

AGENDA

CITY OF CARTER LAKE
CITY COUNCIL MEETING
CITY HALL – 950 LOCUST ST.
MONDAY, DECEMBER 18, 2023, AT 7:00 P.M.

- I. Swearing in ceremony for incoming city council members
 - II. Pledge of allegiance
 - III. Roll Call
 - IV. Approval of the agenda
 - A. Additions or deletions
 - V. Consent agenda
 - VI. New business
 - A. Communication from the public:
 - a. Jack Levell
 - b. Rick Tice
 - c. Tim Mandolfo
 - B. Communications from:
 - 2. Department Supervisors
 - a. Josh Driscoll
 - b. Shannon Putney
 - c. Meggie Schmidt
 - 3. Mayor Ronald Cumberledge
 - 4. Victor Skinner
 - a. Employee policies
 - VII. ORDINANCES AND RESOLUTIONS:
 - A. Ubiquity proposal for Right of Way agreement
 - B. Carter Lake Amended and Restated Urban Renewal Plan #5: Resolution fixing date for a public hearing on the proposal to enter into a Development Agreement with 10705 South 147th Street, LLC d/b/a Lavigne Enterprises and Patriot Custom Metals, LLC d/b/a PalmSHIELD.
 - C. Amend library board member terms
 - D. Amendment to Random Drug Test policy
 - E. Approve Annual Road Use Tax Report
 - VIII. Comment from the Mayor, City Council members and citizens (3 minutes each)
- Adjourn

CONSENT AGENDA for November 2023

- 1. City council minutes
- 2. Abstract of claims and receipts
- 3. Overtime and comp time reports
- 4. Financial reports
- 5. Department head reports

CITY OF CARTER LAKE
APPLICATION FOR CITY COUNCIL AGENDA

Name: Jack Levell III

Address: 3030 North 5th Street
Carter Lake, IA 51510

Phone: 402-812-8880

Meeting Date Requested: 12-18-2023, 7:00 PM

Mail request to:
City Clerk
950 East Locust Street
Carter Lake, IA 51510

Or Fax to: 712-347-5454

Or Email to:
jackie.carl@carterlake-ia.gov

Agenda Item Request (please give a detailed description of the request):

Salvage Yard Permit/License - See attached.

Please submit any supporting documents with this application.

City Council Meetings are held the first and third Monday of each month. The City Clerk must receive agenda requests by 12:00 PM on the Wednesday prior to the meeting.

Signature:



Date:

11/28/23

For Office Use Only:

Date received in Clerk's office: _____

Received by: _____

To: Carter Lake City Council
From: Jack Levell, III
Date: November 28, 2023
Re: Salvage Yard Permit and Letter of Zoning Compliance

As you know, the Levell family has owned the property where we have conducted our business since 1978. I have been lucky enough to continue the family business, which has been an integral part of the Carter Lake community over those many years.

A salvage yard permit would allow us to expand and remain viable and competitive in Carter Lake and the surrounding metropolitan area. The intended area where the salvaged vehicles will be stored is appropriately zoned and will not be visible to the surrounding area. We have sufficient storage for the vehicles, the vehicle parts, and all inventory, and sufficient equipment necessary to perform all recycling. It is just a continuation of what we have been doing over the years. Therefore, we request a permit to operate a salvage yard and a letter from the City stating that my business property is in compliance with all required zoning provisions.

I am more than happy to answer any questions you may have and look forward to speaking to you at the City Council meeting on December 18, 2023 at 7:00 PM.

Jack Levell III

IN THE IOWA DISTRICT COURT FOR POTTAWATTAMIE COUNTY

CITY OF CARTER LAKE,

Petitioner,

vs.

JACK LAVERN LEVELL III,

Respondent.

Case No. CLCIMG173247

DECISION ON APPEAL
FROM MAGISTRATE

This matter comes before the court on appeal from a magistrate's decision in a small claims proceeding. The plaintiff, City of Carter Lake appeared by attorney Michael O'Bradovich. The defendant, Jack Lavern Levell III appeared by his attorney Joseph Thornton. After reviewing the entire file including exhibits, transcript and audio recording of the magistrate hearing, the court reverses the magistrate's decision and enters judgment for the Defendant.

BACKGROUND FACTS AND PROCEDURAL HISTORY

This case arises out of a citation issued on May 20, 2021, to the defendant Jack Levell, for his failure to abate an alleged nuisance created by the improper parking of commercial vehicles on residential property, parking unlicensed vehicles on his property, and the prohibited parking of vehicles on non-hard surface property. The notice of the city's intention to abate the nuisance created was served on Levell on or about March 24, 2021. The City of Carter Lake issued a citation that is the subject of this case on June 15, 2021. The citation alleges that Levell failed to abate property located at 3030 N. 5th street as directed. The citation states a violation of various municipal code sections, including section 69.09(18). At trial, it was determined the code section was incorrect and the actual municipal code section was 69.06(18).

The property located at 3030 N. 5th in the city of Carter Lake is owned currently by the defendant Jack Levell III. The property was transferred to Jack Levell III by gift from his father who inherited the property from his father; the property has been in the Levell family since 1978. The property is zoned commercial but is taxed residential as there is a house located on the property. Levell uses the garage on the property to repair and salvage cars and trucks and those vehicles that are determined to not be salvageable are scraped or taken to a junk yard. Levell claims the use of the property has not changed over the years of his family's ownership.

Levell raised three defenses at trial. First, the city is applying residential ordinances to his commercial property; second, the use of the property predates the ordinances and thus should receive grandfathered status; and third the city has failed to enforce the ordinances since 2006 and the theory of laches prevents enforcement today. During trial various objections were made. The magistrate took all objections under advisement including objections to exhibits. Before entering final judgment all proposed exhibits were admitted. The magistrate found by clear and convincing evidence that the defendant committed the infraction and ordered a civil penalty of \$750 and costs. Levell appeals.

STANDARD OF REVIEW

The District Court's review is de novo in small claims appeals. As part of that de novo review, the Court may give weight to the Magistrate's findings and conclusions, especially when considering the credibility of the witnesses.

ANALYSIS AND FURTHER FINDINGS

Jack Levell testified his property located at 3030 N. 5th in the city of Carter Lake is zoned as commercial property. His testimony is supported by building permits on commercial forms and a City of Carter Lake zoning map. All agree there is home on the property and the property is taxed as residential, but the property is zoned as commercial property and designated C1. The court finds the subject property is commercial property. The abate notice and citation are based on residential ordinances and the citation states an incorrect ordinance number. For these reasons the citations should be dismissed.

Further, the ordinances in question were enacted in 2006. Prior to that date the Levell family's use of the property was legal whether it was considered residential or commercial. Levell uses the garage on the property to repair and salvage cars and trucks and those vehicles that are determined to not be salvageable are scraped or taken to a junk yard. His grandfather used the property in the same manner dating from 1978 but certainly prior to 2006. While the number of vehicles on the property may change on any given day the use does not. The court finds the use of the property has not changed over the years of Levell family ownership. Because the use predates the city ordinances in question, the Levell's use of the property is granted grandfathered status. Thus, even if this court were to find the residential ordinances applied to the commercial property, the nonconforming use of the property having existed prior

to the ordinances remains a lawful use. *City of Okoboji v. Okoboji Barz, Inc.*, 746 N.W.2d 56, 60 (Iowa 2008).

CONCLUSION

Jack Levell's property located at 3030 N. 5th in the city of Carter Lake is zoned as commercial property and not residential. The residential ordinances do not apply to commercially zoned property but even if they did apply, Levell's property is considered grandfathered property and any nonconforming use remains legal. The order entered on October 29, 2021, is reversed and the judgment on that date is vacated. The citation for all violations, namely parking commercial vehicles on residential property, parking unlicensed vehicles, parking without permits and parking on non-hard service, is dismissed. Judgment is entered in favor of Defendant Jack Levell III. Costs taxed to Plaintiff, City of Carter Lake.



State of Iowa Courts

Case Number
CLCIMG173247
Type:

Case Title
CARTER LAKE VS LEVELL, JACK
ORDER ON APPEAL

So Ordered

Richard H. Davidson, District Court Judge,
Fourth Judicial District of Iowa

Electronically signed on 2022-05-05 16:00:24

**CITY OF CARTER LAKE
APPLICATION FOR CITY COUNCIL AGENDA**

Name:

Lick Tice

Address:

1101 Dorene Blvd
Carter Lake Ia
51510

Phone:

402-706-2517

Meeting Date Requested:

12/18/2023

Mail request to:

City Clerk

950 Locust Street

Carter Lake, IA 51510

Or Fax to: 712-347-5454

Or Email to:

Jackie.Carl@carterlake-ia.gov

Agenda Item Request (please give a detailed description of the request):

Talk to Council

Please submit any supporting documents with this application.

City Council Meetings are held the third Monday of each month. The City Clerk must receive agenda requests by 12:00 PM on the Wednesday prior to the meeting.

Signature:

[Signature]

Date:

12/7/2023

For Office Use Only:

Date received in Clerk's office: _____

Received by: _____

**CITY OF CARTER LAKE
APPLICATION FOR CITY COUNCIL AGENDA**

Name: Tim Mandolfo

Address: 166 Carter Lake Club

Phone: 402-813-0942

Meeting Date Requested: Dec 18, 2023

Mail request to:
City Clerk
950 Locust Street
Carter Lake, IA 51510

Or Fax to: 712-347-5454

Or Email to:
Jackie.Carl@carterlake-ia.gov

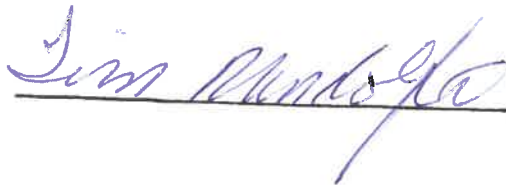
Agenda Item Request (please give a detailed description of the request):

Questions & Answers

Please submit any supporting documents with this application.

City Council Meetings are held the third Monday of each month. The City Clerk must receive agenda requests by 12:00 PM on the Wednesday prior to the meeting.

Signature:



Date:

12-12-23

For Office Use Only:

Date received in Clerk's office: _____

Received by: _____

RANDOM DRUG TESTING POLICY

I. STATEMENT OF PURPOSE

The City of Carter Lake is committed to providing a safe working environment to protect employees and the public and to minimize the risk of accidents and injuries.

Each employee has a responsibility to work in a safe and conscientious manner. Impairment under the influence of drugs can have catastrophic results. For these reasons the City of Carter Lake has adopted a policy that all employees must report to work completely free from the presence of drugs. The following are considerations which have prompted the adoption of the Random Drug Testing Policy.

A. Public Safety

The impairment characteristics of drug use are well known. Judgment and response are the two most important attributes which an employee of the City of Carter Lake needs in order to perform his/her assigned duties.

B. Public Trust

Carter Lake City Council realize that the job of serving the community is made easier when the community trusts and supports its employees. Obtaining the support and trust of the community is an ongoing endeavor and is undermined if employees themselves are breaking the law by engaging in illegal use of drugs.

C. Morale and Safety in the Workplace

The nature of law enforcement work frequently places employees in life threatening jeopardy. Every employee has the right to be secure in the knowledge that his/her fellow employees are capable of reacting in a safe and effective manner.

D. Loss of Productivity

Drug use, to any degree, will adversely affect productivity and health benefit costs.

E. Civil Liability

If a drug use problem exists within a city department, liability could be attached if it were established that an employee's conduct which injured a citizen was directly linked to the failure of the City of Carter Lake to detect and resolve the drug use problem.

II. DEFINITIONS

A. Drug

Drug shall mean any substance, chemical or compound as described, defined, or delineated in chapter 124.101, and those thereafter, of the Iowa Code or any metabolic or conjugated form thereof, except that any substance, chemical or compound containing any product as defined in this section.

III. EMPLOYEE REPORTING REQUIREMENTS – LEGAL DRUGS

Even an employee's use of a legal drug can pose a significant risk to the safety of the employee or the public. Employees who feel, or have been informed by their physician, that the use of a legal drug may present a safety risk, are required to report such drug use to their supervisor. Supervisors who are aware of such a situation are to report such drug use to the Mayor, or designee, in order to determine any effect on the performance of job functions.

The proper use of medication prescribed by a physician is not prohibited; however, the City of Carter Lake does prohibit the misuse of prescribed medication and over the counter non-prescription drugs. Such drug use may affect job performance, such as by causing dizziness or drowsiness.

IV. DRUG SCREEN TEST

The City of Carter Lake may require a urinalysis of those persons randomly selected for the drug screening process. An employee's consent to such a test is required as a condition of employment and the employee's refusal to consent will result in termination.

The actual test will be administered by a competent laboratory or testing facility under contract with the City of Carter Lake qualified to administer such tests and to evaluate the results thereof. The City of Carter Lake shall advise the union representative of the designated laboratory. In the event the City of Carter Lake changes laboratories, the City of Carter Lake shall notify the union representative.

V. EMPLOYEES INCLUDED IN THE RANDOM SELECTION PROCESS

The random drug testing selection process is applicable for all employees listed in the following:

A. Mayor and Council Members

The Mayor and Council Members are Executive and Legislative positions and are expected to lead by example; therefore, being free from the impairment of drugs.

B. Non-Union Supervisors

The Non-Union Supervisors under this section includes the City Clerk, Deputy Clerk, Chief of Police, Maintenance Supervisor, Library Director, Assistant Library

Director, Senior Center Director, and the Park & Recreation Director. These individuals are key administrative positions and are expected to lead by example; therefore, being free from the impairment of drugs.

C. Police Union Members

This includes the Police Captain, Sergeants, Detective, and Officers. As a sworn law enforcement officer for the City of Carter Lake, being free from drug use is essential in performing the required duties and responsibilities.

D. Employee Union Members

Employee Union Members play a key role within the City of Carter Lake. Trust and integrity are essential elements for these employees which demands freedom from the impairment of drugs.

E. Employee Non-Union Members

Employee Non-Union Members play a key role within the City of Carter Lake. Trust and integrity are essential elements for these employees which demands freedom from the impairment of drugs.

VI. PROCEDURES FOR THE RANDOM SELECTION AND NOTIFICATION

The following procedures will apply for the random testing process:

- A. Employees will be randomly selected by a computer generated program administered by the testing facility. The method of selection for random testing will be neutral so that all employees subject to testing will have equal chance to be randomly selected. The testing facility shall contact the City Clerk or Deputy Clerk with the employees selected for the random process.
- B. Two (2) employees will be selected each calendar month.
- C. During the employee's regularly scheduled work shift, the City Clerk, or designee, will notify the employee that they were selected in the random process. In the event that an employee selected is on extended leave of absence, only one (1) name will be used for that calendar month. An extended leave of absence is defined as two or more consecutive weeks off during a calendar month. In the event that an employee is selected and is on paid leave but not for an extended period, the City Clerk, or designee, will notify them during their next regularly scheduled work shift.
- D. Once the employee is notified, he/she will be sent to report to the testing facility at the beginning or end of his/her shift.
- E. Upon arrival at the testing facility, the employee will be required to show proof of identification. At the time specimens are collected, the employee shall be given a

copy of the specimen collection procedures. In the presence of the employee, the specimens are to be sealed and labeled.

- F. The primary lab will collect and maintain the urine samples and will inform the results directly to the City Clerk, or designee.

VII. PROCEDURE FOR A NEGATIVE TEST RESULT

- A. Employees shall obtain written notification of negative test results.

VIII. PROCEDURE FOR A “NEGATIVE DILUTE” TEST RESULT

- A. In the event that the test results register “negative dilute”, the employee will be required to submit to a second collection and test. If the result of the second test registers “negative dilute”, the test will be considered positive by the employer.

IX. PROCEDURE FOR A TAMPERED SPECIMEN

- A. A urine sample may be considered tampered with if it is not of proper temperature, odor or color at the time of collection. If the testing facility determines that a urine sample has been tampered with, the Mayor or City Clerk shall be notified immediately. The employee will remain at the testing facility until they are able to provide a second sample under observed conditions. Employees will be subject to disciplinary action which may include termination for tampering with specimen samples.

X. PROCEDURES FOR A POSITIVE TEST RESULT

- A. In the event that the results register positive, the primary lab will follow protocol of the testing facility in order to verify the positive results.
- B. Employees testing positive will be notified of the results in a conference with the Mayor and City Clerk, or designee. If an employee so requests, a union representative will be invited to attend.
- C. If an employee tests positive, they will immediately be suspended with pay for a time period determined by the Mayor, in order to remove the employee from the working environment for the safety of themselves and other employees.
- D. Employees testing positive will be given the option to participate in a treatment program. As a part of the treatment program, employees testing positive will be required to submit to follow-up testing at the discretion of the Mayor. The cost of the treatment shall be the responsibility of the employee. In the event that the employee does not participate or successfully complete the treatment program, as recommended by appropriate medical personnel, they will be subject to disciplinary action up to and including termination.

- E. If an employee successfully completes the treatment program, but tests positive on a second random test, they will be subject to further disciplinary action, up to and including, termination.
- F. In the event that an employee is unable to produce a specimen for testing, the employee will remain at the testing facility until a specimen can be obtained. The testing facility must collect 45cc of fluids for the specimen prior to allowing the employee to leave.
- G. There will be a split sample procedure for all employees selected for drug testing. When any test kit is received by the lab, the “primary” sealed urine specimen bottle shall be immediately remove for testing, and the remaining “split” sealed bottle shall be placed in secured storage. If the employee chooses to have the second sample analyzed, a written request shall be made to the City Clerk within seven (7) days from the date that the employee was notified of the first test results. The employee shall be responsible for the testing costs. If the employee chooses the optional second analysis, disciplinary action will only take place after a positive has been received on both the first and second tests. However, the employee may be suspended while the second test is administered. If the second test shows a negative result, the employee will be reimbursed all testing costs.
- H. The following cut-off levels will be used for the screening of nine (9) drug groups, as recommended by the approved medical facility:

<u>Drug Panel</u>	<u>Initial</u>	<u>Confirmation</u>
1. Amphetamines	1000 ng/ml	500 ng/ml
2. Cocaine	300 ng/ml	150 ng/ml
3. Opiates	2000 ng/ml	2000 ng/ml
4. Phencyclidine (PCP)	25 ng/ml	25 ng/ml
5. Cannabinoids (marijuana)	50 ng/ml	15 ng/ml
6. Barbiturates	300 ng/ml	300 ng/ml
7. Benzodiazepines	300 ng/ml	300 ng/ml
8. Methadone	300 ng/ml	300 ng/ml
9. Propoxyphine	300 ng/ml	300 ng/ml

XI. BENEFITS PROVIDED FOR TREATMENT OF DRUG USE

The City of Carter Lake maintains a group health plan, which provides help to participating employees who suffer from drug use. However, it is the responsibility of each employee to seek assistance under the plan before drug problems lead to disciplinary action, which can include termination for a first offense. Once a violation of this policy occurs, subsequently using the plan benefits on a voluntary basis shall not lessen disciplinary action or have an impact on the determination of appropriate disciplinary action.

The employee’s decision to seek prior assistance under the group health plan will not be used as the basis for disciplinary action and will not be used against the employee in any disciplinary proceeding. However, utilization of plan benefits will not be a defense to the imposition of disciplinary action where facts proving a violation of this policy are

independently obtained. Accordingly, the purposes and practices of this policy and the group health plan are not in conflict and are distinctly separate in their applications.

XII. EDUCATION OF EMPLOYEES

- A. The City of Carter Lake will develop and implement a drug free awareness program to inform all employees of the following:
 - 1. The City of Carter Lake policy regarding drug use.
 - 2. The danger of drug use in the workplace.
 - 3. The availability of counseling, rehabilitation services, etc.
 - 4. The penalties that may be imposed upon employees for substance abuse violations.
- B. Employees will be encouraged to utilize various programs in seeking assistance with drug problems. When such use is private and voluntary, no report of any kind will be made to the Mayor unless the employee so chooses.
- C. The City of Carter Lake will develop and implement an educational program to assist supervisory personnel in the recognition of conduct and behavior that gives rise to suspicion that an employee may be using drugs. The intent of this training is not to put the supervisor in a position to diagnose drug problems, but simply to make such supervisors sufficiently aware of the causes and symptoms so that they may seek proper referral. Such training programs shall also inform the supervisors of the resources available in the community in order to assist employees who are in need of assistance.

XIII. CONFIDENTIALITY STATEMENT

The results of any drug test shall be returned to the City Clerk, or designee. These results will remain confidential. Only those persons who have a need to know will be provided information necessary to enable them to make an informed decision regarding employment and/or treatment.

XIV. EFFECTIVE DATE OF POLICY

This policy was approved on March 19, 2018 and became effective on May 19, 2018

CONSENT FORM FOR RANDOM DRUG TESTING

I hereby give my consent for the City of Carter Lake to collect urine samples from me and to conduct other necessary medical tests to determine the presence or use of drugs or controlled substances. Further, I give my consent for the release of the test results, and other relevant medical information, to authorized City of Carter Lake representatives for appropriate review. I also understand that, if I refuse to consent, I may be subject to disciplinary action, including termination of employment.

Employee Name, printed

Date

AGREED TO:

Employee Signature

Date

Witness Signature

Date

REFUSED:

Employee Signature

Date

Witness Signature

Date

Reasons for Refusal: _____

NON-EXCLUSIVE PUBLIC ROW LICENSE AGREEMENT

This Non-Exclusive Public ROW License Agreement ("**Agreement**") is by and between **The City of _____**, a city organized and existing under the laws of the State of _____ ("**City**"), and **Ubiquity IA, LLC**, and its direct parent, and its direct parent's subsidiaries, successors, or assigns ("**Licensee**").

RECITALS

- A. City has jurisdiction over the use of the public rights-of-way in City ("**Public ROW**").
- B. Licensee desires, and City desires to permit Licensee, to install, maintain, operate, and control a fiber optic infrastructure network in Public ROW ("**Network**") for the purpose of offering communications services ("**Services**"), including broadband Internet access service as defined in 47 C.F.R. § 8.1(b) ("**Broadband Internet Services**") and Voice over Internet Protocol services, but excluding multichannel video programming services that would be subject to a video services franchise, to residents and businesses in City ("**Customers**").
- C. The Network consists of equipment and facilities that may include aerial or underground fiber optic cables, lines, wires, or strands; underground conduits, vaults, access manholes and handholes; electronic equipment; power generators; batteries; pedestals; boxes; cabinets; and other similar facilities ("**Network Facilities**").

AGREEMENT

In consideration of the mutual promises made below, City and Licensee agree as follows:

1. Permission to Use and Occupy.

- 1.1. Permission to Use and Occupy Public ROW. City grants Licensee permission to use and occupy the Public ROW (the "**License**") for the purpose of constructing, installing, repairing, maintaining, operating, and if necessary, removing the Network and the related Network Facilities (the "**Work**"). This Agreement and the License do not authorize Licensee to use any property other than the Public ROW as agreed herein. Licensee's use of any City owned property, including poles and conduits, will be governed under a separate Agreement regarding that use.
- 1.2. Subject to Federal, State and Local Law. This Agreement and the License are subject to City's valid authority under federal, state and local laws as they exist now or may be amended from time-to-time, and subject to the conditions set forth in this Agreement.
- 1.3. Subject to City's Right to Use Public ROW. This Agreement and the License are subject and subordinate to City's prior and continuing right to use the Public ROW, including constructing, installing, operating, maintaining, repairing, or removing public roads, sewers, curbs, gutters, streets, alleys, sidewalks, parks, recreational facilities, water pipes, storm drains, gas pipes, utility poles, overhead and underground electric lines and related facilities, and other public utility and municipal uses.

- 1.4. Subject to Pre-Existing Property Interests. Municipality's grant of License is subject to all valid pre-existing easements, restrictions, conditions, covenants, publicly available third-party rights to the Public ROW, encumbrances, claims of title or other property interests that may affect the Public ROW. Licensee will obtain at its own cost and expense any permission or rights as may be necessary to accommodate such pre-existing property interests.
- 1.5. No Grant of Property Interest. The License does not grant or convey any property interest.
- 1.6. Non-Exclusive. The License is not exclusive. City expressly reserves the right to grant licenses, permits, franchises, privileges or other rights to any other individual, corporation, partnership, limited liability company, trust, joint stock company, business trust, unincorporated association, joint venture, governmental authority or other entity of any nature whatsoever ("**Person**"), as well as the right in its own name as a City, to use Public ROW for similar or different purposes allowed Licensee under this Agreement.

2. Licensee's Obligations.

- 2.1. Individual Permits Required. Licensee will obtain City's approval of any and all required individual encroachment, construction, excavation, and/or other required permits before placing its Network Facilities in the Public ROW or other property of City as authorized. Licensee will pay all lawful processing, field marking, engineering, and inspection fees associated with the issuance of individual permits by City.
- 2.2. Licensee's Sole Cost and Expense. Licensee will perform the Work at its sole cost and expense.
- 2.3. Compliance with Laws. Licensee will comply with all applicable laws and regulations when performing the Work. Licensee will place its Network Facilities in conformance with the required permits, plans, and drawings approved by City.
- 2.4. Reasonable Care. Licensee will exercise reasonable care when performing the Work and will use commonly accepted practices and equipment to minimize the risks of personal injury, property damage, soil erosion, and pollution of surface or groundwater.
- 2.5. No Nuisance. Licensee will maintain its Network Facilities in good and safe condition so that its Network Facilities do not cause a public nuisance.
- 2.6. Repair. Licensee will promptly repair any damage to the Public ROW, City property, or private property if such damage is directly caused by Licensee's Work and no other Person is responsible for the damage (e.g., where a Person other than Licensee fails to accurately or timely locate its underground facilities as required by applicable law). Licensee will repair the damaged property to a condition equal to or better than that which existed prior to the damage. Licensee's obligation under this Section 2.6 will be limited by, and consistent with, any applicable seasonal or other restrictions on construction or restoration work.

2.7. As-Built Drawings and Maps. Licensee will maintain accurate as-built drawings and maps of its Network Facilities located in the Public ROW and will provide them to City upon reasonable request and on a mutually-agreed timetable (e.g., piecemeal following the closure of each permit, or all at once after all the Work is complete), subject to applicable confidentiality protections.

2.8. Network Design. Nothing in this Agreement requires Licensee to build to all areas of City, and Licensee retains the discretion to determine the scope, location, and timing of the design and construction of the Network Facilities.

3. City's Obligations.

Notwithstanding City's obligation as outlined in Section 3. of this Agreement, Licensee's use of Public ROW or City property shall be conducted in a manner consistent with lawful and applicable public easement rights.

3.1. Emergency Removal or Relocation by City. In the event of a public emergency that creates an imminent threat to the health, safety, or property of City or its residents, City may remove or relocate the applicable portions of the Network Facilities without prior notice to Licensee. City and any affected public utility will, if possible, make best efforts to provide prior notice to Licensee before making an emergency removal or relocation. In any event, City will promptly provide to Licensee a written description of any emergency removals or relocations of Licensee's Network Facilities. Licensee will reimburse City for its actual, reasonable, and documented costs or expenses incurred for any such work performed by City, the direct cause of which was Licensee's construction, installation, operation, maintenance, repair, or removal of its Network Facilities.

3.2. Relocation to Accommodate Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with planned use of the Public ROW or other City property for any governmental purpose as reasonably determined by the City, such as the construction, installation, repair, maintenance, or operation of a new water, sewer, or storm drain line, or a public road, curb, gutter, sidewalk, park, or recreational facility, Licensee will, upon six (6) month's written notice from the City, relocate its Network Facilities at Licensee's own expense to such other location or locations in the Public ROW as may be mutually agreed by the parties, taking into account the needs of the City's governmental purpose and Licensee's interest in maintaining the integrity and stability of its Network. Licensee will relocate its Network Facilities within a commercially reasonable period of time agreed to by the parties, taking into account the urgency of the need for relocation, the difficulty of the relocation, and other relevant facts and circumstances, except that City may not require Licensee to relocate or remove its Network Facilities with less than sixty (60) business days' notice.

3.3. Relocation to Accommodate Non-Governmental Purposes. If Licensee's then-existing Network Facilities would interfere with (a) Municipality's planned use of the Public ROW for a non-governmental (e.g., commercial) purpose, or (b) a third-party's use of the Public ROW, Licensee will not be required to relocate its Network Facilities at Licensee's cost.

3.4. Post-Removal Restoration of Public ROW. When removal or relocation is required under this Agreement, Licensee will, after the removal or relocation of the Network

Facilities, at its own cost, repair and return the Public ROW in which the facilities were located to the same or similar conditions existing prior to the Licensee's construction as well as any applicable local ordinance or state law.

4. Contractors and Subcontractors.

- 4.1. Use of Contractors and Subcontractors. Licensee may retain contractors and subcontractors to perform the Work on Licensee's behalf.
- 4.2. Contractors to be Licensed. Licensee's contractors and subcontractors used for the Work will be properly licensed under any applicable law.
- 4.3. Authorized Individuals. Licensee's contractors and subcontractors may submit individual permit applications to City on Licensee's behalf, so long as the permit applications are signed by individuals that Licensee has authorized to act on its behalf via a letter of authorization provided to City in the form attached as **Exhibit A ("Authorized Individuals")**. City will accept permit applications under this Agreement submitted and signed by Authorized Individuals, and will treat those applications as if they had been submitted by Licensee under this Agreement.

5. Defense and Indemnity.

- 5.1. Obligations. Licensee will defend City, its officers, elected representatives, and employees, and indemnify them against any and all Third-Party Damages, including but not limited to, property damage, personal injury, or death to the extent caused by the negligence or willful misconduct of Licensee or its contractors arising from this Agreement ("**Third Party Legal Proceeding**").
 - 5.2. Exclusions. Section 5 (Defense and Indemnity) will not apply to the extent the underlying allegation (a) arises from or is related to the negligence or willful misconduct of an indemnified party or (b) is made by City's employee and covered under applicable workers' compensation laws.
 - 5.3. Conditions. Section 5.1 (Obligations) is conditioned on the following: (a) City making its best efforts to promptly notify Licensee in writing of the Third Party Legal Proceeding and any allegation(s) that preceded the Third Party Legal Proceeding no later than fifteen (15) days after City was served, in accordance with Iowa law, the Third Party Legal Proceeding; (b) City must reasonably cooperate in the defense at Licensee's request; and (c) City must tender sole control of the indemnified portion of the Third Party Legal Proceeding to Licensee, subject to the following: (i) City may appoint its own non-controlling counsel, at its own expense; and (ii) any settlement requiring City to admit liability, pay money, or take (or refrain from taking) any action, will require City's prior written consent, not to be unreasonably withheld, conditioned, or delayed.
6. Limitation of Liability. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES IN CONNECTION WITH THIS AGREEMENT. THE PARTIES ACKNOWLEDGE THAT THIS LIMITATION WILL BE SUBJECT TO AND MAY BE LIMITED BY APPLICABLE LAW.

7. **Performance Bond.** Licensee will provide City with a performance bond in the amount of fifty thousand dollars (\$50,000.00), naming Municipality as obligee and guaranteeing Licensee's faithful performance of its obligations under this Agreement. The performance bond will remain in full force during the Term of this Agreement.

8. **Insurance.**

Licensee will carry and maintain:

- 8.1. Commercial General Liability (CGL) insurance, with policy limits not less than \$2,000,000 in aggregate and \$2,000,000 for each occurrence covering bodily injury and property damage with the following features: (a) CGL primary insurance endorsement; and (b) CGL policy will include an endorsement which names Municipality, its employees, and officers as additional insureds.

- 8.2. All insurance certificates, endorsements, coverage verifications and other items required pursuant to this Agreement will be mailed directly to Municipality's insurance compliance representative prior to the commencement of any work under this Agreement.

9. **Term.** This Agreement is effective on the later of (a) the date the last party to sign executes this Agreement and (b) the date on which any required implementing ordinance becomes effective in accordance with its terms and state law ("**Effective Date**"). The Agreement will expire automatically on the tenth (10th) anniversary of the Effective Date ("**Original Term**"), unless earlier terminated in accordance with the provisions herein. Thereafter, the Agreement will automatically renew for successive five (5) year terms (each a "**Renewal Term**") unless a party provides at least ninety (90) days' prior written notice to the other party of its intent not to renew.

10. **Termination.**

- 10.1. **Termination by City.** City may terminate this Agreement if Licensee is in material breach of the Agreement, provided that City must first provide Licensee written notice of the breach and one hundred eighty (180) days to cure, unless the cure cannot reasonably be accomplished in that time period, in which case Licensee and City must mutually agree to a schedule that will establish benchmarks and an end date to allow for any cure beyond the provided one hundred eighty (180) day period. No termination under this paragraph will be effective until the relevant cure period has expired.

- 10.2. **Termination by Licensee.** Licensee may terminate this Agreement for convenience upon one hundred eighty (180) days' written notice to City.

11. **Assignment.** Except as set forth below, neither party may assign or transfer its rights or obligations under this Agreement, in whole or part, to a third party, without the written consent of the other party. Any agreed upon assignee will take the place of the assigning party, and the assigning party will be released from all of its rights and obligations upon such assignment.

11.1. Notwithstanding the foregoing, Licensee may at any time, on written notice to City, assign this Agreement or any or all of its rights and obligations under this Agreement:

11.1.1. to any Affiliate (as defined below) of Licensee;

11.1.2. to any successor in interest of Licensee's business operations in City in connection with any merger, acquisition, or similar transaction if Licensee determines after a reasonable investigation that the successor in interest has the resources and ability to fulfill the obligations of this Agreement; or

11.1.3. to any purchaser of all or substantially all of Licensee's Network Facilities in City if Licensee determines after a reasonable investigation that the purchaser has the resources and ability to fulfill the obligations of this Agreement.

11.2. Following any assignment of this Agreement to an Affiliate, Licensee will not remain responsible for such Affiliate's performance under the terms of this Agreement. For purposes of this section, (a) "Affiliate" means any Person that now or in the future, directly or indirectly controls, is controlled with or by, or is under common control with Licensee; and (b) "control" means, with respect to: (i) a U.S. corporation, the ownership, directly or indirectly, of fifty percent (50%) or more of the voting power to elect directors thereof, or (ii) a non-U.S. corporation, if the voting power to elect directors thereof is less than fifty percent (50%), the maximum amount allowed by applicable law; and (iii) any other Person, fifty percent (50%) or more ownership interest in said Person, or the power to direct the management of such Person.

12. **Notice.** All notices related to this Agreement will be in writing and sent, if to Licensee to the email addresses set forth below, and if to City, to the City of _____ Public Works Director, (address)_____, (City)_____, (State)_____(Zip)_____] with a copy to the City Attorney. Notices are effective (a) when delivered in person, (b) upon confirmation of a receipt when transmitted by electronic mail, (c) on the next business day if transmitted by registered or certified mail, postage prepaid (with confirmation of delivery), (d) on the next business day if transmitted by overnight courier (with confirmation of delivery), or (e) three (3) days after the date of mailing, whichever is earlier.

13. **General Provisions.** This Agreement is governed by the laws of the state of Iowa. Neither party will be liable for failure or delay in performance to the extent caused by circumstances beyond its reasonable control. This Agreement and the exhibits thereto sets out all terms agreed between the parties and supersedes all previous or contemporaneous agreements between the parties relating to its subject matter. This Agreement, including any exhibits, constitutes the entire agreement between the parties related to this subject matter, and any change to its terms, including, but not limited to, amendments or modifications, must be in writing and signed by the parties. The parties may execute this Agreement in counterparts, including facsimile, PDF, and other electronic copies, which taken together will constitute one instrument. Each party to this Agreement agrees that Licensee may use electronic signatures.

14. **Approval.** This Agreement shall not be effective until the execution of this Agreement by the City has been approved by resolution of its City Council.

- 15. Non-discrimination.** Licensee will comply (and similarly require compliance by contractors from time to time used or hired to plan, construct or maintain Network Facilities pursuant to this Agreement) with applicable federal, state, and local laws with respect to prohibitions against discrimination on the basis of race, color sex, age, disability, political or religious opinions, affiliations or national origin.
- 16. Reservation of Rights.** The parties expressly reserve any rights either of them may have under state or federal law concerning the subject matter of this Agreement and further agree that by execution and performance of this Agreement, neither party shall be deemed to have waived any such rights.
- 17. Severability.** If any part of this Agreement is deemed invalid, illegal, or unenforceable, the remainder of this Agreement will remain in effect.

[Signature page follows]

Signed by authorized representatives of the parties on the dates written below.

Ubiquity IA, LLC

(Authorized Signature)

Jamie W. Earp
(Name)

Co-CEO

(Title)

Address:
121 W. Trade St. Suite 1275
Charlotte, NC 28202

Date: _____

DATED this ____ - day of _____, 2022.

ATTEST:

CITY OF _____:

CITY CLERK, CITY OF _____

MAYOR OF THE CITY OF _____

APPROVED AS TO FORM:

DEPUTY CITY ATTORNEY

**EXHIBIT A
FORM OF LETTER OF AUTHORIZATION**

[LICENSEE LETTERHEAD]

[Date]

Via Email ([Email Address])

City of _____

[Addressee]

[Address]

Re: [Amended] Letter of Authorization

Dear [Name],

In accordance with Section 4.3 of the Non-Exclusive Public ROW License Agreement dated _____ between the City of _____ and XXXXX, XXXXX hereby designates the following Authorized Individuals (as that term is defined in the Agreement), who may submit and sign permit applications and other submissions to the City on behalf of XXXXX. [If applicable: This letter amends and supersedes the Letter of Authorization dated _____.]

[Insert name and title for each Authorized Individual, including any Authorized Individual previously named and whose authority continues. Strike through the names of any individuals who are no longer authorized, if any.]

1. Name, Title
2. Name, Title
3. Name, Title (previously authorized, authorization continues)
4. ~~Name, Title~~ (authorization withdrawn)

This authorization may be withdrawn or amended and superseded by a written amendment to this Letter of Authorization, which will be effective 24 hours after receipt by the City.

Kind regards,

[Name]

XXXXX



Ahlers & Cooney, P.C.
Attorneys at Law

100 Court Avenue, Suite 600
Des Moines, Iowa 50309-2231

Phone: 515-243-7611

Fax: 515-243-2149

www.ahlerslaw.com

Nathan J. Overberg
515.246.0329
noverberg@ahlerslaw.com

December 14, 2023

Letter, agenda item and resolution, and notice of public hearing sent via e-mail

Jackie Carl
City of Carter Lake
City Clerk
950 Locust St.
Carter Lake, IA 51510

RE: City of Carter Lake - Development Agreement with 10705 South 147th Street, LLC d/b/a Lavigne Enterprises and Patriot Custom Metals, LLC d/b/a PalmSHIELD - Setting Notice of Public Hearing (December 18, 2023)

Dear Jackie:

We have now prepared and are enclosing herewith suggested proceedings to be acted upon by the Council in fixing the date for a public hearing on the proposal to enter into a Development Agreement with 10705 South 147th Street, LLC d/b/a Lavigne Enterprises and Patriot Custom Metals, LLC d/b/a PalmSHIELD, and ordering publication of notice of said public hearing.

The notice of public hearing should be published one time in a newspaper having general circulation in the City not less than 4 nor more than 20 days before the date of the hearing.

Proceedings for the approval of the Development Agreement on January 15, 2024, will be sent in the near future. Be sure to have a copy of the Development Agreement (approved by the Developer and the Employer and in the form recommended by City staff) on hand by the date you are publishing the Notice, because the Notice states the public can review a copy of the Development Agreement at the City Clerk's office.

Note: The enclosed Notice was drafted based on information current as of the date of this letter. If material changes are made in the current draft of the Development Agreement, the enclosed Notice of Public Hearing may not be effective. Accordingly, the Notice would have to be re-published for a later meeting.

Note: Please note that amended S.E.C. Rule 15c2-12 requires disclosure of material Financial Obligations (as defined in the Rule) within 10 business days of incurrence, which may

include (in some cases) obligations under a Development Agreement. This Agreement should be evaluated under any outstanding Continuing Disclosure Certificates to determine whether a filing is necessary. If such a filing is necessary, it would need to be made within 10 business days following execution of the Agreement. Your Bond Counsel and/or Disclosure Counsel, if any, may be able to assist in this analysis.

Please return a copy of the completed proceedings along with a copy of the enclosed certificate documenting publication of notice (after publication of the Notice of Public Hearing) to this office.

If you have any questions, please do not hesitate to contact me.

Very truly yours,

AHLERS & COONEY, P.C.

/s/

Nathan J. Overberg

NJO: mp

Enclosures: Agenda Item with Important Instructions; Resolution Fixing Date; Notice of Public Hearing; Certificate of Publisher's Affidavit of Publication

02288678\16086-066

(One publication required)

**NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF
THE CITY OF CARTER LAKE IN THE STATE OF IOWA, ON
THE MATTER OF THE PROPOSAL TO ENTER INTO A
DEVELOPMENT AGREEMENT WITH 10705 SOUTH 147TH
STREET, LLC D/B/A LAVIGNE ENTERPRISES AND PATRIOT
CUSTOM METALS, LLC D/B/A PALMSHIELD, AND THE
HEARING THEREON**

PUBLIC NOTICE is hereby given that the Council of the City of Carter Lake in the State of Iowa, will hold a public hearing on January 15, 2024, at 7:00 P.M. in the Council Chambers, City Hall, 950 East Locust Street, Carter Lake, Iowa, at which meeting the Council proposes to take action on the proposal to enter into a Development Agreement (the "Agreement") with 10705 South 147th Street, LLC d/b/a Lavigne Enterprises (the "Developer") and Patriot Custom Metals, LLC d/b/a PalmSHIELD (the "Employer").

The Agreement would obligate the Developer to construct certain Required Improvements (as defined in the Agreement), and contemplates Development will construct certain Additional Improvements (as defined in the Agreement), on certain real property located within the Carter Lake Urban Renewal Area #5 as defined and legally described in the Agreement (the "Development Property"). The Agreement provides that the Required Improvements shall include the renovation of a 60,000 square foot Existing Building to include paving, building renovations, and screening/storage space; and the Additional Improvements include (1) the construction of a new 30,000 square foot building (the "Phase I Additional Improvements"); and (2) construction of a second new 30,000 square foot building (the "Phase II Additional Improvements"). One of the obligations of the Employer relates to employment retention and/or creation.

The Agreement would further obligate the City to make up to ten (10) consecutive annual payments of Economic Development Grants to Developer consisting of 100% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Qualifying Improvements (defined as including the Required Improvements and Additional Improvements), the cumulative total for all such payments not to exceed the lesser of \$500,000 or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement. The maximum cumulative total of Economic Development Grants would increase to \$1,000,000 if all of the Qualifying Improvements are timely completed.

The Agreement also proposes that Developer, the Employer, and the City will enter into a Minimum Assessment Agreement with the County setting the minimum actual value of the Required Improvements for tax purposes at not less than \$3,000,000.

A copy of the Agreement is on file for public inspection during regular business hours in the office of the City Clerk, City Hall, City of Carter Lake, Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of said City, to the proposal to enter into the Agreement with the Developer and

the Employer. After all objections have been received and considered, the Council will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to authorize said Agreement.

This notice is given by order of the City Council of the City of Carter Lake in the State of Iowa, as provided by Section 364.6, Code of Iowa.

Dated this _____ day of _____, 2023.

City Clerk, City of Carter Lake in the State of
Iowa

(End of Notice)

02288726\16086-066

ITEM TO INCLUDE ON AGENDA

CITY OF CARTER LAKE, IOWA

December 18, 2023

7:00 P.M.

Carter Lake Amended and Restated Urban Renewal Plan #5

- Resolution fixing date for a public hearing on the proposal to enter into a Development Agreement with 10705 South 147th Street, LLC d/b/a Lavigne Enterprises and Patriot Custom Metals, LLC d/b/a PalmSHIELD.

IMPORTANT INFORMATION

1. The above agenda items should be included, along with any other agenda items, in the meeting agenda. The agenda should be posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the body holding the meeting. If no such office exists, the notice must be posted at the building in which the meeting is to be held.
2. If you do not now have a bulletin board designated as above mentioned, designate one and establish a uniform policy of posting your notices of meeting and tentative agenda.
3. Notice and tentative agenda must be posted at least 24 hours prior to the commencement of the meeting.

**NOTICE MUST BE GIVEN PURSUANT TO CHAPTER 21,
CODE OF IOWA, AND THE LOCAL RULES OF THE CITY.**

December 18, 2023

The City Council of the City of Carter Lake in the State of Iowa, met in regular session, in the Council Chambers, City Hall, 950 East Locust Street, Carter Lake, Iowa, at 7:00 P.M., on the above date. There were present Mayor Ronald Cumberledge, in the chair, and the following named Council Members:

Keebie Kessler, Jackie Wahl, Pat Paterson, Ashley Wilson and
Victor Skinner

Absent: NONE

Vacant: NONE

* * * * *

Council Member _____ then introduced the following proposed Resolution entitled "RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH 10705 SOUTH 147TH STREET, LLC D/B/A LAVIGNE ENTERPRISES AND PATRIOT CUSTOM METALS, LLC D/B/A PALMSHIELD, AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member _____ seconded the motion to adopt. The roll was called, and the vote was:

AYES: _____

NAYS: _____

Whereupon, the Mayor declared the Resolution duly adopted as follows:

RESOLUTION NO. _____

RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON
THE PROPOSAL TO ENTER INTO A DEVELOPMENT
AGREEMENT WITH 10705 SOUTH 147TH STREET, LLC
D/B/A LAVIGNE ENTERPRISES AND PATRIOT CUSTOM
METALS, LLC D/B/A PALMSHEIDL, AND PROVIDING FOR
PUBLICATION OF NOTICE THEREOF

WHEREAS, by Resolution No. 33-09, adopted June 15, 2009, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the Carter Lake Amended and Restated Urban Renewal Plan #5 (the "Urban Renewal Plan" or "Plan") for the Carter Lake Urban Renewal Area #5 (the "Urban Renewal Area" or "Area") described therein, which Plan as amended, is on file in the office of the Recorder of Pottawattamie County; and

WHEREAS, the Plan has subsequently been amended, lastly by Amendment No. 3 to the Plan adopted on November 21, 2016; and

WHEREAS, it is desirable that properties within the Area be redeveloped as part of the overall redevelopment area covered by said Plan; and

WHEREAS, the City has received a proposal from 10705 South 147th Street, LLC d/b/a Lavigne Enterprises (the "Developer") and Patriot Custom Metals, LLC d/b/a PalmSHIELD (the "Employer"), in the form of a proposed Development Agreement (the "Agreement") by and between the City, the Developer, and the Employer, pursuant to which, among other things, the Developer would agree to construct certain Required Improvements (as defined in the Agreement), and contemplates that the Development may construct certain Additional Improvements (as defined in the Agreement), on certain real property located within the Urban Renewal Area as defined and legally described in the Agreement (the "Development Property"); and

WHEREAS, the Agreement provides that the Qualifying Improvements shall include: (1) the renovation of a 60,000 square foot Existing Building to include paving, building renovations, and screening/storage space (collectively, the "Required Improvements"); (2) the construction of a new 30,000 square foot building (the "Phase I Additional Improvements"); and (3) construction of a second new 30,000 square foot building (the "Phase II Additional Improvements"); and

WHEREAS, the Agreement further proposes that the City will make up to ten (10) consecutive annual payments of Economic Development Grants to Developer consisting of 100% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Qualifying Improvements, the cumulative total for all such payments not to exceed the lesser of \$500,000, or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, the maximum cumulative total of Economic Development Grants would increase to \$1,000,000 if all of the Qualifying Improvements are timely completed; and

WHEREAS, the Agreement also proposes that Developer, the Employer, and the City will enter into a Minimum Assessment Agreement with the County setting the minimum actual value of the Minimum Improvements for tax purposes at not less than \$3,000,000; and

WHEREAS, one of the obligations of the Employer relates to employment retention and/or creation; and

WHEREAS, Chapters 15A and 403, Code of Iowa, (the "Urban Renewal Law") authorize cities to make grants for economic development in furtherance of the objectives of an urban renewal project and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapter, and to levy taxes and assessments for such purposes; and

WHEREAS, the Council has determined that the Agreement is in the best interests of the City and the residents thereof and that the performance by the City of its obligations thereunder is a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Chapters 15A and 403, Code of Iowa, taking into account the factors set forth therein; and

WHEREAS, neither the Urban Renewal Law nor any other Code provision sets forth any procedural action required to be taken before said economic development activities can occur under the Agreement, and pursuant to Section 364.6, Code of Iowa, it is deemed sufficient if the action hereinafter described be taken and the City Clerk publish notice of the proposal and of the time and place of the meeting at which the Council proposes to take action thereon and to receive oral and/or written objections from any resident or property owner of said City to such action.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CARTER LAKE IN THE STATE OF IOWA:

Section 1. That this Council meet in the Council Chambers, City Hall, 950 East Locust Street, Carter Lake, Iowa, at 7:00 P.M. on January 15, 2024, for the purpose of taking action on the matter of the proposal to enter into a Development Agreement with 10705 South 147th Street, LLC d/b/a Lavigne Enterprises and Patriot Custom Metals, LLC d/b/a PalmSHIELD.

Section 2. That the City Clerk is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said City, said publication to be not less than four (4) clear days nor more than twenty (20) days before the date of said public meeting.

Section 3. The notice of the proposed action shall be in substantially the following form:

(One publication required)

**NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF
THE CITY OF CARTER LAKE IN THE STATE OF IOWA, ON
THE MATTER OF THE PROPOSAL TO ENTER INTO A
DEVELOPMENT AGREEMENT WITH 10705 SOUTH 147TH
STREET, LLC D/B/A LAVIGNE ENTERPRISES AND PATRIOT
CUSTOM METALS, LLC D/B/A PALMSHIELD, AND THE
HEARING THEREON**

PUBLIC NOTICE is hereby given that the Council of the City of Carter Lake in the State of Iowa, will hold a public hearing on January 15, 2024, at 7:00 P.M. in the Council Chambers, City Hall, 950 East Locust Street, Carter Lake, Iowa, at which meeting the Council proposes to take action on the proposal to enter into a Development Agreement (the "Agreement") with 10705 South 147th Street, LLC d/b/a Lavigne Enterprises (the "Developer") and Patriot Custom Metals, LLC d/b/a PalmSHIELD (the "Employer").

The Agreement would obligate the Developer to construct certain Required Improvements (as defined in the Agreement), and contemplates Development will construct certain Additional Improvements (as defined in the Agreement), on certain real property located within the Carter Lake Urban Renewal Area #5 as defined and legally described in the Agreement (the "Development Property"). The Agreement provides that the Required Improvements shall include the renovation of a 60,000 square foot Existing Building to include paving, building renovations, and screening/storage space; and the Additional Improvements include (1) the construction of a new 30,000 square foot building (the "Phase I Additional Improvements"); and (2) construction of a second new 30,000 square foot building (the "Phase II Additional Improvements"). One of the obligations of the Employer relates to employment retention and/or creation.

The Agreement would further obligate the City to make up to ten (10) consecutive annual payments of Economic Development Grants to Developer consisting of 100% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Qualifying Improvements (defined as including the Required Improvements and Additional Improvements), the cumulative total for all such payments not to exceed the lesser of \$500,000 or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement. The maximum cumulative total of Economic Development Grants would increase to \$1,000,000 if all of the Qualifying Improvements are timely completed.

The Agreement also proposes that Developer, the Employer, and the City will enter into a Minimum Assessment Agreement with the County setting the minimum actual value of the Minimum Improvements for tax purposes at not less than \$3,000,000.

A copy of the Agreement is on file for public inspection during regular business hours in the office of the City Clerk, City Hall, City of Carter Lake, Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of said City, to the proposal to enter into the Agreement with the Developer and

the Employer. After all objections have been received and considered, the Council will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to authorize said Agreement.

This notice is given by order of the City Council of the City of Carter Lake in the State of Iowa, as provided by Section 364.6, Code of Iowa.

Dated this _____ day of _____, 2023.

City Clerk, City of Carter Lake in the State of
Iowa

(End of Notice)

PASSED AND APPROVED this 18th day of December, 2023.

Mayor

ATTEST:

City Clerk

CERTIFICATE

STATE OF IOWA

)

) SS

COUNTY OF POTTAWATTAMIE

)

I, the undersigned City Clerk of the City of Carter Lake, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the records of the City showing proceedings of the Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective city offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Council hereto affixed this _____ day of _____, 2023.

City Clerk, City of Carter Lake, State of Iowa

(SEAL)

AGREEMENT FOR PRIVATE DEVELOPMENT

by and among

CITY OF CARTER LAKE, IOWA,

10705 SOUTH 147TH STREET, LLC
D/B/A LAVIGNE ENTERPRISES,

AND

PATRIOT CUSTOM METALS, LLC
D/B/A PALMSHIELD

_____, 2024

AGREEMENT
FOR
PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT (“Agreement”), is made on or as of the ____ day of _____, 2024, by and between the CITY OF CARTER LAKE, IOWA, a municipality (the “City”), established pursuant to the Code of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2023, as amended (“Urban Renewal Act”); PATRIOT CUSTOM METALS, LLC D/B/A PALMSHIELD, an Iowa limited liability company having offices for the transaction of business at 300 E. Locust Street, Carter Lake, Iowa 51510 (“Employer”); and 10705 SOUTH 147TH STREET, LLC D/B/A LAVIGNE ENTERPRISES, a Nebraska limited liability company having offices for the transaction of business at 12330 Cary Circle, La Vista, Nebraska, 68128 (“Developer”). The City, Employer, and Developer are Parties to this Agreement.

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of an economic development area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the Carter Lake Urban Renewal Area #5 (the “Urban Renewal Area”), which is described in the Amended and Restated Urban Renewal Plan, as amended (“Urban Renewal Plan”); and

WHEREAS, a copy of the foregoing Urban Renewal Plan, as amended, has been recorded among the land records in the office of the Recorder of Pottawattamie County, Iowa; and

WHEREAS, the Developer owns certain real property located in the foregoing Urban Renewal Area as more particularly described in Exhibit A attached hereto and made a part hereof (“Development Property”); and

WHEREAS, Developer intends to cause certain improvements (the “Qualifying Improvements,” as defined herein) to be constructed on the Development Property, and Employer will thereafter cause the same to be operated in accordance with this Agreement, including the creation and retention of jobs in such operations by Employer; and

WHEREAS, the City is willing to provide certain incentives to Developer in consideration for Developer and Employer’s obligations under this Agreement, all pursuant to the terms and conditions of this Agreement; and

WHEREAS, the City believes that the development of the Development Property pursuant to this Agreement and the fulfillment of this Agreement are in the vital and best interests of the City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I. DEFINITIONS

Section 1.1. Definitions. In addition to other definitions set forth in this Agreement, all capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

10705 South 147th Street, LLC TIF Account means a separate account within the Carter Lake Urban Renewal Area #5 Tax Increment Revenue Fund of the City, in which there shall be deposited Tax Increments received by the City with respect to the Qualifying Improvements and Development Property under the provisions of Section 403.19 of the Code and the Ordinance.

Additional Improvements means the Phase I and II Additional Improvements described in Exhibit B to be constructed by Developer on the Development Property at the discretion of the Developer.

Agreement means this Agreement and all exhibits and appendices hereto, as the same may be from time to time modified, amended or supplemented.

Assessor means the assessor of Pottawattamie County, Iowa.

Base Value means the assessed value of the Development Property and Existing Buildings as of January 1, 2023, which value is \$2,047,600.

Carter Lake Urban Renewal Area #5 Tax Increment Revenue Fund means the special fund of the City created under the authority of Section 403.19(2) of the Code, as amended, and the Ordinance, which fund was created in order to pay the principal of and interest on loans, monies advanced to or indebtedness, whether funded, refunded, assumed or otherwise, or other obligations issued under the authority of Section 403.9 or 403.12 of the Code, incurred by the City to finance or refinance in whole or in part projects undertaken pursuant to the Urban Renewal Plan.

Certificate of Completion means a certification in the form of the certificate attached hereto as Exhibit C and hereby made a part of this Agreement.

City means the City of Carter Lake, Iowa, or any successor to its functions.

Code means the Code of Iowa, 2023, as amended.

Commencement Date means the date of this Agreement, which shall be the date the last Party signs the Agreement.

Construction Plans means the plans, specifications, drawings, and related documents reflecting the construction work to be performed by the Developer on the Development Property; the Construction Plans shall be as detailed as the plans, specifications, drawings, and related documents which are submitted to the building inspector of the City as required by applicable City codes.

Developer means 10705 South 147th Street, LLC d/b/a Lavigne Enterprises, a Nebraska limited liability company, and its permitted successors and assigns.

Development Property means that portion of the Carter Lake Urban Renewal Area #5 described in Exhibit A.

Economic Development Grants means the payments to be made by the City to Developer under Article VIII of this Agreement.

Employer means Patriot Custom Metals, LLC d/b/a PalmSHIELD, an Iowa limited liability company, and its permitted successors and assigns.

Event of Default means any of the events described in Section 10.1 of this Agreement that have continued beyond applicable notice and cure periods.

Existing Buildings means the existing structures and parking on the Development Property as of the Commencement Date.

Full-Time Equivalent Job means the employment of one natural person for:

1. 8 hours per day for a 5-day, 40-hour workweek for 52 weeks per year, including paid holidays, vacations, and other paid leave; or
2. The number of hours or days per week, including paid holidays, vacations, and other paid leave, currently established by schedule, custom, or otherwise, as constituting a week of full-time work for the kind of service an individual performs for an employing unit, provided that the number of hours per week is at least 32 hours per week for 52 weeks per year including paid holidays, vacations, and other paid leave.

Indemnified Parties means the City and the governing body members, officers, agents, servants and employees thereof.

Minimum Actual Value means the minimum actual value of the Required Improvements on the Development Property (land and improvement value) as set forth in the Minimum Assessment Agreement (Exhibit F).

Minimum Assessment Agreement means an agreement establishing a minimum assessed value for the Required Improvements on the Development Property as authorized by Iowa Code Section 403.6(19) and as described in Section 3.4 of this Agreement.

Mortgage means any mortgage or security agreement in which Developer has granted a mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon.

Net Proceeds means any proceeds paid by an insurer to the Developer or Employer under a policy or policies of insurance required to be provided and maintained by the Developer or Employer, as the case may be, pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means the Ordinance(s) of the City, under which the taxes levied on the taxable property in the Urban Renewal Area shall be divided and a portion paid into the Carter Lake Urban Renewal Area #5 Tax Increment Revenue Fund.

Project means the construction and operation of the Qualifying Improvements on the Development Property and the creation and retention of jobs in such operations, as described in this Agreement.

Qualifying Improvements means the Required Improvements and the Additional Improvements more particularly described in Exhibit B to this Agreement.

Required Improvements means the improvements to the Existing Buildings described in Exhibit B.

Tax Increments means the property tax revenues on that portion of the assessed value of the Qualifying Improvements and Development Property above the Base Value that are divided and made available to the City for deposit in the 10705 South 147th Street, LLC TIF Account of the Carter Lake Urban Renewal Area #5 Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code and the Ordinance.

Termination Date means the date of termination of this Agreement, as established in Section 11.8 of this Agreement.

Unavoidable Delays means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions, or other casualty losses, pandemics or other declared public health emergencies, unusual weather conditions, strikes, boycotts, lockouts, or other labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State, or local governmental unit (other than the City, with respect to a City-claimed delay). Notwithstanding the foregoing, each Party acknowledges and agrees that it is entering into this Agreement and committing to perform its respective obligations with an awareness of circumstances existing as of the Commencement Date, that could cause delays in carrying out obligations under this Agreement, the continuation of which the Parties agree will not be deemed an Unreasonable Delay absent changes in circumstances that aggravate a delay or occurrence of events beyond the Parties' reasonable control which would independently meet the definition of an Unavoidable Delay.

Urban Renewal Area means the area known as the Carter Lake Urban Renewal Area #5.

Urban Renewal Plan means the Amended and Restated Urban Renewal Plan, as may be amended from time to time, approved with respect to the Carter Lake Urban Renewal Area #5, described in the preambles hereof.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. The City makes the following representations and warranties:

a. The City is a municipal corporation and municipality organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions or provisions of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.

c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.

Section 2.2. Representations and Warranties of Developer and Employer. Developer and Employer make the following representations and warranties:

a. 10705 South 147th Street, LLC is a Nebraska limited liability company, duly organized and validly existing under the laws of the State of Nebraska, and registered to do business in the State of Iowa, and it has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.

b. Patriot Custom Metals, LLC is an Iowa limited liability company, duly organized and validly existing under the laws of the State of Iowa, and registered to do business in the State of Iowa, and it has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.

c. This Agreement has been duly and validly authorized, executed, and delivered by Developer and Employer and, assuming due authorization, execution, and delivery by the City, is in full force and effect and is a valid and legally binding instrument of Developer and Employer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally.

d. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions, or provisions of the governing documents of Developer or Employer of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which Developer or Employer is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

e. There are no actions, suits, or proceedings pending or threatened against or affecting Developer or Employer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position, or results of operations of Developer or Employer, or which in any manner raises any questions affecting the validity of the Agreement or Developer or Employer's ability to perform their respective obligations under this Agreement.

f. Developer will cause the Qualifying Improvements to be constructed in accordance with the terms of this Agreement, the Urban Renewal Plan, and all local, State, and federal laws and regulations.

g. Developer will obtain or cause to be obtained, in a timely manner, all required permits, licenses, and approvals, and will meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations which must be obtained or met before the Qualifying Improvements may be lawfully constructed.

h. The construction of the Qualifying Improvements is expected to result in an investment of not less than \$8,650,000.

i. Neither Developer nor Employer has received any notice from any local, State, or federal official that the activities of Developer or Employer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). Neither Developer nor Employer is currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State, or federal environmental law, regulation, or review procedure applicable to the Development Property, and Developer and Employer are not currently aware of any violation of any local, State, or federal environmental law, regulation, or review procedure which would give any person a valid claim under any State or federal environmental statute with respect thereto.

j. Developer has firm commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Required Improvements in accordance with the terms of this Agreement.

k. Developer and Employer will reasonably cooperate with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Qualifying Improvements.

l. Developer expects that, barring Unavoidable Delays, the Required Improvements will be completed by December 31, 2023.

m. Developer and Employer would not undertake their respective obligations under this Agreement without the payment by the City of the Economic Development Grants being made to Developer pursuant to this Agreement.

n. Employer will occupy the Qualifying Improvements on the Development Property and operate its business therein until at least the Termination Date.

ARTICLE III. CONSTRUCTION OF REQUIRED IMPROVEMENTS

Section 3.1. Construction of Required Improvements. Developer agrees that the scope and scale of the Required Improvements to be constructed shall not be materially less than the scope and scale of the Required Improvements as detailed and outlined in this Agreement. The Developer agrees to complete the Required Improvements in accordance with all applicable federal, State, and local laws, ordinances, rules, and regulations, and permit requirements. Developer shall cause Construction Plans to be provided for the Required Improvements, which shall be subject to approval by City's building official and/or economic development staff as provided in this Section 3.1. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable federal, State, and local laws and regulations. City's building official shall approve the Construction Plans in writing and issue all required permits if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the terms and conditions of the Urban Renewal Plan; (iii) the Construction Plans conform to all applicable federal, State, and local laws, ordinances, rules, and regulations, and City permit requirements; (iv) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Required Improvements; and (v) no Event of Default under the terms of this Agreement has occurred; provided, however, that any such approval of the Construction Plans pursuant to this Section 3.1 shall constitute approval for the purposes of this Agreement only and shall not be deemed to constitute approval or waiver by the City with respect to any building, fire, zoning or other ordinances or regulations of the City, and shall not be deemed to be sufficient plans to serve as the basis for the issuance of a building permit if the Construction Plans are not as detailed or complete as the plans otherwise required for the issuance of a building permit. The site plans submitted to the building official of the City for the Development Property shall be adequate to serve as the Construction Plans, if such site plans are approved by the building official.

Approval of the Construction Plans by the City shall not relieve any obligation to comply with the terms and provisions of this Agreement, or the provision of applicable federal, State, and local laws, ordinances, and regulations, nor shall approval of the Construction Plans by the City be deemed to constitute a waiver of any Event of Default.

Approval of Construction Plans hereunder is solely for purposes of this Agreement, and shall not constitute approval for any other City purpose nor subject the City to any liability for the Required Improvements as constructed. All work with respect to the Required Improvements shall

be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official. Developer agrees that it shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Required Improvements to inspect such construction and the progress thereof.

Section 3.2. Commencement and Completion of Construction. Subject to Unavoidable Delays, Developer shall cause construction of the Required Improvements to be undertaken and completed: (i) by no later than December 31, 2023; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays.

Section 3.3. Certificate of Completion. Upon written request of Developer after its receipt of a certificate of occupancy for the Required Improvements, the City will inspect the Required Improvements and, if the Required Improvements have been completed in accordance with this Agreement, then the City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement with respect to the obligations of Developer to cause construction of the Required Improvements.

The Certificate of Completion may be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property at Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.3, the City shall, within twenty (20) days after written request by Developer provide a written statement indicating in adequate detail in what respects Developer has failed to complete the Required Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for Developer to take or perform in order to obtain such Certificate of Completion.

Issuance by the City of the Certificate of Completion pursuant to this Section 3.3 is solely for the purposes of this Agreement and shall not constitute approval for any other City purpose, nor shall it subject the City to any liability for the Development Property or the Required Improvements as constructed.

Section 3.4 Minimum Assessment Agreement. As further consideration for this Agreement, Developer, Employer, and the City shall execute an agreement substantially in the form of Exhibit F, pursuant to the provisions of Iowa Code Section 403.6(19), whereby Developer shall agree to a minimum actual value for the Required Improvements on the Development Property for the purpose of calculating real property taxes (the "Assessment Agreement" or "Minimum Assessment Agreement") through the Assessment Termination Date (as set in the Minimum Assessment Agreement). Specifically, Developer, Employer, the holder of any mortgage, and all prior lienholders shall agree to a minimum actual value for the Required Improvements on the Development Property (land and building/improvement value) of not less

than value set forth in Exhibit F (the “Assessor’s Minimum Actual Value”), before rollback. Nothing in the Assessment Agreement shall:

- i. limit the discretion of the Assessor for the County to assign an actual value to the buildings on the Development Property in excess of the Assessor’s Minimum Actual Value; or
- ii. prohibit Developer from seeking, through the exercise of legal or administrative remedies, a reduction in such actual value for property tax purposes, provided, however, that Developer shall not seek a reduction of such actual value below the Assessor’s Minimum Actual Value.

The Assessment Agreement must be certified by the County Assessor, as provided for in Iowa Code Section 403.6(19), and be filed for record in the office of the County Recorder. Such filing shall constitute notice to any subsequent encumbrancer or purchaser of the Development Property or any part thereof, whether voluntary or involuntary. The Assessment Agreement will be binding and enforceable in its entirety against any such subsequent encumbrancer or purchaser, as well as all prior lienholders and the holder of a mortgage, each of which shall sign a consent to the Minimum Assessment Agreement.

ARTICLE IV. ADDITIONAL IMPROVEMENTS

Section 4.1. Construction of Additional Improvements. The Developer agrees that any Additional Improvements constructed by Developer on the Development Property will be constructed on the Development Property in conformance with the Construction Plans submitted to, and approved by, the City. The Developer agrees that the scope and scale of the Additional Improvements to be constructed shall not be significantly less than the scope and scale thereof as detailed and outlined in the Construction Plans, as so approved, the construction of which is anticipated to require a total investment of not less than \$8,650,000 if all Additional Improvements are completed.

Section 4.2. Construction Plans. Developer shall cause Construction Plans to be developed for the Additional Improvements, which shall be subject to approval by the City as provided in this Section 4.2, and which approval shall not be unreasonably withheld, conditioned, or delayed. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable federal, State, and local laws and regulations. The City shall approve the Construction Plans in writing if they: (a) conform to the terms and condition of this Agreement; (b) conform to the terms and conditions of the South Avenue Urban Renewal Plan; (c) conform to all applicable federal, State, and local laws, ordinances, rules, and regulations; (d) shall be adequate for the purposes of this Agreement to provide for the construction of the Additional Improvements; and (e) no Event of Default under the terms of this Agreement has occurred and is continuing beyond applicable notice and cure periods; provided, however, that any such approval of the Construction Plans pursuant to this Section 4.2 shall constitute approval for the purposes of this Agreement only and shall not be deemed to constitute approval or waiver by the City with respect to any building, fire, zoning or other ordinances or regulations and shall not be deemed to be sufficient plans to serve as the basis for the issuance of a building permit if

the Construction Plans are not as detailed or complete as the plans otherwise required for the issuance of a building permit. The site plans submitted to the building official of the City for the Development Property and the surrounding areas where the Additional Improvements are to be constructed shall be adequate to serve as the Construction Plans for the Additional Improvements, if such site plans are approved by the building official.

Approval of the Construction Plans by City shall not relieve the Developer of any obligation to comply with the remaining terms and provisions of this Agreement, or the provisions of applicable federal, State, and local laws, ordinances, and regulations, nor shall approval of the Construction Plans by the City be deemed to constitute a waiver of any Event of Default. Approval of Construction Plans hereunder is solely for purposes of this Agreement and shall not constitute approval for any other City purpose or subject the City to any liability for the Additional Improvements as constructed.

Developer agrees that it shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Additional Improvements to inspect such construction and the progress thereof, subject to Developer's rules and regulations for the construction site.

ARTICLE V. PROPERTY TAXES AND INSURANCE

Section 5.1. Real Property Taxes. Developer, Employer, or their successors, shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned or leased by them pursuant to the provisions of this Agreement. Until Developer or Employer's obligations have been assumed by any other person or legal title to the property is vested in another person, all pursuant to the provisions of this Agreement, Developer or Employer shall be responsible for all assessments and taxes.

Developer, Employer, and their successors, agree that prior to the Termination Date:

a. They will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and

b. They will not seek any tax exemption, deferral, or abatement either presently or prospectively authorized under any State, federal or local law with respect to taxation of real property contained on the Development Property between the date of execution of this Agreement and the Termination Date.

Section 5.2. Insurance Requirements. At all times prior to the Termination Date, Developer and Employer shall maintain or cause to be maintained, at their cost and expense (and from time to time at the request of the City shall furnish proof of coverage or the payment of premiums on), insurance as is statutorily required and any additional insurance customarily carried

by like enterprises engaged in like activities of comparable size and liability exposure. Developer and Employer agree to notify the City immediately in the case of damage exceeding \$50,000 in amount to, or destruction of, the Qualifying Improvements or any portion thereof resulting from fire or other casualty. Developer shall forthwith repair, reconstruct, and restore the Qualifying Improvements to substantially the same or an improved condition or value as they existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction, and restoration, Developer will apply the Net Proceeds of any insurance relating to such damage received by Developer to the payment or reimbursement of the costs thereof. Developer shall complete the repair, reconstruction, and restoration of the Qualifying Improvements, whether or not the Net Proceeds of insurance received by Developer for such purposes are sufficient.

ARTICLE VI. FURTHER COVENANTS OF DEVELOPER AND EMPLOYER

Section 6.1. Maintenance of Properties. Developer and Employer will maintain, preserve, and keep its properties within the City (whether owned in fee or a leasehold interest), including but not limited to the Development Property and Qualifying Improvements, in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

Section 6.2. Maintenance of Records. Developer and Employer will keep at all times proper books of record and account in which full, true, and correct entries will be made of all dealings and transactions of or in relation to its business and affairs relating to this Project, and will provide reasonable protection against loss or damage to such books of record and account.

Section 6.3. Compliance with Laws. Developer and Employer will comply with all State, federal, and local laws, rules, and regulations relating to the Project.

Section 6.4. Non-Discrimination. In the construction of the Qualifying Improvements and Employer's operations on the Development Property, Developer and Employer shall not discriminate against any applicant, employee, or customer because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status. Developer and Employer shall ensure that applicants, employees, and customers are considered and are treated without regard to their age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

Section 6.5. Available Information. Upon request, Developer and Employer shall promptly provide the City with copies of information requested by City that are related to this Agreement so that City can determine compliance with this Agreement.

Section 6.6. Employment. Employer shall employ at least 55 Full-Time Equivalent Jobs at the Development Property by no later than May 1, 2024 and continuing through at least the Termination Date. The Annual Certifications submitted pursuant to Section 6.7, beginning with the Annual Certification submitted in 2024, shall show that a Monthly Average of the requisite number (as required by Section 6.6) of Full-Time Equivalent Jobs have been employed by Employer at the Development Property from May 1, 2024 through the Termination Date.

“Monthly Average” means the average number of Full-Time Equivalent Jobs employed as of October 1 of each year and as of the first day of each of the preceding eleven (11) months (5 months for the first certification in 2024), as shown in the Annual Certification in Section 6.7. Developer and Employer shall provide information as requested by the City to determine compliance with the foregoing employment obligations.

Section 6.7. Annual Certification. To assist the City in monitoring this Agreement and the performance of Developer and Employer hereunder, a duly authorized officer of Developer and Employer shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Qualifying Improvements have been paid for the prior fiscal year and any taxes due and payable for the current fiscal year as of the date of certification; (ii) the date of the first full assessment of the Qualifying Improvements and the current assessment; (iii) certification of the number of Full-Time Equivalent Jobs employed at the Development Property by Employer as of October 1 and as of the first day of each of the preceding eleven (11) months (prorated for the first certification); and (iv) certification that such officer has re-examined the terms and provisions of this Agreement and that at the date of such certificate, and during the preceding twelve (12) months, Developer and Employer are not, or were not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

Such statement, proof and certificate shall be provided not later than October 15 of each year, commencing October 15, 2024 and ending on October 15, 2035, both dates inclusive. Developer and Employer shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit E for the form required for the Annual Certification.

Section 6.8. Term of Operation. Employer shall maintain its operations on the Development Property, including the employment of employees as described in Section 6.6, until the Termination Date of this Agreement.

Section 6.9. Developer Completion Guarantee. By signing this Agreement, Developer hereby guarantees to the City performance by Developer of all the terms and provisions of this Agreement pertaining to Developer’s obligations with respect to the construction of the Qualifying Improvements. Without limiting the generality of the foregoing, Developer guarantees that: (a) construction of the Required Improvements shall be completed within the time limits set forth herein; (b) the Qualifying Improvements shall be constructed and completed in substantial accordance with the Construction Plans; (c) the Qualifying Improvements shall be constructed and completed reasonably free and clear of any mechanic’s liens, materialman’s liens and equitable liens; and (d) all costs of constructing the Qualifying Improvements shall be paid when due.

ARTICLE VII. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

Section 7.1. Status of Developer; Transfer of Substantially All Assets; Assignment.

a. As security for the obligations of Developer and Employer under this Agreement, Developer and Employer represent and agree that, prior to the Termination Date, Developer and Employer will maintain existence as companies and will not wind up or otherwise dispose of all or substantially all of their assets or transfer, convey, or assign their respective interests in the Development Property, Qualifying Improvements, or this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer or Employer, as applicable, under this Agreement; and (ii) the City consents thereto in writing in advance thereof, which consent shall not be unreasonably withheld.

b. In the event that Developer or Employer wishes to assign this Agreement, Developer or Employer and the transferee individual or entity shall request that the City consent to an amendment or assignment of this Agreement to accommodate the transfer and to provide for the assumption of all Developer or Employer's obligations under this Agreement. Such transfer shall not be effective unless and until the City consents in writing to an amendment or assignment of this Agreement authorizing the transfer, which consent shall not be unreasonably withheld.

Section 7.2. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, the Developer, Employer, or their successors or assigns agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Qualifying Improvements from property tax liability. Nor can the Development Property or Qualifying Improvements be used as centrally assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

ARTICLE VIII. ECONOMIC DEVELOPMENT GRANTS

Section 8.1. Economic Development Grants. For and in consideration of the obligations being assumed by Developer and Employer hereunder, and in furtherance of the goals and objectives of the Urban Renewal Plan for the Urban Renewal Area and the Urban Renewal Act, the City agrees, subject to Developer and Employer being and remaining in compliance with the terms of this Agreement, to make up to ten (10) consecutive annual payments of Economic Development Grants to Developer, up to a total amount not to exceed the Maximum Aggregate Amount set forth in Section 8.3, under the following formula and schedule:

a. Assuming the completion of the Required Improvements by December 31, 2023, full assessment of the Required Improvements on January 1, 2024, and debt certification by the City to the Auditor prior to December 1, 2024, the Economic Development Grants shall commence on June 1, 2026 and end on June 1, 2035 pursuant to Section 403.19 of the Urban Renewal Act in the following amounts:

<u>Date</u>	<u>Amount of Economic Development Grants</u>
June 1, 2026	100% of Tax Increments for the Fiscal Year 25-26
June 1, 2027	100% of Tax Increments for the Fiscal Year 26-27
June 1, 2028	100% of Tax Increments for the Fiscal Year 27-28
June 1, 2029	100% of Tax Increments for the Fiscal Year 28-29
June 1, 2030	100% of Tax Increments for the Fiscal Year 29-30
June 1, 2031	100% of Tax Increments for the Fiscal Year 30-31
June 1, 2032	100% of Tax Increments for the Fiscal Year 31-32
June 1, 2033	100% of Tax Increments for the Fiscal Year 32-33
June 1, 2034	100% of Tax Increments for the Fiscal Year 33-34
June 1, 2035	100% of Tax Increments for the Fiscal Year 34-35

b. Each annual payment shall be equal in amount to the above percentages of the applicable Tax Increments collected by City with respect to that portion of the assessed value of the Qualifying Improvements and the Development Property above the Base Value under the terms of the Ordinance and deposited into the 10705 South 147th Street, LLC TIF Account (without regard to any averaging that may otherwise be utilized under Section 403.19 and excluding any interest that may accrue thereon prior to payment to Developer) during the preceding twelve (12) month period, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the “Economic Development Grants”).

Section 8.2. Payment Schedule. After the Required Improvements and Development Property are first fully assessed, if the Annual Certification is timely filed and contains the information required under Section 6.7, then the City shall certify to the County prior to December 1 of that year its request for the available Tax Increments resulting from the assessments imposed by the County as of January 1 of that year, to be collected by the County and paid to the City as taxes are paid during the following fiscal year and which shall thereafter be disbursed to Developer on the following June 1. (Example: assuming completion of construction of the Required Improvements by December 31, 2023, and first full assessment on January 1, 2024, if Developer and Employer provides their Annual Certification in October 2024, then the City will certify to the County by December 1, 2024, and the first Economic Development Grant would be paid to Developer on June 1, 2026 (for 100% of the Tax Increment for fiscal year 25-26)).

Section 8.3. Maximum Aggregate Amount of Grants. The aggregate amount of the Economic Development Grants that may be paid to Developer under this Agreement shall be equal to the sum of the total amount of the applicable percentage of Tax Increments collected over the specified time period, but in no event shall exceed Five Hundred Thousand Dollars (\$500,000) over ten (10) years (“Maximum Aggregate Amount”). However, the Maximum Aggregate Amount may be increased as follows:

- a. If Developer completes (as evidenced by a certificate of occupancy from the City) the Phase I Additional Improvements consistent with the terms of this Agreement by December 31, 2025, then the Maximum Aggregate Amount shall be increased to Seven Hundred and Fifty Thousand Dollars (\$750,000).

- b. If Developer completes (as evidenced by a certificate of occupancy from the City) the Phase II Additional Improvements consistent with the terms of this Agreement by December 31, 2028, then the Maximum Aggregate Amount shall be increased to One Million Dollars (\$1,000,000).
- c. The City makes no guarantee that the Developer will receive the Maximum Aggregate Amount. In no event shall Developer be entitled to receive more than calculated under the formula and schedule set forth in Section 8.1, even if the Aggregate Maximum Amount is not met.

Section 8.4. Limitations. The Economic Development Grants are only for the Qualifying Improvements described in this Agreement and not any additional structures or expansions unrelated to the obligations described herein which, to be eligible for Economic Development Grants, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

Section 8.5. Conditions Precedent. Notwithstanding the provisions of Section 8.1 above, the obligation of the City to make an Economic Development Grant in any year shall be subject to and conditioned upon the following:

- a. Developer timely completing the Required Improvements consistent with this Agreement; and
- b. Developer and Employer's compliance with the terms of this Agreement, including, but not limited to, the employment obligations in Section 6.6 of this Agreement and the timely payment of real property taxes; and
- c. Developer and Employer's timely filing of the Annual Certification required under Section 6.7 hereof and the Council's approval thereof.

In the event that an Event of Default occurs or any certification filed by Developer and Employer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Economic Development Grants and the provisions of this Article shall terminate and be of no further force or effect.

Each Annual Certification filed under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Economic Development Grant payments available to Developer under this Article. Under no circumstances shall the failure by Developer to qualify for an Economic Development Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Economic Development Grants may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Economic Development Grants only if Developer and Employer fully comply with the provisions hereof and Developer becomes entitled thereto, up to the Maximum Aggregate Amount set forth in Section 8.3.

Section 8.6. Source of Grant Funds Limited.

a. The Economic Development Grants shall be payable from and secured solely and only by percentages of incremental property tax revenues attributable to that portion of the assessed value of the Development Property and Qualifying Improvements above the Base Value that are received by the City from the Pottawattamie County Treasurer and that are deposited and held in the 10705 South 147th Street, LLC TIF Account of the Carter Lake Urban Renewal Area #5 Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the Ordinance in force on the Development Property during the term hereof to the extent allowed by law, and to apply the appropriate percentage of Tax Increments collected in respect of the Development Property and Qualifying Improvements and allocated to the 10705 South 147th Street, LLC TIF Account to pay the Economic Development Grants, as and to the extent set forth in this Article. The Economic Development Grants shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds. Any commercial and industrial property tax replacement monies that may be received under chapter 441.21A shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible, and any monies received back under chapter 426C relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible.

b. Each Economic Development Grant is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future Economic Development Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction or by the City's bond counsel to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no Event of Default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

c. Notwithstanding the provisions of Section 8.1 hereof, the City shall have no obligation to make an Economic Development Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, the ability to collect Tax Increment is terminated, or the City receives an opinion from its legal counsel to the effect that the use of Tax Increment resulting from the Qualifying Improvements to fund an Economic Development Grant to Developer, as contemplated under said Section 8.1, is not authorized or otherwise an appropriate urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code as then constituted or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon any such legal constraint or non-appropriation, the City shall promptly forward notice of the same to Developer and Employer.

If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Economic Development Grants would otherwise have been paid to Developer under the terms of Section 8.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer and Employer.

Section 8.7. Use of Other Tax Increments. The City shall be free to use any and all Tax Increments above and beyond the percentages to be given to Developer in this Agreement, or any available Tax Increments resulting from the suspension or termination of the Economic Development Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act (including an allocation of all or any portion thereof to the reduction of any eligible City costs), and the City shall have no obligations to Developer or Employer with respect to the use thereof.

ARTICLE IX. INDEMNIFICATION

Section 9.1. Release and Indemnification Covenants.

a. Developer and Employer release the Indemnified Parties from, covenant and agree that the Indemnified Parties shall not be liable for, and agree to indemnify, defend, and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Qualifying Improvements or Development Property.

b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, Developer and Employer agree to protect and defend the Indemnified Parties, now or forever, and further agree to hold the Indemnified Parties harmless, from any claim, demand, suit, action, or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from: (i) any violation of any agreement by the Developer or Employer (except with respect to any suit, action, demand or other proceeding brought by Developer or Employer against the City to enforce its rights under this Agreement); (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Qualifying Improvements; (iii) any hazardous substance or environmental contamination located in or on the Development Property (except to the extent caused by the City).

c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of Developer, Employer, or their officers, agents, servants, or employees or any other person who may be about the Qualifying Improvements or Development Property due to any act of negligence of any person, other than any act of negligence on the part of any such Indemnified Party or its officers, agents, servants, or employees.

d. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.

- e. The provisions of this Article IX shall survive the termination of this Agreement.

ARTICLE X. REMEDIES

Section 10.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events during the term of this Agreement:

- a. Failure by Developer to cause the Required Improvements to be constructed or operated pursuant to the terms and conditions of this Agreement;

- b. Transfer of any of Developer or Employer’s interests in the Development Property, Qualifying Improvements, or this Agreement or the assets of Developer or Employer in violation of the provisions of this Agreement;

- c. Failure by Developer or Employer to timely pay ad valorem taxes on the Development Property and Qualifying Improvements;

- d. Failure by Developer or Employer to substantially observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

- e. The holder of any Mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable Mortgage documents;

- f. Developer or Employer:

- i. files any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended, or under any similar federal or state law; or

- ii. makes an assignment for the benefit of its creditors; or

- iii. admits in writing its inability to pay its debts generally as they become due;

or

- iv. is adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of Developer or Employer as bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of Developer, Employer or the Qualifying Improvements, or part thereof, shall be appointed in any proceedings brought against Developer or Employer and shall not be discharged within ninety (90) days after such appointment, or if Developer or Employer shall consent to or acquiesce in such appointment; or

g. Any representation or warranty made by Developer or Employer in this Agreement or in any written statement or certificate furnished by Developer or Employer pursuant to this Agreement shall prove to have been incorrect, incomplete, or misleading in any material respect on or as of the date of the issuance or making thereof; or

Section 10.2. Remedies on Default. Whenever any Event of Default referred to in Section 10.1 of this Agreement occurs and is continuing, the City may take any one or more of the following actions after giving thirty (30) days' written notice to Developer and Employer of the Event of Default, but only if the Event of Default has not been cured to the satisfaction of the City within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and Developer and/or Employer do not provide assurances reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

a. The City may suspend its performance under this Agreement until it receives assurances from Developer and Employer, deemed adequate by the City, that Developer or Employer, as the case may be, will cure the default and continue performance under this Agreement;

b. The City may terminate this Agreement;

c. The City may withhold the Certificate of Completion;

d. The City may take any action, including legal, equitable, or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of Developer or Employer under this Agreement; or

e. The City shall have no obligation to make payment of Economic Development Grants to Developer subsequent to an Event of Default until Developer or Employer has cured such Event of Default, and if such Event of Default is not cured or incapable of cure, the City shall be entitled to recover from the Developer, and the Developer shall repay to the City, an amount equal to the full amount of the Economic Development Grants previously made to Developer under Article VIII hereof, with interest thereon at the highest rate permitted by State law accruing from the date of the Event of Default. The City may take any action, including any legal action it deems necessary, to recover such amount from Developer. The City may demand such payment at any time following its determination that Developer or Employer is in default under this Agreement, including, but not limited to, if Employer fails to satisfy its employment obligations under Section 6.6 hereof.

Section 10.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 10.4. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 10.5. Agreement to Pay Attorneys' Fees and Expenses.

a. Developer shall pay to the City an amount equal to the actual costs incurred by the City in connection with the negotiation, drafting and adoption of this Agreement, including, but not limited to, publication fees for legal notices, actual costs associated with City Council meetings, and reasonable legal fees of the City. Payment by Developer of such costs shall be made within thirty (30) days of receipt of invoice from the City.

b. Whenever any Event of Default occurs and the City employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Developer or Employer herein contained, the Developer and Employer agree that they shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith.

ARTICLE XI. MISCELLANEOUS

Section 11.1. Conflict of Interest. Developer and Employer warrant that, to their actual knowledge and belief after due inquiry, no officer or employee of the City, or their designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 11.2. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- a. In the case of Developer, is addressed or delivered personally to 10705 South 147th Street, LLC d/b/a Lavigne Enterprises at 12330 Cary Circle, La Vista, Nebraska, 68128, Attn: Todd Lavigne, Manager;
- b. In the case of Employer, is addressed or delivered personally to Patriot Custom Metals, LLC d/b/a PalmSHIELD at 300 E. Locust Street, Carter Lake, Iowa 51510, Attn: Todd Lavigne, Manager; and

- c. In the case of the City, is addressed to or delivered personally to the City at 950 Locust Street, Carter Lake, Iowa 51510, Attn: Jackie Carl, City Clerk;

or to such other designated individual or officer or to such other address as any party shall have furnished to the other in writing in accordance herewith.

Section 11.3. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 11.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 11.5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 11.6. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations or discussions, whether oral or written, including but not limited to any prior Agreement for Private Development or similar agreement with any third party owner of, or operator at, the Development Property. This Agreement may not be amended except by a subsequent writing signed by all parties hereto.

Section 11.7. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

Section 11.8. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2035, unless terminated earlier under the provisions of this Agreement.

Section 11.9. Memorandum of Agreement. The Parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit D, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof. The City shall pay for all costs of recording.

Section 11.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, Developer, and Employer have caused this Agreement to be duly executed in their name and behalf by their authorized representatives, all on or as of the day first above written.

[Signatures start on the next page]

CITY OF CARTER LAKE, IOWA

By: _____
Ron Cumberledge, Mayor

ATTEST:

By: _____
Jackie Carl, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2024, before me a Notary Public in and for said State, personally appeared Ron Cumberledge and Jackie Carl, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Carter Lake, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Agreement for Private Development – City of Carter Lake, Iowa]

10705 SOUTH 147TH STREET, LLC d/b/a
Lavigne Enterprises
a Nebraska limited liability company

By: _____
Todd Lavigne, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me the undersigned, a Notary Public in and for said State, personally appeared Todd Lavigne, to me personally known, who, being by me duly sworn, did say that he is the Manager of 10705 South 147th Street, LLC and that said instrument was signed on behalf of said limited liability company; and that the said Manager acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said state

[Signature page to Agreement for Private Development – Developer]

PATRIOT CUSTOM METALS, LLC d/b/a
PALMSHIELD,
an Iowa limited liability company

By: _____
Todd Lavigne, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20__, before me the undersigned, a Notary Public in and for said State, personally appeared Todd Lavigne, to me personally known, who, being by me duly sworn, did say that he is the Manager of Patriot Custom Metals, LLC and that said instrument was signed on behalf of said limited liability company; and that the said Manager as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said state

[Signature page to Agreement for Private Development – Employer]

EXHIBIT A
DEVELOPMENT PROPERTY

The Development Property is described as follows:

Parcel 1: A parcel of land being a part of Lot 9, of Auditor's Subdivision of Government Lot "G", in Section 20, Township 74, Range 44, in the City of Carter Lake, in Pottawattamie County, Iowa, described as follows: Beginning at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45'00" East, 350.36 feet; thence parallel with the Westerly line of said Lot 9, South 03°23'30" West, 572.80 feet, to a point on the present Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North 88°21'21" West, 350.00 feet, to the Southwest corner of said Lot 9; thence along the common line between Lots 8 and 9, North 03°23'30" East, 564.28 feet, to the Point of Beginning.

Parcel 2: A parcel of land in a part of Lot 9 of Government Lot "G" in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45'00" East, 350.36 feet to the true point of beginning; thence continuing along said Northerly line, South 89°45'00" East 122.07 feet; thence parallel with the westerly line of said Lot 9, South 3°23'30" West, 575.78 feet to a point on the present Northerly right-of-way line of Locust Street; thence along said right-of-way line, North 88°21'21" West, 121.95 feet to a point 350.00 feet East of the Southwest corner of said Lot 9; thence parallel with said westerly line of Lot 9, North 3°23'30" East, 572.80 feet to the true point of beginning.

Parcel 3: A parcel of land being a part of Lot 9 of Government Lot "G" in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45'00" East 472.43 feet, the True Point of Beginning; thence continuing along said Northerly line South 89°45'00" East, 142.48 feet to the Northwest corner of Lot 10 of Government Lot "G"; thence along the boundary of said Lot 10 of the following four (4) courses; 1) South 0°02'36" West, 104.00 feet; 2) South 89°45'00" East, 107.50 feet; 3) South 0°02'36" West, 104.00 feet; 4) South 89°45'00" East, 72.10 feet; thence South 0°28'13" West, 375.52 feet to a point on the Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North 88°21'21" West 353.03 feet to a point 471.95 feet East of the Southwest corner of said Lot 9, thence parallel with the Westerly line of said Lot 9, North 3°23'30" East, 375.78 feet to the True Point of Beginning.

EXHIBIT B
QUALIFYING IMPROVEMENTS

Required Improvements shall mean the renovation of the 60,000 square foot Existing Building to include paving, building renovations, and screening/storage space.

Additional Improvements shall mean the Phase I and Phase II Additional Improvements as follows:

The Phase I Additional Improvements shall mean the construction of a new 30,000 square foot building on the Development Property substantially as depicted in Exhibit B-1.

The Phase II Additional Improvements shall mean the construction of a second new 30,000 square foot building on the Development Property substantially as depicted in Exhibit B-1.

EXHIBIT B-1
SITE PLAN AND DEPICTION OF QUALIFYING IMPROVEMENTS

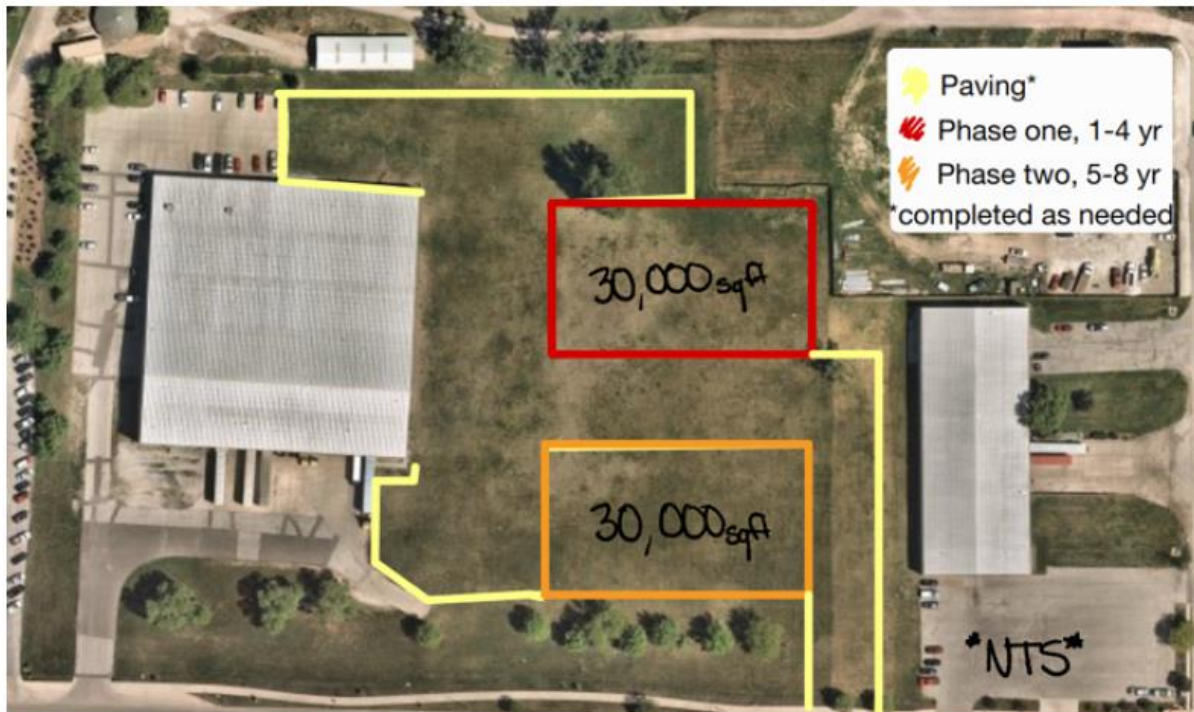
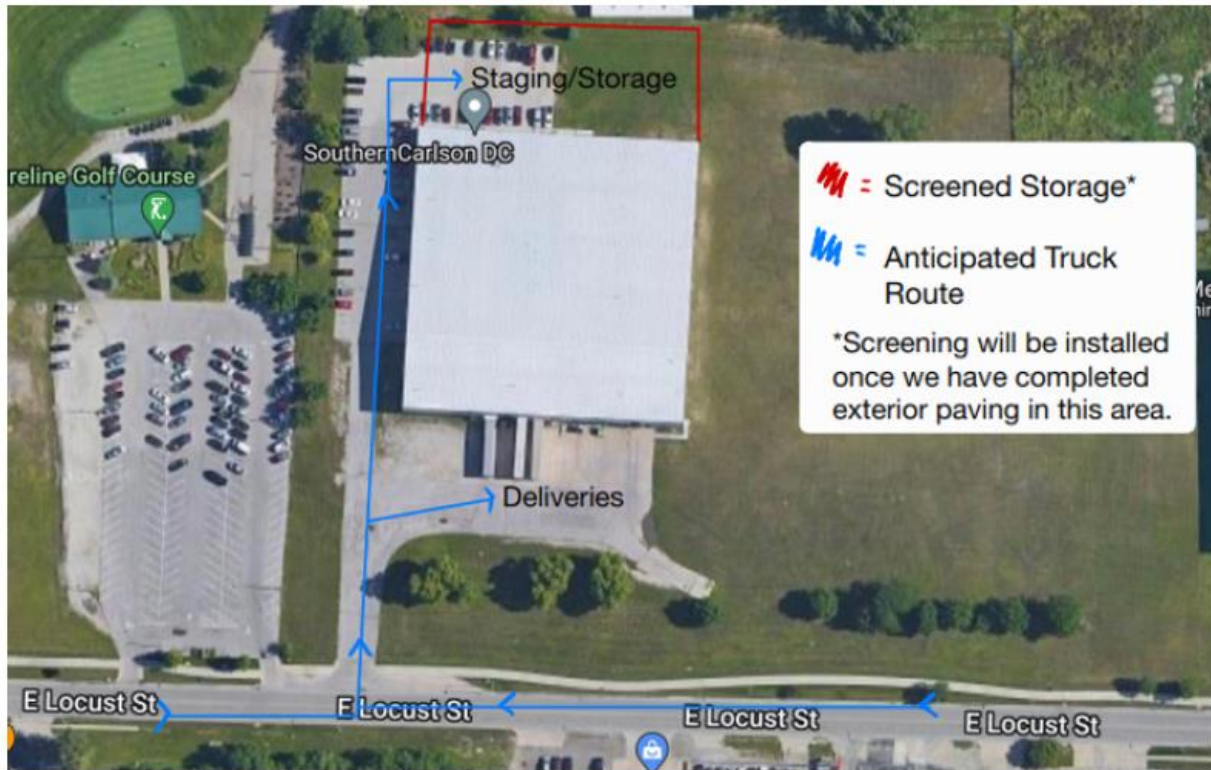


EXHIBIT C
CERTIFICATE OF COMPLETION
QUALIFYING IMPROVEMENTS

WHEREAS, the City of Carter Lake, Iowa (the “City”), Patriot Custom Metal, LLC d/b/a/ PalmSHIELD (the “Employer”), and 10705 South 147th Street, LLC d/b/a Lavigne Enterprises (the “Developer”) did on or about the _____ day of _____, 2024, make, execute, and deliver, each to the other, an Agreement for Private Development (the “Agreement”), wherein and whereby the Developer and Employer agreed, in accordance with the terms of the Agreement, to develop and operate certain real property located within the City and as more particularly described as follows:

Parcel 1: A parcel of land being a part of Lot 9, of Auditor’s Subdivision of Government Lot “G”, in Section 20, Township 74, Range 44, in the City of Carter Lake, in Pottawattamie County, Iowa, described as follows: Beginning at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East, 350.36 feet; thence parallel with the Westerly line of said Lot 9, South 03°23’30” West, 572.80 feet, to a point on the present Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North 88°21’21” West, 350.00 feet, to the Southwest corner of said Lot 9; thence along the common line between Lots 8 and 9, North 03°23’30” East, 564.28 feet, to the Point of Beginning.

Parcel 2: A parcel of land in a part of Lot 9 of Government Lot “G” in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East, 350.36 feet to the true point of beginning; thence continuing along said Northerly line, South 89°45’00” East 122.07 feet; thence parallel with the westerly line of said Lot 9, South 3°23’30” West, 575.78 feet to a point on the present Northerly right-of-way line of Locust Street; thence along said right-of-way line, North 88°21’21” West, 121.95 feet to a point 350.00 feet East of the Southwest corner of said Lot 9; thence parallel with said westerly line of Lot 9, North 3°23’30” East, 572.80 feet to the true point of beginning.

Parcel 3: A parcel of land being a part of Lot 9 of Government Lot “G” in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East 472.43 feet, the True Point of Beginning; thence continuing along said Northerly line South 89°45’00” East, 142.48 feet to the Northwest corner of Lot 10 of Government Lot “G”; thence along the boundary of said Lot 10 of the following four (4) courses; 1) South 0°02’36” West, 104.00 feet; 2) South 89°45’00” East, 107.50 feet; 3) South 0°02’36” West, 104.00 feet; 4) South 89°45’00” East, 72.10 feet; thence South 0°28’13” West, 375.52 feet to a point on the Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North

88°21'21" West 353.03 feet to a point 471.95 feet East of the Southwest corner of said Lot 9, thence parallel with the Westerly line of said Lot 9, North 3°23'30" East, 375.78 feet to the True Point of Beginning.

(the "Development Property"); and

WHEREAS, the Agreement incorporated and contained certain covenants and restrictions with respect to the development of the Development Property, and obligated the Developer to construct certain Required Improvements (as defined therein) in accordance with the Agreement; and

WHEREAS, Developer has to the present date performed said covenants and conditions insofar as they relate to the construction of said Required Improvements in a manner deemed by the City to be in conformance with the Agreement to permit the execution and recording of this certification.

NOW, THEREFORE, this is to certify that all covenants and conditions of the Agreement with respect to the obligations of Developer and its successors and assigns, to construct the Required Improvements on the Development Property have been completed and performed by Developer and are hereby released absolutely and forever terminated insofar as they apply to the land described herein. The County Recorder of Pottawattamie County is hereby authorized to accept for recording and to record the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of said Agreement with respect to the construction of the Required Improvements on the Development Property.

All other provisions of the Agreement shall otherwise remain in full force and effect until termination as provided therein.

[Remainder of page intentionally left blank; signature pages follow]

CITY OF CARTER LAKE, IOWA

By: _____
Mayor

ATTEST:

By: _____
City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 20____, before me a Notary Public in and for said State, personally appeared _____ and _____, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Carter Lake, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Certificate of Completion - City of Carter Lake, Iowa]

Prepared by: Nathan J. Overberg, Ahlers & Cooney, 100 Court Ave. #600, Des Moines, IA 50309, 515-243-7611
Return to: City Clerk, City of Carter Lake, 950 Locust St. Carter Lake, IA 51510

EXHIBIT D
MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of Carter Lake, Iowa (the “City”), Patriot Custom Metals, LLC d/b/a PalmSHIELD (the “Employer”), and 10705 South 147th Street, LLC d/b/a Lavigne Enterprises (the “Developer”) did on or about the _____ day of _____, 2024, make, execute and deliver, each to the other, an Agreement for Private Development (the “Agreement”), wherein and whereby Developer and Employer agreed, in accordance with the terms of the Agreement and the Amended and Restated Urban Renewal Plan (the “Plan”), to develop and operate certain real property located within the City and within the Carter Lake Urban Renewal Area #5, more particularly described as follows:

Parcel 1: A parcel of land being a part of Lot 9, of Auditor’s Subdivision of Government Lot “G”, in Section 20, Township 74, Range 44, in the City of Carter Lake, in Pottawattamie County, Iowa, described as follows: Beginning at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East, 350.36 feet; thence parallel with the Westerly line of said Lot 9, South 03°23’30” West, 572.80 feet, to a point on the present Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North 88°21’21” West, 350.00 feet, to the Southwest corner of said Lot 9; thence along the common line between Lots 8 and 9, North 03°23’30” East, 564.28 feet, to the Point of Beginning.

Parcel 2: A parcel of land in a part of Lot 9 of Government Lot “G” in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East, 350.36 feet to the true point of beginning; thence continuing along said Northerly line, South 89°45’00” East 122.07 feet; thence parallel with the westerly line of said Lot 9, South 3°23’30” West, 575.78 feet to a point on the present Northerly right-of-way line of Locust Street; thence along said right-of-way line, North 88°21’21” West, 121.95 feet to a point 350.00 feet East of the Southwest corner of said Lot 9; thence parallel with said westerly line of Lot 9, North 3°23’30” East, 572.80 feet to the true point of beginning.

Parcel 3: A parcel of land being a part of Lot 9 of Government Lot "G" in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45'00" East 472.43 feet, the True Point of Beginning; thence continuing along said Northerly line South 89°45'00" East, 142.48 feet to the Northwest corner of Lot 10 of Government Lot "G"; thence along the boundary of said Lot 10 of the following four (4) courses; 1) South 0°02'36" West, 104.00 feet; 2) South 89°45'00" East, 107.50 feet; 3) South 0°02'36" West, 104.00 feet; 4) South 89°45'00" East, 72.10 feet; thence South 0°28'13" West, 375.52 feet to a point on the Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North 88°21'21" West 353.03 feet to a point 471.95 feet East of the Southwest corner of said Lot 9, thence parallel with the Westerly line of said Lot 9, North 3°23'30" East, 375.78 feet to the True Point of Beginning.

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the date of this Memorandum and terminates on December 31, 2035, unless otherwise terminated as set forth in the Agreement; and

WHEREAS, the City, Employer, and Developer desire to record a Memorandum of the Agreement referring to the Development Property and their respective interests therein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.

2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.

3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, Carter Lake, Iowa.

IN WITNESS WHEREOF, the City and Developer have executed this Memorandum of Agreement for Private Development on the _____ day of _____, 2024.

[Signatures Start on Next Page]

CITY OF CARTER LAKE, IOWA

ATTEST:

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

Notary Public in and for the State of Iowa

D-3

10705 SOUTH 147TH STREET, LLC d/b/a
Lavigne Enterprises
a Nebraska limited liability company

By: _____
Todd Lavigne, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me the undersigned, a Notary Public in and for said State, personally appeared Todd Lavigne, to me personally known, who, being by me duly sworn, did say that he is the Manager of 10705 South 147th Street, LLC and that said instrument was signed on behalf of said limited liability company; and that the said Manager acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said state

[Signature page to Memorandum of Agreement for Developer]

PATRIOT CUSTOM METALS, LLC d/b/a
PALMSHIELD,
an Iowa limited liability company

By: _____
Todd Lavigne, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me the undersigned, a Notary Public in and for said State, personally appeared Todd Lavigne, to me personally known, who, being by me duly sworn, did say that he is the Manager of Patriot Custom Metals, LLC and that said instrument was signed on behalf of said limited liability company; and that the said Manager as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said state

[Signature page to Memorandum of Agreement for Employer]

EXHIBIT E
ANNUAL CERTIFICATION

(due by October 15th as required under terms of Development Agreement)

Developer and Employer certify that, during the time period covered by this Certification, the Developer and Employer are and were in compliance with the Agreement as follows:

(i) all ad valorem taxes on the Development Property in the Carter Lake Urban Renewal Area #5 have been paid for the prior fiscal year (and for the current year, if due) and attached to this Developer Annual Certification are proof of payment of said taxes;

(ii) the Required Improvements were first fully assessed on January 1, 20__, at a full assessment value of \$_____; the Phase 1 Additional Improvements were first fully assessed on January 1, 20__, at a full assessment value of \$_____; the Phase 2 Additional Improvements were first fully assessed on January 1, 20__, at a full assessment value of \$_____; and the Development Property is currently assessed at \$_____;

(iii) the number of Full-Time Equivalent Jobs employed at the Qualifying Improvements by Employer as of October 1, 20__ and as of the first day of each of the preceding eleven (11) months were as follows:

October 1, 20__: _____
September 1, 20__: _____
August 1, 20__: _____
July 1, 20__: _____
June 1, 20__: _____
May 1, 20__: _____

April 1, 20__: _____
March 1, 20__: _____
February 1, 20__: _____
January 1, 20__: _____
December 1, 20__: _____
November 1, 20__: _____

(iv) the undersigned officers of Developer and Employer have re-examined the terms and provisions of this Agreement and that at the date of such certification, and during the preceding twelve (12) months, certify that Developer and Employer are not, or were not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certification, or if the signers are aware of any such Event of Default, said officers have disclosed the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this _____ day of _____, 20__.

DEVELOPER:
10705 South 147th Street, LLC,
a Nebraska limited liability company

By: _____

Name: _____

Its: _____

EMPLOYER:

Patriot Custom Metals, LLC d/b/a PalmSHIELD,
an Iowa limited liability company

By: _____

Name: _____

Its: _____

Attachments: Proof of payment of taxes

Prepared by: Nathan J. Overberg, Ahlers Cooney P.C., 100 Court Ave #600, Des Moines, IA 50309
Return to: City of Carter Lake; 950 Locust Street, Carter Lake, Iowa 51510, Attn: City Clerk

EXHIBIT F
MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT (“Minimum Assessment Agreement” or “Assessment Agreement”) is dated as of the ____ day of _____, 20____, by and between the City of Carter Lake, Iowa (the “City”), an Iowa municipal corporation, acting under the authorization of Chapter 403 of the Code of Iowa, 2023, as amended, Patriot Custom Metals, LLC d/b/a PalmSHIELD (the “Employer”), and 10705 South 147th Street, LLC d/b/a Lavigne Enterprises (the “Developer”).

RECITALS

WHEREAS, the City, Employer, and Developer have entered into an Agreement for Private Development dated as of _____, 2024 (“Agreement” or “Development Agreement”) regarding certain real property to be located in the City, which is legally described as follows:

Parcel 1: A parcel of land being a part of Lot 9, of Auditor’s Subdivision of Government Lot “G”, in Section 20, Township 74, Range 44, in the City of Carter Lake, in Pottawattamie County, Iowa, described as follows: Beginning at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East, 350.36 feet; thence parallel with the Westerly line of said Lot 9, South 03°23’30” West, 572.80 feet, to a point on the present Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North 88°21’21” West, 350.00 feet, to the Southwest corner of said Lot 9; thence along the common line between Lots 8 and 9, North 03°23’30” East, 564.28 feet, to the Point of Beginning.

Parcel 2: A parcel of land in a part of Lot 9 of Government Lot “G” in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East, 350.36 feet to the true point of beginning; thence continuing along said Northerly line, South 89°45’00” East 122.07 feet; thence parallel with the westerly line of said Lot 9, South 3°23’30” West, 575.78 feet to a point on the present Northerly right-of-way line of Locust Street; thence along said right-of-way line, North 88°21’21” West, 121.95 feet to a point 350.00 feet East of the Southwest corner of said Lot 9; thence parallel with said westerly line of Lot 9, North 3°23’30” East, 572.80 feet to the true point of beginning.

Parcel 3: A parcel of land being a part of Lot 9 of Government Lot “G” in Section 20, Township 75, Range 44, of the Iowa-Nebraska Boundary, City of Carter Lake, Pottawattamie County, Iowa, described as follows: Commencing at the Northwest corner of said Lot 9; thence along the Northerly line of said Lot 9, South 89°45’00” East 472.43 feet, the True Point of Beginning; thence continuing along said Northerly line South 89°45’00” East, 142.48 feet to the Northwest corner of Lot 10 of Government Lot “G”; thence along the boundary of said Lot 10 of the following four (4) courses; 1) South 0°02’36” West, 104.00 feet; 2) South 89°45’00” East, 107.50 feet; 3) South 0°02’36” West, 104.00 feet; 4) South 89°45’00” East, 72.10 feet; thence South 0°28’13” West, 375.52 feet to a point on the Northerly right-of-way line of Locust Street; thence along said Northerly right-of-way line, North 88°21’21” West 353.03 feet to a point 471.95 feet East of the Southwest corner of said Lot 9, thence parallel with the Westerly line of said Lot 9, North 3°23’30” East, 375.78 feet to the True Point of Beginning.

(the “Development Property”);

WHEREAS, the defined terms in the Development Agreement will also apply to this Minimum Assessment Agreement; and

WHEREAS, it is contemplated that Required Improvements (as described in the Development Agreement) would be constructed on the Development Property, as provided in the Development Agreement; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, as amended, the City and Developer desire to establish a Minimum Actual Value for the Development Property following completion of the Required Improvements pursuant to the Development Agreement; and

WHEREAS, the City and the Pottawattamie County Assessor have reviewed the preliminary plans and specifications for the Required Improvements that are contemplated to be constructed.

NOW, THEREFORE, the parties to this Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Upon substantial completion of construction of the Required Improvements, but no later than January 1, 2024, the Minimum Actual Value fixed for assessment purposes for the Required Improvements and the Development Property (building and land value) in the aggregate shall be not less than Three Million Dollars (\$3,000,000), before rollback

The Minimum Actual Value shall terminate and be of no further force or effect as of December 31, 2033 (“Assessment Termination Date”). Upon the Assessment Termination Date, this Minimum Assessment Agreement shall no longer control the assessment of the Development Property.

2. Developer shall pay or cause to be paid when due all real property taxes and assessments payable with respect to all and any parts of the Development Property and the Qualifying Improvements pursuant to the provisions of this Minimum Assessment Agreement and the Development Agreement. Such tax payments shall be made without regard to any failure to complete the Qualifying Improvements; loss, complete or partial, to the Development Property or the Qualifying Improvements; any interruption in, or discontinuance of, the use, occupancy, ownership or operation of the Qualifying

Improvements by Developer; or any other matter or thing which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Development Property or the Qualifying Improvements.

3. Developer agrees that its obligations to make the tax payments required hereby, to pay the other sums provided for herein, and to perform and observe its other agreements contained in this Minimum Assessment Agreement shall be absolute and unconditional obligations of Developer (not limited to the statutory remedies for unpaid taxes) and that Developer shall not be entitled to any diminution thereof, or set off therefrom, nor to any early termination of this Minimum Assessment Agreement for any reason.

4. Developer agrees that, prior to the termination of this Assessment Agreement, it will not:

(a) seek administrative review or judicial review of the applicability or constitutionality of any Iowa tax statute relating to the taxation of the Development Property determined by any tax official to be applicable to the Development Property, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; or

(b) seek any tax deferral or abatement, either presently or prospectively authorized under Iowa Code Chapter 403 or 404, or any other local, City, or State law or regulation, of the taxation of the Development Property; or

(c) request the Assessor to reduce the Minimum Actual Value for the Development Property; or

(d) appeal to the board of review of the County, State, District Court, or to the Director of Revenue of the State to reduce the Minimum Actual Value for the Development Property; or

(e) cause a reduction in the actual value or the Minimum Actual Value for the Development Property through any other proceedings.

5. This Minimum Assessment Agreement shall be promptly recorded by the City with the Recorder of Pottawattamie County, Iowa. Such filing shall constitute notice to any subsequent encumbrancer of the Development Property (or part thereof), whether voluntary or involuntary, and this Minimum Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent encumbrancer, including the holder of any mortgage. The City shall pay all costs of recording.

6. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Development Agreement.

7. This Minimum Assessment Agreement shall not be assignable without the written consent of the City and shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

8. Nothing herein shall be deemed to waive the rights of Developer under Iowa Code Section 403.6(19) to contest that portion of any actual value assignment made by the Assessor in excess of the

Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value to an amount below the Minimum Actual Values established herein during the term of this Agreement. This Minimum Assessment Agreement may be amended or modified and any of its terms, covenants, representations, warranties or conditions waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance.

9. If any term, condition or provision of this Minimum Assessment Agreement is for any reason held to be illegal, invalid or inoperable, such illegality, invalidity or inoperability shall not affect the remainder hereof, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained herein.

10. The Minimum Actual Value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate pursuant to the Assessment Termination Date set forth in Section 1 above.

11. Developer has provided a title opinion or lien or title search/certificate to City listing all lienholders of record as of the date of this Assessment Agreement and all such lienholders have signed a consent to this Assessment Agreement substantially in the form of the Lienholder Consent set forth in this Exhibit F, which consents are attached hereto and made a part hereof.

[Remainder of this page is blank. Signatures start on the next page.]

(SEAL)

CITY OF CARTER LAKE, IOWA

By: _____
Ron Cumberledge, Mayor

ATTEST:

By: _____
Jackie Carl, City Clerk

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

On this _____ day of _____, 2024, before me a Notary Public in and for said State, personally appeared Ron Cumberledge and Jackie Carl, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Carter Lake, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to MAA for City of Carter Lake]

PATRIOT CUSTOM METALS, LLC d/b/a
PALMSHIELD,
an Iowa limited liability company

By: _____
Todd Lavigne, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me the undersigned, a Notary Public in and for said State, personally appeared Todd Lavigne, to me personally known, who, being by me duly sworn, did say that he is the Manager of Patriot Custom Metals, LLC and that said instrument was signed on behalf of said limited liability company; and that the said Manager as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said state

[Signature page to MAA for Employer]

EXHIBIT F (Cont.)
LIENHOLDER CONSENT

In consideration of one dollar and other valuable consideration, the receipt of which is hereby acknowledged, and notwithstanding anything in any loan or security agreement to the contrary, the undersigned ratifies, approves, consents to and confirms the Minimum Assessment Agreement entered into between the parties, and agrees to be bound by its terms. This provision shall be binding on the parties and their respective successors and assigns.

Name of Lienholder

By: _____
Signature

Print Name: _____

Date: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this ____ day of _____, 20____, before me the undersigned, a Notary Public in and for said County, in said State, personally appeared _____, to me personally known, who, being by me duly sworn, did say that they are the _____ of _____ and that said instrument was signed on behalf of said company, and that the said acknowledged the execution of said instrument to be the voluntary act and deed of said company, by them voluntarily executed.

Notary Public in and for the said state

[add additional pages for each lienholder]

Note: If there are no lienholders, this page shall have no signatures.

EXHIBIT F (Cont.)

The undersigned, having reviewed the plans and specifications for the Required Improvements to be constructed, and being of the opinion that the minimum market value contained in the foregoing Minimum Assessment Agreement appears reasonable, hereby certifies as follows: The undersigned Assessor, being legally responsible for the assessment of the Required Improvements on the Development Property described in the foregoing Minimum Assessment Agreement, certifies that the actual value assigned to the Required Improvements and the Development Property (land and building value) in the aggregate upon substantial completion of construction of the Required Improvements, but no later than January 1, 2024, shall be not less than Three Million Dollars (\$3,000,000), before rollback

Assessor for the County of Pottawattamie, Iowa

Date

STATE OF IOWA)
) SS
COUNTY OF POTTAWATTAMIE)

Subscribed and sworn to before me by _____, Assessor for the County of Pottawattamie, Iowa on this _____ day of _____, 20____.

Notary Public for the State of Iowa

EXHIBIT F (cont.)

Consistent with Iowa Code §403.6(19)(b), filed with this assessor certification is a copy of subsection 19 as follows:

19. a. A municipality, upon entering into a development or redevelopment agreement pursuant to section 403.8, subsection 1, or as otherwise permitted in this chapter, may enter into a written assessment agreement with the developer of taxable property in the urban renewal area which establishes a minimum actual value of the land and completed improvements to be made on the land until a specified termination date which shall not be later than the date after which the tax increment will no longer be remitted to the municipality pursuant to section 403.19, subsection 2. The assessment agreement shall be presented to the appropriate assessor. The assessor shall review the plans and specifications for the improvements to be made and if the minimum actual value contained in the assessment agreement appears to be reasonable, the assessor shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property upon completion of the improvements to be made on it, certifies that the actual value assigned to that land and improvements upon completion shall not be less than \$

b. This assessment agreement with the certification of the assessor and a copy of this subsection shall be filed in the office of the county recorder of the county where the property is located. Upon completion of the improvements, the assessor shall value the property as required by law, except that the actual value shall not be less than the minimum actual value contained in the assessment agreement. This subsection does not prohibit the assessor from assigning a higher actual value to the property or prohibit the owner from seeking administrative or legal remedies to reduce the actual value assigned except that the actual value shall not be reduced below the minimum actual value contained in the assessment agreement. An assessor, county auditor, board of review, director of revenue, or court of this state shall not reduce or order the reduction of the actual value below the minimum actual value in the agreement during the term of the agreement regardless of the actual value which may result from the incomplete construction of improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording of an assessment agreement complying with this subsection constitutes notice of the assessment agreement to a subsequent purchaser or encumbrancer of the land or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer.

02262607-1\16086-066

CARTER LAKE CITY COUNCIL MEETING
MONDAY, NOVEMBER 16, 2023

Mayor Ronald Cumberledge called the meeting to order at 7:00 p.m. Roll call of the council, present: Ashley Wilson, Jackie Wahl, Keebie Kessler, Victor Skinner; and Pat Paterson participated via phone; Clerk Jackie Carl and city attorney Mike O’Bradovich were present.

Upon motion duly made by Kessler, and seconded by Kessler, the council’s agenda was approved unanimously. Upon request of city clerk, to table consent agenda until next month, part of the documents was not included in the emailed packet; clerk did provide a hard copy at the meeting.

New Business: Tim Mandalfo was present to reiterate his concerns from the past couple of meetings. Dan Cumberledge was present to ask for a salvage permit to process insurance salvage vehicles through their property. Kessler moved to approve, seconded by Skinner; Wahl voted no. Nick Hanson appeared on behalf of Lakeside Auto Recyclers requesting permission to obtain a dealer’s license to allow their business to purchase wrecked unsalvageable cars at auction for shredding. The attorney stated not enough information to answer the questions tonight. The Council should see the letter from the State and evaluate if this might need to go to the planning board due to adding the additional use to the property.

Department Supervisors: Kendar Hollenbach, Community Center Director explained the new vinyl graphic that was installed is not appealing and has not received any good comments, mostly comments asking, “what does it represent?” The council agreed to get bids for removal, and repainting. Wahl and Mayor did not recall that being the graphic they approved for the project.

Paterson provided an update that Meggie will be able to start the dyslexia certification in January 2024 and thanked the council for supporting the cause.

Skinner had requested to discuss some policies regarding the employee handbook. He requests to table for next month’s workshop. Kessler moved to amend library board member terms from six years to three years, seconded by Skinner; unanimously approved. Willson moved to approve the substantial completion documents for the CLCC, seconded by Wahl; unanimously approved. Skinner moved to approve final pay applications and change order for CLCC, seconded by Wilson, unanimously approved. Wilson moved to approve the annual Urban Renewal report, seconded by Wahl, unanimously approved. Skinner moved to approve the Annual Financial Report as presented, seconded by Wilson, unanimously approved. The clerk requested to table annual Road Use Tax Report to be completed next month. unanimously approved.

The city council adjourned the meeting at 8:00 p.m.

Jackie Carl City Clerk

Ronald Cumberledge, Mayor

SENIOR ACTIVITY ATTENDANCE FOR November 2023

[illegible]

November Parks and rec monthly report



Carter Lake Parks and Recreation

To Jackie Carl



Thu 7:20 AM

In the month of November for parks and rec it was a lot of background work. The board met and planned the house lighting competition, an upcoming sweetheart dance for the Carter Lake youth and their adult special guest- parents, grandparents, siblings, etc... This event will be held in February. I reached out to Jared, the GM at Shoreline to initiate a youth golf league for the upcoming spring/summer. I am waiting to hear back on that but am excited to implement another new program. I also began working on the spring baseball schedules. This is an exhausting and long task, but one that is enjoyable come Spring and Summer time!

CLCC Monthly Report- November



Carter Lake Parks and Recreation

To Jackie Carl



Thu 7:17 AM

Start your reply all with:

[Thank you!](#)

[This is great, thank you!](#)

[Got it, thanks!](#)

[Feedback](#)

In the month of November, the community center:

- Focused on increasing participation
- Focused on how to reach the above goal while still being able to service our current members adequately
- Put senior events in place
- Boosted attendance in yoga, baby and me, speed and agility and group fitness
- Held two basketball tournaments that had max number of teams entered
- Hosted the Winter Festival

TOTAL REVENUE GENERATED: \$6821.44

ACTIVE MEMBERS- 713

RENTALS BOOKED- 8

TOTAL CHECK INS: 1281



CARTER LAKE PUBLIC LIBRARY

WHERE COMMUNITY AND LEARNING COME TOGETHER.

Library Director's Report December 12th, 2023 4:30 P.M.

<u>November Patron Data</u>	
Monthly Network Usage	858
Unique Wifi Visitors	192
Computer Usage	234
New Library Cards	23
Renewed Cards	1
Patron Count	1604
Program (Services)	34
Programming (Participants)	282
Circulation	818
E-Audiobooks/ Ebooks	205

Community Members who checked out materials from the library in November saved a total of \$12,652.24

<u>Library Revenue</u>	
Black & White Copies	\$38.05
Color Copies	\$10.75
Fax	\$13.00
Donations	\$5.60
Sales	\$48.50
Fines	\$0
Lamination	\$0.75
Monthly Total	\$101.35



CARTER LAKE PUBLIC LIBRARY

WHERE COMMUNITY AND LEARNING COME TOGETHER.

Month in Review:

- ★ Meggie made connections with the Spielbound Board Game Cafe.
- ★ She also organized a special storytime program to have it happen once a month going forward.
- ★ The Veterans display was amazing and brought in a lot of community engagement to make it possible. We had the display up for a week and published the tribute video on YouTube to preserve it.
- ★ Digging Dinos with the Omaha Children's Museum was a great experience. The kids loved being able to create their own salt dough fossils and take them home.
- ★ Tiffany launched her first monthly spice kits for adults and weekly take-home STEM kits for kids. It was a great success!
- ★ Penelope Rex arrived safely the last week of November.

What's to Come:

- ★ Holiday Closures
 - December 24, & 25 for Christmas
 - Monday, Jan. 1st for New Year's Day
- ★ Holiday Events
 - Winter Holiday Party December 16.
 - New Year's Eve Balloon Drop Party, December 30th
- ★ Wall Shelving is expected in December
- ★ Partnerships
 - SpielBound Board Game Cafe
 - AARP
 - Pottawattamie County Museums
 - Iowa West Foundation



CARTER LAKE PUBLIC LIBRARY

WHERE COMMUNITY AND LEARNING COME TOGETHER.

★ Omaha Children's Museum Hands-on Programs

- Digging Dino's November 27, 2023 - 3- 4 pm
- Bubble-Ology December 20, 2023 - 2- 3 pm

★ Character Storytime

- Penelope Rex Character Storytime will be held on Dec. 2nd

In November, 192 unique patrons used your library WiFi. On average, these patrons visited to use the WiFi on just under 5 individual days.

Change from prior month



858 ↓ -20.99%

Monthly Sessions



787 ↓ -16.54%

Total Visits



192 ↓ -6.34%

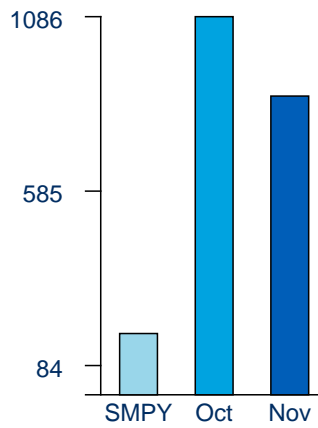
Unique Visitors



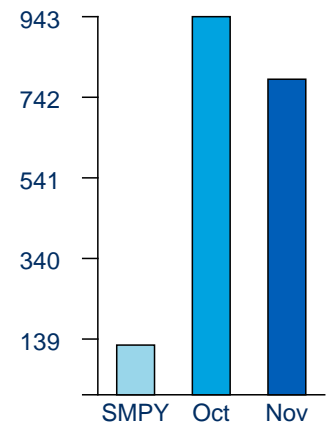
4.1 ↓ -10.87%

Average Return Rate

Total Monthly Session Count

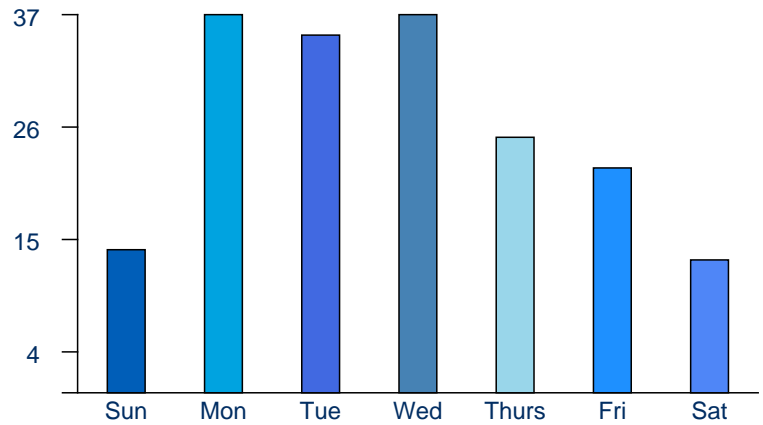


Total Monthly Visits

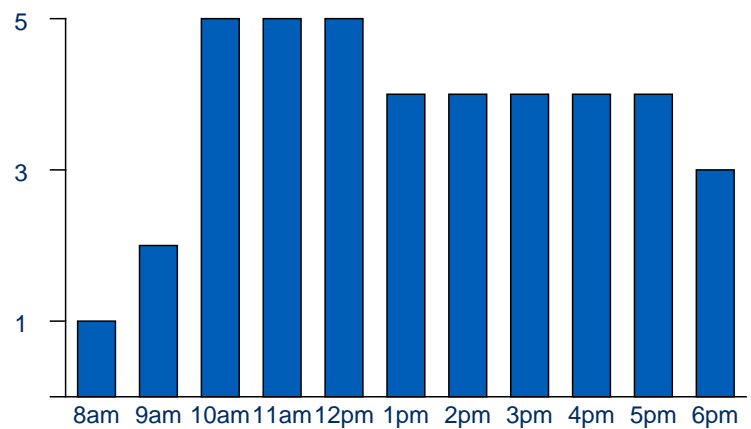


*SMPY: Same Month Prior Year

Average Daily Visits



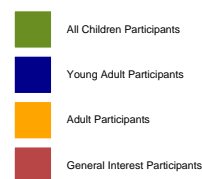
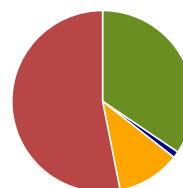
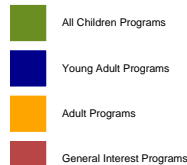
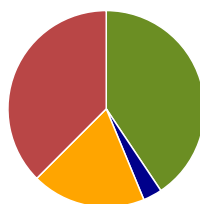
Average Peak Hourly



July

Overview

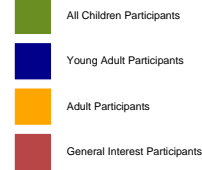
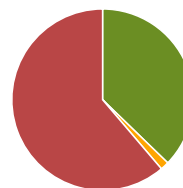
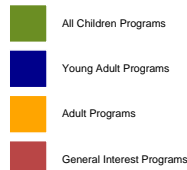
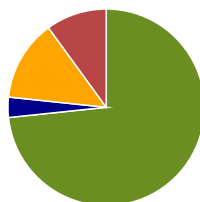
All Children Programs	13	40.63%	All Children Participants	61	34.46%
Young Adult Programs	1	3.13%	Young Adult Participants	2	1.13%
Adult Programs	6	18.75%	Adult Participants	20	11.3%
General Interest Programs	12	37.5%	General Interest Participants	94	53.11%
Total Programs	32		Total Participants	177	



August

Overview

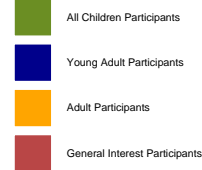
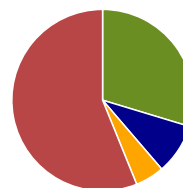
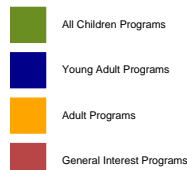
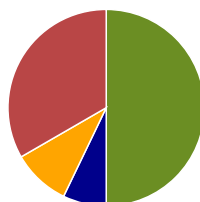
All Children Programs	22	73.33%	All Children Participants	73	37.24%
Young Adult Programs	1	3.33%	Young Adult Participants	0	0%
Adult Programs	4	13.33%	Adult Participants	3	1.53%
General Interest Programs	3	10%	General Interest Participants	120	61.22%
Total Programs	30		Total Participants	196	



September

Overview

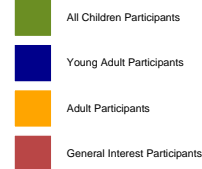
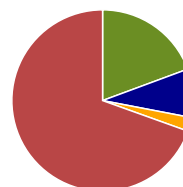
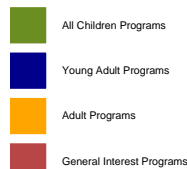
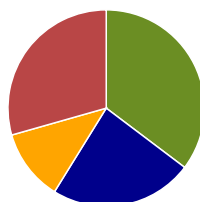
All Children Programs	21	50%	All Children Participants	46	29.68%
Young Adult Programs	3	7.14%	Young Adult Participants	14	9.03%
Adult Programs	4	9.52%	Adult Participants	8	5.16%
General Interest Programs	14	33.33%	General Interest Participants	87	56.13%
Total Programs	42		Total Participants	155	



October

Overview

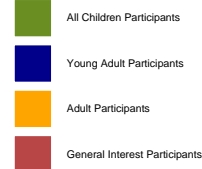
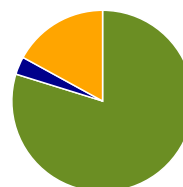
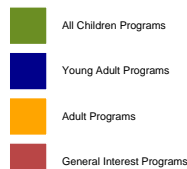
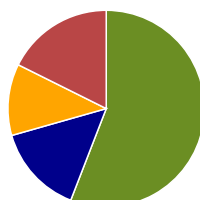
All Children Programs	12	35.29%	All Children Participants	181	19.36%
Young Adult Programs	8	23.53%	Young Adult Participants	81	8.66%
Adult Programs	4	11.76%	Adult Participants	23	2.46%
General Interest Programs	10	29.41%	General Interest Participants	650	69.52%
Total Programs	34		Total Participants	935	



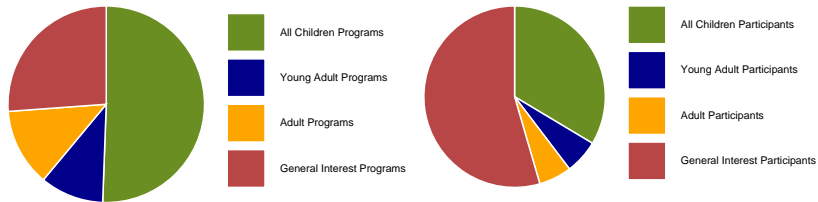
November

Overview

All Children Programs	19	55.88%	All Children Participants	225	79.79%
Young Adult Programs	5	14.71%	Young Adult Participants	9	3.19%
Adult Programs	4	11.76%	Adult Participants	48	17.02%
General Interest Programs	6	17.65%	General Interest Participants	0	0%
Total Programs	34		Total Participants	282	



Year in Review						
Overview						
All Children Programs	87	50.58%		All Children Participants	586	33.58%
Young Adult Programs	18	10.47%		Young Adult Participants	106	6.07%
Adult Programs	22	12.79%		Adult Participants	102	5.85%
General Interest Programs	45	26.16%		General Interest Participants	951	54.5%
Total Programs	172			Total Participants	1745	



City of
CARTER LAKE

EST. 1930

For the month of November into December, we have had immaculate weather conditions. Thank you to OPPD for hanging the Christmas decorations at City Hall and Locust St. We have been working with the City of Omaha on a new forest main sewer project. Everyone should drive by and take a peek at the progress at the Prairie Flower Casino and the Boys and Girls Club, as the projects are going very well. We are making plans for a new fence for the Hamilton sports complex. If you have time, drive by and look at the new pillars and sign, it looks very nice! Special thanks to Keebie Kessler, Ashley Wilson, Pat Patterson, Michael Bravowich. Have some winter projects going on at the Maintenance shop that we plan to have done very shortly. That's about it for this month, hope everyone has a Merry Christmas and a Happy Holidays.

-Maintenance Department



Carter Lake Iowa Police Department

950 E Locust St, Carter Lake, IA 51510

Phone (712) 347-5920 Fax (712) 347-6486

CFS Monthly Report

Printed on December 1, 2023

Codes With Descriptions

Totals

911 - 911 HANGUP CALL	7	7
ADMIN - ADMINISTRATIVE ASSIGNMENT	4	4
ALAB - BUSINESS ALARM	2	2
ANIMAL - ANIMAL COMPLAINT	6	6
ARES - RESIDENTIAL OR HOME ALARM	3	3
ARMED - ARMED SUBJECT	2	2
ASLE - ASSIST LAW ENFORCEMENT	1	1
ASLE - ASSIST LAW ENFORCEMENT; FGRASS - GRASS FIRE UNDER 1000 SQUARE FEET	1	1
ASSA - ASSAULT	2	2
BDC - BROADCAST	2	2
BDC - BROADCAST; PURSUIT - VEHICLE PURSUIT; RECO - RECOVERED PROPERTY/VEHICLE	1	1
BURG - BURGLARY	7	7
CLOC - CHECK LOCATION	44	44
COMPLAINT - COMPLAINT REPORT	6	6
CRIM - CRIMINAL MISCHIEF OR VANDALISM	2	2
CWEL - CHECK THE WELFARE	26	26
CWEL - CHECK THE WELFARE; E13 - DIABETIC PROBLEMS	1	1
CWEL - CHECK THE WELFARE; E1 - ABDOMINAL PAIN/PROBLEMS	1	1
CWEL - CHECK THE WELFARE; E25 - PSYCHIATRIC/ABNORMAL BEHAVIOR/SUICIDE ATTEMPT	1	1
DIST - DISTURBANCE	13	13
E17 - FALLS; ASFD - ASSIST FIRE DEPARTMENT	1	1
E2 - ALLERGIES (REACTIONS)/ENVENOMATIONS (STINGS, BITES)	1	1
FOLL - FOLLOW UP	19	19
FOUND - FOUND PROPERTY	1	1
FRAUD - FRAUD OR FORGERY	4	4
HARR - HARASSMENT	2	2
INTO - INTOXICATED SUBJECT	3	3
JUV - JUVENILE PROBLEMS	1	1
MOTA - MOTORIST ASSIST	3	3
NOIS - NOISE COMPLAINTS	1	1
OPEN - OPEN DOOR	1	1
PARKING - PARKING PROBLEMS, CONTINUOUSLY PARKED VEHICLE	5	5
PDHR - PROPERTY DAMAGE HIT AND RUN	4	4
PD - PROPERTY DAMAGE ACCIDENT	2	2
STNV - STOLEN VEHICLE	2	2
SUSP - SUSPICIOUS ACTIVITY	23	23
THEFT - THEFT	8	8
THREAT - THREATS	1	1
TRAFFIC - TRAFFIC STOP	121	121

Codes With Descriptions**Totals**

TRAFP - TRAFFIC PROBLEM	1	1
TRESPASS - TRESPASSING	21	21
VICE - DRUGS, PROSTITUTION, VICE ASSIGNMENT	2	2
WANTED - WANTED PERSON	11	11
Totals	370	370



Carter Lake Iowa Police Department

950 E Locust St, Carter Lake, IA 51510

Phone (712) 347-5920 Fax (712) 347-6486

CLPD Monthly Arrest Report

Printed on November 30, 2023

Case Number	Charges	Arrest Date	Last, First Name	Address
CL23-000935	Possession Of A Controlled	10/14/23	SANCHEZ,	1600 E LOCUST ST,
CL23-000896	Possession Of A Controlled	10/04/23	CRAINE-AYER,	1300 WILLOW DR,
CL23-000998	Possess Drug Paraphernalia	10/30/23	LAWRIE, JAMES	1202 E LOCUST ST,
CL23-000934	GENERAL PURPOSE REPORT	10/14/23	VAUGHAN, JESSICA	400 LOCUST ST,
CL23-000932	GENERAL PURPOSE REPORT	10/13/23	GATROST, JOSEPH	4102 N 7TH STREET,
CL23-000923	GENERAL PURPOSE REPORT	10/11/23	YOUNG, MATTHEW	FREEDOM PARK
CL23-000898	Public Intoxication -- 1st Off	10/05/23	SALAS, IVAN	3000 AIRPORT ROAD,
CL23-000879	Trespass -- Refuse to Vacate, \$0	10/01/23	MATTHEWS,	2510 ABBOTT PLAZA,
CL23-000996	Fugitive From Justice - 1989;	10/29/23	MCCONNELL,	1202 E LOCUST ST,
CL23-000969	GENERAL PURPOSE REPORT	10/20/23	JEFFERSON, WILLIAM	2910 N. 9TH STREET,
CL23-000945	Burglary 2nd Deg -- Person Pres,	10/16/23	MILLS, RICHARD	3000 N 13TH ST,
CL23-000937	Poss Contrab On/In Grnds Corr	10/15/23	BENNETTE, ELEXUS	3000 AIRPORT RD,
CL23-000926	GENERAL PURPOSE REPORT	10/12/23	HOWELL, BRIAN	1000 WILLOW DR,
CL23-001005	GENERAL PURPOSE REPORT	10/30/23	STEWART, KEVIN III	1314 AVENUE N,

Case Number	Charges	Arrest Date	Last, First Name	Address
CL23-000976	Insufficient Number of Headlamps;	10/21/23	LUCAS, DILLON	1400 REDICK BLVD,
CL23-000974	Interfere w/ Official Acts, \$0	10/21/23	SWANSON,	1031 AVENUE H,
CL23-000963	Fugitive From Justice - 1989	10/19/23	CARRABBA, GERALD	109 E LOCUST ST,
CL23-000962	Possession Of A Controlled	10/18/23	HENRIQUEZ	9TH AVENUE J,
CL23-000956	GENERAL PURPOSE REPORT	10/18/23	WIRTH, AMANDA	1031 AVENUE H,
CL23-000955	HOLD FOR OTHER IOWA	10/18/23	LAMBERT, DAVID	FREEDOM PARK RD,
CL23-000927	Theft 5th -- Shoplifting Under \$300	10/12/23	PETERSEN, SALLY	900 E LOCUST ST,
CL23-000903	Crim Misch 5th -- Damage Under	10/08/23	HOWELL, BRIAN	909 WILLOW DR,
CL23-000900	DRIVING WHILE BARRED -	10/07/23	NOLAN, SCOTT	2000 ABBOTT DR,
CL23-000888	Burglary 3rd Deg -- Non Vehicle	10/04/23	STEPHENS, DESIREE'	1225 AVENUE H,
CL23-000888	Burglary 3rd Deg -- Non Vehicle	10/04/23	MURRAY, TRACY	1225 AVENUE H,
CL23-000889	Trespass -- Refuse to Vacate, \$0	10/04/23	HINDT, RAYMOND	1031 AVENUE H,
CL23-000938	Poss Contrab On/In Grnds Corr	10/16/23	HYNES, MICHAEL	1650 E LOCUST ST,
CL23-000933	Public Intoxication -- 1st Off	10/14/23	CHIZEK, JOHN	2010 ABBOTT DR,
CL23-000897	Possess Drug Paraphernalia;	10/05/23	FLETCHER, BRUCE	109 E LOCUST ST,
CL23-000924	Possession Of A Controlled	10/11/23	CARRERA, CELESIA	1201 AVENUE H,

Total Records: 30

Carter Lake Fire Department Monthly Report

Proudly Serving since 1956

Department Head: Chief Eric Bentzinger

Report done by: Coordinator Phillip Newton

Contact information: Station # 712-347-5900

Email: clfire@carterlake-ia.gov

Check us out on FACEBOOK — Carter Lake Fire & Rescue

Month: November 2023

Continuous Issues/Budget:

Employee and Organization Development: Training on our New Zoll EKG Monitor for the ambulance

Pancake Breakfast: Pancake Breakfast is FEB 4th at the Fire Station- 7:30 to Noon

Monthly Meetings (1 st Tuesday):	6:30-Done	Officers, Members, Smoke Eaters
Fire training (1 st Saturday):	9-noon	Ropes, hoisting and equipment.
Fire training (2 nd Tuesday):	7-10pm	Ropes, hoisting and equipment.
EMS training (3 rd Tuesday):	7-10pm	Stroke, Cardiac, New Monitor training

Safety Minutes: Please see safety minutes attached to email

Safety Committee: Next Safety Meeting is Jan 3rd @ 13:00 at the Fire Station.

Total Calls for the month: 2022 484 total calls 2021- 546 Total(record) calls 2020 – 431 Total calls

EMS (ambulance) 37

Fire/Other calls: 10

Other: Additional Information for Mayor, City Council & Citizens:

- 1. Looking for In Town Volunteers, Call Phill at the Fire Station 712-347-5900**
2. Public breakfasts will now be 3 times a year. Breakfasts will be in February, May & October. We will also continue to do the breakfast in July for pancakes in the park. This will be held only in the park and only for the attendees of the church service.

Meeting Date: _____ Location: _____

Location: _____

[illegible]

This image shows a blank sheet of white paper with horizontal black ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

This image shows a single sheet of white paper with horizontal blue ruling lines. The lines are evenly spaced and run across the width of the page. There are no margins, text, or other markings on the paper.

This image shows a blank sheet of white paper with horizontal ruling lines. The lines are evenly spaced and extend across the width of the page. There are no margins, text, or other markings on the paper.

SAFETY ACTION PLAN

Assignment Number	Assignment
Person Responsible	
Estimated Completion Date	
Completion Date	
Assignment Number	Assignment
Person Responsible	
Estimated Completion Date	
Completion Date	
Assignment Number	Assignment
Person Responsible	
Estimated Completion Date	
Completion Date	
Assignment Number	Assignment
Person Responsible	
Estimated Completion Date	
Completion Date	
Assignment Number	Assignment
Person Responsible	
Estimated Completion Date	
Completion Date	

CITY OF CARTER LAKE GRANT WRITING

IMPACT7G MONTHLY PROGRESS REPORT

Reporting Period: 9/1/2023 - 11/30/2023

Date Submitted: 12/04/2023

Prepared for:

Jackie Carl
950 East Locust Street
Carter Lake, Iowa 51510
712-347-6320

Prepared by:

Nicole Turpin, Impact7G, Inc.

1. ACTIVITIES CONDUCTED

- *Submitted T-Mobile Grant for Community Center Green Space.*
- *Submitted Letter of Intent for Carver Grant for Library Project.*
- *Reached out to IEDA on Energy Efficiency Program on programming timing.*
- *Provided the Fire Department with information on Consumer Product Safety Commission's Nicholas and Zachary Burt Memorial Carbon Monoxide Poisoning Prevention Grant Program.*
- *Submitted Carver Grant application for library project.*
- *Provided Library information on the following grant programs:*
 - *FINRA Foundation Library Grants Program*
 - *Penguin Random House Grants for Small & Rural Libraries*
 - *Libraries Transforming Communities*
- *Provided Police Department information on the following grant program:*
 - *Project Child Safe*
 - *Firehouse Subs*
 - *Comprehensive Opioid, Stimulant, and Substance Use Program*
 - *Edward Byrne Memorial Justice Assistance Grant Program*
 - *COPS Technology and Equipment Program*
 - *COPS Hiring Program*
 - *Community Policing Program*
 - *School Violence Prevention Program*
 - *Preparing for Active Shooter Situations*
 - *COPS Anti-Methamphetamine Program*
 - *Anti-Heroin Task Force*
 - *Law Enforcement Mental Health and Wellness*
 - *Collaborative Reform*
 - *Body-Worn Camera Policy and Implementation Program to Support Law*

Enforcement

- *Smart Policing Initiative Grant Program*
- *Preventing School Violence*
- *Provided the Fire Department information on the following grant programs:*
 - *Assistance to Firefighters Grants*
 - *Staffing for Adequate Fire and Emergency Response (SAFER)*
 - *Fire Prevention & Safety Grants*
 - *IAFF Peer Support Trainings*
 - *Firehouse Subs Public Safety Foundation*
 - *Firefighters Charitable Foundation Fire Prevention & VFD Grants*
 - *FM Global Fire Prevention Grant Program*
 - *The Leary Firefighters Foundation*
 - *Gary Sinise Foundation Fire Responders Outreach*

2. FUNDING OPPORTUNITIES APPLIED FOR & STATUS

Funding Program	Brief Description of Project	Status	Amount Awarded
National Park Service Rivers, Trails & Conservation Assistance Program	Plan for outside area of Community Center	Awarded	- NPS Technical Assistance
Iowa West Foundation	Mabrey Park Playground	Full application – submitted	\$45,000.00
Destination Iowa Grant	Carter Lake Walking Bike Trail.	Not awarded	
Walmart Grant	Smoke Detectors	Not awarded	
Dollar General Summer Reading Program	Summer Reading Program	Not awarded	
FEMA SAFER	Personnel and Retention	Submitted	
Bipartisan Infrastructure Law Energy Efficiency Conservation Block Grant	Energy Efficiency Upgrades	Not awarded	
T-Mobile Hometown Grant	Community Center Greenspace	Underway	
Walmart Grant	Library	Not awarded	
Carver Foundation	Library	Underway	
CN Railroad American In Bloom Grant	Community Center Green Space	Underway	

3. ACTIVITIES FOR NEXT MONTH

1. Work with departments to determine needs and what upcoming grants they would like to apply for.