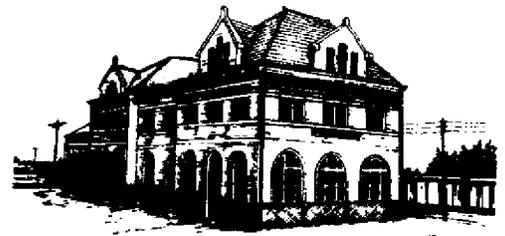


City of
CRESTON, IOWA

116 W. Adams • P.O. Box 449 • Creston, Iowa 50801-0449
Phone 641-782-2000 • Fax 641-782-6377



Creston's Restored Depot and City Hall

MAYOR: Warren Woods
COUNCIL: Randy White, Loyal Winborn, Betty Shelton, Marsha Wilson, Larry Wagner, Terri Koets, Nancy Loudon
CITY CLERK: Lisa Williamson
CITY ADMINISTRATOR: Mike Taylor
CITY ATTORNEY: Skip Kenyon & Todd Nielsen

Regular Meeting Agenda
City Hall/Restored Depot
Council Chambers
Tuesday, February 5, 2013
6:00 p.m.
02/01/2013 11:38 AM

1. **Call Meeting to Order**
2. **Pledge of Allegiance**
3. **Roll Call**
4. **Consideration of Agenda**
5. **Consider Adoption of the Consent Agenda – NOTE:** *These items are routine items and will be enacted by one motion without separate discussion unless a Council member requests an item be removed for separate consideration.*
 1. **Minutes:** January 15, 2013 – Regular Meeting
 2. **Claims and Fund Transfers:**
 - i. Total Claims - \$216,805.31
 3. **Liquor Licenses/Permits:** Dollar General – Cigarette permit
6. **Public Forum –** *the Mayor and City Council welcome comments from the public on any subject pertaining to City business, including items on this agenda. You are asked to state your name and address for the record and to limit your remarks to 3 minutes in order that others may be given the opportunity to speak. The Order of Business is at the discretion of the Chair. No action will be taken.*
7. **New Business**
 1. Resolution to reappoint Ken Sharp to the Water Board of Trustees
 2. Resolution to approve Reimbursement of Training Expenses Agreement for Police Officer Maitlen
 3. Resolution to schedule a Public Hearing on February 19, 2013, at 6:00 p.m. for sale of real estate located at 505 N. Elm to Kate Guiter for \$68,000
 4. Resolution to approve Addendum #4 to Offer for Real Estate at 505 N. Elm – extend closing to on or before March 15, 2013
 5. Public Hearing for the sale of City-owned properties located at 311 N. Sycamore, 308 Livingston Avenue, 308-310 S. Walnut and 600 W. Montgomery
 6. Resolution to authorize advertising to sell and set terms for city-owned properties located at 311 N. Sycamore, 308 Livingston Avenue, 308-310 S. Walnut and 600 W. Montgomery by sealed bid process

7. Public Hearing regarding current activities and status of funds for CDBG Housing Rehabilitation Project #09-HSG-022
 8. Public Hearing regarding an easement request from Creston Community Schools to place parking spaces in the City right-of-way along Swan Street and North Elm Street adjacent to 801 N. Elm
 9. Take action by resolution on easement request from Creston Community Schools to place parking spaces in the City right-of-way along Swan Street and North Elm Street adjacent to 801 N. Elm
 10. Resolution to approve Professional Services Agreement with Veenstra & Kimm, Inc. for the Rail Crossing Improvements Project at Elm Street and New York Avenue
 11. Resolution to special assess unpaid street repairs
 12. Resolution to accept Engineer's Statement of Completion for Airport Fuel Tank Project and authorize Construction Payment #3 of \$3,515.00 and Final Construction Payment #4 of \$6,298.88 in 30 days to Fuel Tech, Inc.
 13. Resolution to approve contract with Mad Dog Union Shakers Touring, Inc., and payment of \$7,000 to hire band Miss Willie Brown for the Annual Concert in the Park June 22, 2013, based on recommendation of Park & Recreation Board
 14. Motion to approve temporary partial street closings on April 20, 2013, at 8 a.m. for 2nd Annual Southwest Iowa Provider Awareness 5K Run/Walk – Cedar Street by Bunn-O-Matic to Townline Street, east to Osage Street, south to Howard Street, west to Cedar Street and north on Cedar Street (to Bunn)
 15. Appointment with John Kawa
 16. Resolution(s) for the disposition of the house and barn at 1707 W Adams.
 - a. The buildings to be removed and method of removal
 - b. The house only to be retained with the barn removed and the house sold
 - c. The house to be retained and used as residence as requested by the Creston Park & Recreation Board
 17. Resolution to approve the Covenants for the Cottonwood Subdivision
2. **Other**
3. **Adjournment**

REGULAR MEETING OF THE CRESTON CITY COUNCIL JANUARY 15, 2013

The Creston City Council met in regular session at 6:00 o'clock p.m. on the above date in the Council Chambers of the City Hall Complex with Mayor Woods presiding.

Roll call being taken with the following Council members present: Loudon, Koets, Wagner, Shelton and Winborn. Wilson and White were absent.

Shelton moved seconded by Winborn to approve the agenda. All voted aye. Wilson and White were absent. Motion declared carried.

Loudon moved seconded by Shelton to approve the consent agenda, which included approval of minutes of January 2, 2013, regular meeting; claims of \$129,470.68 and fund transfers of \$347.23; liquor license renewal for Dollar General and cigarette permit refunds for Kum & Go #500 and #501. All voted aye. Wilson and White were absent. Motion declared carried.

During Public Forum, Kevin Downey, 411 N. Maple, feels the City should quit providing the service of picking up Christmas trees, as well as picking up limbs being trimmed from trees due to storms. He feels the City could better utilize their time by cleaning up the parking lots, streets and fixing streets.

Fire Chief Todd Jackson gave an update on the rental inspections. They currently have approximately 475 addresses logged in. They've also started accumulating a list of properties that have not been turned in as rentals, but are. They've done a total of 138 inspections, with 85 of those being approved and the other 53 have some minor deficiencies to be corrected. They continue to hold monthly meetings with the Mayor, City Administrator and Public Works Department to work out any issues that arise. Because of the building codes during the time of construction, they have found that some things need to be grandfathered in.

A resolution was offered by Wagner seconded by Winborn to approve the hiring of Tamara Fitzgerald as Full-time Dispatcher and authorize the Mayor and Clerk to execute the proper documentation. Loudon, Koets, Wagner, Shelton and Winborn voted aye. Wilson and White were absent. Resolution declared passed.

A resolution was offered by Koets seconded by Shelton to approve a Lease Agreement between Southwestern Community College (SWCC) and the City of Creston for use of the Memorial Room to set up an art gallery kiosk and authorize the Mayor and Clerk to execute the proper documentation. Winborn, Loudon, Koets, Wagner and Shelton voted aye. Wilson and White were absent. Resolution declared passed.

A resolution was offered by Loudon seconded by Winborn to set the date for a Public Hearing on February 5, 2013, at 6:00 p.m. for the sale of City-owned properties located at 311 N. Sycamore, 308 Livingston Avenue, 308-310 S. Walnut and 600 W. Montgomery and authorize the Mayor and Clerk to execute the proper documentation. Koets, Wagner, Shelton, Winborn and Loudon voted aye. Wilson and White were absent. Resolution declared passed.

A resolution was offered by Wagner seconded by Koets to approve Drawdown #11 of \$31,956 for the CDBG Housing Rehabilitation Project #09-HSG-022 and authorize the Mayor and Clerk to execute the proper documentation. Wagner, Shelton, Winborn, Loudon and Koets voted aye. Wilson and White were absent. Resolution declared passed.

A resolution was offered by Shelton seconded by Koets to set the date for a Public Hearing for February 5, 2013, at 6:00 p.m. regarding current activities and status of funds for CDBG Housing Rehabilitation Project #09-HSG-022 and authorize the Mayor and Clerk to execute the proper documentation. Wagner, Shelton, Winborn, Loudon and Koets voted aye. Wilson and White were absent. Resolution declared passed.

A resolution was offered by Koets seconded by Loudon to approve a fuel contract with Agriland FS and authorize the Mayor and Clerk to execute the proper documentation. Wagner, Shelton, Winborn, Loudon and Koets voted aye. Wilson and White were absent. Resolution declared passed.

Wagner moved seconded by Shelton to approve Sponsor Certifications for the Airport Lighting Improvements Project with Clapsaddle-Garber Associates. All voted aye. Wilson and White were absent. Motion declared carried.

A resolution was offered by Wagner seconded by Loudon to set the date for a Public Hearing for February 5, 2013, at 6:00 p.m. regarding an easement request from Creston Community Schools to place parking spaces in the City right-of-way along Swan Street and North Elm Street adjacent to 801 N. Elm and authorize the Mayor and Clerk to execute the proper documentation. Koets, Wagner, Shelton, Winborn and Loudon voted aye. Wilson and White were absent. Resolution declared passed.

Shelton moved seconded by Koets to approve the use of the Walking Trail for a 5K Walk/Run from the YMCA to Green Valley on April 20, 2013, at 3:00 p.m. by the Autism Society of Iowa. All voted aye. Wilson and White were absent. Motion declared carried.

Wagner moved seconded by Koets to adjourn the meeting. All voted aye. Wilson and White were absent. Motion declared carried. Council adjourned at 6:18 p.m.

Mayor

Attest:

City Clerk

A WORK SESSION BEGAN IMMEDIATELY FOLLOWING THE COUNCIL MEETING
JANUARY 15, 2013
REGARDING CITY-OWNED PROPERTY LOCATED AT 1707 W. ADAMS

John Kawa, Park & Recreation Board Chair, addressed Council stating he wants to keep the house for the Park & Recreation Assistant Director to live in; it's too nice to tear down. He stated he has several petitions going around town and that a lot of people want the City to leave the house. He hopes the Council remembers they work for the people and their feelings should not be ignored.

Kevin Downey, 411 N. Maple, stated he thinks it was a good idea for the City to buy the land at 1707 W. Adams to increase the City's tax revenue, and he's for the home being there, but understands the City's stand point. He suggested that in the future, if the City buys property with a house on it, they should get rid of it right away.

Byron Bilderback, 1001 N. Division, stated if there is a lot to gain from tearing the house down, then he's all for it.

Wayne Pantini, 1402 N. Mulberry, commended the Park & Recreation Board for exploring the opportunity of keeping the house for its employees, but he doesn't feel this is a good location for the home and feels this will cause problems with the marketability of the lots next to it. He thinks the lots will sell quickly in Phase I with the house gone. If the house could be moved to a different location within the park, that would be feasible, he feels that would be a good option. Wayne suggested relocating it near the Historical Park or near the campground area.

Mayor Woods told Council that Mike Taylor met with a house mover and was quoted the price of \$32,000 to move the brick house plus any expenses in moving overhead wires, cutting tree limbs, etc.

Kevin Downey, 411 N. Maple, stated the City either keep the house or tear it down, or they could sell it to someone to move it, but the City should not move it.

Byron Bilderback, 1001 N. Division, asked what was going to go there if the house is torn down. Mayor Woods showed him a map of the Cottonwood Subdivision Phase I design.

With no other questions or comments, the Work Session ended at 6:45 p.m.

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
NON-DEPARTMENTAL	GENERAL FUND	TRISTAR BENEFIT ADMINISTRATORS	GRP 93001 PREMIUM-FEB'13	2,655.10
			TOTAL:	2,655.10
LIABILITY PROTECTION	GENERAL FUND	CARPENTER UNIFORM CO & WINDSTREAM	VEST FOR MAITLEN TELEPHONE	687.47 53.80
		GREATER REG MEDICAL CNTR	PHYSICAL-MAITLEN	1,102.85
		INTERNATIONAL ASSOCIATION OF CHIEFS OF	MEMBERSHIP DUES	120.00
		KUCERA MD, TODD	CHEST XRAY-MAITLEN	24.00
		MAITLEN, RYAN	MILEAGE REIMBURSEMENT	170.18
			MILEAGE REIMBURSEMENT	85.09
		NAPA	BATTERY	100.11
		PETTY CASH - POLICE	#792877-BATTERIES	26.00
		PRAIRIE SOLID WASTE AGENCY	CAR TIRE	3.00
		SINMONS GUN SPECIALTIES INC	AMMUNITION	311.47
		SUNSET LAW ENFORCEMENT	RIFLE AMMUNITION-1500 RDS	553.28
		SUPREME CLEANERS	UNIFORM CLEANINGS-JAN'13	46.75
		WAL-MART COMMUNITY	BATTERIES	29.61
			BATTERIES	19.01
			TOTAL:	3,332.62
FIRE PROTECTION	GENERAL FUND	AKIN BUILDING CENTER	BRACKETS FOR ATTIC LADDER	47.50
		CRESTON CITY WATER WORKS	WATER-FIRE	22.68
		ED M FELD EQUIP CO INC	LABELS	50.00
			SAW STRAP-WHEEL HANDLE	97.34
		WINDSTREAM	TELEPHONE	235.69
		MCI MEGA PREFERRED	LONG DISTANCE	5.50
		PETTY CASH - FIRE	#1705-BINDER	7.47
			#1706-O RINGS	0.50
			#1707-OFFICE SUPPLIES	14.88
			#1708-LIGHT	7.98
			#1710-POSTAGE	2.70
			#1711-POSTAGE	2.46
			#1712-RECEIPT BOOK	6.88
			#1713-ENVELOPES	6.17
		SERVICE TECHS INC	CARBIDE RESCUE BLADE	262.52
			TOTAL:	770.27
BUILDING & HSNG SAFETY	GENERAL FUND	AKIN BUILDING CENTER	PLIER/TG GRV 16"	28.49
		WINDSTREAM	TELEPHONE	56.12
		PETTY CASH - STREET	#1754-TOPPER DOOR HANDLES	47.50
			TOTAL:	132.11
ANIMAL CONTROL	GENERAL FUND	FARMERS COOPERATIVE CO	RAT POISION	9.14
		ALLIANT ENERGY-INT PWR&LGHT	ANIMAL POUND-ELECTRIC	304.13
		LOCK, LARRY	SUCCESSFUL ADOPTION	20.00
		WAL-MART COMMUNITY	LUBRICANT-GREASE-WD/40	12.26
			4-BAGS CAT LITTER	13.52
			5 BAGS CAT LITTER	16.90
			HEATER CONTROL COVER	9.97
			TOTAL:	385.92
AIRPORT	GENERAL FUND	FUEL TECH INC.	FUEL TANK INSTALLATION	3,515.00
		WINDSTREAM	TELEPHONE	160.94
		ALLIANT ENERGY-INT PWR&LGHT	1945 S CHERRY ST GARAGE	67.85
		SOUTHWEST IOWA RURAL ELECTRIC	ELECTRIC-AIRPORT	39.00
		SIRWA	WATER-AIRPORT	33.00

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
		WEST AVIATION INC	PER FBO CONTRACT	1,354.17
			TOTAL:	5,169.96
SOLID WASTE CLCT/DSPSL	GENERAL FUND	PRAIRIE SOLID WASTE AGENCY	NON FREON APPLIANCE	5.00
			TOTAL:	5.00
LIBRARY SERVICES	GENERAL FUND	COPY SYSTEMS INC	MAINTENANCE CONTRACT	49.44
		CRESTON CITY WATER WORKS	WATER-LINCOLN SCHOOL	9.07
			WATER-LIBRARY	18.14
		DES MOINES REGISTER #1150	SUBSCRIPTION	324.81
		EBSCO SUBSCRIPTION	SUBSCRIPTION RENEWALS	1,328.10
		ED M FELD EQUIP CO INC	SECURITY MONITORING	90.00
		WINDSTREAM	TELEPHONE	106.88
		ALLIANT ENERGY-INT PWR&LGHT	1001 W JEFFERSON-GAS	27.12
			1001 W JEFFERSON-ELECTRIC	348.88
		ECHO GROUP INC	EMERGENCY LIGHTS	338.18
			EMERGENCY LIGHTS	52.62
			EMERGENCY LIGHTS	144.94
			RETURN-BATTERY	26.31
		IOWA LIBRARY ASSOCIATION	WORKSHOP	25.00
		IOWA LIBRARY SERVICES	2-KIDS FIRST CONFERENCE	180.00
		MCI MEGA PREFERRED	LONG DISTANCE	10.97
		NEW LORIMORIAN	SUBSCRIPTION	23.00
		RAYMOND GEDDES & COMPANY INC.	12-EAR BUDS	150.96
		WILLETS & WOOSLEY	UNPLUG SEWER LINE	126.00
			TOTAL:	3,327.80
F	GENERAL FUND	CONTINENTAL RESEARCH CORP	TEFLAPENT	98.51
		CRESTON CITY WATER WORKS	WATER-HISTORICAL COMPLEX	9.07
		WINDSTREAM	TELEPHONE	52.10
		ALLIANT ENERGY-INT PWR&LGHT	MCKINLEY PARK VFW/FLAGS	193.87
			600 MCKINLEY ST BAND SHELL	19.31
			MCKINLEY CAMPGROUND	41.59
		ECHO GROUP INC	PARTS TO ATTACH PWR LINE	39.32
		NAPA	WINDSHIELD TUBE	2.83
		SERVICE TECHS INC	CHAPS, EAR PLUGS	178.85
			2-GAL BAR CHAIN OIL	53.93
		RHINE BODY REPAIR	REPAIR RUST ON PICKUP	998.00
			TOTAL:	1,687.38
RECREATION	GENERAL FUND	WINDSTREAM	TELEPHONE	56.12
		ALLIANT ENERGY-INT PWR&LGHT	600 MCKINLEY PARK SEC LIGH	12.53
			TOTAL:	68.65
CEMETERY	GENERAL FUND	WINDSTREAM	TELEPHONE	53.80
		MCI MEGA PREFERRED	LONG DISTANCE	1.28
		SIRWA	WATER-CEMETERY	33.00
			TOTAL:	88.08
SWIMMING POOL	GENERAL FUND	CONTINENTAL RESEARCH CORP	TEFLAPENT	98.50
		CRESTON CITY WATER WORKS	WATER-POOL	9.07
		WINDSTREAM	TELEPHONE	31.61
			TOTAL:	139.18
FINANCIAL ADMINISTRATN	GENERAL FUND	BANKERS LEASING CO	COPIER LEASE-MAINTENANCE	241.66
		CRESTON CITY WATER WORKS	WATER-1707 W ADAMS	16.20

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			WATER-505 N ELM	9.07
		NEWTEK TECHNOLOGY SERVICES	3 MONTH SVC CITY WEBSITE	50.85
		WINDSTREAM	TELEPHONE	303.26
		HEARTLAND TECHNOLOGY SOLUTIONS	MONTHLY FIREWALL MGMT	129.00
			REMOTE LABOR-SERVER	115.00
		ALLIANT ENERGY-INT PWR&LGHT	505 N ELM-ELECTRIC/GAS	157.32
			505 N ELM-SHOP	18.14
			1707 W ADAMS ST- ELECTRIC/	177.64
		IOWA CODIFICATION INC	JAN'13 SUPPLEMENT	320.00
		MADISON, MARLA A.	ARBITRATION HEARING	2,167.00
		MCI MEGA PREFERRED	LONG DISTANCE-CITY HALL	28.61
			LONG DISTANCE-FAXES	1.16
		NEOPOST USA INC	PSTG MTR RNTL 6/12-6/13	299.40
		OFFICE DEPOT	BINDERS-PAPER-CAL TAPE	181.58
		OFFICE MACHINES	TONER'S LISA'S PRINT	162.99
		PETTY CASH - FINANCE	#1385-RECORDING FEES	12.00
			#1386-RECORDING FEES	21.00
			#1387-RECORDING FEES	12.00
			#1388-RECORDING FEES	72.00
			#1389-RECORDING FEES	12.00
		PETTY CASH - STREET	#1754-COTTONWOOD MAILING	5.20
		SHRED-IT USA - DES MOINES	1-BAG SHRED	56.00
		THE PAPER CORPORATION	50-CASES REG/3HP PAPER	1,322.00
			TOTAL:	5,891.08
CITY HALL	GENERAL FUND	AKIN BUILDING CENTER	OUTLET FOR MEMORIAL RM	43.25
		CRESTON CITY WATER WORKS	WATER-CITY HALL	15.88
		FASTENAL	100-ANCHOR BOLTS	63.45
		OFFICE DEPOT	RAGS IN A BOX	31.20
		OFFICE MACHINES	FAX MACHINE	229.00
		PEINELT, ROBERT	JANITORIAL SERVICES	80.00
		PETTY CASH - FINANCE	#1390-CLEANING SUPPLIES	12.23
		PETTY CASH - STREET	#1751-BATTERIES	11.76
			TOTAL:	486.77
INSURANCE (GENERAL)	GENERAL FUND	CRESTON CITY WATER WORKS	RFND-SAFETY GRP DIVIDEND	2,668.56
		EMC INSURANCE COMPANIES	WORKERS COMP	496.79
			TOTAL:	3,165.35
COMMUNITY CENTER MAINT	COMMUNITY CENTER	EXCEL MECHANICAL CO., INC.	YMCA HOT WATER PUMP	1,296.00
			TOTAL:	1,296.00
NON-DEPARTMENTAL	ROAD USE TAX	TRISTAR BENEFIT ADMINISTRATORS	GRP 93001 PREMIUM-FEB'13	937.96
			TOTAL:	937.96
ROAD MAINTENANCE	ROAD USE TAX	ARAMARK (LAUNDRY ACCTS)	LAUNDRY SERVICE	32.33
		CRESTON CITY WATER WORKS	WATER-CITY SHOP	12.96
			WATER-BARN	9.07
		FARM & HOME SUPPLY INC	12 PAIRS OF GLOVES	107.88
			FITTINGS-HOT WATER HEATER	52.47
			2 SPRAYERS	43.90
		WINDSTREAM	TELEPHONE	173.54
		HEARTLAND TIRE & AUTO	DISMOUNT 8 TIRES	120.00
		MCI MEGA PREFERRED	LONG DISTANCE	7.57
		NAPA	FILTERS	314.85
			TAIL LAMP-GRNDR WHEE	45.86

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			SCRN CLOTH-CLEANER	57.68
			BATTERY TOOL	24.98
		O'HALLORAN INTERNATIONAL INC	WHEEL SENSOR-#48	109.77
		PETTY CASH - STREET	#1753-DAY PLANNER	20.86
		SERVICE TECHS INC	CHAIN-2 GAL WINTER OIL	47.98
			REPAIR SAW	90.66
			CASE OIL	19.99
			SHARPEN CHAIN SAW	16.00
		PRAIRIE SOLID WASTE AGENCY	4-LARGE BLADE TIRES	200.00
			TRUCK TIRE	8.00
		SCHILDBERG CONSTRUCTION COMPANY INC	180.43 T CLASS D ROCK	1,994.21
			131.28 T CLASS D ROCK	1,450.63
			136.60 TON CLASS D ROCK	1,509.44
			125.58 TON CLASS D ROCK	1,387.66
			80.54 TON CLASS D ROCK	889.97
			116.98 TON CLASS D ROCK	1,292.64
			14.48 TON CLASS D ROCK	160.00
			111.55 TON CLASS D ROCK	1,232.63
		STAR EQUIPMENT LTD	2-FILTERS	129.60
		TRANS IOWA EQUIPMENT	2-LOWER BEARINGS	289.18
		ZIEGLER INC	WIPER BLADES-LOADER	46.71
			TOTAL:	11,899.02
SNOW AND ICE CONTROL	ROAD USE TAX	HALLETT MATERIALS	95.27 T ICE CONTROL SAND	986.05
			15.98T ICE CONTROL SAND	165.39
			80.55 T ICE CONTROL SAND	857.85
			25.01 T ICE CONTROL SAND	267.61
		INDEPENDENT SALT COMPANY	25.575 T ROCK SALT	1,582.58
		QUALITY GLASS COMPANY	RPR FRONT GLASS-SKD LOADE	345.89
		TRANS IOWA EQUIPMENT	2-NOSE PIECES	190.21
			TOTAL:	4,395.58
ADMIN-STREETS(ENGINR)	ROAD USE TAX	INT'L CODE COUNCIL	2013 MEMBERSHIP DUES	125.00
		WINDSTREAM	TELEPHONE	56.12
			TOTAL:	181.12
SELF FUNDING INSURANCE PAYROLL TAX BENEFIT		TRISTAR BENEFIT ADMINISTRATORS	GRP 93001 PREMIUM-FEB'13	25,136.29
		TOTAL ADMINISTRATIVE SERVICES CORP	SVC PERIOD 3/1/13-3/31/13	102.00
			TOTAL:	25,238.29
POLICE FORFEITURE	POLICE FORFEITURE	PETTY CASH - POLICE	#792878-DOG FOOD	28.99
			TOTAL:	28.99
MC KINLEY PARK RENOVAT	RESTRICTED GIFTS-M	CREATIVE ARTISTS AGENCY	MISS WILLIE BROWN-06/22/13	7,000.00
		PANTHER LANES	32-TEAMS BOWLED	480.00
			TOTAL:	7,480.00
LIBRARY(RESTRICTED GIF	RESTRICTED GIFTS-L	AMAZON/GE MONEY BANK	BACK UP	79.99
			DVD'S	134.32
			OVERPAYMENT	48.94
		GALE CENGAGE LEARNING	BESTSELLERS	231.92
			LARGE PRINT	94.46
			MYSTERY	47.98
			DISTRIBUTION	102.70
		INGRAM	RETURN-AMISH FAMILY CKBK	8.99
			BOOKS	4.19

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			BOOKS	119.48
			BOOKS	70.57
			BOOKS	9.77
			BOOKS	38.52
			BOOKS	78.66
			BOOKS	20.12
		MICROMARKETING LLC	BOOKS ON CD	166.41
			BOOKS ON CD	59.93
			BOOKS ON CD	19.98
		PROFESSIONAL COMPUTER SOLUTIONS	COMPUTER SERVICES	60.00
			COMPUTER SERVICES	30.00
		WAL-MART COMMUNITY	NAPKINS, TRASH BAGS, COFFEE	39.97
			TOTAL:	1,351.04
NON-DEPARTMENTAL	SEWER OPERATING FU	TRISTAR BENEFIT ADMINISTRATORS	GRP 93001 PREMIUM-FEB'13	467.47
			TOTAL:	467.47
SANITARY SEWER/WASTWTR	SEWER OPERATING FU	B M SALES	BRAWNY TOWELS	47.50
		CENTRAL PUMP & MOTOR	REPLACE 2 OIL SEALS	749.50
		COOK VIDEO & APPLIANCE	DISHWASHER	524.00
		CRESTON CITY WATER WORKS	WATER-WWTP	293.80
		ZELLMER'S SOFT WATER	WATER SOFTNER TANK	20.00
			UNIT SERVICE	110.21
		FARM & HOME SUPPLY INC	LIGHT BULBS-HEATERS	91.87
		WINDSTREAM	TELEPHONE	414.85
		HEARTLAND TECHNOLOGY SOLUTIONS	LABOR	745.00
			OVERPAYMENT	60.00
		HYGIENIC LABORATORY-AR	AMMONIA	36.00
			AMMONIA	18.00
			2-NH3'S	36.00
		IAWEA	BIOSOLIDS SCHOOL-MIKE	105.00
			BIOSOLIDS SCHOOL-JIM	105.00
		ECHO GROUP INC	4-HEAT LAMP BULBS	507.44
			RETURN-HEATER ELEMENT	126.86
			SECURITY LGHT PHOTO EYE	89.24
		IOWA DEPT OF NATURAL RESOURCES	LAB CERTIFICATION	400.00
		MCI MEGA PREFERRED	LONG DISTANCE	9.10
		NAPA	SUPPLIES	99.14
		PETTY CASH - SANITATION	#497875-CAR WASH	18.79
			#497876-SUPPLIES	5.30
			#497877-MAILER	5.44
			#497878-BATTERIES	14.58
			#497879-POSTAGE	10.44
			#497880-IDNR	30.00
		OLINE	10-RUBBER GLOVES	226.72
		UPS	POSTAGE	36.85
			POSTAGE	30.58
			POSTAGE	23.11
		USA BLUE BOOK	FILTERS	246.50
			FREIGHT	32.50
		VERIZON WIRELESS	ELECTRONIC FLOWMETER PHONE	80.14
		IOWA DEPT OF NATURAL RESOURCES	OPERATOR LICENSE	20.00
			TOTAL:	4,995.74
ANIMAL CONTROL	ANIMAL SHELTER *AG	CRESTON VET CLINIC PC	NEUTER 2 CATS	130.00
		SOUTHERN HILLS VET SVC INC	RE-EXAMINE/TREAT PND CAT	10.20
			TOTAL:	140.20

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
===== FUND TOTALS =====				
	001	GENERAL FUND		27,305.27
	006	COMMUNITY CENTER		1,296.00
	110	ROAD USE TAX		17,413.68
	112	PAYROLL TAX BENEFIT		25,238.29
	120	POLICE FORFEITURE		28.99
	166	RESTRICTED GIFTS-MCKNLY P		7,480.00
	167	RESTRICTED GIFTS-LIBRARY		1,351.04
	610	SEWER OPERATING FUND		5,463.21
	953	ANIMAL SHELTER *AGENCY FU		140.20

		GRAND TOTAL:		85,716.68

CITY OF CRESTON
 MANUAL CHECKS/DEBITS – PERIOD ENDING 02/05/13

NO DEPT ENTERED			
ELECTRONIC FEDERAL TAX (2)	TAX DEPOSIT		30,432.60
IOWA DEPT OF REVENUE	STATE TAX		6,370.00
IPERS	PENSION		12,962.77
TOTAL ADMINISTRATIVE SVC (2)	FLEX		1,454.76
IOWA STATE SAVINGS BANK	HSA ACCT.		40.00
NO DEPT ENTERED	TOTAL	\$ 51,260.13	
FINANCIAL DEPARTMENT			
CRESTON CITY WATER WORKS	PASS THRU		60,262.00
FINANCIAL DEPARTMENT	TOTAL	\$ 60,262.00	
CITY HALL			
PEINELT, ROBERT	SERVICES		80.00
CITY HALL	TOTAL	\$ 80.00	
SELF FUNDING INSURANCE			
TRISTAR BENEFIT (3)	INV CHECK RUN		19,486.50
SELF FUNDING INSURANCE	TOTAL	\$ 19,486.50	
MANUAL CHECK/DEBITS TOTAL		\$131,088.63	

RESOLUTION NO. ??? – 13

RESOLUTION TO APPROVE REIMBURSEMENT OF TRAINING EXPENSES AGREEMENT FOR POLICE OFFICER MAITLEN:

WHEREAS, the Creston City Council adopted a Police Reimbursement Training Expense Policy (Resolution No. 53) on October 16, 2007, for expenses incurred in preparation for and while attending an accredited law enforcement academy for required certification, and;

WHEREAS, the City of Creston has hired the following police officer and is sending to Iowa Law Enforcement Academy for the required certification:

- Ryan Maitlen – anticipated certification is May 8, 2013, and;

WHEREAS, the Creston City Council wishes to approve the Reimbursement of Training Expenses Agreement for the above-listed Officer Ryan Maitlen.

BE AND IT IS HEREBY RESOLVED that the Creston City Council does approve the Reimbursement of Training Expenses Agreement for Officer Ryan Maitlen.

BE AND IT IS FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to execute the proper documentation necessary.

BE AND IT IS FURTHER RESOLVED that any Resolution in conflict herewith is hereby repealed.

BE AND IT IS FURTHER RESOLVED that this Resolution be effective immediately upon its passage and approval by the Creston City Council.

REIMBURSEMENT OF TRAINING EXPENSES AGREEMENT

This agreement is entered into by the City of Creston, Iowa, hereinafter referred to as "City" and (RYAN MAITLEN), hereinafter referred to as "Employee".

THE INTENT OF THIS AGREEMENT IS TO PROVIDE TRAINING OF RYAN MAITLEN AS A POLICE OFFICER, AND TO SPECIFY THE CONSIDERATION THAT RYAN MAITLEN PROVIDE THE CITY IN RETURN FOR TRAINING. THIS DOCUMENT SHALL NOT BE CONSTRUED IN ANY WAY AS AN EMPLOYMENT AGREEMENT, WHICH WOULD PROFFER A PROPERTY RIGHT OR INTEREST ON RYAN MAITLEN.

1. The City and the Employee agree that the Employee will attend the Iowa Law Enforcement Academy or other ILEA designated training facility authorized to provide certification training at the expense of the City to receive certification as a Law Enforcement Officer in accordance with the Academy's training requirements. The training at the Academy is scheduled to begin 01/07/2013. The City shall pay the expense of training and shall pay the employee's regular wages during this training. The Employee agrees that he or she will be responsible for reimbursing the City in accordance with the rules for reimbursement as stated hereafter in this agreement. The expenses which the Employee agrees to reimburse include the City's cost of the Employee's paid time (gross wages, pension (MFPRSI), federal withholding tax, state withholding tax, Medicare, health insurance & worker's compensation insurance) while attending the Academy, as well as the City's expenditure for the Employee's mileage, food, lodging, clothing/shoes, ammunition, books/manuals and tuition while attending the academy. All of these reimbursable costs are referred to generally as "total training expenses". The Employee will not be responsible for reimbursing the City for any time spent by the Employee performing services such as dispatching, filing, patrol work, or other work assigned by the City. An estimate of the costs of the "total training expenses" as set out above is listed on Exhibit "A", which is attached hereto and by this reference incorporated into this Agreement. "Total training expenses" will be based on the actual cost incurred by the City as these costs become known.
2. The Employee may, at the City's option, be required to work for the Creston Police Department while attending the training program, and may be required to patrol, dispatch, operate computer system, perform clerical tasks, or do other duties as assigned by the Chief of Police or the Chief's designees. The hours expended by the Employee in attendance at the training course and service to the police department shall be subject to the same limitations and compensatory time policies as apply to all police officers of the City.
3. The Employee shall have a probationary period consistent with the Union Contract, City Personnel Policies and/or the Code of Iowa.

4. The Employee shall serve as a full-time police officer of the City, after graduation from the Iowa Law Enforcement Academy and meeting all criteria needed to receive proper certification.
5. In the event the Employee does not successfully complete the training program, the Employee shall be released from employment with the City, and the Employee shall reimburse the City for its "total training expenses" incurred to that date in accordance with the terms set forth in Section 10.
6. In the event the Employee voluntarily resigns from the Creston Police Department without having served as a certified police officer for at least three years, the Employee shall reimburse the City for total training expenses incurred per the following schedule:
 - a. The amount of reimbursement shall be determined as follows:
 1. If the Employee resigns less than six months following completion of approved training, one hundred percent of the total training expenses.
 2. If the Employee resigns six months or more, but less than one year following completion of approved training, seventy-five percent of the total training expenses.
 3. If the Employee resigns one year or more, but less than two years following completion of approved training, fifty percent of the total training expenses.
 4. If the Employee resigns two years or more, but less than three years after completion of approved training, twenty-five percent of the total training expenses.
7. If the Employee is dismissed during the probationary period, or properly terminated without having served as a certified police officer for at least three years, the employee shall reimburse the City for total training expenses incurred. If the Employee is dismissed solely at the discretion of the City, the Employee shall not be required to pay the City for any unpaid training costs owed.
8. At the end of three years as a certified police officer with the City, the amount owed for training expenses by Employee shall be zero dollars.
9. Payment of any training costs owed to the City by the Employee shall be made in either a lump sum payment or consecutive monthly payments. The lump sum payment, or the first monthly payment, is due thirty days from the last day of employment. Monthly payments shall be made in accordance with the following schedule:

Minimum Monthly Payment Annual Interest Rate

\$200

8%

Although the minimum monthly payment is set at \$200, the entire balance must be paid in no more than 48 months. If the employee elects to make a lump sum

payment within thirty days of the last day of employment, the City will discount the balance due by 10%. Additionally, at any time during the repayment period the employee elects to pay off the balance, the City will discount this amount by 10%.

10. If the Employee is killed or permanently and totally disabled as defined in Chapter 411 of the Iowa Code, while in the employ of the City any training expenses shall be considered reimbursed in full.
11. This agreement may be amended or canceled only upon written agreement of both the City and the Employee.
12. The Employee shall notify the City of the Employee's place of residence while in the employ of the City and/or until such time as the debt for total training expenses is satisfied in full.
13. If reimbursement is not made in accordance with this agreement, the employee understands that the City, at its option, may seek the Employee's decertification as an Iowa law enforcement officer. Additionally, the City reserves the option of seeking reimbursement through civil action.
14. **THE EMPLOYEE DOES FURTHER HEREBY EXPRESSLY ACKNOWLEDGE AND UNDERSTAND THAT THE REIMBURSEMENT OBLIGATION SET FORTH HEREUNDER IS MANDATORY. IN OTHER WORDS, WHILE THE CITY HAS THE DISCRETION TO DETERMINE WHETHER TO SEEK DECERTIFICATION OF THE EMPLOYEE AS A LAW ENFORCEMENT OFFICER, NO SUCH AFFIRMATIVE ELECTION OF ENFORCEMENT IS REQUIRED FOR REIMBURSEMENT HEREUNDER. FAILURE ON THE PART OF THE EMPLOYEE TO SATISFY THE EMPLOYEE'S EMPLOYMENT OBLIGATION DURING THE REIMBURSEMENT PERIOD HEREUNDER SHALL AUTOMATICALLY TRIGGER MANDATORY REIMBURSEMENT OF TOTAL TRAINING EXPENSES UNDER THIS AGREEMENT.**
15. This agreement is to be governed by the laws of the State of Iowa. The parties hereto agree that any action, suit, or proceeding based upon any matter, claim or controversy arising under this Agreement shall be brought solely in the state courts located in Union County, Iowa. The parties hereto irrevocably waive objection to the venue of the above-mentioned courts, including any claim that such action, suit or proceeding has been brought in an inconvenient forum. Both parties hereby expressly acknowledge and agree that nothing contained in this Agreement shall be construed to require the parties to submit to mandatory arbitration or mediation in the event of a breach or dispute hereunder.
16. If any section, subsection, term or provision of this agreement or the application

thereof to the EMPLOYEE, the CITY or a particular circumstance shall, at any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of same to the EMPLOYEE, the CITY or particular circumstances other than that for which it was held valid or invalid or enforceable, shall not be affected thereby and each remaining section, subsection, term or provision of this Agreement shall be valid and enforceable to the fullest extent of the law.

17. The persons signing this Agreement warrant and represent that they have the authority to sign as, or on behalf of, the party for whom they are signing.
18. Both the EMPLOYEE and the CITY hereby expressly acknowledge and agree that this Agreement is intended to set forth the entire agreement between the parties regarding reimbursement of Total Training Expenses by the EMPLOYEE, that there are no other considerations or monies contingent upon or resulting from the execution of this Agreement, and that no other monies or consideration have been solicited. No waiver, change, modification or amendment of this Agreement shall be binding upon either party hereto unless in writing and signed by both the EMPLOYEE and the CITY. The waiver by either party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision or of any other provision or condition in the Agreement.

I have read this agreement and fully understand that I may be obligated to repay the total training expenses that are incurred on my behalf while receiving training at the Iowa Law Enforcement Academy or ILEA designated training facility. I further acknowledge that my signature is voluntary and this agreement was signed before beginning employment with the City of Creston.

Executed this _____ day of _____, 20____

City of Creston, Iowa

Ryan Maitlen

By: _____
Warren Woods, Mayor

Attest: _____
Paul Ver Meer, Chief of Police

Attest: _____
Lisa Williamson, City Clerk

EXHIBIT A

ESTIMATE OF "TOTAL TRAINING EXPENSES"

The following is an "estimate only" of expenses which will be incurred by the City of Creston to provide Iowa Law Enforcement Academy Basic Training Certification or ILEA designated training facility to provide certification training.

PAID TIME

Gross Wages	approximately \$	10,595.20
MFPRSI Pension	approximately \$	2,767.46
Federal Withholding Tax	approximately \$	2,648.80
State Withholding Tax.	approximately \$	839.13
Medicare	approximately \$	153.63
Worker's Compensation Insurance	approximately \$	331.62
Health Insurance		
Single Plan Coverage	approximately \$	639.51
Family Plan Coverage	approximately \$	1,635.45

MILEAGE **1,186.50**

FOOD **1,173.48**

CLOTHING **239.22**

AMMUNITION **115.00**

TUITION **5,000.00**

BOOK/MANUALS **135.00**

TASER/PIT CERTIFICATION **250.00**

TOTAL ESTIMATED TRAINING COSTS = \$26,910.77 dependent on health insurance plan selected.

RESOLUTION NO. ??? – 13

RESOLUTION TO SPECIAL ASSESS STREET REPAIR CHARGES DUE TO NON-PAYMENT BY PROPERTY OWNERS:

WHEREAS, the Creston City Council was presented with copy of an unpaid invoice from Public Works Department for street repair services performed by the City at 500 N. Vine Street for Tim Pingree (Annette Pingree – property owner), and;

WHEREAS, the City's Ordinance, Chapter 135, Section 135.09, Subsection 9 states, "*All costs and expenses incident to the excavation shall be borne by the permit holder and/or property owner. Charges remaining unpaid and delinquent 30 days after date on statement shall constitute a lien upon the premises serviced and shall be certified by the Clerk to the County Treasurer and such costs shall then be collected with, and in the same manner, as general property taxes*", and;

WHEREAS, the costs of the City's labor, equipment use and concrete total \$491.92, and;

WHEREAS, the property owners were billed on November 5, 2012, and December 13, 2012 and the City was never paid.

BE AND IT IS HEREBY RESOLVED that the Creston City Council approves that the charges shall be collected in the same manner as general property taxes for the unpaid street repair services performed by the City at 500 N. Vine Street for Tim Pingree (Annette Pingree – property owner).

BE AND IT IS FURTHER RESOLVED that the Mayor and Clerk are hereby authorized to execute the proper documentation necessary.

BE AND IT IS FURTHER RESOLVED that any Resolution in conflict herewith is hereby repealed.

BE AND IT IS FURTHER RESOLVED that this Resolution be effective immediately upon its passage and approval by the Creston City Council.

City of

CITY OF CRESTON, IOWA

City Administration - 200 West 1st St
Creston, IA 50801-0109
Phone: 641-782-2014 Fax: 641-782-0277

DATE: NOVEMBER 5, 2012
INVOICE # 2701

ACCOUNT NO: 210-4710

(B) TIM PINGREE
500 N VINE
CRESTON, IA 50801

PAST DUE

12/13/12

QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1HR	BACKHOE	58.46	58.46
1HR	HEAVY TRUCK	60.87	60.87
1HR	AIR COMPRESSOR	22.60	22.60
1/2HR	CONCRETE SAW	13.50	6.75
1HR	SKID LOADER	31.75	31.75
2HR	EQUIPMENT OPERATOR 1	28.96	57.92
1HR	EQUIPMENT OPERATOR 2	29.43	29.43
1 1/4 YD	CONCRETE	125.00YD	156.25
	SUBTOTAL		424.03
	SALES TAX		0.00
	TOTAL		CONTINUED ON PAGE 2

Please make all checks or money orders payable to **CITY OF CRESTON**
Thank you for your business!

City of

INDEPENDENT POLICE

1015 N. Hwy. 200
Creston, IA 50801
Phone: 641.782.0077 Fax: 641.782.6177

DATE: NOVEMBER 5, 2012
INVOICE # 2701

ACCOUNT NO: 210-4710

TO: TIM PINGREE
500 N VINE
CRESTON, IA 50801

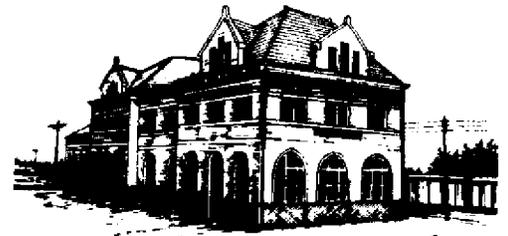
QTY	DESCRIPTION	UNIT PRICE	LINE TOTAL
1HR	FOREMAN STREET DEPT	30.39	30.39
½	EXTRA STOP	75.00	37.50
SUBTOTAL			\$67.89
PAGE 1 TOTAL			\$424.03
TOTAL			\$491.92

Please make all checks or money orders payable to **CITY OF CRESTON**

Thank you for your business!

City of
CRESTON, IOWA

116 W. Adams • P.O. Box 449 • Creston, Iowa 50801-0449
Phone 641-782-2000 • Fax 641-782-6377



Creston's Restored Depot and City Hall

February 1, 2013

TO: Mayor Woods and City Council Members

RE: Creston Schools Request for Diagonal Parking Spaces on City Right of Way

With the Green Hills Area Education Agency moving into the former Burton R. Jones Middle School building at 801 N Elm, the Creston School District is requesting an easement to place diagonal parking spaces adjacent to Swan Street and Elm Street.

I have some concerns regarding this request.

With the proposed parking spaces along Elm Street my concern would be the safety of someone backing out of parking space onto Elm especially if their vision is blocked by a higher profile vehicle. Elm Street is a 25 mph speed zone and traffic usually takes advantage of all 25 mph. Also, the sidewalk is to be rerouted to in front of the vehicles, but with the building now being used for younger children I have to wonder about the possibility of a child, taking the shorter route and walking behind the cars. In my opinion the parking spaces along Elm Street should remain as parallel parking spaces.

Swan Street is wider and has a stop sign at a "T" intersection. While probably not as much as a safety concern using right of way in a residential area to park 21 cars should be given some thought. Especially since they are adding an 81 space parking lot at the rear of the building and that there is a parking lot on the former tennis courts located on the southeast corner of Maple and Swan Streets.

If approved it should state in the easement that the school district will be responsible for maintenance and snow removal of these parking areas.

Please contact me with any questions at 782-2000 ext. 1.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Kevin Kruse', written in a cursive style.

Kevin Kruse
Public Works Director

**Professional Services Agreement
For the Rail Crossing Improvements in Creston Iowa**

This is an **AGREEMENT**, made as of the _____ day of _____ in the year _____;

by and **BETWEEN** the City of Creston, identified as the **Owner** ;
City of Creston
116 W Adams Street
Creston Iowa 50801

and the **Consultant** ;
Veenstra & Kimm Inc
3000 Westown Pkwy
West Des Moines Iowa 50266

for the following Project:

The **Owner** has decided to improve the rail crossings at Elm St and New York Avenue to design and construct said improvements in accordance with the current Statewide Transportation Improvement Program. It has been determined that the **Owner** shall proceed with the preparation of final design, plans, specifications and estimates for the improvements, subject to the concurrence and approval of the Iowa Department of Transportation (Iowa DOT) and the Federal Highway Administration (FHWA) (when applicable).

The **Owner** desires to employ the **Consultant** to provide preliminary survey and engineering services in connection with the design and preparation of plans, specifications and estimates for the improvements and to provide hourly construction reviews and assistance with administration during construction. The **Consultant** is willing to perform such engineering work in accordance with the terms hereinafter provided and warrants that it is in compliance with Iowa statutes relating to the licensure of professional engineers.

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Article Number And Description

1 Initial Information

- 1.1 Project Parameters
- 1.2 Financial Parameters
- 1.3 Project Team
- 1.4 Time Parameters

2 Scope Of Services And Other Special Terms And Conditions

- 2.1 Enumeration of Parts of the Agreement

3 Form of Compensation

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- 3.2 Subconsultant

4 Terms And Conditions

- 4.1 Ownership of Engineering Documents
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- 4.17 Access to Records
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Attachment A - Scope of Services

Attachment B - Specifications

Attachment C - Fees and Payments

Attachment D - Certification Regarding Debarment, Suspension, and Other Responsibility Matters

Attachment E - Certification of Consultant

Attachment F - Certification of Owner

Attachment G - Sample Invoice Form

ARTICLE 1 INITIAL INFORMATION

This Agreement is based on the following information and assumptions.

1.1 Project Parameters

The objective or use is:

Construction of rail crossing improvements consistent with quiet zones at the Elm Street (Union St to Adams St) and New York Avenue (Union St to Jefferson St) crossings.

1.2 Financial Parameters

1.2.1 The financial parameters are;

Amount of the **Owner's** budget for the **Consultant's** compensation is:

Forty Three Thousand Dollars (\$43,000) for Design and hourly services during construction for review and assistance with administration

1.2.2 Amount of the **Consultant's** budget for the subconsultants' compensation is:

Thirteen Thousand Seven hundred Fifty Dollars (\$13,750)

1.3 Project Team

1.3.1 The **Owner's** Designated Representative identified as the **Contract Administrator** is: Kevin Kruse, Public Works Director

The **Contract Administrator** is the authorized representative, acting as liaison officer for the **Owner** for purpose of coordinating and administering the work under the Agreement. The work under this Agreement shall at all times be subject to the general supervision and direction of the **Contract Administrator** and shall be subject to the **Contract Administrator's** approval.

1.3.2 The **Consultant's** Designated Representative is: Greg Roth, Project Manager

1.3.3 The subconsultants retained at the **Consultant's** expense are: Felsburg Holt & Ullevig

1.4 Time Parameters

1.4.1 Date to Proceed: **Consultant** is to begin work under this Agreement upon receipt of a written notice to proceed from the Owner.

1.4.2 Preliminary design plans including type/size/location for all structures (preliminary design) [and detail elements for a design public hearing and construction right-of-way needs] shall be completed and accepted on or before 60 calendar days after receiving the notice to proceed.

1.4.3 The **Consultant** shall not begin final design activities until after the **Owner** has been notified by the Iowa DOT that FHWA Environmental Concurrence has been obtained. Upon receipt of such notice, the **Owner** will provide the **Consultant** notice to proceed with final design activities.

1.4.4 Final design, contract plans and specifications and estimates shall be completed and accepted on or before 90 calendar days after receiving the notice to proceed with final design.

ARTICLE 2 SCOPE OF SERVICES AND OTHER SPECIAL TERMS AND CONDITIONS

2.1 Enumeration of Parts of the Agreement. This Agreement, including its attachments, represents the entire and integrated agreement between the **Owner** and the **Consultant** and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by the **Owner, Consultant**, Iowa DOT, and the FHWA (if applicable). This Agreement comprises the documents listed below.

2.1.1 The work to be performed by the **Consultant** under this Agreement shall encompass and include all detail work, services, materials, equipment and supplies necessary to prepare and deliver the scope of services provided in Attachment A.

- 2.1.2 All services herein required and provided shall be in conformity with the applicable Iowa DOT Standards, Design Guides and Specifications and Title 23, Code of Federal Regulations, Part 625, as outlined in Attachment B. In addition, applicable sections of the U.S. Department of Transportation Federal Aid Policy Guide (FAPG) shall be used as a guide in preparation of plans, specifications and estimates.
- 2.1.3 Other documents as follows:
- .1 Fees and Payments – Attachment C
 - .2 Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Attachment D
 - .3 Certification of Consultant - Attachment E
 - .4 Certification of Owner - Attachment F
 - .5 Sample Invoice Form - Attachment G
 - .8 [List other attachments, if applicable]

ARTICLE 3 FORM OF COMPENSATION

3.1 Method of Reimbursement

- 3.1.1 For the **Consultant's** services as described under Article 2, compensation shall be computed in accordance with the Lump Sum for pre-bidding and design and hourly rate compensation method for construction review and assistance with administration during construction, as defined in Attachment C.

3.2 Subconsultant

- 3.2.1 The **Consultant** shall require the subconsultants (if applicable) to notify them if they at any time determine that their costs will exceed their estimated actual costs. The **Consultant** shall not allow the subconsultants to exceed their estimated actual costs without prior written approval of the **Contract Administrator**. The prime **Consultant** is cautioned that cost under-runs associated with any subconsultant's contract are not available for use by the prime **Consultant** unless the **Contract Administrator** has given prior written approval and the Iowa DOT and the FHWA (when applicable) concurs.

ARTICLE 4 TERMS AND CONDITIONS

4.1 Ownership of Engineering Documents

- 4.1.1 All sketches, tracings, plans, specifications, reports on special studies and other data prepared under this Agreement shall become the property of the **Owner** and shall be delivered to the **Contract Administrator** upon completion of the plans or termination of the services of the **Consultant**. There shall be no restriction or limitation on their future use by the **Owner**, except any use on extensions of the project or on any other project without written verification or adaptation by the **Consultant** for the specific purpose intended will be the **Owner's** sole risk and without liability or legal exposure to the **Consultant**.
- 4.1.2 The **Owner** acknowledges the **Consultant's** plans and specifications, including all documents on electronic media, as instruments of professional service. Nevertheless, the plans and specifications prepared under this Agreement shall become the property of the **Owner** upon completion of the services and payment in full of all moneys due to the **Consultant**.
- 4.1.3 The **Owner** and the **Consultant** agree that any electronic files prepared by either party shall conform to the specifications listed in Attachment B. All electronic files will be submitted to the **Owner** by the **Consultant** on CD or other mutually agreed upon medium. Any change to these specifications by either the **Owner** or the **Consultant** is subject to review and acceptance by the other party. Additional efforts by the **Consultant** made necessary by a change to the CADD software specifications shall be compensated for as Additional Services.
- 4.1.4 The **Owner** is aware that significant differences may exist between the electronic files delivered and the respective construction documents due to addenda, change orders or other revisions. In the event of a

conflict between the signed construction documents prepared by the **Consultant** and electronic files, the signed construction documents shall govern.

4.1.5 The **Owner** may reuse or make modifications to the plans and specifications, or electronic files while agreeing to take responsibility for any claims arising from any modification or unauthorized reuse of the plans and specifications.

4.2 Revision of Plans

4.2.1 Drafts of work products shall be submitted to the **Contract Administrator** by the **Consultant** for review and comment. The comments received from the **Contract Administrator** and the reviewing agencies shall be incorporated by the **Consultant** prior to submission of the final work product by the **Consultant**. Work products revised in accordance with review comments shall constitute "satisfactorily completed and accepted work". Requests for changes on work products by the **Contract Administrator** shall be in writing. In the event there are no comments from the **Contract Administrator** or reviewing agencies to be incorporated by the **Consultant** into the final work product, the **Contract Administrator** shall immediately notify the **Consultant**, in writing, that the work product shall constitute "satisfactorily completed and accepted work".

4.2.2 In the event that the work product prepared by the **Consultant** is found to be in error and revision or reworking of the work product is necessary, the **Consultant** agrees that it shall do such revisions without expense to the **Owner**, even though final payment may have been received. The **Consultant** must give immediate attention to these changes so there will be a minimum of delay during construction. The above and foregoing is not to be construed as a limitation of the **Owner's** right to seek recovery of damages for negligence on the part of the **Consultant** herein.

4.2.3 Should the **Contract Administrator** find it desirable to have previously satisfactorily completed and accepted work product or parts thereof revised, the **Consultant** shall make such revisions if requested and directed by the **Contract Administrator** in writing. This work will be paid for as provided in Article 4.3.

4.3 Extra Work

4.3.1 If the **Consultant** is of the opinion that any work it has been directed to perform is beyond the scope of this Agreement, and constitutes "Extra Work", it shall promptly notify the **Contract Administrator** in writing to that effect. In the event that the **Contract Administrator** determines that such work does constitute "Extra Work", the **Owner** will provide extra compensation to the **Consultant** upon the basis of actual costs plus a fixed fee amount, or at a negotiated lump sum. Unless written approval for "Extra Work" has been secured in advance from the **Contract Administrator**, and the Iowa DOT and the FHWA (when applicable) concurs, no claims will be allowed. However, the **Owner** shall have benefit of the service rendered.

4.4 Progress Meetings

4.4.1 From time to time as the work progresses, conferences will be held at mutually convenient locations at the request of the **Contract Administrator** to discuss details of the design and progress of the work. The **Consultant** shall prepare and present such information and studies as may be pertinent and necessary or as may be requested by the **Contract Administrator**, to enable the **Contract Administrator** to pass judgment on the features and progress of the work.

4.5 Additional Plans

4.5.1 At the request of the **Contract Administrator**, the **Consultant** shall furnish sufficient prints of plans or other data in such detail as may be required, for the purposes of review of details and for plan-in-hand and field check inspections.

4.6 Termination of Agreement

4.6.1 In the event of the death of any member or partner of the **Consultant's** firm, the surviving members shall complete the work, unless otherwise mutually agreed upon by the **Owner** and the survivors.

- 4.6.2 The right is reserved by the **Owner** to terminate this Agreement at any time upon not less than thirty (30) days' written notice to the **Consultant**.
- 4.6.3 In the event the Agreement is terminated by the **Owner** without fault on the part of the **Consultant**, the **Consultant** shall be paid for the reasonable and necessary work performed or services rendered and delivered up to the effective date or time of termination. The value of the work performed and services rendered and delivered, and the amount to be paid shall be mutually satisfactory to the **Contract Administrator** and to the **Consultant**. The **Consultant** shall be paid a portion of the fixed fee, plus actual costs. The portion of the fixed fee shall be based on the ratio of the actual costs incurred to the estimated actual costs contained in Attachment C. Actual costs to be reimbursed shall be determined by audit of such costs to the date established by the **Contract Administrator** in the termination notice, except that actual costs to be reimbursed shall not exceed the Estimated Actual costs, plus any authorized contingency.
- 4.6.4 In the event the Agreement is terminated by the **Owner** for fault on the part of the **Consultant**, the **Consultant** shall be paid only for work satisfactorily performed and delivered to the **Contract Administrator** up to the date established by the termination notice. After audit of the **Consultant's** actual costs to the date established by the **Contract Administrator** in the termination notice and after determination by the **Contract Administrator** of the amount of work satisfactorily performed, the **Contract Administrator** shall determine the amount to be paid to the **Consultant**.
- 4.6.5 The right is reserved by the **Owner** to suspend this Agreement at any time. The **Contract Administrator** may effect such suspension by giving the **Consultant** written notice, and it will be effective as of the date established in the suspension notice. Payment for the **Consultant's** services will be made by the **Owner** to the date of such suspension, in accordance with paragraph 4.6.3 above.
- 4.6.6 Should the **Owner** wish to reinstate the work after notice of suspension, such reinstatement may be accomplished by thirty (30) days' written notice within a period of one year after such suspension, unless this period is extended by written consent of the **Consultant**.
- 4.6.7 This Agreement will be considered completed when the construction of the project has progressed sufficiently to make it clear that the construction can be completed without further revisions in that work, or if the **Consultant** is released prior to such time by written notice from the **Contract Administrator**.
- 4.7 **Extension of Time**
- 4.7.1 The time for completion of each phase of this Agreement shall not be extended because of any delay attributed to the **Consultant**, but may be extended by the **Contract Administrator** in the event of a delay attributed to the **Owner** or the **Contract Administrator**, or because of unavoidable delays caused by an act of God, war, government actions, or similar causes beyond the reasonable control of the **Consultant**.
- 4.8 **Mediation**
- 4.8.1 In an effort to resolve any conflicts that arise during the design or construction of the project or following the completion of the project, the **Owner** and the **Consultant** agree that all disputes between them arising out of or relating to this Agreement shall be submitted to non-binding mediation unless the parties mutually agree otherwise. The **Owner** and the **Consultant** further agree to include a similar mediation provision in all agreements with independent contractors and **Consultants** retained for the project and to require all independent contractors and **Consultants** also to include a similar mediation provision in all agreements with subcontractors, subconsultants, suppliers or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between the parties to those agreements.
- 4.9 **Arbitration**
- 4.9.1 In the event the parties to this Agreement are unable to reach a settlement of any dispute arising out of the services under this Agreement in accordance with Paragraph 4.8, then such disputes shall be settled by binding arbitration by an arbitrator to be mutually agreed upon by the parties, and pursuant to the arbitration procedures set out in Iowa Code Chapter 679A. Any arbitration pursuant to this paragraph or mediation pursuant to Paragraph 4.8.1 shall occur in Union County, Iowa.

4.10 Responsibility For Claims And Liability

4.10.1 The **Consultant** shall defend, indemnify and save harmless the Owner, the Iowa Department of Transportation, the State of Iowa, its agencies, agents, employees and assignees and the Federal Government from all claims and liabilities due to design error, omission or negligent act of the **Consultant**, its members, agents, stockholders, or employees in connection with performance of this Agreement.

4.11 Non-Raiding Clause

4.11.1 The **Consultant** shall not engage the services of any person or persons, then in the employment of the **Owner**, for work covered by this Agreement without the written consent of the employer of such person.

4.12 General Compliance With Laws

4.12.1 The **Consultant** shall comply with all Federal, State and Local laws and ordinances applicable to the work.

4.13 Subletting, Assignment Or Transfer

4.13.1 Subletting, assignment, or transfer of all or part of the interest of the **Consultant** in this Agreement is prohibited unless written consent is obtained from the **Contract Administrator** and the Iowa DOT and the FHWA (when applicable) concurs.

4.14 Forbidding Use of Outside Agents

4.14.1 The **Consultant** warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the **Consultant**, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or person, other than bona fide employees working solely for the **Consultant**, any fee, commission, percentage, brokerage fee, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, the **Owner** shall have the right to annul the Agreement without liability, or in its discretion to deduct from the Agreement price or consideration or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, or counterpart fee.

4.15 Consultant's Endorsement On Plans

4.15.1 The **Consultant** shall endorse the completed computations prepared under this Agreement, and shall affix thereto the seal of a licensed professional engineer or architect, licensed to practice in the State of Iowa, in accordance with the current Code of Iowa.

4.16 Compliance With Title 49, Code Of Federal Regulations

4.16.1 During the performance of this Agreement, the **Consultant** and its assignees and successors in interest agree as follows:

4.16.1.1 Compliance with Regulations

4.16.1.1.1 The **Consultant** will comply with the regulations of the U.S. Department of Transportation, relative to nondiscrimination in federally assisted programs of the U.S. Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

4.16.1.2 Nondiscrimination

4.16.1.2.1 The **Consultant**, with regard to the work performed by it, will not discriminate on the grounds of race, religion, age, physical disability, color, sex or national origin in the selection and retention of subconsultants, including procurement of materials and leases of equipment. The **Consultant** will not participate, either directly or indirectly, in the discrimination prohibited by Section 21.5 of the

Regulations, including employment practices when the Agreement covers a program set forth in the Regulations.

4.16.1.3 Solicitation for Subconsultants, Including Procurement of Materials and Equipment

4.16.1.3.1 In all solicitations, either by competitive bidding or negotiation made by the **Consultant** for work to be performed under a subcontract, including procurement of materials or equipment, each potential subconsultant or supplier shall be notified by the **Consultant** of the **Consultant's** obligation under this contract and the regulations relative to nondiscrimination on the grounds of race, religion, age, physical disability, sex, or national origin.

4.16.1.4 Disadvantaged Business Enterprises

4.16.1.4.1 The **Consultant** or its subconsultants agree(s) to ensure that disadvantaged business enterprises (DBEs) as defined in 49 CFR Part 26 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this Agreement. In this regard the **Consultant** and all of its subconsultants shall take all necessary and reasonable steps in compliance with the Iowa DOT DBE Program to ensure disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. The **Consultant** and their subconsultants shall not discriminate on the basis of race, religion, age, physical disability, color, sex or national origin in the award and performance of U.S. DOT assisted contracts. If, as a condition of assistance, the Iowa DOT has submitted to the U.S. DOT, or the **Consultant** has submitted to the Iowa DOT, and the U.S. DOT or Department has approved a disadvantaged business enterprise affirmative action program which the Iowa DOT and/or **Consultant** agrees(s) to carry out, this program(s) is incorporated into this Agreement by reference. This program shall be treated as a legal obligation and failure to carry out its terms shall be treated as a violation of this financial assistance agreement.

Upon notification to the **Consultant** of its failure to carry out the approved program, the **Owner**, the Iowa DOT, and/or the U.S. DOT shall impose sanctions, which may include termination of the Agreement or other measures that may affect the ability of the **Consultant** to obtain future U.S. DOT financial assistance. The **Consultant** or any of its subconsultants are hereby advised that failure to fully comply with the Iowa Department of Transportation's DBE Program shall constitute a breach of contract and may result in termination of this Agreement or agreement(s) by the **Owner** or such remedy as the **Owner** deems appropriate. Refer to Article 4.6 of the Agreement.

4.16.1.5 Information and Reports

4.16.1.5.1 The **Consultant** will provide all information and reports required by the regulations, orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the **Owner**, the Iowa DOT, or the FHWA, to be pertinent to ascertain compliance with regulations, orders and instructions. Where any information required of a **Consultant** is in the exclusive possession of another who fails or refuses to furnish this information, the **Consultant** shall so certify to the **Owner**, the Iowa DOT, or the FHWA, as appropriate, and shall set forth what efforts it has made to obtain information.

4.16.1.6 Sanctions for Noncompliance

4.16.1.6.1 In the event of the **Consultant's** noncompliance with the nondiscrimination provisions of this Agreement, the **Owner** shall impose such contract sanctions as it, the Iowa DOT, or the FHWA, may determine to be appropriate, including, but not limited to:

...1.6.1.1 Withholding of payments to the **Consultant** under the Agreement until the **Consultant** complies, and/or

...1.6.1.2 Cancellation, termination or suspension of the Agreement, in whole or in part.

4.16.1.7 Incorporation of Provisions

4.16.1.7.1 The **Consultant** will include the provisions of Article 4.16.1.1 through 4.16.1.6 of this Agreement in every subagreement, including procurements of materials and lease of equipment, unless exempt by the regulations, orders or instructions issued pursuant thereto. The **Consultant** will take such action with respect to any subagreement or procurement as the **Owner**, Iowa DOT, or FHWA may direct as a

means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event a **Consultant** becomes involved in, or is threatened with, litigation with a subconsultant or supplier as a result of such direction, the **Consultant** may request the **Owner**, the Iowa DOT, or the United States to enter into such litigation to protect the interests of the **Owner**, the Iowa DOT, and the United States, respectively.

4.17 Access To Records

4.17.1 The **Consultant** is to maintain all books, documents, papers, accounting records and other evidence pertaining to this Agreement and to make such materials available at their respective offices at all reasonable times during the agreement period, and for three years from the date of final payment under the Agreement, for inspection and audit by the **Owner**, Iowa DOT, FHWA, or any authorized representatives of the Federal Government; and copies thereof shall be furnished, if requested.

4.18 Iowa DOT and Federal Highway Administration Participation

4.18.1 The work under this Agreement shall be contingent upon and subject to the approval of the Iowa DOT and the Federal Highway Administration (if applicable). The Iowa DOT and the Federal Highway Administration shall have the right to participate in the conferences between the **Consultant** and the **Owner** and to participate in the review or examination of the work in progress.

4.19 Severability

If any section, provision or part of this Agreement shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Agreement as a whole or any section, provision, or part thereof not adjudged invalid or unconstitutional.

4.20 Choice of Law and Form

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this agreement without regard to the choice of law provisions of Iowa law. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this agreement, the exclusive jurisdiction for the proceeding shall be brought in the Union County District Court for the State of Iowa, Creston, Iowa. This provision shall not be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to the Owner.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their proper officials thereunto duly authorized as of the dates below indicated.

Veenstra & Kimm, Inc

Forrest Aldrich
Project Principal

Date: _____, _____

City of Creston

Warren Woods
Mayor

Date: _____, _____

**Iowa Department of Transportation
Accepted for FHWA Authorization***

By: _____
Tamara Nicholson, Director, Office of Rail Transportation

Date: _____, _____

* The Iowa DOT is not a party to this agreement. However, by signing this agreement, the Iowa DOT is indicating the work proposed under this Agreement is acceptable for FHWA authorization of Federal funds.

ATTACHMENT A
Scope of Services

1. **SCOPE OF PROJECT.** The Scope of the Project includes the following improvements:
 - a. Construction of rail crossing improvements on Elm Street (Union St to Adams St) and New York Avenue (Union St to Jefferson St) consistent with quiet zone regulations.
 - b. Construction of the walk will comply with required guides associated with the project funding.
 - c. The drainage will be accommodated along the improvements.
 - d. The Engineers will work with land corners that can be readily found and property owners but will not do extensive survey work to locate land corners which have not recently been recovered.
 - e.
 - f. The construction documents will be created consistent with plans for a DOT funding. Efforts will also include a concept statement, preliminary, check and final plans. The extra efforts if required beyond this are not included in this agreement.
 - g. No public meeting is assumed for the project to inform area residents and business owners of the intended improvements and approximate schedule and staging. If one is desired, that will be considered extra work.
 - h. Preparation of assessment plats and schedules are not included in this Agreement
 - i. Resident review and general services during construction are included in this Agreement. Assistance during audit and final reimbursement is also included. These services will be reimbursed at the agreed hourly rates.
 - j. Specialized or specific retaining wall or other structural element designs are not included in the project's scope. If these services are needed, they will be considered extra work.
2. **DESIGN SURVEYS.** The Engineers shall make use of aerial and topographic surveys for design of the Project and for preparation of plans and specifications. The Engineers will establish elevations of existing drives, ditches, roadway, sidewalks and storm drainage structures with field surveys.
3. **DESIGN CONFERENCES.** The Engineers shall attend such design conferences with the City as may be necessary to make decisions as to details of design of the Project.
4. **PLANS AND SPECIFICATIONS.** The Engineers shall prepare such construction plans and specifications, as are reasonably necessary and desirable for construction of the Project. The plans and specifications shall set forth all the details required for the construction of the improvements. The specifications will indicate the quality standards for the materials to be used and will, in general, set forth the requirements of the City and the governmental agencies as to the standards for workmanship. The project will include one bid letting, with plans prepared for a possible IDOT state bid letting.
5. **ESTIMATE OF COST.** The Engineers shall prepare an estimate of cost for the construction contract to construct the improvements. The Engineers do not make any guarantee that the low bid will be equal to or less than the estimate of cost.
6. **EASEMENTS.** It is understood and agreed that easements will not be required of the Engineers as a part of the Scope of Project on this Project. The City will obtain temporary grading easements where required for grading along proposed improvements.

7. **ADVERTISEMENT FOR BIDS.** The Owner or the Iowa DOT shall do advertisement for bids. The Iowa DOT will also prepare bid tabulations and construction contracts for the City if let by the Iowa DOT.
8. **SERVICES NOT INCLUDED.** If, after plans and specifications are reviewed and approved by the City, the Engineers are required to change plans and specifications because of changes made by the City, the Engineers shall receive additional compensation for such changes and shall be based on the standard hourly fees plus expenses for personnel engaged in making such changes.

Soil borings and soil testing and contaminated soil investigations are not included in this Agreement.

Engineering services related to litigation associated with construction claims are not included in this Agreement.

Environmental studies and archeological investigations are not included in this Agreement.

Property owner negotiations relative to new right-of-way or construction easements needed for the project.

Materials testing during construction

Construction staking is not included in this Agreement.

Design of franchise utility relocations

ATTACHMENT B
Specifications

Preliminary Plans, Check Plans and Final Plans and the needed Project Development Certificate as well as other deliverables as called for in the scope of services as described in Attachment A

**ATTACHMENT C (referenced from 3.1)
Fees and Payments - Lump Sum**

3.1.1 FEES AND PAYMENTS

3.1.1.1 Fees. For full and complete compensation for all work, materials, and services furnished under the terms of this Agreement, the **Consultant** shall be paid fees on a lump sum basis and payment of this amount shall be considered as full and complete compensation for all work, materials and services furnished under the terms of this Agreement. The lump sum amount shall be \$43,000 for Pre-bidding design, engineering and professional services. The estimated staff hours and fees are not shown in this attachment.

The lump sum amount will not be changed unless there is a substantial change in the magnitude, scope, character, or complexity of the services from those covered in this Agreement. Any change in the lump sum amount will be by Supplemental Agreement.

3.1.1.2 Reimbursable Costs. Reimbursement of costs is limited to those that are allowable under the provisions of Title 48, Subchapter E, Section 31.105 and Subpart 31.2 of the current Federal Acquisition Regulation.

3.1.1.3 Premium Overtime Pay. Not applicable.

3.1.1.4 Payments. Monthly payments for work completed shall be based on the percentage of work completed and substantiated by monthly progress reports. The **Contract Administrator** will check such progress reports and payment will be made for the proportional amount of the lump sum fee

Upon completion, delivery, and acceptance of all work contemplated under this Agreement, the **Consultant** shall submit one complete invoice statement for the balance of the lump sum fee. Payment of 100% of the total cost claimed will be made upon receipt and review of such claim. The **Consultant** agrees to reimburse the **Owner** for possible overpayment determined by final audit.

ATTACHMENT C (referenced from 3.1)
Fees and Payments - Specific Rate of Compensation

3.1.1 FEES AND PAYMENTS

3.1.1.1 Fees. For full and complete compensation for all work, materials, and services furnished under the terms of this Agreement, the **Consultant** shall be paid fees not to exceed the maximum amount payable under this Agreement of \$120 per hour (for engineering time) and \$65 per hour (for construction observer time) up to 125 hrs.

The maximum amount payable will not be changed unless there is a substantial change in the magnitude, scope, character, or complexity of the services from those covered in this Agreement. Any change in the maximum amount payable will be by Supplemental Agreement.

The current schedule of billing rates (direct labor rate, overhead, and fixed fee) are set forth in the following rate schedule. The **Consultant** may submit for approval a revised rate schedule once during the contract period. This revision may include a revised overhead rate and revised direct labor rates. The revised rate schedule should be submitted to the **Contract Administrator** for approval. Upon the **Contract Administrator's** written approval and concurrence by the Iowa DOT and the FHWA (when applicable) it shall become a part of this Agreement.

3.1.1.2 Reimbursable Costs. The **Consultant** shall be reimbursed for direct non-salary costs, which are directly attributable and properly allocable to the work. The **Consultant** will be required to submit a detailed listing of direct non-salary costs incurred and certify that such costs are not included in the overhead expense pool. These costs may include travel and subsistence, reproductions, computer charges, and materials and supplies.

Reimbursement of costs is limited to those that are allowable under the provisions of Title 48, Subchapter E, Section 31.105 and Subpart 31.2 of the current Federal Acquisition Regulation.

3.1.1.3 Premium Overtime Pay. Not applicable.

3.1.1.4 Payments. Monthly payments for work completed shall be based on the services completed at the time of the billing and substantiated by monthly progress reports in a form that follows the specific rate schedule. The **Contract Administrator** will check such progress reports and payment will be made for the hours completed at each rate and for direct non-salary costs incurred during said month.

Upon completion, delivery and acceptance of all work contemplated under this Agreement, the **Consultant** shall submit one complete invoice statement of costs incurred and/or amounts earned. Payment of 100% of the total cost claimed will be made upon receipt and review of such claim. The **Consultant** agrees to reimburse the **Owner** for possible overpayment determined by final audit.

ATTACHMENT D
Certification Regarding Debarment, Suspension, and other Responsibility Matters
– Primary Covered Transactions

Instructions for Certification

By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

1. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.
2. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause of default.
3. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person" "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the definitions and coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.
5. The prospective primary participant agrees by submitting this proposal that should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
6. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion - Lower Tier Covered Transaction," provided by the department or agency entering into this covered transaction, without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.
7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.
8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
9. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

**Certification Regarding Debarment, Suspension, and other Responsibility Matters
– Primary Covered Transactions**

- (1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:
- (a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
 - (b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State Antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
 - (c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and
 - (d) Have not within a three-year period preceding this application /proposal had one or more public transactions (Federal, State or local) terminated for cause or default.
- (2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

State of Iowa
Union County

I Forrest Aldrich, Board Member of the Veenstra & Kimm, Inc, being duly sworn (or under penalty of perjury under the laws of the United States and the State of Iowa) do hereby certify that the above statements are true and correct.

(signature)

Subscribed and sworn to this _____ day of _____, _____.

ATTACHMENT E
Certification of Consultant

I hereby certify that I, Forrest Aldrich am a Board of Directors Member and duly authorized representative of the firm of Veenstra & Kimm, Inc, whose address is 3000 Westown Pkwy West Des Moines Iowa and that neither I nor the above firm here represented has:

- (a) Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above **Consultant**) to solicit or secure this contract,
- (b) Agreed, as an express or implied condition for obtaining this contract, to employ or retain the services of any firm or person in connection with carrying out the contract, or
- (c) Paid, or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above **Consultant**) any fee, contribution, donation or consideration of any kind for, or in connection with, procuring or carrying out the contract; except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished to the Iowa Department of Transportation and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal-aid highway funds, and is subject to applicable, State and Federal laws, both criminal and civil.

(signature)

Made this _____ day of _____, _____.

ATTACHMENT F
Certification of Owner

I hereby certify that I, Kevin Kruse, am the Public Works Director and the duly authorized representative of the Owner, and that the above consulting firm or its representative has not been required, directly or indirectly as an express or implied condition in connection with obtaining or carrying out this contract to:

- (a) Employ or retain, or agree to employ or retain, any firm or person, or
- (b) Pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind; except as here expressly stated (if any):

I acknowledge that this certificate is to be furnished the Iowa DOT and the Federal Highway Administration, U.S. Department of Transportation, in connection with this contract involving participation of Federal-aid highway funds, and is subject to applicable State and Federal laws, both criminal and civil.

(signature)

Made this _____ day of _____, _____.

**ATTACHMENT G
Sample Invoice**

Prime Consulting Inc.
123 Street
City, Iowa 50001

**Cost Plus Fixed Fee
Progressive Invoice**

1/5/04

Invoice No. 4
Invoice Period Covered 12/1/03-12/31/03
Consultant Job No. 155820

Client Project No. NHS-43-3(34)4-2C-70
County Story
Client Project Description US 43 Ames to Jewell
Client Contract No. 2258D

	Contract Estimate	Cumulative To Date	Current Period
Labor Dollars	226,851.00	40,477.30	21,584.70
Overhead (120%)	272,221.00	48,572.40	25,900.80
Overhead adjustments			
Direct Expenses			
Mileage	800.00	215.87	215.87
Per Diem	600.00		
Subconsultants (including authorized contingency)			
Surveyor Sub Inc.	26,621.11	20,670.16	2,558.57
Driller Sub Inc.	14,169.00		
Geotech Sub Inc.	13,273.84	1,979.55	1,979.55
Subtotal	554,535.95	111,915.28	52,239.49
Fixed Fee	85,540.00	17,108.00	8,554.00
Authorized Contingency	2,500.00		
Total Authorized Amount	642,575.95		
Total Billed To Date	240,938.56	240,938.56	113,032.98

Remaining Authorized Balance 401,637.39

Unauthorized Contingency

Prime Consulting Inc. 61,935.00
Surveyors Inc. 1,562.00
Drillers Inc. 1,417.00
Geotech Inc. 1,327.00

Labor Hours 9,453.00

Surveyor Sub Inc.

45 Street
City, Iowa 50001

1,680.00 814.00

Cost Plus Fixed Fee
Progressive Invoice

12/23/03

Invoice No. 3

Invoice Period Covered 11/15/03-12/15/03

Consultant Job No. 155820

Client Project No. NHS-43-3(34)4-2C-70
County Story
Client Project Description US 43 Ames to Jewell
Client Contract No. 2258D

Contract
Estimate

Labor Dollars 9,984.20

Overhead (130%) 12,979.46

Overhead adjustments

Direct Expenses

Milage 118.42

Cumulative
To Date

4,551.08

5,916.40

(823.44)

56.28

Current
Period

556.21

723.07

Subconsultants (including authorized contingency)

Subtotal	23,082.08	9,700.32	1,279.28
Fixed Fee	2,539.03	1,269.51	
Authorized Contingency	1,000.00		
Total Authorized Amount	26,621.11		
Total Billed To Date	20,670.16	20,670.16	2,558.57
Remaining Authorized Balance	5,950.95		

Unauthorized Contingency
 Surveyors Inc. 1,562.00

Labor Hours 1,121.00 180.00 24.00
 Geotech Sub Inc.
 88 Street
 City, Iowa 50001

**Cost Plus Fixed Fee
 Progressive Invoice**

12/23/03

Invoice No. 1
 Invoice Period Covered 11/15/03-12/15/03
 Consultant Job No. 155820
 Client Project No. NHS-43-3(34)4-2C-70
 County Story
 Client Project Description US 43 Arnes to Jewell
 Client Contract No. 2258D

	Contract Estimate	Cumulative To Date	Current Period
Labor Dollars	5,210.42	415.00	415.00
Overhead (125%)	6,513.03	518.75	518.75
Overhead adjustments			
Direct Expenses			
Milage	64.80		

Reproduction sq.	170.17		
Subconsultants (including authorized contingency)			
Subtotal	11,958.42	933.75	933.75
Fixed Fee	1,315.43	112.05	112.05
Authorized Contingency	-		
Total Authorized Amount	<u>13,273.84</u>	<u>1,979.55</u>	<u>1,979.55</u>
Total Billed To Date	1,979.55		
Remaining Authorized Balance	11,294.29		
Unauthorized Contingency			
Geotech Inc.	1,324.00		
Labor Hours	300.00	17.00	17.00

Engineer's Statement of Completion

Project: Aviation Fuel Tank Improvements
Creston Municipal Airport
Creston, Iowa 50801

Contractor: Fuel Tech Inc.
P.O. Box 1079
Mims, FL 32754

TO: City of Creston, Iowa

I hereby state that the construction of the Aviation Fuel Tank Improvements Project at the Creston Municipal Airport by a Contract dated May 1, 2012, has been substantially completed in general compliance with the terms, conditions, and stipulations of said Contract. The work was substantially completed by the specified completion date for the project.

I further state that the total amount due to the Contractor for the fulfillment of said Contract is One Hundred Twenty Five Thousand Nine Hundred Seventy Seven and 50/100 dollars (\$125,977.50). The derivation of this total amount is tabulated on the attached sheets.

Ninety-five percent (95%) of the total amount due the Contractor should be paid within thirty (30) days after the acceptance of the construction by resolution of the Council. The remaining five percent (5%) shall then be paid thirty (30) days after the acceptance of the construction by resolution of the Council. The Contractor will receive interest on any unpaid balance at the maximum legal rate from and after thirty (30) days following acceptance of the project by the Council.

CLAPSADDLE-GARBER ASSOCIATES, INC.



William R. Grabe, P.E.
Iowa License No. 9221

Date: January 11, 2013

Accepted by: _____ Date: _____
Resolution: _____

Distribution: Engineer
Contractor
FAA
Bonding Co.
City

Signed: _____

Attest: _____

CONSTRUCTION PROGRESS REPORT

Project Description: Aviation Fuel Tank Improvements

Date of Contract: 5/1/2012
 Completion Date: 8/31/2012

Estimate No: Three (3) - Final

Contractor: Fuel Tech Inc.
 P.O. Box 1079
 Mims, FL 32754

Owner: City of Creston Iowa
 P.O. Box 449
 116 W. Adams St.
 Creston, IA 50801

Base Contract Price	\$126,750.00	Materials on Hand (See Attached Tab)	\$0.00
Work Order No.		Construction Completed (See Attached Tab)	\$125,977.50
Work Order No.		Total Amount Earned	\$125,977.50
Work Order No.		Less 5% Retainage	\$0.00
Work Order No.		Less Previous Payment	\$116,163.62
Work Order No.		AMOUNT DUE THIS ESTIMATE	\$9,813.88
TOTAL CONTRACT PRICE	\$126,750.00		

Requested For Contractor By _____


 John Keegan

Title President

Date November 28, 2012

Recommended By Engineer _____


 William R. Grabe, P.E.

Title Project Engineer

Date 1-11-2013

Approved For Owner By _____

Title _____

Date _____

TABULATION OF CONSTRUCTION QUANTITIES

PROJECT: Aviation Fuel Tank Improvements
 PROJECT NUMBER: 4374.06
 ESTIMATE NO.: Three (3) - Final

FOR THE PERIOD
 FROM: 8/31/2012
 TO: 10/29/2012

Item No.	Item Description	Contract Quantity and Units	Unit Price	Total To Date		Previous Period		Completed This Period	
				Quantity	Cost	Quantity	Cost	Quantity	Cost
1	Safety Plan, Traffic Control and Mobilization	1 LS	\$7,000.00	100%	\$7,000.00	100%	\$7,000.00	0%	\$0.00
2	Removal of Underground Tanks	1 LS	\$14,000.00	100%	\$14,000.00	95%	\$13,300.00	5%	\$700.00
3	Sampling and Testing for Petroleum Contamination	12 EA	\$250.00	12	\$3,000.00	0	\$0.00	12	\$3,000.00
4	Excavation and Grading	1 LS	\$6,500.00	100%	\$6,500.00	100%	\$6,500.00	0%	\$0.00
5	Tank Slab, Bollards and Appurtenances	1 LS	\$10,000.00	100%	\$10,000.00	100%	\$10,000.00	0%	\$0.00
6	10,000 Gallon Jet A Fuel Tank System	1 LS	\$34,000.00	100%	\$34,000.00	100%	\$34,000.00	0%	\$0.00
7	10,000 Gallon AvGas Fuel Tank System	1 LS	\$33,000.00	100%	\$33,000.00	100%	\$33,000.00	0%	\$0.00
8	Remote Tank Fill Port Connection	1 LS	\$2,000.00	100%	\$2,000.00	100%	\$2,000.00	0%	\$0.00
9	Fire Extinguisher and Cabinet	1 EA	\$350.00	1	\$350.00	1	\$350.00	0	\$0.00
10	4" Modified Subbase for Driveway	160 SY	\$25.00	141.9	\$3,547.50	141.9	\$3,547.50	0.0	\$0.00
11	8" PCC Paving for Driveway	125 SY	\$100.00	121.8	\$12,180.00	121.8	\$12,180.00	0.0	\$0.00
12	Seeding and Fertilizing	1 LS	\$400.00	100%	\$400.00	100%	\$400.00	0%	\$0.00
CGA Consultants Marshalltown, IA 50158				Contract Amount		Previously Earned		Completed This Period	
TOTALS				\$126,750.00		\$125,977.50		\$122,277.50	
				\$3,700.00					



CREATIVE ARTISTS AGENCY

401 Commerce Street, Penthouse

Nashville, TN 37219

615-383-8787/615-383-4937 Fax

ELECTRONIC

AGREEMENT made this 18th day of Jan, 2013

Between Miss Willie Brown - Mad Dog Union Shakers Touring, Inc. (27-2937325)

(hereinafter referred as "PRODUCER"), and Creston Parks and Rec. Department

(hereinafter referred as "PURCHASER"). It is mutually agreed upon between the parties as follows: The PURCHASER hereby engages the PRODUCER and the PRODUCER hereby agrees to furnish the entertainment presentation hereinafter described, upon all terms and conditions herein set forth, including those attached hereto entitled "Additional Terms and Conditions".

1. Name and Address of Place of Engagement: McKinley Park Bandshell - Creston, IA

2. Date(s), Showtime: Sat, Jun 22, 2013 @ 04:00 PM

3. Additional Information:

Billing: Artist to receive 75% Special Guest Star billing.

Performance Length: Artist to perform one complete set.

Sound and Lights: Purchaser to provide and pay for first class sound & lights, per Artist specifications.

Support Talent: Purchaser to provide and pay for openers, Rumley Brothers and Sydney Loft. MISS WILLIE BROWN to perform immediately prior to Jimmie VanZant. Rebel Road

Additional Provisions: *In the event of inclement weather that renders any performance impossible, hazardous or unsafe, Purchaser shall remain liable for payment of the full agreed upon compensation even if such performance is prevented by such weather conditions.

*Purchaser to provide and pay for, pending advance with management:

- hotel rooms

- meals (BBQ meal at venue)

Merchandise: 100% to Artist

Who Sells: Artist sells

4. COMPENSATION AGREED UPON (Amount and Terms):

\$7,000.00 guarantee

TICKET SCALING:	Show Type:	Public Event		
General Admission	5,000 @	\$20.00	\$100,000.00	
Total Capacity:	5,000	Gross Potential:	\$100,000.00	
Total Tax%	.00%	Tax/Deductions:	(\$0.00)	Net Potential: \$100,000.00

5. DEPOSITS/CONTRACTS: \$7,000.00 due immediately on or before Jan 28, 2013

Purchaser will make payments as follows: all payments shall be paid by certified check, money order, bank draft, wire transfer, or cash. Notwithstanding the foregoing, all deposits will be paid by PURCHASER to CREATIVE ARTISTS AGENCY, LLC's client trust account on behalf of Producer. Any required income tax reporting obligations of Purchaser for payments made hereunder shall be reported as solely for Producer, regardless of payments sent to CAA on behalf of Producer, including but not limited to deposits. CONTRACTS MUST BE RETURNED WITHIN 30 DAYS OF RECEIPT. BALANCE of Guarantee, Plus Percentage Payments, if any, and Sound and lights Payments, if any, to be paid in United States Currency by PURCHASER to ARTIST no later than Prior to Performance, evening of engagement

6. Riders Attached Hereto Are Hereby Made a Part Hereof.

7. If Artist is Headlining This Engagement: "All Support Talent is Subject to Artist Approval."

8. If Artist is Supporting This Engagement: "Artist's Performance is Subject to the Appearance and Approval of the Headliner."

9. No performance on the engagement shall be recorded, reproduced or transmitted from the place of performance, in any manner or by any means whatsoever, in the absence of a specific written agreement with the Producer relating to and permitting such recording, reproduction or transmission.

Signed: (ARTIST/PRODUCER)

PRODUCER: Mad Dog Union Shakers Touring, Inc. (27-2937325)

Signed: (PURCHASER)

PURCHASER: Creston Parks and Rec. Department - Creston, IA by ~~John~~

Mayor Warren Woods

Return all signed copies to Agent:

Jeff Hill

Agreement No. 538881

Mail To: Todd Kinkade; Creston Parks and Rec. Department; 500 N. Pine; Creston, IA 50801
Business phone: 614-202-6970;

THE ABOVE SIGNATURES CONFIRM THAT THE PARTIES HAVE READ AND APPROVE EACH AND ALL OF THE "ADDITIONAL TERMS AND CONDITIONS" ATTACHED HERETO.



Southwest Iowa
Provider Awareness
Children ~ Quality ~ Learning

To Whom It May Concern:

Provider Awareness was established through MATURA Action Corporation in 2008 through Child Care Resource and Referral, in July 2011 that program had been eliminated and the providers kept the organization together now known as the Southwest Iowa Provider Awareness. We are a support group for all providers including homes, centers and preschools. We do community activities in Union County and other southwest Iowa counties for children and families. We have done the Balloon days parade, Bright Eyes, Family Fun Nights at the YMCA, etc. For the 2012 Balloon days parade we handed out over 800 children's books to those children at the parade, we are hoping to do the same this year. We do fundraisers and receive donations to help fund these activities.

We are asking for approval to have a 5k Run/walk in Creston on April 20th starting at 8am, followed by a children's race. We are hoping to have this become a yearly event to help earn money for the group. We would start on Cedar St by Bunn O'Matic, go to Townline St to Osage St, turn on Howard St back to Cedar St and end by Bunn on Cedar. We are trying to get everything in order so we can have a successful event to help fund the Southwest Iowa Provider Awareness and to help bring community awareness to child care.

We appreciate all the support we can receive.

Thank you,

Jenny Rice

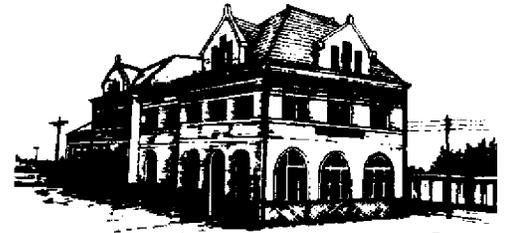
Jenny Rice, President

swiaproviderawareness@yahoo.com

641-344-2837

City of
CRESTON, IOWA

116 W. Adams • P.O. Box 449 • Creston, Iowa 50801-0449
Phone 641-782-2000 • Fax 641-782-6377



Creston's Restored Depot and City Hall

February 1, 2013

TO: Mayor Woods and City Council Members

RE: Cottonwood Subdivision Covenants

The committee established by Mayor Woods met on two occasions and have made the following changes to the proposed covenants to what was originally proposed. The covenants used were based on those from the James Subdivision.

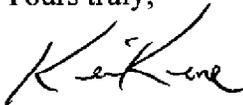
The additions to the covenants are underlined.

- X. REMEDIES FOR VIOLATIONS – INVALIDATIONS – For a violation or breach of any of these restrictive covenants, the owners of the said real estate, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof or to prevent the violation or breach of any of them. The failure to promptly enforce any of the said restrictive covenants shall not bar their enforcement. The invalidation of any one or more of the restrictive covenants by any court of competent jurisdiction shall in no way affect any of the remaining restrictive covenants, but they shall remain in full force and effect. It is further agreed that in the event any party employs counsel to enforce any of the restrictive covenants, by reason of a breach of said restrictive covenants, then all costs incurred in such enforcement proceedings, including a reasonable fee for counsel, shall be paid by the owner or party who has been deemed to have breached the said restrictive covenants. In the event no party or person is deemed to have breached any of the restrictive covenants contained herein, then the Court may assess all or a portion of the costs of the proceeding, including reasonable fees for counsel, against the party bringing the said action. The City of Creston shall be held harmless from any damages, legal costs or other expenses resulting from litigation arising from enforcement of these covenants.

Y. AMENDMENTS OF COVENANTS – These Covenants, Conditions and Restrictions may be amended from time to time with the approval of the Owners. Said approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the Owners. The Owners of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Provided, however, until twelve (12) months following the date of which the City has sold all of the Lots, it may make amendments or modifications to these Covenants, Conditions and Restrictions without the consent of any other Owners or any other party. Such amendments or modifications by the City Council shall be effective only after all other Owners are provided with a copy of the amendment or modification and the amendment or modification has been filed with the Union County Recorder.

If you have any questions you may contact me or Council persons White, Loudon or Wilson.

Yours truly,

A handwritten signature in black ink, appearing to read "Kevin Kruse". The signature is written in a cursive style with a large initial "K".

Kevin Kruse
Public Works Director

**BUILDING RESTRICTIONS
AND
PROTECTIVE COVENANTS
FOR
COTTONWOOD SUBDIVISION**

KNOW ALL MEN BY THESE PRESENTS:

That the City of Creston, as owner and developer of Cottonwood Subdivision in the City of Creston, Union County, Iowa, does hereby establish and place the following building restrictions and protective covenants and does hereby reserve certain easements, all as hereinafter specifically set forth on the following described real property:

Lots One (1) through Seventy-Nine (79) in Cottonwood Subdivision in the City of Creston, Union County, Iowa, (hereinafter referred to as "Lot" or "Lots").

- A. **USE** – The use of the above described real estate, or any portion thereof, shall be for residential purposes only. Lots 1–6 and 17–32 shall be used for two-family (duplex) residential. Lots 33–38 shall be used for townhouse residential. Lots 7–16 and 39–79 shall be used for single-family dwellings. No portion shall be used in whole or in part for the storage of any property or thing that will cause said property to appear in the unclean or untidy condition or that will be obnoxious to the eye; nor shall any substance, thing or material be kept upon said property that will emit foul or obnoxious odors, or that will cause any noise that will or might disturb the peace, quiet, comfort or serenity of the occupants of surrounding property. Any structure constructed within this subdivision shall be done in conformity with existing building code and zoning laws of the City of Creston at the time of construction and subject to all the following applicable provisions.
- B. **HOMES PER LOT** – Only one (1) dwelling unit per lot or sub lot. Two (2) lots can be purchased for one single-family residence only with the express consent of the City of Creston.
- C. **FURTHER SUBDIVISION** – No lot may be further subdivided, except with written consent of City of Creston, the developer.
- D. **CONSTRUCTION** – The lot owner shall maintain the lot prior to construction.
1. **BUILDING PLANS** – All plans must be approved by City of Creston, Cottonwood Subdivision Housing Review Committee prior to closing.
 2. **HOUSE PLANS** – House plans must be submitted for review and approval to the City of Creston, Cottonwood Subdivision Housing Review Committee within one year of the date of the execution of the

Purchase Agreement, and submit a letter of financing for construction with such plans.

3. **PENALTIES** – If the owner does not begin construction within one year of the date of purchase agreement, the lot owner must resell the lot back to the City of Creston at the original price less \$1,000.00 plus legal and other related expenses.
 4. **CONSTRUCTION COMPLETION** – Construction of the home must be completed within two (2) years after execution of purchase agreement. Any deviations must be approved by the City of Creston, if not, a reason will need to be provided to the City of Creston.
- E. **MINIMUM DWELLING SIZE** – any dwelling unit within the subdivision shall conform to the following areas, exclusive of open porches, breezeways, garages or steps.
- F. **ON-SITE COMPLETION** – Seventy-Five (75%) percent of home construction on each lot shall be completed on site.
1. **SINGLE-STORY DWELLINGS** must have a minimum of 1,250 square foot finished living area over a 1,250 square foot basement.
 2. **ONE AND ONE-HALF STORY DWELLINGS** must have a minimum of 1,250 square foot finished living area over a 1,000 square foot basement.
 3. **TWO-STORY DWELLINGS** must have a minimum of 900 square foot finished living area per level over a 900 square foot basement.
 4. **SPLIT-ENTRY DWELLINGS** must have a minimum of 1,250 square foot finished living area on the upper level over a 1,250 square foot lower level. Lower level may include garages.
 5. **SPLIT-LEVEL DWELLINGS** must have a minimum of 1,250 square foot finished living area on two adjoining levels, with a full basement under the ground floor level.
- G. **ROOF PITCH** – The minimum roof pitch must be 6/12.
- H. **GARAGE** – All homes must have at least an attached two-car garage.
- I. **HOME PLACEMENT** – Homes erected on Lots 1-11 and 39-47 shall not have driveways which intersect with Cottonwood Street. Lots 12 and 13 shall not have driveways that intersect Adams Street.

- J. **SIGNS** – Once construction is completed, no billboard or advertising signs of any character shall be erected, placed, permitted or maintained on the said real estate with the exception of a name and address sign, “for rent” sign or “for sale” sign.
- K. **FENCES & SIDEWALKS** – The purchaser of Lot or Lots shall, at purchaser’s expense, install public sidewalks in accordance and compliance with the Creston Municipal Code and Ordinances. Installation and construction of such sidewalks shall be completed before occupancy of the residence. Sidewalks will not be required adjacent to Cottonwood Street or Adams Street. Fences constructed on said Lot or Lots, shall at a minimum, comply with the Creston Municipal Code and Ordinances.
- L. **ANIMALS** – No animals, livestock, or poultry of any kind shall be raised, bred or kept on any lot, except that dogs, cats and other common household pets may be kept so long as they are not kept, bred or maintained for commercial purposes. In no event, however, shall more than two dogs be maintained on any one lot at any one time. Dogs must be tied or fenced or kept in a dog run.
- M. **TEMPORARY/ACCESSORY BUILDINGS** – No outbuilding, garage, shed, tent, trailer, basement of other temporary building shall be used for permanent or temporary residence purposes on the above described real estate. Accessory buildings must be harmonious with the house style. Siding must match the house. Buildings cannot be metal. There is a limit of one such building per lot. Any such temporary buildings must be approved by City of Creston, Cottonwood Review Committee.
- N. **TRAILERS AND HABITABLE MOTOR VEHICLES** – No trailers or habitable motor vehicles of any nature shall be kept on or stored on any part of the property except within an enclosed garage. Exceptions shall be made for guest recreational vehicle parking for up to 10 days.
- O. **BUSINESS OPERATED ON SAID REAL ESTATE** – No business shall be operated on the real estate, except within and by the terms herein provided. A business may be operated within a single-family residence, if the business is related to educational purposes. A business may be operated within a single-family residence, if the nature of the business requires that the owner or occupant of the single-family residence maintains an “in-home” office, but in no event shall the character or nature of said business be such that a majority of said business occurs on account of visits and trips to the said real estate by clients, customers and/or business associates.
- P. **EXTERIOR HOME SURFACES, ROOFING, LIMITATIONS** – Exterior home surfaces shall be of rock, brick, wood or other conventional siding material. Exterior siding which will blend harmoniously with the site and

other houses is encouraged. (i.e., No corrugated metal roofing is permitted on any structure and no conventional vertical steel siding is permitted on any residence).

- Q. **PERPETUAL EASEMENTS** – are reserved for utility purposes as shown on the final plat and no building structure or fence shall be erected on or in said easement area which might interfere with the purpose of use thereof.
- R. **EXCESS DIRT** – The City of Creston shall be granted a first option to any excess dirt from lot construction from the lot owner. If the City of Creston desires excess dirt from the lot owner, the City of Creston shall be responsible for hauling said dirt from such lot or lots.
- S. **TOPOGRAPHY** – The topography of each lot shall not be changed without the express consent and approval of the City of Creston.
- T. **SATELLITE DISHES** – No satellite dishes larger than 24 inches shall be erected or placed on said lots.
- U. **WEED CONTROL AND NUISANCES** – The title holder of each lot, vacant or improved, shall keep said lot free of weeds and debris and no titleholder will do or permit to be done, any act upon his or her property, which may be, or is, or may become a nuisance.
- V. **RUBBISH CONTAINERS** – No rubbish container shall be visible from the street except on pick-up day and one day before and one day after pick-up day.
- W. **REMEDIES FOR VIOLATIONS – INVALIDATIONS** – For a violation or breach of any of these restrictive covenants, the owners of the said real estate, or any of them severally, shall have the right to proceed at law or in equity to compel a compliance with the terms hereof, or to prevent the violation or breach of any of them. The failure to promptly enforce any of the said restrictive covenants shall not bar their enforcement. The invalidation of any one or more of the restrictive covenants by any court of competent jurisdiction shall in no way affect any of the remaining restrictive covenants, but they shall remain in full force and effect. It is further agreed that in the event any party employs counsel to enforce any of the restrictive covenants, by reason of a breach of said restrictive covenants, then all costs incurred in such enforcement proceedings, including a reasonable fee for counsel, shall be paid by the owner or party who has been deemed to have breached the said restrictive covenants. In the event no party or person is deemed to have breached any of the restrictive covenants contained herein, then the Court may assess all or a portion of the costs of the proceeding, including reasonable fees for counsel, against the party bringing the said action. The City of Creston

shall be held harmless from any damages, legal costs or other expenses resulting from litigation arising from enforcement of these covenants.

X. AMENDMENTS OF COVENANTS – These Covenants, Conditions and Restrictions may be amended from time to time with the approval of the Owners. Said approval shall be given by the affirmative vote of not less than two-thirds (2/3) of the Owners. The Owners of each Lot (or the joint Owners of a single Lot in the aggregate) shall be entitled to cast one vote on account of each Lot owned. Provided, however, until twelve (12) months following the date of which the City has sold all of the Lots, it may make amendments or modifications to these Covenants, Conditions and Restrictions without the consent of any other Owners or any other party. Such amendments or modifications by the City Council shall be effective only after all other Owners are provided with a copy of the amendment or modification and the amendment or modification has been filed with the Union County Recorder.

Y. COVENANTS AND RESTRICTIONS TO RUN WITH LAND – All of the covenants, restrictions, reservations and servitudes set forth herein shall run with the land and the parties herein, by signing this document, accept the covenants, restrictions, reservations and servitudes and agree for themselves, their heirs, administrators and assigns to be bound by each of such covenants, restrictions, reservations and servitudes jointly, separately and severally. These covenants and restrictions shall constitute and be deemed to remain in full force and effect until the 1st day of March, 2034, prior to which time said Covenants may be extended for an additional period of twenty-one (21) years by filing a claim in accordance with Sections 614.24 and 614.25 of the Code of Iowa or amendments thereto.

Dated this ___ day of _____, 20___, at Creston, Iowa.

CITY OF CRESTON

By _____

By _____

STATE OF IOWA
COUNTY OF UNION ss

On this ___ day of _____, 20___, before me, the undersigned, a Notary Public in and for said County and state, personally appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of City of Creston, that no seal has been procured by said corporation, that said instrument was signed on behalf of said Corporation by authority of its Board of Trustees; and that the said _____ and _____, as such officers, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by them voluntarily executed.

NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA