

City of West Branch

~ A Heritage for Success ~

110 N. Poplar St. • P.O. Box 218 • West Branch, Iowa 52358
Ph. 319-643-5888 • Fax 319-643-2305 • www.westbranchiowa.org • wbcity@lcom.net

CITY COUNCIL WORK SESSION
Monday, April 7, 2014 • 6:30 p.m.
City Council Chambers, 110 North Poplar Street

1. Call to order
2. Roll call
3. Kevin Hatfield, Superintendent, West Branch Community School District – West Branch Community School District 15-Year Master Facilities Plan Update
4. Adjourn

CITY COUNCIL MEETING AGENDA
Monday, April 7, 2014 • 7:00 p.m.
City Council Chambers, 110 North Poplar Street
Action may be taken on any agenda item.

1. Call to order
2. Pledge of Allegiance
3. Roll call
4. Welcome
5. Approve Agenda/Consent Agenda/Move to action.
 - a. Approve minutes from the March 31, 2014 Special City Council Meeting.
 - b. Approve claims.
6. Communications/Open Forum
7. Public Hearing/Non-Consent Agenda
 - a. Councilperson Brian Pierce - Appointments/Reappointments/Move to action.
 - i. LeeAnn Aspelmeier – Planning and Zoning Commission, December 31, 2017.
 - b. Public Hearing on Proposed Amendments to Sections 165.04, 165.11, 165.22, 165.24 and 165.44 of the West Branch Zoning Ordinance.
 - c. First Reading of Ordinance 720, amending Chapter 165 “Zoning Regulations.”/Move to action.
 - d. First reading of Ordinance 721, amending Chapter 165 “Zoning Regulations.”/Move to action.

Mayor: Mark Worrell • **Council Members:** Jordan Ellyson, Colton Miller, Brian Pierce, Tim Shields, Mary Beth Stevenson
City Administrator/Clerk: Matt Muckler • **Fire Chief:** Kevin Stoolman • **Library Director:** Nick Shimmin
Parks & Rec Director: Melissa Russell • **Police Chief:** Mike Horihan • **Public Works Director:** Matt Goodale

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CITY COUNCIL MEETING AGENDA
Monday, April 7, 2014 • 7:00 p.m. (continued)
City Council Chambers, 110 North Poplar Street
Action may be taken on any agenda item.

- e. Second Reading of Ordinance 722, amending Chapter 55 of the Code of Ordinances regarding applicability of rules and regulations for the dog park./Move to action.
- f. Resolution 1188, approving an engineering services agreement with Veenstra & Kimm, Inc. for the Oliphant Street Sidewalk Improvements 2014 Project in an amount not to exceed \$21,200./Move to action.
- g. Resolution 1189, approving a Return-to-Work Policy and incorporating that policy into the City of West Branch, IA Employee Handbook./Move to action.
8. City Staff Reports
9. Comments from Mayor and Council Members
 - a. Discussion of Ordinance 718, amending the Code of Ordinances of the City of West Branch by Creating and Incorporating a Storm Water Utility.
10. Adjournment

CITY COUNCIL WORK SESSION #2
Monday, April 7, 2014
Immediately following regular City Council Meeting
City Council Chambers, 110 North Poplar Street

1. Call to order
2. Roll call
3. Municipal Leadership Academy Part III – Creating the Future: Goal Setting and City Governments
4. Adjourn

Mayor: Mark Worrell • **Council Members:** Jordan Ellyson, Colton Miller, Brian Pierce, Tim Shields, Mary Beth Stevenson
City Administrator/Clerk: Matt Muckler • **Fire Chief:** Kevin Stoolman • **Library Director:** Nick Shimmin
Parks & Rec Director: Melissa Russell • **Police Chief:** Mike Horihan • **Public Works Director:** Matt Goodale

(The following is a synopsis of the minutes of the West Branch City Council meeting. The full text of the minutes is available for inspection at the City Clerk's office. The minutes are not approved until the next regularly scheduled City Council meeting.)

**West Branch, Iowa
Council Chambers**

Special City Council Meeting

**March 31, 2014
7:00 p.m.**

Mayor Worrell opened the Special West Branch City Council meeting by welcoming the audience and the following City staff: City Administrator Matt Muckler, Deputy City Clerk Dawn Brandt, Safety Facilities Coordinator Paul O'Neil, and City Attorney Kevin Olson. Council members: Jordan Ellyson, Colton Miller, Mary Beth Stevenson, Brian Pierce, and Tim Shields.

APPROVE AGENDA/CONSENT AGENDA

- a) Approve minutes from the March 24, 2014 City Council Work Session.
- b) Approve minutes from the March 24, 2014 City Council Meeting.

Motion by Ellyson to approve the agenda/consent agenda, second by Shields. AYES: Ellyson, Shields, Miller, Stevenson, Pierce. Motion carried.

COMMUNICATIONS/OPEN FORUM - NONE

PUBLIC HEARING/NON-CONSENT AGENDA

Resolution 1186, approving membership for the City of West Branch, IA in the Iowa Communities Assurance Pool (ICAP) and the Iowa Municipalities Workers Compensation Association (IMWCA), approving annual contributions to both ICAP and IMWCA, and directing the city administrator to send notice of cancellation to EMC Insurance Companies./Move to action.

Randy Wehrman, Insurance Agent, Springdale Agency expressed his concern about the ICAP and IMWCA pooling agreements. He said this is not insurance and it is not regulated by the State of Iowa. EMC has returned \$18,500 in dividends to the City in the last five years.

Kyle Austen, Insurance Agent, Insurance Associates agent of record presented on behalf of ICAP and IMWCA. He gave some history on ICAP and the 700 governmental entities that make up their membership, including Johnson County and the City of Coralville. ICAP has been operating since 1986 and only insures governmental agencies.

City Attorney Kevin Olson asked if the City switched coverage would the ICAP and IMWCA coverage be bound tonight and Kyle answered yes.

City Administrator Matt Muckler noted the quote amounts: EMC came in at \$85,864.00 and the combined quote amounts for ICAP and IMWCA were \$68,560.63 which includes the contribution amount. Mayor Mark Worrell stated that while his preference is to work with local firms, that ICAP and IMWCA would provide a large savings in premiums to the City.

Councilperson Stevenson stated her disappointment that our current insurance company who we have been paying money to for many years isn't working with the city to provide the city with adequate legal representation on a current civil action filed against the city. Councilperson Ellyson agreed with Stevenson that the law firm that EMC provided for defense in the civil action does not specialize in municipal or TIF law. Attorney Kevin Olson stated that the Bradshaw Law Firm is very good and reputable, but they are not a municipal law firm.

Motion by Miller, second by Ellyson to approve Resolution 1186. AYES: Miller, Ellyson, Stevenson, Pierce, Shields. Motion carried.

Motion to adjourn to closed session to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where the disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation pursuant to Section 21.5(c) of the Code of Iowa. Motion by Shields to adjourn to closed session at 7:33 p.m. and second by Miller. AYES: Shields, Miller, Stevenson, Pierce, Ellyson. Motion carried.

Motion by Stevenson to adjourn from the closed session at 8:11 p.m. and second by Ellyson. AYES: Stevenson, Ellyson, Miller, Pierce, Shields. Motion carried.

Open session discussion began at 8:12 p.m.

Resolution 1187, approving Dorsey & Whitney LLP as the legal services provider with regard to the lawsuit captioned *Acciona Windpower North America, Inc. v. City of West Branch*, S.D. Iowa Case No. 14-cr-33-EJM and directing the city administrator to sign and return the letter of engagement to Dorsey & Whitney LLP./Move to action.

Olson discussed the letter of engagement, the attorney fees and regular reimbursable expenses for working on the case. This would be an acceptance to hire them to defend the City. Dorsey & Whitney will provide the City with monthly itemized billing statements.

Motion by Miller, second by Ellyson to approve Resolution 1187. AYES: Miller, Ellyson, Stevenson, Pierce, Shields. Motion carried.

CITY STAFF REPORTS

Muckler gave an update on a few items that will be on the April 7, 2014 Council meeting agenda.

COMMENTS FROM MAYOR AND COUNCIL MEMBERS

ADJOURNMENT

Motion to adjourn meeting by Shields, second by Ellyson. AYES: Shields, Ellyson, Miller, Stevenson, Pierce. Motion carried. City Council meeting adjourned at 8:19 p.m.

Mark Worrell, Mayor

ATTEST: _____
Dawn Brandt, Deputy City Clerk

Date 4-7-14

City of West Branch
Claims Register Report

Blue Cross Blue Shield	Insurance	11,113.97
Dearborn Insurance	Life Insurance	56.95
EFTPS	Federal Withholdings	5,509.30
Iowa Communities Assurance Pool	FY15 Insurance premium	38,189.63
Iowa Department Of Revenue	Payroll Expense	778.74
IPERS	IPERS	7,485.58
Losey, Nathan	Water - Utility Refund	49.18
Payroll Expense	Payroll Expense 3-28-14	24,284.84
Treasurer State Of Iowa	State Withholding Tax	2,018.00
Wageworks	Flex - HCFA2013	24.00
Wieneke, Richard	Water - Utility Refund	15.79
Wohlwend, Aaron	Water - Utility Refund	33.39
	Grand Total	89,559.37

Fund Totals

001 General Fund	21,997.27
031 Library	5,166.18
036 Tort Liability	23,189.63
112 Trust And Agency	11,413.75
600 Water Fund	14,414.59
610 Sewer Fund	13,353.95
950 BC/BS Flexible Benefit	24.00
Grand Total	89,559.37

**City of West Branch
Advisory Board/Commission
Application Form**

Individuals serving on boards or commissions play an important role in advising the City Council on matters of interest to our community and its future. For the most part, Board and Commission members must be residents of West Branch.

When a vacancy occurs an announcement of that vacancy will be posted. No sooner than two weeks later the Mayor and City Council will review all applications. The appointment will be made at a formal City Council meeting. Appointees serve as unpaid volunteers.

This application is a public document and as such it or the information it contains may be reproduced and distributed. This application will remain active for two years and you will automatically be considered for any vacancy occurring during that time.

Name of Board or Commission: PLANNING & ZONING Date: 3-24-14
COMMISSION

Your Name: LEEANN ASPELMEIER Street Address: 153 BUCKFORD DR

Do you live within the corporate limits of West Branch? Yes No

How long have you been a resident of West Branch? 1 1/2 YR

Occupation: DESIGNER / SALES Employer: SUB CONTRACTOR FOR CABINETS GALORE

Optional Questions (use back of application if necessary)

What experience and/or skills do you have that might especially qualify you to serve on this board or commission?

ABILITY TO READ BLUEPRINTS / UNDERSTANDING OF RESIDENTIAL &
SOME COMMERCIAL BLDG PROCEDURES / ~~PAST~~ PAST EMPLOYMENT / PARA-
LEGAL DEGREE GIVES ME ABILITY TO READ / UNDERSTAND RULES / LAWS /
REGULATIONS.

What particular contributions do you feel you can make to this board or commission?

CURRENT & PAST EMPLOYMENT EXPERIENCES LEAD TO LEGAL
& CONSTRUCTION KNOWLEDGE, OPEN MINDED, WILLING TO LISTEN, LEARN
& COMPROMISE FOR THE BETTERMENT OF OUR COMMUNITY.

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS TO SECTIONS 165.04, 165.11, 165.22, 165.24 AND 165.44 OF THE WEST BRANCH ZONING ORDINANCE.

YOU ARE HEREBY NOTIFIED that a public hearing will be held to consider the above referenced matter by the City Council of the City of West Branch, Cedar County, in the Council Chambers at the City Hall at 110 N. Poplar Street, at 7:00 o'clock P.M., on Monday, April 7th 2014. The proposed amendments will specify effective dates of variances and allow for the City Council to remand decisions to grant variances back to the Zoning Board of Adjustment. The amendments also clarify regulations regarding fences, hedges and retaining walls, add a public use zoning district and update the city's zoning map.

All interested persons are invited to attend the meeting and be heard on the aforementioned proposed amendments to the West Branch Code of Ordinances. Further information on this matter may be obtained by contacting the West Branch City Clerk.

/s/Matt Muckler

Matt Muckler, City Clerk
by West Branch City Council

CITY OF WEST BRANCH
COUNCIL ACTION REPORT

MEETING DATE: April 7, 2014 AGENDA ITEM: 7C

DATE PREPARED: April 4, 2014

STAFF LIAISON: Matt Muckler, City Administrator

ACTION TITLE: Ordinance 720, amending Chapter 165 “Zoning Regulations.”

RECOMMENDATIONS: Approve Ordinance 720, amending Chapter 165 “Zoning Regulations.”

PROJECT DESCRIPTION:

Please see attached memorandum from Zoning Board of Adjustment Chair Craig Walker.

ATTACHMENTS:

Ordinance 720 (3 pages)

Memorandum from Zoning Board of Adjustment Chair Craig Walker (1 page)

ORDINANCE NO. 720

AN ORDINANCE AMENDING CHAPTER 165 "ZONING REGULATIONS."

WHEREAS, the Zoning Board of Adjustment of the City of West Branch, Iowa, believes that a procedure for City Council review of variances would be beneficial to the Zoning Code; and

WHEREAS, the Zoning Board of Adjustment of the City of West Branch, Iowa, believes that the clarification of certain terms in the Zoning Code will lead to a clearer understanding of the Code's requirements; and

WHEREAS, the Zoning Board of Adjustment of the City of West Branch, Iowa, believes that retaining walls, that do not cause "safety or access" issues which meet certain limitations, should be allowed in at least a portion of the minimum area required for yards; and

WHEREAS, the Planning & Zoning Commission has reviewed these recommendations and concurs with the Zoning Board of Adjustment; and

WHEREAS, the Planning & Zoning Commission recommends to the City Council of the City of West Branch, adoption of these amendment recommendations in the Zoning Code; and

WHEREAS, the City Council of the City of West Branch, Iowa has reviewed these recommendations and concurs with the Zoning Board of Adjustment and Planning & Zoning Commission.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of West Branch, Cedar County, Iowa:

Section 1. Amendment. The Code of Ordinances is hereby amended by the City Council of West Branch, Iowa by incorporating the following language to Title, "ZONING AND SUBDIVISION", Chapter 165, "ZONING REGULATIONS":

a. Section 165.22 - POWERS OF THE BOARD is hereby amended to add paragraph 8, which reads as follows:

“8. The effective date of a variance is thirty days after granted by the Zoning Board of Adjustment. The City Council may remand a decision to grant a variance to the Zoning Board of Adjustment for further study. The effective date of the variance in this case is delayed for thirty days from the date of the remand. “

b. Section 165.04 - DEFINITIONS is hereby amended by deleting subsection 165.04(37) and incorporating the following definitions into said Section 165.04:

“Fence” means — “A self-supporting manmade structure extending above ground designed to define, restrict, or prevent movement across a boundary. ”

“Screen” means — “A class of fence intended to provide a visual buffer (e.g., hide utility boxes or trash containers)”

“Hedge” means — “A row of closely planted shrubs or low-growing trees that may serve as a fence.”

“Retaining Wall” means - “A wall not laterally supported at the top, that resists lateral soil load and other imposed loads”

c. Section 165.11(1) - PERMITTED OBSTRUCTION IN REQUIRED YARDS - In all yards, is hereby amended by adding paragraphs F. and G., which read:

F. Fences, hedges, and walls (see Section 165.44 for requirements)

G. Retaining walls (see Section 165.44 and requirements specific to Retaining Walls in 165.44 (9))

d. Section 165.11(3) and Section 165.11(4) are hereby amended by deleting references to fences.

e. Section 165.44 FENCES is hereby amended by incorporating the following language into said Section 165.44

“165.44 FENCES / HEDGES / WALLS / RETAINING WALLS

f. Section 165.44(1) is hereby amended and reads:

Fences, hedges, and walls shall be located so no part thereof is within two (2) feet of an alley, sidewalk, or a street right-of-way, except in situations where a retaining wall is necessary for the installation of a required public sidewalk in which case the retaining wall may extend up to the sidewalk edge.

g. Section 165.44 (9) is added and reads as follows:

Retaining Walls - are subject to the following additional requirements:

a. May not extend within 4 feet of the lot line, except in situations where a retaining wall is necessary for the installation of a required public sidewalk in which case the retaining wall may extend up to the sidewalk edge.

b. If they are greater than 48” in height must also include an approved fence clearly marking the top of the wall.

c. Will be subject to engineering review if they exceed 48” in height.

d. Will be subject to engineering review when a Surcharge Load is present.

Section 2. Conflicts. All ordinances or parts of ordinances not specifically provided for and in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Adjudication. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date. This ordinance shall be in full force and effect after its passage, approval and publication as required by law.

* * * * *

Passed and approved this 7th day of April, 2014.

First Reading: April 7, 2014
Second Reading:
Third Reading:

Mark Worrell, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

To: Mayor Worrell and Members of the West Branch City Council

From: Craig Walker, Chairman - Board of Adjustment

Date: April 3, 2014

Subj: Ordinance #720 (City Code Sections - 165.04 - Definitions, 165.11 - Permitted Obstructions in Required Yards, 165.22 - Powers of the Board of Adjustment, and 165.44 - Fences)

Ordinance #720 has been developed as a collaborative effort of the Board of Adjustment, The Planning and Zoning Commission, and West Branch City Staff. My thanks to these groups and Fire Chief Kevin Stoolman and City Attorney Kevin Olson for their comments and review.

The review and recommended changes to our City Code stem from a process improvement initiative based initially on Board of Adjustment discussions to add clarity and reduce ambiguity in the current language. On March 25, 2014 The Planning and Zoning Commission conducted a Public Hearing on Ordinance #720. As a result of the Public Hearing, P&Z added language to the ordinance to provide an "exception" for retaining walls in cases where the standard 2' offset from an alley, sidewalk, or a street right-of-way or within 4' of a lot line, when installation of a public sidewalk was required. With the exception noted, The Planning and Zoning Commission unanimously endorsed the ordinance at their March 25, 2014 meeting.

In summary, this ordinance serves to:

Amend **Section 165.04** — the **Definitions Section** to provide clarity and differentiation to the definitions of Screens, Fences, Hedges, and Retaining Walls. Current Code #37 only references "Screen or Fence."

Amend **Section 165.11 - Permitted Obstructions in Required Yards** to add fences, hedges, walls, and retaining walls, to the list of permitted obstructions in all yards. This would further correct inconsistent language between 165.11 and 165.44 wherein, 165.44 permits fences in all yards and 165.11 only references fences in rear or side yards.

Amend **Section 165.22 — Powers of the Board** to incorporate language in the Code to enable the Council to remand back to the Board of Adjustment decisions for further study. This flexibility does not currently exist in West Branch's Code even though it is referenced in IA Code 414.7. This addition has been recommended by our City Attorney.

Amend **Section 165.44 — Fences** to include specific requirements for Retaining Walls as an acceptable obstruction in all yards. While addressing earlier safety and access issues which were raised, this also recognizes that retaining walls serve specific purposes and are a universally accepted building application — e.g., to reduce erosion, to facilitate building on uneven or hilly lots, as a method for a homeowner to beautify their property — for example with a flower garden adjacent to their home in a side yard.

Our purpose in advancing these recommendations to Council is to add clarity, eliminate inconsistencies, and reduce ambiguity in our City Code.

CITY OF WEST BRANCH
COUNCIL ACTION REPORT

MEETING DATE: April 7, 2014 AGENDA ITEM: 7D

DATE PREPARED: April 4, 2014

STAFF LIAISON: Matt Muckler, City Administrator

ACTION TITLE: Ordinance 721, amending Chapter 165 “Zoning Regulations.”

RECOMMENDATIONS: Approve Ordinance 721, amending Chapter 165 “Zoning Regulations.”

PROJECT DESCRIPTION:

The Planning & Zoning Commission has been working for some time to update the existing zoning map to include a zoning classification for public uses. The ordinance changes the “Park” designation to “Public Use.”

ATTACHMENTS:

Ordinance 721 (2 pages)

Zoning Map, March 13, 2014 (1 page)

Planning & Zoning Commission Meeting Minutes, March 25, 2014 (2 pages)

Mailing to Residents, including March 14, 2014 Letter from Zoning Administrator & Combined Public Hearing Notice (2 pages)

Proof of Mailing (1 page)

ORDINANCE NO. 721

AN ORDINANCE AMENDING TITLE CHAPTER 165 “ZONING REGULATIONS”

WHEREAS, the City Council of the City of West Branch, Iowa, has heretofore deemed it necessary and desirable to create a public use zoning district; and

WHEREAS, the City Council has updated its zoning map and assigned all public uses with a P-1 zoning designation.

NOW, THEREFORE, BE IT ORDAINED:

1. BE IT ENACTED by the City Council of West Branch, Iowa, that Chapter 165 “ZONING REGULATIONS” of the Code of West Branch, Iowa is hereby amended by deleting Section 165.24 in its entirety and inserting in lieu thereof:

165.24 ESTABLISHMENT OF DISTRICTS AND BOUNDARIES. For the purpose of this chapter, the City is hereby divided into the following districts:

Agricultural	A-1 District
Residence	R-1 Single Family District
Residence	R-2 Two Family District
Residence	R-3 Multiple Family District
Residence/Business	RB-1 District
Business	B-1 District
Business	B-2 District
Industrial	I-1 District
Industrial	I-2 District
Flood Plain	FP District
Highway Commercial Industrial	HCI District
Central Business	CB-1 District
Central Business	CB-2 District
Central Industrial	CI-2 District
Public Use	P-1 District

Said districts are bounded and defined as shown on a map entitled “Zoning District Map, West Branch, Iowa,” adopted May 5, 2014, which, with all explanatory matter therein, is hereby made a part of this chapter.

2. BE IT ENACTED by the City Council of West Branch, Iowa, that Chapter 165 “ZONING REGULATIONS” of the Code of West Branch, Iowa is hereby amended by adding the following section to Chapter 165:

165.XX PUBLIC USE DISTRICT.

It is the intent of the Public Use District (P-1) to provide reference on the zoning map to public uses of land. Thus, land owned by the United States Federal Government, the State of Iowa, Johnson or Cedar County, or the West Branch Community School District will be designated Public Use.

1. Permitted Principal Uses and Structures.
 - A. Use of land, buildings, or structures of the aforementioned Federal and State governments or political subdivisions thereof.

B. Agriculture.

2. Permitted Accessory Uses and Structures. Uses subject to the provisions of Section 165.07.
3. Special Exceptions. None.
4. Minimum Lot Areas and Width. None.
5. Minimum Yard Requirements. None.
6. Maximum Height. None.

7. Minimum Off-Street Parking and Loading Spaces. All parking and loading areas shall be constructed and loading facilities shall be provided in the following required amounts:

A. Public community center or library – 10 spaces plus one space for every 200 square feet of floor area in excess of 2,000 square feet.

B. Schools – one space for each classroom or office space plus one space for every ten seats of average seating in the main auditorium, stadium, or place of public assembly.

3. This amendment to the ordinance shall be in full effect from and after its publication as by law provided.
4. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
5. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any part, section, or provision thereof not adjudged invalid or unconstitutional.

Passed and approved this 7th day of April, 2014.

First Reading: April 7, 2014

Second Reading:

Third Reading:

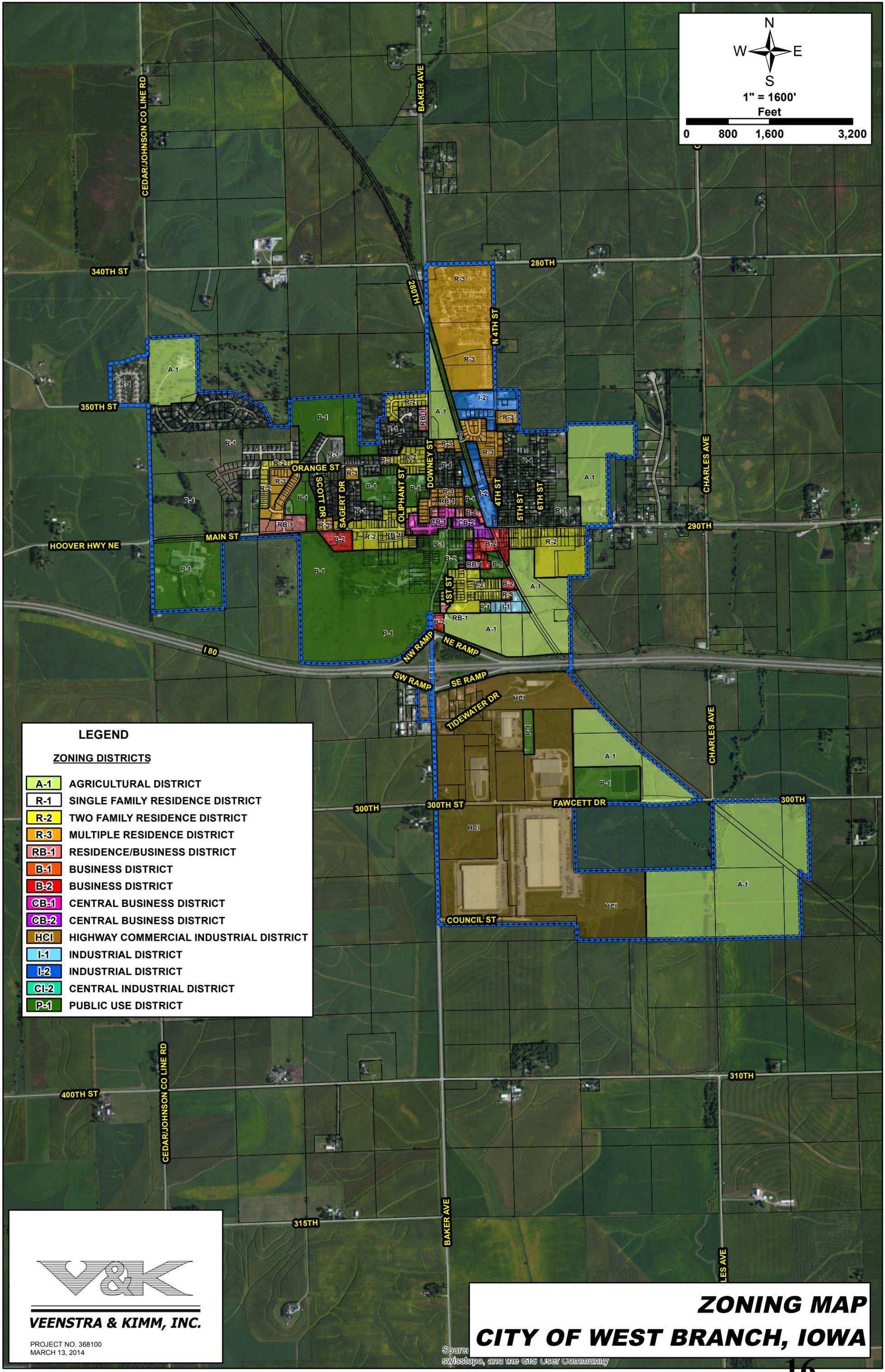
Mark Worrell, Mayor

Attest:

Matt Muckler, City Administrator/Clerk



1" = 1600'
Feet



LEGEND	
ZONING DISTRICTS	
A-1	AGRICULTURAL DISTRICT
R-1	SINGLE FAMILY RESIDENCE DISTRICT
R-2	TWO FAMILY RESIDENCE DISTRICT
R-3	MULTIPLE RESIDENCE DISTRICT
RB-1	RESIDENCE/BUSINESS DISTRICT
B-1	BUSINESS DISTRICT
B-2	BUSINESS DISTRICT
CB-1	CENTRAL BUSINESS DISTRICT
CB-2	CENTRAL BUSINESS DISTRICT
HCI	HIGHWAY COMMERCIAL INDUSTRIAL DISTRICT
I-1	INDUSTRIAL DISTRICT
I-2	INDUSTRIAL DISTRICT
CI-2	CENTRAL INDUSTRIAL DISTRICT
P-1	PUBLIC USE DISTRICT

VEENSTRA & KIMM, INC.
PROJECT NO. 368100
MARCH 13, 2014

ZONING MAP CITY OF WEST BRANCH, IOWA

Source: swisstopo, and the GIS User Community

(These minutes are not approved until the next Commission meeting.)

City of West Branch Planning & Zoning Commission Meeting
March 25, 2014
West Branch City Council Chambers, 110 North Poplar Street

Chair Roger Laughlin opened the meeting of the West Branch Planning and Zoning Commission at 6:30 p.m. by welcoming the audience and the following City Staff: City Administrator Matt Muckler, Administrative Assistant Shanelle Peden, Zoning Administrator Paul Stagg, Zoning Board of Adjustment Chair Craig Walker, Zoning Board of Adjustment Member Jennie Embree, and City Engineer Dave Schechinger. Commission members Roger Laughlin (Chair), Helen Dauber, John Fuller, Trent Hansen, Molly Menard, and Gary Slach.

Motion by Fuller to approve the minutes from the January 28, 2014 Commission meeting, second by Laughlin. AYES: Fuller, Laughlin, Dauber, Hansen, Menard, Slach. NAYS: None. ABSENT: None. Motion carried.

Public Hearing on Proposed Amendments to Sections 165.04, 165.11, 165.22, 165.24 and 165.44 of the West Branch Zoning Ordinance

Laughlin opened the public hearing at 6:31 p.m. Embree suggested that the amendment include language which would allow exceptions to placement of retaining walls where it would be necessary to install public sidewalks. Emily Patton, property owner of Patton Family Health located at 116 North 1st Street, asked which properties are being rezoned with the new proposed map. Stagg commented that the only properties affected include a change in zoning from parks to public use. With no additional comments, Laughlin closed the public hearing at 6:35 p.m.

Approve recommendation to the City Council for the passage of Ordinance 720, amending Chapter 165 “Zoning Regulations.”

Walker shared that the purpose of the proposed recommendations is to clarify any unclear information and to help clearly define differences between fences, hedges, walls, and retaining walls. Stagg added that this process prevents ambiguity and allows the City to adopt definitions per the 2009 Uniform Commercial Code. Fuller asked that the Commission include Embree’s suggestions.

Motion by Fuller to approve recommendation to the City Council for the passage of Ordinance 720, amending Chapter 165 “Zoning Regulations” to amend language in Section 165.44(1) and to add language in Section 165.44(9) for the allowance of retaining walls when it is necessary to install a public sidewalk, in which case the retaining wall may extend up to the sidewalk edge, second by Menard. AYES: Fuller, Menard, Dauber, Hansen, Laughlin, Slach. NAYS: None. ABSENT: None. Motion carried.

Approve recommendation to the City Council for the passage of Ordinance 721, amending Chapter 165 “Zoning Regulations.”

Fuller indicated that this ordinance helps clarify the designation of park properties to public use and that no physical changes have taken place.

Motion by Fuller to approve recommendation to the City Council for the passage of Ordinance 721, amending Chapter 165 “Zoning Regulations.”, second by Slach. AYES: Fuller, Slach, Dauber, Hansen, Laughlin, Menard. NAYS: None. ABSENT: None. Motion carried.

Approve Casey’s General Store Site Plan

Schechinger updated the Commission on his firm’s review of Casey’s Site Plan. Schechinger noted the need to establish specific turn lanes. He also added that improvements to South Downey Street will need approval from the Iowa Department of Transportation. Hansen asked about the stormwater detention area between Casey’s and Tidewater Drive. Schechinger noted that Pelds Engineering was hired by Casey’s and is working on buried chamber concept system which would allow flow into the same system and create infrastructure to meet future flow needs. Schechinger also noted that curb and gutter improvements would need to be completed for a portion of the project which would need to meet ADA requirements. Laughlin added that he would like to see curb cuts for potential future sidewalk which could continue further south on both sides of street. Muckler noted that the cost of the street improvement project will be borne by Casey’s and that the City would provide Tax Incremental Financing (TIF) funds for the City’s portion of the project in the form of a rebate to Casey’s. Hansen asked when the stormwater detention plan was approved. Schechinger responded that the plan has preliminary approval, but will still need to meet City stormwater requirements and Iowa Department of Transportation approval for access road improvements.

Motion by Hansen to approve the Casey’s Site Plan, second by Menard. AYES: Hansen, Menard, Dauber, Fuller, Laughlin, Slach. NAYS: None. ABSENT: None. Motion carried.

City Engineer Dave Schechinger-Meadows Subdivision Part II/Traffic Study

Schechinger gave an update to the Commission regarding the traffic study that is planned for Phase Two of the Meadows Subdivision. Schechinger indicated that the Metropolitan Planning Organization of Johnson County is conducting the study and will be placing traffic counters out in the spring. Schechinger added that he has received current attendance information from the West Branch Community School District as well as information regarding its upcoming master concept plan changes. Schechinger concluded his update by suggesting the idea of a joint meeting with all stakeholders to present proposed changes to the group.

City Engineer Dave Schechinger-Zoning Map Discussion

Laughlin reiterated the idea that he would like to see the area where Croell Redi-Mix is located to be rezoned for residential development. Fuller asked if the City would designate flood plain areas on the updated zoning map. Schechinger remarked that previous development would not be subject to review, but any new development would be subject to current flood plain regulations. Muckler added that any changes made to the zoning map would also need to be reflected in the next update of the City’s Comprehensive Plan, which is scheduled for 2017.

Motion by Menard to adjourn the meeting, second by Fuller. Motion carried on a voice vote. Planning and Zoning Commission meeting adjourned at 8:17 pm.

City of West Branch

~A Heritage for Success~

Public Works Department

March 14, 2014

Dear West Branch Property Owner:

The West Branch Planning and Zoning Commission has been working with City Staff over the last several months to update the City of West Branch Zoning Map. There have been several changes to zoning district boundaries since the last official zoning map was adopted on April 1, 1991.

In addition to changes to zoning district boundaries, the Planning & Zoning Commission and City Council will consider amending the P-1 zoning district from “park” to “public use.” The current P-1 zoning district is assigned to only two properties: Beranek Park and Lions Field.

The new public use zoning district would apply to all properties within the West Branch Corporate Limits owned by the United States Federal Government, the State of Iowa, Johnson or Cedar County, the West Branch Community School District, the City of West Branch or other governmental entities.

The public hearing notices included with this letter are required by Section 165.23 of the City Code of Ordinances. Copies of the Planning and Zoning public hearing notice appeared in the March 13th edition of the West Branch Times and the City Council public hearing notice will appear in the March 20th edition of the West Branch Times. The public hearing notices are also posted on the West Branch City Website at <http://www.westbranchiowa.org/government/public-hearing-notices> and at the West Branch City Office, Public Library and Post Office. The zoning amendments and proposed zoning map can be found on the City Website at <http://www.westbranchiowa.org/government/planning-zoning-commission>.

Sincerely,



Paul Stagg
Zoning Administrator

110 N. Poplar St. · PO Box 218 · West Branch, Iowa 52358 · Ph. 319-643-5888
pauls@westbranchiowa.org · Fax 319-643-2305 · www.westbranchiowa.org

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS TO SECTIONS 165.04, 165.11, 165.22, 165.24 AND 165.44 OF THE WEST BRANCH ZONING ORDINANCE.

YOU ARE HEREBY NOTIFIED that a public hearing will be held to consider the above referenced matter by the Planning and Zoning Commission of the City of West Branch, Cedar County, in the Council Chambers at the City Hall at 110 N. Poplar Street, at 6:30 o'clock P.M., on Tuesday, March 25th, 2014. The proposed amendments will specify effective dates of variances and allow for the City Council to remand decisions to grant variances back to the Zoning Board of Adjustment. The amendments also clarify regulations regarding fences, hedges and retaining walls, add a public use zoning district and update the city's zoning map.

All interested persons are invited to attend the meeting and be heard on the aforementioned proposed amendments to the West Branch Code of Ordinances. Further information on this matter may be obtained by contacting the West Branch City Clerk.

/s/Matt Muckler
Matt Muckler, City Clerk
by West Branch City Council

NOTICE OF PUBLIC HEARING

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS TO SECTIONS 165.04, 165.11, 165.22, 165.24 AND 165.44 OF THE WEST BRANCH ZONING ORDINANCE.

YOU ARE HEREBY NOTIFIED that a public hearing will be held to consider the above referenced matter by the City Council of the City of West Branch, Cedar County, in the Council Chambers at the City Hall at 110 N. Poplar Street, at 7:00 o'clock P.M., on Monday, April 7th, 2014. The proposed amendments will specify effective dates of variances and allow for the City Council to remand decisions to grant variances back to the Zoning Board of Adjustment. The amendments also clarify regulations regarding fences, hedges and retaining walls, add a public use zoning district and update the city's zoning map.

All interested persons are invited to attend the meeting and be heard on the aforementioned proposed amendments to the West Branch Code of Ordinances. Further information on this matter may be obtained by contacting the West Branch City Clerk.

/s/Matt Muckler
Matt Muckler, City Clerk
by West Branch City Council

PROOF OF MAILING

We, Matt Muckler and Dawn Brandt, the undersigned mailers, being of sound mind and under no duress, do hereby certify, attest and affirm that the following facts are true and correct, to wit:

1. That, on March 14, 2014, on behalf of the City of West Branch and the West Branch Planning & Zoning Commission, the undersigned personally deposited the following documents (listed below) inside the envelope, sealed them and transmitted them via the carrier indicated in item 2 below, to wit:

Item #	Document Description	Number of pages
1	Public Hearing Notices and Letter of Explanation for the Public Hearings to take place on March 25, 2014 and April 7, 2014 before the Planning & Zoning Commission and the City Council which amend Sections 165.04, 165.11, 165.22, 165.24 and 165.44 of the West Branch Zoning Ordinance.	1

Total of 785 documents with combined total of 785 double-sided pages.

2. That we personally mailed said document(s) via the United States Postal Office, by regular mail, postage prepaid.

Dated this 14th day of March, 2014.

CITY OF WEST BRANCH:

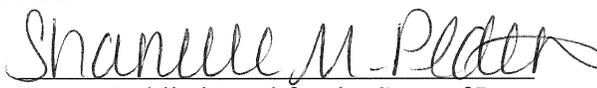
By: 
Matt Muckler, City Administrator/Clerk

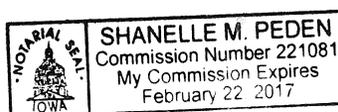
ATTEST:


Dawn Brandt, Deputy City Clerk

STATE OF IOWA, CEDAR COUNTY, ss:

On this 14th day of March, 2014, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Matt Muckler and Dawn Brandt, to me personally known, who, being by me duly sworn, did say that they are the City Clerk and Deputy City Clerk, respectively, of the City of West Branch, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation; and Matt Muckler and Dawn Brandt acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.


Notary Public in and for the State of Iowa



ORDINANCE NO. 722

AN ORDINANCE AMENDING CHAPTER 55 OF THE CODE OF ORDINANCES REGARDING APPLICABILITY OF RULES AND REGULATIONS FOR THE DOG PARK.

WHEREAS, the City of West Branch owns a parcel located in unincorporated Cedar County that is operated as a Dog Park; and

WHEREAS, Section 364.4(3) of the Code of Iowa allows the City to extend its ordinances to apply to real property owned by the City outside its corporate boundaries; and

WHEREAS, the City Council and Animal Control Commission desire to have the Chapter 55 of the Code of Ordinances to also apply in the Dog Park.

NOW, THEREFORE, BE IT ORDAINED:

Section 1. Amendment. The Code of Ordinances of the City of West Branch is hereby amended by adding subparagraph 4 to Section 55.05 of the Code of Ordinances, which will read as follows:

“4. Applicability to Dog Park. All the rules and regulations of this chapter shall also be applicable to any activity at the City’s Dog Park.”

Section 2 Conflicts. All ordinances or parts of ordinances not specifically provided for and in conflict with the provisions of this ordinance are hereby repealed.

Section 3. Adjudication. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 4. Effective Date. This ordinance shall be in full force and effect after its passage, approval and publication as required by law.

Passed and approved this 7th day of April, 2014.

First Reading: March 24, 2014

Second Reading: April 7, 2014

Third Reading:

Mark Worrell, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

RESOLUTION NO. 1188

RESOLUTION APPROVING AN ENGINEERING SERVICES AGREEMENT WITH VEENSTRA & KIMM, INC FOR THE OLIPHANT STREET SIDEWALK 2014 PROJECT IN AN AMOUNT NOT TO EXCEED \$21,200.

WHEREAS, the City of West Branch is concerned about the safety of children walking to and from school; and

WHEREAS, the City finds it in the best interest of the residents of West Branch to add sidewalks around the Herbert Hoover Elementary and Middle School Complex; and

WHEREAS, the City Council has discussed at length the sidewalks that would provide the most benefit to children walking to school; and

WHEREAS, previous sidewalk improvements have been constructed on College Street (including repairs to the College Street Bridge), Oliphant Street (from Orange to Crestview) and both connections from Orange Street to West Branch Middle School including the Middle School Access Road Project; and

WHEREAS, the City Council has budgeted funds in the fiscal year 2014-2015 annual budget for the construction of the Oliphant Street Sidewalk 2014 Project (from Crestview to N. Downey); and

WHEREAS, Veenstra & Kimm, Inc. has submitted a proposed engineering agreement to provide said services in the amount of \$21,200.00; and

WHEREAS, it is now necessary to approve said agreement.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the aforementioned agreement with Veenstra & Kimm, Inc. is hereby approved. Further, the Mayor is directed to execute the agreement on behalf of the City.

Passed and approved this 7th day of April, 2014.

Mark Worrell, Mayor

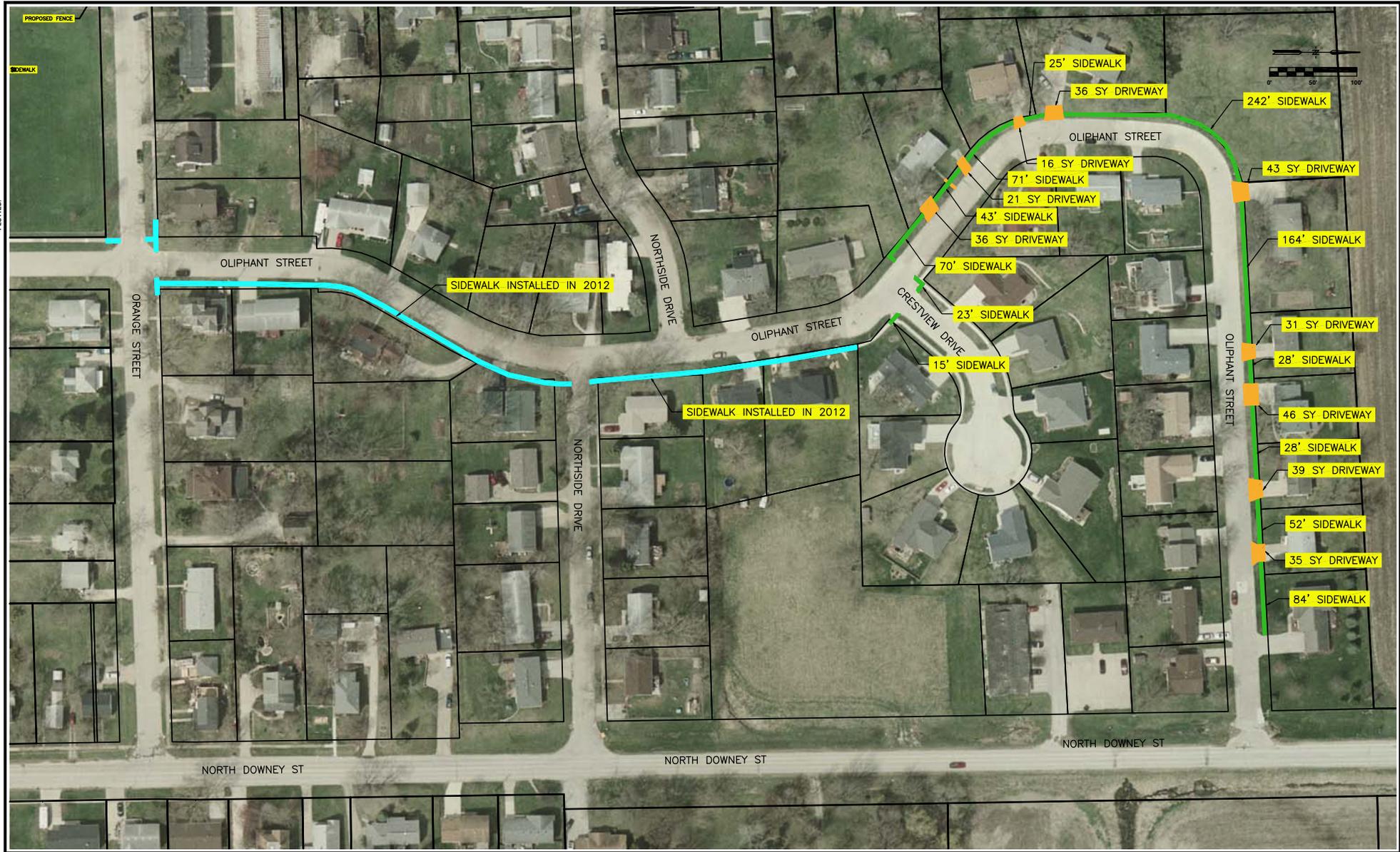
ATTEST:

Matt Muckler, City Administrator/Clerk

Oliphant Street Sidewalk (5' Wide)

(Crestview Drive to North Downey)

Item	Length (ft)	Width (ft)	Quantity	Unit	Unit Price	Total Cost
4" PCC Sidewalk 5' Wide	850	5	4,250.00	SF	\$ 4.50	\$ 19,125.00
ADA Detectable Warning			20.00	SF	\$ 100.00	\$ 2,000.00
6" PCC Driveway			310.00	SY	\$ 40.00	\$ 12,400.00
Curb Remove & Replace			20.00	LF	\$ 25.00	\$ 500.00
Grading	850	15	710.00	CY	\$ 10.00	\$ 7,100.00
Tree Removal				LS	\$ 500.00	\$ 500.00
Pavement Marking & Sign				LS	\$ 1,000.00	\$ 1,000.00
Topsoil & Sod				LS	\$ 5,000.00	\$ 5,000.00
Construction Staking				LS	\$ 3,000.00	\$ 3,000.00
Traffic Control				LS	\$ 2,500.00	\$ 2,500.00
					Subtotal	\$ 53,125.00
					10% Cont.	\$ 5,325.00
					Subtotal	\$ 58,450.00
					Preliminary Engineering	\$ 7,000.00
					Easement Preparation (13)	\$ 6,500.00
					Construction Admin	\$ 2,500.00
					Inspection	\$ 5,200.00
					Total	\$ 79,650.00
						\$ 21,200.00



DATE	REVISIONS	SCALE	AS NOTED	VERIFY SCALE	 VEENSTRA & KIMM, INC. 960 22nd Avenue • Suite 4 • Coralville, Iowa 52241-1965 319-466-1000 • 319-466-1008(FAX) • 888-241-8001(WATS)	West Branch Iowa	OLIPHANT STREET SIDEWALK	DWG. NO. 1
		DRAWN	DRS	BAR IS ONE INCH ON ORIGINAL DRAWING.				
		CHECKED	###	1"				
		APPROVED	###					
		DATE	8-16-12					
		ISSUED FOR	ESTIMATE					

ENGINEERING SERVICES AGREEMENT

**OLIPHANT STREET SIDEWALK IMPROVEMENTS 2014
WEST BRANCH, IOWA**

THIS AGREEMENT, made and entered into this _____ day of _____, 2014, by and between the City of West Branch, a Municipal Corporation, 110 North Poplar Street, P.O. Box 218, West Branch, IA 52358, hereinafter referred to as the “**CITY**,” and Veenstra & Kimm, Inc., an Iowa Corporation, 860 22nd Avenue, Suite 4, Coralville, IA 52241, hereinafter referred to as the “**CONSULTANT**.”

WHEREAS, the **CITY** desires to construct sidewalk improvements generally located along Oliphant Street between Crestview Drive and North Downey Street, referred to as the “Project”; and

WHEREAS, the City Council has heretofore deemed it necessary and desirable to obtain professional engineering services for the design of needed improvements; and

WHEREAS, the **CONSULTANT** is qualified and capable of supplying said engineering services for a total fee not to exceed Twenty-One Thousand Two Hundred Dollars (\$21,200).

WHEREAS, accordingly, the **CITY** has agreed to engage the **CONSULTANT** as an independent contractor to assist in the design and construction of the Project for a total consulting fee not to exceed Twenty-One Thousand Two Hundred Dollars (\$21,200) under the terms and conditions set forth below.

NOW THEREFORE, THE CITY AND THE CONSULTANT, FOR CONSIDERATION HEREINAFTER SET FORTH, DO MUTUALLY AGREE AS FOLLOWS:

I. SCOPE OF SERVICES.

The **CONSULTANT** shall perform in a timely and satisfactory manner engineering services in connection with the Project as same are set forth in Exhibit “A” attached hereto and incorporated into this Agreement by this reference.

II. TIME OF COMPLETION.

The **CONSULTANT** shall complete the services to be rendered hereunder in accordance with the schedule set forth in Exhibit “B” attached hereto and incorporated by this reference. The **CONSULTANT** does hereby expressly acknowledge and agree that **TIME IS OF THE ESSENCE** of this Agreement, and, thus, any failure by the **CONSULTANT** to timely render and perform services hereunder shall constitute a material breach of this Agreement.

III. GENERAL TERMS AND PROVISIONS.

A. The **CONSULTANT** shall not commit any of the following employment practices in connection with or while rendering engineering services hereunder and does hereby expressly agree to prohibit the following practices from being committed by any subcontractors engaged by the **CONSULTANT** in connection with the Project. Upon request, the **CONSULTANT** shall provide the **CITY** with a copy of the relevant provisions of any agreement entered into by the **CONSULTANT** and subcontractor in connection with the Project to confirm to the satisfaction of the **CITY** that the requirements under this Subparagraph III(A) have been met.

1. To discharge or refuse to hire any individual because of their race, color, religion, sex, national origin, disability, age, marital status, or sexual orientation.

2. To discriminate against any individual in terms, conditions or privileges of employment because of their race, color, religion, sex, national origin, disability, age, marital status or sexual orientation.

B. The **CITY** may terminate this Agreement, with or without cause, upon no less than seven (7) calendar days' written notice. In the event that the **CITY** does so terminate this Agreement, the **CONSULTANT** shall be paid for all work and services performed up to the time of said termination upon submission to the **CITY** of a final billing statement and review and approval thereof by the West Branch City Council at the next regularly scheduled Council Meeting; provided, however, that any such sum shall not be greater than the total amount to be paid for services rendered hereunder as set forth in Article IV below; and further provided that, in the event the **CITY** terminates this Agreement with cause, the **CITY** may, in its sole discretion, elect to withhold payment of an amount sufficient to engage a third party to properly complete the Project in accordance with the terms of this Agreement.

C. This Agreement shall not be assigned or in any manner transferred by the **CONSULTANT**, without the express written consent of the West Branch City Council.

D. It is hereby acknowledged and agreed by both parties hereto that the engagement of the **CONSULTANT** by the **CITY** in connection with the Project shall be as an independent contractor and shall be exclusive; provided, however, that the Contractor may retain the services of subcontractors for the purpose of performing its obligations and responsibilities under this Agreement so long as the **CONSULTANT** has first obtained the written approval of same from the **CITY**; and further provided that, should the **CONSULTANT** so engage subcontractors under the terms of this Subparagraph III(D), the **CONSULTANT** shall solely responsible for compensating any such subcontractors.

E. The **CITY** shall make all criteria, design and construction standards, and information regarding the **CITY's** requirements for the Project available to the **CONSULTANT** upon reasonable request by the **CONSULTANT** therefor. The **CITY** shall furnish reasonable assistance to the **CONSULTANT** in the use of said information and documentation at the request of the **CONSULTANT**.

F. It is further agreed that neither party to this Agreement shall perform contrary to any federal or state law, rule or regulation, or the West Branch City Code of Ordinances.

G. At the request of the **CITY**, the **CONSULTANT** shall attend such meetings of the City Council relating to the **PROJECT** hereunder.

H. The **CONSULTANT** agrees to furnish all reports, specifications, and drawings with the seal of a professional engineer affixed thereto or such other seal as required by State law.

I. Upon termination of this Agreement and request of the **CITY**, the **CONSULTANT** shall provide the **CITY** with copies of all basic notes and sketches, charts, computations, and any other data prepared or obtained by the **CONSULTANT** pursuant to this Agreement without cost, and without restrictions or limitations as to the use thereof in connection with the **PROJECT**. It is understood, however, that the **CONSULTANT** shall not be liable for the **CITY's** use of such documents on other projects.

J. Original drawings prepared by the **CONSULTANT** under this Agreement shall become the property of the **CITY**. The **CONSULTANT** shall be allowed to keep mylar reproducible copies for the **CONSULTANT's** own filing use.

K. Fees paid in order to secure approval of authorities having jurisdiction over the Project shall be paid by the **CITY**.

L. If the **CONSULTANT** is providing Construction Administration or Supervision under this Agreement, the **CONSULTANT** shall make visits to the Project construction site at intervals appropriate to the various states of construction and as mutually agreed to by the **CONSULTANT** and **CITY** in order to observe as an experienced and qualified engineering professional the progress and quality of the various aspects of the work being performed by contractors and/or subcontractors. Based on information obtained during such visits and on such observations, the **CONSULTANT** shall endeavor to determine to the best of the **CONSULTANT's** ability if work on the Project is proceeding in accordance with the concept plan for the Project and shall keep the **CITY** informed of the progress of the work on the Project and any concerns the **CONSULTANT** may have regarding same.

M. **CONSULTANT** shall procure and maintain insurance for protection from claims under workers' compensation acts, claims for damages because of bodily injury, including personal injury, sickness, disease or death of any and all employees or of any person other than such employees and from claims or damages because of injury to or destruction of property, including loss of use resulting therefrom. The **CONSULTANT** shall name the **CITY** as an additional insured party on **CONSULTANT's** general liability insurance policy. At the request of the **CITY**, the **CONSULTANT** shall give the **CITY** a certificate of insurance evidencing that the insurance required under this Agreement is in force, and the **CONSULTANT** shall immediately notify the **CITY** of any revocation or cancellation of any of the above-referenced insurance policies. The **CONSULTANT** shall take all necessary steps to preserve the **CITY's** defenses of governmental immunity under Chapter 670 of the Code of Iowa, including, without limitation, requiring that the language set forth in Exhibit "D" attached hereto and incorporated by this reference be included in the certificate of insurance to be provided to the **CITY** hereunder.

IV. COMPENSATION FOR SERVICES.

The **CITY** shall compensate the **CONSULTANT** for engineering services rendered under this Agreement for a total fee not to exceed Twenty-One Thousand Two Hundred Dollars (\$21,200). Said total fees shall be paid by the **CITY** to the **CONSULTANT** in accordance with the payment schedule set forth in Exhibit "C" attached hereto and incorporated by this reference; provided, however, in express acknowledgment that this Agreement is a COMPLETION DATE CONTRACT, the **CONSULTANT** does hereby acknowledge and confirm the **CONSULTANT's** understanding that TIME IS OF THE ESSENCE and that the timely completion of each phase of the Project as set forth in Exhibit "A" and the timely completion of the Project in its entirety constitutes material terms of this Agreement without which the **CITY** would not have engaged the **CONSULTANT**. Accordingly, the **CONSULTANT** also acknowledges that:

A. No payment shall be made to the **CONSULTANT** hereunder if the Project is not proceeding on schedule unless otherwise hereafter agreed in writing by the **CITY**.

B. Under no circumstances shall the **CITY** compensate the **CONSULTANT** for work that has not yet been completed. For purposes of this provision, work shall constitute the discrete phases of the Project as set forth in Exhibit "A" attached hereto. Accordingly, the **CONSULTANT** shall not be entitled to compensation hereunder for any phases of the work until the entire phase of work has been completed.

C. In any event, no payment hereunder shall become due and payable until submission to the **CITY** by the **CONSULTANT** of a billing statement therefor and review and approval of the billing statement by the West Branch City Council at its next regularly scheduled meeting.

V. INDEMNIFICATION.

The **CONSULTANT** agrees to fully indemnify, defend, save and hold the **CITY**, its officers, representatives, agents, contractors, subcontractors and employees, harmless from any and all liability to third parties (including reimbursement of reasonable legal fees and costs) arising directly or indirectly from the negligent act, error or omission of the **CONSULTANT**, its officers, representatives, agents, contractors, subcontractors or employees in connection with the Project.

VI. HAZARDOUS MATERIALS.

The **CONSULTANT** hereby warrants and represents that the **CONSULTANT** (i) has not created nor contributed to the creation or existence (ii) nor will it create or contribute to the creation or existence of any type of hazardous or toxic wastes, materials, chemical compounds, or substances, or any other type of environmental hazard or pollution, whether latent or patent, at the premises of the Project, or in connection with or related to the Project. The **CONSULTANT**, notwithstanding the limit of liability contained in Provision V of this Agreement, does hereby fully indemnify, defend, save and hold harmless the **CITY**, its officers, employees and agents from and against any and all debts, claims, causes of action, administrative orders and notices, costs (including but not limited to, response and/or remedial costs), personal injuries, losses, damages, liabilities, demands, interest, fines, penalties and expenses, including reasonable legal fees and expenses, consultants' fees and expenses, court costs and all other out-of-pocket expenses, suffered or incurred by the **CITY**, its officers, representatives, agents, contractors, subcontractors, employees and grantees as a result of any breach of this Provision VI.

VII. INTERPRETATION.

This Agreement shall be construed in accordance with the generally accepted standards of the Engineering Profession; provided, however, that it is expressly understood and agreed by both parties that to the extent, if at all, the explicit terms and conditions of this Agreement are in conflict with said generally accepted standards of the Engineering Profession, said explicit terms and conditions of this Agreement shall control in the event of a dispute between the parties hereto.

VIII. SURVIVAL.

All express representations, indemnifications or limitations of liability made in or given in this Agreement shall survive the completion of the engineering services to be rendered by the **CONSULTANT** hereunder or the termination of this Agreement for any reason.

IX. CONTROLLING LAW.

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 Cedar County, Iowa or the federal courts located in Linn County, Iowa. The parties hereto hereby 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 hereto 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.

X. HEADINGS.

The headings of sections of this Agreement are for convenient reference only and shall not be deemed to limit, construe, affect, modify or alter the meaning of such sections.

XI. SEVERABILITY.

If any section, subsection, term or provision of this Agreement or the application thereof to the **CONSULTANT**, the **CITY** or a particular circumstance shall, to 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 **CONSULTANT**, the **CITY** or particular circumstances other than for which it was held invalid or unenforceable, 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 permitted by law.

XII. AUTHORITY.

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.

XIII. FINAL AGREEMENT.

Both the **CONSULTANT** and the **CITY** hereby expressly acknowledge and agree that this Agreement is intended to set forth the entire agreement between the parties regarding the engineering services to be rendered by the **CONSULTANT** to the **CITY** in connection with the **PROJECT**, that there are no other considerations or monies contingent upon or resulting from the execution of this Agreement, and that no other monies or considerations 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 **CONSULTANT** 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 this Agreement.

ACCEPTED & AGREED:

VEENSTRA & KIMM, INC.

CITY OF WEST BRANCH, IOWA

An Authorized Representative

Mark Worrell, Mayor

ATTEST:

ATTEST:

An Authorized Representative

City Clerk

ENGINEERING SERVICES AGREEMENT
OLIPHANT STREET SIDEWALK IMPROVEMENTS 2014
WEST BRANCH, IOWA

EXHIBIT "A"

SCOPE OF SERVICES:

The **CONSULTANT** shall perform in a timely and satisfactory manner engineering services in connection with the **PROJECT** as set forth as follows:

1. Gather property ownership information and prepare preliminary easement drawings to indicate alignment impacts on properties along route.
2. Topographic and existing utility surveying of the routes including:
 - a. Oliphant Street from Crestview Drive to North Downey Street.
3. Preliminary design and coordination meetings with the City.
3. Final design plans and specifications
4. Engineers estimate of cost
5. Final construction plans and specifications
6. Bidding assistance. City shall reimburse Consultant for cost of distributing plans and specifications to bidders.
7. General construction contract services.
8. Construction Observation and Resident Review. (Assumes 80hours of review services plus reimbursable expenses)

ENGINEERING SERVICES AGREEMENT

OLIPHANT STREET SIDEWALK IMPROVEMENTS 2014 WEST BRANCH, IOWA

EXHIBIT "B"

TIME OF COMPLETION:

The **CONSULTANT** shall complete the services to be rendered hereunder in accordance with the schedule set forth below. The **CONSULTANT** does hereby expressly acknowledge and agree that TIME IS OF THE ESSENCE of this Agreement, and, thus, any failure by the **CONSULTANT** to timely render and perform services hereunder shall constitute a material breach of this Agreement. The schedule milestones for this project are as follows:

1. Topographic surveying of the sidewalk routes shall be completed by April 15, 2014
2. Draft plans and specifications for City review shall be delivered by May 1, 2014.
3. Final construction plans and specifications shall be delivered by May 15, 2014.
4. Estimated bid date for project is May 29, 2014.
5. Construction of improvements shall be completed by August 15, 2014.

The **CONSULTANT** shall not be responsible for delays in approval, securing easements, or other actions by governmental agencies which may delay the time of completion for services.

ENGINEERING SERVICES AGREEMENT

OLIPHANT STREET SIDEWALK IMPROVEMENTS 2014 WEST BRANCH, IOWA

EXHIBIT "C"

COMPENSATION FOR SERVICES:

The **CITY** shall compensate the **CONSULTANT** for engineering services rendered under this Agreement based on the following:

1. For **DESIGN SERVICES**, the fee for design services, design conferences, topographic survey, preparation of plans and specifications for the project shall be the lump sum fee of Seven Thousand Dollars (\$7,000);
2. For **GENERAL SERVICES**, the total fee for general services during construction and final review of the project shall be the lump sum fee of Two Thousand Five Hundred Dollars (\$2,500);
3. For **ONSITE CONSTRUCTION REVIEW**, The total fee for construction review for the Project shall be based on the standard hourly fees for the time the Engineers' personnel are actually engaged in the performance of the work, plus direct out-of-pocket costs incurred by personnel who are actually engaged in the work. The total fee for resident review services shall not exceed the sum of Five Thousand Two Hundred Dollars (\$5,200) based on providing 80 hours of construction review services at \$65/hour;
4. For **EASEMENTS**, a preparation fee of \$500 per easement for 13 easements for an estimated total easement preparation fee of Six Thousand Five Hundred Dollars (\$6,500);

Said total fees shall be paid by the **CITY** to the **CONSULTANT** and shall become due and payable upon submission to the **CITY** by the **CONSULTANT** of a billing statement therefor and review and approval thereof by the West Branch City Council at the next regularly scheduled Council Meeting.

ENGINEERING SERVICES AGREEMENT

**OLIPHANT STREET SIDEWALK IMPROVEMENTS 2014
WEST BRANCH, IOWA**

EXHIBIT "D"

"The Companies affording coverage and the Additional Insured, City of West Branch, Cedar County, Iowa, expressly agree and state that the purchase of this policy of insurance by the insured and the listings of the City of West Branch as an Additional Insured hereunder do not waive any of the defenses of governmental immunity available to the Additional Insured under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.

The Companies and Additional Insured further agree that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under Iowa Code Section 670.4 as it now exists and as it may be amended from time to time.

The Additional Insured shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the Companies.

The Companies shall not deny coverage under this policy and the Companies shall not deny any of the rights and benefits accruing to the Insured or the Additional Insured under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the Additional Insured."

RESOLUTION 1189

A RESOLUTION TO AMEND THE CITY OF WEST BRANCH, IOWA EMPLOYEE
HANDBOOK

WHEREAS, the City Council, of the City of West Branch, Iowa adopted an Employee Handbook on September 8, 2009, and amended same handbook on October 19, 2009, February 1, 2010, October 4, 2010, December 6, 2010, February 21, 2011, April 4, 2011, February 21, 2012, December 3, 2012 and January 21, 2014; and

WHEREAS, the City Council finds that deleting the “Work Related Incapacity” subsection contained within the **Benefits** section of the *West Branch, Iowa Employee Handbook* on page 17 of the Handbook and adding the subsection entitled “Return-to-Work Program” attached on Exhibit “A” would be beneficial; and

WHEREAS, the Iowa Municipal Worker’s Compensation Association has recommended the adoption of the language contained within the subsection entitled “Return-to-Work Program.”

NOW, THEREFORE, BE IT RESOLVED that the City Council of West Branch, Iowa does hereby approve and adopt the City of West Branch Personnel Handbook dated April 2014 revised by amending the **Benefits** section by deleting the subsection entitled “Work Related Incapacity” and adding the subsection entitled “Return-to-Work Program” which reads as attached on Exhibit “A” attached hereto is hereby approved.

Passed and approved this 7th day of April, 2014.

Mark Worrell, Mayor

Attest:

Matt Muckler, City Administrator/Clerk

Exhibit A

Return-to-Work Program

- I. **PURPOSE:** It is the purpose of this program to provide guidelines for employees injured on the job who are unable to return to his/her regular job classification upon returning to work.

- II. **POLICY**
 - A. It is the policy of the City of West Branch to provide modified or alternate work for employees injured on the job, who are unable to temporarily or permanently return to his/her regular job classification. Regular modified and alternate work will be provided as available in compliance with the Americans with Disabilities Act (ADA) and Iowa Workers' Compensation Act.

 - B. The City of West Branch will make reasonable accommodations to a disability, unless the accommodations would impose an undue financial and administrative burden on the City.

 - C. The feasibility of reasonable accommodations shall be determined on a case-by-case basis taking into consideration the employee, the specific physical or mental impairment, the essential functions of the job, the work environment, and the City's ability to provide accommodations.

 - D. Objectives:
 1. To return the employee who is injured on the job to work as soon as possible when there is not a significant risk of substantial harm to themselves and others.
 2. To minimize financial hardship and emotional stress to the employee who has sustained a work-related injury.
 3. To assist the employee in returning to work at a level as close as practicable to his/her pre-injury earnings and productivity.
 4. To retain qualified and experienced employees.
 5. To reduce the cost of disability benefit programs.

 - E. Temporary Alternate Duty (TAD):
 1. TAD is defined as modified duties or hours assigned to a worker injured on the job, when the physician indicates they can return to work but who are not yet physically capable of handling the entire job duties normally assigned, and his/her work-related injury has not reached maximum medical improvement.

2. The purpose of TAD is to provide temporary work, within medical restrictions, for an employee injured on the job. TAD may be available with medical prognosis indicating that the employees are expected to return to full duty following a course of medical treatment.
3. If an alternate duty position is available, the employee must be provided with TAD as soon as medically feasible. An alternate duty position may be either within his/her department, if available, or within another City department, as coordinated by the City's designee. TAD should be consistent with the employee's physical/mental abilities.
4. An employee in TAD capacity will continue to receive the salary and benefits of his/her job classification. A TAD assignment should be reviewed after each medical appointment, normally every 7 to 14 days. TAD will not normally exceed three months (90 calendar days).
5. TAD Procedures:
 - a. City of West Branch Designee or Workers' Compensation Designee:
 - 1) Informs physician about the TAD program.
 - 2) Informs employee about the TAD program.
 - 3) Informs Workers' Compensation Adjustor of employee's availability to the TAD program.
 - 4) Obtains information regarding medical condition of employee from the City's designated healthcare provider or other authorized treating healthcare provider(s).
 - b. Department Representative and/or Employee's Supervisor, along with Workers' Compensation Designee:
 - 1) Develops work assignments on a case-by-case basis, if available, depending on medical restrictions.
 - 2) Develops appropriate TAD assignments, and monitors on-going medical and work adjustment.
 - 3) May meet with injured employees to review TAD status.
 - c. Employee:
 - 1) Reviews and signs *Appendix A, Return to Work Program Statement of Acknowledgment*.

- 2) When the physician has determined that Maximum Medical Improvement has been reached and the employee is able to perform the essential job duties of his/her job with or without reasonable accommodations, the employee shall return to the job classification and duties held prior to the work injury.
- 3) When the physician has determined that Maximum Medical Improvement has been reached, and the employee is unable to perform the essential job duties of his/her job with or without reasonable accommodations, the employee will be assigned to a Ninety (90) Day Modified Duty Assignment.
 - a. An employee assigned to a Modified Duty Assignment will either report to his/her regular department or the assigned City department coordinated by the City's designee. The employee shall be assigned to do whatever work he/she is able to do, under the restrictions that the City's designated healthcare provider has placed on the employee.
 - b. An employee placed on Ninety (90) Day Modified Duty Assignment shall continue to receive the salary and benefits of his/her job classification.
 - c. No alternate duty employee will be permitted to work overtime.
 - d. During the ninety (90) day period, employees on Modified Duty Assignment will be encouraged and afforded opportunities to apply for other jobs for which they are able to perform the essential functions of the job.
 - e. At the conclusion of their ninety (90) day Modified Duty Assignment period, employees who have been unsuccessful in obtaining other jobs for which they are qualified and for which they are able to perform the essential functions or if no jobs were available within the City, shall be laid off. Laid off employees shall be afforded all rights and benefits included in applicable personnel policies in effect at the time of the layoff.

F. Responsibilities of the Employee:

- 1) The employee is responsible for notifying the West Branch City Office of any changes to his/her current mailing address. Job vacancy notices will be mailed to the last address shown on the City of West Branch's records.

- 2) To determine the appropriateness of the job assignment, the employee who is unable to return to work without restriction is responsible for keeping the Department Director (or the Department Directors designee) informed of the status of the employee's medical condition.
- 3) If the employee rejects any assignment which is compatible with given medical restrictions, the employee shall not be compensated by the City of West Branch or the City of West Branch's workers' compensation carrier with temporary, partial, temporary total or healing period benefits during the period of refusal (*Code of Iowa*, Section 85.53 – Suitable Work).
- 4) The employee assumes responsibility for contacting the West Branch City Office to apply for available jobs.

Appendix A

[Enter Employee Name]

City of West Branch -Return to Work Program Statement of Acknowledgement

I acknowledge that I have been informed of the City of West Branch's Temporary Alternate Duty (TAD) program, and I understand and agree to abide by the restrictions defined by the City's designated healthcare provider's physician and by the City of West Branch as a condition of my participation in the *Return-to-Work* program.

I further understand that if I do not follow the restrictions placed on me by the physician and the City of West Branch, I may receive disciplinary action up to and including discharge.

Employee Signature/Date:

Witness

Signature/Date: _____

Stormwater Utility

General Questions

What is stormwater runoff and why do we need to manage it?

Stormwater runoff is rainfall or snowmelt that flows from saturated permeable surfaces like roofs and paved driveways, sidewalks, parking lots, and streets. Stormwater runoff creates drainage and flooding problems. Stormwater runoff often picks up pollutants such as oils, grease, fertilizers, pesticides, litter, and metals. Stormwater runoff is collected and conveyed through ditches, culverts, intakes, catch basins, and storm sewers directly into creeks, streams, lakes, and rivers without being treated to remove pollutants.

What is an impervious surface?

An impervious surface is any surface area that does not readily absorb water. Because water cannot be absorbed by impervious surfaces, water running off of an impervious must be managed through well-planned, constructed, and maintained stormwater facilities to prevent flooding and pollution in receiving waters. A stormwater management fee is based on the amount of total impervious surface on your property. Impervious surface is a good gauge of how much your property is contributing to the overall need for stormwater management facilities in the City of West Branch.

Is gravel considered an impervious surface?

Yes. It is difficult for water to soak into a packed gravel surface. Once gravel is compacted, surface water runs off it much like a paved surface. The gravel area may slow the flow of water from an area, but nearly the same amount of runoff will flow from under the gravel as if the gravel was not there. Many flat roofs are covered with gravel, but they still shed the rainwater that falls on them. In addition, if cars or heavy equipment are traveling on gravel surfaces, the runoff typically carries pollutants like metals or petroleum in our waterways.

Stormwater Management Fees

Stormwater management fees are based on impervious surface area on the property. An Equivalent Residential Unit (ERU) is a measure of the amount of the impervious surface area. For the City of West Branch, one ERU is defined as less than or equal to 3,500 square feet of impervious surface area.

Why do we have stormwater management fees?

The stormwater management fees raise revenue to fund the City of West Branch stormwater management program and facilities. The stormwater utility will charge properties in the City of West Branch based on the property's contribution to the overall need for stormwater management and facilities.

How are the stormwater management fees different from a tax? What is user fee?

The stormwater management fee is a user fee, much like the fee you pay for your water utility or sanitary sewer utility services. Users of these services are charged for the demand they place on the system. The stormwater that flows off of your property places a demand on a vast system of stormwater infrastructure, which is costly to operate and maintain. Stormwater must be channeled through a system of ditches, culverts, intakes, catch basins, and pipes to discharge it into local creeks, streams, lakes, and rivers.

Who pays the fees?

Owners of all developed land in the City of West Branch pay the stormwater management fees. This includes residential properties, commercial properties, industrial properties, churches, schools, and other non-profit organizations as well federal, state, county, and city governments. Undeveloped land is not charged stormwater management fees because it does not have impervious surfaces.

How are stormwater management fees used?

The stormwater management fees pay for the operations and maintenance costs of the stormwater management and facilities. Some of the services tied to the stormwater management program include:

- Storm sewer system maintenance, repairs, and construction
- Illicit discharge detection and elimination
- Public education and outreach
- Improving water quality

Do other cities have stormwater user fees?

A number of municipalities in the United States have established stormwater utilities to fund their stormwater management programs and facilities. Some of the smaller communities (populations under 5,000) in Iowa include: Ackley, Belmond, Bondurant, Buffalo, Conrad, DeWitt, Guttenberg, Lake City, Ogden, Postville, as well as nearby communities (populations over 5,000) such as Iowa City, Coralville, Cedar Rapids, Marion, and Bettendorf.

Billing Questions

What is an ERU?

An ERU (equivalent residential unit) is a measure of impervious surface on a property. The City of West Branch has established one ERU as 3,500 square feet of impervious area.

How are the stormwater management fees calculated?

Property owners are charged stormwater management fees based on the total impervious surface area on the property. Each 3,500 square feet of impervious surface area is one Equivalent Residential Unit (ERU). This fee would be included with the monthly utility bill which currently assesses water, sanitary sewer, and recycling operating costs to demand users in the City of West Branch.