



# CITY OF CLEAR LAKE

15 North 6th Street • P.O. Box 185 • Clear Lake, IA 50428  
Phone (641) 357-5267 • Fax (641) 357-8711  
www.cityofclearlake.com

Mayor  
NELSON P.  
CRABB

August 17, 2012

HONORABLE MAYOR & CITY COUNCIL MEMBERS:

City  
Administrator  
SCOTT  
FLORY

The next meeting of the Clear Lake City Council is scheduled for Monday, **August 20, 2012**, at 6:30 p.m., in the Council Chambers, at City Hall. Please refer to the enclosed agenda for the items discussed below.

COUNCIL MEMBERS

DANA  
BRANT  
Ward 1

TONY J.  
NELSON  
Ward 2

JIM  
BOEHNKE  
Ward 3

MIKE  
CALLANAN  
At Large

TERRY  
UNSWORTH  
At Large

ITEM #6A. **N. 40<sup>th</sup> Street Bridge Deck Rehabilitation Project**. At its regular meeting on August 6<sup>th</sup>, the Council awarded a construction contract to Larson Contracting (Lake Mills) for the N. 40<sup>th</sup> Street Bridge Deck Rehabilitation Project. The amount of the construction contract is \$47,415.40. The City has now received the Contract & bonds (performance, payment, & maintenance), as well as the Certificate of Insurance from the Contractor. The documents have been reviewed by the Project engineer and City staff and have been determined to be in compliance with the Project contract document specifications.

The Project is anticipated to begin between August 29<sup>th</sup> and September 4<sup>th</sup> and be completed by October 19<sup>th</sup>.

ITEM #6B. **North Shore Drive (400 block) Streetscape Project**. The Council awarded the construction contract on August 6<sup>th</sup> to Vieth Construction Corporation (Cedar Falls, IA), in the amount of \$243,773.25. The City has now received the Contract & bonds (performance, payment, & maintenance), as well as the Certificate of Insurance from the Contractor. The documents have been reviewed by the Project engineer and City staff and have been determined to be in compliance with the Project contract document specifications.

ITEM #6D. **ROW Encroachment Agreement – 444 N. Shore Drive**. Sip's Restaurant wishes to construct an addition to its building, located at 444 N. Shore Drive. The addition would primarily entail the construction of an "airlock" entry. The eaves/overhang of the proposed addition, however, would encroach into the City's N. Shore Drive street right-of-way, a distance of roughly 24". The Owner articulated his request to the Council at the previous regular City Council meeting and the Council indicated its willingness to consider the matter formally at an upcoming meeting. City staff has prepared a "Right-of-Way Encroachment Agreement", which



details the necessary particular conditions and terms, to be entered into between the City and the Owner - should the Council be inclined to approve the request.

**ITEM #6E. NW Elevated Water Storage Tower Project Site Acquisition.**

Although not specifically required by State law, consistent with other past land acquisitions, the Council has set the opportunity for a public hearing on the proposal to buy a roughly 1-acre parcel of real property, located on the north side of US HWY 18, west of N. 16<sup>th</sup> Street W. (1814 HWY 18 W), for purposes of constructing a new 1,000,000 gallon elevated water storage tower at that site. The Owners of the property, which is proposed to be purchased, are Michael & Stacia Sonderman of Clear Lake. The proposed purchase price is \$75,000 and was negotiated between the Owners and City staff.

The proposed location was one of seven (7) specific locations that was evaluated in the "Elevated Water Tower Site Analysis, April 2012" prepared by Veenstra & Kimm. It was also one of the sites upon which detailed soil exploration was conducted. Of the top two sites suggested by the consultant, this was the one that was within the City limits.

**ITEM #6F. US HWY 18 (N. 9<sup>th</sup> Street W. – N. 3<sup>rd</sup> Street W.) Watermain Improvement Project.**

One of the major capital improvement projects the Council budgeted for in FY 13 is the "US HWY 18 (N. 9<sup>th</sup> Street W. – N. 3<sup>rd</sup> Street W.) Watermain Improvement Project". This particular watermain is significant to the overall distribution system in providing some necessary redundancy and aiding in the filling of the area water tower, in addition to serving a number of commercial properties along US HWY 18. Redundancy in the watermain allows the City to provide water service from more than one direction. If a segment of water line needs to be temporarily shut down (due to a break, new connection, etc.), water can still be rerouted from another direction keeping the majority of users still in service. For budget planning purposes, the City estimated a project cost of \$220,000, relying on a previously prepared project estimate from 2006.

The Project entails the replacement of an existing 4" watermain, located underneath a portion of US HWY 18. The proposed construction would include 2,500 LF of new 12" watermain. Over the years, this has been one of the most problematic watermains in the City's distribution system. There have been 6 watermain breaks in this line over the past 5 years. Obviously, with a 4" watermain, this primarily commercial area has been underserved for a number of years. This Project will link to the new 12' watermain that was constructed in 2010 from N. 9<sup>th</sup> Street W. to Clark Road (West-end Loop Project).

The estimated cost of the Project has now been revised to \$300,000, based on anticipated increased construction costs and a "potential" requirement by the Iowa DOT to require casing pipe for all paved driveway and street crossings (estimated at \$45,000). The Project is proposed to be let for bids in January of 2013, with construction beginning on April 1<sup>st</sup> and commencing on June 21<sup>st</sup>

City staff has negotiated a Professional Services Agreement with Veenstra & Kimm to provide professional engineering services for the Project. These services will entail preliminary engineering analysis of three existing US HWY 18 watermain crossings; preparation of detailed plans & specifications; bid services; and construction services. The total cost of the proposed professional services agreement is not to exceed \$40,400, which is roughly 13.5% of the estimated cost of construction.

**ITEM#6G. Lease Agreements - CL Tel Wireless Inc.** As a result of the anticipated removal of the downtown Water Tower, both the City and CL Tel have taken the necessary steps to plan for the relocation of their respective wireless communications equipment currently located on that Tower. The City's emergency response radio repeater and CL Tel's wireless antenna telecommunications equipment are, of course, located on that Tower.

At a workshop meeting on June 4<sup>th</sup>, the City Council reviewed a tentative proposal to replace the existing approximately 100' lattice-style communications tower, located on the City Hall premises, just outside the police station, with a new monopole structure to be used for emergency response communications equipment purposes and CL Tel's wireless antenna telecommunications equipment. The approximate height of the proposed monopole structure would be 150', with a portion of the City's emergency response communications equipment being located very near the top. At its regular meeting on June 18<sup>th</sup>, the Council approved a "Letter of Intent" with CL Tel Wireless Inc. in which it indicated its willingness to proceed with development of the necessary Agreements to facilitate the project.

Enclosed in your packet are three (3) separate Agreements all dealing with the tentative proposal. The first Agreement involves an amendment to the City's existing water towers' lease agreement that was originally approved in June of 2007. Basically, this Agreement reflects the removal of the downtown Water Tower from the original water towers' lease agreement between the City and CL Tel Wireless Inc.

The second Agreement deals with the leasing of specific property at City Hall, adjacent to the police station. Should the Council proceed; an actual survey of the site will be performed for purposes of a detailed legal description. The term of the lease is for an initial period of 10 years, with an option to renew for 5 additional 5 year terms.

The final Agreement details the collocation of the City's emergency response repeater communications equipment on the proposed monopole structure, along with CL Tel's wireless antenna equipment. There will be no annual rent charged by CL Tel to the City for hosting its equipment on the monopole.

The monopole structure will be constructed by CL Tel and iWireless at no cost to the City. The Council did allocate funding in the FY 13 budget for a new Tower, however. Some of this may still be required to remove the existing Tower outside City Hall and relocate the equipment itself from the downtown Water Tower.

The Council will consider a Resolution to set the date for a public hearing on the proposed Agreements. The hearing will be on September 4<sup>th</sup>.

Please feel free to contact me if you have questions about any of the agenda items.

Scott Flory  
City Administrator

TENTATIVE AGENDA  
CLEAR LAKE CITY COUNCIL  
CITY HALL – 15 N. 6<sup>TH</sup> STREET  
MONDAY, AUGUST 20, 2012  
CITY HALL – COUNCIL CHAMBERS  
**6:30 P.M.**

1. Call To Order by Mayor Nelson P. Crabb.
2. Approval of Agenda.
3. Consent Agenda:
  - A. Minutes – August 6, 2012.
  - B. Approval of the bills & claims.
  - C. Licenses & Permits:
    - Liquor License: Class C Liquor License (LC) (Commercial) with Outdoor Service & Sunday Sales, Fiesta Cancun Mexican Restaurant, (renewal).
    - Tree Trimmer's License: Miller Tree & Landscape, Mason City, (renewal).
    - Tax Abatement Application: David & Michelle Jack, 308 Pine Brooke Drive.
    - Street Closing Request: Seawall to Seawall Run, Saturday, September 1<sup>st</sup>.
4. Citizen's opportunity to address the Council on items not on the agenda:
  - In conformance with the City Council's Rules of Procedure, no action can occur on items presented during the Citizens Forum.
  - Please walk to the lectern, state your name (spell last name), address, and subject of your discussion.
  - Speakers are limited to a maximum of five (5) minutes per person.
5. Unfinished Business:
6. New Business:
  - A. N. 40<sup>th</sup> Street Bridge Deck Rehabilitation Improvement Project:
    - Review by Scott Flory, City Administrator.
    - **Motion** to approve **Resolution #12-46**, "A Resolution approving the Contract & bonds for the N. 40<sup>th</sup> Street Bridge Rehabilitation Improvement Project."
    - Discussion and consideration of **Motion** by City Council.
    - Pre-construction conference: August 28<sup>th</sup> at 11:30 a.m.

B. North Shore Drive (400 block) Streetscape Improvement Project:

- Review by Scott Flory, City Administrator.
- **Motion** to approve **Resolution #12-47**, “A Resolution approving the Contract and bonds for the North Shore Drive (400 block) Streetscape Improvement Project.”
- Discussion and consideration of **Motion** by City Council.

C. CDBG Sanitary Sewer System Improvement Project – Phase II (Paving):

- Review of Pay Estimate #4 and update regarding construction activities, Jason Petersburg, P.E., Veenstra & Kimm.
- **Motion** to approve Pay Estimate #4 by City Council.
- Discussion and consideration of **Motion** by City Council.

D. Right-of-Way Encroachment Agreement - 444 North Shore Drive (Sip’s):

- Introduction by Scott Flory, City Administrator.
- Review of Request, Dick Hayes, Sip’s Restaurant.
- **Motion** to approve a Right-of-Way Encroachment Agreement.
- Discussion and consideration of **Motion** by City Council.

E. Northwest Elevated Water Storage Tower Improvement Project:

- Review of proposal, Scott Flory, City Administrator.
- Public Hearing.
- **Motion** to approve **Resolution #12-48**, “A Resolution approving and authorizing the acquisition of real property and empowering the Mayor, City Clerk, and City Attorney to sign documents related to the acquisition on behalf of the City.”
- Discussion and consideration of **Motion** by City Council.

F. US HWY 18 (N.9<sup>th</sup> Street W. – N. 3<sup>rd</sup> Street W.) Watermain Project:

- Introduction by Scott Flory, City Administrator.
- Review of proposed Professional Services Agreement. Jason Petersburg, P.E., Veenstra & Kimm.
- **Motion** to approve Professional Services Agreement with Veenstra & Kimm by the City Council.
- Discussion and consideration of **Motion** by City Council.

G. Lease Agreements (Site, Tower Collocation, & Water Tower) with CL Tel Wireless Inc.:

- Introduction by Scott Flory, City Administrator.
- Review of proposal, Tom Lovell, General Manager, CL Tel
- **Motion** to approve **Resolution #12-49**, "A Resolution setting the date for a public hearing on First Amendment to Water Tower Lease; Site Lease with Option; and Tower Collocation Lease Agreement by and between the City of Clear Lake and CL Tel Wireless Incorporated".
- Discussion and consideration of **Motion** by City Council.

7. Chief of Police's Report:

8. Mayor's Report:

9. Public Works Director's Report:

- Update regarding construction of subdivision improvements at Pine Brooke Addition #3.

10. City Administrator's Report:

- Buddy Holly Place - new sidewalk construction (HWY 18 to 10<sup>th</sup> Ave N.)

11. City Attorney's Report:

12. Other Business:

13. Adjournment.

NEXT REGULAR MEETING – SEPTEMBER 4, 2012

APPLICATION FOR TAX ABATEMENT UNDER THE PINE BROOKE  
URBAN REVITALIZATION PLAN FOR

CLEAR LAKE, IOWA

Date 7/23/12

Prior Approval for  
Intended Improvements

Approval of Improvements  
Completed

Address of Property: 308 PINE BROOKE DR

Legal Description: Lot # Block #1

PINE BROOKE SUBDIVISION

Title Holder or Contract Buyer: DAVID & MICHELLE JACK

Address of Owner (if different than above): \_\_\_\_\_

Phone Number (to be reached during the day): \_\_\_\_\_

Proposed Property Use: Single Family Home

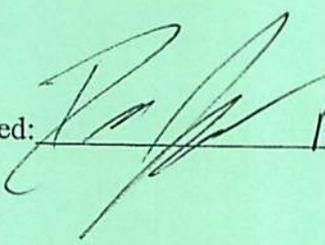
Nature of Improvements:  New Construction

Specify: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Estimated or Actual Date of Completion: 6-15-12

Estimated or Actual Cost of Improvements: 247,500

Tax Exemption Schedule is attached.

Signed:  Michelle Jack

RESOLUTION No. \_\_\_\_\_

A RESOLUTION APPROVING CONSTRUCTION CONTRACT AND BONDS FOR  
THE N 40<sup>TH</sup> STREET BRIDGE DECK REHABILITATION PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA; that the construction contract and bond executed and insurance coverage for the construction of certain public improvements described in general as construction of the N 40<sup>th</sup> Street Bridge Deck Rehabilitation Project, and as described in detail in the plans and specifications heretofore approved, and which have been signed by the Mayor and Clerk on behalf of the City be and the same are hereby approved as follows:

Contractor: Larson Contracting Central, LLC Lake Mills, Iowa

Bond surety: Merchants Bonding Company

Date of Bond: August 10, 2012

Portion of project: All construction work.

PASSED AND APPROVED, this 20<sup>th</sup> day of August, 2012

\_\_\_\_\_  
Nelson P. Crabb, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Larsen, City Clerk

## CONTRACT BETWEEN OWNER AND CONTRACTOR

THIS AGREEMENT, made and entered into this 6th day of August, 2012, by and between the City of Clear Lake, Iowa, party of the first part, hereinafter referred to as the "Owner", and Larson Contracting Central, LLC, party of the second part, hereinafter referred to as the "Contractor".

WITNESSETH: THAT WHEREAS, the Owner has heretofore caused to be prepared certain specifications and bid form blanks, dated the 16th day of July 2012, North 40<sup>th</sup> Street Bridge Deck Overlay Project under the terms and conditions therein fully stated and set forth, and,

WHEREAS, said specifications and bid form blanks accurately and fully describe the terms and conditions upon which the Contractor is willing to perform the work specified:

NOW, THEREFORE, IT IS AGREED:

1. That the Owner hereby accepts the bid of the Contractor for the work, as follows:

### NORTH 40<sup>TH</sup> STREET BRIDGE DECK OVERLAY PROJECT

Project includes bridge deck repairs, bridge deck overlay utilizing Class HPC-O PCC and approach slab repair for an existing 80'-0 x 44'-0 continuous concrete slab bridge located in Clear Lake, Iowa on North 40<sup>th</sup> Street south of State Highway 122 over Willow Creek in Section 09, T-96N, R-21W, Cerro Gordo County, Iowa.

2. That this contract consists of the following component parts which are made a part of this agreement and contract as fully and absolutely as if they were set out in detail in this contract:

#### 2.1 Contract Documents, including:

- 2.1.1. Addendum
- 2.1.2. Proposal / Bid Form
- 2.1.3. Plans
- 2.1.4. Project Manual as prepared by Veenstra & Kimm, Inc.
- 2.1.5. IDOT Special Provision
- 2.1.6. Standard IDOT Bridge Plans, Standard IDOT Culvert Plans, and Standard IDOT Road Plans
- 2.1.7. IDOT Developmental Specifications
- 2.1.8. IDOT General Supplemental Specifications
- 2.1.9. IDOT Standard Specifications - Series 2009
- 2.1.10. IDOT Materials I.M.

Reference is also made to IDOT Specification 1105.04.

2.2 This Instrument.

2.3 The above components are complementary and what is called for by one shall be as binding as if called for by all.

3. That payments are to be made to the Contractor in accordance with and subject to the provisions embodied in the documents made a part of this contract.

4. The Contractor guarantees all work as follows:

4.1 Contractor guarantee's all work constructed under this agreement, regardless if said work is performed by Contractor, his subcontractors, or other third tier subcontractors retained by subcontractor's against defective workmanship and / or materials for a period of four (4) years from the date of Final Acceptance of work by Owner

Workmanship and / or materials shall be considered defective when a condition causing premature failure (whole or in part) which was present in the relevant part of component of work when it was constructed or installed, or comes into existence as a result of the way in which the relevant part or component of work was constructed or installed.

4.2 The Contractor shall faithfully perform the contract on it's part and shall fully indemnify and save harmless the Owner from all cost and damage which Owner may suffer by reason of defective workmanship and / or materials, and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any such default.

5. That this contract is executed in triplicate.

6. Controlling Law. This Agreement and any of its terms and provisions shall be interpreted or construed under the laws of the State of Iowa.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hand and seals the date first written above.

**CONTRACTOR**

**CLEAR LAKE, IOWA**

Larson Contracting Central, LLC

By *Justin Peterson*

Title CEO - Owner

ATTEST:

*Virginia Kesler*

Title Project Controller

\_\_\_\_\_

Mayor

ATTEST:

\_\_\_\_\_

City Clerk

Performance, Payment and Maintenance Bond

Bond No.: TAC121600

**PERFORMANCE, PAYMENT AND MAINTENANCE BOND**

KNOW ALL MEN: That we, Larson Contracting Central, LLC of Lake Mills, Iowa, hereinafter called the Principal, and Merchants Bonding Co (Mutual), hereinafter called the surety, are held and firmly bound unto the City of Clear Lake, Iowa, hereinafter called the Owner in the sum of Forty Seven Thousand Four Hundred Fifteen and 40/100 Dollars (\$47,415.40), for the payment whereof the Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly, by these presents.

WHEREAS, the principal has, by means of a written Agreement dated August 6, 2012, entered into a Contract with the Owner for North 40<sup>th</sup> Street Bridge Deck Overlay Project, which Agreement includes a guarantee of all work against defective workmanship and materials for a period of four (4) years from the date of Final Acceptance of the work by the Owner, a copy of which Agreement is by reference made a part hereof;

NOW, THEREFORE, the condition of this Obligation is such that, if the Principal shall faithfully perform the Contract on his part and shall fully indemnify and save harmless the Owner from all costs and damage which he may suffer by reason of failure so to do and shall fully reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any such default,

And Further, that if the Principal shall pay all persons who have contracts directly with the Principal for labor or materials, failing which such persons shall have a direct right of action against the Principal and Surety under this Obligation, subject to the Owner's priority,

Then this Obligation shall be null and void, otherwise it shall remain in full force and effect.

Provided, however, that no suit, action or proceeding by reason of any default whatever shall be brought on this Bond after five (5) years from the date of final acceptance of the work.

And Provided, that any alterations which may be made in the terms of the Contract, or in the work to be done under it, or the giving by the Owner of any extension of time for the performance of the Contract, or any other forbearance on the part of either the Owner or the Principal to the other shall not in any way release the Principal and the Surety, or either of them, their heirs, executors, administrators, successors or assigns from their liability hereunder, notice to the Surety of any such alteration, extension or forbearance being hereby waived.

And Further Provided, the Principal and Surety on this Bond hereby agree to pay all persons, firms, or corporations having contracts directly with the Principal or with subcontractors all just claims due them for labor performed or material furnished, in the performance of the Contract on account of which this Bond is given, when the same are not satisfied out of the portion of the contract price which the Owner shall retain until completion of the improvements, but the Principal and Surety shall not be liable to said

Performance, Payment and Maintenance Bond

persons, firms, or corporations unless the claims of said complaints against said portions of the contract price shall have been established as provided by law.

The Surety on this Bond shall be deemed and held, any contract to the contrary notwithstanding, to consent without notice:

- a. To the extension of time to the Principal in which to perform the Contract.
- b. To changes in the plans, specifications, or Contract, when such changes do not involve an increase of more than twenty percent (20%) of the total contract price, and shall then be released only as to such excess increase.
- c. That no provision of this Bond or of any other contract shall be valid which limits to less than five (5) years from the date of final acceptance of the work the right to sue on this Bond for defects in workmanship or materials not discovered or known to the Owner at the time such work was accepted.

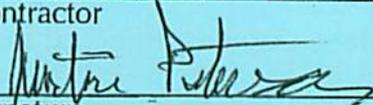
The Bond is executed in triplicate.

Signed and Sealed this 10th day of August, 2012.

PRINCIPAL:

Larson Contracting Central, LLC

Contractor

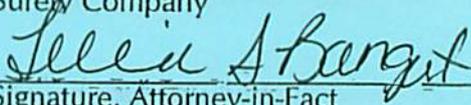
  
Signature

CEO-Owner

Title

SURETY:

Merchants Bonding Co (Mutual)  
Surety Company

  
Signature, Attorney-in-Fact

Terin S-Bangert

Name of Attorney-in-Fact

Merchants Bonding Co (Mutual)  
Company Name

2100 Fleur Dr Des Moines IA 50321  
Company Address

800-678-8171  
Company Telephone

**MERCHANTS**  
**BONDING COMPANY™**  
**POWER OF ATTORNEY**

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations duly organized under the laws of the State of Iowa (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint, individually,

**Kenneth M Cafourek; Lynn D Bartness; Ryan M Cafourek; Terin S Bangert**

of Albert Lea and State of MN their true and lawful Attorney-in-Fact, with full power and authority hereby conferred in their name, place and stead, to sign, execute, acknowledge and deliver in their behalf as surety any and all bonds, undertakings, recognizances or other written obligations in the nature thereof, subject to the limitation that any such instrument shall not exceed the amount of:

**TEN MILLION (\$10,000,000.00) DOLLARS**

and to bind the Companies thereby as fully and to the same extent as if such bond or undertaking was signed by the duly authorized officers of the Companies, and all the acts of said Attorney-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This Power-of-Attorney is made and executed pursuant to and by authority of the following By-Laws adopted by the Board of Directors of the Merchants Bonding Company (Mutual) on April 23, 2011 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 24, 2011.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof.

The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 2nd day of March, 2012.



MERCHANTS BONDING COMPANY (MUTUAL)  
MERCHANTS NATIONAL BONDING, INC.

By Larry Taylor  
President

STATE OF IOWA  
COUNTY OF POLK ss.

On this 2nd day of March, 2012, before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument is the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at the City of Des Moines, Iowa, the day and year first above written.



Maranda Greenwalt  
Notary Public, Polk County, Iowa

STATE OF IOWA  
COUNTY OF POLK ss.

I, William Warner, Jr., Secretary of the MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 10th day of August, 2012.



William Warner Jr.  
Secretary



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
8/9/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

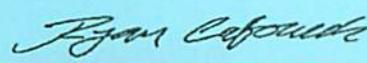
<b>PRODUCER</b> CAFOUREK & ASSOCIATES INC. 709 Wilson Street  Albert Lea MN 56007		<b>CONTACT NAME:</b> Terin Smith-Bangert <b>PHONE (A/C, No, Ext):</b> (507) 377-8904 <b>FAX (A/C, No):</b> (933) 377-8904 <b>E-MAIL ADDRESS:</b>																						
<b>INSURED</b> Larson Contracting Central LLC 508 West Main  Lake Mills IA 50450-0068		<table border="1"> <thead> <tr> <th colspan="2">INSURER(S) AFFORDING COVERAGE</th> <th>NAIC #</th> </tr> </thead> <tbody> <tr> <td>INSURER A:</td> <td>Auto-Owners</td> <td>18988</td> </tr> <tr> <td>INSURER B:</td> <td></td> <td></td> </tr> <tr> <td>INSURER C:</td> <td></td> <td></td> </tr> <tr> <td>INSURER D:</td> <td></td> <td></td> </tr> <tr> <td>INSURER E:</td> <td></td> <td></td> </tr> <tr> <td>INSURER F:</td> <td></td> <td></td> </tr> </tbody> </table>		INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A:	Auto-Owners	18988	INSURER B:			INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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INSURER B:																								
INSURER C:																								
INSURER D:																								
INSURER E:																								
INSURER F:																								

**COVERAGES**                      **CERTIFICATE NUMBER:** Master 12-13                      **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	GENERAL LIABILITY			08692061	1/1/2012	1/1/2013	EACH OCCURRENCE \$ 1,000,000	
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY	X	x				DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000	
	<input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR						MED EXP (Any one person) \$ 10,000	
							PERSONAL & ADV INJURY \$ 1,000,000	
							GENERAL AGGREGATE \$ 2,000,000	
	PRODUCTS - COMP/OP AGG \$ 2,000,000							
GEN'L AGGREGATE LIMIT APPLIES PER:								
<input checked="" type="checkbox"/>	POLICY	<input type="checkbox"/>	PRO-JECT	<input type="checkbox"/>	LOC		\$	
A	AUTOMOBILE LIABILITY			4737537102	1/1/2012	1/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000	
	<input checked="" type="checkbox"/> ANY AUTO						BODILY INJURY (Per person) \$	
	<input type="checkbox"/> ALL OWNED AUTOS						<input type="checkbox"/> SCHEDULED AUTOS	BODILY INJURY (Per accident) \$
	<input type="checkbox"/> HIRED AUTOS						<input type="checkbox"/> NON-OWNED AUTOS	PROPERTY DAMAGE (Per accident) \$
								Uninsured motorist BI split limit \$ 1,000,000
A	<input checked="" type="checkbox"/> UMBRELLA LIAB			4869206100	1/1/2012	1/1/2013	EACH OCCURRENCE \$ 5,000,000	
	<input type="checkbox"/> EXCESS LIAB						<input type="checkbox"/> CLAIMS-MADE	AGGREGATE \$
	<input type="checkbox"/> DED						<input type="checkbox"/> RETENTION \$	\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY			08045725	1/1/2012	1/1/2013	<input type="checkbox"/> WC STATU-TORY LIMITS	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	<input type="checkbox"/> Y/N	N/A				E.L EACH ACCIDENT \$ 500,000	
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L DISEASE - EA EMPLOYEE \$ 500,000	
							E.L DISEASE - POLICY LIMIT \$ 500,000	

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
XCU Coverage is included. Project: North 440th ST Bridge Deck Overlay Project, Clear Lake IA. The City of Clear Lake is also an additional insured for this project.

<b>CERTIFICATE HOLDER</b>  Veenstra & Kimm 2800 Fourth ST SW STE 9 Mason City, IA 50401-1596	<b>CANCELLATION</b>  SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	<b>AUTHORIZED REPRESENTATIVE</b>  Ryan Cafourek/RC 



RESOLUTION No. \_\_\_\_\_

A RESOLUTION APPROVING CONSTRUCTION CONTRACT AND BONDS FOR  
THE NORTH SHORE DRIVE (400 BLOCK) STREETScape  
IMPROVEMENT PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLEAR LAKE, IOWA; that the construction contract and bond executed and insurance coverage for the construction of certain public improvements described in general as construction of the North Shore Drive (400 Block) Streetscape Improvement Project, and as described in detail in the plans and specifications heretofore approved, and which have been signed by the Mayor and Clerk on behalf of the City be and the same are hereby approved as follows:

Contractor: Vieth Construction Corporation of Cedar Falls, Iowa

Bond surety: North American Specialty Insurance Company

Date of Bond: July 17, 2012

Amount of Contract: \$243,773.25

Portion of project: All construction work.

PASSED AND APPROVED, this 20<sup>th</sup> day of August, 2012

\_\_\_\_\_  
Nelson P. Crabb, Mayor

ATTEST:

\_\_\_\_\_  
Jennifer Larsen, City Clerk

# CONTRACT

FA96 (Form 650019)  
05-12

Letting Date: July 17, 2012 Contract ID: 17-1372-618 Bid Order No.: 451  
County: CERRO GORDO Project Engineer: CITY OF CLEAR LAKE  
Cost Center: 849300 Object Code: 890 DBE Commitment: \$0.00  
Contract Work Type: MISCELLANEOUS SURFACE TRAIL

This agreement made and entered by and between the CITY OF CLEAR LAKE CONTRACTING AUTHORITY,  
AND  
VIETH CONSTRUCTION CORPORATION OF CEDAR FALLS, IA, (VI035), CONTRACTOR

It is agreed that the notice and instructions to bidders, the proposal filed by the Contractor, the specifications, the plan, if any, for project(s) listed below, together with Contractor's performance bond, are made a part hereof and together with this instrument constitute the contract. This contract contains all of the terms and conditions agreed upon by the parties hereto. A true copy of said plan is now on file in the office of the Contracting Authority under date of 07/12/2012.

-----  
PROJECT: STP-E-1372(618)--8V-17 COUNTY: CERRO GORDO  
WORK TYPE: MISCELLANEOUS SURFACE TRAIL ACCOUNTING ID: 30061  
ROUTE: NORTH SHORE DR. LENGTH (MILES): 0.11  
LOCATION: IN THE CITY OF CLEAR LAKE  
FROM MIDPOINT NORTH  
FEDERAL AID - PREDETERMINED WAGES ARE IN EFFECT  
-----

The specifications consist of the Standard Specifications for Highway and Bridge Construction, Series 2009 of the Iowa Department of Transportation plus the following Supplemental Specifications, Special Provisions, and addendums: DBE--2012, DBE-120717, FHWA-1273.04, GS-09005, IA12-1.1, ADDENDUMS: 17JUL451.A01, 17JUL451.A02

Contractor, for and in considerations of \$243,773.25 payable as set forth in the specifications constituting a part of this contract, agrees to construct various items of work and/or provide various materials or supplies in accordance with the plans and specifications therefore, and in the locations designated in the Notice to Bidders.

Contractor certifies by signature on this contract, under pain of penalties for false certification, that the Contractor has complied with Iowa Code Section 452A.17(8) as amended, if applicable, and Iowa Code Section 91C. (Public Registration Number), if applicable.

In consideration of the foregoing, Contracting authority hereby agrees to pay the Contractor promptly and according to the requirements of the specifications the amounts set forth, subject to the conditions as set forth in the specifications.

It is further understood and agreed that the above work shall also be commenced or completed in accordance with Page 1B of this Contract and assigned Proposal Notes.

To accomplish the purpose herein expressed, the Contracting authority and Contractor have signed this and one other identical instrument.

By Tony Veeth / Pres. Contractor (if joint venture)  
Contractor  
By \_\_\_\_\_ Contracting Authority Contract Award Date

Letting Date: July 17, 2012 Contract ID: 17-1372-618

Bid Order No. : 451

It is further understood and agreed that the above work shall be commenced or completed in accordance with the following schedule:

SITE NUMBER	CONTRACT PERIOD /SITE DESCRIPTION	LIQUIDATED DAMAGES
	CONTRACT LATE START DATE 09/04/2012 40 WORKING DAYS	\$500.00

CONTRACT NOTES

\*\*\* WORK RESTRICTION \*\*\*

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THE CONTRACTOR WILL NOT BE ALLOWED TO BEGIN WORK UNTIL  
SEPTEMBER 4, 2012.

CONTRACT SCHEDULE OF PRICES

\*\*\*\*\*

Vendor No.: VI035 Bid Order No.: 451  
 Contract ID No.: 17-1372-618 Letting Date: July 17, 2012  
 Primary Work Type: MISCELLANEOUS SURFACE TRAIL 10:00 A.M.  
 Primary County: CERRO GORDO

Line No	Item Number Item Description	Item Quantity and Unit	Unit Price Dollars   Cts	Bid Amount Dollars   Cts
SECTION 0001 SIDEWALK ITEMS				
0010	2102-2710070 EXCAVATION, CLASS 10, ROADWAY AND BORROW	 462.000  CY	 18.00000	 8,316.00
0020	2105-8425005 TOPSOIL, FURNISH AND SPREAD	 9.000  CY	 110.00000	 990.00
0030	2115-0100000 MODIFIED SUBBASE	 413.000  CY	 36.00000	 14,868.00
0040	2301-1033070 STANDARD OR SLIP FORM PORTLAND CEMENT CONCRETE PAVEMENT, CLASS C, CLASS 3 DURABILITY, 7 IN.	 227.000  SY	 45.25000	 10,271.75
0050	2301-6911722 PORTLAND CEMENT CONCRETE PAVEMENT SAMPLES	 LUMP	 LUMP	 550.00
0060	2303-0023500 HOT MIX ASPHALT MIXTURE (300,000 ESAL), INTERMEDIATE OR SURFACE COURSE, 1/2 IN. MIX, NO SPCL FRIC REQ	 30.000  TON	 300.00000	 9,000.00
0070	2303-0245828 ASPHALT BINDER, PG 58-28	 1.800  TON	 650.00000	 1,170.00
0080	2402-0425031 GRANULAR BACKFILL	 100.000  TON	 33.00000	 3,300.00
0090	2435-0250100 INTAKE, SW-501	 2.000  EACH	 2,900.00000	 5,800.00
0100	2435-0600010 MANHOLE ADJUSTMENT, MINOR	 4.000  EACH	 550.00000	 2,200.00

CONTRACT SCHEDULE OF PRICES

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Vendor No.: VI035 Bid Order No.: 451  
 Contract ID No.: 17-1372-618 Letting Date: July 17, 2012  
 Primary Work Type: MISCELLANEOUS SURFACE TRAIL 10:00 A.M.  
 Primary County: CERRO GORDO

Line No	Item Number Item Description	Item Quantity and Unit	Unit Price		Bid Amount	
			Dollars	Cts	Dollars	Cts
0110	2435-0600110 INTAKE  ADJUSTMENT, MINOR	 3.000   EACH	650.00000		1,950.00	
0120	2502-8212306 SUBDRAIN,  STANDARD, PERFORATED, 6  IN., AS PER PLAN	 527.000   LF	12.00000		6,324.00	
0130	2502-8220193 SUBDRAIN  OUTLET (RF-19C)	 2.000   EACH	240.00000		480.00	
0140	2503-0114212 STORM SEWER  GRAVITY MAIN, TRENCHED,  REINFORCED CONCRETE PIPE  (RCP), 2000D (CLASS III),  12 IN.	 22.000   LF	93.00000		2,046.00	
0150	2503-0114215 STORM SEWER  GRAVITY MAIN, TRENCHED,  REINFORCED CONCRETE PIPE  (RCP), 2000D (CLASS III),  15 IN.	 30.000   LF	76.00000		2,280.00	
0160	2503-0114218 STORM SEWER  GRAVITY MAIN, TRENCHED,  REINFORCED CONCRETE PIPE  (RCP), 2000D (CLASS III),  18 IN.	 10.000   LF	188.00000		1,880.00	
0170	2503-0200036 REMOVE  STORM SEWER PIPE LESS  THAN OR EQUAL TO 36 IN.	 15.000   LF	68.00000		1,020.00	
0180	2510-6745850 REMOVAL OF  PAVEMENT	 509.000   SY	13.50000		6,871.50	
0190	2510-6750600 REMOVAL OF  INTAKES AND UTILITY  ACCESSES	 1.000   EACH	850.00000		850.00	
0200	2511-6745900 REMOVAL OF  SIDEWALK	 391.000   SY	10.00000		3,910.00	

CONTRACT SCHEDULE OF PRICES

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Vendor No.: VI035 Bid Order No.: 451  
 Contract ID No.: 17-1372-618 Letting Date: July 17, 2012  
 Primary Work Type: MISCELLANEOUS SURFACE TRAIL 10:00 A.M.  
 Primary County: CERRO GORDO

Line No	Item Number Item Description	Item Quantity and Unit	Unit Price		Bid Amount	
			Dollars	Cts	Dollars	Cts
0210	2511-7526004 SIDEWALK, P. C. CONCRETE, 4 IN.	 37.000   SY	 54.00000		 1,998.00	
0220	2511-7526006 SIDEWALK, P. C. CONCRETE, 6 IN.	 46.000   SY	 64.00000		 2,944.00	
0230	2511-7528101 DETECTABLE WARNINGS	 108.000   SF	 54.00000		 5,832.00	
0240	2512-1725256 CURB AND GUTTER, P.C. CONCRETE, 2. 5 FT.	 310.000   LF	 22.00000		 6,820.00	
0250	2518-6910000 SAFETY CLOSURE	 2.000   EACH	 110.00000		 220.00	
0260	2523-0000100 LIGHTING POLES	 6.000   EACH	 4,000.00000		 24,000.00	
0270	2523-0000310 HANDHOLES AND JUNCTION BOXES	 6.000   EACH	 350.00000		 2,100.00	
0280	2523-0000400 CONTROL CABINET	 1.000   EACH	 15,800.00000		 15,800.00	
0290	2528-8445110 TRAFFIC CONTROL	  LUMP	  LUMP		 2,600.00	
0300	2533-4980005 MOBILIZATION	  LUMP	  LUMP		 15,500.00	
0310	2552-0000210 TRENCH FOUNDATION	 40.000   TON	 46.00000		 1,840.00	

CONTRACT SCHEDULE OF PRICES

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Vendor No.: VI035 Bid Order No.: 451  
 Contract ID No.: 17-1372-618 Letting Date: July 17, 2012  
 Primary Work Type: MISCELLANEOUS SURFACE TRAIL 10:00 A.M.  
 Primary County: CERRO GORDO

Line No	Item Number Item Description	Item Quantity and Unit	Unit Price		Bid Amount	
			Dollars	Cts	Dollars	Cts
0320	2552-0000300 TRENCH COMPACTION TESTING	LUMP	LUMP			500.00
0330	2555-0000010 DELIVER AND STOCKPILE SALVAGED MATERIALS	LUMP	LUMP			3,600.00
0340	2599-9999005 ('EACH' ITEM) C-TYPE CONNECTION	6.000 EACH	850.00000			5,100.00
0350	2599-9999005 ('EACH' ITEM) INLET PROTECTION	5.000 EACH	125.00000			625.00
0360	2599-9999005 ('EACH' ITEM) TREE GRATE	4.000 EACH	1,500.00000			6,000.00
0370	2599-9999009 ('LINEAR FEET' ITEM) ELECTRICAL CIRCUIT, CIRCUITS 1A-1, 1A-2, 1B-1, & 1B-2	992.000 LF	4.00000			3,968.00
0380	2599-9999009 ('LINEAR FEET' ITEM) ELECTRICAL CIRCUIT, CIRCUITS 1A-3, 1A-4, 1A-5, 1B-3, 1B-4, & 1B-5	320.000 LF	9.00000			2,880.00
0390	2599-9999009 ('LINEAR FEET' ITEM) ELECTRICAL CIRCUIT, CIRCUITS C	25.000 LF	37.00000			925.00
0400	2599-9999009 ('LINEAR FEET' ITEM) ELECTRICAL CIRCUIT, CONDUIT ONLY	50.000 LF	20.00000			1,000.00
0410	2599-9999009 ('LINEAR FEET' ITEM) PAVER EDGE RESTRAINT, TYPE A	495.000 LF	16.75000			8,291.25

CONTRACT SCHEDULE OF PRICES

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Vendor No.: VI035 Bid Order No.: 451  
 Contract ID No.: 17-1372-618 Letting Date: July 17, 2012  
 Primary Work Type: MISCELLANEOUS SURFACE TRAIL 10:00 A.M.  
 Primary County: CERRO GORDO

Line No	Item Number Item Description	Item Quantity and Unit	Unit Price		Bid Amount	
			Dollars	Cts	Dollars	Cts
0420	2599-9999009 ('LINEAR FEET' ITEM) PAVER EDGE RESTRAINT, TYPE B	 377.000   LF	 21.50000		 8,105.50	
0430	2599-9999014 ('SQUARE FEET' ITEM) BRICK PAVER SIDEWALK	 2,351.000   SF	 6.25000		 14,693.75	
0440	2599-9999014 ('SQUARE FEET' ITEM) BRICK PAVER SIDEWALK, SUPPLY ONLY	 1,725.000   SF	 3.00000		 5,175.00	
0450	2599-9999014 ('SQUARE FEET' ITEM) PCC PAVER BASE, 4 IN.	 2,137.000   SF	 3.50000		 7,479.50	
0460	2599-9999014 ('SQUARE FEET' ITEM) PCC SIDEWALK, 4 IN. THICK, COLORED & STAMPED	 430.000   SF	 16.00000		 6,880.00	
0470	2601-2639010 SODDING	 0.560   SQ	 550.00000		 308.00	
0480	2610-0000120 TREES	 4.000   EACH	 500.00000		 2,000.00	
0481	2401-6745356 REMOVAL OF CONCRETE FOOTINGS OF LIGHT POLES	 2.000   EACH	 425.00000		 850.00	
0482	2401-6745765 REMOVAL OF LIGHT POLES	 2.000   EACH	 400.00000		 800.00	
0483	2599-9999014 ('SQUARE FEET' ITEM) REMOVAL OF BRICK PAVERS	 574.000   SF	 1.50000		 861.00	
TOTAL BID					243,773.25	

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# CERTIFICATE OF LIABILITY INSURANCE

OP ID: COZA

DATE (MM/DD/YYYY)

08/16/12

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LSB Financial 219 Main St Cedar Falls, IA 50613 Kevin Boyle	319-268-4242	CONTACT NAME:	
	319-268-4211	PHONE (A/C, No, Ext):	FAX (A/C, No):
		E-MAIL ADDRESS:	
		PRODUCER CUSTOMER ID #:	VIETH-1
		INSURER(S) AFFORDING COVERAGE	NAIC #
INSURED	Vieth Construction Corp 6419 Nordic Dr Cedar Falls, IA 50613	INSURER A: United Fire & Casualty	13021
		INSURER B:	
		INSURER C:	
		INSURER D:	
		INSURER E:	
		INSURER F:	

**COVERAGES****CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> XCU Included GEN'L AGGREGATE LIMIT APPLIES PER <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC	X	60083340	04/10/12	04/10/13	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS		60083340	04/10/12	04/10/13	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$ \$
A	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DEDUCTIBLE RETENTION \$		60083340	04/10/12	04/10/13	EACH OCCURRENCE \$ 8,000,000 AGGREGATE \$ 8,000,000 \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> N/A If yes, describe under DESCRIPTION OF OPERATIONS below		60083340	04/10/12	04/10/13	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Leased/Rent Equip		60083340	04/10/12	04/10/13	150,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
 Project STP-E-1372(618)--8V-17 in the City of Clear Lake  
 The City of Clear Lake and Veenstra & Kimm Engineering have been named as an Additional Insured per written contract requirements.

**CERTIFICATE HOLDER****CANCELLATION**

CITYCL2  City of Clear Lake 15 North 6th St. Clear Lake, IA 50428	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
	AUTHORIZED REPRESENTATIVE <i>Jack Counsell</i>

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Iowa Department of Transportation

CONTRACTOR'S BOND

Bond Number: 2157141

Proposal I.D.: 17-1372-618

County: Cerro Gordo

KNOW ALL PERSONS BY THESE PRESENTS: That we, Vieth Construction Corporation

of Cedar Falls, IA (hereinafter called the Principal) and North American Specialty Insurance Company

of Manchester, NH (hereinafter called the Surety) are held and firmly bound unto the

City of Clear Lake (hereinafter called the Contracting Authority) Iowa, in the penal sum\*  
(Iowa DOT, County, or City name, etc.)

of Two Hundred Forty Three Thousand Seven Hundred Seventy Three Dollars and 25/100 dollars (\$ 243,773.25 ),  
lawful money of the United States, to the payment of which sum, well and truly to be made, we bind ourselves, our executors,  
administrators, successors, and assigns jointly and severally by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, THAT whereas the above bounden Principal did on  
the \_\_\_\_\_ day of \_\_\_\_\_, 2012, enter into a written contract with the Contracting Authority to perform  
Miscellaneous Surface Trail as called for July 17, 2012, Project: STP-E-1372 (618) --8V-17

Copy of which contract, together with all of its terms, covenants, conditions, and stipulations, is incorporated herein and made a part hereof as fully  
and completely as if said contract were recited at length; and whereas, the principal and sureties on this bond hereby agree to pay all persons, firms,  
or corporations having contracts directly with the principal or with subcontractors, all just claims due them for labor performed or materials furnished, in  
the performance of the contract on account of which this bond is given, when the same are not satisfied out of the portion of the contract price which  
the public corporation is required to retain until completion of the public improvements, but the principal and sureties shall not be liable to said  
persons, firms, or corporations unless the claims of said claimants against said portion of the contract price shall have been established as provided  
by law.

Now, if the principal shall in all respects fulfill his said contract according to the terms and tenor thereof, and shall satisfy all claims and demands  
incurred for the same, and shall fully indemnify and save harmless the Contracting Authority from all costs and damages which it may suffer by reason  
of failure to do so and shall fully reimburse and repay the Contracting Authority all outlays and expense which it may incur in making good any such  
default, then the obligation is to be void and of no effect; otherwise to remain in full force and effect. Every surety on this bond shall be deemed and  
held, any contract to the contrary notwithstanding, to consent without notice:

1. To any extension of time to the contractor in which to perform the contract.
2. The the bond shall remain in full force and effect until the contract is completed within the specified contract period, within an  
extension thereof, or within a period of time after the contract period has elapsed and the liquidated damage penalty is being  
charged against the contractor.
3. To any change in the plans, specifications, or contract, when such change does not involve an increase of more than 20  
percent of the total contract price, and shall then be released only as to such excess increase.
4. That no provision of this bond or of any other contract shall be valid which limits to less than five years from the completion of the  
contract the right to sue on this bond for defects in work quality or material not discovered or known to the Contracting Authority  
at the time such work is accepted.

This bond is to be considered a performance bond and secures the Contracting Authority the right to recover from the contractor on account of  
material or labor entered into the work or work performed not in accordance with the contract, specifications, or plans. The contractor does not by this  
obligation guarantee to maintain the work for five years.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_, 2012,

Vieth Construction Corporation

By: Tony Vieth Principal By: \_\_\_\_\_ Principal

\_\_\_\_\_  
Title Title

North American Specialty Insurance Company

By: Anne Crowner Surety By: \_\_\_\_\_ Surety

Anne Crowner Attorney-in-Fact \_\_\_\_\_

Address: 650 Elm Street, Manchester, NH 03101 Title Title

For contracts where a County Board of Supervisors is the Contracting Authority:

This bond approved by the \_\_\_\_\_ County, this \_\_\_\_\_ day of \_\_\_\_\_  
(Board of Supervisors of)  
\_\_\_\_\_  
Chairperson (Signature)

For contracts where the DOT nor a County Board of Supervisors is the Contracting Authority:

This bond approved by the City of Clear Lake, this \_\_\_\_\_ day of \_\_\_\_\_  
(Contracting Authority)  
\_\_\_\_\_, 2012  
Title/Signature

DISCLOSURE STATEMENT FOR CONTRACTOR'S PERFORMANCE BONDS

The information requested will be used by the Iowa Department of Transportation to determine if a contractor/vendor is bonded in accord with the requirements established by  
the contracting authority. This secures the IDOT and/or the State of Iowa the right to recover from the contractor/vendor if material or labor entered into the work performed is  
not in accord with the contract, specifications, or plans. Persons outside the Department may occasionally request this information. Failure to provide all required information  
will result in denial of the award of the contract.



# VEENSTRA & KIMM, INC.

2800 Fourth Street SW, Suite 9 • Mason City, Iowa 50401-1596

641-421-8008 • 641-380-0313(FAX) • 877-241-8008(WATS)

## PAY ESTIMATE NO. 4

Date: August 14, 2012		Project Title: Sanitary Sewer Collection System Improvement Project Contract 2 - Street Paving Improvements		Contractor: Wicks Construction, Inc. Decorah, IA					
Original Contract Amount & Date: March 12, 2012		Amount: \$ 1,304,820.73		Pay Period: July 1- July 31, 2012					
BID ITEMS									
	Specification Section / Description	Unit	Estimated Quantity	Unit Price	Extended Price	CDBG Eligible Quantity Complete	Estimated CDBG Non-Eligible Quantity Complete	CDBG Eligible Value Complete	CDBG Non-Eligible Value Complete
1.	General								
1.1	Mobilization	LS	1	xxxxx	\$ 32,000.00	75%	0%	\$ 24,000.00	\$ -
1.2	Traffic Control	LS	1	xxxxx	\$ 10,425.00	75%	0%	\$ 7,818.75	\$ -
1.3	Erosion Control	LS	1	xxxxx	\$ 8,000.00	75%	0%	\$ 6,000.00	\$ -
1.4	Stump Removal	EA	3	\$ 400.00	\$ 1,200.00	0	3	\$ -	\$ 3,600.00
2.	Water								
2.1	Valve Box Replacement (assumed quantity)	EA	1	\$ 400.00	\$ 400.00	0	0	\$ -	\$ -
3.	Sanitary Sewer								
3.1	Adjust Existing Sanitary Sewer Manhole Casting	EA	21	\$ 150.00	\$ 3,150.00	8	0	\$ 1,200.00	\$ -
4.	Storm Sewer								
4.1	Connect to Existing Storm Sewer Structure	EA	1	\$ 500.00	\$ 500.00	0	1	\$ -	\$ 500.00
4.2	Single Grate Intake	EA	1	\$ 3,500.00	\$ 3,500.00	0	1	\$ -	\$ 3,500.00
4.3	Storm Sewer Pipe, 15" RCP	LF	40	\$ 50.00	\$ 2,000.00	0	40	\$ -	\$ 2,000.00
4.4	Subdrain, 6"	LF	560	\$ 11.50	\$ 6,440.00	0	27	\$ -	\$ 310.50
4.5	Subdrain Outlet	EA	2	\$ 200.00	\$ 400.00	0	2	\$ -	\$ 400.00
4.6	Granular Backfill Material (assumed quantity)	TON	50	\$ 15.00	\$ 750.00	0.00	0.00	\$ -	\$ -
4.7	Adjust Existing Intake Casting	EA	47	\$ 150.00	\$ 7,050.00	0	23	\$ -	\$ 3,450.00
4.8	Adjust Existing Storm Sewer Manhole Casting	EA	11	\$ 100.00	\$ 1,100.00	0	7	\$ -	\$ 700.00
4.9	Adjust Existing Subdrain Cleanout Casting	EA	19	\$ 100.00	\$ 1,900.00	0	0	\$ -	\$ -
4.10	Subdrain, 6" (Change Order No. 3)	LF	0	\$ 15.25	\$ -	0	555	\$ -	\$ 8,463.75
4.11	Subdrain Outlet, 8" (Change Order No. 3)	EA	0	\$ 150.00	\$ -	0	4	\$ -	\$ 600.00

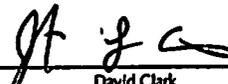
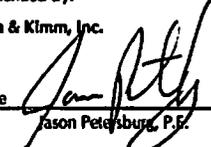
BID ITEMS									
	Specification Section / Description	Unit	Estimated Quantity	Unit Price	Extended Price	CDBG Eligible Quantity Complete	Estimated CDBG Non-Eligible Quantity Complete	CDBG Eligible Value Complete	CDBG Non-Eligible Value Complete
5.	Street & Related Work								
5.1	Pavement Removal	SY	8,100	\$ 5.00	\$ 40,500.00	0	5,744	\$ -	\$ 28,720.00
5.2	Unstable Subgrade Preparation (Assumed Quantity)	CY	1,000	\$ 8.00	\$ 8,000.00	0	0	\$ -	\$ -
5.3	Subgrade Stabilization Fabric	SY	9,400	\$ 2.00	\$ 18,800.00	2,987	2,987	\$ 5,974.00	\$ 5,974.00
5.4	Subgrade Preparation	SY	20,200	\$ 0.75	\$ 15,150.00	6,160	3,078	\$ 6,135.00	\$ 2,308.50
5.5	PCC Curb & Gutter, 7" Thick	LF	902	\$ 23.50	\$ 21,197.00	725	0	\$ 17,037.50	\$ -
5.6	PCC Pavement Patch, 6" Thick	SY	380	\$ 36.10	\$ 13,718.00	0	0	\$ -	\$ -
5.7	PCC Driveway Pavement, 6" Thick	SY	1,687	\$ 35.00	\$ 59,045.00	468	0	\$ 16,360.00	\$ -
5.8	PCC Driveway Pavement, 7" Thick	SY	886	\$ 37.00	\$ 32,782.00	51	65	\$ 1,887.00	\$ 2,405.00
5.9	PCC Driveway Pavement, Colored & Stamped, 7" Thick	SY	87	\$ 86.00	\$ 7,482.00	0	66	\$ -	\$ 5,676.00
5.10	PCC Sidewalk, 4" Thick	SF	20,685	\$ 3.30	\$ 68,260.50	4179	4,736	\$ 13,790.70	\$ 15,628.80
5.11	PCC Sidewalk, Colored & Stamped, 4" Thick	SF	6,342	\$ 3.00	\$ 19,026.00	0	5,927	\$ -	\$ 29,635.00
5.12	PCC Sidewalk, 6" Thick	SF	1,896	\$ 4.50	\$ 8,532.00	0	406	\$ -	\$ 1,827.00
5.13	ADA Detectable Warning	SF	346	\$ 32.00	\$ 11,072.00	0	110	\$ -	\$ 3,520.00
5.14	Aggregate Surface Course	TON	200	\$ 15.00	\$ 3,000.00	0.00	0.00	\$ -	\$ -
5.15	HMA Pavement Patch	TON	165	\$ 190.00	\$ 31,350.00	82.73	0.00	\$ 15,722.50	\$ -
5.16	PCC Median Paving, Colored & Stamped, 4" Thick	SY	471	\$ 43.00	\$ 20,253.00	0	400	\$ -	\$ 17,200.00
5.17	Testing	LS	- 1	XXXX	\$ 5,000.00	30%	30%	\$ 1,500.00	\$ 1,500.00
6.	Landscaping								
6.1	Topsoil	CY	1,400	\$ 12.00	\$ 16,800.00	0	0	\$ -	\$ -
6.2	Sodding	SQ	800	\$ 48.00	\$ 38,400.00	28.7	0	\$ 1,377.60	\$ -
7.	Lighting								
7.1	Electrical Circuit (Conduits & Conductors)	LF	860	\$ 19.80	\$ 17,028.00	0	430	\$ -	\$ 8,514.00
7.2	Conduit Only	LF	50	\$ 7.75	\$ 387.50	0	90	\$ -	\$ 697.50
7.3	Light Pole	EA	9	\$ 3,791.00	\$ 34,119.00	0	0	\$ -	\$ -
7.4	Handhole / Junction Box	EA	9	\$ 312.00	\$ 2,808.00	0	6	\$ -	\$ 1,872.00
					<b>TOTAL BASE BID</b>	<b>\$ 584,209.00</b>		<b>\$ 118,823.05</b>	<b>\$ 149,002.03</b>
Alternate 1 -	PCC Paving								
1.1.1	Excavation	CY	7,300	\$ 6.50	\$ 47,450.00	4603	855	\$ 29,919.50	\$ 5,557.50
1.1.2	Aggregate Base Course, Furnish & Install	TON	7,888	\$ 12.00	\$ 94,656.00	3,596.52	838.00	\$ 43,158.24	\$ 10,056.00
1.1.3	Temporary Aggregate Surfacing, Salvage and Stock Pile	TON	4,000	\$ 4.50	\$ 18,000.00	2,101.00	0.00	\$ 9,454.50	\$ -
1.1.4	Aggregate Base Course, Install Salvaged Material	TON	4,000	\$ 4.50	\$ 18,000.00	2,101.00	0.00	\$ 9,454.50	\$ -
1.1.5	PCC Pavement, 6" Thick	SY	5,727	\$ 34.23	\$ 195,879.73	4519	0	\$ 109,585.75	\$ -
1.1.6	PCC Pavement, 7" Thick	SY	12,040	\$ 32.13	\$ 387,126.00	3,066	2,546	\$ 101,637.90	\$ 84,399.90
1.1.7	PCC Pavement Testing	LS	1	XXXX	\$ 4,500.00	60%	10%	\$ 2,700.00	\$ 450.00
					<b>TOTAL ALTERNATE 1</b>	<b>\$ 720,611.73</b>		<b>\$ 305,910.39</b>	<b>\$ 100,463.40</b>

**TOTAL CONSTRUCTION AMOUNT \$ 1,304,820.75**

**\$ 424,733.44 \$ 249,465.45**

SUMMARY					
		Contract Price	CDBG Eligible Value Completed	Non-CDBG Eligible Value Completed	Total Value Completed
Original Contract Price		\$ 1,304,820.75	\$ 424,733.44	\$ 249,465.45	\$ 674,198.89
Approved Change Orders (list each)	Change Order 1	\$ -			
	Change Order 2	\$ 11,219.60	Based on Quantities Complete and Unit Prices		
	Change Order 3	\$ 2,681.25	Based on Quantities Complete and Unit Prices		
Revised Contract Price		\$ 1,318,721.60	\$ 424,733.44	\$ 249,465.45	\$ 674,198.89
Materials Stored		\$ -	\$ -	\$ -	\$ -
Value of Completed Work and Materials Stored		\$ 424,733.44	\$ 249,465.45	\$ 674,198.89	
Less Retained Percentage (5%)		\$ 21,236.67	\$ 12,473.27	\$ 33,709.94	
Net Amount Due This Estimate		\$ 403,496.77	\$ 236,992.18	\$ 640,488.95	
Less Estimate(s) Previously Approved	No.1		\$ 71,457.15	\$ 11,769.07	\$ 83,226.22
	No.2		\$ 227,375.37	\$ 92,791.78	\$ 320,167.15
	No.3		\$ 63,703.29	\$ 91,401.63	\$ 155,104.92
	No.4				\$ -
	No.5				\$ -
	No.6				\$ -
Total Previously Approved		\$ 362,535.81	\$ 195,962.48	\$ 558,498.29	
Percent Complete	51.1%	Amount Due This Estimate	\$ 40,960.96	\$ 41,029.70	\$ 81,990.66

The amount \$ 81,990.66 is recommended for approval for payment in accordance with the terms of the contract.

Quantities Complete Submitted By: Wicks Construction, Inc.	Recommended By: Veenstra & Kimm, Inc.	Approved By: City of Clear Lake
Signature 	Signature 	Signature
David Clark Project Manager	Jason Petersburg, P.E. Project Engineer	Nelson Crabb / Scott Flory Mayor / City Administrator
Title	Title	Title
Date 8-15-12	Date 8/15/12	Date

## **RIGHT OF WAY ENCROACHMENT AGREEMENT**

**THIS ENCROACHMENT AGREEMENT** (The "Agreement") is entered into this 20<sup>th</sup> day of August, 2012, by and between the **City of Clear Lake, Iowa**, a municipal corporation, (hereinafter referred to as "City") and **Cheryl L. Hayes**, (d/b/a: Sips' Restaurant, 444 North Shore Drive) (hereinafter referred to as "Owner").

**WHEREAS**, Owner presently owns the property legally described as follows:

**444 NORTH SHORE DRIVE**  
COM SE COR L 1 BLK 29; TH N 70 DEGREES W 75.06' ALG NLY LINE N SHORE DR TO  
POB; TH N 03 DEGREES E 72.66'; TH N 76 DEGREES 28' 15" W 61.87'; TH S 18  
DEGREES 31' 52" W 15'; TH S 19 DEGREES W 11.63'; TH S 17 DEGREES W 36.81' TO  
NLY LINE N SHORE DR; TH S 70 DEGREES E 80' ALG N SHORE DR TO POB CLEAR  
LAKE CAMP MTG GRDS

which Property is located within the corporate limits of the City of Clear Lake, Iowa; and

**WHEREAS**, Owner desires to construct an "air lock entry" at the Property and the resulting eaves/overhang will project and encroach beyond the property line and into the City's right-of-way; and

**WHEREAS**, the City is willing to allow the Owner to construct the improvements, providing, however, that the resulting eaves/overhang do not project or encroach more than 24" beyond the property line into the City's Right-of-Way and shall be not less than 8' above the traveled portion of the sidewalk.

### **RECITALS**

1. The City is the holder of the North Shore Drive Street Right-of-Way located in the City of Clear Lake, Cerro Gordo County, Iowa.
2. Cheryl L. Hayes is the Owner of 444 North Shore Drive, located adjacent to and along the North Shore Drive Street Right-of-Way, in the City of Clear Lake, Cerro Gordo County, Iowa, and legally described above.
3. Owner wishes to construct an addition to the Property and, as a result, the addition's eaves/overhang will project beyond the property line and encroach into a portion of the North Shore Drive Street right-of-way a distance of not more than 24".

4. Accordingly, Owner has requested permission from the City to maintain and construct a portion of the air lock entryway improvements consisting only of the eaves/overhang within the Right-of-Way as described above, and the City has agreed to provide an encroachment agreement to Owner for such purposes, all in accordance with the terms and conditions of this Agreement.

## **AGREEMENT**

**NOW, THEREFORE**, in consideration of the mutual promises and obligations contained herein, the parties hereby agree as follows:

1. **Acknowledgement of Encroachment.** The City hereby grants Owner the non-exclusive right, privilege, and permission to use, in common with others, a portion of the North Shore Drive Street Right-of-Way for purposes of an eaves/overhang encroachment of not more than 24" beyond the property line and said eaves/overhang shall be not less than 8' above the sidewalk.
2. **No Representation by the City.** Owner represents that the City has made no representations with respect to the North Shore Drive Street Right-of-Way or its condition and that Owner is not relying on any representations of the City, or the City's agents, with respect to the use or condition of the right-of-way. This Agreement grants Owner the privilege and permission to use the North Shore Drive Street Right-of-Way in its present condition "as is" without any warranties.
3. **Covenants of the Owner.** The Owner hereby covenants and warrants to the City as follows:
  - a. To maintain the eaves/overhang in a manner that is safe to the public.
  - b. If the eaves/overhang needs to be moved for the installation, repair, or maintenance of any utilities or for any street improvement or other lawful purposes, located or to be located in, over, on, under or through the rights-of-way, the Owner shall, at its sole cost and expense, remove the improvements from the right-of-way. The City shall have no duty to replace the improvements. The City shall not pay damages or reimburse Owner for the cost of removal or replacement of the improvements.
  - c. To comply with all applicable laws and ordinances, including land use requirements of the City of Clear Lake, Iowa.
  - d. To refrain from causing waste, damage, or injury to the right-of-way.
  - e. The Owner shall not have any right to enlarge the present scope of this Encroachment Agreement, without the prior written consent of the City.
  - f. Owner agrees that no roof drains from the premises shall be allowed to drain on to the North Shore Drive sidewalk and further, in lieu thereof, agrees to connect them into the storm sewer drainage system of the City.
4. **Indemnification of the City.** During the time this Agreement is in effect, Owner agrees to indemnify, defend, and save the City, and the City's officers, commissioners, agents,

employees, grantees, and assigns harmless from and against all claims, actions, liabilities, damages, costs, expenses, and judgments, including attorneys' fees, which relate to, arise from, or are in connection with Owner's use or occupancy of the right-of-way, or any portion thereof or the maintenance of the eaves (overhang) in the right-of-way on account of any injury to persons or damage to property, excluding therefrom such injury or damage caused by the negligence of the City.

5. **Accommodation.** The permission granted to Owner under this Agreement is given to Cheryl L. Hayes as an accommodation, and shall be without charge. Owner hereby acknowledges the City's rights to the right-of-way and agrees to never resist or deny such rights by virtue of Owner's occupancy or use under this Agreement.
6. **Term and Termination.** The City reserves the right to terminate the permission granted by this Agreement at any time and for any reason by giving Owner at least 30 days written notice of such termination, except that the City may, at the City's election, terminate the permission immediately without such notice at any time, if (i) Owner fails to comply with or abide by each and all of the provisions of this Agreement; or (ii) if the continued use of the Agreement presents a health or safety hazard.
7. **Binding Effect.** This Agreement shall, at all times, be binding upon the City and Owner and any other parties claiming by, through, or under them, and shall run with the land, and shall be for the benefit of and limitations upon all future owners of the Property; provided, however, that the rights, duties, and obligations of each owner as set forth herein shall cease with the termination of his or its ownership of the Property, or portion thereof, except for the duties and obligations arising during the period of his or its ownership.
8. **Governing Law.** This Agreement shall be construed and enforced in accordance with, and governed by, the laws of the State of Iowa.

IN WITNESS WHEREOF, the undersigned have caused this Agreement to be executed as of the 20<sup>th</sup> day of August, 2012.

---

Scott Flory  
Clear Lake City Administrator

---

Cheryl Hayes  
Owner

Attest: \_\_\_\_\_  
Jennifer Larsen  
City Clerk of Clear Lake

**SIPS** North Shore Restaurant and Bar  
444 North Shore Drive  
Clear Lake, Iowa 50428

July 9, 2012

The Honorable Nelson Crabb  
City of Clear Lake  
PO Box 185  
Clear Lake, Iowa 50428

Dear Mayor Crabb, Council Members & Mr. Flory:

We would like to thank the City for its efforts to enhance Clear Lake; especially in the new SURF DISTRICT. We too have made a considerable investment in SIPS and hope we have brought an exciting new dining experience to Clear Lake and its visitors. The restaurant has created eleven fulltime and five part-time positions. We are writing today with an official request for approval of an air lock entry to the SIPS restaurant.

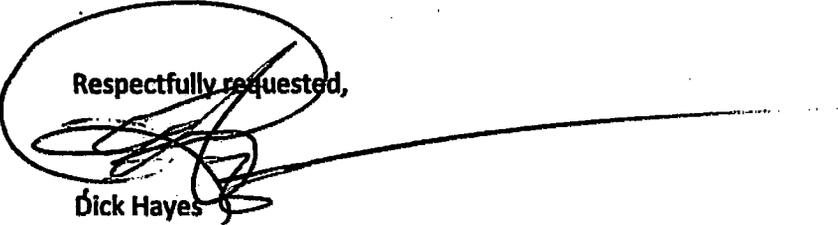
We are not asking for money, but only for approval to construct the air lock entry according to the attached sketch. The current situation is making it difficult to keep the restaurant heated and cooled for our guests.

We would like to remove the existing concrete stoop, pour the footings and pour the new stoop prior to the City's sidewalk construction beginning. Once the sidewalk is completed, we can then finish the project. It would be necessary for us to make a temporary entrance to the restaurant from the patio.

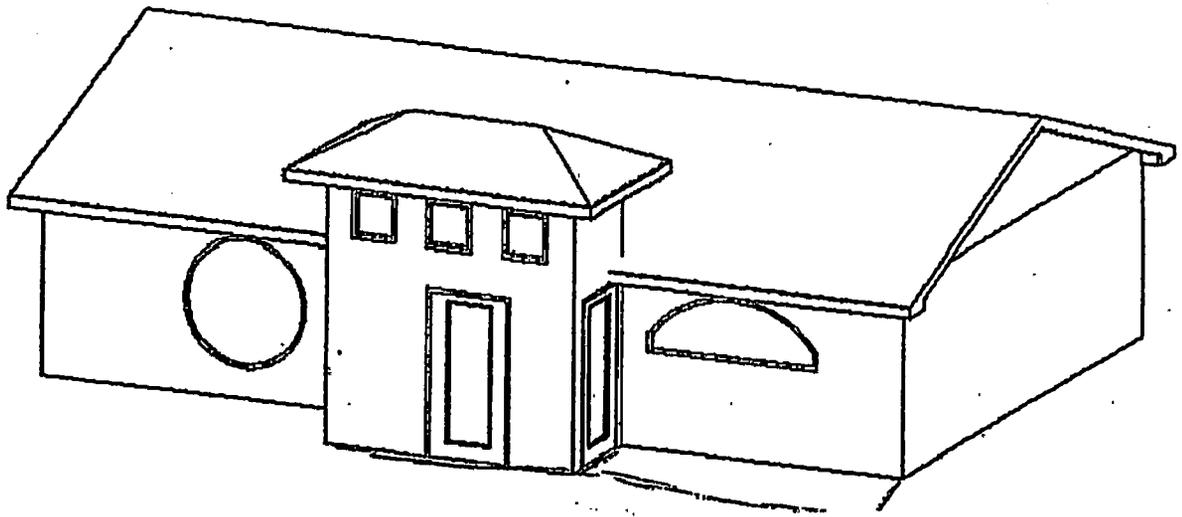
We have met with the City Building Inspector at the site and shown him the plans. His concern was the upper eave hanging over the sidewalk. I believe it will be higher than the Surf's awning and not pose a problem.

Again, we are not asking for money but just for the approval to do the project.

Respectfully requested,



Dick Hayes



# Cerro Gordo County online

**Property Information**



Parcel
051313100900
Property Address
444 NORTH SHORE DR CLEAR LAKE 50428

Tax District:	02006	Acres - Gross:	0.0000
Tif District:	02130	Row:	0.0000
Avg Depth:	0	Waste:	0.0000
Actual Front Width:	0	Net:	0.0000

[Map](#)

Owner(s):	Book	Page	
Deed HAYES, CHERYL L 1112 HWY 18 E PO BOX 9 CLEAR LAKE, IA 50428	2009	8421	<a href="#">Image (pdf)</a>

**Legal Description (used for tax administration purposes only)**

COM SE COR L 1 BLK 29; TH N 70° W 75.06' ALG NLY LINE N SHORE DR TO POB; TH N 03° E 72.66'; TH N 76°28'15" W 61.87'; TH S 18°31'52" W 15'; TH S 19° W 11.63'; TH S 17° W 36.81' TO NLY LINE N SHORE DR; TH S 70° E 80' ALG N SHORE DR TO POB CLEAR LAKE CAMP MTG GRDS

**Assessment Year 2012 (for Taxes Payable 2013-2014)**

<b>Class: Commercial</b>						
	100% Assessed Value	Gross Taxable Value			Credits	Y/N
Land	18,100	0	Unit	1	Military	N
Improvements	156,700	0	Building	1	Homestead	N
Total	174,800	0	Dwelling	0	Agland	N
					Family Farm	N

**Assessment Year 2011 (for Taxes Payable 2012-2013)**

Figures are as certified on the Assessment Year 2011 tax list and do not include subsequent tax list corrections.

	176,670	100% Actual Value	100% Actual Value (or 100% Assessed Value) is determined by the Assessor as of January 1, 2011, except that values for all Utility and Railroad property are determined by the Iowa Department of Revenue.
X	100.0000 %	Rollback Rate by Property Class	Rollback Rates are statewide rates determined annually by Property Class by the Iowa Department of Revenue. For AY 2011, the Rollback Rates for Residential property was 50.7518%, for Commercial and Railroad Property they were 100%. Rollback Rates for Agricultural was 57.5411% and Industrial and/or Utility property were 100%.
=	176,670	Gross Taxable Value	Gross Taxable Value equals the 100% Actual Value multiplied by the Rollback Rate.
-	0.00	Military Exemption	Men and women who served in the military may qualify and sign for a Military Exemption with the Assessor. The tax value of this exemption is the Military Exemption divided by 1,000 multiplied by the Tax Levy Rate.
=	176,670	Net Taxable Value	Net Taxable Value equals Gross Taxable Value minus Military Exemption, if any. It is the value on which real estate taxes are calculated, and on which the budgets for each Levy Authority are based.
X	32.20653	Consolidated Tax Levy Rate	The Consolidated Tax Levy Rate is the total of the Levy Rates for all Levy Authorities within a specific Tax District.
=	5,689.93	Gross Taxes	Gross Taxes equal the Net Taxable Value divided by 1,000 and multiplied by the Consolidated Tax Levy Rate.
-	0.00	Homestead Credit	Homeowners may qualify and sign for a Homestead Exemption with the Assessor. The Homestead Credit in Cerro Gordo County equals 4,860 divided by 1,000 multiplied by the Consolidated Tax Levy Rate multiplied by 78%.
-	0.00	Agland Credit	Parcels with an Agricultural Class of at least 10 acres or greater in size qualify for the Agland Credit. Smaller Agricultural Class parcels may qualify if they are contiguous to a qualifying parcel and under the same ownership.
-	0.00	Family Farm Credit	Parcels which qualify for the Agland Credit may qualify for the Family Farm Credit. Property owners must sign with the Assessor and qualify under standards set by the State of Iowa.
-	0.00	Elderly, Disabled, Low-Income Credit	Property owners may sign for the Elderly, Disabled, Low-Income Credit with the County Treasurer, and must qualify under standards set by the State of Iowa.
=	5.690	Net Taxes	Net Taxes equal Gross Taxes minus Homestead, Agland, Family Farm, and Elderly/Disabled/Low-Income Credits. Net taxes are rounded to the nearest cent and state dollars.

**RESOLUTION NO. \_\_\_\_\_**

**RESOLUTION APPROVING AND AUTHORIZING THE ACQUISITION OF  
REAL PROPERTY AND EMPOWERING THE MAYOR, CITY CLERK, AND  
CITY ATTORNEY TO SIGN DOCUMENTS RELATED TO THE ACQUISITION  
ON BEHALF OF THE CITY**

WHEREAS, the development of a new water tower in the Northwest area of the city has been identified as a high priority by the City Council; and

WHEREAS, the acquisition of additional real property is necessary in order to build a new water tower.

NOW, THEREFORE, be it resolved, by the City Council of the City of Clear Lake, Iowa, as follows:

Section 1. That the Clear Lake City Council has conducted a public hearing, pursuant to published legal notice regarding its potential acquisition of certain real property prior to any final decisions having been made with respect to the site proposed to be acquired; and

Section 2. That the acquisition of the property described in Exhibit "A", for the purchase price of \$75,000, is hereby approved.

BE IT FURTHER RESOLVED, that the Mayor, City Clerk, and City Attorney are directed and are hereby empowered to sign all documents on behalf of the City of Clear Lake to complete the property acquisition.

PASSED AND APPROVED THIS 20<sup>th</sup> day of August, 2012.

\_\_\_\_\_  
Nelson P. Crabb, Mayor

Attest: \_\_\_\_\_  
Jennifer Larsen, City Clerk

**EXHIBIT "A"**

**DESCRIPTION – PARCEL 'D'**

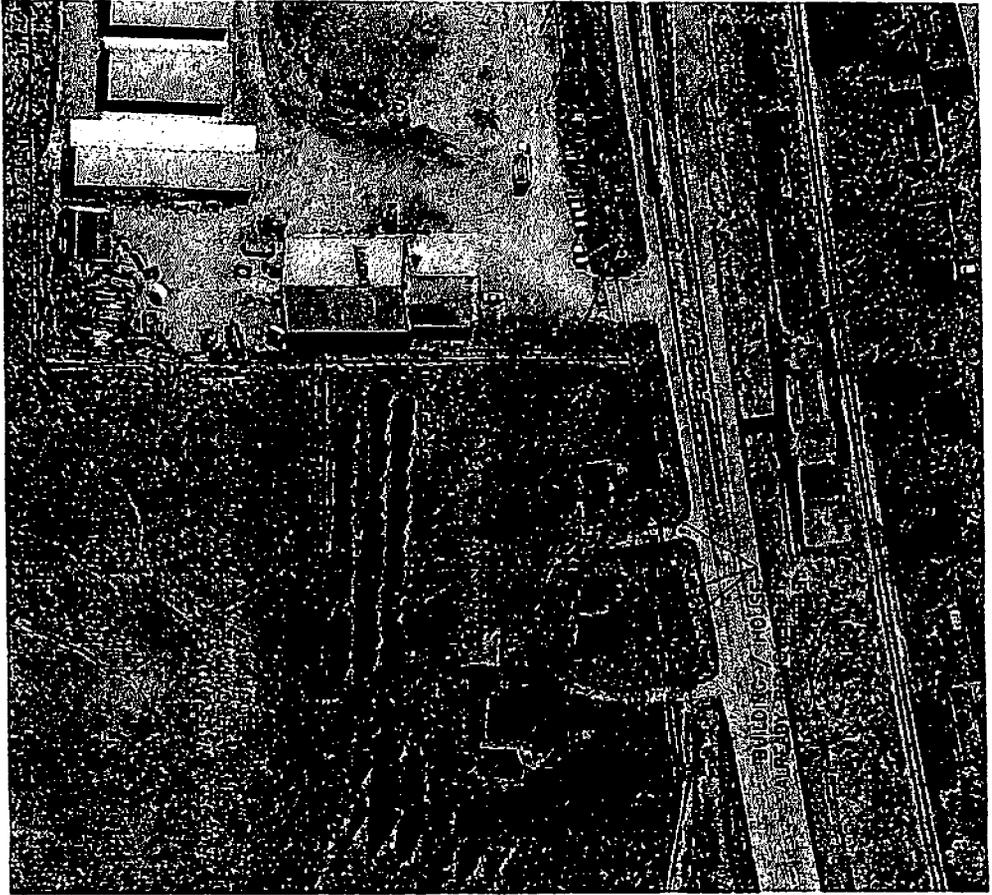
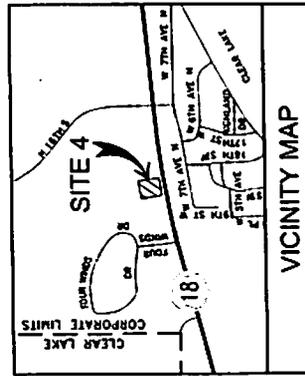
That part of the Southwest Quarter (SW 1/4) of Section Eleven (11), Township Ninety-Six North (96N), Range Twenty-two West (22W) of the Fifth Principal Meridian, Cerro Gordo County, Iowa, more particularly described as follows:

Commencing at the South Quarter (S 1/4) Corner of said Section 11; thence North 00°21'49" West along the East line of the SW 1/4 of said Section 11, 695.30 feet to the intersection of the East line of said SW 1/4 and the extension of the North line of Parcel B as platted in the Plat of Survey recorded in Book 1996 Page 9691 on file at the Cerro Gordo County, Iowa Recorder's Office; thence South 89°38'11" West along the North line (and extension thereof) of said Parcel B, 653.80 feet to the Northwest Corner of said Parcel B; thence South 00°21'49" East along the West line of said Parcel B, 234.40 feet to the Point of Beginning (POB); thence continuing South 00°21'49" East along the West line of said Parcel B, 251.18 feet to the Southwest Corner of said Parcel B, said point also being on the Northerly Right-of-Way (ROW) Line of U.S. Highway #18; thence Southeasterly along said Northerly ROW Line on an 11,630.00 foot non-tangent curve concave Southeasterly 171.76 feet, the Chord of said curve is 171.76 feet long and has a bearing of South 81°25'25" West, having a central angle of 00°50'46"; thence North 00°21'49" West, 279.47 feet; thence South 89°06'02" East, 170.04 feet to the POB. Containing 45,068 square feet more or less, subject to easements recorded and un-recorded.

The East line of the SW 1/4 is assumed to have a bearing of N 00°21'49" West.

**SITE INFORMATION**

PARCEL NO: 0511377001  
 OWNER: MICHAEL & STACIA SONDERMAN  
 PROPERTY SIZE: 1.03 ACRES  
 STREET ADDRESS: 1814 HIGHWAY 18 W, CLEAR LAKE, IOWA  
 CURRENT ZONING: RR-1



DATE	REVISIONS	SCALE	VERTICAL SCALE
		AS SHOWN	VERTICAL SCALE
		1" = 100'	1" = 100'
		1" = 100'	1" = 100'
		1" = 100'	1" = 100'



2011 ELEVATED WATER TOWER SITE ANALYSIS  
 CLEAR LAKE, IOWA

SITE 4 PROPOSED LAYOUT

## SECTION 7 – SITE EVALUATIONS

### 7.1 – General Evaluation

Using the general site data as presented in Table 5-1 and the site acquisition data as presented in Table 5-3, each of the six potential sites were evaluated and a score was assigned for each of the criteria. The evaluation was based on a score ranging from 1 being undesirable to a high score of 10 indicating a desirable criteria or feature of the site. Table 7-1 below summarizes the evaluation based on the general site criteria.

Table 7-1  
General Evaluation

CRITERIA	SITE 1	SITE 2	SITE 3A	SITE 4	SITE 5	SITE 7
Topography of Site Score	5	3	4	4	7	9
Elevation of Site Score	8	7	9	10	7	5
Property Availability Score	6	10	2	3	4	6
Proximity of Adequately Sized Water Distribution Needs Score	6	2	7	7	5	3
Preliminary Soils & Foundation Analysis Score	8	3	6	9	3	3
Site Accessibility Score	5	3	7	7	6	8
<b>Total Score</b>	<b>38</b>	<b>28</b>	<b>35</b>	<b>40</b>	<b>32</b>	<b>34</b>
<b>Average Score</b>	<b>6.3</b>	<b>4.7</b>	<b>5.8</b>	<b>6.7</b>	<b>5.3</b>	<b>5.7</b>

The soils information available from the USDA Natural Resources Conservation Services Soils Survey addresses only the surface soils and is limited to approximately 5 – 6 feet in depth. This information is inadequate to make any sound engineering decisions with respect to the type of foundation would be needed for a 1.0 MG elevated water tower. As such, it was originally assumed that some type of deep foundation would be required at each of the six potential sites. In turn, each site was initially assigned a score of 3 for the Preliminary Soils and Foundation Analysis Criteria.

The original Engineering Report for the Elevated Water Tower Site Analysis was submitted to the City of Clear Lake on May 2, 2012. The City Council was provided copies of the Elevated Water Tower Site Analysis and took the analysis under consideration and it was discussed at the City Council's Council meeting of May 7, 2012 in closed session. The original report was prepared without the benefit of any detailed soils exploration. The City Council agreed with Veenstra & Kimm, Inc.'s recommendation and authorized detailed soils exploration to be performed on three of the sites being considered.

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## SECTION 8 - CONCLUSIONS & RECOMMENDATIONS

### 8.1 - Conclusions

This study identified the general evaluation criteria, gathered the necessary site data and water model analysis information to perform an evaluation of each of the prospective sites. This site analysis also developed preliminary cost estimates for constructing a new 1.0 MG composite elevated water tower at each site. These evaluation cost estimates were used to further evaluate the financial impact each of the general evaluation criteria had on the site selection process.

Based on the overall site evaluation scores presented in Table 7-4, Site No. 1 has been determined to be the preferred site to best serve the City of Clear Lake's needs with respect to a future 1.0 MG elevated composite water storage tower.

As noted in Section 7 of this study, Site 1 has the lowest anticipated project cost and this location impacts the fire flows throughout the distribution system better than the other potential sites do. Site 1 also has the lowest anticipated purchase price on a per acre basis and thus also scored well in regards to property availability.

Upon Veenstra & Kimm, Inc.'s recommendation the City of Clear Lake authorized detailed soils exploration to proceed on the three top ranking sites under consideration. Soils explorations were performed on Site 1, Site 3A, and Site 4. The soils exploration indicate that any of these three sites would be suitable for constructing a new water tower with a conventional spread footing foundation. The Geotechnical Investigation Report prepared by Chosen Valley Testing indicates that the soils at each of these three sites have very similar support capacities and that a 5,000 psf bearing pressure is considered feasible at all three sites. The dominate very stiff glacial sandy clay and medium dense sands are considered excellent materials to support a heavy structure such as a new water tower. Of the three sites where geotechnical investigation was performed, Sites 1 and 4 would require minimum foundation subgrade corrections regardless of the anticipated foundation depth. At Site 3A, a foundation position less than 12' below the surface would likely require some earthwork corrections because of softer soils above this depth. The Geotechnical Report indicated that from a construction standpoint Site 4 would be the preferred site because of the dominant relatively dry granular soils within the construction zone. The Geotechnical Report went on to indicate that if property constraints were a critical issue, Site 1 may be advantageous because the dominant clay soils will allow for a smaller more steeply sided OSHA excavation.

**In conclusion, while Site 1 scores slightly higher overall, either Site 1 or Site 4 would make excellent sites for constructing a new 1,000,000 gallon elevated water storage facility.**

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The three sites for which soils exploration were performed were Site 1, Site 3A, and Site 4. A Request for Proposal was issued to Chosen Valley Testing and a proposal was received on May 21, 2012. The City of Clear Lake reviewed Chosen Valley Testing's Proposal and upon Veenstra & Kimm, Inc.'s recommendation authorized Chosen Valley Testing to proceed with the soil exploration work at Site 1, Site 3A, and Site 4.

The soils exploration work was completed the week of May 28, 2012. The Soils Exploration Report dated June 15, 2012 was submitted to Veenstra & Kimm, Inc.'s attention and received on June 15, 2012 electronically with hard copies provided in the mail the following week.

The soils exploration information provided by Chosen Valley Testing was reviewed and subsequently incorporated into the Elevated Water Tower Site Analysis. The Elevated Water Tower Site Analysis was then modified to reflect the additional data provided by the geotechnical investigation. This document reflects the Engineering Report as amended. The amended Engineering Report was submitted to the City of Clear Lake on June 18, 2012.

It should be noted that all three of the sites for which soils investigations were performed indicate that any one of the three sites would be suitable for a water tower with a shallow foundation and that a deep foundation would not be necessary at any one of these three sites. As such, the overall evaluation and rating of the sites under consideration did not change. However, the estimated construction cost for constructing the new 1,000,000 gallon elevated water storage tower has been reduced by approximately \$200,000 to reflect the fact that it could be constructed with a shallow foundation in lieu of a deep foundation as originally identified in the site analysis.

Table 7-1 presents the total score and an average score for the general evaluation of each of the six potential sites. As can be seen from Table 7-1, it appears Site 4 scores the highest with an average score of 6.7. The evaluation of the site, good soil conditions, and the accessibility of the site are key reasons in addition to the proximity of existing 12" water main that this site scores higher than the other sites.

Site 4 is also worthy of further consideration as it scored very well with respect to elevation since it is located on one of the higher pieces of property in the area. It also scored relatively well with respect to accessibility and proximity / ability to connect to the existing distribution system via the 12" water main on the north side of Highway 18.

On the other hand, while Site 2 scores very high for availability since this site is on City owned property, it scores poorly for accessibility, topography, and the ability to connect to the existing 12" water main on the north side of highway as this will require crossing both Highway 18 and the DM&E Railroad with an expensive jack & bore installation.

Overall a new tower located at Site 1 is expected to improve flows throughout the distribution system by approximately 1.4%. Sites 2, 3A, 4, and Site 5 will essentially have no impact on existing available fire flows. Site 7 is anticipated to have a minor decrease overall in available fire flows with slight decreases in fire flows in the western and southern zones.

#### 7.4 – Overall Site Evaluation

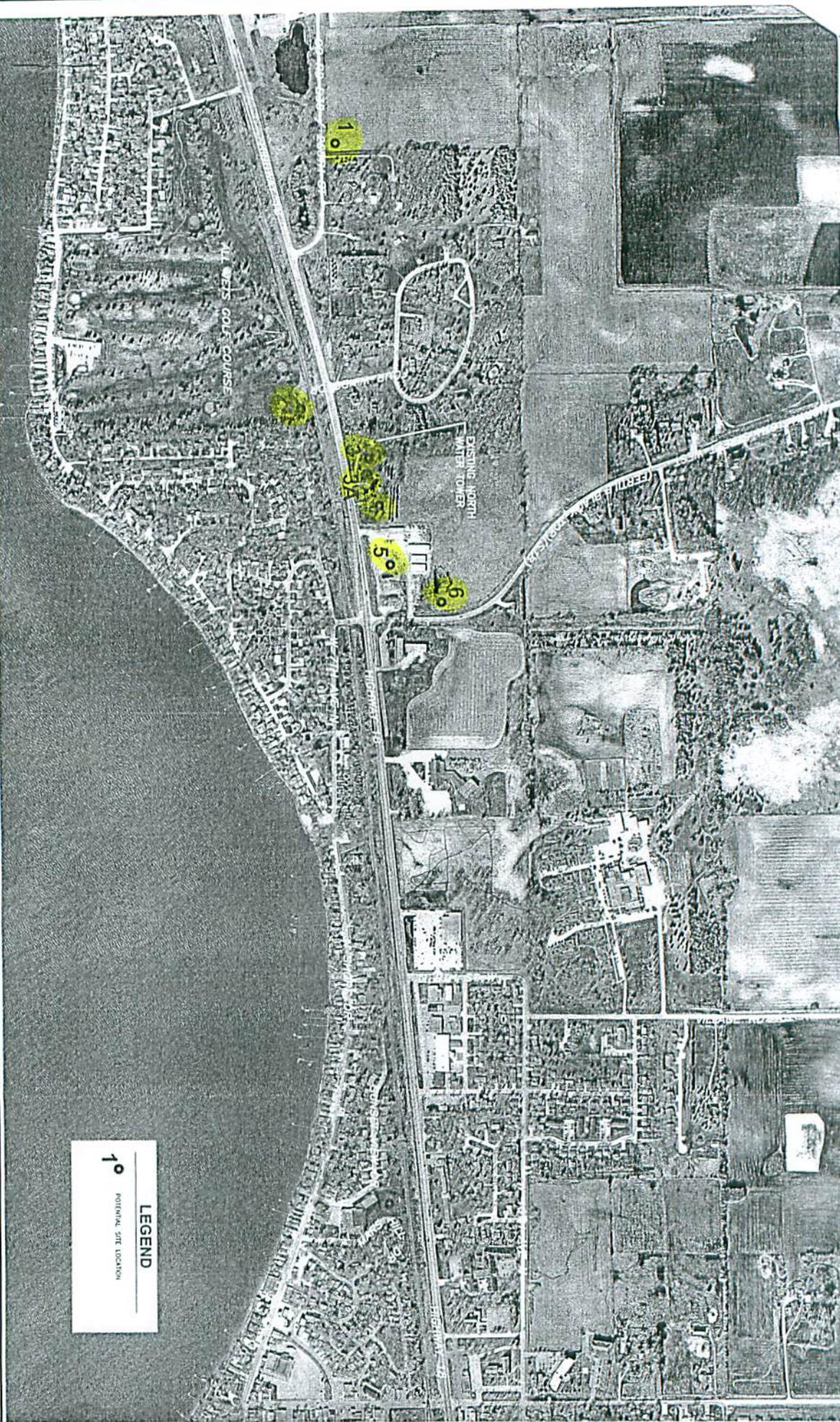
Table 7-4 below consolidates and summarizes the general criteria evaluation, the project estimated cost evaluation and the water model evaluation into one table. Combining the three independent evaluations into one in this manner places more emphasis on the overall estimated project costs and the ability to maintain or enhance available fire flows, versus the individual general site criteria.

Table 7-4  
Overall Site Evaluation

CRITERIA	SITE 1	SITE 2	SITE 3A	SITE 4	SITE 5	SITE 7
General Evaluation Average Score	6.3	4.7	5.8	6.7	5.3	5.7
Project Cost Evaluation Score	6	5	5	5	5	4
Water Model Evaluation Score	6	5	5	5	5	4
<b>Total Score</b>	<b>18.3</b>	<b>14.7</b>	<b>15.8</b>	<b>16.7</b>	<b>15.3</b>	<b>13.7</b>

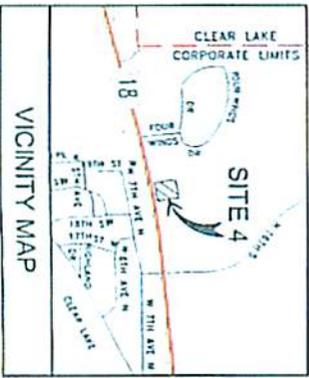
Based on the findings of the evaluation presented in Table 7-4, it appears Site 1 is the highest scoring site overall with a total combined score of 18.3. Site 1 has the lowest anticipated project cost and this location impacts the fire flows throughout the distribution system better than the other potential sites do. Site 1 also has the lowest anticipated purchase price on a per acre basis and thus scored well in regards to property availability.

DATE	REVISIONS	SCALE	VERTICAL SCALE	 <p><b>VENSTRA &amp; KIMM, INC.</b></p> <p>2800 North Street SW • Suite 9 • Mason City, Iowa 50401-1786                  641-421-8008 • 641-380-0119 FAX • 270-241-4000 (IOWA)</p>	<p><b>ELEVATED WATER TOWER LOCATION STUDY</b>                  CLEAR LAKE, IOWA</p>	<p><b>LOCATION STUDY AREA</b></p>	<p>DWG. NO.</p>
		<p>AS SHOWN</p>	<p>1" = 100' HORIZONTAL                  1" = 10' VERTICAL</p>				<p>FIGURE 3</p>

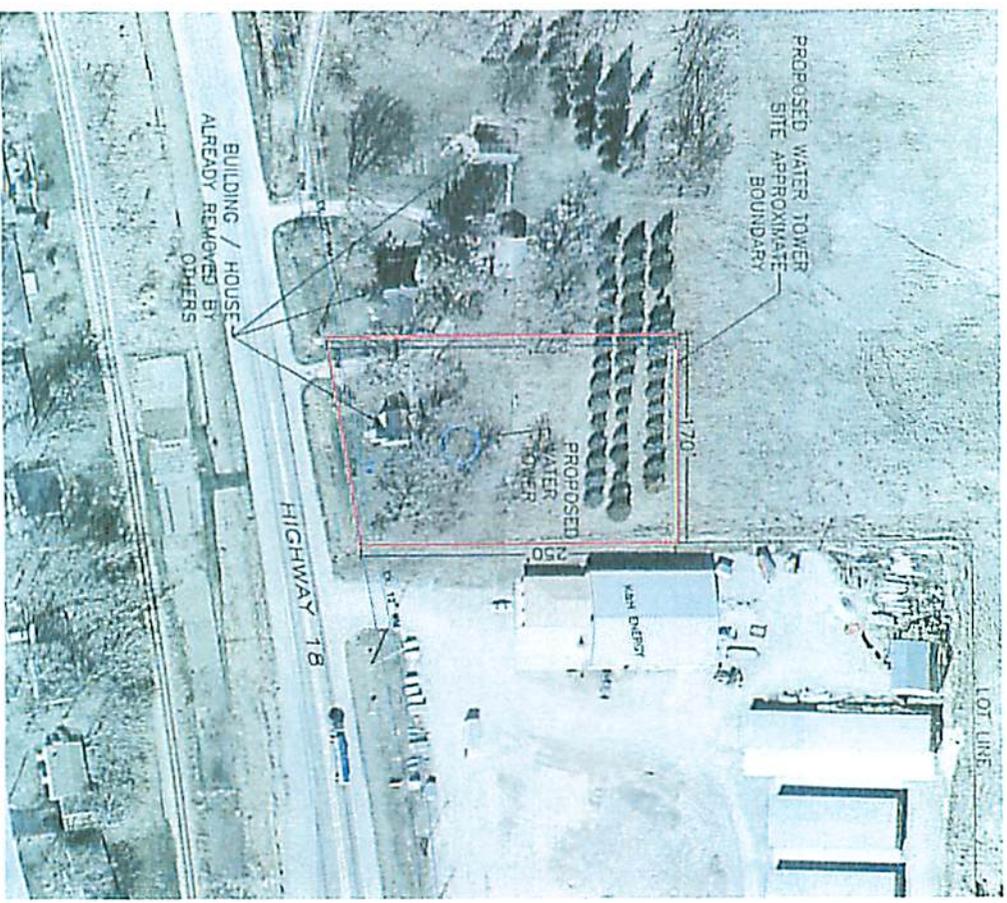


**SITE INFORMATION**

PARCEL NO.: 0511377001  
 OWNER: MICHAEL & STACIA SOMMERMAN  
 PROPERTY SIZE: 1.03 ACRES  
 STREET ADDRESS: 1814 HIGHWAY 18 W, CLEAR LAKE, IOWA  
 CURRENT ZONING: RR-1



VICINITY MAP



DATE	REVISIONS	BY	DATE	REVISIONS



2011 ELEVATED WATER TOWER SITE ANALYSIS  
 CLEAR LAKE, IOWA

SITE 4 PROPOSED LAYOUT

PROFESSIONAL SERVICES AGREEMENT

THIS IS AN AGREEMENT, made as of August 20, 2012, between City of Clear Lake, (CLIENT) and Veenstra & Kimm, Inc., (CONSULTANT).

CLIENT requires consulting services for the **Highway 18 Watermain Improvement Project** as defined in **EXHIBIT 1**.

CLIENT and CONSULTANT agree:

1. Scope of Services. CONSULTANT shall perform professional services as stated in **EXHIBIT 2**.
2. Compensation. CLIENT shall compensate CONSULTANT for CONSULTANT's services as stated in **EXHIBIT 3**.
3. General Considerations. General considerations to this Agreement are as stated in **EXHIBIT 4**.
4. Terms and Conditions. CONSULTANT shall provide professional services in accordance with the terms and conditions stated in **EXHIBIT 5**. If CLIENT issues a purchase order or other document to initiate the commencement of services hereunder, it is agreed that any terms and conditions appearing thereon shall have no application and only the provisions of this Agreement shall automatically apply
5. Special Provisions. Special provisions to this Agreement, if any, are stated in **EXHIBIT 6**.
6. CLIENT has provided or shall provide for payment from one or more lawful sources of all sums to be paid to CONSULTANT.
7. Following **EXHIBITS** are attached to and made part of this Agreement.
  - a. **EXHIBIT 1** - Project Scope
  - b. **EXHIBIT 2** - Scope of Services.
  - c. **EXHIBIT 3** - Compensation.
  - d. **EXHIBIT 4** - General Considerations
  - e. **EXHIBIT 5** - Standard Terms and Conditions
  - f. **EXHIBIT 6** - Special Provisions

IN WITNESS WHEREOF, the parties below have executed this Agreement as of the day and year first above written.

**CITY OF CLEAR LAKE**

By: \_\_\_\_\_  
Scott Flory  
City Administrator

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

Attest:

\_\_\_\_\_  
Address for giving notices:

15 North Sixth Street  
P.O. Box 185  
Clear Lake, IA 50428

**VEENSTRA & KIMM, INC.**

By: \_\_\_\_\_  
Timothy A. Moreau, P.E.  
Office Manager

Date: 8/14/12

Attest:

\_\_\_\_\_  
Address for giving notices:

2800 Fourth Street SW  
Suite 9  
Mason City, IA 50401

**SCOPE OF PROJECT**

It is understood and agreed the Project shall include the following improvements:

**A. Project Scope Defined**

1. Construct a 12" diameter watermain starting with a connection to the existing 12" watermain on the west side of North 9th Street West. The watermain improvements will continue east along the north side of Highway 18 to the east side of North 3rd Street West where it will connect to an existing 8" watermain. The total length of the proposed 12" watermain will be approximately 2,500 linear feet.
2. The general location and extent of the project is graphically shown on Figure 1 attached.
3. The scope of the project is further defined by the Preliminary Cost Estimate as presented in Table 1 attached.



# Clear Lake Water Department

110-1<sup>st</sup> Avenue South  
 Clear Lake, IA 50428-1924  
 (641) 357-3911

Joe,

No indication whether any of these accounts have galvanized service lines.

302 Highway 18 West	Christian Church	1-1/2" meter
310 Highway 18 West		3/4" meter
424 Highway 18 West		3/4" meter
436 Highway 18 West		3/4" meter
518 Highway 18 West	Lake Country Inn	1" meter
538 Highway 18 West	Lam Inn	3/4" meter
542 Highway 18 West		3/4" meter
600 Highway 18 West		3/4" meter - has copper line
610 Highway 18 West		3/4" meter
910 North 8 <sup>th</sup> Street West	Lake Liquor	3/4" meter
912 North 8 <sup>th</sup> Street West	American Family Ins.	3/4" meter
914 North 8 <sup>th</sup> Street West	Eastman Law Office	3/4" meter
Curb box cards show 2 - 3/4" copper lines feeding three businesses on North 8 <sup>th</sup> Street West, see Excavation Report 2001-30		
850 Highway 18 West	Village Store	3/4" meter
880 Highway 18 West	Glen's Tire	3/4" meter



# VEENSTRA & KIMM, INC.

2800 Fourth Street SW, Suite 9 • Mason City, Iowa 50401-1596  
 641-421-8008 • 641-380-0313(FAX) • 877-241-8008(WATS)

**TABLE 1**

**PRELIMINARY ENGINEER'S OPINION OF PROBABLE COST**

Project: HIGHWAY 18 WATER MAIN IMPROVEMENT PROJECT  
 Owner: CITY OF CLEAR LAKE  
 Location: CLEAR LAKE, IA

Job No.: MC12-31  
 Date: 8/10/2012  
 Quantities By: Jason Petersburg  
 Estimated By: Jason Petersburg  
 Reviewed By: Tim Moreau

**HIGHWAY 18 WATER MAIN IMPROVEMENT PROJECT**

ITEM	Description	UNITS	QUANTITY	UNIT PRICE	EXTENDED PRICE
1	Mobilization	LS	1	\$ 10,000.00	\$ 10,000
2	Traffic Control	LS	1	\$ 6,000.00	\$ 6,000
3	Erosion Control	LS	1	\$ 3,500.00	\$ 3,500
4	Pavement Removal	SY	500	\$ 10.00	\$ 5,000
5	Fire Hydrant Removal	EA	1	\$ 600.00	\$ 600
6	Water Main				
6a	12" PVC	LF	2500	\$ 40.00	\$ 100,000
6b	8" PVC	LF	30	\$ 35.00	\$ 1,050
7	Connect to Existing Water Main	EA	5	\$ 500.00	\$ 2,500
8	Water Main Fittings	LB	2500	\$ 6.00	\$ 15,000
9	Fire Hydrant Assemblies	EA	3	\$ 2,250.00	\$ 6,750
10	Gate Valve & Box				
10a	12"	EA	3	\$ 1,600.00	\$ 4,800
10b	8"	EA	3	\$ 1,200.00	\$ 3,600
10c	6"	EA	3	\$ 1,000.00	\$ 3,000
11	Water Service Connection	EA	14	\$ 1,000.00	\$ 14,000
12	24" Steel Casing Pipe, Open Cut	LF	380	\$ 120.00	\$ 45,600
13	Stabilizing Material (assumed quantity)	TON	100	\$ 18.00	\$ 1,800
14	Granular Backfill Material (assumed quantity)	TON	400	\$ 16.00	\$ 6,400
15	Drain Tile Repair				
15a	4" to 10" (assumed quantity)	EA	3	\$ 200.00	\$ 600
15b	11" to 15" (assumed quantity)	EA	1	\$ 350.00	\$ 350
15c	16" to 21" (assumed quantity)	EA	1	\$ 500.00	\$ 500
16	PCC Pavement, 8"	SY	150	\$ 60.00	\$ 9,000
17	Driveway Pavement, 7" PCC	SY	350	\$ 50.00	\$ 17,500
18	Aggregate Surface Course	TON	40	\$ 16.00	\$ 640
19	Topsoil	TON	500	\$ 14.00	\$ 7,000
20	Seeding, Fertilizing, Mulching	ACRE	0.9	\$ 3,500.00	\$ 3,150
21	Testing	LS	1	\$ 3,500.00	\$ 3,500

SUBTOTAL CONSTRUCTION COST \$ 271,840

CONTINGENCY (10%) \$ 27,184

TOTAL ESTIMATED CONSTRUCTION COST \$ 299,024.00

**EXHIBIT 6  
SPECIAL PROVISIONS**

This agreement is subject to the following special provisions:

**A. Project Schedule**

1. CONSULTANT and CLIENT agree to work toward completing this project in accordance with the following Project Schedule:

<u>Activity / Task</u>	<u>Milestone Date</u>
a. Prepare and Submit Professional Services Agreement	By August 15, 2012
b. Perform Topographic Survey Required to Facilitate Design	By September 21, 2012
c. Prepare and Submit Preliminary Design Report	By October 19, 2012
d. Prepare Preliminary Plans & Specifications	By November 9, 2012
e. Review Preliminary Plans & Specifications with Client	November 12 - 16, 2012
f. Prepare Final Plans, Specifications, Bidding & Contract Documents	By December 14, 2012
g. Prepare & Submit IDNR Construction Permit Application	By December 14, 2012
h. Set Dates for Public Hearing & Bid Letting	December 17, 2012
i. Bid Letting	January 16, 2013
j. Review / Approve / Issue Construction IDNR Construction Permit	By January 18, 2013
k. Public Hearing	January 21, 2013
l. Award of Contract	January 21, 2013
m. Approve Contract & Bond	February 4, 2013
n. Begin Construction	April 1, 2013
o. Complete Construction	June 21, 2013

EXHIBIT 2  
SCOPE OF SERVICES

Professional Services

CONSULTANT agrees to perform professional services in connection with the project as herein described. The CONSULTANT will serve as the CLIENT'S professional representative in those phases of the project to which this Agreement applies, and will give consultation and advice to the CLIENT during the performance of services as required.

A. PRELIMINARY ENGINEERING

1. **Preliminary Design Report.** The Preliminary Engineering Report will analyze the existing watermains that cross under Highway 18, one at Buddy Holly Place, a second in between North 9th Street West and North 8th Street West, and the third at the existing North Water Tower. The report will determine if one or two of the three existing crossings can be abandoned and enable the City to continue to operate the system in an efficient manner.

Should additional improvements be identified in the Preliminary Design Report, the project scope shall be modified accordingly.

B. DESIGN SERVICES

1. Scope of Work

- a. **Design Surveys.** The CONSULTANT shall undertake necessary topographic and other surveys for the design of the Project. Design surveys do not include land or easement surveys which require services beyond those necessary for topographic design services.
- b. **Design Conferences and Reports.** The CONSULTANTS shall attend such design conferences with the CLIENT as may be necessary to make decisions as to the details of design of the Project. The CONSULTANTS shall make periodic progress reports to the CLIENT staff and City Council, as necessary.

- c. **Consultation on Design Concept.** The CONSULTANTS during the course of the final design shall consult with the CLIENT for a final determination of the design concept, location and operating parameters.
- d. **Plans and Specifications.** The CONSULTANTS shall prepare such detailed plans and specifications as are reasonably necessary and desirable for construction of the Project. The specifications shall describe in detail the work to be done, materials to be used, and the location and extent of the construction required. At the completion of the Project design CONSULTANT will provide the CLIENT with the final plans, specifications, contract documents and estimate of cost. The documents will include the original signed documents for record purposes, and other copies of documents for use during the bidding and construction phase of the Project.
- e. **Permits.** CONSULTANT shall assist CLIENT in obtaining the following permits:
  - i. Iowa Department of Natural Resources NPDES General Permit No. 2 Storm Water Discharge Permit
  - ii. Iowa Department of Natural Resources Water Supply Construction Permit
  - iii. Iowa Department of Transportation Work in Right of Way Permit

**CLIENT to pay all applicable fees.**

- f. **Estimate of Cost.** Estimate Project Quantities and Prepare Engineer's Opinion of Probable Cost for construction, site preparation, and construction or proposed improvements in Veenstra & Kimm, Inc.'s standard format. The estimate of cost shall be based on the CONSULTANTS' best knowledge at the time of preparation of the estimate of cost. The

CONSULTANTS shall not be responsible if the construction contract awarded for the Project varies from the CONSULTANTS' estimate of cost. The CONSULTANTS shall advise and assist the CLIENT, if necessary, in adjusting the scope and extent of the Project to allow the

Project to be constructed within available budget limitations.

- g. Advertisement for Bids.** The CONSULTANTS shall assist in the preparation of notice to bidders and shall provide plans and specifications for prospective bidders. The CONSULTANTS shall provide, free of charge, plans and specifications to approved contract plan rooms and other construction document depositories. The CONSULTANTS shall charge a non-refundable plan deposit to defray a portion of the cost of printing and distribution of the plans and specifications to construction contractors, subcontractors, suppliers and other interested parties. Respond to bidder's questions.
- h. Bid Opening and Award of Contract.** The CONSULTANTS shall have a representative present when bids and proposals are opened for the construction contracts, and shall prepare a tabulation of bids for the CLIENT and shall advise the CLIENT in making award of contract. After award of contract is made, the CONSULTANTS shall assist in the preparation of the necessary contract documents. During the bidding phase, the CONSULTANTS shall advise the CLIENT of the responsiveness of each proposal submitted. The CONSULTANTS shall not be responsible for advising the CLIENT as to the responsibility of any bidder.

2. Deliverables

- a. CONSULTANT to provide 1 copy of Preliminary Plans and Specifications to CLIENT for review.
- b. CONSULTANT to provide two (2) original signed set of Final Plans and Specifications and two (2) reproduced copies of Final Plans and Specifications to CLIENT. CONSULTANT to also provide one (1) electronic copy of Final Plans and Specifications in pdf format on CD for CLIENT'S electronic storage purposes. Final Plans and Specifications to be signed by a licensed engineer under the laws of the State of Iowa.

3. Schedule

- a. CONSULTANT understands CLIENT desires to construct the Highway 18 Watermain Improvement Project during the spring / early summer of 2013.
- b. CONSULTANT will complete scope of work as defined herein in accordance with the schedule shown in **EXHIBIT 6**.

C. CONSTRUCTION SERVICES

1. Scope of Work

- a. **Preconstruction Conference.** The CONSULTANTS shall conduct a preconstruction conference following award of the construction contract. Said conference to be attended by representatives of the CLIENT, the CONSULTANTS, the Contractor, and utility companies affected by the Project. At this conference a detailed construction schedule will be determined.

- b. General Services During Construction.** The CONSULTANTS shall provide general services during construction including, but not limited to, the following:
- i. Establishment of bench mark and/or base line to permit start of construction work.
  - ii. Consult with and advise CLIENT.
  - iii. Coordinate and provide work of testing laboratories for concrete and moisture density tests.
  - iv. Assist in interpretation of plans and specifications.
  - v. Review drawings and data of manufacturers.
  - vi. Process and certify payment estimates of the Contractor to CLIENT.
  - vii. Prepare and process necessary change orders or modifications to the construction contract.
  - viii. Make routine and special trips to the Project site as required.
  - ix. Make final reviews after construction contracts are completed to determine that the work complies with the plans and specifications and certify that the reviews were made and that to the best of the knowledge and belief of the CONSULTANTS, the work on the contracts has been substantially completed.

- c. **Resident Review Services.** The CONSULTANT shall provide resident review during construction including, but not limited to, the following:
  - i. Provide resident review services understood to include the detailed observation and review of work of the Contractors and materials to assure compliance with the plans and specifications.
  - ii. The CONSULTANTS shall provide resident review services by assigning resident engineers and/or engineering technicians to the Project for such periods reasonably required to insure proper review of the construction work. On-site review shall take place on a regular basis during construction work on the Project.
- d. **Construction Staking Services.** CONSULTANT shall provide construction staking in accordance with industry and accepted procedure and standards.
- e. **Final Review.** The CONSULTANT shall make a final review of the Project after construction is completed to determine the construction substantially complies with the plans and specifications. The CONSULTANTS shall certify the completion of the work to the CLIENT when construction substantially complies with the plans and specifications.

**2. Deliverables**

- a. Prepare and furnish one (1) reproducible set of Record Plans showing final construction and provide one (1) electronic copy of record drawings in pdf format on CD for CLIENT'S records.
- b. CONSULTANT shall provide for CLIENT'S records copies of the resident representatives Daily Project Reports in paper format and electronic (pdf) format on CD.

**3. Schedule**

- a. CONSULTANT understands CLIENT desires to construct the Highway 18 Watermain Improvement Project during the spring / early summer of 2013.
- b. CONSULTANT will complete scope of work as defined herein in accordance with the schedule shown in **EXHIBIT 6**.

**D. Additional Services**

- 1. CONSULTANT shall provide additional services upon CLIENT request and written authorization.

**EXHIBIT 3  
COMPENSATION**

The CLIENT shall compensate the CONSULTANTS for their services by payment of the following fees:

**A. Preliminary Engineering Services.** For services under this Agreement, as set forth in **EXHIBIT 2**, Paragraph A:

1. A fee on the basis of the standard hourly fees for the time the CONSULTANTS' personnel are actually engaged in the performance of the work, plus direct out-of-pocket costs incurred by personnel who are actually engaged in the work, plus direct costs incurred by the CONSULTANTS for work associated with the Project.
2. The total fee for the preliminary engineering services shall not exceed the sum of Four Thousand Dollars (\$4,000) without additional authorization.

**B. Design Services.** For services under this Agreement, as set forth in **EXHIBIT 2**, Paragraph B:

1. CLIENT shall pay CONSULTANTS a Lump Sum fee of Nineteen Thousand Nine Hundred Dollars (\$19,900).

**C. Construction Services.** For services under this Agreement, as set forth in **EXHIBIT 2**, Paragraph C:

1. A fee on the basis of the standard hourly fees for the time the CONSULTANTS' personnel are actually engaged in the performance of the work, plus direct out-of-pocket costs incurred by personnel who are actually engaged in the work, plus direct costs incurred by the CONSULTANTS for work associated with the Project.
2. The total fee for the construction services shall not exceed the sum of Sixteen Thousand Five Hundred Dollars (\$16,500) without additional authorization.

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION SETTING THE DATE FOR A PUBLIC HEARING ON FIRST AMENDMENT TO WATER TOWER LEASE WITH OPTION; SITE LEASE WITH OPTION; AND TOWER COLLOCATION LEASE AGREEMENT BY AND BETWEEN THE CITY OF CLEAR LAKE AND CL TEL WIRELESS INCORPORATED**

**WHEREAS,** as a result of age and functional obsolescence, the City has begun planning for the removal of the S. Shore Drive Elevated Water Storage Tower; and

**WHEREAS,** CL Tel Wireless, Inc. (the "Company") will be required to relocate its telecommunications equipment and other facilities from the S. Shore Drive Water Storage Tower in anticipation of the demolition of the Tower; and

**WHEREAS,** City's police department will be required to relocate its emergency response radio repeater equipment from the S. Shore Drive Water Tower; and

**WHEREAS,** Company and the City of Clear Lake (the "City") desire to amend their original "Water Tower Lease with Option", entered into following a public hearing on October 7, 2007; and

**WHEREAS,** City and Company desire to work collaboratively to replace their collective telecommunications equipment and other facilities from the S. Shore Drive Water Storage Tower; and

**WHEREAS,** Preliminary engineering has indicated that a location near the Clear Lake City Hall building, 15 N. 6<sup>th</sup> Street, adjacent to the police department alley, would provide sufficient coverage for both parties' purposes.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Clear Lake, Iowa:

1. That entering into the Agreements with CL Tel Wireless would fulfill a public purpose.
2. That pursuant to applicable Iowa law a public hearing shall be held before this City Council on the above-referenced proposed Agreement(s) with CL Tel Wireless Inc. on September 4, 2012, at 6:30 p.m., in the Council Chambers, at City Hall.
3. That the City Clerk is authorized and directed to publish notice of this hearing on August 29, 2012 in the Clear Lake Mirror Reporter.

PASSED and APPROVED this 20<sup>th</sup> day of August, 2012.

\_\_\_\_\_  
Nelson P. Crabb, Mayor

Attest: \_\_\_\_\_  
Jennifer Larsen, City Clerk

**NOTICE OF PUBLIC HEARING**

On September 4, 2012, at 6:30 p.m., in the Council Chambers, at City Hall, 15 N. 6<sup>th</sup> Street, the Clear Lake City Council will conduct a public hearing for the purpose of providing citizens with information on the proposed: **FIRST AMENDMENT TO WATER TOWER LEASE WITH OPTION; SITE LEASE WITH OPTION; AND TOWER COLLOCATION LEASE AGREEMENT BY AND BETWEEN THE CITY OF CLEAR LAKE AND CL TEL WIRELESS INCORPORATED** and allow citizens to comment on the proposed Agreements.

This public notice is given by order of the Clear Lake City Council.

---

Jennifer Larsen, City Clerk

**LETTER OF INTENT BETWEEN THE CITY OF CLEAR LAKE, IOWA,  
AND CLTEL WIRELESS INC.**

WHEREAS, on November 9, 2007, the City of Clear Lake, Iowa, (the "City") and CL Tel Wireless, Inc. ("CLTel") entered into a lease allowing CLTel to use three (3) of the City's elevated water storage towers for its cellular antennas and base stations; and

WHEREAS, the City desires to remove the Main Avenue Water Storage Tower (the "Tower"), due to age, functional obsolescence, and cost of on-going and future maintenance, from its water distribution system; and

WHEREAS, as a result of the contemplated removal of the Tower and, further, in anticipation of such removal, CLTel will be required to find a new location for its cellular antennas and base stations.

WHEREAS, the City of Clear Lake Police Department has its radio repeater and emergency response communications equipment also located on the Tower and, therefore, will, therefore, need a new location for said equipment; and

WHEREAS, the Police Department's radio engineering consultant has determined that the radio equipment can be co-located on the same monopole tower structure with cellular antennas; and

WHEREAS, a proposed location, near the City's police station, adjacent to the alley south of 1<sup>st</sup> Avenue N., the general proximity of which has been preliminarily determined to be a suitable location for the monopole tower structure and associated equipment of both the City and CLTel;

WHEREAS, there is an existing communications tower structure at the aforementioned location, which would be removed and replaced with a new monopole tower structure to be shared by both the City and CLTel.

**NOW, THEREFORE, THE CITY AND CLTEL AGREE AS FOLLOWS:**

The purpose of this Letter of Intent (LOI) is to document the understanding(s) between the City of Clear Lake ("City") and Clear Lake Independent Telephone Company ("CLTel") for the development of a wireless telecommunications monopole facility (the "Project") and the intent of the City and CLTel (collectively known as the "parties") and the intent of the parties to proceed with the Project.

Generally, it is the intent of the parties that the City will provide a "to be determined" fixed level of funding and "in-kind" support or other contributions to the Project. CLTel will provide the remainder of the funding for construction of the project, oversee construction and permitting of the project, and operate and manage the project following completion of the construction.

CLTel as owner of the Project will enter into an agreement with the City to enable and permit joint use of the proposed monopole structure by the City for radio repeater and emergency communication equipment purposes. The terms included herein represent the understandings of the parties at this time; however, it is the intent of the parties to negotiate in good faith to enter into a mutually acceptable agreement, which will set out the rights, obligations, warranties, and representations between the parties more completely. This will include a comprehensive "Project Development Agreement" and any other instruments which may be necessary for construction, maintenance, and operation of the Project (the "formal documents").

The Parties agree that if they are unable to reach agreement on the terms of the formal documents and the same are not finalized and executed by the Parties, on or before August 1, 2012, the Parties will have no further obligation to one another, unless the Parties shall mutually agree to extend the time for completion.

CLTel recognizes that the City is a governmental entity and, as such, is required to comply with certain statutory and regulatory requirements. CLTel shall consult with the City, but shall have sole discretion as to the contractor selected for construction of the Project.

It is the intent of the Parties that:

The City will allow CLTel to construct a 145' monopole tower structure for the joint use of the Police Department's radio repeater and emergency communications equipment and CLTel's wireless antennas and base station communications equipment. The location will be somewhere next to the police department building. The exact location is to be determined mutually by the Parties after soil borings are completed.

CLTel shall proceed with the permitting process prior to finalizing the formal documents in order that the process can move forward and be completed by January 1, 2013.

CLTel shall pay all costs associated with the design and construction of the monopole structure and all costs associated with its own equipment and furnishing.

CLTel shall ensure that all contractors are adequately bonded and insured, with the City named as an additional insured and that adequate liability insurance is maintained covering all operations related to the monopole tower structure design, operation, and maintenance, with the City named as an additional insured.

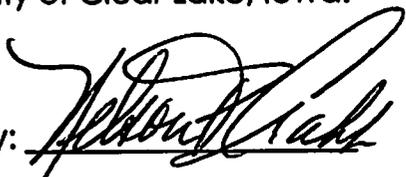
The terms agreed to in this LOI are intended to be binding on the Parties upon execution of the formal documents described herein. The Parties anticipate entering into formal agreements and instruments necessary to more clearly define and effectuate the terms, relationships, and commitments reflected above. The Parties agree that the terms used herein will be more clearly defined in the formal documents.

By action of the City Council at a public meeting held on June 18, 2012, the Mayor and City Clerk were authorized to execute this Letter of Intent on behalf of the City.

City of Clear Lake, Iowa:

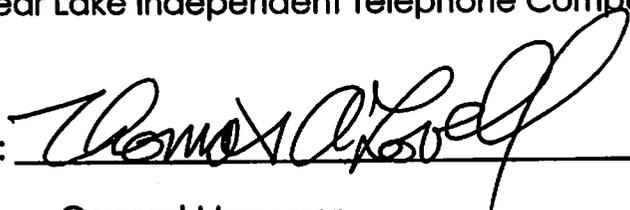
Clear Lake Independent Telephone Company:

By:



Mayor

By:



General Manager

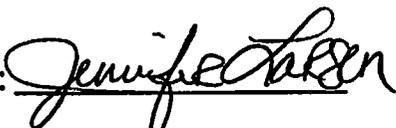
Date:

6-20-12

Date:

6-21-12

By:



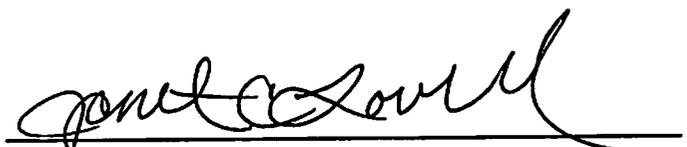
City Clerk

By:

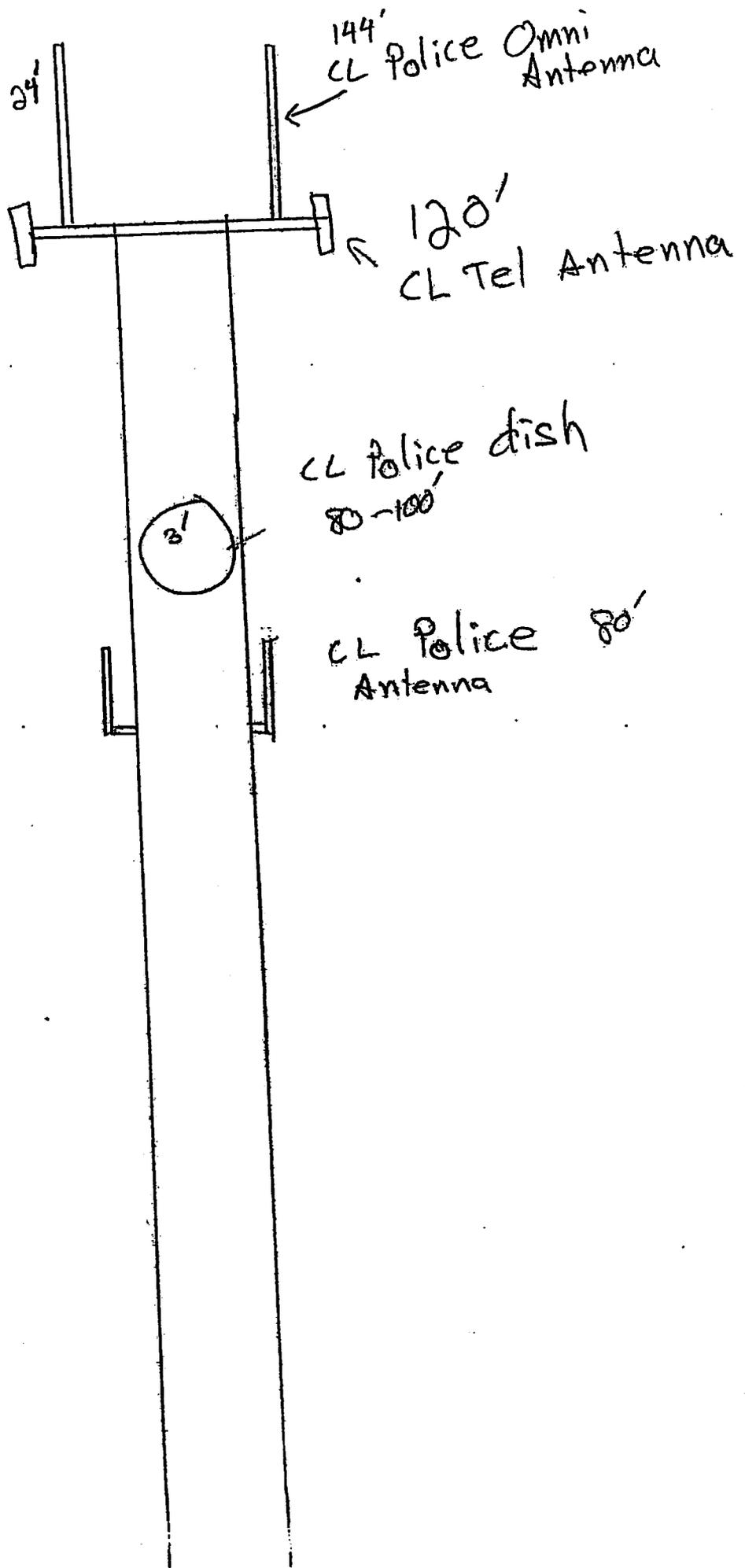


Secretary

Attest:



Hand sketch  
of estimated  
heights of  
equipment  
5-31-12 SF



## FIRST AMENDMENT TO WATER TOWER LEASE WITH OPTION

This First Amendment to Water Tower Lease with Option ("Amendment") is entered into this \_\_\_ day of \_\_\_\_\_, 2012, by and between City of Clear Lake, Iowa ("Landlord") and CLTel Wireless, Inc., an Iowa corporation ("Tenant").

### R E C I T A L S:

**WHEREAS**, Landlord and Tenant are parties to a "Water Tower Lease with Option", dated October 1, 2007 (the "Lease"), providing for, *intra alia*, the collocation of Antenna Facilities upon three (3) municipal water towers located in the City of Clear Lake, Iowa; and

**WHEREAS**, the City anticipates and has begun planning for the removal of the water tower located on South Shore Drive, Clear Lake, Iowa (the "South Shore Drive Site") due to age and functional obsolescence; and

**WHEREAS**, Tenant will be required to replace its Antenna Facilities and other equipment from the South Shore Drive Site in order to replace the coverage currently being provided at the South Shore Drive Site; and

**WHEREAS**, Landlord and Tenant each desire to amend the Lease to provide an alternate location suitable to Tenant to address issues raised by Landlord's removal of the water tower at the South Shore Drive Site.

**NOW THEREFORE**, in consideration of the mutual covenants and agreements set forth herein, the parties agree as follows:

1. Deletion of South Shore Drive Site and Construction of a Replacement Telecommunication Facility upon City of Clear Lake Property. The parties agree that the collocation of Antenna Facilities upon the downtown water tower located on South Shore Drive, Clear Lake, Iowa (the "South Shore Drive Site") shall be deleted from the Lease. Exhibit "B-1" to the Lease is no longer relevant and is hereby deleted. Landlord agrees to grant Tenant the option to construct a telecommunication monopole structure upon Property owned by Landlord located at 15 North 6<sup>th</sup> Street, Clear Lake, Iowa (the "Replacement Site") according to the terms of the Site Lease with Option of even date herewith and attached hereto as Amendment Exhibit "A".

2. Section 2(F)(i). Section 2(F)(i) of the Lease is hereby deleted in its entirety and replaced with the revised language below:

"(i) Tenant shall have the right, at its expense, to erect and maintain, on the Premises, improvements, personal property, and facilities necessary to operate its system, including radio transmitting and receiving antennas, related cables and utility lines, and electronic equipment cabinets and/or shelter (collectively the "Antenna Facilities"). Tenant shall have the right to replace, upgrade, modify, and/or increase the Antenna Facilities at any time during the term of this Lease, upon providing written notice of

intent to the City Administrator. Tenant shall cause all construction to occur lien-free and in compliance with all applicable laws and ordinances. The Antenna Facilities shall remain the exclusive property of Tenant. Tenant shall remove the Antenna Facilities upon termination of this Lease.”

3. Deletion of Section 2(F)(ii). Landlord and Tenant agree that Section 2(F)(ii) of the Lease is deleted.

4. Exhibit Updates. Exhibits B-2 and B-3 of the Lease are hereby deleted, and replaced with Amendment Exhibits B-2 and B-3 to reflect upgrades to the Antenna Facilities on the remaining water towers. Landlord hereby consents to the upgrade of Antenna Facilities as described in Amended Exhibits B-2 and B-3.

5. Initial Term of Lease. Landlord and Tenant agree that Section 2A of the original lease is hereby repealed in its entirety and that the new initial term of the lease shall be for a period of ten (10) years, commencing on the exercise of this Option and terminating at midnight on the last day of the month in which the tenth anniversary of the Commencement Date (the date of the exercise of this Option by Tenant) shall have occurred.

6. Adjustment of Rent. In consideration of Landlord's removal of the South Shore Drive Water Tower and, notwithstanding Section 2(c) of the Lease, Landlord agrees that the annual rent for all sites under the Lease (including the Replacement Site) and the Additional Site (described below) shall be one-hundred dollars (\$100) during the initial 10-year term of the lease and \$5,000 annually for each renewal term thereafter.

7. Term. Section 2(d) of the Lease is hereby deleted, and replaced with the following:

(d) Renewal Terms. Tenant shall have the right to extend this Lease for five (5) additional five (5) year terms (each a "Renewal Term"). Each Renewal Term shall be upon the same terms and conditions set forth in the Lease (as amended herein). The Lease shall automatically renew for each successive renewal term unless either party shall notify the other, in writing, of its intention not to renew the Lease, at least one year prior to expiration of the term or any renewal term. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any renewal term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease (as amended).

8. Removal of Water Towers. In the event Landlord elects to decommission or remove any other water tower upon which Tenant has collocated Antenna Facilities under the Lease (other than the South Shore Drive water tower), Landlord shall give Tenant a Right of First Refusal to assume ownership of the water tower for the purpose of maintaining an antenna platform (provided Tenant agrees to maintain the water tower) and at a cost to be negotiated between the parties. If Tenant declines to assume ownership of the Water Tower, Landlord

agrees to allow Tenant to construct a monopole tower of substantially equivalent height in the immediate vicinity of the water tower location to serve as a Replacement Site. In the event Tenant elects to construct a replacement tower, Landlord agrees that it will permit the construction of a replacement tower, subject to all necessary zoning action. However, if Landlord decides to replace the decommissioned Water Tower in substantially the same location, Tenant must relocate its Antenna Facilities upon the replacement water tower, under the same terms as conditions as defined herein.

9. Entire Agreement. This Amendment represents the entire agreement of the parties relating to the matters set forth herein. Except as provided herein, the terms and conditions of the Lease shall remain in full force and effect. Capitalized terms used herein, but not otherwise defined shall have the meaning set forth in the Lease.

**LANDLORD**

**TENANT**

**CITY OF CLEAR LAKE, IOWA**

**CL TEL WIRELESS, INC.**

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

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

ACKNOWLEDGMENT

STATE OF IOWA                    )  
  )        ss:  
COUNTY OF \_\_\_\_\_        )

On this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_, before me, a Notary Public personally appeared \_\_\_\_\_ to me personally known, who being by me duly sworn, did say that he is the \_\_\_\_\_ of the municipal corporation executing the foregoing instrument, and acknowledges the execution to be the free and voluntary act and deed of said corporation for the uses and purposes therein mentioned; and on oath, stated that they were authorized to execute said instrument.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of \_\_\_\_\_  
My commission expires: \_\_\_\_\_

ACKNOWLEDGMENT

STATE OF IOWA            )  
                                  )     ss:  
COUNTY OF POLK        )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me, a Notary Public personally appeared \_\_\_\_\_, to me personally known, who being by me duly sworn, did say                            that                            he                            is                            the \_\_\_\_\_, executing the foregoing instrument, that no seal has been procured by the company; that the instrument was signed on behalf of the company's Board of Directors; and that as such officer acknowledged execution of the instrument to be the voluntary act and deed of the limited liability company by it and by him voluntarily executed.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Iowa

My commission expires: \_\_\_\_\_

Amendment Exhibit A

(See Attached)

Replacement Exhibit B-2

(See Attached)

Replacement Exhibit B-3

(See Attached)

Site: 024-\_\_\_\_\_: \_\_\_\_\_

## SITE LEASE WITH OPTION

THIS SITE LEASE WITH OPTION (this "Lease") is effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date"), between City of Clear Lake, Iowa ("Landlord") and CL Tel Wireless, Inc., an Iowa corporation ("Tenant").

### 1. Option to Lease.

A. In consideration of the payment of One Dollar (\$ 1.00) (the "Option Fee") by Tenant to Landlord, Landlord hereby grants to Tenant an option to lease a portion of the real property described in attached Exhibit A (the "Property"), on the terms and conditions set forth herein (the "Option"). The Option shall be for an initial 12 month term from the Effective Date (the "Option Period"). The Option Period may be extended by Tenant, upon approval of the Landlord, for an additional 12 months upon written notice to Landlord and payment of the sum of one-thousand Dollars (\$ 1,000.00) ("Additional Option Fee") at any time prior to the end of the Option Period.

B. During the Option Period and any extension thereof, and during the term of this Lease, Landlord agrees to cooperate with Tenant in obtaining, at Tenant's expense, all licenses and permits or authorizations required for Tenant's use of the Premises from all applicable government and/or regulatory entities (the "Governmental Approvals") including appointing Tenant as agent for all conditional-use permit applications and zoning change applications, and Landlord agrees to cooperate with and to allow Tenant, at no cost to Landlord, to obtain a title report, zoning approvals and variances, conditional-use permits, perform surveys, soil tests, and other engineering procedures or environmental investigations on, under and over the Property, necessary to determine that Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system design, operations and Governmental Approvals. During the Option Period and any extension thereof, Tenant may exercise the Option by so notifying Landlord in writing, at Landlord's address in accordance with Section K hereof.

### 2. Terms of Lease.

If Tenant exercises the Option, then, subject to the following terms and conditions, Landlord hereby leases to Tenant without the necessity of the Parties executing any additional lease instruments, that certain portion of the Property sufficient for placement of Antenna Facilities (as defined below), together with all necessary space and easements for access and utilities, as generally described and depicted in attached Exhibit B (collectively referred to hereinafter as the "Premises").

The Premises, located at 15 North 6<sup>th</sup> Street, Clear Lake, Iowa 50428 comprises approximately \_\_\_\_ square

A. Term. The initial term of this Lease shall commence on the date of the exercise of the option by Tenant, (the "Commencement Date"), and terminating according to the terms of Section 6. Term, of the First Amendment to Water Tower Lease with Option, to which this agreement is an exhibit thereof.

B. Permitted Use. The Premises may be used by Tenant for the transmission and reception of radio communication signals and for the construction, maintenance, repair or replacement of related facilities, towers, antennas, equipment or buildings and related activities. Tenant shall obtain, at Tenant's expense, all Governmental Approvals and may (prior to or after the Commencement Date) obtain a title report, perform environmental and other surveys, soil tests, and other engineering procedures on, under and over the Property, necessary to determine that Tenant's use of the Premises will be compatible with Tenant's engineering specifications, system, design, operations and Governmental Approvals. Landlord agrees to reasonably cooperate with Tenant (at no cost to Landlord), where required, to perform such procedures or obtain Governmental Approvals. Tenant shall have the right to immediately terminate this Lease if Tenant notifies Landlord of unacceptable results of any title report, governmental approvals, environmental survey or soil tests prior to Tenant's installation of the Antenna Facilities (as defined below) on the Premises.

C. Rent.

(i) Tenant shall pay Landlord, as Rent, according to the terms of Section 6. Adjustment of Rent, of the First Amendment to Water Tower Lease with Option, to which this agreement is an exhibit thereof.

D. Possession. If Tenant shall remain in possession of the Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

E. Radio Frequency (RF) Interference. Tenant shall not use the Premises in any way which creates radio frequency interference with any radio equipment or transmissions of Landlord at the property, provided such radio equipment or transmissions are operated in compliance with applicable federal, state and local law and FCC regulations. Similarly, Landlord shall not use, nor shall Landlord permit its tenants, licensees, employees, invitees or agents to use, any portion of the Property in any way which creates radio frequency interference with the operations of Tenant. Any such radio frequency interference shall be deemed a material breach by the interfering party, who shall, upon written notice from the other, be responsible for terminating said interference in a timely manner. In the event any such interference does not cease within five (5) working days of receiving written notice, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

F. Improvements; Utilities; Access.

(i) Tenant shall have the right, at its expense, to erect and maintain on the Premises improvements, personal property and facilities necessary to operate its system, including without

limitation any number of radio transmitting and receiving antennas, related cables and utility lines, an electronic equipment shelter and/or equipment cabinets, and tower and bases (collectively the "Antenna Facilities"). Tenant shall have the right to replace or upgrade the Antenna Facilities at any time during the term of this Lease. Tenant shall cause all construction to occur lien-free, provided however in the event a lien does attach, Tenant shall have the right and option to bond over such lien within 30 days of notice of said lien. Tenant shall cause all construction to occur in compliance with all applicable laws and ordinances. The Antenna Facilities shall remain the exclusive property of Tenant. Tenant shall remove the Antenna Facilities and all subsurface improvements to a depth of 36 inches upon termination of this Lease.

(ii) Tenant, at its expense, may use any and all appropriate means of restricting access to the Antenna Facilities, including, the construction of a fence, subject to review and approval by the City Council.

(iii) Tenant shall, at Tenant's expense, keep and maintain the Antenna Facilities now or hereafter located thereon in good condition and repair during the term of this Lease, normal wear and tear excepted. Upon termination of this Lease, the Premises shall be returned to Landlord in good, usable condition, normal wear and tear excepted.

(iv) Tenant shall pay any additional utility charges due to Tenant's use. Tenant shall have the right to install and to improve the present utilities on the Premises, at Tenant's expense, (including, but not limited to the installation of emergency power generators). Tenant shall install separate meters for utilities used on the Property. In the event separate meters are not installed, Tenant shall pay the periodic charges for all utilities attributable to Tenant's use. Landlord shall diligently correct any variation, interruption or failure of utility service.

(v) As partial consideration for Rent paid under this Lease, Landlord hereby grants Tenant an easement ("Easement") for ingress, egress, and access (including access as described in Section 1) to the Premises adequate to install and maintain utilities, which include, but are not limited to the installation of overhead or underground power and telephone service cable, and to service the Premises and the Antenna Facilities at all times during the term of this Lease or any Renewal Term. Upon prior written notice, provided Tenant's Antenna Facilities remain fully functional and continue to transmit at full power, Landlord shall have the right, at Landlord's sole expense, to relocate the Easement to Tenant. Any Easement provided hereunder shall have the same term as this Lease. If allowed by the utility service provider, all utility lines will be buried.

(vi) Tenant shall have 24-hours-a-day, 7-days-a-week access to the Premises and Easement at all times during the term of this Lease and any Renewal Term.

G. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(i) Upon thirty (30) days' written notice by Landlord for failure to cure a material default for payment of amounts due under this Lease within that thirty (30) day period;

(ii) Upon thirty (30) days' written notice by either party if the other party defaults and fails to cure or commence curing such default within that 30-day period, or such longer period as

may be required to diligently complete a cure commenced within that 30-day period;

(iii) Upon ninety (90) days' written notice by Tenant, if it is unable to obtain, maintain, or otherwise forfeits or cancels any license, permit or Governmental Approval necessary to the installation and/or operation of the Antenna Facilities or Tenant's business;

(iv) Upon ninety (90) days' written notice by Tenant if the Property, Building or the Antenna Facilities are or become unacceptable under Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong;

(v) Immediately upon written notice if the Premises or the Antenna Facilities are destroyed or damaged so as in Tenant's reasonable judgment to substantially and adversely affect the effective use of the Antenna Facilities. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction.

(vi) At the time title of the Property transfers to a condemning authority, pursuant to a taking of all or a portion of the Property sufficient in Tenant's determination to render the Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Property to a purchaser with the power of eminent domain in the face of the exercise of the power shall be treated as a taking by condemnation.

(vii) Immediately upon written notice in the event that Tenant determines the existence of a violation of any environmental law or a condition that requires remediation under any environmental laws that existed as of and/or prior to the Commencement Date, or which may be the basis for assertion of any third party claims. If Tenant elects to continue this Lease, Landlord shall be responsible for taking all actions necessary to investigate and remediate said contamination in accordance with Landlord's obligations as set out in Paragraph M.

H. Taxes. Tenant shall pay any property taxes assessed on, or any portion of such taxes attributable to, the Antenna Facilities. Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Property. In the event that Landlord fails to pay said real property taxes, then Tenant shall have the right but not the obligation to pay said taxes and deduct them from Rent amounts due under this agreement.

I. Insurance and Subrogation.

(i) Tenant will provide Commercial General Liability Insurance in an aggregate amount of \$2,000,000 and name Landlord as an additional insured on the policy or policies. Tenant may satisfy this requirement by obtaining appropriate endorsement to any master policy of liability insurance Tenant may maintain.

(ii) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other.

J. Hold Harmless. Tenant agrees to hold Landlord harmless from claims arising from the installation, use, maintenance, repair or removal of the Antenna Facilities, except for claims arising from the negligence or intentional acts of Landlord, its employees, agents or independent contractors, and except for claims released under the provisions of Section I (ii) of this Agreement.

K. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Tenant: CL Tel Wireless, Inc.  
Attn: Thomas A. Lovell  
Vice President / General Manager  
PO Box 66  
Clear Lake, IA 50428  
Phone: (641) 357-2111  
Fax: (641) 357-8800

With a copy to:  
Iowa Wireless Services, LLC  
Attn.: Real Estate Manager  
4135 NW Urbandale Drive  
Urbandale, Iowa 50322  
Phone: (515) 258-7507  
Fax: (515) 258-7100

If to Landlord: City of Clear Lake  
Attn: City Administrator  
15 N 6<sup>th</sup> Street  
PO Box 185  
Clear Lake, IA 50428  
Phone (641) 357-5267

L. Quiet Enjoyment, Title and Authority. Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute this Lease; (ii) it has good and unencumbered title to the Property free and clear of any liens or mortgages, except those disclosed to Tenant which will not interfere with Tenant's rights to or use of the Premises; and (iii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Landlord.

Landlord covenants that at all times during the term of this Lease, Tenant's quiet enjoyment of the Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

M. Hazardous Substances. Tenant agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Premises in violation of any law or regulation. Landlord represents, warrants and agrees (i) that to Landlord's best knowledge, neither Landlord nor

any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under about or within the Premises in violation of any law or regulation, except as disclosed herein, and (ii) that Landlord will not, and will not permit any third party to use, generate, store or dispose any Hazardous Material on, under, about or within the Premises in violation of any law or regulation. Landlord and Tenant each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities claims and/or costs arising from any breach of any representation, warranty or Lease contained in this paragraph. In addition, Landlord shall defend, indemnify and hold harmless Tenant from all other losses, liabilities, claims and/or costs arising from or related to the environmental condition, including costs of remediation, which are not the result of any act of Tenant. As in this paragraph, "Hazardous Material" shall mean hazardous or radioactive material, polychlorinated biphenyls, friable asbestos or other hazardous or medical waste substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, as amended, or by any other federal, state or local law, statute, rule, regulation or order (including any Governmental Requirements) concerning environmental matters, or any matter which would trigger an employee or community "right-to-know" requirements adopted by any such body, or for which any such body has adopted any requirements for the preparation or distribution of material safety data sheet. This paragraph shall survive the termination of this Lease.

N. Assignment and Subleasing. Subject to the approval of the Landlord, Tenant may assign this Lease to any person controlling, controlled by, or under common control with Tenant, or any person or entity that, after first receiving FCC or state regulatory agency approvals, acquires substantially all of Tenant's radio communications business and assumes all obligations of Tenant under this Lease. Upon such assignment Tenant shall be relieved of all liabilities and obligations hereunder and Landlord shall look solely to the assignee for performance under this Lease and all obligations hereunder. Landlord shall be free at all times to assign all of its right, title and its interest in this Lease provided that such assignment shall be in connection with its conveyance of fee title to the lease premises and the lease, including all rights and obligations thereunder, are assigned in their entirety. Landlord shall not, under any circumstances sever the rights and obligations under the Lease without Tenant's prior consent, which consent may be withheld in Tenant's discretion.

Tenant may sublease the Premises, upon written notice to Landlord, only if such sublease is subject to the provisions of this Lease. Tenant may otherwise assign this Lease upon written notice to Landlord.

Additionally, Tenant may mortgage or grant a security interest in this Lease and the Antenna Facilities, and may assign this Lease and the Antenna Facilities to any mortgagees or holders of security interests, including their successors or assigns, (hereinafter collectively referred to as "Mortgagees"), provided such Mortgagees agree to be bound by the terms and provisions of this Lease. In such event, Landlord shall execute such consent to leasehold financing as may reasonably be required by Mortgagees. Landlord agrees to notify Tenant and Tenant's Mortgagees simultaneously of any default by Tenant and to give Mortgagees the same right to cure any default as Tenant or to remove any property of Tenant or Mortgagee located on the Premises, except that the cure period for any Mortgagee shall not be less than thirty (30) days after receipt of the default notice, as provided in Section K of this Lease. All such notices to Mortgagees shall be sent to Mortgagee at the address specified by Tenant upon entering into a financing agreement. Failure by Landlord to give Mortgagee such notice shall not diminish Landlord's rights against Tenant, but shall

preserve all rights of Mortgagee to cure any default and to remove any property of Tenant or Mortgagee located on the Premises, as provided in Section P of this Lease.

O. Successors and Assigns. This Lease shall run with the Property, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

P. Waiver of Landlord's Lien. Landlord hereby waives any and all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities or any portion thereof which shall be deemed personal property for the purposes of this Lease, regardless of whether or not the same is deemed real or personal property under applicable laws, and Landlord gives Tenant and Mortgagee the right to remove all or any portion of the same from time to time, whether before or after a default under this Lease, in Tenant's and/or Mortgagee's sole discretion and without Landlord's consent.

Q. Landlord's Use of Tower. If Tenant exercises its Option and constructs the Antenna Facilities contemplated herein, Tenant agrees to allow Landlord to collocate its Antenna Facilities upon the Tower as described in Exhibit "D" without payment of rent. Landlord's use shall be subject to execution and delivery of a mutually acceptable collocation agreement, which will include, but is not limited to, provisions for the use of Tower at their own risk, non-interference with Tenant or other carries, and indemnification of Tenant.

R. Miscellaneous.

(i) The prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorneys' fees and court costs, including appeals, if any.

(ii) Each party agrees to furnish to the other, within ten (10) days after request, such truthful estoppel information as the other may reasonably request.

(iii) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by both parties.

(iv) If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker, and shall hold the other party harmless from any claims for commission by such broker.

(v) Each party agrees to cooperate with the other in executing any documents necessary to protect its rights or use of the Premises. A Memorandum of Lease may be recorded in place of this Lease, by either party.

(vi) This Lease shall be construed in accordance with the laws of the state in which the Property is located.

(vii) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties

intend that the provisions of this Lease be enforced to the fullest extent permitted by applicable law. Accordingly, the parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

(viii) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

(ix) The submission of this document for examination does not constitute an offer to lease or a reservation of or option for the Premises and shall become effective only upon execution by both Tenant and Landlord.

(x) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

(xi) The parties understand and acknowledge that Exhibit A (the legal description of the Property), Exhibit B (the Premises location within the Property) may be attached to this Lease in preliminary form. Accordingly, the parties agree that upon the preparation of final, more complete exhibits, Exhibits A, and B, as the case may be, which may have been attached hereto in preliminary form, may be replaced by Tenant with such final, more complete exhibit(s).

LANDLORD: City of Clear Lake

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

Its: \_\_\_\_\_

Attest: \_\_\_\_\_

Its: \_\_\_\_\_

TENANT: CL Tel Wireless, Inc.

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

Thomas A. Lovell

Its: Vice President

Site:

## TOWER COLLOCATION LEASE

THIS TOWER COLLOCATION LEASE (this "Lease") is effective this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date"), between \_\_\_\_\_ ("Landlord"), and \_\_\_\_\_, a \_\_\_\_\_ limited liability company ("Tenant").

### Lease.

Landlord hereby leases to Tenant without the necessity of the Parties executing any additional lease instruments, the use of that portion of the Tower (as defined below) and a portion of the land (as defined in Exhibit A attached hereto), together with easements for access and utilities (collectively referred to hereinafter as, the "Sublease Premises").

The Sublease Premises is located at \_\_\_\_\_ and further described in Exhibit "B" attached hereto.

A. Term. The initial term of this Lease shall be ten (10) years, commencing on the installation of Tenant's equipment (the "Commencement Date"), and terminating at Midnight on the last day of the month in which the tenth anniversary of the Commencement Date shall have occurred.

B. Permitted Use. Tenant shall have the right, at its expense, to erect and maintain on the Sublease Premises improvements, personal property and facilities, including radio transmitting and receiving antennas, and electronic equipment (collectively the "Antenna Facilities") as set forth in Exhibit B. Tenant's antenna and equipment attached to Landlord's existing telecommunications tower (the "Tower") shall be deemed as part of the Antenna Facilities defined in the Prime Lease for purposes of this Lease, to the extent not otherwise provided herein. Tenant shall obtain, at Tenant's expense, all Governmental Approvals and may (prior to or after the Commencement Date) obtain a title report, perform environmental and other surveys, soil tests, and other engineering procedures on, under and over the Premises, as defined in the Prime Lease, necessary to determine that Tenant's use of the Sublease Premises will be compatible with Tenant's engineering specifications, system, design, operations and Governmental Approvals. Landlord agrees to reasonably cooperate with Tenant (at no cost to Landlord), where required, to perform such procedures or obtain Governmental Approvals. Tenant shall have the right to immediately terminate this Lease if Tenant notifies Landlord in writing of unacceptable results of any title report, governmental approvals, environmental survey or soil tests on or before the earlier of (i) ninety (90) days after the Effective Date; or (ii) Tenant's installation of the Antenna Facilities (as defined below) on the Sublease Premises.

This Lease is subject to all terms and conditions of a certain Prime Lease, a true and correct copy of which (with financial terms redacted), is attached hereto as Exhibit "C" and incorporated herein by reference (the "Prime Lease"). Tenant shall not cause, or commit or permit to be committed any act or omission which violates any term or condition of the Prime

Lease. To the extent any such duty or obligations are not assumed by Tenant under this Lease, Landlord agrees to abide by and fulfill its duties and obligations under the Prime Lease. During the Term of this Lease Landlord is under no obligation to extend the term of or renew the Prime Lease, but. Landlord shall give Tenant written notice of any default or alleged default of the Prime Lease which could result in the termination or expiration of the Prime Lease as soon as practical. In the event of termination of Landlord's interest as Tenant under the Prime Lease for any reason, this Lease shall concurrently terminate, and Landlord shall have no liability to Tenant as the result of any such termination.

C. Rent. Tenant shall not be required to pay Landlord rent during the initial term or any renewal term thereafter.

D. Renewal. Tenant shall have the right to extend this Lease for five (5) additional, five-year terms ("Renewal Term"). Each Renewal Term shall be on the same terms and conditions as set forth herein.

This Lease shall automatically renew for each successive Renewal Term unless Tenant shall notify Landlord, in writing, of Tenant's intention not to renew this Lease, at one year prior to the expiration of the term or any Renewal Term.

If Tenant shall remain in possession of the Sublease Premises at the expiration of this Lease or any Renewal Term without a written agreement, such tenancy shall be deemed a month-to-month tenancy under the same terms and conditions of this Lease.

E. Interference. Tenant shall not use the Premises in any way which interferes with the use of the Premise by Landlord, or by other tenants or licensees of Landlord with rights to the Premise prior in time to Tenant's (subject to Tenant's rights under this Lease, including without limitation, non-interference). Similarly, Landlord shall not use, nor shall Landlord permit its tenants, licensees, employees, invitees or agents to use, any portion of Landlord's properties in any way which interferes with the operations of Tenant. Tenant's Antenna Facilities shall comply with all applicable federal, state and local laws, ordinances and regulations, including but not limited to those regulations promulgated by the FCC. In the event Tenant's Antenna Facilities causes interference, Tenant shall take all steps necessary to correct and eliminate the interference. If such interference cannot be eliminated within forty-eight (48) hours after receipt by Tenant of notice from Landlord describing the existence of the interference, Tenant shall disconnect the electric power and shut down the equipment (except for intermit operation for the purpose of testing, after performing maintenance, repair modification, replacement or other action taken for the purpose of correcting such interference) until such interference is corrected. If such interference is not corrected within fifteen (15) days after receipt by Tenant written notice of Landlord of the existence of interference, Landlord shall have the right to terminate this Lease without further obligation. In the event any such interference does not cease promptly, the parties acknowledge that continuing interference may cause irreparable injury and, therefore, the injured party shall have the right, in addition to any other rights that it may have at law or in equity, to bring a court action to enjoin such interference or to terminate this Lease immediately upon written notice.

F. Improvements; Utilities; Access.

(i) Tenant shall install and maintain the Antenna Facilities in accordance with the standards of good engineering practice, and ensure that they conform at all times with Landlord's standards and requirements, including the grounding of the Antenna Facilities. Prior to the commencement of any construction or installation on the Premises, Tenant shall furnish plans and specifications for such installation for review and approval by Landlord, which shall not be unreasonably withheld or delayed. Tenant shall not commence construction or installation until Tenant has received written approval from Landlord. Landlord shall have the right to review and make comment to Tenant concerning all contractors performing services upon the Tower. Tenant shall have the right to replace existing antennas with same model of antenna for maintenance purposes without the written consent of Landlord. Tenant shall also be permitted to upgrade the Antenna Facilities during the term of this Lease, with the written consent of Landlord, which consent may not be unreasonably withheld or conditioned by Landlord. The Antenna Facilities shall remain the exclusive property of Tenant. Tenant shall remove the Antenna Facilities upon termination of this Lease.

(ii) Tenant shall be solely responsible to ensure that Tenant's installation of Antenna Facilities do not affect the structural integrity of the Tower, and that no such damages results to the Tower due to installation of the Antenna Facilities. If Landlord reasonably believes that the structural integrity of the Tower may be affected, Landlord shall perform a structural analysis prior to installation of Antenna Facilities. If a structural analysis of the Tower is requested by the Landlord, Tenant shall be responsible for any required modification designs determined to be required by a licensed structural engineer, or other party, acceptable to both the Landlord and Tenant. Landlord shall furnish a copy of the analysis and design to Tenant, upon request. All costs of any required design modifications to the Tower to support Tenant's requested installation shall be paid solely by the Tenant.

(iii) Tenant shall pay any additional utilities charges due to Tenant's use. Tenant shall have the right to install utilities, at Tenant's expense, and to improve the present utilities on the Sublease Premises (including, but not limited to the installation of emergency power generators). Landlord hereby grants an easement to permanently place any utilities on, or to bring utilities across, the Premises in order to service the Sublease Premises and the Antenna Facilities, provided plans for said utilities are approved in accordance with Paragraph 7 of this Lease.

(iv) As partial consideration for rent paid under this Lease, Landlord hereby grants Tenant an easement ("Easement") for ingress, egress, and access to the Sublease Premises adequate to service the Sublease Premises and the Antenna Facilities at all times during the term of this Lease or any Renewal Term. Upon prior written notice, Landlord shall have the right, at Landlord's sole expense, to relocate the Easement to Tenant, provided such new location shall not materially interfere with Tenant's operations. Any Easement provided hereunder shall have the same term as this Lease.

(v) Tenant shall have 24-hours-a-day, 7-days-a-week access to the Sublease Premises at all times during the term of this Lease and any Renewal Term.

G. Termination. Except as otherwise provided herein, this Lease may be terminated, without any penalty or further liability as follows:

(i) upon fifteen (15) business days' written notice by Landlord for failure to cure a material default for payment of amounts due under this Lease within that 15-day period;

(ii) upon thirty (30) days' written notice by either party if the other party defaults and fails to cure such default within that 30-day period, or such longer period as may be required to diligently complete a cure commenced within that 30-day period;

(iii) upon ninety (90) days' written notice by Tenant, if it is unable to obtain, maintain, or otherwise forfeits or cancels any license, permit or Governmental Approval necessary to the construction and/or operation of the Antenna Facilities or Tenant's business;

(iv) upon (180) days written notice by Tenant, if the Sublease Premises are or become unacceptable under Tenant's design or engineering specifications for its Antenna Facilities or the communications system to which the Antenna Facilities belong.

(v) immediately upon written notice by either party if the Sublease Premises or the Antenna Facilities are destroyed or damaged so as in either party's reasonable judgment to substantially and adversely affect the effective use of the Antenna Facilities. In such event, all rights and obligations of the parties shall cease as of the date of the damage or destruction.

(vi) at the time title of the Premises transfers to a condemning authority, pursuant to a taking of all or a portion of the Premises sufficient in either party's determination to render the Sublease Premises unsuitable for Tenant's use. Landlord and Tenant shall each be entitled to pursue their own separate awards with respect to such taking. Sale of all or part of the Premises to a purchaser with the power of eminent domain in the face of the exercise of the power, shall be treated as a taking by condemnation.

(vii) Immediately upon written notice in the event that Landlord determines the existence of a violation of any environmental law or a condition that requires remediation under any environmental laws that existed as of and/or prior to the Commencement Date, or which may be the basis for assertion of any third party claims. If Landlord elects to continue this Lease, Landlord shall be responsible for taking all actions necessary to investigate and remediate said contamination, subject to Tenant's obligations as set out in Paragraph M.

(viii) Immediately upon termination of the Prime Lease, subject to provisions described in Section B above.

H. Taxes. Tenant shall pay any taxes (whether characterized as personal or real property) assessed on, or taxes attributable to, the Tenant's Antenna Facilities. Except as provided in the Prime Lease, Landlord shall pay when due all real property taxes and all other fees and assessments attributable to the Tower and its own antenna facilities. In the event that Landlord fails to pay said real property taxes, then Tenant shall have the right, but not obligation, to pay said taxes and deduct them from Rent amounts due under this Lease.

I. Insurance and Subrogation.

(i) Landlord and Tenant will provide Commercial General Liability Insurance in an aggregate amount of \$2,000,000 and Tenant will name Landlord as an additional insured

on the policy or policies. Tenant may satisfy this requirement by obtaining appropriate endorsement to any master policy of liability insurance Tenant may maintain.

(ii) Landlord and Tenant hereby mutually release each other (and their successors or assigns) from liability and waive all right of recovery against the other for any loss or damage covered by their respective first party property insurance policies for all perils insured thereunder. In the event of such insured loss, neither party's insurance company shall have a subrogated claim against the other.

J. Hold Harmless. Tenant agrees to defend, indemnify and hold Landlord harmless from claims arising from the installation, use, maintenance, repair or removal of the Antenna Facilities, except for claims arising from the gross negligence or intentional acts of Landlord, its employees, agents or independent contractors, and except for claims released under the provisions of Section I (ii) of this Lease. Landlord agrees to defend, indemnify and hold Tenant harmless from all claims arising from the gross negligence or intentional acts of Landlord, its employees, agents or independent contractors, and except for claims released under the provisions of Section I (ii) of this Lease.

K. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed given if personally delivered or mailed, certified mail, return receipt requested, or sent by overnight carrier to the following addresses:

If to Tenant: City of Clear Lake  
Attn: City Administrator  
15 N 6<sup>th</sup> Street  
PO Box 185  
Clear Lake, IA 50428  
Phone (641) 357-5267

If to Landlord: CL Tel Wireless, Inc.  
Attn: Thomas A. Lovell  
Vice President / General Manager  
PO Box 66  
Clear Lake, IA 50428  
Phone: (641) 357-2111  
Fax: (641) 357-8800

With a copy to:  
Iowa Wireless Services, LLC  
Attn.: Real Estate Manager  
4135 NW Urbandale Drive  
Urbandale, Iowa 50322  
Phone: (515) 258-7507  
Fax: (515) 258-7100

L. Quiet Enjoyment, Title and Authority. Landlord covenants and warrants to Tenant that (i) Landlord has full right, power and authority to execute this Lease; (ii) execution and performance of this Lease will not violate any laws, ordinances, covenants, or the provisions of any mortgage, lease, or other agreement binding on Landlord.

Landlord covenants that at all times during the term of this Lease, Tenant's quiet enjoyment of the Sublease Premises or any part thereof shall not be disturbed as long as Tenant is not in default beyond any applicable grace or cure period.

M. Mechanic's Lien. Tenant shall not permit any mechanic's, materialman's, contractor's, or subcontractor's liens arising from any construction work, repair, restoration or removal or any other claims or demands to be enforced against the Premises or the Tower, or any part thereof. Tenant agrees to hold Landlord and the Owner harmless from any claims or damages, or unpaid wages, or materials used by subcontractors, vendors, or employees arising from any of the foregoing. Landlord shall have the right to post and maintain upon, the Premises, such notices as may be necessary to protect Landlord against liability for any such liens or encumbrances. Tenant shall give Landlord written notice prior to commencement of any work or the delivery of any materials connected with such work or construction, repair, restoration or removal materials on the Sublease Premises or the Tower. In the event such a lien is filed upon the Premises as a result of any claim against Tenant, Tenant shall pay, bond over, or otherwise discharge such lien within twenty (20) days of the filing thereof.

N. Hazardous Substances. Tenant agrees that it will not use, generate, store or dispose of any Hazardous Material on, under, about or within the Sublease Premises in violation of any law or regulation. Landlord represents, warrants and agrees (i) that to Landlord's best knowledge, neither Landlord nor any third party has used, generated, stored or disposed of, or permitted the use, generation, storage or disposal of, any Hazardous Material on, under about or within the Sublease Premises in violation of any law or regulation, except as disclosed herein, and (ii) that Landlord will not, and will not permit any third party to use, generate, store or dispose any Hazardous Material on, under, about or within the Sublease Premises in violation of any law or regulation. Landlord and Tenant each agree to defend, indemnify and hold harmless the other and the other's partners, affiliates, agents and employees against any and all losses, liabilities claims and/or costs arising from any breach of any representation, warranty or Lease contained in this paragraph. In addition, Landlord shall defend, indemnify and hold harmless Tenant from any losses, liabilities, claims and/or costs arising from or related to the environmental condition, including costs of remediation, which are not the result of any act of Tenant. As in this paragraph, "Hazardous Material" shall mean hazardous or radioactive material, polychlorinated biphenyls, friable asbestos or other hazardous or medical waste substances as defined by the Comprehensive Environmental Response, Compensation and Liability Act, as amended, or by any other federal, state or local law, statute, rule, regulation or order (including any Governmental Requirements) concerning environmental matters, or any matter which would trigger an employee or community "right-to-know" requirements adopted by any such body, or for which any such body has adopted any requirements for the preparation or distribution of material safety data sheet. This paragraph shall survive the termination of this Lease.

O. Assignment and Subletting. Tenant shall not assign this Lease without the prior written consent of Landlord, provided however Tenant may assign this Lease to any person controlling, controlled by, or under common control with Tenant, or any person or entity that, after first receiving FCC or state regulatory agency approvals, acquires Tenant's radio communications business and assumes all obligations of Tenant under this Lease upon written notice not less than ten (10) days prior to such transfer. Notwithstanding the foregoing, Tenant shall not be relieved of any liabilities and obligations hereunder and Landlord shall be entitled to enforce the Lease Agreement. Landlord may assign this Lease upon written notice to Tenant.

Tenant shall not, mortgage or grant a security interest in this Lease and the Antenna Facilities, or assign this Lease and the Antenna Facilities to any mortgagees or holders of security interests, including their successors or assigns, (hereinafter collectively referred to as "Mortgagees"), unless approved in writing by Landlord.

P. Successors and Assigns. This Lease shall run with the land, subject to the terms and conditions of the Prime Lease, and shall be binding upon and inure to the benefit of the parties, their respective successors, personal representatives and assigns.

Q. Landlord's Lien. Tenant hereby acknowledges and grants to Landlord all lien rights it may have, statutory or otherwise, concerning the Antenna Facilities or any portion thereof which shall be deemed personal property for the purposes of this Lease, regardless of whether or not the same is deemed real or personal property under applicable laws, and Tenant gives to Landlord the right to remove all or any portion of the same from time to time, after a default under this Lease, in Landlord's sole discretion and without further notice to Tenant's consent.

R. Limitation of Liability. If Landlord shall be in default of any term, condition, covenant or obligation required to be performed or observed by it under this Lease, or is charged with an indemnity obligation hereunder, and if Tenant shall, as a consequent thereof, recover a money judgment against Landlord, Tenant agrees that it shall look solely to Landlord's right, title and interest in and to the Sublease Premises, for the collection of such judgment, and Tenant further agrees that no other assets of Landlord shall be subject to execution or other process for satisfaction of Tenant's judgment, and that Landlord, its officers, directors, members or shareholders shall not be personally liable for any deficiency.

S. Rules. Landlord may, from time-to-time, establish reasonable written rules relating to the Premises, and shall provide such rules to Tenant. Tenant agrees to comply with such rules. Notwithstanding the foregoing, such rules shall not materially impair Tenant's rights described elsewhere in this Agreement.

T. Miscellaneous.

(i) The substantially prevailing party in any litigation arising hereunder shall be entitled to its reasonable attorneys' fees and court costs, including appeals, if any.

(ii) Each party agrees to furnish to the other, within ten (10) days after request, such truthful estoppel information as the other may reasonably request.

(iii) This Lease constitutes the entire agreement and understanding of the parties, and supersedes all offers, negotiations and other agreements. There are no representations or understandings of any kind not set forth herein. Any amendments to this Lease must be in writing and executed by both parties.

(iv) If either party is represented by a real estate broker in this transaction, that party shall be fully responsible for any fee due such broker, and shall hold the other party harmless from any claims for commission by such broker.

(v) Each party agrees to cooperate with the other in executing any documents necessary to protect its rights or use of the Sublease Premises. A Memorandum of Lease may be recorded in place of this Lease, by either party.

(vi) This Lease shall be construed in accordance with the laws of the state which the Sublease Premises is located.

(vii) If any term of this Lease is found to be void or invalid, such invalidity shall not affect the remaining terms of this Lease, which shall continue in full force and effect. The parties intend that the provisions of this Lease be enforced to the fullest extent permitted by applicable law. Accordingly, the parties shall agree that if any provisions are deemed not enforceable, they shall be deemed modified to the extent necessary to make them enforceable.

(viii) The persons who have executed this Lease represent and warrant that they are duly authorized to execute this Lease in their individual or representative capacity as indicated.

(ix) The submission of this document for examination does not constitute an offer to lease or a reservation of or option for the Sublease Premises and shall become effective only upon execution by both Tenant and Landlord.

(x) This Lease may be executed in any number of counterpart copies, each of which shall be deemed an original, but all of which together shall constitute a single instrument.

**LANDLORD:**

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

**Its:**

**TENANT:**

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

**Its:** \_\_\_\_\_