

City of West Branch

~A Heritage for Success~

110 N. Poplar Street • PO Box 218 • West Branch, Iowa 52358
(319) 643-5888 • Fax (319) 643-2305 • www.westbranchiowa.org • city@westbranchiowa.org

CITY COUNCIL MEETING AGENDA
Monday, December 7, 2015 • 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 November 30, 2015 City Council Meeting.
 - b. Approve claims.
6. Communications/Open Forum
7. Public Hearing/Non-Consent Agenda
 - a. Resolution 1402, authorizing internal advances to capital projects fund./Move to action.
 - b. Mayoral Appointment: Resolution 1406, hiring _____ as a police officer for the City of West Branch, Iowa, setting the salary for the position for fiscal year 2015-2016 and entering into an officer training reimbursement agreement./Move to action.
 - c. Resolution 1407, approving a service agreement with J&M Displays in connection with the 2015 Hoover's Hometown Days Celebration in the amount of \$40,000./Move to action.
 - d. Resolution 1408, approving annual TruGreen service agreement./Move to action.
 - e. Resolution 1409, approving a marketing license agreement between the City of West Branch, Iowa, and Utility Service Partners Private Label, Inc. D/B/A Service Line Warranties of America./Move to action.
 - f. Resolution 1410, approving the request for qualifications (RFQ) for the West Branch Park Improvements Project./Move to action.
8. City Staff Reports
 - a. Public Works Director Matt Goodale – Six Month Report on Housing Incentive Program
 - b. City Administrator Matt Muckler – FY 17 Annual Budget Schedule Proposal
9. Comments from Mayor and Council Members
 - a. Mayor Roger Laughlin – City Council Joint Work Session with the West Branch Community School District Board of Directors, Monday December 21, 2015 at 6:00 p.m.
10. Adjournment

Mayor: Roger Laughlin • **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**

City Council Meeting

**November 30, 2015
5:30 p.m.**

Mayor Roger Laughlin called the West Branch City Council meeting to order at 5:30 p.m. Mayor Laughlin then asked the Council, staff and members of the audience to stand and led the group in the Pledge of Allegiance. Roll call: Mayor Roger Laughlin was present. Council members: Jordan Ellyson, Colton Miller, Brian Pierce, Tim Shields, and Mary Beth Stevenson were present. Laughlin welcomed the audience and the following City staff: City Administrator Matt Muckler, Deputy City Clerk Leslie Brick, Police Chief Mike Horihan, Library Director Nick Shimmin, and Park & Recreation Director Melissa Russell.

APPROVE AGENDA/CONSENT AGENDA/MOVE TO ACTION.

Approve minutes from the November 16, 2015 City Council Meeting.

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

COMMUNICATIONS/OPEN FORUM

Superintendent Pete Swisher, Herbert Hoover National Historic Site reminded the Council that Christmas Past is this weekend. Swisher also made note that due to wet ground conditions at the Village Green, the annual tree lighting ceremony has been moved to Heritage Square.

PUBLIC HEARING/NON-CONSENT AGENDA

Third Reading of Ordinance 735, amending the Standards for Signage Design and Display found in the Appendix to the Code of Ordinances of the City of West Branch, Iowa. /Move to action.

Motion by Shields, second by Pierce to approve Ordinance 727. AYES: Shields, Pierce, Stevenson, Miller, Ellyson. Motion carried.

ORDINANCE NO. 735

AN ORDINANCE AMENDING THE STANDARDS FOR SIGNAGE DESIGN AND DISPLAY FOUND IN THE APPENDIX TO THE CODE OF ORDINANCES OF THE CITY OF WEST BRANCH, IOWA.

1. BE IT ENACTED by the City Council of West Branch, Iowa, that the Appendix of the Code of Ordinances of the City of West Branch, Iowa is hereby amended by inserting the following language in the last sentence in Section II of the *Standards for Signage Design and Display*:

Only the following signs shall be permitted in the Heritage Square area, including South Downey Street and the intersections of South Downey with Wetherell Street and Main Street:

- a. Applied signs.
 - b. Projecting signs on the east and west sides of the Heritage Square area.
2. This amendment to the ordinance shall be in full effect from and after its publication as by law provided.
 3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
 4. 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 30th day of November, 2015.

First Reading: November 2, 2015
Second Reading: November 16, 2015
Third Reading: November 30, 2015

Roger Laughlin, Mayor Pro Tem

Attest:

Matt Muckler, City Administrator/Clerk

Resolution 1400, hiring Gordon Edgar as the finance officer/treasurer/deputy city clerk for the City of West Branch, Iowa and setting the salary for the position for fiscal year 2015-2016./Move to action.

Muckler announced that Gordon Edgar was selected as the finance officer/treasurer/deputy city clerk. Gordon has a degree in accounting along with over thirty years of financial/accounting background. He also has experience with public sector project management that will help with the future City projects. Edgar's start date will be in mid-December.

Motion by Stevenson, second by Ellyson to approve Resolution 1400. AYES: Stevenson, Ellyson, Miller, Pierce, Shields. Motion carried.

Resolution 1401, approving snow removal services on Parkside Drive, Second Street and Cedar Street for the United States Department of the Interior, National Park Service, Herbert Hoover National Historic Site./Move to action.

Motion by Miller, second by Pierce to approve Resolution 1401. AYES: Miller, Pierce, Ellyson, Stevenson, Shields. Motion carried.

Resolution 1402, authorizing internal advances to tax increment revenue fund./Move to action.

Motion by Stevenson, second by Shields to postpone consideration of Resolution 1402 until the December 7, 2015 City Council Meeting. AYES: Stevenson, Shields, Pierce, Ellyson, Miller. Motion carried.

Resolution 1403, approving the submission of the City of West Branch FY2015 Annual Urban Renewal Report./Move to action.

Muckler stated that the City is required to report information concerning tax increment financing to the legislature each year.

Motion by Pierce, second by Ellyson to approve Resolution 1403. AYES: Pierce, Ellyson, Miller, Stevenson, Shields. Motion carried.

Resolution 1404, obligating funds from the urban renewal tax revenue fund for the payment of annual appropriation tax increment financed obligations in fiscal year 2017./Move to action.

Motion by Stevenson, second by Pierce to approve Resolution 1404. AYES: Stevenson, Pierce, Ellyson, Shields, Miller. Motion carried.

Superintendent Pete Swisher, Herbert Hoover National Historic Site, Gregory M. Nalley, Associate Director, U.S. Geological Survey (USGS) Iowa Water Science Center, Jon Nania, Supervisory Hydrologist, USGS Iowa Water Science Center, and Daniel Christiansen, Supervisor of the Hydraulic Analysis & Modeling Unit, USGS Iowa Water Science Center – Herbert Hoover National Historic Site Flood Mitigation, Stabilization, and Restoration of Hoover Creek.

Swisher provided an update on flood mitigation, stabilization and the restoration of Hoover Creek within the Herbert Hoover National Historic Site. The project is now in the engineering phase. Swisher stated that he is in the process of compiling information for a report to an advisory board which may result in changes to the scope of the project due to new technology and best management practices. However, the underlying goal has remained consistent since 2006: to prepare the Historic Site for 50-year flood protection. Swisher invited the continued partnership of the City of West Branch, suggesting that the City consider reestablishing the 'Stream Team' to create a prioritized list of potential improvements. Jon Nania (USGS) provided a recap of current stormwater monitoring efforts and discussed the data that is currently collected through stream gages and rain gages in and around West Branch. Data gathered is available on their website www.usgs.gov. Dan Christiansen (USGS) reminded the Council about their future modeling options. Council discussed the pros and cons of moving forward with modeling sooner rather than later. Swisher stated that federal funding may become available for modeling efforts. Greg Nalley (USGS) suggested that modeling will provide information on more options for reducing future flooding than just retention basins, including the sculpting of the stream channel.

Resolution 1405, approving a joint funding agreement between the City of West Branch and the United States Geological Survey (USGS) Iowa Water Science Center for water resources investigations./Move to action.

Miller asked that the timing of these joint funding agreements be adjusted to take place after the annual budget. Motion by Pierce, second by Stevenson to approve Resolution 1405. AYES: Pierce, Stevenson, Miller, Ellyson, Shields. Motion carried.

CITY STAFF REPORTS

City Administrator Matt Muckler- Outlot A, Pedersen Valley, Part Two

Muckler asked the city attorney for a comment on the subdivider’s agreement. Olson stated that he reviewed the subdivider’s agreement from 1999 and it was his opinion that the agreement would not require the developer to maintain the property. Muckler stated that agreements are now written so as to avoid city maintenance of outlots. Muckler reported that he had been back in contact with Oak Helm Partners on Outlot A, and that they have offered the City \$500 in order to take ownership of the property. Muckler said if the Council agreed to accept their offer he would add a resolution to the December 21, 2015 City Council agenda for consideration. Council members expressed interest in having such a resolution placed on a future agenda.

City Engineer Dave Schechinger – Update on Casey’s Project

Schechinger provided an update on the progress at the new Casey’s site and felt that things were going well. He reported that Tidewater Drive was closed today. The detour opened earlier today and no issues had been reported so far. The road is expected to reopen before Christmas. Schechinger also mentioned that a representative from Casey’s asked if the City would consider letting the store open before all of the road improvements had been completed due to the timing of winter weather. Pierce expressed a willingness to allow Casey’s to open early as long as the road work was a priority in the spring. Olson stated that he could discuss an agreement with Casey’s attorney and bring it back to the City Council for their consideration.

City Administrator Matt Muckler – West Branch Park Improvement Project

Muckler stated that the recount on the West Branch Park Improvement Project was completed and the vote passed. The next decision item for moving forward is deciding on an engineering firm for the project. City Attorney Olson stated that the City was not required, per Chapter 26 of the City Code, to complete any additional competitive bidding to obtain engineering assistance on the project, but that this decision was up to the Council. Shields commented that HBK had already put in a lot of work on the project, had previously been awarded engineering agreements on this project through a competitive process, and that he was comfortable moving forward with HBK. Other Council members expressed a preference to conduct a process where requests for qualifications would be requested from interested engineering firms. Muckler stated that he would bring back an RFQ for Council consideration at the December 7, 2015 Council Meeting. Russell recommended that the current contract with HBK on engineering for Wapsi Creek Park, Lions Field and Beranek Park should be considered.

COMMENTS FROM MAYOR AND COUNCIL MEMBERS

Councilperson Colton Miller reminded the group that the Boy Scouts will begin making donuts at 5:00 p.m. on Friday and Saturday evening at Heritage Square during the Christmas Past event.

ADJOURNMENT

Motion to adjourn meeting by Shields, second by Pierce. Motion carried on a voice vote. City Council meeting adjourned at 7:01 p.m.

Roger Laughlin, Mayor

ATTEST: _____
Leslie Brick, Deputy City Clerk

12/7/2015

A1 JANITORIAL SUPPLY	CLEANER	346.23
ALLIANT ENERGY	SERVICES	52.36
ALTORFER INC	PARTS	61.52
ATLAS TREE SERVICE	SERVICES	1,200.00
BAKER & TAYLOR INC.	CREDIT	1,241.19
BARRON MOTOR SUPPLY	PARTS & SUPPLIES	611.81
BEST BUY BUSINESS ADVANTAG	SUPPLIES	35.94
BP AMOCO	FUEL	166.15
CAJ ENTERPRISES INC	COLD PATCH	120.00
CEDAR COUNTY AUDITOR	ELECTION SERVICES	1,304.57
CEDAR RAPIDS PHOTO COPY IN	COPIER CHARGES	46.91
CHIEF SUPPLY CORPORATION	UNIFORMS	632.01
CROELL REDI-MIX INC	STREET PATCH	958.25
CY'S TREE SERVICE	SERVICES	3,870.00
D&R PEST CONTROL	PEST CONTROL	70.00
DEMCO	SUPPLIES	50.17
DORSEY & WHITNEY LLP	SERVICES	33,671.41
FREEMAN LOCK & ALARM INC	PADLOCK	30.00
HAWKINS INC	CHEMICALS	1,364.27
HBK ENGINEERING LLC	SERVICES	2,480.00
IMWCA	WORK COMP PREMIUM	4,666.00
IOWA LAW ENFORCEMENT ACADE	NEW HIRE EVALUATION	140.00
JAB INK GRAFIX & DESIGNS	SQUAD ARTWORK	605.00
JOHN DEERE FINANCIAL	MISC CHARGES	1,912.81
L. L. PELLING CO. INC	PREMIX	1,368.50
LIBERTY COMMUNICATIONS	SERVICES	1,239.18
LYNCH'S EXCAVATING INC	SERVICES	280.00
LYNCH'S PLUMBING INC	SERVICE	97.00
MEDIACOM	SERVICES	40.90
MIDWEST RADAR & EQUIPMENT	RADAR UNIT CALIBRATIONS	200.00
MUCKLER, MATT	REIMBURSEMENT	120.00
PITNEY BOWES PURCHASE POWE	CHARGES	1,009.36
PORT 'O' JONNY INC.	RENTAL	89.80
POSTMASTER	ANNUAL BOX RENTAL FEE	72.00
QC ANALYTICAL SERVICES LLC	TESTINGS	584.00
QUILL CORP	SUPPLIES	393.65
RACOM CORPORATION	PROGRAM RADIOS	285.00
SADLER POWER TRAIN	PARTS & LABOR	1,314.18
SHANELLE M PEDEN	SERVICES	225.00
SHIMMIN, NICK	REIMB SUPPLIES	34.75
SMITH FERTILIZER GRAIN	SALT	2,280.00
SPEER FINANCIAL INC	SERVICES	325.00
STAGG, PAUL	MILEAGE REIMB	146.85
TERENCE J GOERDT	SERVICES	315.00
THE BOOK FARM INC	BOOKS	418.90
UNIFORM DEN INC.	UNIFORMS	78.55

UPS	POSTAGE	69.34
USA BLUE BOOK	PARTS	571.38
VEENSTRA & KIMM INC.	SERVICES	15,338.71
VERIZON WIRELESS	SERVICES	784.90
WEST BRANCH COMMUNITY SCHOOL	PARK & REC - GYM USE	340.00
WEST BRANCH FORD	TIRES/SERVICE	416.80
WESTRUM LEAK DETECTION INC	LEAK DETECTION SURVEY	1,000.00
WEX BANK	FUEL	3,536.65
TOTAL		88,612.00

PAYROLL	11/20/2015	31,793.17
PAYROLL	12/4/2015	31,513.14
TOTAL		63,306.31

PAID BETWEEN MEETINGS

HYVEE	PARK DEPT CHARGES	146.54
WELLMARK - BLUE CROSS/BLUE SHEILD	PREMIUMS	8,205.02
DEARBORN LIFE INSURANCE	PREMIUMS	37.80
TOTAL		8,389.36

GRAND TOTAL EXPENDITURES 160,307.67

FUND TOTALS

001 GENERAL FUND	76,295.05
022 CIVIC CENTER	43.04
031 LIBRARY	11,733.66
036 TORT LIABILITY	2,861.00
110 ROAD USE TAX	13,517.86
112 TRUST & AGENCY	11,974.01
305 MAIN ST CROSSINGS PROJ	1,902.85
306 4TH ST IMPROVEMENTS PROJ	3,550.00
307 MAIN ST INTERSECTION IMP	1,850.00
600 WATER FUND	18,876.07
610 SEWER FUND	14,346.53
740 STORM WATER UTILITY	3,357.60
TOTAL	160,307.67

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
POLICE OPERATION	GENERAL FUND	RACOM CORPORATION	PROGRAM RADIOS	285.00
		CHIEF SUPPLY CORPORATION	LEATHER GEAR - NEW OFFICER	370.14
		VERIZON WIRELESS	UNIFORMS	261.87
		WEX BANK	SERVICES	245.43
		IOWA LAW ENFORCEMENT ACADEMY	FUEL	1,410.70
		JAB INK GRAFIX & DESIGNS	NEW HIRE EVALUATION	140.00
		UNIFORM DEN INC.	SQUAD ARTWORK	605.00
		BEST BUY BUSINESS ADVANTAGE ACCOUNT	UNIFORMS - CATHY STEEN	78.55
		LIBERTY COMMUNICATIONS	SUPPLIES	35.94
		MIDWEST RADAR & EQUIPMENT	SERVICES	224.70
			RADAR UNIT CALIBRATIONS	200.00
			TOTAL:	3,857.33
FIRE OPERATION	GENERAL FUND	BP AMOCO	FUEL	68.29
		QUILL CORP	FAX MACHINE	179.99
		LIBERTY COMMUNICATIONS	SERVICES	99.28
		BARRON MOTOR SUPPLY	SERVICES	44.14
			PARTS & SUPPLIES	11.84
			TOTAL:	403.54
PARK & RECREATION	GENERAL FUND	WEST BRANCH COMMUNITY SCHOOLS	PARK & REC - GYM USE	340.00
		HKB ENGINEERING LLC	PARKS DESIGN PH 1	2,480.00
		VERIZON WIRELESS	SERVICES	41.80
		ALLIANT ENERGY	SERVICES	52.36
		LIBERTY COMMUNICATIONS	SERVICES	144.61
			TOTAL:	3,058.77
CEMETERY	GENERAL FUND	PORT 'O' JONNY INC.	RENTAL	89.80
			TOTAL:	89.80
CLERK & TREASURER	GENERAL FUND	CEDAR COUNTY AUDITOR	ELECTION SERVICES	1,304.57
		TERENCE J GOERDT	SERVICES	315.00
		QUILL CORP	STICKY NOTES	9.59
		VEENSTRA & KIMM INC.	FOLDERS & STORAGE BOX	74.77
			HERITAGE SQUARE	1,047.50
			TERROR TRAIL IMPR	1,009.23
			ORANGE & SCOTT DET BAS REV	284.00
		LIBERTY COMMUNICATIONS	SERVICES	295.23
		MUCKLER, MATT	REIMB TREE & STAND	120.00
		SPEER FINANCIAL INC	SERVICES- TIF REPORT	325.00
			TOTAL:	4,784.89
LEGAL SERVICES	GENERAL FUND	DORSEY & WHITNEY LLP	ACCIONA SERVICES	33,671.41
			TOTAL:	33,671.41
LOCAL CABLE ACCESS	GENERAL FUND	SHANELLE M PEDEN	RECORDING 11/17/15	75.00
			RECORDING - 111915	75.00
			RECORDING - 112415	75.00
		LIBERTY COMMUNICATIONS	SERVICES	56.98
		MEDIACOM	SERVICES	40.90
			TOTAL:	322.88
COMMISSION	GENERAL FUND	VEENSTRA & KIMM INC.	CASEY'S TURN IN INSP	971.88
			TOTAL:	971.88
TOWN HALL	CIVIC CENTER	LIBERTY COMMUNICATIONS	SERVICES	43.04

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
LIBRARY	LIBRARY	CEDAR RAPIDS PHOTO COPY INC	COPIES	43.04
		DEMCO	CLIP ON CARD HOLDER	46.91
		THE BOOK FARM INC	BOOKS	50.17
		SHIMMIN, NICK	REIMB SUPPLIES	418.90
		POSTMASTER	ANNUAL BOX RENTAL FEE	34.75
		QUILL CORP	STAMP PAD	72.00
			CABLE TIES	1.43
			ENVELOPES & MARKERS	4.12
			HEADPHONES	51.10
			BOOKS	72.65
			BOOKS	130.34
			BOOKS	156.71
			BOOKS	789.51
			BOOKS	175.93
			CREDIT	11.30-
			CHARGES	4.36
			PEST CONTROL	70.00
			SERVICES	185.96
			TOTAL:	2,253.54
POLICE OPERATIONS	TORT LIABILITY	IMWCA	WORK COMP PREMIUM	607.00
			TOTAL:	607.00
FIRE OPERATION	TORT LIABILITY	IMWCA	WORK COMP PREMIUM	1,583.00
			TOTAL:	1,583.00
ROADS & STREETS	TORT LIABILITY	IMWCA	WORK COMP PREMIUM	341.00
			TOTAL:	341.00
LIBRARY	TORT LIABILITY	IMWCA	WORK COMP PREMIUM	55.00
			TOTAL:	55.00
PARK & RECREATION	TORT LIABILITY	IMWCA	WORK COMP PREMIUM	28.00
			TOTAL:	28.00
CEMETERY	TORT LIABILITY	IMWCA	WORK COMP PREMIUM	247.00
			TOTAL:	247.00
ROADS & STREETS	ROAD USE TAX	L. L. PELLING CO. INC	PREMIX	1,368.50
		LYNCH'S PLUMBING INC	REPL POWER WASH SENSOR	97.00
		BP AMOCO	FUEL	97.86
		ALTORFER INC	HYDRAULIC HOSE	61.52
		SADLER POWER TRAIN	PARTS & LABOR	1,314.18
		VERIZON WIRELESS	SERVICES	165.89
		WEX BANK	FUEL	708.65
		JOHN DEERE FINANCIAL	1500 GAL TANK & PARTS	1,585.88
		CY'S TREE SERVICE	TREE REMOVALS- OCT	3,870.00
		ATLAS TREE SERVICE	GRIND STUMP @ 227 N 5TH	300.00
			GRIND STUMP REMOVE 2 TREES	900.00
			COLD PATCH	120.00
			SALT	2,280.00
			SERVICES	48.41
			PARTS & SUPPLIES	599.97
			TOTAL:	13,517.86

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
CAPITAL PROJECT	MAIN ST CROSSINGS	VEENSTRA & KIMM INC.	PEDERSEN & MAIN CONCEPT	1,902.85
			TOTAL:	1,902.85
CAPITAL PROJECT	4TH ST IMPROVEMENT	VEENSTRA & KIMM INC.	4TH ST IMPR DESIGN SERVICE	3,550.00
			TOTAL:	3,550.00
CAPITAL PROJECT	MAIN ST INTERSECTI	VEENSTRA & KIMM INC.	MN ST INTERSEC IMPR	1,850.00
			TOTAL:	1,850.00
WATER OPERATING	WATER FUND	LYNCH'S EXCAVATING INC	4TH ST PATCH - WATER MAIN	280.00
		FREEMAN LOCK & ALARM INC	PADLOCK	30.00
		HAWKINS INC	CHEMICALS	1,364.27
		VERIZON WIRELESS	SERVICES	165.89
		WEX BANK	FUEL	708.65
		JOHN DEERE FINANCIAL	CLOTHING	206.95
		CROELL REDI-MIX INC	STREET PATCH	958.25
		VEENSTRA & KIMM INC.	MN & WATER ST WATER MAIN I	1,512.50
		PITNEY BOWES PURCHASE POWER	POSTAGE	500.00
		LIBERTY COMMUNICATIONS	SERVICES	48.41
		WESTRUM LEAK DETECTION INC.	LEAK DETECTION SURVEY	1,000.00
		WEST BRANCH FORD	NEW TIRES & LABOR	416.80
		USA BLUE BOOK	PARTS	571.38
			TOTAL:	7,763.10
SEWER OPERATING	SEWER FUND	UPS	POSTAGE	40.75
			POSTAGE	27.02
			POSTAGE	1.57
		QC ANALYTICAL SERVICES LLC	TESTINGS	584.00
		IMWCA	WORK COMP PREMIUM	1,805.00
		VERIZON WIRELESS	SERVICES	165.89
		WEX BANK	FUEL	708.65
		JOHN DEERE FINANCIAL	FILTERS & HERBICIDE	119.98
		A1 JANITORIAL SUPPLY	CLEANER	346.23
		PITNEY BOWES PURCHASE POWER	POSTAGE	505.00
		LIBERTY COMMUNICATIONS	SERVICES	48.42
			TOTAL:	4,352.51
STORM WATER UTILITY	STORM WATER UTILIT	STAGG, PAUL	MILEAGE REIMB	146.85
		VEENSTRA & KIMM INC.	4TH ST STORMWATER BMP	2,625.50
			NATIONAL PARKS STORMWATER	585.25
			TOTAL:	3,357.60

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
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===== FUND TOTALS =====
001 GENERAL FUND 47,160.50
022 CIVIC CENTER 43.04
031 LIBRARY 2,253.54
036 TORT LIABILITY 2,861.00
110 ROAD USE TAX 13,517.86
305 MAIN ST CROSSINGS PROJ 1,902.85
306 4TH ST IMPROVEMENTS PROJ 3,550.00
307 MAIN ST INTERSECTION IMP 1,850.00
600 WATER FUND 7,763.10
610 SEWER FUND 4,352.51
740 STORM WATER UTILITY 3,357.60
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GRAND TOTAL: 88,612.00
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TOTAL PAGES: 4

RESOLUTION 1406

A RESOLUTION HIRING WESLEY HOMEISTER AS A POLICE OFFICER FOR THE CITY OF WEST BRANCH, IOWA, SETTING THE SALARY FOR THE POSITION FOR FISCAL YEAR 2015-2016 AND ENTERING INTO AN OFFICER TRAINING REIMBURSEMENT AGREEMENT.

WHEREAS, the City of West Branch is interested in hiring Wesley Homeister as a police officer; and

WHEREAS, the City Attorney has prepared an officer training reimbursement agreement which requires approval of the City Council.

BE IT RESOLVED by the Council of the City of West Branch, Iowa:

Section 1. That the City of West Branch, Iowa will hire Wesley Homeister as a police officer.

Section 2. The following person and position named shall be paid the hourly wage indicated and the City Clerk is authorized to issue warrants/checks, less legally required or authorized deductions for the amounts set out below, and make such contributions to IPERS and Social Security or other purposes as required by law or authorization of the Council:

Position	Name	Wage	Basic Hours
Police Officer	Wesley Homeister	\$18.27/hour	40/week

SECTION 3. The above named employee is subject to the City of West Branch Personnel Policies and Procedures applicable to their department.

SECTION 4. The aforementioned officer training reimbursement agreement be and the same is hereby approved by the City Council of the City of West Branch, Cedar County, Iowa. Further, the Mayor and City Clerk are directed to execute said agreement on behalf of the City.

SECTION 5. This resolution will be effective upon final passage of the City Council.

Passed and Approved this 7th day of December, 2015.

Roger Laughlin, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

OFFICER TRAINING REIMBURSEMENT AGREEMENT

THIS AGREEMENT, made and entered this ___th day of December, 2015, by and between the City of West Branch, Iowa, A Municipal Corporation, 110 Poplar Street, West Branch, Iowa, 52358 (The “CITY”) and Wesley W. Homeister, DOB: _____, SSN: _____, (the “THE EMPLOYEE”).

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

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

I. TRAINING OF THE EMPLOYEE

The CITY and the EMPLOYEE hereby expressly agree that the CITY shall pay the expenses for the EMPLOYEE to attend the Iowa Law Enforcement Academy, the total training expenses as defined and set forth below for the EMPLOYEE to attend the Iowa Law Enforcement Academy (The “Academy”), and the actual amount of salary provided by the City from the first day of employment through May 30, 2016, as shown on Exhibit “A” attached hereto.

II. REIMBURSEMENT OF TOTAL TRAINING EXPENSES

- A. In consideration for the expenditures incurred by the CITY to reimburse the training expenses of the EMPLOYEE as a police officer, the EMPLOYEE expressly agrees to serve as a full time police officer for the CITY for at least four (4) years from the date upon which the EMPLOYEE executes this Agreement (the “Reimbursement Period”).
- B. If any of the following occurs during the Reimbursement Period:
1. The EMPLOYEE voluntarily resigns from the West Branch Police Department;
OR
 2. The EMPLOYEE is dismissed during the probationary period of nine (9) months from the date of certification as an Iowa Peace Officer (said probationary period to expressly include the training period hereunder); OR
 3. The EMPLOYEE is properly terminated;

THEN the EMPLOYEE shall reimburse the CITY for reimbursed training expenses under the terms of this AGREEMENT as set forth below:

<u>Years of Service Following Approved Training</u>	<u>Amount of Reimbursement</u>
0-1 year	100% of actual costs
1-2 years	75% of actual costs
2-3 years	50% of actual costs
3-4 years	25% of actual costs
More than 4 years	No reimbursement required

- C. In the event the EMPLOYEE is required to make reimbursement payments hereunder, one hundred per cent (100%) of the total reimbursement is due within thirty (30) days from the date of resignation, dismissal or termination, unless the EMPLOYEE contacts the City Administrator to make payment arrangements under the following terms:
1. The first payment shall be made within thirty (30) calendar days from the date of resignation, dismissal, or termination, as applicable, and on the same date for each successive month thereafter until the CITY has been reimbursed in full for the reimbursed training expenses.
 2. The minimum monthly payment shall be three hundred dollars (\$300.00).
 3. Interest shall commence from the date of resignation, dismissal or termination at the rate of six per cent (6%) per year, and shall be calculated on the unpaid principal balance to the date of each installment paid, with the payments being credited first to the accrued interest and then to the reduction of principal.
 4. Until such time as the CITY has been reimbursed in full by the EMPLOYEE in accordance with the terms of this Agreement, the EMPLOYEE has an ongoing duty to notify the CITY of any change in the EMPLOYEE'S place of residence. Such notice shall be in writing and shall be made no later than fifteen (15) calendar days from the date of any such change in place of residence.
- D. The EMPLOYEE does hereby expressly acknowledge and understand that, in addition to any remedies at law or in equity that the CITY may have to recover Total Training Expenses hereunder, the CITY may, at its sole election, also seek to have the EMPLOYEE decertified as an Iowa law enforcement officer.
- E. **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.**

- F. If the EMPLOYEE is dismissed for any reason other than those set forth in Section II(B) above, such as reduction in force, the EMPLOYEE shall not be required to reimburse the CITY for any unpaid Training Expenses incurred hereunder.
- G. If the EMPLOYEE is killed or permanently and totally disabled, as defined under Chapter 85 and 411 of the Code of Iowa, while in the employ of the CITY, Total Training Expense reimbursement obligations hereunder shall be deemed satisfied in full.
- H. Sections A, B and C notwithstanding, if the EMPLOYEE voluntarily resigns within one (1) year from the date upon which the EMPLOYEE executes this Agreement, the EMPLOYEE is required to provide to the CITY with one hundred per cent (100%) of the total reimbursement within thirty (30) days, and will not be allowed to make reimbursement payments set forth in Section II(C) above.

III. BONA FIDE EMPLOYMENT

The EMPLOYEE does hereby expressly acknowledge that the CITY is entering into this Agreement to facilitate the bona fide employment of the EMPLOYEE as a police officer by the CITY and not for the purpose of achieving certification as an officer by way of sponsorship through the Academy.

IV. 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. 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 vent of a breach or dispute hereunder.

V. HEADINGS

The heading 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.

VI. SEVERABILITY

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.

VII. 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.

VIII. FINAL AGREEMENT

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 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 this Agreement.

Dated this ____ day of December, 2015.

THE EMPLOYEE:

CITY OF WEST BRANCH:

Wesley W. Homeister

Roger Laughlin, Mayor

Attest:

Attest:

Mike Horihan, Chief of Police

Matt Muckler, City Administrator/Clerk

EXHIBIT "A"

The following is an estimate of training costs for Wesley W. Homeister, including training at the Iowa Law Enforcement Academy ("ILEA") from the dates of January 4, 2016 to April 22, 2016 and employee salary provided from first day of employment until May 30, 2016.

Food while at ILEA	\$ 1,185.29
Mileage	\$ 1,582.42
Tuition	\$ 5,000.00
Training supplies (uniform, ammo, manuals, & cert fees)	\$ 924.22
Employee Compensation provided until May 30, 2016 (Actual amount of salary provided by the City from the first day of employment until May 30, 2016 not to exceed \$16,000)	<u>\$16,000.00</u>
TOTAL Reimbursable Costs	\$24,691.93

RESOLUTION NO. 1407

RESOLUTION APPROVING A SERVICE AGREEMENT WITH J & M DISPLAYS IN CONNECTION WITH THE 2016 HOOVER'S HOMETOWN DAYS CELEBRATION IN THE AMOUNT OF \$40,000.

WHEREAS, the City's premier event of the year is Hoover's Hometown Days; and

WHEREAS, a highlight of past Hoover's Hometown Days Celebrations has been the fireworks displays; and

WHEREAS, the City Council has adopted the final fiscal year 2015-2016 budget; and

WHEREAS, the final fiscal year 2015-2016 budget for Hoover's Hometown Days includes funding for a fireworks display; and

WHEREAS, J & M Displays has submitted a proposed service agreement to provide said services in the amount of \$40,000.00; 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 J & M Displays is hereby approved. Further, the Mayor is directed to execute the agreement on behalf of the City.

Passed and approved this 7th day of December, 2015.

Roger Laughlin, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

FIREWORKS DISPLAY AGREEMENT

THIS AGREEMENT is made and entered into this _____ day of _____, 20____, by and between J & M Displays, Inc., an Iowa corporation, having its principal place of business at Yarmouth, Iowa, hereinafter referred to as "Seller", and _____, hereinafter referred to as "Buyer".

Seller shall furnish to Buyer one (1) fireworks display, as per the \$_____ program submitted and accepted by the Buyer, and which by reference is made a part hereof as Exhibit "A". The display is to take place on the evening of _____, 20____ at approximately _____:_____ pm, weather permitting.

IT IS FURTHER UNDERSTOOD AND AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. Firing of Display (check one of the below options):

_____ Seller agrees to furnish all necessary fireworks display material and personnel for a fireworks display in accordance with the program approved by the parties. Seller agrees to comply with all local, state, and federal guidelines pertaining to the storing and displaying of fireworks.

_____ Buyer waives the services of Seller's technician. Buyer is a municipality or has a valid permit from the Bureau of Alcohol, Tobacco, Firearms & Explosives and will be firing the display. If Buyer shoots the display, proof of liability insurance is required as stated in paragraph number five (5), proof of auto insurance (if pyrotechnics will be transported), and proof of worker's compensation insurance coverage is required. Buyer agrees to comply with all local, state, and federal guidelines pertaining to the storing and displaying of fireworks.

2. Payment. The Buyer shall pay to the Seller (check one of the below options):

_____ the sum of \$_____ as a down payment upon execution of this Agreement. The balance of \$_____ shall be due and payable in full within fifteen (15) days after the date of the fireworks display. A service charge of one and one-half percent (1 ½%) per month shall be added to the unpaid balance if the account is not paid in full within fifteen (15) days from the date of the show. If this account remains unpaid and is turned over to a collection agency for non-payment, all fees incurred in collecting the balance will be at the Buyer's expense. All returned checks will be assessed a \$30.00 fee.

_____ \$_____ in full by _____ (70 days prior to the event date).
The Buyer will receive the 8% prepayment bonus product in this fireworks display.

_____ \$_____ in full by _____ (30 days prior to event date).
The Buyer will receive the 5% prepayment bonus product in this fireworks display.

3. Weather Delay/Cancellation. If Buyer postpones or cancels the fireworks display after the Seller has arrived on site and began setting up the display, the Buyer shall pay to the Seller the amount of the shoot fee \$_____ as payment in full for the postponement/cancellation fee. If the Buyer postpones or cancels the display prior to Seller arriving on site for set up, there will be no charge for rescheduling.

4. Rain Date. Should inclement weather prevent the firing of the display on the date mentioned herein, the parties agree to a mutually convenient rain date of _____ or another date as agreed to by both parties. The determination to cancel the fireworks display because of inclement weather or unsafe weather conditions shall rest within the sole discretion of the Seller. In the event the Buyer does not choose to reschedule another date or cannot agree to a mutually convenient date with the Seller, then the Seller shall be entitled to thirty percent (30%) of the contract price for full settlement of this Agreement.

5. Insurance. (Check one of the below options):

_____ Seller agrees to provide, at its expense, general liability insurance coverage, in an amount not less than \$10,000,000, and within two (2) weeks prior to the date of the fireworks display, shall submit to the Buyer, if requested in writing, a certificate of insurance. All entities listed on the certificate of insurance will be deemed an additional insured. In the event of a claim by Buyer, the applicable deductible shall be paid by the Seller.

The Seller agrees to defend, indemnify and hold harmless the Buyer and its agents, and employees from and against all claims, costs, judgments, damages and expenses, including reasonable attorney fees that may or shall arise from the performance of the fireworks by the Buyer. The Buyer agrees to give the Seller prompt notice of any claims or demands and to cooperate with the Seller or its successors in interest or assigns, if any, in the defense of any such claims and/or demands.

_____ Buyer agrees to provide, at its expense, general liability insurance coverage with a rating by AM Best of A VIII or higher, in an amount not less than \$5,000,000, and within two (2) weeks prior to the date of the fireworks display, shall submit to the Seller a certificate of insurance. All entities listed on the certificate of insurance will be deemed an additional insured. Any charge incurred from the insurance provider for additional insurance after insurance application has been sent in, shall be the responsibility of the Buyer. In the event of a claim by Seller, the applicable deductible shall be paid by the Buyer.

The Buyer agrees to hold the Seller harmless and defend Seller from any and all claims brought against the Seller by employees or sponsors of the Buyer for any and all acts of the Buyer relating to the event for which the fireworks is performed.

6. Buyer agrees to provide:

- (a) sufficient area for the display, including a minimum spectator set back as determined by Seller.
- (b) protection of the display area by roping off or similar facility.
- (c) adequate police protection to prevent spectators from entering display area.
- (d) dry, clean sand, if needed, for firing.
- (e) inspection and cleanup of fireworks debris in the fallout zone of the shoot site at first light the morning following the display for anything that may have been missed at the night search.
- (f) necessary local permits.

7. No representation of affirmation of fact, including but not limited to statement regarding capacity, suitability for use, or performance of equipment or products shall be, or deemed to be a warranty by the Seller for any purpose, nor give rise to any liability or obligation of the Seller whatsoever, except for acts of Seller's negligence as above stated.

8. It is further understood and agreed that nothing in this Agreement shall be construed or interpreted to mean a partnership. Both parties hereto being responsible for their separate and individual debts and obligations, and neither party shall be responsible for any agreements not stipulated in this Agreement.

9. The parties hereto do mutually and severally guarantee terms, conditions, and payments of this Agreement. This document shall be binding upon the parties, themselves, their heirs, executors, administrators, successors and assigns.

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

BY: _____
J & M Displays, Inc.
SELLER

BY: _____
BUYER

Please include the DISPLAY INFORMATION form with this Agreement so your order is processed accurately.

RESOLUTION NO. 1408

RESOLUTION APPROVING A COMMERCIAL SERVICES AGREEMENT WITH TRUGREEN COMMERCIAL IN THE AMOUNT OF \$2,432.

WHEREAS, the City of West Branch contracted with TruGreen in 2013, 2014, and 2015 for fertilizer, broadleaf weed and crabgrass control on Lions Field, as well as fall aeration and seeding; and

WHEREAS, the cost of the service for 2015 was \$2,432 and the city staff was pleased with the services provided by TruGreen Commercial; and

WHEREAS, TruGreen Commercial has submitted a commercial services agreement in the amount of \$2,432 to perform these services for Lions Field in 2016; 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 commercial services agreement with TruGreen Commercial is hereby approved. Further, the Mayor is directed to execute the agreement on behalf of the City.

Passed and approved this 7th day of December, 2015.

Roger Laughlin, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk



Angie Daugherty

(573) 443-5296

Customer Information

Bill To:

LIONS SOCCER FIELD
 PO BOX 218
 WEST BRANCH, IA 52358
 USA

Service Location:

201 PEDERSON
 WEST BRANCH, IA 52358
 USA

Detail of Charges

Service Location	Line Item Description	Round #	Round Description*	Total Price
Pederson	Lawn Service	1	Early Spring - Fertilizer, broadleaf weed, crabgrass control	\$145.00
Pederson	Lawn Service	2	Late Spring - Fertilizer, broadleaf weed, crabgrass control (As Needed/Weather Dependent)	\$365.00
Pederson	Lawn Service	3	Early Summer - Fertilizer, broadleaf weed control (As Needed/Weather Dependent)	\$145.00
Pederson	Lawn Service	4	Late Summer - Fertilizer, broadleaf weed control (As Needed/Weather Dependent)	\$145.00
Pederson	Lawn Service	5	Early Fall - Fertilizer, broadleaf weed control (As Needed/Weather Dependent)	\$365.00
Pederson	Lawn Service	6	Fall - Fertilizer, broadleaf weed control (As Needed/Weather Dependent)	\$145.00
Pederson	Lawn Service	7	Late Fall - Fertilizer, broadleaf weed control (As Needed/Weather Dependent)	\$145.00
Pederson	Fall Aeration and Seeding	1		\$752.00
Pederson	Grub Control	1		\$225.00
Subtotal				\$2,432.00
Total Sales Tax Amount				\$0.00
Grand Total				\$2,432.00

Description LATE SPRING AND EARLY FALL APPLICATIONS WILL INCLUDE ALL THE FIELD AND EXTERIOR AREA (108,900 SQ FT)
 REMAINING SERVICES WILL BE ONLY FOR THE SOCCER FIELD (43,662)
 APPLICATIONS MUST BE SCHEDULED FOR FRIDAYS ONLY, THIS WILL PREVENT ANY CONFLICT WITH SCHEDULED GAMES.

Standard Terms and Conditions

1. **Term.** The term of this Agreement shall one (1) year from the date signed by you, the Customer.
2. **Price Increases.** Prices of services provided in this agreement may be increased should you add property under this agreement, or in the event of increases in the cost of fuel, material, or labor, or costs incurred by TruGreen due to government regulation and other causes. In addition, TruGreen may elect to increase the price of services under this agreement after the first year, or after any subsequent anniversary date of the agreement by a percentage amount not to exceed five percent (5%) of the then current price, or consistent with any increase in the current consumer price index, whichever is greater. TruGreen shall not increase its prices on an elective basis more frequently than once during any agreement year.
3. **Payment Terms.** Payment is due to TruGreen within 30 days after the invoice date. In the event you fail to make payment when due, TruGreen reserves the right to terminate this Agreement. A late service fee equal to the lesser of 1.5% per month (18% a.p.r.) or the maximum interest rate allowed by law will be charged on any balance unpaid over thirty (30) days. A service charge of \$25.00 will be charged for any returned check. Should it become necessary to bring an action to collect amounts due under this agreement, you agree to pay all costs of such collection including, but not limited to, any reasonable attorney's fees or other professional fees and court costs.
4. **Check processing policy ACH:** When you provide a check as payment, you authorize TruGreen either to use information from your check to make a one-time electronic fund transfer from your account or to process the payment as a check transaction. If TruGreen uses information from your check to make an electronic fund transfer, funds may be withdrawn from your account as soon as the same day we receive your payment, and you will not receive your check back from your financial institution. Returns: in the event that your payment is returned unpaid, you authorize us the option to collect a fee as allowed by law through an electronic fund transfer from your account.
5. **Termination.** In the case of your non-payment or default, TruGreen has the right to terminate this Agreement immediately upon notice to you. TruGreen may terminate this Agreement for convenience upon thirty (30) days prior written notice to you. You may cancel this Agreement for material breach by TruGreen, provided that you give TruGreen written notice of the details of the breach, and thereafter TruGreen fails to cure the breach within thirty (30) days after said notice. (a) **Additional termination provisions for landscape companies, property management companies, agents and other similar entities:** To the extent you represent one or more property owners and/or properties covered under this agreement, and in the event such owner terminates your contract with regard to one or more properties, then upon notice to TruGreen, you may terminate this Agreement only as it relates to such property for which owner terminated its contract with you. To the extent that this Agreement applies to other properties, not terminated by the owner, this Agreement shall continue in full force and effect with regard to such other properties.
6. **Sale of Property.** You agree to notify TruGreen in writing immediately in the event that you sell any property which is the subject of this Agreement. TruGreen shall make the appropriate adjustment in price to accommodate the reduction of square footage treated in the event that property is sold. In the event all property which is the subject of the Agreement is sold, this Agreement shall be terminated upon receipt by TruGreen of your written notice that you have sold the property. Should you fail to notify TruGreen as required in this provision, you agree to indemnify TruGreen for any damages incurred as a result of your failure to notify.
7. **LIABILITY.** TRUGREEN IS RESPONSIBLE FOR DIRECT DAMAGES RESULTING FROM ITS NEGLIGENCE OR BREACH OF THIS AGREEMENT, BUT IS NOT RESPONSIBLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR SPECIAL DAMAGES ARISING OR RESULTING FROM THE PERFORMANCE OR NONPERFORMANCE OF ANY OBLIGATIONS UNDER THE AGREEMENT INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFITS OR INCOME, REGARDLESS OF THE BASIS FOR THE CLAIM.
8. **Duty to Inspect.** You have a duty to inspect the property within fifteen (15) days after service has been performed by TruGreen. If you believe TruGreen provided deficient work, you agree to notify TruGreen immediately in writing. If written notice is not received by TruGreen within fifteen (15) days after the date of service, you agree that any and all claims alleging damage of any nature or to recover past payments and/or rights to withhold future payments due under this Agreement are waived.
9. **Notice to tenants, employees, invitees.** To the extent necessary, you have a duty to notify all tenants, employees, visitors and any other invitee on the premises of a scheduled service prior to the performance of any scheduled service by TruGreen.
10. **No Warranties.** Except as expressly set forth in this Agreement, TruGreen makes no warranty or representation of any kind, expressed or implied, concerning either products used or services performed, including no implied warranty of merchantability or fitness of the product for any particular purpose, and no such warranty shall be implied by law, usage of trade, course of performance, course of dealing, or on any other basis.
11. **Force majeure.** Except for the payment of TruGreen's invoices owed by you, if either TruGreen or you shall be prevented or delayed in the performance of any or all of the provisions of this Agreement, by reason of any labor dispute, industry disturbance, delay in transportation, governmental, regulatory or legal action, act of God or any cause beyond such party's control, the obligations hereunder of such party shall be extended for as long as such cause shall be in effect and any delay or loss suffered by the other party shall not be chargeable in any way to such party; provided, however, the other party suffering such cause shall immediately notify the other party of such inability and shall use reasonable efforts to remedy same with all reasonable dispatch. If any event of force majeure should prevent a party from performing its obligations under this Agreement for a period of ninety consecutive (90) days, the other party shall have the right to cancel this Agreement upon notice to the party unable to perform its obligations.
12. **No assignment.** You shall not have the right to assign this Agreement or agree to the transfer of this Agreement by operation of law or otherwise without the prior written consent of TruGreen. This Agreement shall be binding upon, and shall inure to the benefit of, the parties hereto and to any permitted successors and assigns.
13. **Watering, Cultural Practices.** The success of this program depends on proper watering, mowing and cultural practices. Some products used by TruGreen may include label directions requiring the watering of the material after application. If any of these products are used on the property, TruGreen will provide you with watering instructions following the application and you agree to assume such watering responsibility. Climate conditions, soil conditions, plant diseases, plant material, and miscellaneous external factors will impact response to treatment. Results for difficult-to-control diseases will vary depending on environment, culture and agronomic programs used or treatment applied. Treatment for diseases may include additional cost. Consult your TruGreen specialist for details.
14. **Modification of program.** This program consists of lawn care and/or tree and shrub care as indicated above. Specific products, rates of application and method of application will vary with the season, weather conditions, and the needs of your lawn as determined by your TruGreen specialist. Your regularly scheduled programs may be modified depending on the weather and the condition of your landscape. The application methods and procedures used to perform service under this Agreement will be determined solely by TruGreen. Your TruGreen specialist will keep you informed on any modifications to this schedule.
15. **Insects and Borers.** Total insect elimination is not desirable with any program because beneficial insects will be lost along with the targeted pests. Plants invaded by borers have a high probability of death or decline. Sound cultural practices and control applications may extend the life of some plant species. Treatment for boring insects may include additional cost. Consult your TruGreen specialist with details.
16. **Authorization to provide service.** TruGreen agrees to furnish labor and materials for purposes of this Agreement and is authorized by you to treat the property at the address shown above. You represent and warrant to TruGreen that you are the owner of said property, or in the event that you are not the owner of the property to which this Agreement applies, you represent and warrant that you have the legal authority to execute and bind the owner of the property to the terms and conditions of this Agreement.
17. **MANDATORY ARBITRATION.** Any claim, dispute or controversy, regarding any contract, tort, statute, or otherwise ("Claim"), arising out of or relating to this agreement or the relationships among the parties hereto shall be resolved by one arbitrator through binding arbitration administered by the American Arbitration Association ("AAA"), under the AAA Commercial or Consumer, as applicable, Rules in effect at the time the Claim is filed ("AAA Rules"). Copies of the AAA Rules and forms can be located at www.adr.org, or by calling 1-800-778-7879. The arbitrator's decision shall be final, binding, and non-appealable. Judgment upon the award may be entered and enforced in any court having jurisdiction. This clause is made pursuant to a transaction involving interstate commerce and shall be governed by the Federal Arbitration Act. Neither party shall sue the other party other than as provided herein or for enforcement of this clause or of the arbitrator's award; any such suit may be brought only in Federal District Court for the District or, if any such court lacks jurisdiction, in any state court that has jurisdiction. The arbitrator, and not any federal, state, or local court, shall have exclusive authority to resolve any dispute relating to the interpretation, applicability, unconscionability, arbitrability, enforceability or formation of this Agreement including any claim that all or any part of the Agreement is void or voidable. However, the preceding sentence shall not apply to the clause entitled "Class Action Waiver."
18. **CLASS ACTION WAIVER.** Any Claim must be brought in the parties' individual capacity, and not as a plaintiff or class member in any purported class, collective, representative, multiple plaintiffs, or similar proceeding ("Class Action"). The parties expressly waive any ability to maintain any Class Action in any forum. The arbitrator shall not have authority to combine or aggregate similar claims or conduct any Class Action nor make an award to any person or entity not a party to the arbitration. Any claim that all or part of this Class Action Waiver is unenforceable, unconscionable, void, or voidable may be determined only by a court of competent jurisdiction and not by an arbitrator. THE PARTIES UNDERSTAND THAT THEY WOULD HAVE HAD A RIGHT TO LITIGATE THROUGH A COURT, TO HAVE A JUDGE OR JURY DECIDE THEIR CASE AND TO BE PARTY TO A CLASS OR REPRESENTATIVE ACTION, HOWEVER, THEY UNDERSTAND AND CHOOSE TO HAVE ANY CLAIMS DECIDED INDIVIDUALLY, THROUGH ARBITRATION.
19. Unless expressly noted otherwise herein, this Agreement and any invoice issued by TruGreen pursuant to the terms hereof, set forth the entire understanding of the parties, and supersede any and all proposals, negotiations, representations and prior agreements relating to the subject matter of this Agreement, written or otherwise, including, without limitation any sales agreement previously executed by the parties. To the extent that any terms set forth in an invoice should conflict with the terms set forth in this Agreement, this Agreement shall control. No terms, conditions, or warranties other than those stated herein or in any invoice issued by TruGreen, and no agreements or understanding, oral or written, in any way purporting to modify these conditions shall be binding on the parties hereto unless hereafter made in writing and signed by authorized representatives of both parties.
20. This customer service Agreement is only valid if accepted by you within 30 days of the date submitted to customer.

TruGreen Limited Partnership

By: _____ Date: _____
REPRESENTATIVE/GENERAL MANAGER

Print Name: _____ Date: _____
AUTHORIZED AGENT/CUSTOMER

Customer Signature: _____ Date: _____
AUTHORIZED AGENT/CUSTOMER

RESOLUTION NO. 1409

RESOLUTION APPROVING A MARKETING LICENSE AGREEMENT BETWEEN THE CITY OF WEST BRANCH, IOWA AND UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. D/B/A SERVICE LINE WARRANTIES OF AMERICA.

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners; and

WHEREAS, City desires to offer residential property owners the opportunity, but not the obligation, to purchase a service line warranty and other similar products; and

WHEREAS, Service Line Warranties of America is the administrator of the National League of Cities Service Line Warranty Program and has agreed to provide the warranty to residential property owners subject to the term and conditions contained within a marketing license agreement; and

WHEREAS, Service Line Warranties of America has submitted a marketing license agreement; 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 marketing license agreement with Service Line Warranties of America is hereby approved. Further, the Mayor is directed to execute the agreement on behalf of the City.

Passed and approved this 7th day of December, 2015.

Roger Laughlin, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

**MARKETING LICENSE AGREEMENT BETWEEN THE CITY OF WEST
BRANCH, IOWA, AND UTILITY SERVICE PARTNERS PRIVATE LABEL, INC.
D/B/A SERVICE LINE WARRANTIES OF AMERICA**

This MARKETING LICENSE AGREEMENT ("Agreement") entered into as of [_____, 20__] ("Effective Date"), by and between the City of West Branch, Iowa ("City"), and Utility Service Partners Private Label, Inc. d/b/a Service Line Warranties of America ("SLWA"), herein collectively referred to singularly as "Party" and collectively as the "Parties".

RECITALS:

WHEREAS, sewer and water line laterals between the mainlines and the connection on residential private property are owned by individual residential property owners ("Residential Property Owner"); and

WHEREAS, City desires to offer Residential Property Owners the opportunity, but not the obligation, to purchase a service line warranty and other similar products ("Warranty"); and

WHEREAS, SLWA is the administrator of the National League of Cities Service Line Warranty Program and has agreed to provide the Warranty to Residential Property Owners subject to the term and conditions contained herein; and

NOW, THEREFORE, in consideration of the foregoing recitals, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and with the intent to be legally bound hereby, the Parties agree as follows:

AGREEMENT

1. **Purpose.** City hereby grants to SLWA the right to offer the Warranty to Residential Property Owners subject to the terms and conditions herein.
2. **Grant of License.** City hereby grants to SLWA a non-exclusive license ("License") to use City's name and logo on letterhead, bills and marketing materials to be sent to Residential Property Owners from time to time, and to be used in advertising, all at SLWA's sole cost and expense and subject to City's prior review and approval, which will not be unreasonably conditioned, delayed, or withheld. City agrees that it will not extend a similar license to any competitor of SLWA during the term of this Agreement.
3. **Term.** The term of this Agreement ("Term") shall be for three (3) years from the Effective Date. The Agreement will automatically renew for additional one (1) year terms ("Renewal Term") unless one of the Parties gives the other written notice at least ninety (90) days prior to end of the Term or of a Renewal Term that the Party does not intend to renew this Agreement. In the event that SLWA is in material breach of this Agreement, the City may terminate this Agreement thirty (30) days after giving written notice to SLWA of such breach, if

said breach is not cured during said thirty (30) day period. SLWA will be permitted to complete any marketing initiative initiated or planned prior to termination of this Agreement after which time, neither Party will have any further obligations to the other and this Agreement will terminate. During the Term, SLWA shall conduct a Spring, Fall and Winter campaign each year in accordance with the schedules set forth in Exhibit A. The pricing for each such campaign shall be in accordance with Exhibit A attached hereto.

4. Indemnification. SLWA hereby agrees to protect, indemnify, and hold the City, its elected officials, officers, employees and agents (collectively or individually, "Indemnitee") harmless from and against any and all claims, damages, losses, expenses, suits, actions, decrees, judgments, awards, attorneys' fees and court costs (individually or collectively, "Claim"), which an Indemnitee may suffer or which may be sought against or are recovered or obtainable from an Indemnitee, as a result of, or by reason of, or arising out of or in consequence of any act or omission, negligent or otherwise, of the SLWA or its officers, employees, contractors, subcontractors, agents or anyone who is directly or indirectly employed by, or is acting in concert with, the SLWA or its officers, its employees, contractors, subcontractors, or agents in the performance of this Agreement; provided that the applicable Indemnitee notifies SLWA of any such Claim within a time that does not prejudice the ability of SLWA to defend against such Claim. Any Indemnitee hereunder may participate in its, his, or her own defense, but will be responsible for all costs incurred, including reasonable attorneys' fees, in connection with such participation in such defense.

5. Notice. Any notice required to be given hereunder shall be deemed to have been given when notice is (i) received by the Party to whom it is directed by personal service, (ii) telephonically faxed to the telephone number below provided confirmation of transmission is received thereof, or (iii) deposited as registered or certified mail, return receipt requested, with the United States Postal Service, addressed as follows:

To: City:
ATTN: Matt Muckler
City of West Branch
110 N. Poplar Street
West Branch, Iowa 52358
Phone: (319) 643-5888

To: SLWA:
ATTN: Vice President, Business Development
Utility Service Partners Private Label, Inc.
11 Grandview Circle, Suite 100
Canonsburg, PA 15317
Phone: (724) 749-1003

- 6. Modifications or Amendments/Entire Agreement.** Any and all of the representations and obligations of the Parties are contained herein, and no modification, waiver or amendment of this Agreement or of any of its conditions or provisions shall be binding upon a party unless in writing signed by that Party.
- 7. Assignment.** This Agreement and the License granted herein may not be assigned by SLWA without the prior written consent of the City, such consent not to be unreasonably withheld.
- 8. Counterparts/Electronic Delivery.** This Agreement may be executed in counterparts, all such counterparts will constitute the same contract and the signature of any Party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the Parties hereto, regardless of whether originals are delivered thereafter.
- 9. Choice of Law/Attorney Fees.** The governing law shall be the laws of the State of Iowa. In the event that at any time during the Term or any Renewal Term either Party institutes any action or proceeding against the other relating to the provisions of this Agreement or any default hereunder, then the unsuccessful Party shall be responsible for the reasonable expenses of such action including reasonable attorney's fees, incurred therein by the successful Party.
- 10. Incorporation of Recitals and Exhibits.** The above Recitals and Exhibit A attached hereto are incorporated by this reference and expressly made part of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the day and year first written above.

**MARKETING LICENSE AGREEMENT BETWEEN THE CITY OF WEST BRANCH AND
UTILITY SERVICE PARTNERS PRIVATE LABEL, INC. D/B/A SERVICE LINE WARRANTIES
OF AMERICA**

CITY OF WEST BRANCH

By: _____

UTILITY SERVICE PARTNERS PRIVATE LABEL, INC.

By: _____

Brad H. Carmichael, Vice President

By: _____

Exhibit A
NLC Service Line Warranty Program
City of West Branch, IA
Term Sheet
November 18, 2015
(Term Sheet valid for 90 days)

- I. Term of agreement
 - a. Initial term
 - i. Three years guaranteed (total of 9 campaigns)
- II. License Provisions
 - a. City logo on letterhead, advertising, billing, and marketing materials
 - b. Signature by City official
- III. Products offered
 - a. External sewer line warranty
 - b. External water line warranty
 - c. In-home plumbing warranty
- IV. Scope of Coverage
 - a. External sewer line warranty
 - i. Scope is from the city main tap until line daylights inside home...of which includes the service line under the concrete floor. [Note: **If homeowner responsibility is different than this language, please advise.**]
 - b. External water line warranty
 - i. Extended coverage: Scope is from the city main tap until line daylights inside home...of which includes the service line under the concrete floor. [Note: **If homeowner responsibility is different than this language, please advise.**]
 - ii. Extended coverage: Scope includes thawing of frozen external water line.
 - c. In-home plumbing warranty
 - i. Scope covers residential in-home water supply lines and in-home sewer lines and all drain lines connected to the main sewer stack that are broken or leaking inside the home after the point of entry. Coverage includes broken or leaking water, sewer, or drain lines that may be embedded under the slab or basement floor. Coverage also includes repair of clogged toilets.
- V. Marketing Campaigns – three seasonal campaigns per year (Spring, Fall, and Winter)
 - a. 2016 Spring - Sewer
 - b. 2016 Fall - Water
 - c. 2016 Winter - In-home plumbing
 - d. 2017 Spring - Sewer
 - e. 2017 Fall - Water
 - f. 2017 Winter - In-home plumbing
 - g. 2018 Spring - Sewer
 - h. 2018 Fall - Water
 - i. 2018 Winter - In-home plumbing

VI. Campaign Pricing

a. Sewer

- i. Year 1 - \$7.25 per month; \$82.00 annually
- ii. Year 2 - \$7.25 per month; \$82.00 annually (subject to annual review)
- iii. Year 3 - \$7.25 per month; \$82.00 annually (subject to annual review)

b. Water

- i. Year 1 - \$6.25 per month; \$70.00 annually
- ii. Year 2 - \$6.25 per month; \$70.00 annually (subject to annual review)
- iii. Year 3 - \$6.25 per month; \$70.00 annually (subject to annual review)

c. In-home plumbing

- i. Year 1 - \$6.50 per month; \$73.00 annually
- ii. Year 2 - \$6.50 per month; \$73.00 annually (subject to annual review)
- iii. Year 3 - \$6.50 per month; \$73.00 annually (subject to annual review)

RESOLUTION NO. 1410

RESOLUTION APPROVING THE REQUEST FOR QUALIFICATIONS (RFQ) FOR THE WEST BRANCH PARK IMPROVEMENTS PROJECT

WHEREAS, it is deemed advisable that the City of West Branch, Iowa enter into a loan agreement and issue bonds in an amount not exceeding \$4,000,000 to provide funds to pay the cost, to that extent, of undertaking the West Branch Park Improvements Project, including ball diamonds; volleyball courts; lighting improvements; playground equipment; concessions, restroom and shelter facilities; recreation trails; landscaping; parking lots; and the installation of related public infrastructure improvements; and

WHEREAS, pursuant to Chapter 384 of the Code of Iowa, before the City may enter into the loan agreement and issue bonds for such purpose, the City must hold a special election upon such proposition and receive a favorable vote from at least 60% of the total votes cast at such special election; and

WHEREAS, the City of West Branch held a City Election on November 3, 2015 to decide that question and the proposition received at least 60% of the total votes cast; and

WHEREAS, the City Council approved Resolution 1275 on February 17, 2015 which approved a professional services agreement with HBK Engineering, LLC for design of Wapsi Creek Park, Beranek Park and Lions Field; and

WHEREAS, the City now requires professional engineering services for the portion of the West Branch Park Improvements Project located at the new regional park in Pedersen Valley; and

WHEREAS, City Staff has prepared a request for qualifications for the consideration of the City Council and that document now requires the approval of the City Council.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa that the aforementioned request for qualifications is approved and shall be sent to engineering firms who may be interested in responding with a statement of qualifications.

Passed and approved this 7th day of December, 2015.

Roger Laughlin, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk