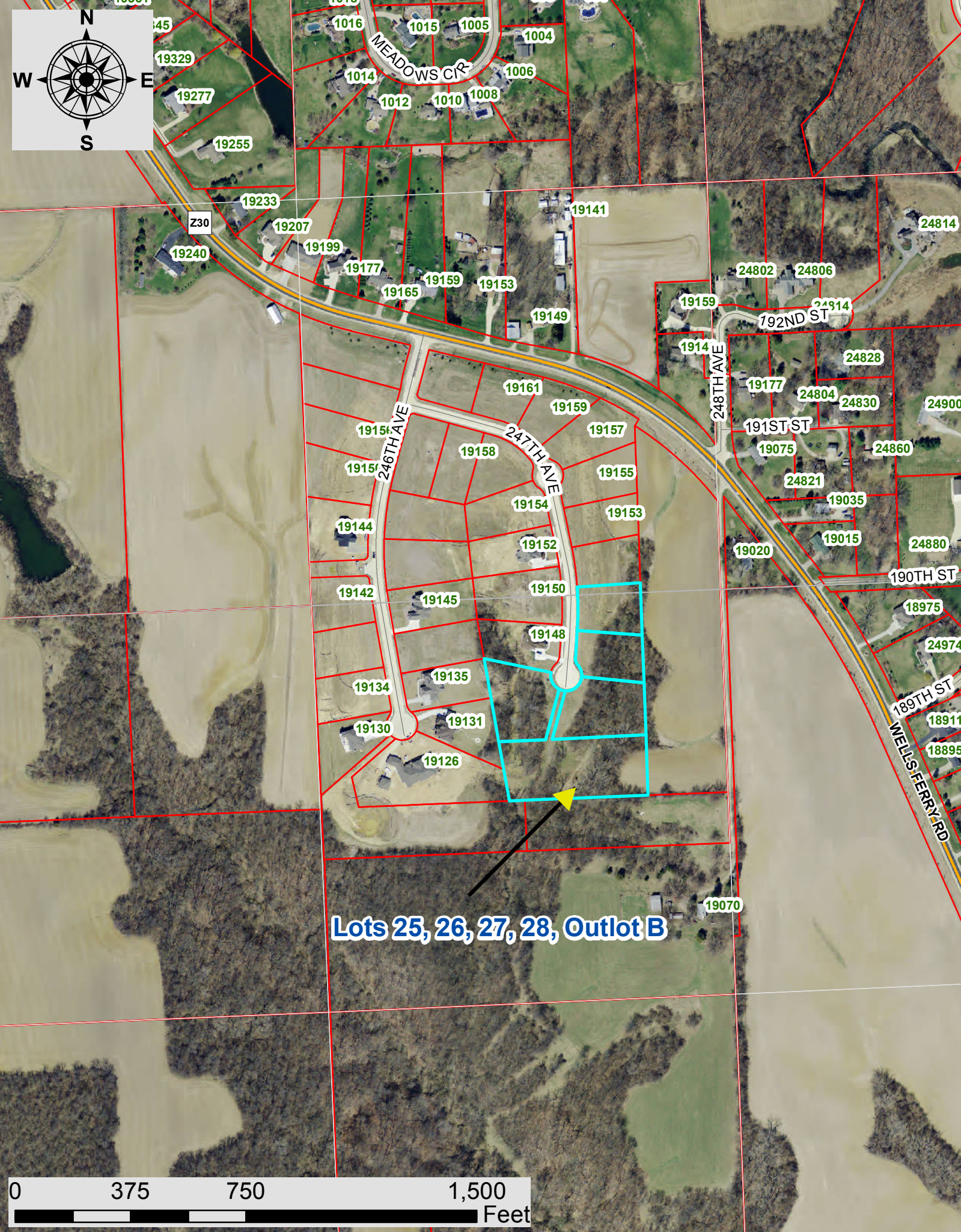
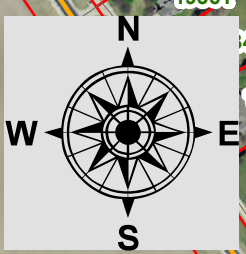
Staff has mailed notification of this request to surrounding property owners within 500 feet of the property. Staff has not received any comments at this point in time.

**RECOMMENDATION:** Staff recommends approval of this combination Sketch Plan and Final Plat request with the following condition:

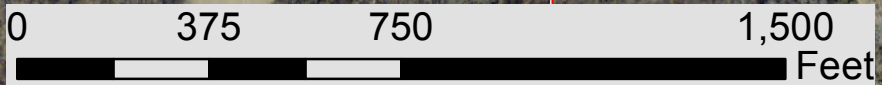
1. The City of Bettendorf review and approve the Final Plat prior to Final Plat approval by the Board of Supervisors.

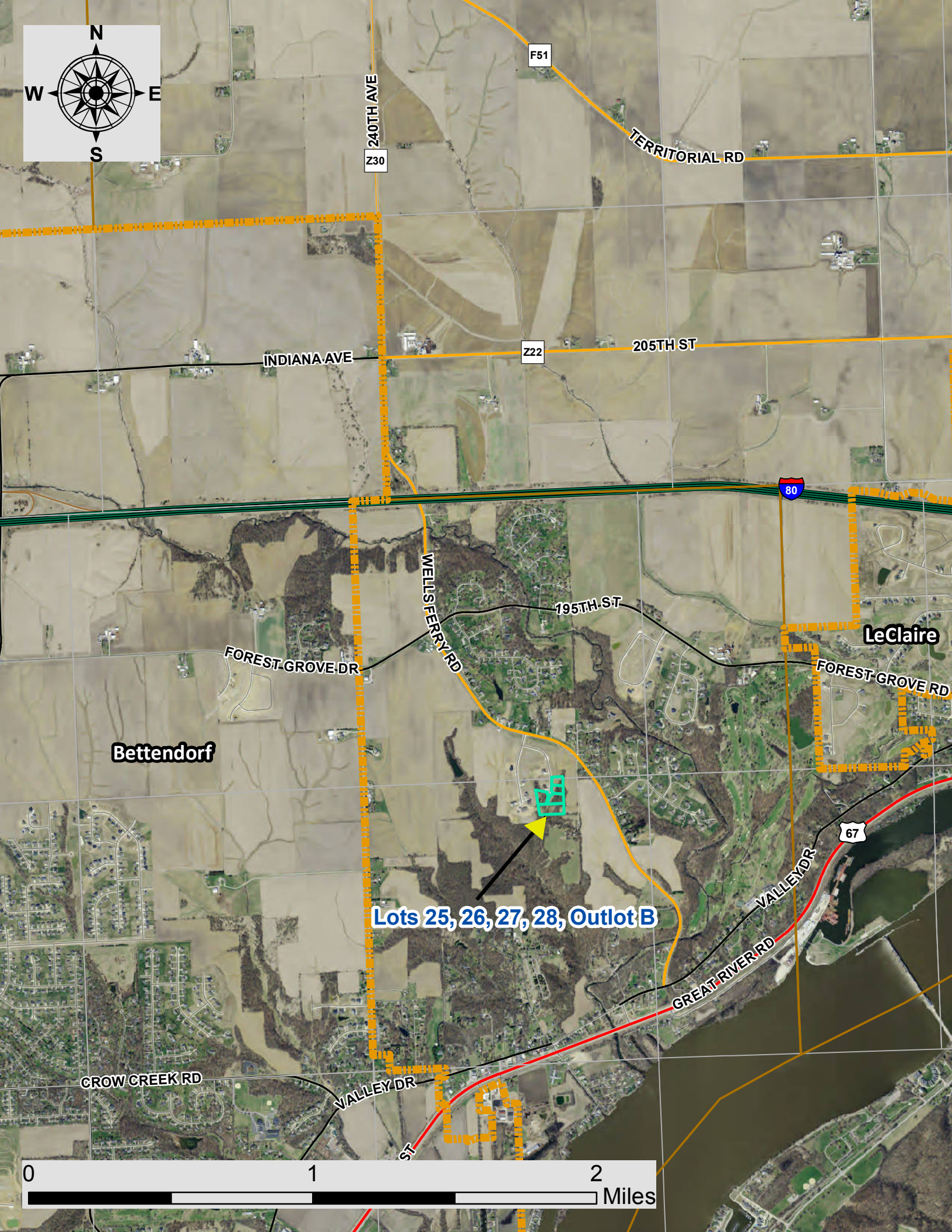
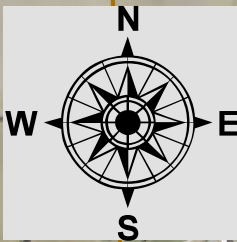
Submitted by:

Brian McDonough  
Planning & Development Specialist  
August 26, 2013



**Lots 25, 26, 27, 28, Outlot B**





F51

240TH AVE  
Z30

TERRITORIAL RD

INDIANA AVE

Z22

205TH ST

80

WELLS FERRY RD

195TH ST

LeClaire

FOREST GROVE DR

FOREST GROVE RD

Bettendorf

**Lots 25, 26, 27, 28, Outlot B**

67

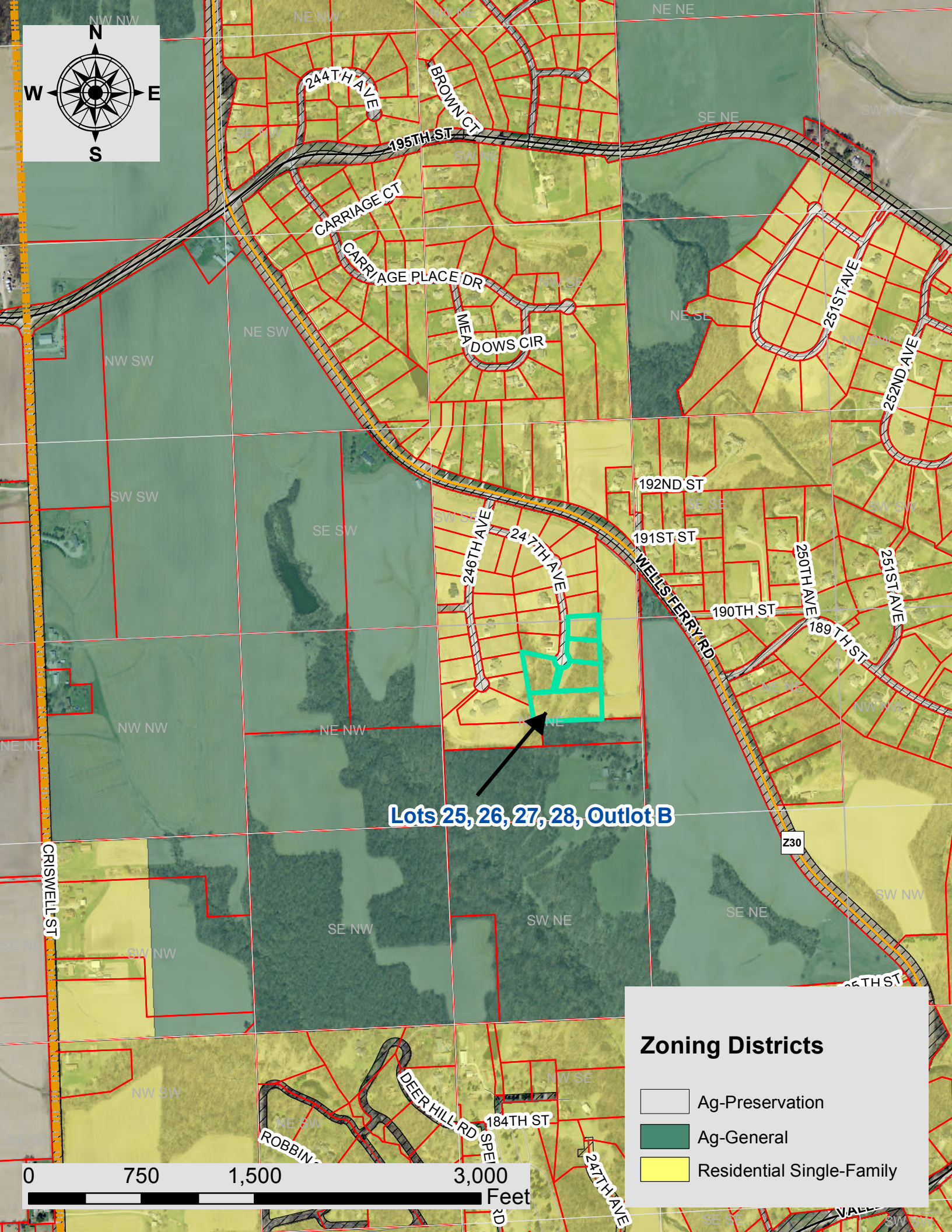
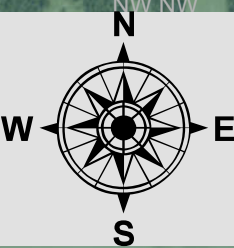
VALLEY DR

GREAT RIVER RD

CROW CREEK RD

VALLEY DR





**Lots 25, 26, 27, 28, Outlot B**

### Zoning Districts

- Ag-Preservation
- Ag-General
- Residential Single-Family





**CERTIFICATE OF APPROVAL BY SCOTT COUNTY**

I, Larry Minard, Chairman of the Scott County Board of Supervisors, do hereby certify that said Board adopted a Resolution on November 7, 2013 in which it approved the Final Plat of **Venwoods Estates Third Addition** as follows:

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

**Section 1.** As the local governing body responsible for the approval of subdivision plats within its rural jurisdiction, the Scott County Board of Supervisors has, on this 7th day of November, 2013, considered the final plat of **Venwoods Estates Third Addition**. Said plat is a subdivision in part of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 6, and part of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 7 in Township 78 North, Range 5 East of the 5th Principal Meridian (Pleasant Valley Township), Scott County, Iowa. The Scott County Board of Supervisors, having found said plat to be in substantial compliance with the provisions of Chapter 354, Code of Iowa and the Scott County Subdivision Ordinance, does hereby approve the final plat of **Venwoods Estates Third Addition**.

**Section 2.** The Board Chairman is authorized to sign the Certificate of Approval on behalf of the Board of Supervisors and the County Auditor to attest to his signature.

**Section 3.** This Resolution shall take effect immediately.

Signed this 7<sup>th</sup> day of November, 2013

SCOTT COUNTY, IOWA

BY: \_\_\_\_\_  
Larry Minard, Chairman

ATTESTED BY: \_\_\_\_\_  
Roxanna Moritz, Auditor

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES THAT  
THIS RESOLUTION HAS BEEN FORMALLY APPROVED BY  
THE BOARD OF SUPERVISORS ON \_\_\_\_\_  
DATE

\_\_\_\_\_  
SCOTT COUNTY AUDITOR

**R E S O L U T I O N**  
**SCOTT COUNTY BOARD OF SUPERVISORS**  
**November 7, 2013**

**APPROVING FINAL PLAT OF VENWOODS ESTATES THIRD ADDITION**

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

**Section 1.** As the local governing body responsible for the approval of subdivision plats within its rural jurisdiction, the Scott County Board of Supervisors has, on this 7th day of November 2013, considered the final plat known as **Venwoods Estates Third Addition**. Said plat is a subdivision in part of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 6, and part of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 7 in Township 78 North, Range 5 East of the 5th Principal Meridian (Pleasant Valley Township), Scott County, Iowa. The Scott County Board of Supervisors, having found said plat to be in substantial compliance with the provisions of Chapter 354, Code of Iowa and the Scott County Subdivision Ordinance, does hereby approve the final plat of **Venwoods Estates Third Addition**.

**Section 2.** The Board Chairman is authorized to sign the Certificate of Approval on behalf of the Board of Supervisors and the County Auditor to attest to his signature.

**Section 3.** This Resolution shall take effect immediately.

**PLANNING & DEVELOPMENT**

500 West Fourth Street  
Davenport, Iowa 52801-1106  
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Office: (563) 326-8643 Fax: (563) 326-8257



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Timothy Huey  
Director

To: Dee F Bruemmer, County Administrator

From: Timothy Huey, Planning Director

Date: October 29, 2013

**Re: A request by Century Comtowers, LLC for approval of the Final Plat of Century Comtower Addition, a proposed one (2) lot subdivision located at 11854 134<sup>th</sup> Street in part of the N<sup>1</sup>/<sub>2</sub> N<sup>1</sup>/<sub>2</sub> of Section 1, Buffalo Township**

The Planning Commission unanimously recommended approval of the Final Plat in accordance with staff recommendations. This application proposes subdividing an approximately 27.5 acre tract into a 0.70 acre lot and a 26.8 acre lot. The new 0.70 acre lot would encompass an existing cell tower site, including the tower base and equipment cabinet. The remaining balance of land, approximately 26.8 acres, constitutes the second lot of this minor subdivision. The sketch plan for this plat was reviewed by the Planning Commission at the September 3, 2013 meeting and recommended for approval as submitted.

Only the applicant was in attendance at the Planning Commission's review of the Final Plat. The City of Davenport waived its review of this minor subdivision.

**PLANNING COMMISSION RECOMMENDATION:** The Planning Commission recommends approval of the Final Plat of Century Comtower Addition.



PLANNING & ZONING COMMISSION  
STAFF REPORT  
October 1, 2013



**Applicant:** Century Comtowers, LLC  
**Request:** Final Plat approval of a Minor Subdivision Plat  
**Legal Description:** Part of the N½ N½ of Section 1, Buffalo Township  
**General Location:** 11854 134<sup>th</sup> Street  
**Existing Zoning:** Agricultural-General (A-G)

**Surrounding Zoning:**

**North:** Agricultural-General (A-G)  
**South:** Single-Family Residential (R-1)  
**East:** Single-Family Residential (R-1)  
**West:** Agricultural-General (A-G)

**GENERAL COMMENTS:** This application proposes subdividing an approximately 27.5 acre tract into a 0.70 acre lot and a 26.8 acre lot. The new 0.70 acre lot would encompass an existing cell tower site, including the tower base and equipment cabinet. The remaining balance of land, approximately 26.8 acres, constitutes the second lot of this minor subdivision. The sketch plan for this plat was reviewed by the Planning Commission at the September 3, 2013 meeting and recommended for approval as submitted.

**STAFF REVIEW:** Staff has reviewed the Sketch Plan for compliance with the requirements of *Chapter 9: Subdivision Ordinance* and *Chapter 6: Zoning Ordinance* of Scott County Code. The subdivision regulations allow a plat to be reviewed as a Minor Plat if it creates less than five (5) lots and does not involve the extension of any new streets or public services. This plat complies with those requirements, since both new lots will retain frontage and access to 134<sup>th</sup> Street, which connects to S. Utah Avenue. Following the review and recommendation on the Final Plat by the Planning Commission, the Final Plat can be forwarded to the Board of Supervisors for approval.

The property is zoned A-G and therefore a development right does not exist for a single-family home on either lot. The guy wire supports are not entirely included along with the tower base and equipment cabinet on Lot 2. However, easements are planned for the sections of each guy wire which reside on Lot 1.

Both lots 1 and 2 meet the A-G zoning district minimum lot size requirement of 30,000 ft<sup>2</sup>. Both lots also conform to the minimum lot frontage requirement of 20 feet. Lot 1, containing the tower site, is shown platted with a 20 foot wide access easement connecting the lot to S. Utah Avenue. Lot 2 contains an approximately 900 foot flagpole



PLANNING & ZONING COMMISSION  
STAFF REPORT  
October 1, 2013



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portion, known as 134<sup>th</sup> Street, which extends from the beginning of the lot's width to S. Utah Avenue. The flagpole is a legally described portion of Lot 2, but also provides access to adjoining properties, via separately recorded easements. This proposed subdivision will not affect these existing easements. It does add an additional 20 foot wide easement for Lot 2 for the purposes of accessing the cell tower site. However, traffic on 134<sup>th</sup> Street should not be increased as this section of road was previously used to access the same cell tower site.

Both the Scott County Health Department and the Scott County Engineer were notified of this request for review and comment. Neither Department had any comments or concerns.

This property lies within the two-mile extraterritorial review authority of the City of Davenport. Therefore, the City of Davenport will also need to review and approve the Final Plat prior to final approval by the Board of Supervisors.

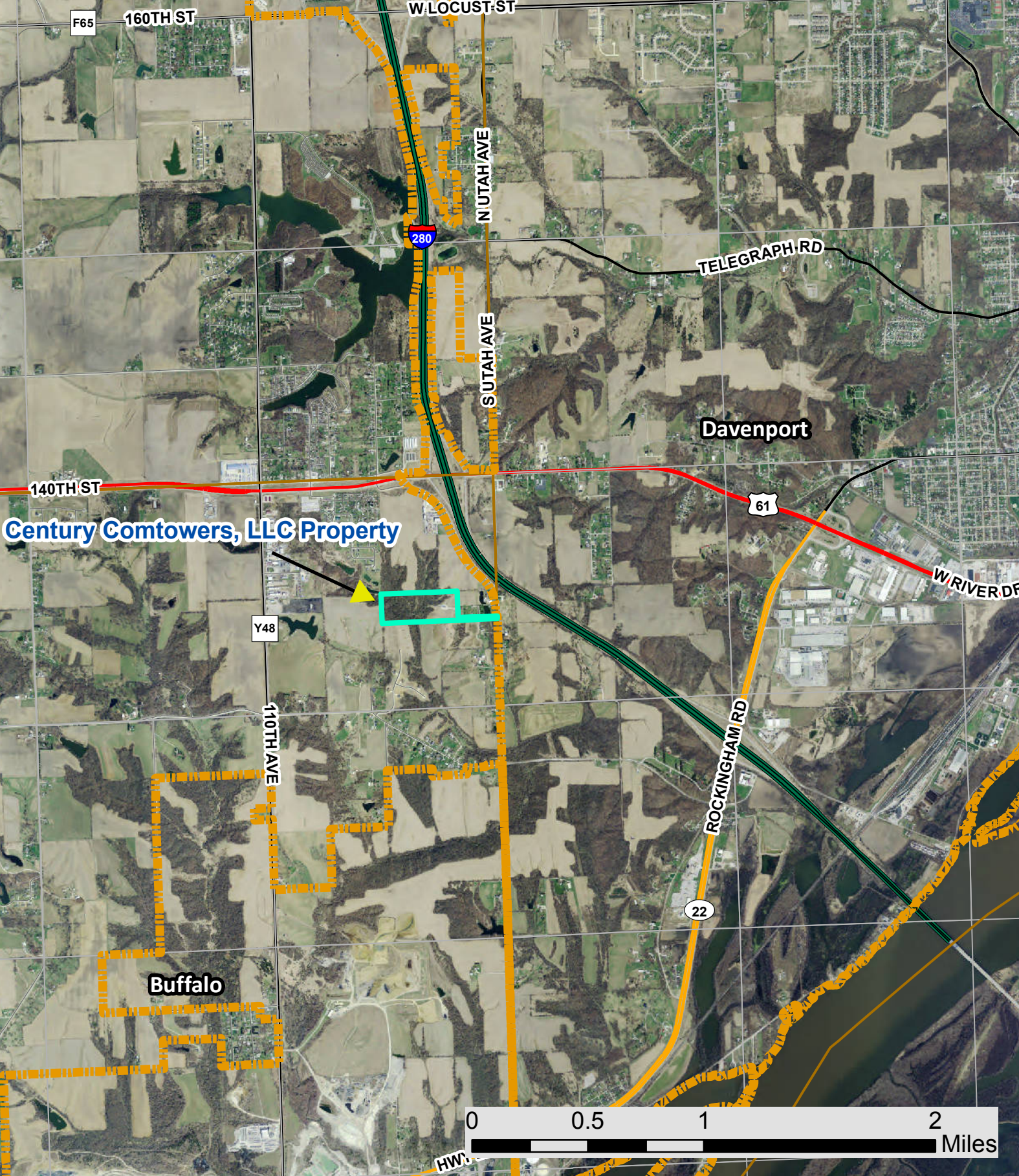
Staff mailed notification of this request to surrounding property owners within 500 feet of the property prior to the sketch plan review. Staff has received a few phone calls and walk-in questions about this request. No comments have been received either in support of, or in opposition to, this request at this time.

**RECOMMENDATION:** Staff recommends approval of this Final Plat request with the following condition:

1. The City of Davenport approves the Final Plat prior to approval by the Board of Supervisors.

Submitted by:

Timothy Huey  
Planning & Development Director  
September 25, 2013



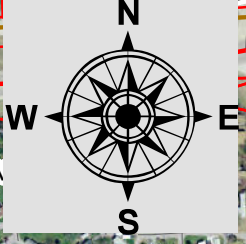
**Century Comtowers, LLC Property**

Y48

**Buffalo**

**Davenport**



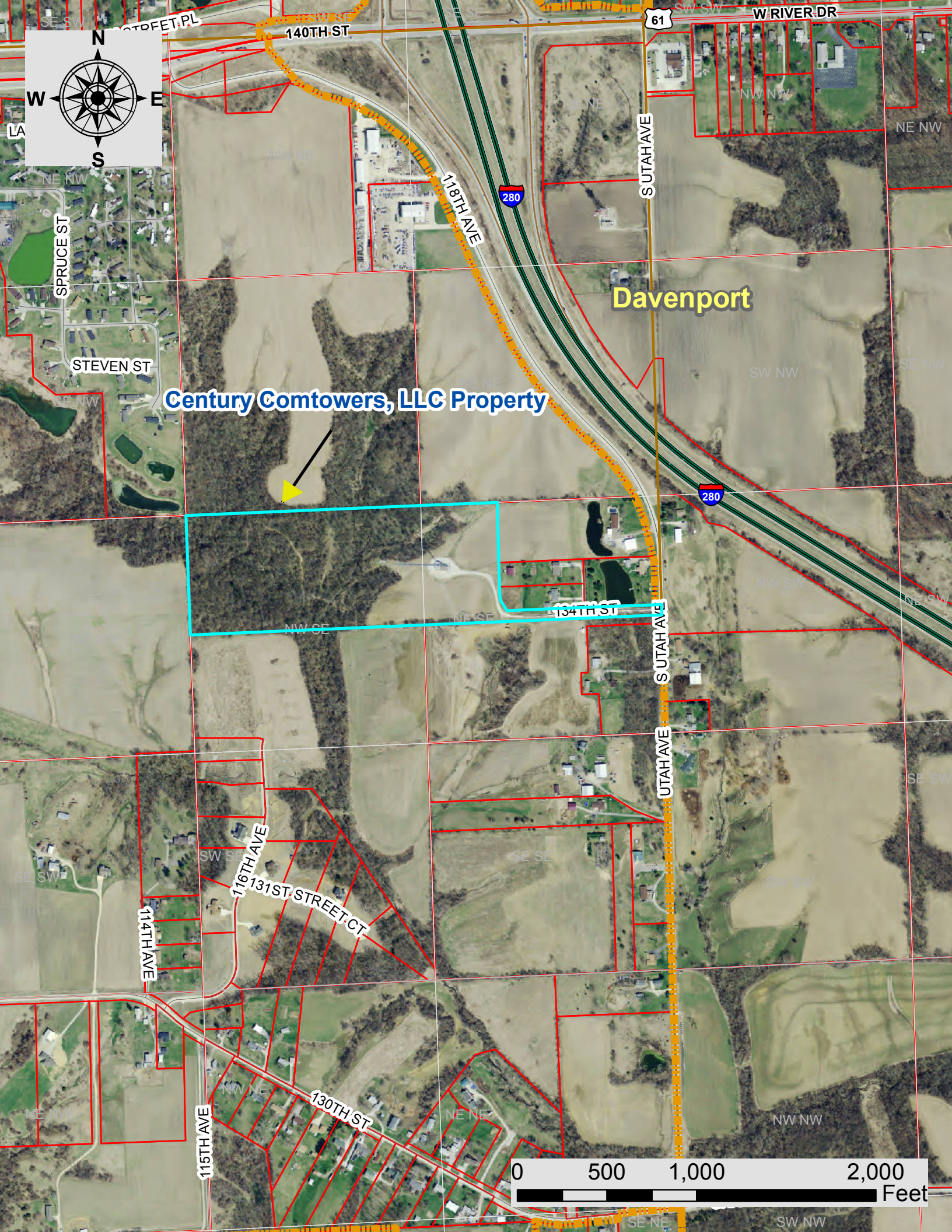
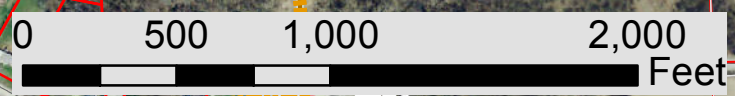


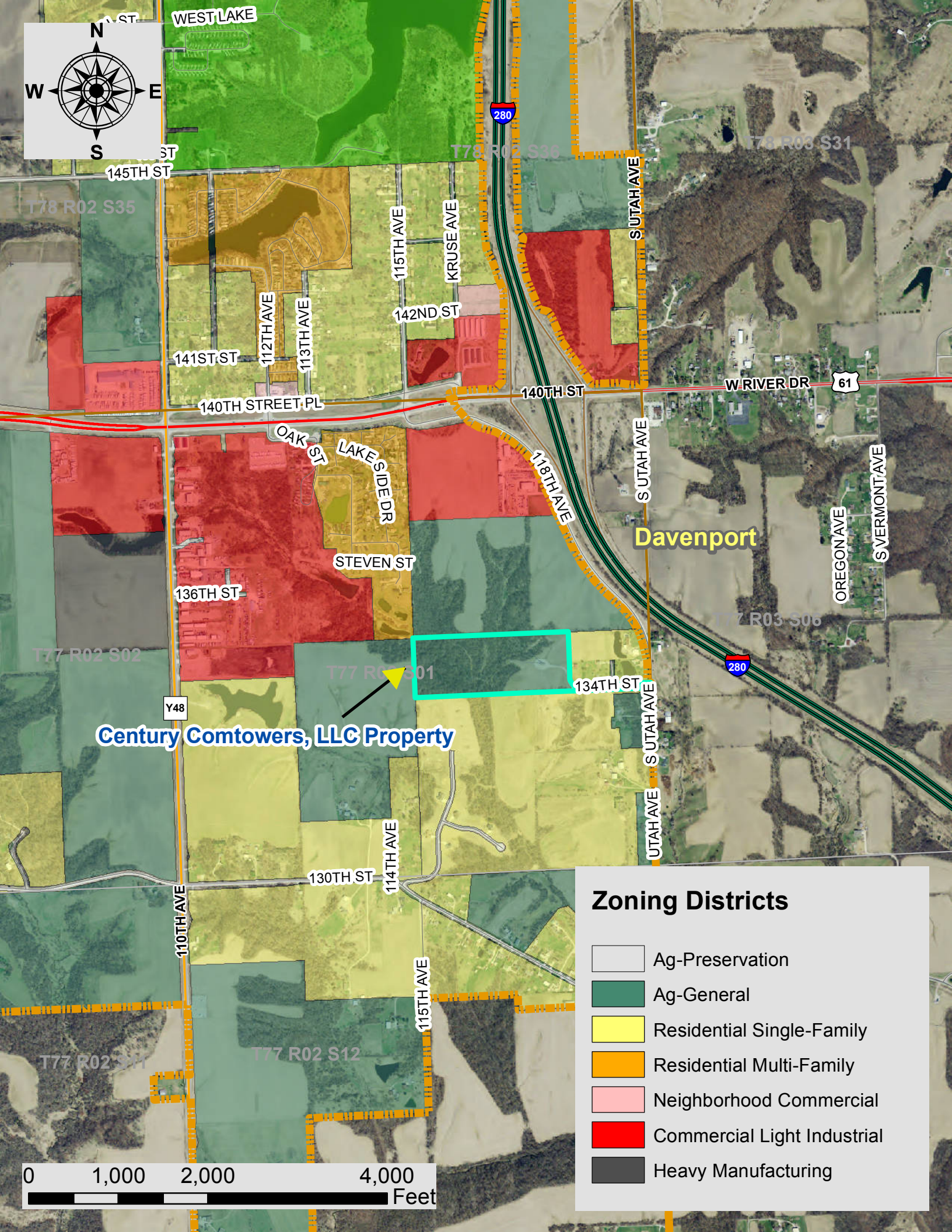
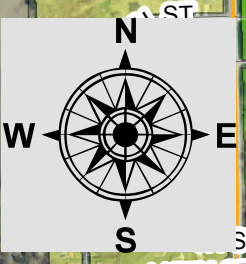
**Century Comtowers, LLC Property**

**Davenport**

280








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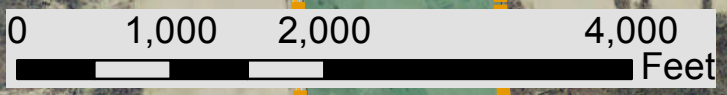




**Century Comtowers, LLC Property**

### Zoning Districts

-  Ag-Preservation
-  Ag-General
-  Residential Single-Family
-  Residential Multi-Family
-  Neighborhood Commercial
-  Commercial Light Industrial
-  Heavy Manufacturing





**CERTIFICATE OF APPROVAL BY SCOTT COUNTY**

I, Larry Minard, Chairman of the Scott County Board of Supervisors, do hereby certify that said Board adopted a Resolution on November 7, 2013 in which it approved the Final Plat of **Century Comtower Subdivision** as follows:

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

**Section 1.** As the local governing body responsible for the approval of subdivision plats within its rural jurisdiction, the Scott County Board of Supervisors has, on this 7th day of November, 2013, considered the final plat of **Century Comtower Subdivision**. Said plat is a subdivision in part of the N½ of the N½ of Section 1 in Township 77 North, Range 2 East of the 5th Principal Meridian (Buffalo Township), Scott County, Iowa. The Scott County Board of Supervisors, having found said plat to be in substantial compliance with the provisions of Chapter 354, Code of Iowa and the Scott County Subdivision Ordinance, does hereby approve the final plat of **Century Comtower Subdivision**.

**Section 2.** The Board Chairman is authorized to sign the Certificate of Approval on behalf of the Board of Supervisors and the County Auditor to attest to his signature.

**Section 3.** This Resolution shall take effect immediately.

Signed this 7<sup>th</sup> day of November, 2013

SCOTT COUNTY, IOWA

BY: \_\_\_\_\_  
Larry Minard, Chairman

ATTESTED BY: \_\_\_\_\_  
Roxanna Moritz, Auditor

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES THAT  
THIS RESOLUTION HAS BEEN FORMALLY APPROVED BY  
THE BOARD OF SUPERVISORS ON \_\_\_\_\_  
DATE

\_\_\_\_\_  
SCOTT COUNTY AUDITOR

**R E S O L U T I O N**  
**SCOTT COUNTY BOARD OF SUPERVISORS**  
**November 7, 2013**

**APPROVING FINAL PLAT OF CENTURY COMTOWER SUBDIVISION**

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

**Section 1.** As the local governing body responsible for the approval of subdivision plats within its rural jurisdiction, the Scott County Board of Supervisors has, on this 7th day of November 2013, considered the final plat known as **Century Comtower Subdivision**. Said plat is a subdivision in part of the N½ of the N½ of Section 1 in Township 77 North, Range 2 East of the 5th Principal Meridian (Buffalo Township), Scott County, Iowa. The Scott County Board of Supervisors, having found said plat to be in substantial compliance with the provisions of Chapter 354, Code of Iowa and the Scott County Subdivision Ordinance, does hereby approve the final plat of **Century Comtower Subdivision**.

**Section 2.** The Board Chairman is authorized to sign the Certificate of Approval on behalf of the Board of Supervisors and the County Auditor to attest to his signature.

**Section 3.** This Resolution shall take effect immediately.

**PLANNING & DEVELOPMENT**

500 West Fourth Street

Davenport, Iowa 52801-1106

Office: (563) 326-8643 Fax: (563) 326-8257

Email: [planning@scottcountyiowa.com](mailto:planning@scottcountyiowa.com)



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Timothy Huey  
Director

To: Dee Bruemmer

From: Brian McDonough, Planning & Development Specialist

Date: October 28, 2013

**Re: Abatement of property taxes on previously held County Tax Deeds**

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The attached list, *Exhibit A*, are properties which the County sold at its annual public tax deed auction on July 16<sup>th</sup>, 2013, and upon which current year 2012 property taxes are owed. Iowa Code Section 445.63 states that when taxes are owed against a parcel owned by a political subdivision the Board of Supervisors shall abate such taxes.

In accordance with Iowa Code Section 445.63 it is County's policy to abate delinquent taxes and special assessments on all tax deed property prior to such properties being offered at the annual auction. This assures that potential buyers are not liable for past costs associated with these properties. In certain years, it is also necessary to abate current year taxes on tax deed properties which were recently sold at the annual auction. Taxes are certified in either July or August for the previous year, with tax bills going out shortly after certification. When the tax deed auction is held close to the certification date, as was the case with the 2013 sale, some properties appear in the new owners name at the time taxes are certified. For this reason it is necessary to abate these current year taxes on such properties. Similar to abating the previous year taxes and special assessments, abating current year taxes ensures that new owners will not be liable for taxes which accrued while the County was in possession of the property.

**EXHIBIT A:**

<b><u>Parcel ID #</u></b>	<b><u>Amount to be Abated</u></b>
E0001-12	\$28.00
F0033-16	\$340.00
F0033-25	\$1,244.00
F0045-14	\$36.00
F0045-15	\$28.00
F0050-24	\$38.00
G0023-05	\$46.00
G0028-28	\$44.00
G0035-23	\$664.00
G0036-14	\$468.00
G0046-19	\$24.00
G0064-27B	\$8.00
H0006-17	\$118.00
J0048-03	\$206.00
K0006-32	\$26.00
K0011-20	\$1,704.00
K0019-22	\$80.00
L0014-24	\$352.00
O1653A09C	\$64.00
X0235D18	\$132.00

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES THAT  
THIS RESOLUTION HAS BEEN FORMALLY APPROVED BY  
THE BOARD OF SUPERVISORS ON \_\_\_\_\_  
DATE

\_\_\_\_\_  
SCOTT COUNTY AUDITOR

**RESOLUTION**  
**SCOTT COUNTY BOARD OF SUPERVISORS**

**November 7, 2013**

**APPROVING THE ABATEMENT OF PROPERTY TAXES FOR TAX DEED  
PROPERTIES PREVIOUSLY OWNED BY SCOTT COUNTY IN ACCORDANCE  
WITH IOWA CODE SECTION 445.63**

BE IT RESOLVED by the Scott County Board of Supervisors as follows:

**Section 1.** Iowa Code Section 445.63 states that when taxes are owing against a parcel owned or claimed by the state or a political subdivision of this state and the taxes were owing before the parcel was acquired by the state or a political subdivision of this state, the county treasurer shall give notice to the appropriate governing body which shall pay the amount of the taxes due. If the governing body fails to immediately pay the taxes due, the board of supervisors shall abate all of the taxes.

**Section 2.** The abatement of property taxes for property previously owned by Scott County and transferred via a publicly held tax deed sale, as shown in Exhibit A, in accordance with Iowa Code Section 445.63 is hereby approved.

**Section 3.** This resolution shall take effect immediately.

**PLANNING & DEVELOPMENT**

500 West Fourth Street  
Davenport, Iowa 52801-1106  
E-mail: [planning@scottcountyiowa.com](mailto:planning@scottcountyiowa.com)  
Office: (563) 326-8643 Fax: (563) 326-8257



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Timothy Huey  
Director

To: Dee F Bruemmer, County Administrator

From: Timothy Huey, Planning Director

Date: October 29, 2013

**Re: City of LeClaire's proposed Amendment to TIF District #1**

The City of LeClaire has notified Scott County of the proposed amendment to the City's Urban Renewal Area #1 to use TIF income for three capital projects. Attached is the information the City provided Scott County and my memo to the Scott County TIF Review Committee. We are in the process of reviewing this proposal and have prepared a draft of a list of questions we are prepared to present to the City at the Opportunity to Consult meeting scheduled at LeClaire City Hall next Monday morning at 9 AM.

I plan to attend that meeting and will report on it to you and the Board at the Committee of the Whole next Tuesday morning. The County has seven days from the date of the Opportunity to Consult meeting to submit our recommendations to the City which then will hold a Public hearing on the proposal on November 18.

I have also attached some of the recent letters of recommendation the County has sent in response to other recent amendments to LeClaire's TIF plans.

**PLANNING & DEVELOPMENT**

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Office: (563) 326-8643 Fax: (563) 326-8257



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Timothy Huey  
Director

To: Scott County TIF Review Committee  
Craig Hufford, Treasurer's Office  
Wes Rostenbach, Auditor's Office

From: Timothy Huey, Planning & Development

Date: October 28, 2013

Re: City of LeClaire's proposed Amendment to TIF District #1.

The City of LeClaire has notified Scott County of the proposed amendment to the City's URA #1 to use TIF income for three capital projects.

The first is the City's upgrade to its sewer system including a new lift station, new gravity fed sewer mains and new force main sewers. The City states these improvements are necessary for the existing businesses and to promote new commercial and industrial development. The notice states that the City's use of TIF revenues will not exceed \$3M.

The second project listed is a sidewalk and curb replacement along Cody Road for an amount not to exceed \$250K and the third is an 8<sup>th</sup> Street rehabilitation project for an amount not to exceed \$300K. No map of these projects or the current URA #1 was included with the notice.

In previous years, before the City was required to notify the affected taxing entities, the City put in place a number of TIF plans to rebate the cost of subdivision infrastructure improvements to private developers. The City has also used TIF proceeds to fund portions of its new City Hall and remodeling of its Public Library.

Current requirements of the State law require the County and other affected taxing entities to be notified when areas are amended or expanded.

I have attached the information received from the City with this notice. I have also attached a draft of the questions I have prepared to submit to the City. Do you have any thoughts on changes or additional questions?

The meeting giving the affected taxing entities an opportunity to consult on this proposal is scheduled for Monday, November 4, 2013 at 9 AM at LeClaire City Hall. The Board of Supervisors has this on its COW agenda to discuss on Tuesday November 5.

Xc: Dee F. Bruemmer, County Administrator

**PLANNING & DEVELOPMENT**

500 West Fourth Street

Davenport, Iowa 52801-1106

E-mail: [planning@scottcountyia.com](mailto:planning@scottcountyia.com)

Office: (563) 326-8643

Fax: (563) 326-8257



---

Timothy Huey  
Director

Questions for City of LeClaire on proposed Amendment to TIF District #1  
November, 2013.

1. The amendment information does not include any map for area number 1, are the boundaries of the URA #1 to remain as amended in 2010? Do you have a map that includes the three projects locations?
2. What are the total budgets for the projects proposed to use TIF dollars in area number 1, are there other funding sources or are they totally financed with TIF income?
3. What are the sources of increment for area number 1?
4. Are there any proposed taxable improvements to be developed in this area as a result of this TIF?
5. What are the other uses and budget for TIF dollars previously approved in this area?
6. Are the pending State mandated changes in property taxes expected to have any impact on this or other TIF financed projects in the City of LeClaire?
7. Does the fact that construction of the lift station has already been started impact the ability for the cost of this project to be included in this amendment?
8. Was the construction of the portion of Eighth Street to be rehabilitated with this proposed TIF project originally paid for with previous TIF funding?
9. Does this amendment again extend the timeframe of how long the City can continue to collect TIF revenue?





# ***CITY OF LECLAIRE, IOWA***

325 WISCONSIN STREET  
LECLAIRE, IOWA 52753

TEL: (563)-289-4242

FAX: (563)-289-6014  
[WWW.LECLAIREIOWA.GOV](http://WWW.LECLAIREIOWA.GOV)

SENDER'S DIRECT CONTACT INFORMATION:  
PHONE EXT. #1104                      ECHOATE@LECLAIREIOWA.GOV

October 25, 2013

TO:            Board of Supervisors, Scott County - #7010 1870 0001 7791 2865  
                 Superintendent, Pleasant Valley Community School District - #7010 1870 0001 7791 2872

FROM:        City Council  
                 City of LeClaire, Iowa

RE:            LeClaire 2013 Urban Renewal Plan Amendment

The City of LeClaire is in the process of amending the urban renewal plan for the LeClaire Urban Renewal Area No. 1, and, pursuant to Section 403.5 of the Code of Iowa, the City is sending you the enclosed draft copy of its urban renewal plan amendment and scheduling a meeting at which you will have the opportunity to discuss this amendment.

The meeting to discuss our urban renewal plan amendment has been set for Monday, November 4, 2013, at 9:00 o'clock a.m. at the LeClaire City Hall in LeClaire. If you are unable to send a representative to the meeting, we invite your written comments. In addition, Section 403.5 gives your designated representative the right to make written recommendations concerning the proposed urban renewal plan amendment no later than seven days following the date of the meeting.

The City will also hold a public hearing on this urban renewal plan amendment at 7:00 o'clock p.m. on November 18, 2013, and a copy of the notice of hearing is enclosed for your information.

Please call our City Administrator at (563) 289-4242, if you have questions.

**NOTICE OF PUBLIC HEARING ON PROPOSED URBAN RENEWAL PLAN  
AMENDMENT**

Notice Is Hereby Given: That at 7:00 o'clock p.m., at the LeClaire City Council Chambers, LeClaire, Iowa, on the 18th day of November, 2013, the City Council of the City of LeClaire, Iowa, will hold a public hearing on the question of amending the urban renewal plan for the LeClaire Urban Renewal Area No. 1 (the "Urban Renewal Area") to facilitate the undertaking of new urban renewal projects in the Urban Renewal Area consisting of using tax increment financing to pay the costs of (1) the City's 2013 Sewerage System Improvement Project; (2) the City's 2013 Cody Road Commercial District Sidewalk and Curb Replacement Project; and (3) the City's 2013-2014 8<sup>th</sup> Street Drainage & Rehabilitation Project. A copy of the amendment is on file for public inspection in the office of the City Clerk.

At said hearing any interested person may file written objections or comments and may be heard orally with respect to the subject matters of the hearing.

Edwin N. Choate  
City Clerk

CITY OF LECLAIRE, IOWA

URBAN RENEWAL PLAN AMENDMENT  
LECLAIRE URBAN RENEWAL AREA NO. 1

November, 2013

The Urban Renewal Plan (the "Plan") for the LeClaire Urban Renewal Area No. 1 (the "Area") is being amended for the purpose of identifying new urban renewals project to be undertaken therein.

**1) Identification of Projects.** By virtue of this amendment, the list of authorized urban renewal projects in the Plan is hereby amended to include the following described projects:

A)

**Name of Project:** 2013 Sewerage System Improvement Project (the "Sewer Project")

**Name of Urban Renewal Area:** LeClaire Urban Renewal Area No. 1

**Year of Establishment of Urban Renewal Area:** 1991

**Date of Council Approval of Sewer Project:** November 18, 2013

**Description of Sewer Project:** The City will undertake the construction of improvements to the Municipal Sanitary Sewer System on property situated in the Area including (1) the installation of a new lift station on real property situated at 317-1/2 N. Cody Road; (2) the installation of a new gravity main extending from the 800 block to the 1500 block of Canal Shore Drive; and (3) the installation of a new force main extending from the 700 block to the 1000 block of Eagle Ridge Road. The Sewer Project is necessary to handle the sanitary sewer requirements of businesses and industries situated in the Area and to improve capacity, flow rates and pressures to promote commercial and industrial growth within the Area.

**Description of Properties to be Acquired in Connection with the Sewer Project:** The City will acquire such easement territory and right-of-way as are necessary to successfully undertake the Sewer Project.

**Description of Use of TIF:** It is anticipated that the City will pay for the Sewer Project with proceeds from the issuance of General Obligation Annual Appropriation Corporate Purpose and Refunding Bonds, Series 2013A. The City's obligations with respect to these Bonds will be repaid with incremental property tax revenues derived from the Area. It is anticipated that the City's use of incremental property tax revenues for the Sewer Project will not exceed \$3,000,000.

**B)**

**Name of Project:** 2013 Cody Road Commercial District Sidewalk and Curb Replacement Project (the "Cody Road Project")

**Name of Urban Renewal Area:** LeClaire Urban Renewal Area No. 1

**Year of Establishment of Urban Renewal Area:** 1991

**Date of Council Approval of Project:** November 18, 2013

**Description of Cody Road Project:** The City Council hereby acknowledges the importance of the Cody Road Commercial District to the economic development of the City. The Cody Road Project will consist of the replacement of sidewalk and curb on and along Cody Road from its intersection with May Street on the south to its intersection with Ewing Street on the north. The enhancement of sidewalks in the Cody Road Commercial District will contribute to commercial growth and retention in Cody Road Commercial District and the Area.

**Description of Properties to be Acquired in Connection with Cody Road Project:**

The City will acquire such easement territory and right-of-way as are necessary to successfully undertake the Cody Road Project.

**Description of Use of TIF for the Cody Road Project:** It is anticipated that the City will pay for the Cody Road Project with proceeds from the issuance of General Obligation Annual Appropriation Corporate Purpose and Refunding Bonds, Series 2013A.. The City's obligations with respect to these Bonds will be repaid with incremental property tax revenues. It is anticipated that the City's use of incremental property tax revenues for the Cody Road Project will not exceed \$250,000.

**C)**

**Name of Project:** 2013-2014 8<sup>th</sup> Street Rehabilitation Project (the "8<sup>th</sup> Street Project")

**Name of Urban Renewal Area:** LeClaire Urban Renewal Area No. 1

**Year of Establishment of Urban Renewal Area:** 1991 & 2005

**Date of Council Approval of Project:** November 18, 2013

**Description of 8<sup>th</sup> Street Project:** The 8<sup>th</sup> Street Project will consist of street reconstruction and the construction of storm water drainage improvements on and along the 8<sup>th</sup> Street arterial corridor from and including its intersection with May Street on the North to and including its intersection with Bluff Lane on the South. It is expected that the completed 8<sup>th</sup> Street Project will cause increased and improved ability of the City to provide adequate transportation infrastructure for the growth and expansion of the City.

**Description of Properties to be Acquired in Connection with 8<sup>th</sup> Street Project:** The City will acquire such easement territory and right-of-way as are necessary to successfully undertake the 8<sup>th</sup> Street Project.

**Description of Use of TIF for the 8<sup>th</sup> Street Project:** It is anticipated that the City will pay for the 8<sup>th</sup> Street Project with borrowed proceeds from the issuance of General Obligation Annual Appropriation Corporate Purpose and Refunding Bonds, Series 2013A.. The City's obligations with respect to these Bonds will be repaid with incremental property tax revenues. It is anticipated that the City's use of incremental property tax revenues for the 8<sup>th</sup> Street Project will not exceed \$300,000.

**2) Required Financial Information.** The following information is provided in accordance with the requirements of Section 403.17 of the Code of Iowa:

Constitutional debt limit of the City:	<u>\$16,878,239</u>
Outstanding general obligation debt of the City:	<u>\$10,294,095</u> (07-01-'13)
Proposed obligations to be incurred in connection with the November, 2013 Amendment:	<u>\$3,550,000**</u>

\*\*Subject to annual appropriation by the City Council

## SCOTT COUNTY BOARD OF SUPERVISORS

600 West Fourth Street  
Davenport, Iowa 52801-1003



Office: (563) 326-8749  
Fax: (563) 328-3285  
www.scottcountyiowa.com

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TOM SUNDERBRUCH, Chair  
JIM HANCOCK, Vice-Chair  
WILLIAM P. CUSACK  
CAROL EARNHARDT  
LARRY MINARD

May 22, 2012

Mayor Robert Scannell  
LeClaire City Council Members  
LeClaire City Hall  
425 North Third Street  
LeClaire, IA 52753

**RE: City of LeClaire's proposal to amend and expand an existing Urban Renewal Area to include Lot 2 of the Niko Addition Subdivision (115 Davenport Street) to provide TIF incentives for expansion of an existing retail commercial business.**

Dear Mayor Scannell and Council Members:

Thank you for the opportunity to comment on the proposed amendment of the Urban Renewal Area #1 in the City of LeClaire. The Scott County Board of Supervisors has reviewed the information provided by your City Administrator Ed Choate.

The Scott County Board of Supervisors has previously expressed and continues to have concerns with the equity and wisdom of providing TIF incentives as a rebate to expanding retail businesses that are in competition with other similar businesses in LeClaire and Scott County. It would appear that these TIF rebates are not being used to level the playing field due to some extraordinary re-development cost but rather as an incentive for the expansion of the business. While the Board has supported TIF incentives for the creation of primary, industrial jobs, it has not supported the use of TIF where the job creation was secondary jobs in the retail or service sectors.

The Board of Supervisors would encourage the City of LeClaire not to incur any further debt or fund any additional projects with TIF revenues from the existing portions of the Urban Renewal Areas and to dissolve those existing TIF Districts when the current debt is retired. The Board believes that the purpose of tax increment financing is to temporarily defer the tax paid on incremental value of new development to assist that development to occur but it is not to allow a municipality to divert income from that increment indefinitely to fund a variety of unrelated projects.

Sincerely,



Tom Sunderbruch, Chairman  
Scott County Board of Supervisors

cc: Scott County Board of Supervisors  
Ed Choate, LeClaire City Administrator  
Dee F. Bruemmer, Scott County Administrator

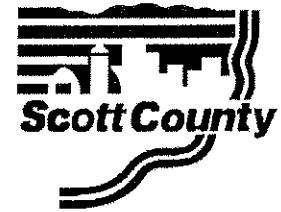
**BOARD OF SUPERVISORS**

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CHRIS GALLIN, Chair  
LARRY MINARD, Vice-Chair  
JIM HANCOCK  
JEFF LISKE  
TOM SUNDERBRUCH

August 31, 2010

Mayor Robert Scannell  
LeClaire City Council Members  
LeClaire City Hall  
425 North Third Street  
LeClaire, IA 52753

**RE: City of LeClaire's proposal to amend and expand an existing Urban Renewal Area to include North 26<sup>th</sup> Street right of way and two existing commercial businesses that propose expansions.**

Dear Mayor Scannell and Council Members:

Thank you for the opportunity to comment on the proposed amendment of the Urban Renewal Area #1 in the City of LeClaire. The Scott County Board of Supervisors has reviewed the information provided by your City Administrator Ed Choate and the answers to the questions we presented at the opportunity to consult meeting on Monday, August 23, 2010.

The Scott County Board of Supervisors has previously expressed and continues to have very serious concerns with both the use of TIF revenues for City capital improvement projects and the length of time this Urban Renewal Area is proposed to be in place and continue to capture property tax revenues. It appears that the City of LeClaire is using this TIF funding as a revenue stream to continue to fund City projects unrelated to the purpose for which these TIF Districts were created, namely to spur new growth in the tax base. If the affected taxing entities are never to receive their portion of the levy from this growth in the taxable valuation within the City of LeClaire, the County Board believes that is contrary to the purpose and intent of tax increment financing.

The Board also has concerns with the equity and wisdom of providing TIF incentives as a rebate to expanding retail businesses that are in competition with other similar businesses in LeClaire and Scott County. It would appear that these TIF rebates are not being used to level the playing field due to some extraordinary development cost but rather as an incentive for the expansion of the business. While the Board has supported TIF incentives for the creation of primary, industrial jobs, it has not supported the use of TIF where the job creation was secondary jobs in the retail or service sectors.

The Board of Supervisors would encourage the City of LeClaire not to incur any further debt or fund any additional projects with TIF revenues from the existing portions of the Urban Renewal Areas and to dissolve those existing TIF Districts when the current debt is retired. The Board believes that the purpose of tax increment financing is to temporarily defer the tax paid on incremental value of new development to assist that development to occur but it is not to allow a municipality to divert income from that increment indefinitely to fund a variety of unrelated projects.

Sincerely,

Chris Gallin, Chair  
Scott County Board of Supervisors

cc: Scott County Board of Supervisors  
Ed Choate, LeClaire City Administrator  
Dee F. Bruemmer, Scott County Administrator

March 2, 2010

Robert Scannell  
LeClaire City Council Members  
LeClaire City Hall  
425 North Third Street  
LeClaire, IA 52753

**RE: City of LeClaire's proposal to amend the Urban Renewal Plan for LeClaire's Urban Renewal Area to allow the use of tax increment financing for the developing and equipping of Huckleberry Park.**

Dear Mayor Scannell and Council Members:

Thank you for the opportunity to comment on the proposed amendment of the Urban Renewal Plan for Urban Renewal Area in the City of LeClaire. The Scott County Board of Supervisors has reviewed the information provided by your City Administrator Ed Choate.

The Board of Supervisors has the following questions regarding the City's proposal:

1. *What is the total proposed budget for the Huckleberry Park?*
2. *What portion of that budget is proposed to be paid for with TIF?*
3. *How many years have TIF payments already been collected from this district?*
4. *How many additional years will the TIF District run with this proposal?*
5. *How is this new park development determined to be urban renewal or economic development under the provisions of State Law for TIF Districts?*

The Scott County Board of Supervisors objects to the use of TIF tax dollars generated within this urban renewal area for a capital improvement project for the benefit of the citizens of LeClaire. That is a capital project that should not be subsidized by the portion of the property tax levy assessed by Scott County but rather paid for by the citizens of LeClaire and from tax revenues generated by the City of LeClaire. The Board voiced its objections in 2003 when the City took action to combine two of its urban renewal areas into one to increase the amount of TIF payments available for the city hall project, as well as, adding time to the number of years these payments can be captured by the City.

The Board notes that State Law has been amended to no longer allow newly created urban renewal areas to extend time limits in the manner that is proposed with the city's Urban Renewal Area #1. The Board has concerns that this allows TIF payments to be captured beyond the initial maximum twenty year time frame. This means that the County will not receive any property tax income from many of the new homes in LeClaire for possibly another fifteen or more years. The County has therefore been forced to put the financial burden of providing County services to these residents for the last ten or more years on the other County residents both within and outside of LeClaire. It now appears it will be forced to continue to shift that financial burden for many years to come.



The Scott County Board of Supervisors would recommend and appreciate if the City of LeClaire would consider amending the proposed Tax Increment Financing plan so that the portion of the property taxes generated by Scott County's levy was paid to the County and not used to finance your new city park. While the Board of Supervisors recognizes the City of LeClaire has no legal obligation to comply with our request, we hope in the spirit of intergovernmental cooperation the City Council would seriously consider this request.

Sincerely,

Chris Gallin, Chair  
Scott County Board of Supervisors

cc: Scott County Board of Supervisors  
Ed Choate, LeClaire City Administrator  
Dee F. Bruemmer, County Administrator

June 27, 2005

Mayor Vern Spring  
LeClaire City Council Members  
LeClaire City Hall  
425 North Third Street  
LeClaire, IA 52753

**RE: City of LeClaire's proposal to amend and expand an existing Tax Increment Financing District to include for an area designated for residential development.**

Dear Mayor Spring and Council Members:

Thank you for the opportunity to comment on the proposed amendment of the Urban Renewal Area #1 in the City of LeClaire. The Scott County Board of Supervisors has reviewed the information provided by your City Administrator Ed Choate following the opportunity to consult meeting on Tuesday, June 21, 2005.

The Scott County Board of Supervisors continues to have very serious concerns with the equity and wisdom of Tax Increment Financing proposals that rebate the maximum amount of increment in property taxes allowed to a private for-profit developer. The Board believes that the cost of private residential development should be paid for with the investment of private funds and not public tax dollars. With this proposal the City is diverting County tax dollars that will be paid by these new residences into a private developers pocket. This will put the burden of paying for the County services provided to the residents in these newly developed areas on the existing property taxpayers of the County.

The Board opposes the use of tax increment generated funds in the manner proposed by the City of LeClaire. The proposal is inappropriate and not within the legislative intent that the use of tax increment financing be limited to redeveloping and revitalizing blighted areas or to attracting new or expanded industrial development.

The Scott County Board of Supervisors would recommend and appreciate if the City of LeClaire would consider amending the proposed Tax Increment Financing plan so that the portion of the property taxes generated by Scott County's levy was paid to the County and not rebated to the developer. While the Board of Supervisors recognizes the City of LeClaire has no legal obligation to comply with our request, we hope in the spirit of intergovernmental cooperation the City Council would seriously consider this request.

Sincerely,

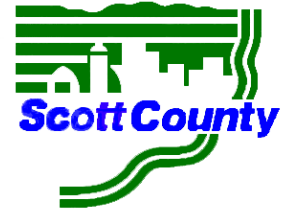
Larry Minard, Chairman  
Scott County Board of Supervisors

cc: Scott County Board of Supervisors  
Ed Choate, LeClaire City Administrator  
C. Ray Wierson, Scott County Administrator

## BOARD OF SUPERVISORS

428 Western Avenue  
Davenport, Iowa 52801-1004

Office: (563) 326-8749  
Fax: (563) 328-3285  
E-Mail: board@scottcountyiowa.com



CAROL H. SCHAEFER, Chairman  
LARRY E. MINARD, Vice-Chairman  
GREGORY P. ADAMSON  
OTTO L. EWOLDT  
JIM HANCOCK

June 22, 2004

Mayor Vern Spring  
LeClaire City Council Members  
LeClaire City Hall  
425 North Third Street  
LeClaire, IA 52753

**RE: City of LeClaire's proposal to amend the Urban Renewal Plan for LeClaire's Urban Renewal Area #1 to allow the use of tax increment financing for the construction of a new city hall.**

Dear Mayor Spring and Council Members:

Thank you for the opportunity to comment on the proposed amendment of the Urban Renewal Plan for Urban Renewal Area #1 in the City of LeClaire. The Scott County Board of Supervisors has reviewed the information provided by your City Administrator Ed Choate following the opportunity to consult meeting on Monday, June 21, 2004.

The Board of Supervisors has the following questions regarding the City's proposal:

1. *What is the total proposed budget for the City Hall?*
2. *What portion of that budget is proposed to be paid for with TIF?*
3. *How many years have TIF payments already been collected from this district?*
4. *How many additional years will the TIF District run with this proposal?*
5. *How is the new City hall determined to be urban renewal or economic development under the provisions of State Law for TIF Districts?*

The Scott County Board of Supervisors objects to the use of TIF tax dollars generated within this urban renewal area for a capital improvement project exclusively for the benefit of the citizens of LeClaire. The Board also understands that the City recently took action to combine two of its urban renewal areas into one to increase the amount of TIF payments available for the proposed city hall project, as well as, adding time to the number of years these payments can be captured by the City.

The Board notes that State Law has been amended to no longer allow newly created urban renewal areas to extend time limits in the manner that is proposed with the city's Urban Renewal Area #1. The Board has concerns that this allows TIF payments to be captured beyond the initial maximum twenty year time frame. This means that the County will not receive any property tax income from many of the new homes in LeClaire for possibly another fifteen or more years. The County has therefore been forced to put the financial burden of providing County services to these residents for the last ten or more years on the other County residents both within and outside of LeClaire. It now appears it will be forced to continue to shift that financial burden for many years to come.

Page Two  
Letter to City of LeClaire  
June 22, 2004

The Scott County Board of Supervisors would recommend and appreciate if the City of LeClaire would consider amending the proposed Tax Increment Financing plan so that the portion of the property taxes generated by Scott County's levy was paid to the County and not used to finance your new city hall. While the Board of Supervisors recognizes the City of LeClaire has no legal obligation to comply with our request, we hope in the spirit of intergovernmental cooperation the City Council would seriously consider this request.

Sincerely,

Carol Schaefer, Chairman  
Scott County Board of Supervisors

cc: Scott County Board of Supervisors  
Ed Choate, LeClaire City Administrator  
C. Ray Wierson, Scott County Administrator

**BOARD OF SUPERVISORS**

428 Western Avenue  
Davenport, Iowa 52801-1004

Office: (563) 326-8749  
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E-Mail: board@scottcountyiowa.com



CAROL H. SCHAEFER, Chairman  
LARRY E. MINARD, Vice-Chairman  
GREGORY P. ADAMSON  
OTTO L. EWOLDT  
JIM HANCOCK

April 23, 2004

Mayor Vern Spring  
LeClaire City Council Members  
LeClaire City Hall  
425 North Third Street  
LeClaire, IA 52753

**RE: City of LeClaire's proposal to amend and expand an existing Tax Increment Financing District to include for an area designated for residential development.**

Dear Mayor Spring and Council Members:

Thank you for the opportunity to comment on the proposed amendment of the Urban Renewal Area #1 in the City of LeClaire. The Scott County Board of Supervisors has reviewed the information provided by your City Administrator Ed Choate following the opportunity to consult meeting on Friday, April 16, 2004.

The Scott County Board of Supervisors has very serious concerns with the equity and wisdom of this proposal that will rebate the maximum amount of increment in property taxes allowed to a private for-profit developer. The Board believes that the cost of private residential development should be paid for with the investment of private funds and not public tax dollars. With this proposal the City is diverting County tax dollars that will be paid by these new residences into a private developers pocket. This will put the burden of paying for the County services provided to these newly developed areas on the existing property taxpayers of the County.

The Board opposes the use of tax increment generated funds in the manner proposed by the City of LeClaire. The proposal is inappropriate and not within the legislative intent that the use of tax increment financing be limited to redeveloping and revitalizing blighted areas or to attracting new or expanded industrial development.

The Scott County Board of Supervisors would recommend and appreciate if the City of LeClaire would consider amending the proposed Tax Increment Financing plan so that the portion of the property taxes generated by Scott County's levy was paid to the County and not rebated to the developer. While the Board of Supervisors recognizes the City of LeClaire has no legal obligation to comply with our request, we hope in the spirit of intergovernmental cooperation the City Council would seriously consider this request.

Sincerely,

Carol Schaefer, Chairman  
Scott County Board of Supervisors

cc: Scott County Board of Supervisors  
Ed Choate, LeClaire City Administrator  
C. Ray Wierson, Scott County Administrator

## Facility and Support Services

600 West 4<sup>th</sup> Street

Davenport, Iowa 52801-1003

fss @ scottcountyiowa.com

(563) 326-8738 Voice (563) 328-3245 Fax

---



October 28, 2013

To: Dee F. Bruemmer  
County Administrator

From: Dave Donovan, Director  
Facility and Support Services

Subj: Approval of a contract for 503 Scott Street

The Space Master Plan that was completed last year outlined several projects that were budgeted within the current Five Year Capital Plan. That plan included the redevelopment of the parcel at 503 Scott Street as an on-site storage facility to replace the current Horst Building.

We solicited architectural firms to assist us with determining our need and designing this new facility. We placed special emphasis on experience working with historical structures and developing or redeveloping commercial buildings in an historical context. We received three responses and after reviewing the proposals, we recommend Bracke, Hayes, Miller and Mahon for this project. That firm demonstrated a very strong track record of similar, relevant projects. This firm also did the design work for the parking lot at 5<sup>th</sup> and Ripley. As such they are very familiar with the topography and context of the area and have worked with many of the stakeholders.

The proposal from BHMM is for a fee of 6.5-7.5% of the construction cost. Based on our project budget we expect that fee not to exceed \$18,000. It is our recommendation to ask the Board of Supervisors to approve the selection of BHMM as the project architect and authorize staff to work with BHMM to finalize the scope of work and negotiate a fixed fee contract within the above financial constraints. I will be available at the next Committee of the Whole meeting to discuss my recommendation and to answer any questions you or the Board may have. This project is budgeted in the Capital Plan in FY14 and FY15.

Cc: FSS Management Team

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES  
THAT THIS RESOLUTION HAS BEEN FORMALLY  
APPROVED BY THE BOARD OF SUPERVISORS ON  
\_\_\_\_\_  
DATE  
\_\_\_\_\_  
SCOTT COUNTY AUDITOR

R E S O L U T I O N

SCOTT COUNTY BOARD OF SUPERVISORS

November 7, 2013

A RESOLUTION APPROVING A CONTRACT WITH BRACKE, HAYES, MILLER AND MAHON ARCHITECTS FOR THE 503 SCOTT STREET PROJECT IN THE AMOUNT NOT-TO-EXCEED \$18,000.00.

**BE IT RESOLVED BY** the Scott County Board of Supervisors as follows:

- Section 1. That the proposal for Courthouse design services from Bracke, Hayes Miller and Mahon Architects is hereby approved and awarded in the total amount not-to-exceed \$18,000.00.
- Section 2. That the Facility and Support Services Director is hereby authorized to negotiate a fixed fee contract and execute said contract on behalf of the Board of Supervisors for this work.
- Section3. This resolution shall take effect immediately.

## Facility and Support Services

600 West 4<sup>th</sup> Street  
Davenport, Iowa 52801-1003  
fss @ scottcountyjowa.com  
(563) 326-8738 Voice (563) 328-3245 Fax

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October 28, 2013

To: Dee F. Bruemmer  
County Administrator

From: Dave Donovan, Director  
Facility and Support Services

Subj: Approval of a contract for Courthouse renovations

The Space Master Plan that was completed last year outlined several projects that were budgeted within the current Five Year Capital Plan. That plan included four phases of renovation work to address the most immediate issues in the Courthouse. This renovation work was characterized as short term in nature and included renovation to the entire first floor including spaces for the Clerk of Court, Magistrate Courtroom, two Associate District Courtrooms and related support spaces. In addition, the plan discussed a larger building addition to address long term issues with the District Court spaces.

We are prepared, with the Seventh Judicial District, to begin work on those short term projects. Recently, I reviewed the Master Plan recommendations for the Courthouse with Chief Judge Greves and her judicial committee. They agree with the recommendations in the Plan and look forward to having the opportunity to address the issues outlined in the plan. The first step in that process is to contract for design services to allow us to develop a workable design and, after much discussion and refinement, to release construction documents for bidding. At the time of bidding, the Board of Supervisors would hold a public hearing on the project(s) and approve the plans and the cost estimates for construction.

As you may recall, Wold Architects and Engineers prepared the Master Plan document and our intent was to contract with the same firm for the short term work in the Courthouse. Wold has provided us with a proposal for design services for the first two of the four phases of construction work. Those two phases of work are budgeted at \$1,555,000 for construction-only costs. The total budget amount for these two phases of work is \$1,924,000 which includes construction, design, equipment and other expenses for the complete projects. Wold's proposal for complete architectural and engineering design services is 7.5% of construction costs, or \$116,625.00. We find this proposal to be reasonable given the scope of work. I recommend that the Board of Supervisors approve the proposed contract with Wold Architects and Engineers and authorize me to sign and execute contracts on their behalf. I will be at the next Committee of the Whole meeting to discuss my recommendation and to answer any questions you or the Board may have.

Cc: FSS Management Team



THE COUNTY AUDITOR'S SIGNATURE CERTIFIES  
THAT THIS RESOLUTION HAS BEEN FORMALLY  
APPROVED BY THE BOARD OF SUPERVISORS ON  
\_\_\_\_\_  
DATE  
\_\_\_\_\_  
SCOTT COUNTY AUDITOR

R E S O L U T I O N

SCOTT COUNTY BOARD OF SUPERVISORS

November 7, 2013

A RESOLUTION APPROVING A CONTRACT WITH WOLD ARCHITECTS FOR  
COURTHOUSE DESIGN SERVICES IN THE AMOUNT OF \$116,625.00.

**BE IT RESOLVED BY** the Scott County Board of Supervisors as follows:

- Section 1. That the proposal for Courthouse design services from Wold Architect and Engineers is hereby approved and awarded in the total amount of \$116,625.00.
- Section 2. That the Facility and Support Services Director is hereby authorized to sign and execute contracts on behalf of the Board of Supervisors for this work.
- Section3. This resolution shall take effect immediately.

**SCOTT COUNTY PERSONNEL ACTIONS**

Item 08  
11-05-13

**BOARD MEETING:** November 7, 2013

**NEW HIRES**

Employee/Department	Position	Salary	Effective Date	Remarks
Michelle Dierickx Health	Resource Assistant	\$30,169	10/28/13	Replaces Donna Welty

**TRANSFERS AND PROMOTIONS**

Employee/Department	New Position	Salary Change	Effective Date	Remarks
None				

**LEAVES OF ABSENCE/OTHER**

Employee/Department	Position	Effective Date	Remarks
None			

**BARGAINING UNIT STEP INCREASES**

Employee/Department	Position	Salary Change	Wage Step	Effective Date
None				

**MERIT INCREASES**

Employee/Department	Position	Salary Change	% of Midpoint	Effective Date
Teri Arnold Health	Administrative Office Assistant	\$52,395 - \$53,156 (1.645%)	115%	08/10/13

\*First review following appointment or promotion. Salary adjusted 5% if not above 95% of midpoint & employee receives rating of 3 or better.

**BONUS**

Employee/Department	Position	Effective Date
Karen Payne Health	Environmental Health Specialist	10/13/13
Kathy Hall Treasurer	County General Store Manager	11/8/13

**SEPARATIONS**

Employee/Department	Position	Hire Date	Separation Date	Reason for Separation
Matt Zumwalt Information Technology	Network Systems Administrator	09/20/10	10/11/13	Voluntary resignation

**REQUEST TO FILL VACANCIES**

Position/Department	Position Status	Starting Date	Previous Incumbent	Recommendation
none				

**TUITION REQUESTS**

Employee/Department	Position	Course of Study	Course dates(s)
None			

**OFFICE OF THE COUNTY ADMINISTRATOR**

600 West Fourth Street  
Davenport, Iowa 52801-1003

Office: (563) 326-8702  
Fax: (563) 328-3285  
www.scottcountyiowa.com



DATE: October 25, 2013

TO: Board of Supervisors

FROM: Dee F. Bruemmer, County Administrator

RE: Contract with Baker Tilly for services for accounting and business practices for the Eastern Iowa Mental Health Region in an amount not to exceed \$45,000 and a Technical Assistance Grant contract with the Department of Human Services not to exceed \$50,000.

Scott County Administration on behalf of Cedar, Clinton, Jackson, Muscatine and Scott Counties sought proposals for accounting and business practices for the new Mental Health 28E regional government. This work was authorized by the joint resolution of the Counties at the August 6, 2013 meeting in DeWitt. All five counties gave input on the request for proposal and were part of the review process.

Scott County received only one proposal from our current audit firm of Baker Tilly out of Madison and Milwaukee, WI. That proposal was reviewed by the CPC's from each county and deemed acceptable. The response was forwarded to Supervisors of each county for their information. From the response, we have negotiated a contract with Baker Tilly for six phases of work that will be completed by March of 2014, in time to submit the required regional budget and 28E governance document to the Department of Human Services.

Scott County will authorize the contract with Baker Tilly and pay the monthly bills. The Department of Human Services has issued a grant to pay for these services and Scott County is designated as the fiscal agent and project manager for the work. The grant is to not to exceed \$50,000. The State money will be received as a reimbursement. I am requesting that the Board authorize me to enter into the contract with the State for the technical assistance funds and to sign the contract for services with Baker Tilly.

There are two resolutions for your consideration on your agenda for this project. The contracts are attached for your review.

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES  
THAT THIS RESOLUTION HAS BEEN FORMALLY  
APPROVED BY THE BOARD OF SUPERVISORS ON

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SCOTT COUNTY AUDITOR

## R E S O L U T I O N

### SCOTT COUNTY BOARD OF SUPERVISORS

November 7, 2013

Approval of a contract with Baker Tilly Virchow Krause LLP, to develop recommendations for accounting and business practices for the Eastern Iowa MH/DS Regional service system not to exceed \$45,000.

BE IT RESOLVED BY the Scott County Board of Supervisors as follows:

Section 1. That Scott County on behalf of Cedar, Clinton, Jackson, Muscatine and Scott County took the lead in the development of a request for proposal for accounting and business practices for a combined MH/DS regional service system.

Section 2. That Baker Tilly Virchow Krause LLP, was deemed responsive by the staff representatives of the five counties as able to deliver the necessary services. That based on the RFP, a contract was negotiated and the services specified with a cost not to exceed \$45,000.

Section 3. Therefore, The Scott County Board of Supervisors authorizes the County Administrator to sign the contract on behalf of the five counties.

Section 4. This resolution shall take effect immediately.



Baker Tilly Virchow Krause, LLP  
777 E. Wisconsin Ave., 32<sup>nd</sup> Floor  
Milwaukee, WI 53202-5313  
tel 414 777 5500  
fax 414 777 5555  
bakertilly.com

October 29, 2013

Ms. Dee F. Bruemmer  
Scott County Administrator  
Eastern Iowa MH/DS Region  
c/o Scott County  
600 West 4th Street  
Davenport, IA 52801

Dear Dee:

This engagement letter and the attached standard business terms set forth a contractual agreement for Baker Tilly Virchow Krause, LLP ("Baker Tilly", "Contractor", "we" or "our") to the Eastern Iowa MH/DS Region ("the Region" or "Client") and will serve as a follow-up to our proposal dated September 13, 2013, summarizing the scope of work, project timeline, expected deliverables, and fees for the services to be provided by Baker Tilly.

### **Project Objectives and Scope**

The purpose of this engagement is to assist you in reviewing the Mental Health funds of Cedar, Clinton, Jackson, Muscatine and Scott Counties and recommend accounting and business practices for a combined regional service system. We understand the objectives of the engagement to include the following:

- > Accounting services for individual county finances and for the regional finances.
- > Accounting services to determine financial processes that allows the regional finances to be accounted for in an authorized manner by law.
- > Business process services to develop flow charts for bill payment at a county level and regional level including staff cost and contract services.
- > Facilitation of meetings with each of the five counties to document the budget and the estimation of the costs of services for FY14 at the county level.
- > Prepare meeting agendas, minutes and action items for meetings in support of the above tasks.

### **Project Approach, Work Plan & Deliverables**

Our engagement will be conducted in the following phases.

#### **Phase 1 - Project Planning**

**Objective:** Ensure successful project outcomes by planning effectively at the beginning of the project.

Specific project planning tasks include:

- > Conduct a project planning meeting to finalize project scope, work plan, anticipated deliverables and timeline

Ms. Dee F. Bruemmer  
Scott County Administrator  
Eastern Iowa MH/DS Region

October 29, 2013  
Page 2

- > Identify key project contacts and obtain contact information, including the personnel to be interviewed at each county

## **Phase 2 – Accounting services for individual county finances and for the regional finances**

**Objective:** Document available resources available for individual county and regional finances and project resources needed for individual counties and region to operate effectively.

Specific project planning tasks include:

- > Document FY 12 audited fund balances of the five counties including restricted dollars
- > Document FY 13 cash balances and outstanding payments and liabilities due to used state grant monies or other constraints of the five counties
- > Project FY14 fund balance of the five counties that could be assigned to the region
- > Estimate fund balance needed for regional government going forward in FY15 and fund balance needed at each county level to allow payments during the year to be made by the county

## **Phase 3 – Accounting services to determine financial processes that allows the regional finances to be accounted for in an authorized manner by law**

**Objective:** Develop a financial process that allows complies with state law and individual counties and the region to operate efficiently.

Specific project tasks include:

- > Review proposed administrative rules governing regional finances
- > Review administrative rules governing regional entity
- > Propose a chart of accounts at the county level and regional level that follows state law and requires the least amount of oversight and administrative cost to administer

## **Phase 4: Business process services to develop flow charts for bill payment at a county level and regional level including staff cost and contract services**

**Objective:** Document a process to provide efficient and appropriate payment of the cost of services at the county and regional levels.

Specific project tasks include:

- > Determine specific financial management, accounting and collections process workflow variances, issues or challenges
- > Assess Integration of program and financial management systems and determine required interfaces and or manual work arounds required for current state
- > Highlight details relative to sub-processes to ensure consistency in estimating costs, and reporting on key metrics (e.g., cost per service, indirect costs, etc.)
- > Determine process for service authorization
- > Determine process for financial eligibility determination

Ms. Dee F. Bruemmer  
Scott County Administrator  
Eastern Iowa MH/DS Region

October 29, 2013  
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- > Verify existence of key internal controls

### **Phase 5 - Facilitation of meetings with each of the five counties to document the budget and the estimation of the costs of services for FY14 at the county level**

**Objective:** Participate in meetings with counties individually or collectively to establish a budget and estimate of the cost of services.

Specific project tasks include:

- > Assess projected service volumes by County and as a region
- > Identify future performance targets
- > Discuss and address significant variances in approach for developing budgets and cost estimates and identify required enhancements under 525
- > Discuss alignment between core service eligibility and cost (i.e. need to change current practice to accommodate increases in need for core services)
- > Determine gaps in cost estimation process and identify optimal approach to determine regional budget and cost allocation approach
- > Review of financial metrics and reporting frameworks and development of recommendations for future state framework

### **Phase 6 – Facilitate meeting agendas decisions, and action items in support of the above tasks.**

**Objective:** Facilitate meetings document decision and tasks assigned.

Specific project tasks include:

1. Propose agenda items and finalize in discussion with you
2. Facilitate meetings
3. Document the decisions and action steps

### **Deliverables:**

- > Project plan and calendar
- > Report on existing funds, projected FY14 funds and estimated funds needed for FY15
- > Chart of accounts to be used
- > Improvement matrix – current processes, organization and controls
- > High level future state process flows for provider billing, expense reporting and budgeting
- > Listing of potential technology system modifications or requirements
- > Key performance metrics
- > Overall budget and funding model(s)

Ms. Dee F. Bruemmer  
Scott County Administrator  
Eastern Iowa MH/DS Region

October 29, 2013  
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### **Project Timetable**

The project will commence upon receipt of a signed engagement letter and will be conducted within the following timelines:

Phases 1, 2 and 3 will commence on or about November 8, 2013 with a targeted completion by December 20, 2013. Phases 4 and 5 will commence on or about November 15, 2013, with targeted completion by January 22, 2014. A draft report will be presented by February 15, 2014, and a final report presented by March 15, 2014. Any deviation from this timeline will be mutually discussed with you. Timely completion is subject to availability of the personnel of the five counties as needed to complete applicable tasks.

### **Project Professional Fees and Expenses**

The project fee for the services will not exceed \$45,000, unless mutually agreed to by Scott County and Baker Tilly

These fees are based on the assumption that we will not have to expend a significant amount of time performing data extraction or reviewing paper records, but would have access to, and be provided with electronic or other readily available data.

These fees assume timely delivery of all information requested without the need for multiple requests, availability of all needed personnel for interviews without the need to re-schedule due to cancellations, timely responses to follow-up inquiries and data requests, and completion of the phases within the timeframes above.

Additional fees would be charged if these assumptions are not met.

Additions to the project scope beyond those noted above and associated costs will only be incurred with prior approval of the Client's project manager or designee.

Billings will be rendered monthly based upon actual time and expense incurred and payment shall be made within 30 days of receipt.

### **Client Project Management**

Contractor shall submit all deliverable products and payment invoices to Client's project manager for review and approval. We understand that Dee F. Bruemmer will serve as Client's project manager.

Client agrees to:

- > Designate a management-level individual to be responsible and accountable for overseeing this project.
- > Establish and monitor the performance of the project to ensure that it meets the Client's objectives.
- > Make any decisions that involve management functions related to this project.
- > Evaluate the adequacy of the services performed and any findings that result.



Ms. Dee F. Bruemmer  
Scott County Administrator  
Eastern Iowa MH/DS Region

October 29, 2013  
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We look forward to working with you on this project.

If there are any questions regarding the engagement letter, please contact either John Knepel at 414-777-5359 or [john.knepel@bakertilly.com](mailto:john.knepel@bakertilly.com) or Christine Smith at 608-240-2391 or [christine.smith@bakertilly.com](mailto:christine.smith@bakertilly.com). If the services outlined herein are in accordance with your requirements, and if the above terms are acceptable, please have one copy of this letter signed in the space provided below and return.

Sincerely,

*Baker Tilly Virchow Krause, LLP*

BAKER TILLY VIRCHOW KRAUSE, LLP

The services and terms set forth in the Engagement Letter are agreed to by:

**Eastern Iowa MH/DS Region**

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

THE COUNTY AUDITOR'S SIGNATURE CERTIFIES  
THAT THIS RESOLUTION HAS BEEN FORMALLY  
APPROVED BY THE BOARD OF SUPERVISORS ON

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SCOTT COUNTY AUDITOR

## R E S O L U T I O N

### SCOTT COUNTY BOARD OF SUPERVISORS

November 7, 2013

Approval of a contract with the Iowa Department of Human Services for a technical assistance grant in an amount not to exceed \$50,000.

BE IT RESOLVED BY the Scott County Board of Supervisors as follows:

Section 1. That Scott County on behalf of Cedar, Clinton, Jackson, Muscatine and Scott County requested technical assistance funds to further the development of the Eastern Iowa Mental Health and Disability Services region by obtaining professional services to recommend accounting and business practices for the combined regional service system.

Section 2. That the Iowa Department of Human Services has approved the grant request and has designated Scott County Administration as the authorized agent for the region to administer the grant.

Section 3. Therefore The Scott County Board of Supervisors authorizes the County Administrator to sign the contract on behalf of the five counties.

Section 4. This resolution shall take effect immediately.

## CONTRACT DECLARATIONS AND EXECUTION

**Intergovernmental Contract:** Non-State Agency

<b>RFP #</b>	<b>Contract #</b>
N/A	MHDS 14-011

<b>Title of Contract</b>
MHDS Regionalization

This Contract must be signed by all parties before the Contractor provides any Deliverables. The Agency is not obligated to make payment for any Deliverables provided by or on behalf of the Contractor before the Contract is signed by all parties. This Contract is entered into by the following parties:

<b>Agency of the State (hereafter "Agency")</b>	
<b>Name/Principal Address of Agency:</b> Iowa Department of Human Services 1305 E. Walnut Street Des Moines, IA 50319	<b>Agency Billing Contact Name / Address:</b> Theresa Armstrong Hoover State Office Building 1305 East Walnut Street Des Moines, Iowa 50319 <b>Phone:</b> (515) 281-3780
<b>Agency Contract Manager (hereafter "Contract Manager") /Address ("Notice Address"):</b> Theresa Armstrong Hoover State Office Building 1305 East Walnut Street Des Moines, Iowa 50319	<b>Agency Contract Owner (hereafter "Contract Owner") / Address:</b> Richard Shults Hoover State Office Building 1305 East Walnut Street Des Moines, Iowa 50319
<b>E-Mail:</b> tarmstr1@dhs.state.ia.us	<b>E-Mail:</b> rshults@dhs.state.ia.us
<b>Phone:</b> (515) 281-3780	
<b>Contractor: (hereafter "Contractor")</b>	
<b>Legal Name:</b> Office of the County Administrator Scott County	<b>Contractor's Principal Address:</b> 600 West 4th Street Davenport, Iowa 52801-1003
<b>Tax ID #:</b> 42-6004465	<b>Organized under the laws of:</b> N/A
<b>Contractor's Contract Manager Name/Address ("Notice Address"):</b> Dee Bruemmer Office of the County Administrator 600 West Fourth Street Davenport, Iowa 52801-1003	<b>Contractor's Billing Contact Name/Address:</b> Dee Bruemmer Office of the County Administrator 600 West Fourth Street Davenport, Iowa 52801-1003 <b>Phone:</b> (563) 326-8702
<b>Phone:</b> (563) 326-8702	
<b>E-Mail:</b> dee.bruemmer@scottcountyiowa.com	

<b>Contract Information</b>	
<b>Start Date:</b> 10/28/13	<b>End Date of Contract:</b> 04/30/14
<b>Possible Extension(s):</b> N/A	
<b>Contractor a Business Associate?</b> No	<b>Contract Warranty Period (hereafter “Warranty Period”):</b> The term of this Contract, including any extensions.
<b>Contract Include Sharing SSA Data?</b> No	<b>Contract Payments include Federal Funds?</b> Yes <b>CFDA#:</b>
<b>Contractor subject to Iowa Code Chapter 8F?</b> N/A	<b>Contract Contingent on Approval of Another Agency:</b> No
<b>Contractor a Qualified Service Organization?</b> No	

**Contract Execution**

This Contract consists of this Contract Declarations and Execution Section, the attached General Terms for Services Contracts, Special Terms, and all Special Contract Attachments. In consideration of the mutual covenants in this Contract and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into this Contract and have caused their duly authorized representatives to execute this Contract.

<b>Contractor, Office of the County Administrator Scott County</b>		<b>Agency, Iowa Department of Human Services</b>	
Signature of Authorized Representative:	Date:	Signature of Authorized Representative:	Date:
Printed Name: Dee Bruemmer		Printed Name: Richard Shults	
Title: County Administrator		Title: Division Administrator	

## **SECTION 1: SPECIAL TERMS**

### ***1.1 Special Terms Definitions.***

N/A.

### ***1.2 Contract Purpose.***

The parties have entered into this Contract for the purpose of retaining the Contractor to obtain technical assistance for the development of the Eastern Iowa Mental Health and Disability Services (MHDS) Region which includes Cedar, Clinton, Jackson, Muscatine and Scott counties.

### ***1.3 Scope of Work.***

#### **1.3.1 Deliverables.**

The Contractor shall provide the following:

The Contractor shall work with all of the counties in the MHDS region to develop their MHDS regional system. The contractor shall secure services that result in a completed business for the Eastern Iowa Region.

Services provided shall include costs for:

- The identification of available funds and estimated required fund balances needed at the individual county and region levels to provide appropriate and timely services.
- To create a chart of accounts for financial reporting to provide each individual county and the region with information that provides accountability as well.
- Documentation of existing fund balances and project available fund balance to be assigned to the region.
- Estimate the required fund balance needed for individual counties and the region to provide adequate cash flow for the payment of services.
- Create financial processes that allow for compliance with state law.
- Provide business process facilitation on assessment of business processes relative to bill payment at both the county and the regional level and evaluation of budgeting and cost of service estimation process at the county level.

#### **1.3.2 Performance Measures.**

- 100% of the Scope of Work tasks will be completed.
- The Contractor will provide a written summary of progress towards scope of work by January 15, 2014 and reports for each meeting established as well as a final report with the final set of recommendations and proposed actions.
- Final summary with business plan by May 15, 2014.

#### **1.3.3 Monitoring, Review, and Problem Reporting.**

##### **1.3.3.1 Agency Monitoring Clause.**

The Contract Manager or designee will:

- Verify Invoices and supporting documentation itemizing work performed prior to payment;
- Determine compliance with general contract terms, conditions, and requirements; and
- Assess compliance with Deliverables, performance measures, or other associated requirements based on the following:

- i) The Contractor will provide the Agency with summary reports for each meeting conducted and a copy of the final report.
- ii) The Contractor will provide the Agency reports when submitting invoices on a monthly basis.

**1.3.3.2 Agency Review Clause.** The Contract Manager or designee will use the results of monitoring activities and other relevant data to assess the Contractor's overall performance and compliance with the Contract. At a minimum, the Agency will conduct a review. A review will be conducted at the midpoint of the contract; however, reviews may occur more frequently at the Agency's discretion. As part of the review(s), the Agency may require the Contractor to provide additional data, may perform on-site reviews, and may consider information from other sources.

The Agency may require one or more meetings to discuss the outcome of a review. Meetings may be held in person. During the review meetings, the parties will discuss the Deliverables that have been provided or are in process under this Contract, achievement of the performance measures, and any concerns identified through the Agency's contract monitoring activities.

**1.3.3.3 Problem Reporting.** As stipulated by the Agency, the Contractor and/or Agency shall provide a report listing any problem or concern encountered. Records of such reports and other related communications issued in writing during the course of Contract performance shall be maintained by the parties. At the next scheduled meeting after a problem has been identified in writing, the party responsible for resolving the problem shall provide a report setting forth activities taken or to be taken to resolve the problem together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that will facilitate problem resolution. The Contract Owner has final authority to approve problem-resolution activities.

The Agency's acceptance of a problem report shall not relieve the Contractor of any obligation under this Contract or waive any other remedy. The Agency's inability to identify the extent of a problem or the extent of damages incurred because of a problem shall not act as a waiver of performance or damages under this Contract.

**1.3.3.4 Addressing Deficiencies.** To the extent that Deficiencies are identified in the Contractor's performance and notwithstanding other remedies available under this Contract, the Agency may require the Contractor to develop and comply with a plan acceptable to the Agency to resolve the Deficiencies.

#### **1.3.4 Contract Payment Clause.**

**1.3.4.1 Pricing.** In accordance with the payment terms outlined in this section and Contractor's completion of the Scope of Work as set forth in this Contract, the Contractor will be compensated an amount not to exceed \$50,000.00 for the entire term of the Contract.

#### **1.3.4.2 Payment Methodology.**

- The Contractor will be paid up to \$50,000.
- The Contractor will submit invoices on a monthly basis.

**1.3.4.3 Timeframes for Regular Submission of Initial and Adjusted Invoices.** The Contractor shall submit an Invoice for services rendered in accordance with this Contract. Invoice(s) shall be submitted monthly. Unless a longer timeframe is provided by federal law, and in the absence of the express written consent of the Agency, all Invoices shall be submitted within six months from the last day of the month in which the services were rendered. All adjustments made to Invoices shall be submitted to the Agency within ninety (90) days from the date of the Invoice being adjusted. Invoices shall comply with all applicable rules concerning payment of such claims.

**1.3.4.4 Submission of Invoices at the End of State Fiscal Year.** Notwithstanding the timeframes above, and absent (1) longer timeframes established in federal law or (2) the express written consent of the Agency, the Contractor shall submit all Invoices to the Agency for payment by August 1<sup>st</sup> for all services performed in the preceding state fiscal year (the State fiscal year ends June 30).

**1.3.4.5 Payment of Invoices.** The Agency shall verify the Contractor’s performance of the Deliverables and timeliness of Invoices before making payment. The Agency will not pay Invoices that are not considered timely as defined in this Contract. If the Contractor wishes for untimely Invoice(s) to be considered for payment, the Contractor may submit the Invoice(s) in accordance with instructions for the Long Appeal Board Process to the State Appeal Board for consideration. Instructions for this process may be found at: [http://www.dom.state.ia.us/appeals/general\\_claims.html](http://www.dom.state.ia.us/appeals/general_claims.html).

The Agency shall pay all approved Invoices in arrears. The Agency may pay in less than sixty (60) days, but an election to pay in less than sixty (60) days shall not act as an implied waiver of Iowa law.

**1.3.4.6 Reimbursable Expenses.** Unless otherwise agreed to by the parties in an amendment or change order to the Contract that is executed by the parties, the Contractor shall not be entitled to receive any other payment or compensation from the State for any Deliverables provided by or on behalf of the Contractor pursuant to this Contract. The Contractor shall be solely responsible for paying all costs, expenses, and charges it incurs in connection with its performance under this Contract.

**1.4 Insurance Coverage.**

The Contractor and any subcontractor shall obtain the following types of insurance for at least the minimum amounts listed below:

Type of Insurance	Limit	Amount
Workers’ Compensation and Employer Liability	As required by Iowa law	As Required by Iowa law

## SECTION 2. GENERAL TERMS FOR SERVICES CONTRACTS

**2.1 Definitions.** Definitions in this section correspond with capitalized terms in the Contract.

**“Acceptance”** means that the Agency has determined that one or more Deliverables satisfy the Agency’s Acceptance Tests. Final Acceptance means that the Agency has determined that all Deliverables satisfy the Agency’s Acceptance Tests.

Non-acceptance means that the Agency has determined that one or more Deliverables have not satisfied the Agency’s Acceptance Tests.

**“Acceptance Criteria”** means the Specifications, goals, performance measures, testing results and/or other criteria designated by the Agency and against which the Deliverables may be evaluated for purposes of Acceptance or Non-acceptance thereof.

**“Acceptance Tests” or “Acceptance Testing”** mean the tests, reviews, and other activities that are performed by or on behalf of the Agency to determine whether the Deliverables meet the Acceptance Criteria or otherwise satisfy the Agency, as determined by the Agency in its sole discretion.

**“Bid Proposal” or “Proposal”** means the Contractor’s proposal submitted in response to the Solicitation, if this Contract arises out of a competitive process.

**“Business Days”** means any day other than a Saturday, Sunday, or State holiday as specified by Iowa Code §1C.2.

**“Confidential Information”** means, subject to any applicable State and federal laws and regulations, including but not limited to Iowa Code Chapter 22, any confidential or proprietary information or trade secrets disclosed by either party (a “Disclosing Party”) to the other party (a “Receiving Party”) that, at the time of disclosure, is designated as confidential (or like designation), is disclosed in circumstances of confidence, or would be understood by the parties, exercising reasonable business judgment, to be confidential. Regardless of whether or not the following information is designated as confidential, the term Confidential Information includes information that could be used to identify recipients or applicants of Agency services and recipients of Contract services including Protected Health Information (45 C.F.R. § 160.103) and Personal

Information (Iowa Code § 715C.1(11)), Agency security protocols and procedures, Agency system architecture, information that could compromise the security of the Agency network or systems, and information about the Agency’s current or future competitive procurements, including the evaluation process prior to the formal announcement of results.

Confidential Information does not include any information that: (1) was rightfully in the possession of the Receiving Party from a source other than the Disclosing Party prior to the time of disclosure of the information by the Disclosing Party to the Receiving Party; (2) was known to the Receiving Party prior to the disclosure of the information by the Disclosing Party; (3) was disclosed to the Receiving Party without restriction by an independent third party having a legal right to disclose the information; (4) is in the public domain or shall have become publicly available other than as a result of disclosure by the Receiving Party in violation of this Agreement or in breach of any other agreement with the Disclosing Party; (5) is independently developed by the Receiving Party without any reliance on Confidential Information disclosed by the Disclosing Party; (6) is disclosed or is required or authorized to be disclosed pursuant to law, rule, regulation, subpoena, summons, or the order of a court, lawful custodian, governmental agency or regulatory authority, or by applicable regulatory or professional standards; or (7) is disclosed by the Receiving Party with the written consent of the Disclosing Party.

**“Contract”** means the collective documentation memorializing the terms of the agreement between the Agency and the Contractor identified in the Contract Declarations and Execution Section and includes the signed Contract Declarations and Execution Section, the General Terms for Services Contracts, the Special Terms, and any Special Contract Attachments.

**“Declarations and Execution Section”** means the document that contains basic information about the Contract and incorporates by reference the General Terms for Services Contracts, the Special Terms, and any Special Contract Attachments.



**“Deficiency”** means a defect, flaw, anomaly, failure, omission, interruption of service, or other problem of any nature whatsoever with respect to a Deliverable, including, without limitation, any failure of a Deliverable to conform to or meet an applicable specification. Deficiency also includes the lack of something essential or necessary for completeness or proper functioning of a Deliverable.

**“Deliverables”** means all of the services, goods, products, work, work product, data, items, materials and property to be created, developed, produced, delivered, performed, or provided by or on behalf of, or made available through, the Contractor (or any agent, contractor or subcontractor of the Contractor) in connection with this Contract. This includes data that is collected on behalf of the Agency.

**“Documentation”** means any and all technical information, commentary, explanations, design documents, system architecture documents, database layouts, test materials, training materials, guides, manuals, worksheets, notes, work papers, and all other information, documentation and materials related to or used in conjunction with the Deliverables, in any medium, including hard copy, electronic, digital, and magnetically or optically encoded media.

**“Force Majeure”** means an event that no human foresight could anticipate or which if anticipated, is incapable of being avoided. Circumstances must be abnormal and unforeseeable, so that the consequences could not have been avoided through the exercise of all due care. The delay or impossibility of performance must be beyond the control and without the fault or negligence of the parties. Force Majeure does not include: financial difficulties, strikes, labor unrest, or supply chain disruptions.

**“Invoice”** means a Contractor’s claim for payment. At the Agency’s discretion, claims may be submitted on an original invoice from the Contractor or may be submitted on a claim form acceptable to the Agency, such as a General Accounting Expenditure (GAX) form.

**“Solicitation”** means the formal or informal procurement (and any Addenda thereto) identified in the Contracts Declarations and Execution Section that was issued to solicit the Bid Proposal leading to this Contract.

**“Special Contract Attachments”** means any attachment to this Contract indicated in the Contract Declarations and Execution Section.

**“Special Terms”** means the Section of the Contract entitled “Special Terms” that contains terms specific to this Contract, including but not limited to the Scope of Work and contract payment terms. If there is a conflict between the General Terms for Services Contracts and the Special Terms, the Special Terms shall prevail.

**“Specifications”** means all specifications, requirements, technical standards, performance standards, representations, and other criteria related to the Deliverables stated or expressed in this Contract, the Documentation, the Solicitation, and the Bid Proposal. Specifications shall include the Acceptance Criteria and any specifications, standards, or criteria stated or set forth in any applicable state, federal, foreign, and local laws, rules and regulations. The Specifications are incorporated into this Contract by reference as if fully set forth in this Contract.

**“State”** means the State of Iowa, the Agency, and all State of Iowa agencies, boards, and commissions, and when this Contract is available to political subdivisions, any political subdivisions of the State of Iowa.

**2.2 Duration of Contract.** The term of the Contract shall begin and end on the dates specified in the Contract Declarations and Execution Section, unless extended or terminated earlier in accordance with the termination provisions of this Contract. The Agency may, in its sole discretion, amend the end date of this Contract by exercising any applicable extension by giving the Contractor a written extension at least sixty (60) days prior to the expiration of the initial term or renewal term.

**2.3 Scope of Work.** The Contractor shall provide Deliverables that comply with and conform to the Specifications. Deliverables shall be performed within the boundaries of the United States.

#### **2.4 Compensation.**

**2.4.1 Withholding Payments.** In addition to pursuing any other remedy provided herein or by law, the Agency may withhold compensation or payments to the Contractor, in whole or in part, without penalty to the Agency or work stoppage by the Contractor, in the event the Agency determines that: (1) the Contractor has failed to perform any of its duties or obligations as set forth in this Contract; (2) any Deliverable has failed to meet or conform to any

applicable Specifications or contains or is experiencing a Deficiency; or (3) the Contractor has failed to perform Close-Out Event(s). No interest shall accrue or be paid to the Contractor on any compensation or other amounts withheld or retained by the Agency under this Contract.

**2.4.2 Erroneous Payments and Credits.** The Contractor shall promptly repay or refund the full amount of any overpayment or erroneous payment within thirty (30) Business Days after either discovery by the Contractor or notification by the Agency of the overpayment or erroneous payment.

**2.4.3 Offset Against Sums Owed by the Contractor.** In the event that the Contractor owes the State any sum under the terms of this Contract, any other contract or agreement, pursuant to a judgment, or pursuant to any law, the State may, in its sole discretion, offset any such sum against: (1) any sum Invoiced by, or owed to, the Contractor under this Contract, or (2) any sum or amount owed by the State to the Contractor, unless otherwise required by law. The Contractor agrees that this provision constitutes proper and timely notice under any applicable laws governing offset.

## **2.5 Termination.**

**2.5.1 Termination for Cause by the Agency.** The Agency may terminate this Contract upon written notice for the breach by the Contractor or any subcontractor of any material term, condition or provision of this Contract, if such breach is not cured within the time period specified in the Agency's notice of breach or any subsequent notice or correspondence delivered by the Agency to the Contractor, provided that cure is feasible. In addition, the Agency may terminate this Contract effective immediately without penalty and without advance notice or opportunity to cure for any of the following reasons:

**2.5.1.1** The Contractor furnished any statement, representation, warranty, or certification in connection with this Contract, the Solicitation, or the Bid Proposal that is false, deceptive, or materially incorrect or incomplete;

**2.5.1.2** The Contractor or any of the Contractor's officers, directors, employees, agents, subsidiaries, affiliates, contractors or subcontractors has committed or engaged in fraud, misappropriation, embezzlement, malfeasance, misfeasance, or bad faith;

**2.5.1.3** The Contractor or any parent or affiliate of the Contractor owning a controlling interest in the Contractor dissolves;

**2.5.1.4** The Contractor terminates or suspends its business;

**2.5.1.5** The Contractor's corporate existence or good standing in Iowa is suspended, terminated, revoked or forfeited, or any license or certification held by the Contractor related to the Contractor's performance under this Contract is suspended, terminated, revoked, or forfeited;

**2.5.1.6** The Contractor has failed to comply with any applicable international, federal, state or local laws, rules, ordinances, regulations, or orders when performing within the scope of this Contract;

**2.5.1.7** The Agency determines or believes the Contractor has engaged in conduct that: (1) has or may expose the Agency or the State to material liability; or (2) has caused or may cause a person's life, health, or safety to be jeopardized;

**2.5.1.8** The Contractor infringes or allegedly infringes or violates any patent, trademark, copyright, trade dress, or any other intellectual property right or proprietary right, or the Contractor misappropriates or allegedly misappropriates a trade secret;

**2.5.1.9** The Contractor fails to comply with any applicable confidentiality laws, privacy laws, or any provisions of this Contract pertaining to confidentiality or privacy; or

**2.5.1.10** Any of the following has been engaged in by or occurred with respect to the Contractor or any corporation, shareholder or entity having or owning a controlling interest in the Contractor:

- Commencing or permitting a filing against it which is not discharged within ninety (90) days, of a case or other proceeding seeking liquidation, reorganization, or other relief with respect to itself or its debts under any bankruptcy, insolvency, or other similar law now or hereafter in effect; or filing an answer admitting the material allegations of a petition filed against it in any involuntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts; or consenting to any such relief or to the appointment of or taking possession by any such official in any voluntary case or other proceeding commenced against it seeking liquidation, reorganization, or other relief under any bankruptcy, insolvency, or other similar law now or hereafter in effect with respect to it or its debts;

- Seeking or suffering the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its assets;
- Making an assignment for the benefit of creditors;
- Failing, being unable, or admitting in writing the inability generally to pay its debts or obligations as they become due or failing to maintain a positive net worth and such additional capital and liquidity as is reasonably adequate or necessary in connection with the Contractor's performance of its obligations under this Contract; or
- Taking any action to authorize any of the foregoing.

**2.5.2 Termination Upon Notice.** Following a thirty (30) day written notice, the Agency may terminate this Contract in whole or in part without penalty and without incurring any further obligation to the Contractor. Termination can be for any reason or no reason at all.

**2.5.3 Termination Due to Lack of Funds or Change in Law.** Notwithstanding anything in this Contract to the contrary, and subject to the limitations set forth below, the Agency shall have the right to terminate this Contract without penalty and without any advance notice as a result of any of the following:

**2.5.3.1** The legislature or governor fail in the sole opinion of the Agency to appropriate funds sufficient to allow the Agency to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or

**2.5.3.2** If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by the Agency to make any payment hereunder are insufficient or unavailable for any other reason as determined by the Agency in its sole discretion; or

**2.5.3.3** If the Agency's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

**2.5.3.4** If the Agency's duties, programs or responsibilities are modified or materially altered; or

**2.5.3.5** If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation, or order is enacted, promulgated, or issued that materially or adversely affects the Agency's ability to fulfill any of its obligations under this Contract.

The Agency shall provide the Contractor with written notice of termination pursuant to this section.

**2.5.4 Other remedies.** The Agency's right to terminate this Contract shall be in addition to and not exclusive of other remedies available to the Agency, and the Agency shall be entitled to exercise any other rights and pursue any remedies, in law, at equity, or otherwise.

**2.5.5 Limitation of the State's Payment Obligations.** In the event of termination of this Contract for any reason by either party (except for termination by the Agency pursuant to Section 2.5.1, *Termination for Cause by the Agency*) the Agency shall pay only those amounts, if any, due and owing to the Contractor hereunder for Deliverables actually and satisfactorily provided in accordance with the provisions of this Contract up to and including the date of termination of this Contract and for which the Agency is obligated to pay pursuant to this Contract; provided however, that in the event the Agency terminates this Contract pursuant to Section 2.5.3, *Termination Due to Lack of Funds or Change in Law*, the Agency's obligation to pay the Contractor such amounts and other compensation shall be limited by, and subject to, legally available funds. Payment will be made only upon submission of Invoices and proper proof of the Contractor's claim. Notwithstanding the foregoing, this section in no way limits the rights or remedies available to the Agency and shall not be construed to require the Agency to pay any compensation or other amounts hereunder in the event of the Contractor's breach of this Contract or any amounts withheld by the Agency in accordance with the terms of this Contract. The Agency shall not be liable, under any circumstances, for any of the following:

**2.5.5.1** The payment of unemployment compensation to the Contractor's employees;

**2.5.5.2** The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

**2.5.5.3** Any costs incurred by the Contractor in its performance of the Contract, including, but not limited to, startup costs, overhead, or other costs associated with the performance of the Contract;

**2.5.5.4** Any damages or other amounts associated with the loss of prospective profits, anticipated sales, goodwill, or for expenditures, investments, or commitments made in connection with this Contract; or

**2.5.5.5** Any taxes the Contractor may owe in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes, or property taxes.

**2.5.6 Contractor's Contract Close-Out Duties.**

Upon receipt of notice of termination, at expiration of the Contract, or upon request of the Agency

(hereafter, "Close-Out Event"), the Contractor shall:

**2.5.6.1** Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the Close-Out Event, describing the status of all work performed under the Contract and such other matters as the Agency may require.

**2.5.6.2** Immediately cease using and return to the Agency any property or materials, whether tangible or intangible, provided by the Agency to the Contractor.

**2.5.6.3** Cooperate in good faith with the Agency and its employees, agents, and independent contractors during the transition period between the Close-Out Event and the substitution of any replacement service provider.

**2.5.6.4** Immediately return to the Agency any payments made by the Agency for Deliverables that were not rendered or provided by the Contractor.

**2.5.6.5** Immediately deliver to the Agency any and all Deliverables for which the Agency has made payment (in whole or in part) that are in the possession or under the control of the Contractor or its agents or subcontractors in whatever stage of development and form of recordation such property is expressed or embodied at that time.

**2.5.7 Termination for Cause by the Contractor.**

The Contractor may only terminate this Contract for the breach by the Agency of any material term of this Contract, if such breach is not cured within sixty (60) days of the Agency's receipt of the Contractor's written notice of breach.

**2.6 Reserved.**

**2.7 Indemnification.**

**2.7.1 By the Contractor.** The Contractor agrees to indemnify and hold harmless the State and its officers, appointed and elected officials, board and commission members, employees, volunteers, and agents (collectively the "Indemnified Parties"), from any and all costs, expenses, losses, claims, damages, liabilities, settlements, and judgments (including, without limitation, the reasonable value of the time

spent by the Attorney General's Office,) and the costs, expenses, and attorneys' fees of other counsel retained by the Indemnified Parties directly or indirectly related to, resulting from, or arising out of this Contract, including but not limited to any claims related to, resulting from, or arising out of:

**2.7.1.1** Any breach of this Contract;

**2.7.1.2** Any negligent, intentional, or wrongful act or omission of the Contractor or any agent or subcontractor utilized or employed by the Contractor;

**2.7.1.3** The Contractor's performance or attempted performance of this Contract, including any agent or subcontractor utilized or employed by the Contractor;

**2.7.1.4** Any failure by the Contractor to make all reports, payments, and withholdings required by federal and state law with respect to social security, employee income and other taxes, fees, or costs required by the Contractor to conduct business in the State of Iowa;

**2.7.1.5** Any claim of misappropriation of a trade secret or infringement or violation of any intellectual property rights, proprietary rights, or personal rights of any third party, including any claim that any Deliverable or any use thereof (or the exercise of any rights with respect thereto) infringes, violates, or misappropriates any patent, copyright, trade secret, trademark, trade dress, mask work, utility design, or other intellectual property right or proprietary right of any third party.

**2.8 Insurance.**

**2.8.1 Insurance Requirements.** At the Contractor's expense, the Contractor and any subcontractor shall maintain insurance in full force and effect covering its work during the entire term of this Contract and any extensions or renewals thereof. Insurance shall be provided through companies licensed by the State of Iowa, through statutorily authorized self-insurance programs, through local government risk pools, or through any combination of these. The Contractor's insurance shall, among other things, be occurrence based and shall insure against any loss or damage resulting from or related to the Contractor's performance of this Contract regardless of the date the claim is filed or expiration of the policy. The State of Iowa and the Agency shall be named as additional insureds or loss payees, or the Contractor shall obtain an endorsement to the same effect, as applicable.

**2.8.1.2.** Name the State of Iowa and the Agency as additional insureds or loss payees on the policies for

all coverages required by this Contract, with the exception of Workers' Compensation, or the Contractor shall obtain an endorsement to the same effect; and

**2.8.1.3** Provide a waiver of any subrogation rights that any of its insurance carriers might have against the State on the policies for all coverage required by this Contract, with the exception of Workers' Compensation.

The requirements set forth in this section shall be indicated on the certificates of insurance coverage supplied to the Agency.

**2.8.2 Types and Amounts of Insurance Required.**

Unless otherwise requested by the Agency in writing, the Contractor shall cause to be issued insurance coverages insuring the Contractor and/or subcontractors against all general liabilities, product liability, personal injury, property damage, and (where applicable) professional liability in the amount specified in the Special Terms for each occurrence. In addition, the Contractor shall ensure it has any necessary workers' compensation and employer liability insurance as required by Iowa law.

**2.8.3 Certificates of Coverage.** The Contractor shall submit certificates of the insurance, which indicate coverage and notice provisions as required by this Contract, to the Agency upon execution of this Contract. The Contractor shall maintain all insurance policies required by this Contract in full force and effect during the entire term of this Contract and any extensions or renewals thereof, and shall not permit such policies to be canceled or amended except with the advance written approval of the Agency. The insurer shall state in the certificate that no cancellation of the insurance will be made without at least a thirty (30) day prior written notice to the Agency. The certificates shall be subject to approval by the Agency. Approval of the insurance certificates by the Agency shall not relieve the Contractor of any obligation under this Contract.

**2.9 Ownership and Security of Agency Information.**

**2.9.1 Ownership and Disposition of Agency Information.** Any information either supplied by the Agency to the Contractor, or collected by the Contractor on the Agency's behalf in the course of the performance of this Contract, shall be considered the property of the Agency ("Agency Information"). The Contractor will not use the Agency Information for any purpose other than providing services under the Contract, nor will any part of the information and

records be disclosed, sold, assigned, leased, or otherwise provided to third parties or commercially exploited by or on behalf of the Contractor. The Agency shall own all Agency Information that may reside within the Contractor's hosting environment and/or equipment/media.

**2.9.2 Foreign Hosting and Storage Prohibited.**

Agency Information shall be hosted and/or stored within the continental United States only.

**2.9.3 Access to Agency Information that is Confidential Information.**

The Contractor's employees, agents, and subcontractors may have access to Agency Information that is Confidential Information to the extent necessary to carry out responsibilities under the Contract. Access to such Confidential Information shall comply with both the State's and the Agency's policies and procedures.

**2.9.4 No Use or Disclosure of Confidential Information.**

Confidential Information collected, maintained, or used in the course of performance of the Contract shall only be used or disclosed by the Contractor as expressly authorized by law and only with the prior written consent of the Agency, either during the period of the Contract or thereafter. The Contractor shall immediately report to the Agency any unauthorized use or disclosure of Confidential Information. The Contractor may be held civilly or criminally liable for improper use or disclosure of Confidential Information.

**2.9.5 Contractor Breach Notification Obligations.**

The Contractor agrees to comply with all applicable laws that require the notification of individuals in the event of unauthorized use or disclosure of Confidential Information or other event(s) requiring notification in accordance with applicable law. In the event of a breach of the Contractor's security obligations or other event requiring notification under applicable law, the Contractor agrees to follow Agency directives, which may include assuming responsibility for informing all such individuals in accordance with applicable laws, and to indemnify, hold harmless, and defend the State of Iowa against any claims, damages, or other harm related to such breach.

**2.9.6 Compliance of Contractor Personnel.**

The Contractor and the Contractor's personnel shall comply with the Agency's and the State's security and personnel policies, procedures, and rules, including any procedure which the Agency's personnel, contractors, and consultants are normally asked to follow. The Contractor agrees to cooperate

fully and to provide any assistance necessary to the Agency in the investigation of any security breaches that may involve the Contractor or the Contractor's personnel. All services shall be performed in accordance with State Information Technology security standards and policies as well as Agency security protocols and procedures. By way of example only, see Iowa Code 8A.206,

<http://secureonline.iowa.gov/links/index.html>, and <http://das.ite.iowa.gov/standards/index.html>.

**2.9.7 Subpoena.** In the event that a subpoena or other legal process is served upon the Contractor for records containing Confidential Information, the Contractor shall promptly notify the Agency and cooperate with the Agency in any lawful effort to protect the Confidential Information.

**2.9.8 Return and/or Destruction of Information.** Upon expiration or termination of the Contract for any reason, the Contractor agrees to comply with all Agency directives regarding the return or destruction of all Agency Information and any derivative work. Delivery of returned Agency Information must be through a secured electronic transmission or by parcel service that utilizes tracking numbers. Such information must be provided in a format useable by the Agency. Following the Agency's verified receipt of the Agency Information and any derivative work, the Contractor agrees to physically and/or electronically destroy or erase all residual Agency Information regardless of format from the entire Contractor's technology resources and any other storage media. This includes, but is not limited to, all production copies, test copies, backup copies and /or printed copies of information created on any other servers or media and at all other Contractor sites. Any permitted destruction of Agency Information must occur in such a manner as to render the information incapable of being reconstructed or recovered. The Contractor will provide a record of information destruction to the Agency for inspection and records retention no later than thirty (30) days after destruction.

**2.9.9 Contractor's Inability to Return and/or Destroy Information.** If for any reason the Agency Information cannot be returned and/or destroyed upon expiration or termination of the Contract, the Contractor agrees to notify the Agency with an explanation as to the conditions which make return and/or destruction not possible or feasible. Upon mutual agreement by both parties that the return and/or destruction of the information is not possible

or feasible, the Contractor shall make the Agency Information inaccessible. The Contractor shall not use or disclose such retained Agency Information for any purposes other than those expressly permitted by the Agency. The Contractor shall provide to the Agency a detailed description as to the procedures and methods used to make the Agency Information inaccessible no later than thirty (30) days after making the information inaccessible. If the Agency provides written permission for the Contractor to retain the Agency Information in the Contractor's information systems, the Contractor will extend the protections of this Contract to such information and limit any further uses or disclosures of such information.

**2.9.10 Contractors that are Business Associates.** If the Contractor is the Agency's Business Associate, and there is a conflict between the Business Associate Agreement and this Section 2.9, the provisions in the Business Associate Agreement shall control.

## ***2.10 Intellectual Property.***

**2.10.1 Ownership and Assignment of Other Deliverables.** The Contractor agrees that the State and the Agency shall become the sole and exclusive owners of all Deliverables. The Contractor hereby irrevocably assigns, transfers and conveys to the State and the Agency all right, title and interest in and to all Deliverables and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables, including copyrights, patents, trademarks, trade secrets, trade dress, mask work, utility design, derivative works, and all other rights and interests therein or related thereto. The Contractor represents and warrants that the State and the Agency shall acquire good and clear title to all Deliverables, free from any claims, liens, security interests, encumbrances, intellectual property rights, proprietary rights, or other rights or interests of the Contractor or of any third party, including any employee, agent, contractor, subcontractor, subsidiary, or affiliate of the Contractor. The Contractor (and Contractor's employees, agents, contractors, subcontractors, subsidiaries and affiliates) shall not retain any property interests or other rights in and to the Deliverables and shall not use any Deliverables, in whole or in part, for any purpose, without the prior written consent of the Agency and the payment of such royalties or other compensation as the Agency deems appropriate.

Unless otherwise requested by the Agency, upon completion or termination of this Contract, the Contractor will immediately turn over to the Agency all Deliverables not previously delivered to the Agency, and no copies thereof shall be retained by the Contractor or its employees, agents, subcontractors, or affiliates, without the prior written consent of the Agency.

**2.10.2 Waiver.** To the extent any of the Contractor's rights in any Deliverables are not subject to assignment or transfer hereunder, including any moral rights and any rights of attribution and of integrity, the Contractor hereby irrevocably and unconditionally waives all such rights and enforcement thereof and agrees not to challenge the State's rights in and to the Deliverables.

**2.10.3 Further Assurances.** At the Agency's request, the Contractor will execute and deliver such instruments and take such other action as may be requested by the Agency to establish, perfect, or protect the State's rights in and to the Deliverables and to carry out the assignments, transfers and conveyances set forth in Section 2.10, *Intellectual Property*.

**2.10.4 Publications.** Prior to completion of all services required by this Contract, the Contractor shall not publish in any format any final or interim report, document, form, or other material developed as a result of this Contract without the express written consent of the Agency. Upon completion of all services required by this Contract, the Contractor may publish or use materials developed as a result of this Contract, subject to confidentiality restrictions, and only after the Agency has had an opportunity to review and comment upon the publication. Any such publication shall contain a statement that the work was done pursuant to a contract with the Agency and that it does not necessarily reflect the opinions, findings, and conclusions of the Agency.

## **2.11 Warranties.**

**2.11.1 Construction of Warranties Expressed in this Contract with Warranties Implied by Law.** Warranties made by the Contractor in this Contract, whether: (1) this Contract specifically denominates the Contractor's promise as a warranty; or (2) the warranty is created by the Contractor's affirmation or promise, by a description of the Deliverables to be provided, or by provision of samples to the Agency, shall not be construed as limiting or negating any warranty provided by law, including without

limitation, warranties that arise through the course of dealing or usage of trade. The warranties expressed in this Contract are intended to modify the warranties implied by law only to the extent that they expand the warranties applicable to the Deliverables provided by the Contractor. With the exception of Subsection 2.11.3, the provisions of this section apply during the Warranty Period as defined in the Contract Declarations and Execution Section.

### **2.11.2 Contractor represents and warrants that:**

**2.11.2.1** All Deliverables shall be wholly original with and prepared solely by the Contractor; or it owns, possesses, holds, and has received or secured all rights, permits, permissions, licenses, and authority necessary to provide the Deliverables to the Agency hereunder and to assign, grant and convey the rights, benefits, licenses, and other rights assigned, granted, or conveyed to the Agency hereunder or under any license agreement related hereto without violating any rights of any third party;

**2.11.2.2** The Contractor has not previously and will not grant any rights in any Deliverables to any third party that are inconsistent with the rights granted to the Agency herein; and

**2.11.2.3** The Agency shall peacefully and quietly have, hold, possess, use, and enjoy the Deliverables without suit, disruption, or interruption.

### **2.11.3 The Contractor represents and warrants that:**

**2.11.3.1** The Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables); and **2.11.3.2** The Agency's use of, and exercise of any rights with respect to, the Deliverables (and all intellectual property rights and proprietary rights arising out of, embodied in, or related to such Deliverables), do not and will not, under any circumstances, misappropriate a trade secret or infringe upon or violate any copyright, patent, trademark, trade dress or other intellectual property right, proprietary right or personal right of any third party. The Contractor further represents and warrants there is no pending or threatened claim, litigation, or action that is based on a claim of infringement or violation of an intellectual property right, proprietary right or personal right or misappropriation of a trade secret related to the Deliverables. The Contractor shall inform the Agency in writing immediately upon becoming aware of any actual, potential, or threatened claim of or cause of action for infringement or violation or an intellectual property

right, proprietary right, or personal right or misappropriation of a trade secret. If such a claim or cause of action arises or is likely to arise, then the Contractor shall, at the Agency's request and at the Contractor's sole expense:

- Procure for the Agency the right or license to continue to use the Deliverable at issue;
- Replace such Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation;
- Modify or replace the affected portion of the Deliverable with a functionally equivalent or superior Deliverable free of any such infringement, violation, or misappropriation; or
- Accept the return of the Deliverable at issue and refund to the Agency all fees, charges, and any other amounts paid by the Agency with respect to such Deliverable. In addition, the Contractor agrees to indemnify, defend, protect, and hold harmless the State and its officers, directors, employees, officials, and agents as provided in the Indemnification Section of this Contract, including for any breach of the representations and warranties made by the Contractor in this section.

The warranty provided in this Section 2.11.3 shall be perpetual, shall not be subject to the contractual Warranty Period, and shall survive termination of this Contract. The foregoing remedies provided in this subsection shall be in addition to and not exclusive of other remedies available to the Agency and shall survive termination of this Contract.

**2.11.4 The Contractor represents and warrants that the Deliverables shall:**

- 2.11.4.1** Be free from material Deficiencies; and
- 2.11.4.2** Meet, conform to, and operate in accordance with all Specifications and in accordance with this Contract during the Warranty Period, as defined in the Contract Declarations and Execution Section. During the Warranty Period the Contractor shall, at its expense, repair, correct or replace any Deliverable that contains or experiences material Deficiencies or fails to meet, conform to or operate in accordance with Specifications within five (5) Business Days of receiving notice of such Deficiencies or failures from the Agency or within such other period as the Agency specifies in the notice. In the event the Contractor is unable to repair, correct, or replace such Deliverable to the Agency's satisfaction, the Contractor shall refund the fees or other amounts paid for the Deliverables and for any services related thereto.

The foregoing shall not constitute an exclusive remedy under this Contract, and the Agency shall be entitled to pursue any other available contractual, legal, or equitable remedies. The Contractor shall be available at all reasonable times to assist the Agency with questions, problems, and concerns about the Deliverables, to inform the Agency promptly of any known Deficiencies in any Deliverables, repair and correct any Deliverables not performing in accordance with the warranties contained in this Contract, notwithstanding that such Deliverables may have been accepted by the Agency, and provide the Agency with all necessary materials with respect to such repaired or corrected Deliverable.

**2.11.5** The Contractor represents, warrants and covenants that all services to be performed under this Contract shall be performed in a professional, competent, diligent, and workmanlike manner by knowledgeable, trained, and qualified personnel, all in accordance with the terms and Specifications of this Contract and the standards of performance considered generally acceptable in the industry for similar tasks and projects. In the absence of a Specification for the performance of any portion of this Contract, the parties agree that the applicable Specification shall be the generally accepted industry standard. So long as the Agency notifies the Contractor of any services performed in violation of this standard, the Contractor shall re-perform the services at no cost to the Agency, such that the services are rendered in the above-specified manner, or if the Contractor is unable to perform the services as warranted, the Contractor shall reimburse the Agency any fees or compensation paid to the Contractor for the unsatisfactory services.

**2.11.6** The Contractor represents and warrants that the Deliverables will comply with any applicable federal, state, foreign and local laws, rules, regulations, codes, and ordinances in effect during the term of this Contract, including applicable provisions of Section 508 of the Rehabilitation Act of 1973, as amended, and all standards and requirements established by the Architectural and Transportation Barriers Access Board and the Iowa Department of Administrative Services, Information Technology Enterprise.

**2.11.7 Obligations Owed to Third Parties.** The Contractor represents and warrants that all obligations owed to third parties with respect to the activities contemplated to be undertaken by the Contractor pursuant to this Contract are or will be



fully satisfied by the Contractor so that the Agency will not have any obligations with respect thereto.

## **2.12 Acceptance of Deliverables.**

**2.12.1 Acceptance of Written Deliverables.** For the purposes of this section, written Deliverables means documents including, but not limited to project plans, planning documents, reports, or instructional materials (“Written Deliverables”). Although the Agency determines what Written Deliverables are subject to formal Acceptance, this section generally does not apply to routine progress or financial reports. Absent more specific Acceptance Criteria in the Special Terms, following delivery of any Written Deliverable pursuant to the Contract, the Agency will notify the Contractor whether or not the Deliverable meets contractual specifications and requirements. Written Deliverables shall not be considered accepted by the Agency, nor does the Agency have an obligation to pay for such Deliverables, unless and until the Agency has notified the Contractor of the Agency’s Final Acceptance of the Written Deliverables. In all cases, any statements included in such Written Deliverables that alter or conflict with any contractual requirements shall in no way be considered as changing the contractual requirements unless and until the parties formally amend the Contract.

### **2.12.2. Reserved. (Acceptance of Software Deliverables)**

**2.12.3 Notice of Acceptance and Future Deficiencies.** The Contractor’s receipt of any notice of Acceptance, including Final Acceptance, with respect to any Deliverable shall not be construed as a waiver of any of the Agency’s rights to enforce the terms of this Contract or require performance in the event the Contractor breaches this Contract or any Deficiency is later discovered with respect to such Deliverable.

## **2.13 Contract Administration.**

**2.13.1 Independent Contractor.** The status of the Contractor shall be that of an independent contractor. The Contractor, its employees, agents, and any subcontractors performing under this Contract are not employees or agents of the State or any agency, division, or department of the State simply by virtue of work performed pursuant to this Contract. Neither the Contractor nor its employees shall be considered employees of the Agency or the State for federal or state tax purposes simply by virtue of work

performed pursuant to this Contract. The Agency will not withhold taxes on behalf of the Contractor (unless required by law).

**2.13.2 Incorporation of Documents.** To the extent this Contract arises out of a Solicitation, the parties acknowledge that the Contract consists of these contract terms and conditions as well as the Solicitation and the Bid Proposal. The Solicitation and the Bid Proposal are incorporated into the Contract by reference. If the Contractor proposed exceptions or modifications to the Sample Contract attached to the Solicitation or to the Solicitation itself, these proposed exceptions or modifications shall not be incorporated into this Contract unless expressly set forth herein. If there is a conflict between the Contract, the Solicitation, and the Bid Proposal, the conflict shall be resolved according to the following priority, ranked in descending order: (1) the Contract; (2) the Solicitation; (3) the Bid Proposal.

**2.13.3 Intent of References to Bid Documents.** To the extent this Contract arises out of a Solicitation, the references to the parties' obligations, which are contained in this Contract, are intended to supplement or clarify the obligations as stated in the Solicitation and the Bid Proposal. The failure of the parties to make reference to the terms of the Solicitation or the Bid Proposal in this Contract shall not be construed as creating a conflict and will not relieve the Contractor of the contractual obligations imposed by the terms of the Solicitation and the Contractor’s Bid Proposal. Terms offered in the Bid Proposal, which exceed the requirements of the Solicitation, shall not be construed as creating an inconsistency or conflict with the Solicitation or the Contract. The contractual obligations of the Agency are expressly stated in this document. The Bid Proposal does not create any express or implied obligations of the Agency.

**2.13.4 Compliance with the Law.** The Contractor, its employees, agents, and subcontractors shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations, and orders when providing Deliverables pursuant to this Contract, including without limitation, all laws that pertain to the prevention of discrimination in employment and in the provision of services. For employment, this would include equal employment opportunity and affirmative action, and the use of targeted small businesses as subcontractors or suppliers. The Contractor may be required to provide a copy of its

affirmative action plan, containing goals and time specifications, and non-discrimination and accessibility plans and policies regarding services to clients. Failure to comply with this provision may cause this contract to be cancelled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for future state contracts or be subject to other sanctions as provided by law or rule. The Contractor, its employees, agents, and subcontractors shall also comply with all federal, state, and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract. The Contractor may be required to submit its affirmative action plan to the Iowa Department of Management to comply with the requirements of 541 Iowa Administrative Code chapter 4. If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, the Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars, and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation, a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

**2.13.5 Procurement.** The Contractor shall use procurement procedures that comply with all applicable federal, state, and local laws and regulations.

**2.13.6 Non-Exclusive Rights.** This Contract is not exclusive. The Agency reserves the right to select other contractors to provide Deliverables similar or identical to those described in the Scope of Work during the term of this Contract.

**2.13.7 Amendments.** With the exception of the Contract end date, which may be extended in the Agency's sole discretion, this Contract may only be amended by mutual written consent of the parties. Amendments shall be executed on a form approved by the Agency that expressly states the intent of the parties to amend this Contract. This Contract shall not be amended in any way by use of terms and conditions in an Invoice or other ancillary transactional document. To the extent that language in a transactional document conflicts with the terms of this Contract, the terms of this Contract shall control.

**2.13.8 No Third Party Beneficiaries.** There are no third party beneficiaries to this Contract. This Contract is intended only to benefit the State and the Contractor.

**2.13.9 Use of Third Parties.** The Agency acknowledges that the Contractor may contract with third parties for the performance of any of the Contractor's obligations under this Contract. The Contractor shall notify the Agency in writing of all subcontracts relating to Deliverables to be provided under this Contract prior to the time the subcontract(s) become effective. The Agency reserves the right to review and approve all subcontracts. The Contractor may enter into these contracts to complete the project provided that the Contractor remains responsible for all Deliverables provided under this Contract. All restrictions, obligations, and responsibilities of the Contractor under this Contract shall also apply to the subcontractors and the Contractor shall include in all of its subcontracts a clause that so states. The Agency shall have the right to request the removal of a subcontractor from the Contract for good cause.

**2.13.10 Choice of Law and Forum.** The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the conflict of law provisions of Iowa law. Any and all litigation commenced in connection with this Contract shall be brought and maintained solely in Polk County District Court for the State of Iowa, Des Moines, Iowa, or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Agency or the State of Iowa.

**2.13.11 Assignment and Delegation.** The Contractor may not assign, transfer, or convey in whole or in part this Contract without the prior written consent of the Agency. For the purpose of construing this clause, a transfer of a controlling interest in the Contractor shall be considered an assignment. The Contractor may not delegate any of its obligations or duties under this Contract without the prior written consent of the Agency. The Contractor may not assign, pledge as collateral, grant a security interest in, create a lien against, or otherwise encumber any payments that may or will be made to the Contractor under this Contract.

**2.13.12 Integration.** This Contract represents the entire Contract between the parties. The parties shall not rely on any representation that may have been made which is not included in this Contract.

**2.13.13 No Drafter.** No party to this Contract shall be considered the drafter of this Contract for the purpose of any statute, case law, or rule of construction that would or might cause any provision to be construed against the drafter.

**2.13.14 Headings or Captions.** The paragraph headings or captions used in this Contract are for identification purposes only and do not limit or construe the contents of the paragraphs.

**2.13.15 Not a Joint Venture.** Nothing in this Contract shall be construed as creating or constituting the relationship of a partnership, joint venture, (or other association of any kind or agent and principal relationship) between the parties hereto. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon another party to this Contract.

**2.13.16 Joint and Several Liability.** If the Contractor is a joint entity, consisting of more than one individual, partnership, corporation, or other business organization, all such entities shall be jointly and severally liable for carrying out the activities and obligations of this Contract, for any default of activities and obligations, and for any fiscal liabilities.

**2.13.17 Supersedes Former Contracts or Agreements.** This Contract supersedes all prior contracts or agreements between the Agency and the Contractor for the Deliverables to be provided in connection with this Contract.

**2.13.18 Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of the Agency and the Contractor, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**2.13.19 Notice.** Any notices required by the Contract shall be given in writing by registered or certified mail, return receipt requested, by receipted hand delivery, by Federal Express, courier or other similar and reliable carrier which shall be addressed to each party's Contract Manager as set forth in the Contract Declarations and Execution Section. From time to time, the parties may change the name and address of

a party designated to receive notice. Such change of the designated person shall be in writing to the other party. Each such notice shall be deemed to have been provided:

- At the time it is actually received in the case of hand delivery;
- Within one (1) day in the case of overnight delivery, courier or services such as Federal Express with guaranteed next-day delivery; or
- Within five (5) days after it is deposited in the U.S. Mail.

**2.13.20 Cumulative Rights.** The various rights, powers, options, elections, and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled.

**2.13.21 Severability.** If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

**2.13.22 Time is of the Essence.** Time is of the essence with respect to the Contractor's performance of the terms of this Contract. The Contractor shall ensure that all personnel providing Deliverables to the Agency are responsive to the Agency's requirements and requests in all respects.

**2.13.23 Authorization.** The Contractor represents and warrants that:

**2.13.23.1** It has the right, power, and authority to enter into and perform its obligations under this Contract.

**2.13.23.2** It has taken all requisite action (corporate, statutory, or otherwise) to approve execution, delivery, and performance of this Contract and this Contract constitutes a legal, valid, and binding obligation upon itself in accordance with its terms.

**2.13.24 Successors in Interest.** All the terms, provisions, and conditions of the Contract shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns, and legal representatives.

**2.13.25 Records Retention and Access.**

**2.13.25.1 Financial Records.** The Contractor shall maintain accurate, current, and complete records of the financial activity of this Contract which

sufficiently and properly document and calculate all charges billed to the Agency throughout the term of this Contract and for a period of at least seven (7) years following the date of final payment or completion of any required audit (whichever is later). If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the seven (7) year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular seven (7) year period, whichever is later. The Contractor shall permit the Agency, the Auditor of the State of Iowa or any other authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records, or other records of the Contractor relating to orders, Invoices or payments, or any other Documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records. Based on the audit findings, the Agency reserves the right to address the Contractor's board or other managing entity regarding performance and expenditures. When state or federal law or the terms of this Contract require compliance with OMB Circular A-87, A-110, or other similar provision addressing proper use of government funds, the Contractor shall comply with these additional records retention and access requirements:

**2.13.25.1.1** Records of financial activity shall include records that adequately identify the source and application of funds. When the terms of this Contract require matching funds, cash contributions made by the Contractor and third-party in-kind (property or service) contributions, these funds must be verifiable from the Contractor's records. These records must contain information pertaining to contract amount, obligations, unobligated balances, assets, liabilities, expenditures, income, and third-party reimbursements.

**2.13.25.1.2** The Contractor shall maintain accounting records supported by source documentation that may include but are not limited to cancelled checks, paid bills, payroll, time and attendance records, and contract award documents.

**2.13.25.1.3** The Contractor, in maintaining project expenditure accounts, records and reports, shall make any necessary adjustments to reflect refunds, credits, underpayments or overpayments, as well as any adjustments resulting from administrative or compliance reviews and audits. Such adjustments shall be set forth in the financial reports filed with the Agency.

**2.13.25.1.4** The Contractor shall maintain a sufficient record keeping system to provide the necessary data for the purposes of planning, monitoring, and evaluating its program.

**2.13.25.2** The Contractor shall retain all non-medical and medical client records for a period of seven (7) years from the last date of service for each patient; or in the case of a minor patient or client, for a period consistent with that established by Iowa Code § 614.1(9).

**2.13.26 Audits.** Local governments and non-profit subrecipient entities that expend \$500,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Circular A-133 "Audit of States, Local Governments, and Non-Profit Organizations." A copy of the final audit report shall be submitted to the Agency if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to the Agency that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the Agency. See A-133 Section 21 for a discussion of subrecipient versus vendor relationships. The Contractor shall provide the Agency with a copy of any written audit findings or reports, whether in draft or final form, within two (2) Business Days following receipt by the Contractor. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

**2.13.27 Reimbursement of Audit Costs.** If the Auditor of the State of Iowa notifies the Agency of an issue or finding involving the Contractor's noncompliance with laws, rules, regulations, and/or contractual agreements governing the funds distributed under this Contract, the Contractor shall

bear the cost of the Auditor's review and any subsequent assistance provided by the Auditor to determine compliance. The Contractor shall reimburse the Agency for any costs the Agency pays to the Auditor for such review or audit.

**2.13.28 Staff Qualifications and Background Checks.** The Contractor shall be responsible for assuring that all persons, whether they are employees, agents, subcontractors, or anyone acting for or on behalf of the Contractor, are properly licensed, certified, or accredited as required under applicable state law and the Iowa Administrative Code. The Contractor shall provide standards for service providers who are not otherwise licensed, certified, or accredited under state law or the Iowa Administrative Code.

The Agency reserves the right to conduct and/or request the disclosure of criminal history and other background investigation of the Contractor, its officers, directors, shareholders, and the Contractor's staff, agents, or subcontractors retained by the Contractor for the performance of Contract services.

**2.13.29 Solicitation.** The Contractor represents and warrants that no person or selling agency has been employed or retained to solicit and secure this Contract upon an agreement or understanding for commission, percentage, brokerage, or contingency excepting bona fide employees or selling agents maintained for the purpose of securing business.

**2.13.30 Obligations Beyond Contract Term.** All obligations of the Agency and the Contractor incurred or existing under this Contract as of the date of expiration or termination will survive the expiration or termination of this Contract. Contract sections that survive include, but are not necessarily limited to, the following: (1) Section 2.4.2, *Erroneous Payments and Credits*; (2) Section 2.5.5, *Limitation of the State's Payment Obligations*; (3) Section 2.5.6, *Contractor's Contract Close-Out Duties*; (4) Section 2.7, *Indemnification*, and all subparts thereof; (5) Section 2.9, *Ownership and Security of Agency Information*, and all subparts thereof; (6) Section 2.10, *Intellectual Property*, and all subparts thereof; (7) Section 2.13.10, *Choice of Law and Forum*; (8) Section 2.13.16, *Joint and Several Liability*; (9) Section 2.13.20, *Cumulative Rights*; (10) Section 2.13.24 *Successors In Interest*; (11) Section 2.13.25, *Records Retention and Access*, and all subparts thereof; (12) Section 2.13.26, *Audits*; (13) Section 2.13.27, *Reimbursement of Audit Costs*; (14) Section 2.13.35, *Repayment Obligation*; and (15)

Section 2.13.39, *Use of Name or Intellectual Property*.

**2.13.31 Counterparts.** The parties agree that this Contract has been or may be executed in several counterparts, each of which shall be deemed an original and all such counterparts shall together constitute one and the same instrument.

**2.13.32 Delays or Potential Delays of Performance.** Whenever the Contractor encounters any difficulty which is delaying or threatens to delay the timely performance of this Contract, including but not limited to potential labor disputes, the Contractor shall immediately give notice thereof in writing to the Agency with all relevant information with respect thereto. Such notice shall not in any way constitute a basis for an extension of the delivery schedule or be construed as a waiver by the Agency or the State of any rights or remedies to which either is entitled by law or pursuant to provisions of this Contract. Failure to give such notice, however, may be grounds for denial of any request for an extension of the delivery schedule because of such delay.

Furthermore, the Contractor will not be excused from failure to perform that is due to a Force Majeure unless and until the Contractor provides notice pursuant to this provision.

**2.13.33 Delays or Impossibility of Performance Based on a Force Majeure.** Neither party shall be in default under the Contract if performance is prevented, delayed, or made impossible to the extent that such prevention, delay, or impossibility is caused by a Force Majeure. If a Force Majeure delays or prevents the Contractor's performance, the Contractor shall immediately use its best efforts to directly provide alternate, and to the extent possible, comparable performance. The party seeking to exercise this provision shall immediately notify the other party of the occurrence and reason for the delay. The parties shall make every effort to minimize the time of nonperformance and the scope of work not being performed due to the unforeseen events. Dates by which performance obligations are scheduled to be met will be extended only for a period of time equal to the time lost due to any delay so caused.

**2.13.34 Right to Address the Board of Directors or Other Managing Entity.** The Agency reserves the right to address the Contractor's board of directors or other managing entity of the Contractor regarding performance, expenditures, and any other issue the Agency deems appropriate.

**2.13.35 Repayment Obligation.** In the event that any State and/or federal funds are deferred and/or disallowed as a result of any audits or expended in violation of the laws applicable to the expenditure of such funds, the Contractor shall be liable to the Agency for the full amount of any claim disallowed and for all related penalties incurred. The requirements of this paragraph shall apply to the Contractor as well as any subcontractors.

**2.13.36 Reporting Requirements.** If this Contract permits other State agencies and political subdivisions to make purchases off of the Contract, the Contractor shall keep a record of the purchases made pursuant to the Contract and shall submit a report to the Agency on a quarterly basis. The report shall identify all of the State agencies and political subdivisions making purchases off of this Contract and the quantities purchased pursuant to the Contract during the reporting period.

**2.13.37 Immunity from Liability.** Every person who is a party to the Contract is hereby notified and agrees that the State, the Agency, and all of their employees, agents, successors, and assigns are immune from liability and suit for or from the Contractor's and/or subcontractors' activities involving third parties and arising from the Contract.

**2.13.38 Public Records.** The laws of the State require procurement and contract records to be made public unless otherwise provided by law.

**2.13.39 Use of Name or Intellectual Property.** The Contractor agrees it will not use the Agency and/or State's name or any of their intellectual property, including but not limited to, any State, state agency, board or commission trademarks or logos in any manner, including commercial advertising or as a business reference, without the expressed prior written consent of the Agency and/or the State.

**2.13.40 Taxes.** The State is exempt from Federal excise taxes, and no payment will be made for any taxes levied on the Contractor's employees' wages. The State is exempt from State and local sales and use taxes on the Deliverables.

**2.13.41 No Minimums Guaranteed.** The Contract does not guarantee any minimum level of purchases or any minimum amount of compensation.

**2.14 Contract Certifications.** The Contractor will fully comply with obligations herein. If any conditions within these certifications change, the Contractor will provide written notice to the Agency

within twenty-four (24) hours from the date of discovery.

**2.14.1 Certification of Compliance with Pro-Children Act of 1994.** The Contractor must comply with Public Law 103-227, Part C Environmental Tobacco Smoke, also known as the Pro-Children Act of 1994 (Act). This Act requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted by an entity and used routinely or regularly for the provision of health, day care, education, or library services to children under the age of 18, if the Deliverables are funded by federal programs either directly or through State or local governments. Federal programs include grants, cooperative agreements, loans or loan guarantees, and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated, or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where Women, Infants, and Children (WIC) coupons are redeemed.

The Contractor further agrees that the above language will be included in any subawards that contain provisions for children's services and that all subgrantees shall certify compliance accordingly. Failure to comply with the provisions of this law may result in the imposition of a civil monetary penalty of up to \$1,000.00 per day.

**2.14.2 Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions**

By signing this Contract, the Contractor is providing the certification set out below:

**2.14.2.1** The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the Contractor knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**2.14.2.2** The Contractor shall provide immediate written notice to the Agency if at any time the Contractor learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

**2.14.2.3** The terms covered transaction, debarred, suspended, ineligible, lower tier covered transaction, participant, person, primary covered transaction, principle, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. Contact the Agency for assistance in obtaining a copy of those regulations.

**2.14.2.4** The Contractor agrees by signing this Contract that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the Agency or agency with which this transaction originated.

**2.14.2.5** The Contractor further agrees by signing this Contract that it will include this clause titled “Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transaction,” without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

**2.14.2.6** A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. A participant may, but is not required to, check the List of Parties Excluded from Federal Procurement and Nonprocurement Programs.

**2.14.2.7** Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

**2.14.2.8** Except for transactions authorized under Section 2.14.2.4 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily

excluded from participation in this transaction, in addition to other remedies available to the federal government, the Agency or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

**2.14.2.9** The Contractor certifies, by signing this Contract, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Where the Contractor is unable to certify to any of the statements in this certification, such Contractor shall attach an explanation to this Contract.

**2.14.3 Certification Regarding Lobbying.** The Contractor certifies, to the best of his or her knowledge and belief, that:

**2.14.3.1** No federal appropriated funds have been paid or will be paid on behalf of the sub-grantee to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, an officer or employee of the Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, or the extension, continuation, renewal, amendment, or modification of any federal contract, grant loan, or cooperative agreement.

**2.14.3.2** If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of the Congress, or an employee of a Member of Congress in connection with this Contract, grant, loan, or cooperative agreement, the applicant shall complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

**2.14.3.3** The Contractor shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans and cooperative agreements) and that all subrecipients shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title

31, U.S.C.A. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000.00 and not more than \$100,000.00 for each such failure.

#### **2.14.4 Certification Regarding Drug Free Workplace**

##### **2.14.4.1 Requirements for Contractors Who are Not Individuals.**

If the Contractor is not an individual, the Contractor agrees to provide a drug-free workplace by:

**2.14.4.1.1** Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

**2.14.4.1.2** Establishing a drug-free awareness program to inform employees about:

- The dangers of drug abuse in the workplace;
- The Contractor's policy of maintaining a drug-free workplace;
- Any available drug counseling, rehabilitation, and employee assistance programs; and
- The penalties that may be imposed upon employees for drug abuse violations;

**2.14.4.1.3** Making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by Subsection 2.14.4.1.1;

**2.14.4.1.4** Notifying the employee in the statement required by Subsection 2.14.4.1.1 that as a condition of employment on such contract, the employee will:

- Abide by the terms of the statement; and
- Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;

**2.14.4.1.5** Notifying the contracting agency within ten (10) days after receiving notice under the second unnumbered bullet of Subsection 2.14.4.1.4 from an employee or otherwise receiving actual notice of such conviction;

**2.14.4.1.6** Imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by 41 U.S.C. § 703; and

**2.14.4.1.7** Making a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

**2.14.4.2 Requirement for Individuals.** If the Contractor is an individual, by signing the Contract, the Contractor agrees not to engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the Contract.

**2.14.4.3 Notification Requirement.** The Contractor shall, within thirty (30) days after receiving notice from an employee of a conviction pursuant to 41 U.S.C. § 701(a)(1)(D)(ii) or 41 U.S.C. § 702(a)(1)(D)(ii):

- 2.14.4.3.1** Take appropriate personnel action against such employee up to and including termination; or
- 2.14.4.3.2** Require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

**2.14.5 Conflict of Interest.** The Contractor represents, warrants, and covenants that no relationship exists or will exist during the Contract period between the Contractor and the Agency that is a conflict of interest. No employee, officer, or agent of the Contractor or subcontractor shall participate in the selection or in the award or administration of a subcontract if a conflict of interest, real or apparent, exists. The provisions of Iowa Code chapter 68B shall apply to this Contract. If a conflict of interest is proven to the Agency, the Agency may terminate this Contract, and the Contractor shall be liable for any excess costs to the Agency as a result of the conflict of interest. The Contractor shall establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by the desire for private gain for themselves or others with whom they have family, business, or other ties. The Contractor shall report any potential, real, or apparent conflict of interest to the Agency.

**2.14.6 2.14.7 Reserved. (Certification Regarding Iowa Code Chapter 8F).**



## **SECTION 3: SPECIAL CONTRACT ATTACHMENTS**

The Special Contract Attachments in this section are identified on the Contract Declarations and Execution Section and are a part of the Contract.

N/A