



**PUBLIC NOTICE AND AGENDA OF THE WEST BRANCH CITY COUNCIL MEETING  
SCHEDULED TO CONVENE AT 7:00 P.M. MONDAY MARCH 18, 2019 IN THE CITY  
COUNCIL CHAMBERS, 110 NORTH POPLAR STREET, WEST BRANCH, IOWA.**

<b>Mayor</b>	<b>Roger Laughlin</b>	<a href="mailto:mayor@westbranchiowa.org">mayor@westbranchiowa.org</a>
<b>Mayor Pro Tem</b>	<b>Colton Miller</b>	<a href="mailto:mcolton@rocketmail.com">mcolton@rocketmail.com</a>
<b>Council Member</b>	<b>Jordan Ellyson</b>	<a href="mailto:Jordanellyson@gmail.com">Jordanellyson@gmail.com</a>
<b>Council Member</b>	<b>Brian Pierce</b>	<a href="mailto:brianapierce@outlook.com">brianapierce@outlook.com</a>
<b>Council Member</b>	<b>Jodee Stoolman</b>	<a href="mailto:j.stoolmanwbcc@yahoo.com">j.stoolmanwbcc@yahoo.com</a>
<b>Council Member</b>	<b>Nick Goodweiler</b>	<a href="mailto:nickgoodweilerwbcc@gmail.com">nickgoodweilerwbcc@gmail.com</a>
<b>City Administrator</b>	<b>Redmond Jones II</b>	<a href="mailto:rjonesii@westbranchiowa.org">rjonesii@westbranchiowa.org</a>
<b>City Attorney</b>	<b>Kevin Olson</b>	<a href="mailto:kevinolsonlaw@gmail.com">kevinolsonlaw@gmail.com</a>
<b>Deputy City Clerk</b>	<b>Leslie Brick</b>	<a href="mailto:leslie@westbranchiowa.org">leslie@westbranchiowa.org</a>

**Please note:** *Most written communications to or from government officials regarding government business are public records available to the public and media upon request.*

**AGENDA**

**A. Call to Order**

**B. Opening Ceremonies**

1. Pledge of Allegiance
2. Welcome

**G. Roll Call**

**D. Guest Speaker, Presentations and Proclamations**

1. Impact 7G – Doug Ongie, Environmental Planner; will be presenting a brief summary regarding Downtown East Redevelopment (former Croell Ready-mix site).

**E. Public Comment**

*Anyone wishing to address the City Council may come forward when invited; please state your name and address for the record. Public comments are typically limited to three minutes, and written comments may be submitted to the Deputy City Clerk.*

**F. Approve Agenda / Consent Agenda / Move to Action**

*Routine items and items not anticipated to be controversial are placed on the Consent Agenda to expedite the meeting. If a Council member, staff member or member of the Public wishes to discuss any item on the Consent Agenda, they can request the item be removed from the Consent Agenda for discussion.*

1. **Motion to Approve** Meeting Minutes for City Council Meeting March 4, 2019.
2. **Motion to Approve** the Claims Report.

*"Turning Vision into Reality is our Business"*

**G. Public Hearing / Non-Consent Agenda**

1. **Third Reading, Ordinance 763** – An Ordinance Amending the Zoning Code of the City of West Branch by adding several amendments regarding front yard, back yard, and zero-lot line requirements.
2. **Second Reading, Ordinance 764** – An Ordinance Rezoning a Portion of the Meadows Subdivision, Part Four, of Real Property From R-1 to R-2 Residential District.
3. **Second Reading, Ordinance 765** – An Ordinance Rezoning the Kuene/Kofron Property from A-1 (Agricultural) to Planned Unit Development District (PUD).
4. **Resolution 1791** – A Resolution Hiring Zack Murdock As a Police Officer for the City of West Branch, and Setting the Hourly Wage for the Position until Completion of a Law Enforcement Academy.
5. **Resolution 1796** – A Resolution Setting a Public Hearing on a Proposed Development Agreement with EMV Holdings, LLC (aka Little Lights) which includes Annual Appropriations Tax Increment Rebates.
6. **Discussion Item:** Casey's Agreement Old Store Site.
7. **Resolution 1792** – Approving a Fireworks Agreement with J&M Displays for Hoover Hometown Days.
8. **Resolution 1793** – A Resolution Approving a Memorandum of Understanding with the West Branch Community School District relating to the Summer League Programs.
9. **Resolution 1794** – A Resolution Approving Various Contracts for the Hoover's Hometown Days Celebration in the Amount of \$6,530.17.
10. **Resolution 1795** – Approving the Recreation Facility, Park & Sport Field Use and Fee Policy.

**H. Reports**

1. City Administrator's Report
2. City Attorney Report
3. Staff Hearsays

**I. Comments from Mayor and Council Members**

**J. Adjournment**

*"Turning Vision into Reality is our Business"*

*(The following is a synopsis of the minutes of the West Branch City Council meeting. A video recording is available for inspection on the City of West Branch Website at [www.westbranchiowa.org/government/council-videos](http://www.westbranchiowa.org/government/council-videos). The minutes are not approved until the next regularly scheduled City Council meeting.)*

*West Branch, Iowa*  
**Council Chambers**

*City Council Meeting*

*March 4, 2019*  
**7:00 p.m.**

Mayor Roger Laughlin called the West Branch regular City Council meeting to order at 7:00 p.m. Mayor Laughlin then invited the Council, Staff and members of the audience to stand and led the group in the Pledge of Allegiance. Roll call: Council members: Colton Miller, Jordan Ellyson, Jodee Stoolman and Nick Goodweiler were present. Brian Pierce arrived at 7:23 p.m. Laughlin welcomed the audience and the following City staff: Deputy Clerk Leslie Brick, City Attorney Kevin Olson, Finance Officer Gordon Edgar, Park & Recreation Director Melissa Russell, Library Director Nick Shimmin, Fire Chief Kevin Stoolman and Police Chief Mike Horihan. City Administrator Redmond Jones was absent.

### **GUEST SPEAKER, PRESENTATIONS, AND PROCLAMATIONS**

Impact 7G – Doug Ongie (This presentation was postponed to a later date.)

### **PUBLIC COMMENT**

Mary McGee, West Branch resident addressed the Council with some recent safety concerns she had experienced.

### **APPROVE AGENDA/CONSENT AGENDA/MOVE TO ACTION**

Motion to approve minutes for City Council meeting February 19, 2019.

Motion to approve a liquor license refund of \$308.75 for Thirsty on 30 Inc. DBA Thirsty on 80 due to business closing effective February 7, 2019.

Motion to approve a liquor license renewal for Casey's General Store #3463 – 615 S. Downey Street, West Branch, Iowa.

Motion to approve the Claims Report.

EXPENDITURES	3/4/2019	
AMAZON	BOOKS, OFFICE & PROG. SUPPLIES	953.47
BIG COUNTRY SEEDS INC	ICE MELT	1,396.50
CAROL ROGHAIR	BUILDING INCENTIVE PAYMENT	1,058.55
COMPASS MINERALS AMERICA I	HIGHWAY SALT	1,963.84
CROELL, INC.	SAND	780.10
DORSEY & WHITNEY LLP	BOND COUNSEL FEES \$4,200,000	12,045.96
DREAMHOST WEBHOSTING	MALWARE PROTECTION	36.00
IOWA ASSN. MUN. UTILITIES	MEMBERSHIP DUES	723.00
IOWA MUNICIPAL FINANCE OFF	DUES BRICK 18-19	100.00
IOWA SECTION AWWA	TRAINING	80.00
JOHN DEERE FINANCIAL	SUPPLIES	224.85
JOHNSON COUNTY REFUSE INC.	GARBAGE STICKERS	600.00
JOSHUA LANGFORD	BUILDING INCENTIVE PAYMENT	1,107.98
KNOCHE, REBECCA	VIDEOGRAPHY SERVICES	150.00
LIBERTY COMMUNICATIONS	LIBERTY COMMUNICATIONS	1,285.15
LYNCH'S EXCAVATING INC	WATERMAIN REPAIR	8,820.85
LYNCH'S PLUMBING INC	NEW BOILER	13,894.30
OLSON, KEVIN D	LEGAL SERVICES	1,500.00
OVERDRIVE INC	AUDIOBOOKS	193.94
PAC-VAN INC	STORAGE UNIT	4,405.50
PARKSIDE SERVICE	SERVICE	126.00
QUILL CORP	OFFICE SUPPLIES	71.86
SHRED-IT USA	DOCUMENT DESTRUCTION	48.15
STATE INDUSTRIAL PRODUCTS	CHEMICALS	244.00
UPS	SHIPPING	22.82
VEENSTRA & KIMM INC.	ADMIN USGS FLOOD STUDY	447.40
VEENSTRA & KIMM INC.	PLAN REVIEW	688.00
VEENSTRA & KIMM INC.	COLLEGE ST BRIDGE - BID & CONST ENGINEERING	5,855.58

VEENSTRA & KIMM INC.	PLAN REVIEW	688.00
VERIZON WIRELESS	VERIZON WIRELESS	1,141.12
WELLMARK, INC.	ADMIN - FLEX CLAIMS	118.80
WEST BRANCH COMMUNITY SCHOOL	GYM RENT - VOLLEYBALL	720.00
TOTAL		61,491.72
PAYROLL	2/22/2019	55,263.89
PAID BETWEEN MEETINGS		
MEDIACOM	CABLE SERVICE	41.90
UPS	SHIPPING	66.10
TOTAL		108.00
GRAND TOTAL EXPENDITURES		116,863.61
FUND		
001 GENERAL FUND	29,006.02	
022 CIVIC CENTER	43.44	
031 LIBRARY	6,510.66	
110 ROAD USE TAX	21,757.47	
112 TRUST AND AGENCY	12,950.91	
308 PARK IMP - PEDERSEN VALLEY	9,864.84	
310 COLLEGE STREET BRIDGE	7,427.22	
318 COLLEGE ST & 2ND ST IMPROVEMENT	609.48	
600 WATER FUND	16,963.13	
610 SEWER FUND	11,730.44	
GRAND TOTAL	116,863.61	

Motion by Goodweiler, second by Stoolman to approve agenda/consent agenda items. AYES: Goodweiler, Stoolman, Miller, Ellyson. NAYS: None. Absent: Pierce. Motion carried.

### **PUBLIC HEARING / NON-CONSENT AGENDA**

#### Discussion: Proposed Ordinance to all bike riders 14 or over wear helmets.

Chief Horihan thanked the Hoover Elementary 4<sup>th</sup> grade class for their suggestion for an ordinance on requiring children under 14 to wear a helmet when riding bikes, scooters and skateboards. He said it was a good idea, but didn't feel an ordinance was needed. Horihan agreed to promote a safety program to raise awareness on bicycle safety and said the police department would coordinate a bicycle rodeo to demonstrate bicycle safety. Horihan also said he was working with Main Street Sweets on issuing 'safety coupons' to kids wearing helmets when riding bikes, scooters and skateboards but noted there would be a limit on coupons issued. Horihan said more information would be presented at a later date.

#### Second Reading Ordinance 763 – An Ordinance Amending the Zoning Code of the City of West Branch by adding several amendments regarding front yard, back yard, and zero-lot line requirements. /Move to action.

Motion by Stoolman, second by Ellyson to approve 2nd reading of Ordinance 763. AYES: Stoolman, Ellyson, Miller, Goodweiler. NAYS: None. Absent: Pierce. Motion carried.

#### Public Hearing: Adopting the City Administrator's recommended budget for fiscal year beginning July 1, 2019 and ending June 30, 2020.

Laughlin opened the public hearing at 7:15 p.m. There were no public comments. Laughlin closed the public hearing at 7:16 p.m.

#### Resolution 1788 – Adopting the City Administrator's recommended budget for fiscal year beginning July 1, 2019 and ending June 30, 2020. /Move to action.

Stoolman asked for clarification on the Emergency General Fund Levy. Edgar explained the purpose of the fund listed on form 16-142.

Motion by Goodweiler, second by Ellyson to approve Resolution 1788. AYES: Goodweiler, Ellyson, Miller, Stoolman. NAYS: None. Absent: Pierce. Motion carried.

Public Hearing: Considering rezoning a portion of the Meadows Subdivision, Part 4, of real property from R-1 Residential District to R-2 (lots 40-57).

Laughlin opened the public hearing at 7:18 p.m. Chris Kofoed, KLM Investments LLC explained the request for additional R-2 lots would help meet the demand for people wanting to downsize and making housing more affordable for new homeowners. There were no additional public comments. Laughlin closed the public hearing at 7:19 p.m.

First Reading Ordinance 764 – An Ordinance rezoning a portion of The Meadows Subdivision, Part Four, of real property from R-1 Residential District to R-2 (lots 40-57). /Move to action.

Motion by Goodweiler, second by Stoolman to approve 1<sup>st</sup> reading of Ordinance 764. AYES: Goodweiler, Stoolman, Miller, Ellyson. NAYS: None. Absent: Pierce. Motion carried.

Public Hearing: Rezoning the Kuene/Kofron Property

Laughlin opened the public hearing at 7:21 p.m. There were no public comments. Laughlin closed the public hearing at 7:22 p.m.

First Reading Ordinance 765 – An Ordinance rezoning the Kuene/Kofron property from A-1 (Agricultural) to a Planned Unit Development District (PUD). /Move to action.

Laughlin spoke in favor of the project and said it would really help West Branch grow. He said the location was perfect for this type of project and is excited to see it happen. Stoolman questioned the access points for the development. Laughlin confirmed that there are two access points to Parkside Drive and South Second Street.

Motion by Goodweiler, second by Ellyson to approve 1<sup>st</sup> reading of Ordinance 765. AYES: Goodweiler, Ellyson, Miller, Stoolman, Pierce. NAYS: None. Motion carried.

Resolution 1785 – Approving Northside First Addition Condos Site Plan (Brian Shay). / Move to action.

Mayor Laughlin invited resident Frank Frostestad, 102 Crestview Drive (lot 7 in Lynch's Second Addition shown on the site plan) to address the Council. Frostestad said he had attended the Planning & Zoning Commission (P&Z) meeting on February 26, 2019 and had a list of concerns on this development. First with the lack of privacy of his property and the neighbor to the east of his. He requested that a privacy fence be constructed around the perimeter of the site. Second, that sidewalks be installed to get any children potentially living here in the future a safe route to school. Frostestad said that several years ago, a City project added sidewalks to N. Oliphant St. in order to provide a safe route to school for West Branch children and he said that was a great project. He continued that he recommends the developer add sidewalks be added to the property and to direct them toward Northside Drive. Third, he commented that the proposed site is a large pond during heavy rain events. He continued and said that surrounding properties on the west and north all drain to this area and is concerned that adding housing would only add to the problems. Lastly, he raised a concern that the fire department had for on-street parking that could inhibit access for emergency vehicles.

Brian Shay, developer confirmed that fencing and fire lanes have been added to the site plan per the request of the Planning & Zoning Commission.

City Attorney Kevin Olson confirmed that the West Branch Police Department can enforce fire lane and handicap violations on private property.

Norma Jean Havlik-Smith, 104 Crestview Drive (lot 6 in Lynch's Second Addition shown on the site plan) then addressed the Council with her concerns. She started with saying she was disappointed with the lack of communication from the developer and the City on this project. She and her spouse heard of the project by word of mouth from another resident not affected by the project. While she later watched the November P&Z meeting and understood that the site plan process doesn't require public notice when rezoning is not requested, she felt the process could be improved. She continued with her list of concerns of the development; lack of green space, density with the number of units, and a potential of a sidewalk to be constructed between her property and lot 5, shown on the site plan. Havlik-Smith listed safety concerns with the placement of a sidewalk in that location as that the ground has a steep slope and is in an area that City crews pile snow from the cul-de-sac as they did this winter. Havlik-Smith asked that if a sidewalk has to be constructed there that the City be responsible for maintaining it as well as be responsible for injuries that could occur there. She asked the Council to consider a developer's requirements for resident notification, open communication with affected residents and signage of the proposed development to ensure that encroachment be minimized.

Brian Shay, developer for Northside First Addition Condos, 650 Broadmoor Drive, North Liberty then took the podium to address the residents' concerns. He stated that in October of 2018 he met with City staff and Zoning Administrator Terry Goerdts and presented his concept plan showing the number of units, building setbacks and confirmed that the property had the correct zoning for this type of project. From this meeting, a site plan was developed and engineering took place to identify any challenges with the property. Drainage to and from this property was identified and because of that, the original number of units was decreased and retention and detention structures were added. He further stated that residents to the south of this property were also being impacted from the original grading of the property, but Shay's and the City Engineer have addressed that issue with further grading along the south edge of the property. A preliminary site plan was presented to the P&Z commission on November 27, 2018.

Shay apologized to the residents for his words being taken out of context with regard to 'being a good neighbor'. Shay reaffirmed that he told City staff and Planning and Zoning that he would do whatever was asked of him and whatever surrounding neighbors wanted as he recognized that this would impact them. He responded to the fencing concern first. Shay said that his original plan was to fence the entire property but said the Zoning Administrator preferred a natural vegetative screen for future maintenance reasons. Shay said he was then contacted by a resident (Havlik-Smith) who requested a privacy fence due to the close proximity of her property line and building B. Shay confirmed that a fence will be provided on the west, north (toward lot 6 and around lot 7) of the property. Due to the apartment complex located on lot 44, which is located within five feet of the property line, it was decided by P&Z that vegetative screening would be more appropriate than a fence. To address the issue of sidewalks, Shay said that P&Z meeting held on February 26, 2019, it was decided that a sidewalk was needed between buildings A and B so that the overflow parking located on the north side of the property would direct people through the development rather than on the edge of North Downey St. To further address the request for a sidewalk going to the south of the south driveway (toward a ditch at the corner of N. Downey and Northside Drive, Shay said it is virtually impossible to add a sidewalk there as he would not be able to meet ADA requirements. He said he is willing to pay the City for future urbanization costs or putting in the sidewalk at a later date when the City urbanizes the west side of North Downey. The Mayor agreed that a sidewalk right now is impossible to install and would most likely need to be removed later to join up with the future urbanization. Miller disagreed and said that he walked the property and took some measurements. He continued and said if you put nineteen residents on this 'island' with no way to get them off, then it may not be the best use of the property. Olson said an agreement could be written up to address the sidewalk issue on North Downey and could be tied to the

issuance of the first building permit. Olson confirmed that the Council wants two sidewalk agreements written, one for a connection between lots 5 and 6 of Lynch's Second Addition, and the other for future urbanization of a sidewalk from the south property line to Northside Drive. Stoolman asked for clarification on where the water would go from the property. Shay said his property would convey the water to the north/south ditch on the west side of Downey to an intake between his property and N. Oliphant, under N. Downey to a wetland on the east side of N. Downey and eventually to the creek by the Hoover Nature Trail. The Council continued to discuss the sidewalk issue with this property and other new developments, but didn't all agree on a solution. Miller suggested that the City Engineer provide some estimated costs for a sidewalk connection from Northside Drive to the south edge of Shay's property to see what kind of costs would be associated with that type of project. Goodale mentioned that a four inch water main from the property would dead end on the south end of the property and suggested that the sidewalk connection could be coordinated with extending the water main to Northside Drive as a city project. Shay said he is willingly to do whatever the Council asks with regard to connecting the future sidewalk, but said him going to the south property line at this time didn't make sense as it would most likely need to be removed and replaced in the future. Further discussion led the Council to request an agreement drawn up by the City Attorney that requires Shay to install a sidewalk from the south driveway of building C to the south edge of his property. They also directed the City Engineer to draft plans, specifications and costs for the City for a sidewalk from Northridge Drive to the south edge of Shay's property. This condition also is attached to Shay installing said sidewalk on the south to the certificate of occupancy of building C. The consensus for approval of the site plan is as follows; Shay will install an engineered approved sidewalk from the south driveway to the south edge of the property. The sidewalk must be installed before a certificate of occupancy will be issued on building C of the project. The site plan will be approved based on this contingency. Stoolman who originally made the motion to approve the site plan, withdrew her motion. Goodweiler asked the residents who attended this evenings meeting if this sidewalk agreement satisfied their concerns and they replied that it did. Olson confirmed that the agreement would not include a sidewalk between lots 5 and 6 as earlier discussed. Council agreed. Motion by Ellyson, second by Goodweiler to approve the site plan with the attached sidewalk contingency agreement. AYES: Ellyson, Goodweiler, Pierce. NAYS: Stoolman, Miller. Motion carried.

Resolution 1786 – Approving Cedar's Edge Subdivision Final Plat. /Move to action.

Laughlin explained that the developer requested that the final plat be approved before municipal improvements are installed so that lot 26 can be sold to Little Lights. Olson explained that the City Code allows for this approval with the developer providing the City with a letter of credit for those improvements and that without the approval of the final plat and letter of credit, lots cannot be sold. Motion by Pierce, second by Goodweiler to approve Resolution 1786. AYES: Pierce, Goodweiler, Stoolman, Miller, Ellyson. NAYS: None. Motion carried.

Resolution 1787 – Approving Cedar's Edge Subdivider's Agreement. /Move to action.

Stoolman questioned sidewalks on Cedar-Johnson Road. Olson explained that since the road is not urbanized, sidewalks cannot be installed. However, with each individual lot when sold, this agreement which will be recorded requires the current property owner to install sidewalks. Olson explained that the City could install as part of the project and assess the cost to the property owner, or the owner could do it at their own expense when the street improvement are done. Olson confirmed that this is the same argument as with the Shay property.

Motion by Pierce, second by Goodweiler to approve Resolution 1787. AYES: Pierce, Goodweiler, Miller, Ellyson. NAYS: Stoolman. Motion carried.

Motion to accept the resignation of Wesley Homeister. /Move to action.

Laughlin said Homeister has accepted a job in Polk County and will be leaving the West Branch Police Department. Olson explained that Homeister will owe the City approximately \$3900 from his employment agreement which is fifty percent of his tuition, mileage, food costs while in the academy, equipment and book fees. Payments will be made to the City monthly in the amount of at least \$300.00. Council asked why information in the packet didn't reflect Olson's calculations and Finance Office Edgar replied that some additional information was discovered after the packet was distributed. Motion by Pierce, second by Goodweiler. AYES: Pierce, Goodweiler, Miller, Stoolman, Ellyson. NAYS: None. Motion carried.

Motion to approve starting the hiring process for a West Branch Police Officer. /Move to action.  
Motion by Ellyson, second by Stoolman. AYES: Ellyson, Stoolman, Miller, Pierce, Goodweiler. NAYS: None. Motion carried.

Resolution 1789 – Approving an Engineering Services Agreement not-to-exceed \$59,200.00 with Veenstra & Kimm Inc. for services related to the relocation of water main and force main necessary for the I-80 widening project. / Move to action.

Schechinger said the IDOT is widening I-80 from Iowa City to west of West Branch and with the project they will be removing a bridge that serves as a secondary emergency access to the south side of town to the industrial area. The DOT will be replacing the bridge with a box culvert and thus requiring the City to move utilities. The water main and force main will need to be moved so they can place the culvert. IDOT will be reimbursing the City for the cost of engineering and the cost of moving the utilities for the project.

Motion by Goodweiler, second by Stoolman to approve Resolution 1789. AYES: Goodweiler, Stoolman, Miller, Ellyson, Pierce. NAYS: None. Motion carried.

Resolution 1790 – Amending a construction Engineering Service Agreement in the amount not-to-exceed \$34,000 with V&K for services related to added scope of work items on 2<sup>nd</sup> Street from College to Green Street. /Move to action.

Schechinger said this amount is in the bottom line of the original non- participating part of the project although it was previously approved. This amendment is to include the additional engineering.

Motion by Pierce, second by Ellyson to approve Resolution 1790. AYES: Pierce, Ellyson, Miller, Stoolman, Goodweiler. NAYS: None. Motion carried.

#### **CITY ADMINISTRATOR REPORT**

Jones was absent for this meeting.

#### **CITY ATTORNEY REPORT**

Olson reported that he has received an agreement from Casey's and that he drafted a proposed development agreement for Little Lights.

#### **STAFF REPORTS**

No report.

#### **COMMENTS FROM MAYOR AND COUNCIL MEMBER**

Miller thanked the Public Works staff for the great job they did this year on snow plowing.

Laughlin said he would be scheduling the next review for the City Administrator.



**ADJOURNMENT**

Motion to adjourn by Ellyson, second by Pierce. Motion carried on a voice vote. City Council meeting adjourned at 9:14 p.m.

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Roger Laughlin, Mayor

ATTEST: \_\_\_\_\_  
Leslie Brick, Deputy City Clerk



## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b> March 18, 2019
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<b>AGENDA ITEM:</b>	<b>Motion to Approve</b> the Claims Report
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<b>CITY GOAL:</b>	Establish a sound and sustainable government supported by professionalism, progressive thinking and modernizing the organization.
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<b>PREPARED BY:</b>	Gordon Edgar, Finance Director
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<b>DATE:</b>	March 11, 2019
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### BACKGROUND:

These are routine expenditures that include such items as payroll, budget expenditures, and other financial items that relate to council approved items and/or other day to day operational disclosures.

<b>STAFF RECOMMENDATION:</b> Approve Claims Report – Move to Action
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<b>REVIEWED BY CITY ADMINISTRATOR:</b>
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<b>COUNCIL ACTION:</b>
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<b>MOTION BY:</b>
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<b>SECOND BY:</b>
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*"Turning Vision into Reality is our Business"*

## EXPENDITURES

3/18/2019

ALLIANT ENERGY	UTILITIES-WATER TOWER	12,880.84
ALTORFER INC	REPAIR PARTS	575.33
AMAZON	BOOKS, SUPPLIES	375.34
BAKER & TAYLOR INC.	BAKER & TAYLOR INC.	916.34
BALDRIDGE ENVIRONMENTAL SERVICES	EQUIP INSTALL-PILOT STUDY	15,000.00
BARRON MOTOR SUPPLY	MAINTENANCE SUPPLIES	76.96
BIG COUNTRY SEEDS INC	ICE MELT	700.00
BP AMOCO	BP AMOCO	504.63
BROWN'S WEST BRANCH	VEHICLE REPAIR	224.33
CEDAR COUNTY RECORDER	SERVICE	14.00
CITY TRACTOR CO	REPAIR PARTS	5.95
CONLEY & JENNA NASH	BUILDING INCENTIVE PAYMENT	1,040.82
CROELL, INC.	SAND	351.40
DEWEYS JACK & JILL	SUPPLIES	33.22
EDGAR, GORDON	MILEAGE	9.63
FEHR GRAHAM	308 PV CONST SERVICE	522.50
FRED'S FEED & SUPPLY LLC	SUPPLIES	58.47
GALVAN, RUBEN	GALVAN, RUBEN	1,379.00
HAWKINS INC	CHEMICALS-AZONE	518.30
HOTSY CLEANING SYSTEMS	SUPPLIES	475.00
INTERSTATE POWER SYSTEMS INC	SEMI-ANNUAL INSPECT/ LOAD TEST	868.50
IOWA ASSN. MUN. UTILITIES	SAFETY TRAINING	593.16
IOWA POLICE CHIEFS ASSOCIATION	CONFERENCE REGISTRATION	135.00
ISOLDA PAGE	MILEAGE	15.19
JAMES MCCLAIN	BUILDING INCENTIVE PAYMENT	1,933.17
JOHNSON COUNTY REFUSE INC	RECYCLING FEBRUARY 2019	3,895.00
KIESLER POLICE SUPPLY, INC.	SUPPLIES	647.00
LACKENDER FABRICATIONS INC	REPAIR PARTS	860.00
LENOCH & CILEK	SUPPLIES	101.96
LINN COUNTY R.E.C.	STREET LIGHTS	153.94
LYNCH'S EXCAVATING INC	WATER MAIN REPAIR 5TH ST	2,292.75
MENARDS	SUPPLIES	370.06
MISCELLANEOUS VENDOR	MARCY HUTT:LIQUOR LIC REFUND	308.75
MOORE'S WELDING INC	EQUIPMENT REPAIR/MAINTENANCE	2,419.05
OVERDRIVE INC	EBOOKS & AUDIO BOOKS	524.95
PATRICK HYDE	BUILDING INCENTIVE PAYMENT	546.92
PITNEY BOWES GLOBAL FINANCE	LIBRARY POSTAGE METER LEASE	102.39
PITNEY BOWES PURCHASE POWER	LIB - REPLENISH POSTAGE METER	1,003.50
PORT 'O' JONNY INC.	SERVICE-WAPSI PARK	192.00
QC ANALYTICAL SERVICES LLC	LAB ANALYSIS	732.00
QUALITY ENGRAVED SIGNS	OFFICE SUPPLIES	60.00
QUILL CORP	QUILL CORP	412.64
SCHIMBERG CO	SUPPLIES	184.00
STATE HYGIENIC LAB	LAB ANALYSIS	26.00
UPS	SEWER-SHIPING	22.82
US BANK CORPORATE CARD	US BANK CORPORATE CARD	1,007.44
US BANK EQUIPMENT FINANCE	LIBRARY COPIER LEASE	116.88
WALMART COMMUNITY/RFCSLLC	DVDS, PROGRAM SUPPLIES	161.64
WEST BRANCH REPAIRS	VEHICLE REPAIR	613.04
WEST BRANCH TIMES	LEGAL PUBLICATIONS	652.64
WEX BANK	WEX BANK	893.49
<b>TOTAL</b>		<b>57,507.94</b>

REVENUE-FISCAL YEAR 2019 FUND	FEBRUARY
001 GENERAL FUND	23,666.66
022 CIVIC CENTER	124.19
031 LIBRARY	222.83
036 TORT LIABILITY	129.35
110 ROAD USE TAX	25,106.59
112 TRUST & AGENCY	810.64
119 EMERGENCY TAX FUND	102.02
121 LOCAL OPTION SALES TAX	16,222.58
125 TIF	1,904.95
226 DEBT SERVICE	782.85
500 CEMETERY PERPETUAL FUND	0.45
502 KROUTH INTEREST FUND	0.16
600 WATER FUND	40,650.95
610 SEWER FUND	30,796.73
740 STORM WATER UTILITY	5,210.00
950 BC/BS FLEXIBLE BENEFIT	
<b>TOTAL</b>	<b>145,730.95</b>

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
POLICE OPERATION	GENERAL FUND	IOWA POLICE CHIEFS ASSOCIATION	CONFERENCE REGISTRATION	135.00
		QUILL CORP	OFFICE SUPPLIES	81.89
		WEX BANK	VEHICLE FUEL	596.66
		BROWN'S WEST BRANCH	VEHICLE REPAIR	73.40
			VEHICLE REPAIR	150.93
		ALLIANT ENERGY	SERVICES	372.98
		KIESLER POLICE SUPPLY, INC	SUPPLIES	647.00
			TOTAL:	2,057.86
FIRE OPERATION	GENERAL FUND	BP AMOCO	FUEL	31.55
		US BANK CORPORATE CARD	LODGING-JODEE STOOLMAN	484.96
		ALLIANT ENERGY	SERVICES	1,118.93
			TOTAL:	1,635.44
STREET LIGHTING	GENERAL FUND	LINN COUNTY R.E.C.	STREET LIGHTS	153.94
		ALLIANT ENERGY	SERVICES	2,244.97
			SERVICES	319.46
			TOTAL:	2,718.37
PARK & RECREATION	GENERAL FUND	PORT 'O' JONNY INC.	SERVICE-WAPSI PARK	96.00
		MENARDS	SUPPLIES	165.56
		US BANK CORPORATE CARD	NEW DOMAIN NAME	6.00
		ALLIANT ENERGY	LIGHTS-LIONS FIELD	22.55
			LIGHTS 219 E GREEN	12.48
			SERVICES	29.24
			TOTAL:	331.93
CEMETERY	GENERAL FUND	PORT 'O' JONNY INC.	SERVICE - CEMETERY	96.00
		CITY TRACTOR CO	REPAIR PARTS	5.95
			TOTAL:	101.95
COMM & CULTURAL DEVEL	GENERAL FUND	ALLIANT ENERGY	UTILITES-HERITAGE PARK	59.28
			TOTAL:	59.28
ECONOMIC DEVELOPMENT	GENERAL FUND	COWLEY & JENNA NASH	BUILDING INCENTIVE PAYMENT	1,040.82
		PATRICK HYDE	BUILDING INCENTIVE PAYMENT	546.92
		JAMES MCLAIN	BUILDING INCENTIVE PAYMENT	1,933.17
			TOTAL:	3,520.91
CLERK & TREASURER	GENERAL FUND	QUILL CORP	SUPPLIES	67.98
			SUPPLIES	2.97
			OFFICE SUPPLIES	26.39
		QUALITY ENGRAVED SIGNS	OFFICE SUPPLIES	60.00
		US BANK CORPORATE CARD	LODGING	159.99
		PITNEY BOWES PURCHASE POWER	REPLENISH POSTAGE	167.00
		ALLIANT ENERGY	SERVICES	605.82
		EDGAR, GORDON	MILEAGE	9.63
		GALVAN, RUBEN	CLEANING SERVICE	188.00
			CLEANING SERVICE	188.00
		MISCELLANEOUS V MARCY HUTT	MARCY HUTT:LIQUOR LIC REFU	308.75
			TOTAL:	1,784.53
LEGAL SERVICES	GENERAL FUND	WEST BRANCH TIMES	LEGAL PUBLICATIONS	652.64
		CEDAR COUNTY RECORDER	SERVICE	14.00
			TOTAL:	666.64

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
SOLID WASTE	GENERAL FUND	JOHNSON COUNTY REFUSE INC.	RECYCLING FEBRUARY 2019	3,895.00
			TOTAL:	3,895.00
LOCAL CABLE ACCESS	GENERAL FUND	ALLIANT ENERGY	SERVICES	99.99
			TOTAL:	99.99
TOWN HALL	CIVIC CENTER	LENOCH & CILEK	SUPPLIES	53.98
		ALLIANT ENERGY	SERVICES	911.72
		GALVAN, RUBEN	CLEANING SERVICE	144.00
			CLEANING SERVICE	162.00
			TOTAL:	1,271.70
LIBRARY	LIBRARY	OVERDRIVE INC	EBOOKS & AUDIO BOOKS	250.00
			EBOOKS & AUDIO BOOKS	60.00
			EBOOKS & AUDIO BOOKS	122.98
			EBOOK	8.99
			EBOOKS & AUDIO BOOKS	82.98
		LENOCH & CILEK	SUPPLIES	47.98
		WALMART COMMUNITY/RFCSLLC	DVDS, PROGRAM SUPPLIES	153.64
			DVDS, PROGRAM SUPPLIES	8.00
		QUILL CORP	JANITORIAL SUPPLIES	31.99
			OFFICE SUPPLIES	19.18
			SUPPLIES	47.82
			JANITORIAL SUPPLIES	15.24
			JANITORIAL SUPPLIES	25.49
			SUPPLIES	32.29
			SUPPLIES	61.40
		BAKER & TAYLOR INC.	BOOKS	137.49
			BOOKS	175.88
			BOOKS	52.71
			BOOKS	127.81
			BOOKS	161.93
			BOOKS	281.15
		US BANK CORPORATE CARD	BAKER & TAYLOR INC.	20.63
			MEMBERSHIP DUES	124.00
			TRAINING-ISOLDA PAGE	35.00
			SUPPLIES	138.95
			SUPPLIES	2.11
			SUPPLIES	56.43
		PITNEY BOWES GLOBAL FINANCIAL SERVICES	LIBRARY COPIER LEASE	102.39
		PITNEY BOWES PURCHASE POWER	LIB - REPLENISH POSTAGE ME	503.50
		ALLIANT ENERGY	SERVICES	659.10
		ISOLDA PAGE	MILEAGE	15.19
		GALVAN, RUBEN	CLEANING SERVICE	328.00
			CLEANING SERVICE	369.00
		AMAZON	BOOKS, SUPPLIES	73.98
			BOOKS, SUPPLIES	98.15
			BOOKS, SUPPLIES	88.55
			BOOKS, SUPPLIES	114.66
		US BANK EQUIPMENT FINANCE	LIBRARY COPIER LEASE	116.88
			TOTAL:	4,710.21
ROADS & STREETS	ROAD USE TAX	DEWEYS JACK & JILL	SUPPLIES	33.22
		BP AMOCO	FUEL	157.69
		ALTORFER INC	REPAIR PARTS	96.71
			REPAIR PARTS	369.18

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
			REPAIR PARTS	8.31
			REPAIR PARTS	31.50
			REPAIR PARTS	69.63
		LACKENDER FABRICATIONS INC	REPAIR PARTS	660.00
		WEST BRANCH REPAIRS	VEHICLE REPAIR	613.04
		FRED'S FEED & SUPPLY LLC	SUPPLIES	58.47
		MENARDS	SUPPLIES	133.25
		WEX BANK	VEHICLE FUEL	97.95
		CROELL, INC.	SAND	351.40
		ALLIANT ENERGY	SERVICES	554.52
		BARRON MOTOR SUPPLY	MAINTENANCE SUPPLIES	76.96
		HOTSY CLEANING SYSTEMS	SUPPLIES	475.00
		MOORE'S WELDING INC	EQUIPMENT REPAIR/MAINTENAN	2,419.05
		BIG COUNTRY SEEDS INC	ICE MELT	700.00
			TOTAL:	7,105.88
INVALID DEPARTMENT	PARK IMP - PEDERSE FEHR GRAHAM		308 PV CONST SERVICE	237.50
			308 PV PARK - ADD'L SERVIC	285.00
			TOTAL:	522.50
WATER OPERATING	WATER FUND	LYNCH'S EXCAVATING INC	WATER MAIN REPAIR 5TH ST	2,292.75
		STATE HYGIENIC LAB	LAB ANALYSIS	26.00
		BP AMOCO	FUEL	157.69
		IOWA ASSN. MUN. UTILITIES	SAFETY TRAINING	593.16
		HAWKINS INC	CHEMICALS-AZONE	518.30
		MENARDS	SUPPLIES	71.25
		WEX BANK	VEHICLE FUEL	97.95
		PITNEY BOWES PURCHASE POWER	REPLENISH POSTAGE	167.00
		ALLIANT ENERGY	UTILITIES-WATER TOWER	101.96
			SERVICES	2,922.43
		SCHIMBERG CO	SUPPLIES	138.40
			SUPPLIES	45.60
			TOTAL:	7,132.49
SEWER OPERATING	SEWER FUND	BP AMOCO	FUEL	157.70
		UPS	SEWER-SHIPING	22.82
		QC ANALYTICAL SERVICES LLC	LAB ANALYSIS	732.00
		WEX BANK	VEHICLE FUEL	100.93
		PITNEY BOWES PURCHASE POWER	REPLENISH POSTAGE	166.00
		ALLIANT ENERGY	SERVICES	2,845.41
		INTERSTATE POWER SYSTEMS INC	SEMI-ANNUAL INSPECT/ LOAD	868.50
		BALDRIDGE ENVIRONMENTAL SERVICES	EQUIP INSTALL-PILOT STUDY	10,000.00
			ENZYMES-PILOT STUDY	5,000.00
			TOTAL:	19,893.36

DEPARTMENT	FUND	VENDOR NAME	DESCRIPTION	AMOUNT
===== FUND TOTALS =====				
001	GENERAL FUND			16,871.80
022	CIVIC CENTER			1,271.70
031	LIBRARY			4,710.21
110	ROAD USE TAX			7,105.88
308	PARK IMP - PEDERSEN VALLE			522.50
600	WATER FUND			7,132.49
610	SEWER FUND			19,893.36
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GRAND TOTAL:				57,507.94
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## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b> March 18, 2019	
<b>AGENDA ITEM:</b>	<b>Third Reading, Ordinance 763</b> – An Ordinance Amending the Zoning Code of the City of West Branch by adding several amendments regarding front yard, back yard, and zero-lot line requirements.
<b>CITY GOAL:</b>	Develop, maintain and rebuild safe, clean, diverse, healthy, neighborhoods, including partnering with the school district.
<b>PREPARED BY:</b>	Leslie Brick, Deputy City Clerk
<b>DATE:</b>	March 13, 2019

### BACKGROUND:

The Planning & Zoning Commission approved Ordinance 747 in 2017 adding language to Chapter 165.27(R-1) and 165.28(R-2) for zero-lot line requirements. As an oversight, language was added to section 165.27 (R-1) which does not allow for zero-lots.

The Planning & Zoning Commission met on February 5, 2019 and reviewed Ordinance 747 and approved removing all updates that allow zero-lots in the R-1 district. Ordinance 763 corrects this error, a copy of Ordinance 747 is attached indicating the corrections necessary.

It is now necessary to approve Ordinance 763 that corrects the former **Ordinance 747**.

<b>STAFF RECOMMENDATION:</b>	Approve the Third and Final Reading – Move to Action
<b>REVIEWED BY CITY ADMINISTRATOR:</b>	
<b>COUNCIL ACTION:</b>	
<b>MOTION BY:</b>	
<b>SECOND BY:</b>	

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## ORDINANCE 747

### AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF WEST BRANCH.

**WHEREAS**, the Planning and Zoning Commission of the City of West Branch, Iowa, has heretofore recommended it necessary to make certain amendments to the City's Zoning Code; and

**WHEREAS**, a public hearing on said zoning revisions has now been held as required by law.

#### **NOW, THEREFORE, BE IT ORDAINED:**

1. Amendment. Section 165.11(2) of the Code of Ordinances is hereby amended to add subsection (E) which reads as follows:

*"E. In all residential districts there shall be a minimum front yard required for that particular zoning district in this Chapter; provided, however, that where lots compromising thirty (30) percent or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater or lesser setback than stated in said particular zoning district, the front yard requirement for an undeveloped lot shall be the average of these building setbacks. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. However, in no case shall the required front yard setback exceed fifty (50) feet.*

2. ~~Amendment. Section 165.27(3)(A) is hereby amended by adding the following sentence to the end of said section:~~

~~*"Zero lot lines shall have a lot area of three thousand eight hundred and fifty (3850) square feet per dwelling unit. Zero lot line dwellings shall have a building line frontage of thirty five (35) feet.*~~

3. ~~Amendment. Section 165.27(3)(C) is hereby amended by adding the following sentence to the end of said section:~~

~~*"Zero lot line dwellings shall have two side yard setbacks, one which is zero (0) feet and the other shall be a minimum of eight (8) feet."*~~

4. Amendment. Section 165.28(3)(A) is hereby amended by adding subparagraph (3) which reads as follows:

*"Zero-lot line dwellings shall have a frontage of not less than thirty-five (35) feet and a lot area of four thousand two hundred (4200) square feet."*

5. Amendment. Sections 165.29(3) (B) is hereby amended by adding the following sentence at the end of said section:

*“Zero-lot line dwellings shall have a lot area of four thousand two hundred (4200) square feet with a minimum width at the established building line of thirty-five (35) feet.”*

6. Amendment. Section 165.29(3)(G) is hereby amended by adding the following sentence to the end of said section:

*“Zero-lot line dwellings shall have two side yard setbacks, one which is zero (0) feet and the other shall be a minimum of eight (8) feet.”*

7. Amendment. Section 165.35(2)(C) is hereby amended by deleting it in its entirety and replacing it with the following:

*“C. Rear Yard. No rear yard shall be required in the Central Business CB-1 District. When abutting a residential district, a twenty (20) rear yard is required.”*

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

8. 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.

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

First reading: November 6, 2017  
Second reading: November 20, 2017  
Third Reading: December 4, 2017

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Roger Laughlin, Mayor

ATTEST:

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Redmond Jones II, City Administrator/Clerk

## ORDINANCE 763

### **AN ORDINANCE AMENDING THE ZONING CODE OF THE CITY OF WEST BRANCH BY ADDING SEVERAL AMENDMENTS REGARDING FRONT YARD, BACK YARD, AND ZERO-LOT LINE REQUIREMENTS.**

**WHEREAS**, the Planning and Zoning Commission of the City of West Branch, Iowa, has heretofore recommended it necessary to make certain amendments to the City's Zoning Code; and

**WHEREAS**, a public hearing on said zoning revisions was previously held as required by law.

**WHEREAS**, this Ordinance replaces Ordinance 747, passed and approved December 4, 2017; and

#### **NOW, THEREFORE, BE IT ORDAINED:**

1. Amendment. Section 165.11(2) of the Code of Ordinances is hereby amended to add subsection (E) which reads as follows:

*"E. In all residential districts there shall be a minimum front yard required for that particular zoning district in this Chapter; provided, however, that where lots compromising thirty (30) percent or more of the frontage within two hundred (200) feet of either side lot line are developed with buildings at a greater or lesser setback than stated in said particular zoning district, the front yard requirement for an undeveloped lot shall be the average of these building setbacks. In computing the average setback, buildings located on reverse corner lots or entirely on the rear half of lots shall not be counted. However, in no case shall the required front yard setback exceed fifty (50) feet.*

2. Amendment. Section 165.28(3)(A) is hereby amended by adding subparagraph (3) which reads as follows:

*"Zero-lot line dwellings shall have a frontage of not less than thirty-five (35) feet and a lot area of four thousand two hundred (4200) square feet."*

3. Amendment. Sections 165.29(3)(B) is hereby amended by adding the following sentence at the end of said section:

*"Zero-lot line dwellings shall have a lot area of four thousand two hundred (4200) square feet with a minimum width at the established building line of thirty-five (35) feet."*

4. Amendment. Section 165.29(3)(G) is hereby amended by adding the following sentence to the end of said section:

*“Zero-lot line dwellings shall have two side yard setbacks, one which is zero (0) feet and the other shall be a minimum of eight (8) feet.”*

5. Amendment. Section 165.35(2)(C) is hereby amended by deleting it in its entirety and replacing it with the following:

*“C. Rear Yard. No rear yard shall be required in the Central Business CB-1 District. When abutting a residential district, a twenty (20) rear yard is required.”*

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

7. 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.

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

**First reading: February 19, 2019**  
**Second reading: March 4, 2019**  
**Third Reading: March 18, 2019**

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Roger Laughlin, Mayor

ATTEST:

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Leslie Brick, Deputy City Clerk



## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Second Reading, Ordinance 764</b> – An Ordinance Rezoning a Portion of the Meadows Subdivision, Part Four, of Real Property from R-1 Residential District to R-2 lots 40-57.
<b>CITY GOAL:</b>	Develop, maintain and rebuild safe, clean, diverse, healthy, neighborhoods, including partnering with the school district.
<b>PREPARED BY:</b>	Leslie Brick, Deputy City Clerk
<b>DATE:</b>	March 11, 2019

### BACKGROUND:

Second reading of Ordinance 764, rezoning a portion of The Meadows, Part 4 from R-1 to R-2, lots 40-57.

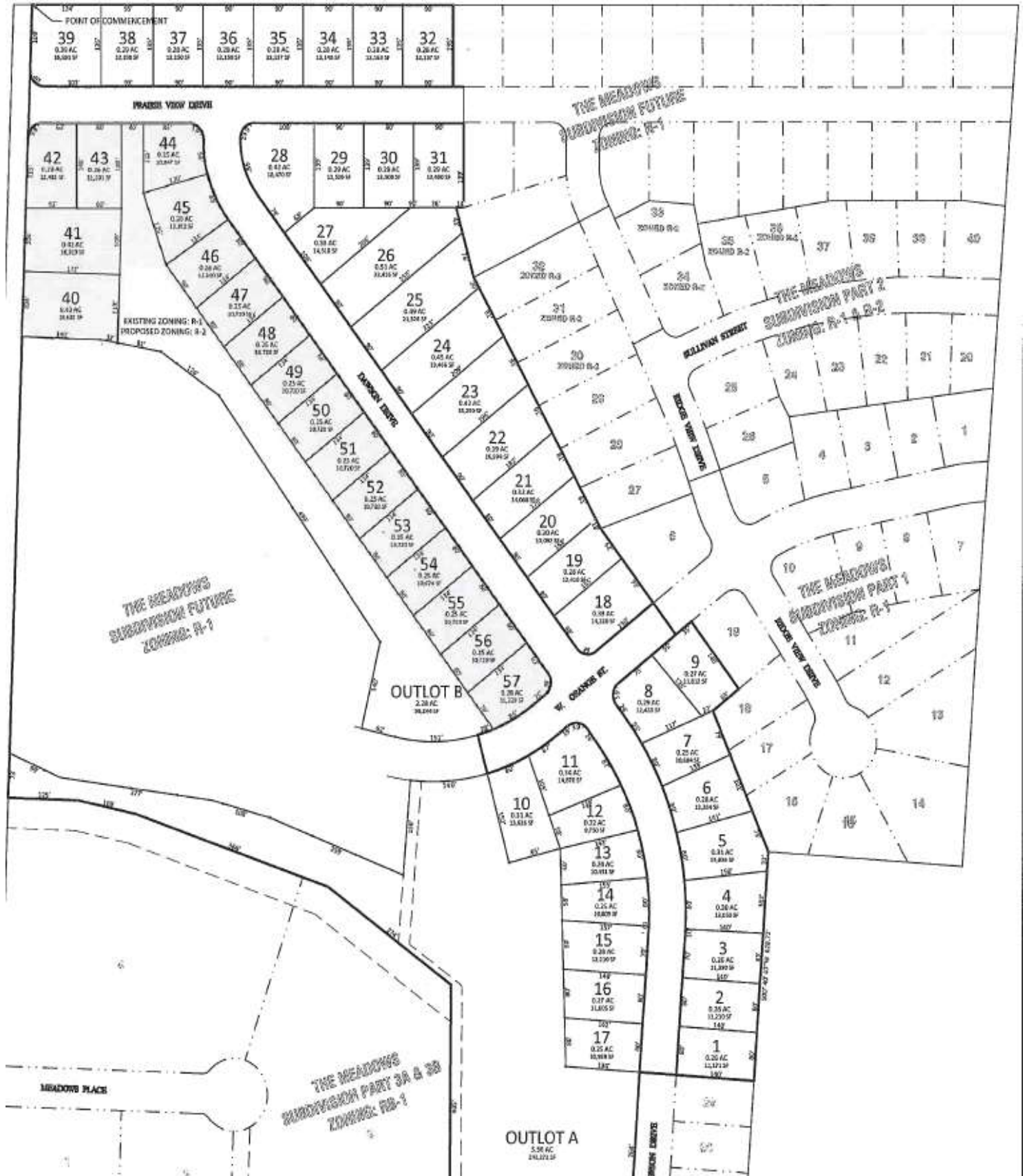
<b>STAFF RECOMMENDATION:</b>	Approve Second Reading – Move to Action
<b>REVIEWED BY CITY ADMINISTRATOR:</b>	
<b>COUNCIL ACTION:</b>	
<b>MOTION BY:</b>	
<b>SECOND BY:</b>	

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# REZONING EXHIBIT

## THE MEADOWS SUBDIVISION PART 4

WEST BRANCH, CEDAR COUNTY, IOWA





APPROVED

Planning Zoning

Date: A-26-2019

<p><b>OWNER:</b>          ICM INVESTMENTS, LLC          25 EASTVIEW PLACE NE          KOWA CITY, IA 52240</p>	<p><b>ATTORNEY:</b>          MICHAEL W. KENNEDY          505 E. GARDEN STREET          KOWA CITY, IA 52240</p>
<p><b>DEVELOPER:</b>          KIZOSOWSKI DEVELOPMENT, INC.          505 EASTVIEW PLACE NE          KOWA CITY, IA 52240</p>	<p><b>PLAT PREPARED BY:</b>          KIZOSOWSKI DEVELOPMENT, LLC          60 E. COURT STREET, UNIT B          KOWA CITY, IOWA 52240</p>

[illegible]

CITY OF WEST BRANCH, IOWA

CITY OF WEST BRANCH, IOWA

**APPROVED**  
By: Planning & Zoning  
Date: 9-20-2019

[illegible]

## **ORDINANCE 764**

### **AN ORDINANCE RE-ZONING THAT A PORTION OF THE MEADOWS SUBDIVISION, PART FOUR, OF REAL PROPERTY FROM R-1 RESIDENTIAL DISTRICT TO R-2 RESIDENTIAL DISTRICT.**

**WHEREAS**, KLM Investments, Inc. (“KLM”) has petitioned the City of West Branch for a zoning district amendment for properties located in the Meadows Subdivisions, said parcel being legally described as:

A PORTION OF THE MEADOWS SUBDIVISION PART 4, BEING PART OF PARCEL G, AS RECORDED IN PLAT BOOK I, PAGE 103 OF THE CEDAR COUNTY RECORDER’S OFFICE, IN THE SOUTHWEST FRACTIONAL QUARTER (SW1/4) OF THE SOUTHWEST FRACTIONAL QUARTER (SW ¼) AND THE NORTHWEST FRACTIONAL QUARTER (NW ¼) OF THE SOUTHWEST FRACTIONAL QUARTER (SW ¼) OF SECTION 6, TOWNSHIP 89 NORTH, RANGE 4 WEST, IN THE CITY OF WEST BRANCH, CEDAR COUNTY, IOWA DESCRIBED AS:

COMMENCING AT THE SOUTHWEST CORNER OF LOT 44 OF THE GREENVIEW ESTATES SUBDIVISION, AN OFFICIAL PLAT NOW IN THE CITY OF WEST BRANCH, THENCE S1°19’13”E, 195.11 FEET TO THE POINT OF BEGINNING, THENCE 86°46’30”E, 315.69 FEET; THENCE S3°13’30”E, 24.96 FEET; THENCE 143.10 FEET ALONG A 216.00 FOOT RADIUS CURVE CONCAVE EAST (CHORD BEARING S21°52’40”E, 141.10 FEET); THENCE S40°56’32”E, 967.89 FEET; THENCE S49°03’24”W, 50.37 FEET; THENCE 89.97 FEET ALONG A 300.00 FOOT RADIUS CURVE CONCAVE NORTH (CHORD BEARING S57°38’54”W, 89.63 FEET); THENCE N40°56’32”W, 961.68 FEET; THENCE S88°40’13”W, 77.11 FEET; THENCE S01°19’47”E, 127.44 FEET; THENCE N82°46’48”W, 37.29 FEET; THENCE S88°40’47”W, 140.28 FEET; THENCE N01°19’13”W, 351.60 FEET TO THE POINT OF BEGINNING.(the “Parcel).

**WHEREAS**, KLM has requested that the Parcel be rezoned to be located in an R-2 Residential District, in place of an R-1 Residential District; and

**WHEREAS**, the West Branch Planning and Zoning Commission has recommended the City Council approve said rezoning request; and

**WHEREAS**, a public hearing has been held on said request pursuant to published notice thereof.

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

**Section 1.** That the zoning map for the City of West Branch is hereby amended to show the Parcel being located in a R-2 Residential District in place of R-1 Residential District.



**Section 2.** This ordinance shall be in full force and effect from and after its publication as by law provided.

**Section 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 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 \_\_\_\_ day of \_\_\_\_\_, 2019.**

**Read First Time:    March 4, 2019**  
**Read Second Time: March 18, 2019**  
**Read Third Time:    April 1, 2019**

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Roger Laughlin, Mayor

ATTEST: \_\_\_\_\_  
Redmond Jones II, City Administrator/Clerk



## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Second Reading, Ordinance 765</b> – An Ordinance Rezoning Property known as the Kuene / Kofron Property (located behind the BP gas station) from A-1 to a Planned Unit Development (PUD).
<b>CITY GOAL:</b>	Develop inviting high profile visual impact projects; including gateways, establishing destination, branding and other projects that reflect tax results.
<b>PREPARED BY:</b>	Leslie Brick, Deputy City Clerk
<b>DATE:</b>	March 11, 2019

### BACKGROUND:

Second reading of Ordinance 765, rezoning the Kofron property, (behind the BP gas station) from A-1 to a Planned Unit Development for the purpose of creating a commercial business and residential neighborhood.

*Special consideration requested: The applicant has requested to collapse the last two readings because the developer would like this consideration concluded before his scheduled real estate closing April 1<sup>st</sup>.*

<b>STAFF RECOMMENDATION:</b> Approve Second Reading – Move to Action
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<b>REVIEWED BY CITY ADMINISTRATOR:</b>
--

<b>COUNCIL ACTION:</b>
------------------------

<b>MOTION BY:</b>
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<b>SECOND BY:</b>
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Commencing at the Northwest Corner of Section 8, Township 79 North, Range 4 West, of the Fifth Principal Meridian, West Branch, Cedar County, Iowa; Thence S00°32'40"E, along the West Line of the Northwest Quarter of said Section 8, a distance of 1637.40 feet; Thence N89°24'33"E, 60.52 feet, to a Point on the East Right-of-Way Line of Ramp "E" of Interstate No. 80, and the POINT OF BEGINNING; Thence continuing N89°24'33"E, 232.95 feet, to the Southwest Corner of Cookson Subdivision, in accordance with the Plat thereof Recorded in Book 1211 at Pages 333-334 of the Records of the Cedar County Recorder's Office; Thence N89°22'29"E, along the South Line of said Cookson Subdivision, 650.25 feet, to the Southeast Corner thereof, and the Southwest Corner of Stoolman's 1st Addition, in accordance with the Plat thereof Recorded in Book 140 at Page 129 of the Records of the Cedar County Recorder's Office; Thence N89°25'17"E, along the South Line of said Stoolman's 1st Addition, and the Easterly projection thereof 803.44 feet, to the Northwest Corner of Lot A of Lot D, in accordance with the Plat thereof Recorded in Book 3 at Page 265 of the Records of the Cedar County Recorder's Office; Thence S01°02'25"E, along the West Line of said Lot A of Lot D, a distance of 885.88 feet, to its intersection with the North Right-of-Way Line of said Interstate No. 80; Thence S85°19'36"W, along said North Right-of-Way Line, 3.75 feet, to a Point 150.00 feet normally distant Northerly from Interstate No. 80 centerline station 72+13; Thence S89°35'43"W, along said North Right-of-Way Line 313.36 feet, to a Point 160.00 feet normally distant Northerly from Interstate No. 80 centerline station 69+00; Thence N85°48'05"W, along said Northerly Right-of-Way Line, 1294.32 feet, to the Southeast Corner of the Tract of Land conveyed by Warranty Deed, as Recorded in Book 668 at Pages 88-89 of the Records of the Cedar County Recorder's Office; Thence N00°23'24"W, along the East Line of said conveyed Tract, 334.42 feet; Thence S89°24'33"W, along a line parallel with and 40.00 feet normally distant Southerly from the North Line of said Conveyed Tract, 169.05 feet, to a Point on the West Line of said Conveyed Tract and the said East Right-of-Way Line of Ramp "E"; Thence N10°07'24"W, along said West Line and East Right-of-Way Line, 40.56 feet, to the Point of Beginning. Said tract of land contains 23.28 Acres, and is subject to easements and restrictions of record.



WEST BRANCH  
PROPERTY  
EXHIBIT

NORTHEAST CORNER  
L-80 AND SOUTH  
DOWNEY STREET  
WEST BRANCH  
CEDAR COUNTY  
IOWA

<b>JAMES CONSULTANTS, INC.</b>	<b>02/21/19</b>
<b>Assigned By:</b> KCB	<b>Field Book No:</b> 1234
<b>Mobile By:</b> JLM	<b>Date:</b> 1/16/07
<b>Recorded by:</b> PJA	<b>Sheet No:</b> 1
<b>Project No:</b> 6992-287	<b>CN:</b> 1
<b>TOWN CITY:</b>	



## LEGAL DESCRIPTION:

PORTION OF LOT D OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 79 NORTH, RANGE 4 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WEST RANCH, CEDAR COUNTY, IOWA, DESCRIBED AS FOLLOWS:

commencing at the Northwest Corner of Section 8, Township 79 North, Range 4 West, of the Fifth Principal Meridian, West Branch, Cedar County, Iowa; Thence S00°52'40"E, along the West Line of the Northwest Quarter of said Section 8, a distance of 1637.40 feet; Thence N89°24'33"E, 60.52 feet, to a Point on the East Right-of-Way Line of Ramp "E" of Interstate No. 80, and the POINT OF BEGINNING; Thence continuing N89°24'33"E, 232.95 feet, to the Southwest Corner of Cookson Subdivision, in accordance with the Plat thereof Recorded in Book 1211 at Pages 333-334 of the Records of the Cedar County Recorder's Office; Thence N89°22'28"E, along the South Line of said Cookson Subdivision, 650.25 feet, to the Southeast Corner thereof, and the Southwest Corner of Stoolman's 1st Addition, in accordance with the Plat thereof Recorded in Book 140 at Page 129 of the Records of the Cedar County Recorder's Office; Thence N89°25'17"E, along the South Line of said Stoolman's 1st Addition, and the Easterly projection thereof 303.44 feet, to the Northwest Corner of Lot A of Lot D, in accordance with the Plat thereof Recorded in Book 3 at Page 285 of the Records of the Cedar County Recorder's Office; Thence S01°02'25"E, along the West Line of said Lot A of Lot D, a distance of 885.86 feet, to its intersection with the North Right-of-Way Line of said Interstate No. 80; Thence S85°19'36"E, along said North Right-of-Way Line, 3.75 feet, to a Point 150.00 feet normal distant Northerly from Interstate No. 80 centerline station 724+13; Thence N89°35'43"W, along said North Right-of-Way Line 313.16 feet, to a Point 160.00 feet normal distant Northerly from Interstate No. 80 centerline station 69+00; Thence N68°48'05"W, along said Northerly Right-of-Way Line, 1294.32 feet, to the Southeast Corner of the Tract of Land conveyed by Warranty Deed, as Recorded in Book 668 at Pages 88-89 of the Records of the Cedar County Recorder's Office; Thence N00°23'24"W, along the East Line of said conveyed Tract, 334.42 feet; Thence S89°24'33"W, along a line parallel with and 40.00 feet normal distant Southerly from the North Line of said Conveyed Tract, 169.05 feet, to a Point on the West Line of said Conveyed Tract and the said East Right-of-Way Line of Ramp "E"; Thence N10°07'24"W, along said West Line and East Right-of-Way Line, 40.56 feet, to the Point of Beginning. Said tract of land contains 23.28 Acres, and is subject to easements and restrictions of record.

### DEVELOPMENT CHARACTERISTICS:

## BUILDING CHARACTERISTICS:

8	DUPLEXES	16 UNITS
30	TOWNHOMES	90 UNITS
2	12-PLEX BUILDINGS	24 UNITS
	TOTAL RESIDENTIAL UNITS	130 UNITS

COMMERCIAL SPACE	23,650 SF
HOTEL	14,000 SF
INDEPENDENT LIVING	25,000 SF
STORAGE UNITS	15,600 SF

TOTAL SITE AREA	23.28 ACRES
GREEN SPACE	10.59 ACRES (45%)

## **ORDINANCE 765**

### **AN ORDINANCE RE-ZONING THAT CERTAIN 23.28 ACRE PARCEL OF REAL PROPERTY LOCATED NORTH OF AND ADJACENT TO INTERSTATE 80 AND EAST OF PARKSIDE DRIVE FROM A-1 AGRICULTURAL DISTRICT TO R-1 AND PUD – PLANNED UNIT DEVELOPMENT DISTRICT.**

**WHEREAS**, the Owner of the property described below has petitioned the City of West Branch for a zoning district amendment for property located north of and adjacent to Interstate 80 and east of Parkside Drive, said parcel being legally described as:

#### **A PORTION OF LOT D OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 79 NORTH, RANGE 4 WEST, OF THE FIFTH PRINCIPAL MERIDIAN, WEST BRANCH, CEDAR COUNTY, IOWA, DESCRIBED AS FOLLOWS:**

Commencing at the Northwest Corner of Section 8, Township 79 North, Range 4 West, of the Fifth Principal Meridian, West Branch. Cedar County, Iowa; Thence S00°52'40"E, along the West Line of the Northwest Quarter of said Section 8, a distance of 1637.40 feet; Thence N89°24'33"E, 60.52 feet, to a Point on the East Right-of-Way Line of Ramp "E" of Interstate No. 80, and the POINT OF BEGINNING; Thence continuing N89°24'33"E, 232.95 feet, to the Southwest Corner of Cookson Subdivision, in accordance with the Plat thereof Recorded in Book 1211 at Pages 333-334 of the Records of the Cedar County Recorder's Office; Thence N89°22'29"E, along the South Line of said Cookson Subdivision, 650.25 feet, to the Southeast Corner thereof, and the Southwest Corner of Stoolman's 1st Addition, in accordance with the Plat thereof Recorded in Book 140 at Page 129 of the Records of the Cedar County Recorder's Office; Thence N89°25'17"E, along the South Line of said Stoolman's 1st Addition, and the Easterly projection thereof 803.44 feet, to the Northwest Corner of Lot A of Lot D, in accordance with the Plat thereof Recorded in Book 3 at Page 265 of the Records of the Cedar County Recorder's Office; Thence S01°02'25"E, along the West Line of said Lot A of Lot D, a distance of 885.86 feet, to its intersection with the North Right-of-Way Line of said Interstate No. 80; Thence S85°19'36"W, along said North Right-of-Way Line, 3.75 feet, to a Point 150.00 feet normally distant Northerly from Interstate No. 80 centerline station 72+13; Thence S89°35'43"W, along said North Right-of-Way Line 313.16 feet, to a Point 160.00 feet normally distant Northerly from Interstate No. 80 centerline station 69+00; Thence N68°48'05"W, along said Northerly Right-of-Way Line, 1294.32 feet, to the Southeast Corner of the Tract of Land conveyed by Warranty Deed, as Recorded in Book 668 at Pages 88-89 of the Records of the Cedar County Recorder's Office; Thence N00°23'24"W, along the East Line of said conveyed Tract, 334.42 feet; Thence S89°24'33"W, along a line parallel with and 40.00 feet normally distant Southerly from the North Line of said Conveyed Tract, 169.05 feet, to a Point on the West Line of said Conveyed Tract and the said East Right-of-Way Line of Ramp "E"; Thence N10°07'24"W, along said West Line and East Right-of-Way Line, 40.56 feet, to the Point of Beginning. Said tract of land contains 23.28 Acres, and is subject to easements and restrictions of record.  
(the "Parcel"); and

**WHEREAS**, the Owner has requested that the Parcel be rezoned to be located in a PUD – Planned Unit Development District in place of an AG Agriculture District; and

**WHEREAS**, the West Branch Planning and Zoning Commission has recommended the City Council approve said rezoning request; and

**WHEREAS**, a public hearing has been held on said request pursuant to published notice thereof.

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

**Section 1.** That the zoning map for the City of West Branch is hereby amended to show the Parcel being located in a PUD – Planned Unit Development District in place of AG Agriculture District.

**Section 2.** This ordinance shall be in full force and effect from and after its publication as by law provided.

**Section 3.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 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 \_\_\_\_ day of \_\_\_\_\_, 2019.

**Read First Time: March 4, 2019**  
**Read Second Time: March 18, 2019**  
**Read Third Time: April 1, 2019**

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Roger Laughlin, Mayor

ATTEST: \_\_\_\_\_  
Redmond Jones II, City Administrator/Clerk





## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Resolution 1791</b> – A Resolution Hiring Zachary Murdock As a Police Officer for the City of West Branch, and Setting the Hourly Wage for the Position until Completion of a Law Enforcement Academy.
<b>CITY GOAL:</b>	Promote quality of life including public safety, community pride events, strong citizen involvement, parks and recreation opportunities and investment.
<b>PREPARED BY:</b>	Kory Hanna, Police Sergeant
<b>DATE:</b>	March 11, 2019

### BACKGROUND:

Zachary Murdock has been a dedicated certified reserve police for the City of West Branch for the last two years. He is committed to be a WBPd Officer and understands that he has to live within 8 miles of West Branch. Mr. Murdock took the police written test and scored 100 percent. He is willing to sign an employee agreement that he would reimburse the city of any training costs if he leaves the employment of WB within 4 years. (Declining scale) I would recommend that he get sworn in as West Branch Police Officer. I would suggest that he gets paid \$19.50 dollars an hour prior to completion of the academy and then suggest his salary be increased (to the wage of our last patrol officer) to \$22.90 upon completion of the academy.

<b>STAFF RECOMMENDATION:</b>	Approve Resolution / Move to Action
<b>REVIEWED BY CITY ADMINISTRATOR:</b>	
<b>COUNCIL ACTION:</b>	
<b>MOTION BY:</b>	
<b>SECOND BY:</b>	

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## RESOLUTION 1791

### **A RESOLUTION HIRING ZACK MURDOCK AS A POLICE OFFICER FOR THE CITY OF WEST BRANCH, AND SETTING THE HOURLY WAGE FOR THE POSITION UNTIL COMPLETION OF A LAW ENFORCEMENT ACADEMY.**

**WHEREAS**, the City of West Branch is interested in hiring Zachary Murdock as a police officer; and

**WHEREAS**, the City Attorney will prepare an officer training reimbursement agreement which will also require City Council Approval; and

**WHEREAS**, until such aforementioned agreement is Approved and the Completion of a Law Enforcement Academy is achieved the hourly wage within this resolution shall hold.

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

**Section 1.** That the City of West Brach, Iowa will hire Zachary Murdock 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 payroll 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	Zachary Murdock	19.50	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** This resolution will be effective upon final passage of the City Council.

**Passed and approved this 18<sup>th</sup> day of March 2019.**

\_\_\_\_\_  
Roger Laughlin, Mayor

ATTEST:

\_\_\_\_\_  
Redmond Jones II, City Administrator/Clerk





## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Resolution 1796</b> – A Resolution Setting a Public Hearing on a Proposed Development Agreement with EMV Holdings, LLC (aka Little Lights) which includes Annual Appropriations Tax Increment Rebates.
<b>CITY GOAL:</b>	Develop inviting high profile visual impact projects; including gateways, establishing destination, branding and other projects that reflect tax results.
<b>PREPARED BY:</b>	Kevin Olson, City Attorney
<b>DATE:</b>	February 27, 2019

### BACKGROUND:

This Agreement is to make annual appropriation incremental property tax payments will not be a general obligation of the City, but will be payable solely and only from incremental property tax revenues generated from the Little Lights Event Center development located within the Amended and Restated West Branch Urban Renewal Area. All payments under this Agreement will be subject to annual appropriation of the City Council.

<b>STAFF RECOMMENDATION:</b>	Approve Resolution – Move to Action
<b>REVIEWED BY CITY ADMINISTRATOR:</b>	
<b>COUNCIL ACTION:</b>	
<b>MOTION BY:</b>	
<b>SECOND BY:</b>	

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**NOTICE OF PUBLIC HEARING ON THE APPROVAL OF A DEVELOPMENT  
AGREEMENT WITH EMV HOLDINGS, LLC (LITTLE LIGHTS) AND  
AUTHORIZATION OF ANNUAL APPROPRIATION TAX INCREMENT  
PAYMENTS**

The City Council of the City of West Branch, Cedar County, Iowa, will meet at the City Council Chambers, 110 N. Poplar Street, on the 1<sup>st</sup> day of April, 2019, at 7:00 o'clock p.m. at which time and place a public hearing will be held on the proposal to enter into a Development Agreement with EMV Holdings, LLC. and the City of West Branch in connection with the construction of an event center, which provides for annual appropriation tax increment payments in a total amount not-to-exceed \$150,000, as authorized by Section 403.9 of the Code of Iowa, as amended.

The Agreement to make annual appropriation incremental property tax payments will not be a general obligation of the City, but will be payable solely and only from incremental property tax revenues generated from the event center located within the Amended and Restated West Branch Urban Renewal Area. All payments under this Agreement will be subject to annual appropriation of the City Council.

At the meeting, the City Council will receive oral and written objections from any resident or property owner of the City. Thereafter, the City may, at the meeting, or at an adjournment thereof, take additional action to approve the Development Agreement or may abandon the proposal.

This notice is given by order of the City Council in accordance with Section 403.9 of the Code of Iowa, as amended.

/s/ \_\_\_\_\_  
Redmond Jones II, City Administrator/Clerk

## **DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the “Agreement”) entered into by and between the **City of West Branch, Iowa**, 110 N. Poplar Street, West Branch, Iowa 52358, hereafter referred to as “City”; and **EMV Holdings, LLC**, 281 310<sup>th</sup> Street, West Liberty, Iowa 52776-901, hereafter referred to as “Developer.”

WHEREAS, the Developer is the owner (or holds a long-term land lease) of that certain real property legally described as:

Lot 26, Cedar’s Edge, West Branch, Cedar County, Iowa, according to the recorded plat thereof in Book \_\_\_\_ at Page \_\_\_\_, Records of the Cedar County Recorder

(the “Development Property”); and

WHEREAS, the Developer desires to develop the Development Property as an approximate 13,400 square foot events center that will hosts weddings and other large events on the Development Property (the “Development Project”); and

WHEREAS, the Development Property is located within the West Branch Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, the Developer is willing to construct the Development Property on the Development Property in accordance with the requirements outlined in this Development Agreement.

NOW, THEREFORE, ON THE BASIS OF THE PRECEDING RECITALS, AND FOR THE MUTUAL CONSIDERATION OF ENTERING INTO THIS AGREEMENT, THE DEVELOPER AND CITY AGREE AS FOLLOWS:

**A. Developer’s Obligations.**

1. The Developer shall either acquire the Development Property or enter into a long-term lease on the Development Property in order to facilitate construction of the Development Project.

2. The Developer shall construct the Development Project on the Development Property and shall have received an occupancy permit for said Development Project by the City no later than eighteen (18) months from the date of this Agreement.

3. The Developer, shall operate the Development Project on the Development Property as a events center for a period of ten (10) years following the issuance of an

occupancy permit for the Development Project. In the event that there is a dispute as to whether the Development Project is being operated as an events center, the City's sole opinion shall be the final arbiter of that question.

4. The Developer shall pay, when due, all real estate taxes levied against the Development Property to the Cedar County Treasurer. Prior to receiving any economic development tax increment payments, the Developer shall provide receipts to the City evidencing payment of said real estate taxes. Failure to pay property taxes for any year shall constitute a breach of this Agreement by the Developer.

**B. City's obligations.**

1. In recognition of the Developer's obligations set out above, the City agrees to maintain the tax increment ordinances in effect and to make economic development tax increment payments (the "Payments") to the Developer in each fiscal year during the term of this Agreement, pursuant to Chapters 15A and 403 of the Code of Iowa. Said annual Payments shall be the lesser of the seventy percent (70%) of the incremental tax revenues received by the City from the Development Property by the Cedar County Treasurer, or \$15,000.00, payable in two equal, semi-annual installments.

2. The Payments shall be made on June 1<sup>st</sup> and December 1<sup>st</sup> (the "Payment Date") of each fiscal year. The Developer expressly agrees that no Payment will be made to the Developer if the Developer is not in compliance with this Agreement.

4. The Payments to the Developer contemplated under this Agreement will be for ten (10) fiscal years (a total of 20 payments), the first Payment being made on the first tax payment based upon the assessment for the completed Development Project. (By way of example, if the Project receives an occupancy permit on December 15, 2019, the first Payment contemplated under this Agreement will be based upon the January 1, 2020 tax assessment made by the Cedar County Assessor, and the first Payment would be made December 1, 2021 because taxes payable on January 1, 2020 assessment are paid by October 1 and April 1 of 2021.)

5. The Payments contemplated under this Agreement shall not constitute general obligations of the City, but shall be made solely and only from incremental property taxes received by the City from the Cedar County Treasurer, which are attributable to the Development Property.

6. Each Payment contemplated under this Agreement shall be subject to the annual appropriation of the City Council. Prior to December 1 of each year during the term of this Agreement, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payments due in the following fiscal year 100% of the amount of incremental tax increment revenues to be collected in the following fiscal year. (the "Appropriated Amount"). The Developer expressly agrees that in no event shall the Appropriated Amount, when added to the previous Payments, exceed the \$150,000.00.

The City agrees to certify pursuant to Section 403.19 of the Iowa Code by December 1<sup>st</sup> of each year during the term of this Agreement to the Cedar County Auditor an amount equal to the most recent Appropriated Amount. The City will give notice to the Developer of the amount certified pursuant to Section 403.19 of the Code on or before December 1<sup>st</sup> of each year, for the fiscal year beginning the following July 1<sup>st</sup>. If the City fails to certify an amount to be collected pursuant to said Section 403.19 of the Code for the obligations contemplated under this Agreement, then an event of non-appropriation shall have occurred, as discussed herein. If an event of non-appropriation occurs, the City's obligation to pay pursuant to this Agreement for the fiscal year in question shall cease, and the Developer expressly acknowledges that it has no recourse against the City for said non-appropriation. Future Payments, if any, contemplated under this Agreement shall be subject to future appropriation by the City, all of which shall be contemplated pursuant to said Section 403.19 and certified each December 1<sup>st</sup> for the fiscal year beginning the following July 1<sup>st</sup>.

**C. Administrative Provisions.**

1. Each party represents to the other that the party has full power and authority to enter into this Agreement and that this Agreement is a binding Agreement duly authorized by the governing body of each party.

2. This Agreement represents the entire agreement between the parties and may not be amended or assigned without the express permission of the other party. However, by execution of this Agreement, the City hereby authorizes the Developer to assign the rights to receive the Payments to a private lender, as security, without further action of the City Council and the receipt of a written assignment to receive the Payments from the Developer.

3. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

4. This Agreement shall be deemed to be a contract made under the laws of the State of Iowa, and for all purposes shall be governed by and construed in accordance with the laws of the State of Iowa.

5. If any provision of this Agreement or the application thereof to any person or circumstance shall be invalid, illegal or unenforceable to any extent, the remainder of this Agreement and the application thereof shall not be affected and shall be enforceable to the fullest extent permitted by law. For purposes of this Agreement, the Corridor Drive Improvements and the Heartland Drive Improvements shall be treated as separate projects.

6. That this Agreement may be executed in counterparts.

(Signature pages to follow)

SIGNATURE PAGE OF CITY OF WEST BRANCH, IOWA.

\_\_\_\_\_  
Roger Laughlin, Mayor

ATTEST:

\_\_\_\_\_  
Redmond Jones II, City Administrator/Clerk

**STATE OF IOWA, CEDAR COUNTY, ss:**

This instrument was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Roger Laughlin and Redmond Jones II as Mayor and City Clerk respectively of the City of West Branch, Iowa.

\_\_\_\_\_  
Notary public

SIGNATURE PAGE OF DEVELOPER:

By: \_\_\_\_\_  
Erin Morrison-Vincent, Manager

**STATE OF IOWA, COUNTY OF \_\_\_\_\_:**

On this \_\_\_\_ day of \_\_\_\_\_, 2018, this document was executed by Erin Morrison-Vincent, as Manager of EMV Holdings, LLC.

\_\_\_\_\_  
Notary Public

**RESOLUTION 1796**

**A RESOLUTION SETTING A PUBLIC HEARING ON A PROPOSED  
DEVELOPMENT AGREEMENT WITH EMV HOLDINGS, LLC (AKA LITTLE  
LIGHTS) WHICH INCLUDES ANNUAL APPROPRIATIONS TAX INCREMENT  
REBATES**

**WHEREAS**, the City and the EMV Holdings, LLC (the “Developer”) have negotiated an agreement whereby the developer will construct an event center in the City; and

**WHEREAS**, as part of said development, the City will rebate annual appropriations of tax increment assist the Developer in constructing and operation for said development by granting the Developer annual appropriation incremental tax rebates on said development; and

**WHEREAS**, prior to the execution of a development agreement which includes incremental tax rebates, the City Council must hold a public hearing.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of West Branch, Iowa, that a public hearing on the proposed development agreement be and the same is hereby set for 7:00 p.m. on Monday, April 1, 2019, in the Council Chambers at City Hall, 110 N. Poplar Street, West Branch, Iowa 52358. Further, the City Clerk is directed to publish notice of said public hearing as required by law.

\* \* \* \* \*

**Passed and approved this 18th day of March, 2019.**

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Roger Laughlin, Mayor

ATTEST:

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Redmond Jones II, City Administrator/Clerk





## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b> March 18, 2019	
<b>AGENDA ITEM:</b>	<b>Discussion Item:</b> Casey's Agreement – Old Store Site
<b>CITY GOAL:</b>	Develop inviting high profile visual impact projects; including gateways, establishing destination, branding and other projects that reflect tax results.
<b>PREPARED BY:</b>	Kevin Olson, City Attorney
<b>DATE:</b>	March 11, 2019

### BACKGROUND:

Based on a rebate agreement supported by incremental tax revenues between the City of West Branch and Casey's Marketing Company the Old Casey's Store Site was to be demolished and sold. The timelines set forth in the agreement were not met and were renegotiated into the attached agreement.

<b>STAFF RECOMMENDATION:</b> Seek Direction from City Council
<b>REVIEWED BY CITY ADMINISTRATOR:</b>
<b>COUNCIL ACTION:</b>
<b>MOTION BY:</b>
<b>SECOND BY:</b>

*"Turning Vision into Reality is our Business"*

## **PURCHASE AGREEMENT**

THIS AGREEMENT is hereby made this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by and between Casey's Marketing Company, an Iowa corporation having its principal place of business at One S.E. Convenience Boulevard, Ankeny, Iowa ("Seller"), and the City of West Branch, Iowa, a municipality ("Buyer").

WHEREAS, Seller is the owner of certain real estate in West Branch, Cedar County, Iowa, legally described as follows:

The South Ninety (90) feet of Lot Seventeen (17) in Block Twenty-two (22) of W.H. or Wm. H. Oliphant's Division of the town of Cameron, now the incorporated city of West Branch, Cedar county, Iowa, except the East Six (6) feet there;

(hereinafter the "Real Estate"), the street address of which is 311 East Main, West Branch, Iowa, which said Real Estate contains a vacant building and land; and

WHEREAS, the parties have reached an understanding and agreement pursuant to which the Seller shall donate the Real Estate to the Buyer on the terms and conditions herein provided.

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter set forth, the parties agree as follows:

1. Property Conveyed. For and in consideration of the purchase price hereinafter provided, the Seller shall sell and the Buyer shall purchase, as of the date of Closing, the Real Estate hereinabove described, subject, however, to zoning, reservations, restrictive covenants and easements of record, and easements for public roads, highways, and existing utilities, but free and clear of all liens, claims, and encumbrances of every kind and nature, except as herein provided otherwise.

2. Price and payment. The purchase price shall be One Dollar (\$1.00) and other good and valuable consideration. In addition, Buyer agrees to pay all costs associated with closing the Real Estate transaction, including, but not limited to, recording costs, title commitment fees and closing costs, if any.

3. Taxes and Assessments. Seller shall pay all real estate taxes, personal property taxes, and special assessments which are a lien on the Real Estate as of the date of the Closing. No taxes in arrears will be prorated. All taxes and assessments that may be levied or imposed after the date of Closing shall be paid by the Buyer. Buyer understands that they will not be receiving a tax proration at the time of Closing.

4. Possession. Possession of the Real Estate shall be delivered to the Buyer as of the Closing.

5. Title Evidence. The Seller shall provide to Buyer the Abstract of Title to the Real Estate hereinabove described. The Buyer shall then have the responsibility to update the Abstract,

at Buyer's expense. The Seller shall have a further reasonable time to correct any title objections or deficiencies which may be found to exist. If Seller is unable to produce marketable title in conformity with this contract within a reasonable period of time, then in addition to any other remedies available under applicable law, the Buyer shall have the option to declare this agreement null and void.

6. Environmental Matters. The Buyer acknowledges that the Real Estate has heretofore been used for the retail sale of gasoline and other motor fuels from underground storage tanks ("USTs"). The parties agree that the Seller shall have no responsibility for any contamination arising after the Date of Closing. With regard to any contamination existing prior to the Date of Closing, Seller's only responsibility shall be to conform to any requirements of governmental regulatory entities, pursuant to state or federal law. This provision shall survive the Closing hereunder.

The Seller and Buyer acknowledge that the sale by Seller and acceptance by Buyer of the tract of land and any improvements is "AS IS" and "WITH ALL FAULTS," and EXCEPT AS SPECIFICALLY SET FORTH HEREIN, THE SELLER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE ABSENCE OR PRESENCE OF ENVIRONMENTAL HAZARDS, INCLUDING BUT NOT LIMITED TO CHEMICALS, HAZARDOUS WASTES, AND HAZARDOUS SUBSTANCES, WHICH MAY BE ON, IN OR UNDER THE TRACT OF LAND, PERSONAL PROPERTY, AND INVENTORY, AND THE SELLER MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE COMPLIANCE OF PRIOR USES ON OR PRESENT CONDITIONS OF THE TRACT OF LAND, PERSONAL PROPERTY, AND INVENTORY UNDER APPLICABLE FEDERAL, STATE, AND LOCAL ENVIRONMENTAL LAWS, INCLUDING BUT NOT LIMITED TO the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 et. seq.; the Clean Air Act, 42 U.S.C. §§ 7401 et. seq., the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 et. Seq., the Toxic Substances Control Act, 15 U.S.C. §§ 2601 et. Seq., the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601 et. Seq., and any applicable state or local laws.

- A. Seller and Buyer acknowledge and agree that Buyer will be given the opportunity to make reasonable investigation of the prior uses and existing conditions of the tract of land and that Seller will make a good faith and full disclosure of such prior uses and existing conditions of which Seller is aware. Seller agrees to provide open access to Seller's records regarding the property and any environmental issues.

As a result of the above-described investigation and/or disclosures, if Buyer decides, in its sole discretion and judgment, not to proceed with the sale and purchase, Buyer may cancel this Agreement by providing written notice to the Seller prior to the closing, and Buyer and Seller shall promptly refund any earnest money deposit and down payment to Buyer, and this Agreement shall be null, void, and of no effect.



- B. Buyer acknowledges that it has been given the opportunity to make reasonable investigation of the prior uses and existing conditions of the tract of land and that Seller has made a good faith disclosure of such prior uses and existing conditions of which Seller is aware. Seller has provided open access to Seller's records regarding the property and any environmental issues.
- C. For good and valuable consideration, the receipt of which is acknowledged, and subject to Seller's obligations as set forth in the first paragraph of Section 11, the Seller and Buyer hereby agree with respect to the tract of land as follows:
- (1). That for said consideration, Buyer hereby agrees, warrants, and covenants to RELEASE, ACQUIT and FOREVER DISCHARGE Seller from any and all claims, demand, causes of action of whatsoever nature, including without limitation all claims, demands, and causes of action for contribution, indemnity, strict liability, or negligence on the part of the Seller, relating to or in any way arising out of any noncompliance under environmental laws of the tract of land or out of any property damage or personal injury alleged to be caused by environmental conditions of the tract of land, personal property, and inventory, or the payment of any amounts whether by judgment or by settlement in such suits.
  - (2). That for the same consideration, Buyer now warrants, agrees, and covenants not to sue Seller upon any cause of action for indemnity, contribution, strict liability, or negligence on the part of Seller, that in any way relates to or arises out of any noncompliance under environmental laws of the tract of land or out of any property damage or personal injury alleged to be caused by environmental conditions of the tract of land or the payment of any amounts whether by judgment or by settlement in such suits.
  - (3). That for the same consideration, Buyer hereby agrees to HOLD HARMLESS Seller from any and all claims, demands, and causes of action of whatsoever nature, including without limitation all claims, demand, and causes of action for contribution, indemnity, strict liability, or negligence on the part of the Seller, and also including without limitation, all costs, expenses, and legal fees in defending same that in any way relate to or arise out of any noncompliance under environmental laws of the tract of land or out of any property damage or personal injury alleged to be caused by environmental conditions of the tract of land, personal property, and inventory, or the payment of any amounts whether by judgment or by settlement in such suits.

**This provision shall survive the Closing hereunder.**

7. Closing. The parties shall close this transaction on April 1, 2019, or such other date as the parties may mutually agree, which date shall be known as the "Date of Closing." At the

Closing, Seller shall convey the Real Estate to the Buyer by Warranty Deed, free and clear of all liens, restrictions, and encumbrances, except as herein provided.

8. Condition of Property Conveyed. The Real Estate, as defined in paragraph 1 of this Agreement, is conveyed by Seller and accepted by Buyer "AS IS, WHERE IS", and Seller makes no warranties concerning the condition of the same. The Buyer shall have the right at any time prior to the closing to inspect the Real Estate in order to verify the condition of the same. Should Buyer, upon performing the inspection above, determine that the cost of clean-up or repairs is such that it would be impractical to proceed with the purchase, then Buyer shall notify Seller of their election to cancel this Agreement and Buyer shall immediately be refunded its earnest money payment.

9. Environmental Matters. Buyer acknowledges that the Real Estate has heretofore been used for the retail sale of gasoline and other motor fuels from underground storage tanks (hereinafter the "USTs"), and that the USTs, as well as underground product lines and fuel dispensers, have been removed from the Real Estate. With regard to any contamination existing prior to the Date of Closing, Seller's only responsibility shall be to conform to any requirements of the Iowa Department of Natural Resources (DNR), pursuant to state or federal law. **This provision shall survive Closing hereunder.**

10. Restrictive Covenant. In further consideration hereof, Buyer covenants and agrees for itself, its successors and assigns that, for a period of fifteen (15) years from and after the date the Real Estate is conveyed, the Real Estate will not be used for, or in conjunction with, any business that includes the retail sale of gasoline or other motor fuels; cigarettes, including all electronic cigarettes and other tobacco products; groceries; alcoholic beverages; or, prepared foods, including sub sandwiches, pizza and donuts. This covenant shall run with the land and shall be binding upon all assignees, transferees, and successors-in-interest to the Real Estate for the said term of fifteen (15) years. This provision shall survive Closing hereunder and shall be included in the warranty deed to be delivered at Closing.

11. Seller's Remedies. If the Buyer fails to timely perform this Agreement then the Seller, in addition to any other rights or remedies at law or in equity available under applicable law, shall be entitled to rescind this Agreement and refund any monies paid by the Buyer hereunder.

12. Buyer's Remedies. If the Seller fails to timely perform this Agreement, then the Buyer, in addition to any other rights and remedies at law or in equity available under applicable law, shall be entitled to rescind this agreement and be refunded any monies paid by the Buyer hereunder.

13. Time of the Essence. The Buyer and Seller agree that time is of the essence of this agreement and all payments must be made promptly in accordance with the terms hereof.

14. No Assignments of Rights. Prior to the Closing, neither party hereto shall sell, assign, or transfer this agreement or any interest acquired hereunder in or to the Real Estate, without the written consent of the other party.



15. Exclusive Agreement. The Buyer and Seller agree that all understandings and agreements hereto had between them are merged in this agreement which alone fully and completely expresses their agreement and this agreement is entered into after full investigation, neither Buyer nor Seller relying upon any statement or representation not embodied in this agreement by the other. This agreement may not be changed or altered orally.

16. Construction. In the construction of this agreement, the use of the singular shall include the plural, and the use of masculine shall include the feminine.

17. Successors Bound. This agreement shall be binding on the Buyer and Seller hereto, their heirs, executors, administrators, devisees, legatees, successors and assigns.

18. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa.

IN WITNESS WHEREOF, the parties have executed this agreement as of the date and year first above written.

**BUYER**

**SELLER**

CITY OF WEST BRANCH

CASEY'S MARKETING COMPANY

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

By: \_\_\_\_\_  
Michael R. Richardson, President

### **ADDENDUM TO PURCHASE AGREEMENT**

This Addendum, consisting of two pages, is an integral part of the Purchase Agreement between, the City of West Branch, Buyer, and Casey's Marketing Company, Seller, dated \_\_\_\_\_, 2019, with respect to the property known as 311 E. Main, West Branch, Cedar County, Iowa.

#### **ADDITIONAL PROVISIONS:**

19. Demolition. Seller shall demolish and clear all structures on the Real Estate. Seller's demolition obligations shall include the securing of all permits for demolition; the removal and proper disposal of existing building and structures (including any asbestos remediation); the removal and proper disposal of foundations and basement slabs, the removal and proper disposal of contaminated soils and the backfill and compaction of areas where foundations/basement slabs of contaminated soils are removed; the disconnecting, capping and plugging of all utilities.
20. Site Grading. Upon completion of the demolition described in paragraph 23, Seller, on the prior building site, shall lay gravel level with the slab foundation and/or ground.
21. Easement. Buyer shall grant to Seller upon the transfer of 311 East Main, West Branch, Iowa, any necessary easements Seller may require for continued monitoring and compliance with environmental standards as delineated herein. Buyer and Seller shall cooperate in the execution of any and all necessary easement and monitoring agreements.

#### **BUYER**

CITY OF WEST BRANCH

By: \_\_\_\_\_ (date)

#### **SELLER**

CASEY'S MARKETING COMPANY

By: \_\_\_\_\_ (date)  
Michael R. Richardson, President



## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Resolution 1792</b> – Approving a Fireworks Agreement with J&M Displays for Hoover Hometown Days.
<b>CITY GOAL:</b>	Develop inviting high profile visual impact projects; including gateways, establishing destination, branding and other projects that reflect tax results.
<b>PREPARED BY:</b>	Redmond Jones II, City Administrator
<b>DATE:</b>	March 12, 2019

### BACKGROUND:

Hoover's Hometown Days is an event that the community recognize the talents and contributions of Our Nation's 31<sup>st</sup> President Herbert Hoover. The fireworks display is typically the finale to this special event.

<b>STAFF RECOMMENDATION:</b>	Approve Resolution – Move to Action
<b>REVIEWED BY CITY ADMINISTRATOR:</b>	
<b>COUNCIL ACTION:</b>	
<b>MOTION BY:</b>	
<b>SECOND BY:</b>	

*"Turning Vision into Reality is our Business"*



## FIREWORKS DISPLAY AGREEMENT

THIS AGREEMENT is made and entered into this 18 th day of March, 2019, 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 City of West Branch, hereinafter referred to as "Buyer".

Seller shall furnish to Buyer one (1) fireworks display, as per the \$25,000.00 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 August 3rd, 2019 at approximately 9 :30 pm, weather permitting.

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

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

X 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.

\$ 5,000 in full by June 1st, 2019 (70 days prior to the event date).  
The Buyer will receive the 8% prepayment bonus product in this fireworks display.

\$ 20,000 in full by July 1st, 2019 (30 days prior to event date).  
The Buyer will receive the 5% prepayment bonus product in this fireworks display.

**3. Weather Delay/Cancellation.** Buyers intending to postpone a display due to inclement weather should contact J&M Displays as soon as possible to keep postponement fees to a minimum.

The following postponement fees are applicable *only* if the display is re-scheduled in the same calendar year.

- Displays postponed prior to being picked up at the magazine for delivery incur no postponement fee unless there are new costs associated with permit changes or display set-up has occurred prior to product delivery.
- Displays postponed after they are in transit to the shoot site will be charged the full delivery fee.
- Displays postponed after set-up by the shoot team will be charged delivery fee and 1.5 times the shoot fee for hand-fired displays and double the shoot fee for E-fired displays.
- Display set-ups that are allowed to remain on site overnight after a postponement to the following day will incur a fee of eight-percent (8%) of the total display budget. This will cover 24-hour security watch of fireworks and additional labor hours of shoot crew.

Displays cancelled and NOT re-scheduled within the same calendar year will be charged thirty-percent (30%) of the total display budget. This fee will cover all labor associated with order processing, packing & shipping, display set-up if applicable and re-stocking fees.

\*\* Displays cancelled due to circumstances beyond customers control, such as burn bans or other bans issued by the AHJ will be considered on a case by case basis.

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 September 2 or another date as agreed to by both parties. Once display set-up has begun, the determination to cancel the fireworks display because of inclement weather or unsafe weather conditions shall rest within the sole discretion of the AHJ, Seller, and the lead pyrotechnician.

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

X 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 1792**

**RESOLUTION APPROVING A FIREWORKS AGREEMENT WITH J&M DISPLAYS  
FOR HOOVER HOMETOWN DAYS.**

**WHEREAS**, the City's premier event of the year is Hoover's Hometown Days. A day that the community recognize the talents and contributions of Our Nation's 31<sup>st</sup> President of the United States, Herbert Hoover; and

**WHEREAS**, the fiscal year 2019 – 2020 budget for Hoover's Hometown Days include funding for entertainment and services for the event; and

**WHEREAS**, J&M Displays, a firm that has provided this service to the City in the past, and have submitted a proposed service agreement in the amount of \$25,000 to provide a fireworks display in the Herbert Hoover National Historic Site. J&M Displays, also understands and is responsible for submitting all documentation required to gain a Special Use Permit from the National Park Service; which will be needed to provide a fireworks display in the National Park; 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 are hereby approved. Further, the Mayor is directed to execute the agreements on behalf of the City.

\* \* \* \* \*

**Passed and approved this 18<sup>th</sup> day of March, 2019.**

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Roger Laughlin, Mayor

ATTEST:

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Redmond Jones II, City Administrator/Clerk





## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Resolution 1793</b> – A Resolution Approving a Memorandum of Understanding with the West Branch Community School District relating to the Summer League Programs.
<b>CITY GOAL:</b>	Promote quality of life including public safety, community pride events, strong citizen involvement, parks and recreation opportunities and investment.
<b>PREPARED BY:</b>	Melissa Russel, Parks and Recreation Director
<b>DATE:</b>	March 12, 2019

### BACKGROUND:

This agreement supports the merger between the City and Summer League programs, as well as helps to qualify the use of the lights, buildings and equipment located at “summer league” fields. This agreement would be in place April 1, 2019-March 31, 2020.

Through collaborative discussions with Melissa Russell, City Parks and Recreation Director and Marty Jimmerson, Superintendent of Schools the following parameters, understandings and agreements have been established regarding the use of District owned (fields), light poles and meter box used for the youth boys’ baseball and youth girls’ softball diamonds and the concession and storage stands located near the “summer league” field areas.

The West Branch “Facility, Sport Field Use and Fee Policy” has been changed at the summer league fields to align with the maintenance fee the school charges youth sports groups for tournaments and events. This fee will not affect West Branch Parks and Recreation teams since they already pay maintenance through their registration fees. Scrimmages and games against teams not in the district will be considered an event and will be charged \$20. There is no fee for weekly practices at the summer league fields.

#### Event and Tournament Fee at Summer League Fields

Events / tournaments requiring (4) hours or less of facilities time will be charged \$20 dollars for post maintenance fee. Events / tournaments requiring (4) hours or more of facilities time will be charged \$30 dollars per facility (field) for facilities use, in addition to a \$30 fee for post-maintenance.

<b>STAFF RECOMMENDATION:</b>	Approve the Resolution – Move to Action
<b>REVIEWED BY CITY ADMINISTRATOR:</b>	
<b>COUNCIL ACTION:</b>	
<b>MOTION BY:</b>	
<b>SECOND BY:</b>	

*"Turning Vision into Reality is our Business"*

March 11, 2019

**TO: West Branch Board of Education and City of West Branch**

**RE: Youth Baseball / Youth Softball Fields (Legion Field area) Memorandum of Understanding between City of West Branch and the West Branch Community School District**

For clarification, the “summer league” fields refer to the east and west ball diamonds located near the tree line on the hill south-west of the high school. The fields are owned by the school district and have historically been used by the summer league organization. This agreement supports the merger between the City and Summer League programs, as well as helps to qualify the use of the lights, buildings and equipment located at “summer league” fields.

Through collaborative discussions with Melissa Russell, City Parks and Recreation Director and Marty Jimmerson, Superintendent of Schools the following parameters, understandings and agreements have been established regarding the use of District owned (fields), light poles and meter box used for the youth boys’ baseball and youth girls’ softball diamonds and the concession and storage stands located near the “summer league” field areas.

Background: The lights have been used to support youth football practices (YSA teams), summer league, USSSA and ASA teams, as well as occasional use the District’s JV football teams and flag football teams. The poles and lights were donated by generous citizens many years ago. Field lights for the youth boys’ field and youth girls’ field are on this meter. For clarity, the “summer league” ball fields, backstop, fences, buildings, batting cages, field lights and poles (electric services) located at the “summer league” fields are the property of the West Branch Community School District.

District utility bills related to that meter totaled \$1,210 for the 2018 year. Previous years have averaged around \$1100. This is not an adsorbent amount, but as the District begins implementation of future facilities improvements, clear operational control is essential.

The following parameters and understands were developed collaboratively:

**Part I: General Agreements and Understandings**

- Both “summer league” ball fields, playing surfaces, backstop, fences, buildings, batting cages, field lighting and light poles, and the electric service and all “summer league” fields are the property of the West Branch Community School District.
- The school will retain full ownership of both “summer league” ball fields, playing surfaces, backstop, fences, buildings, batting cages, field lighting and light poles, and the electric service.
- The school district takes formal possession of electric meter and lights for fields at the “summer league” fields.
- The concession stand will be used by the summer league / City for only a few tournaments a year and will remain available to ASA, USSSA, YSA and City flag football use.
- There is electric in the storage side of the concession stand and it will remain active and usable for pitching machines and batting cage use.

- Electricity for Legion Field concession stand, press box, batting cages are on this same electrical service and will remain active and usable.
- The District will continue to provide mowing support as in the past.
- The District will continue to order, maintain and pay for port-o-potties and large waste bins. (District absorbs cost of a few hundred dollars a year.)
- Direct playing field maintenance such a backstop / fence repairs, field issues, dirt surface repairs and bases will be completed by the City to the satisfaction of the District.
- The City / organizations are still responsible for supplying lime, field markings and equipment, rakes, tractors and drag and gas.
- The City / organizations are still responsible for summer league / league batting cage nets, poles, ground surface, pitching machine, and related balls and equipment.
- Individual teams are responsible for getting trash into the trash cans (provided by City). The City will ensure that these are emptied regularly and the grounds are kept clean to the satisfaction of the District.
- The City will take / retain ownership and full responsibility for the tractor, field drags, and push mower used for these fields, all field markings equipment, all umpire gear, all pitching machines, batting cage nets and poles, all bases, all team equipment, (bats, catching gear, balls, helmets, etc.)/
- The City will take / retain ownership and full responsibility of concession stand equipment (popcorn maker, refrigerators / freezers, etc.) currently located in the summer league building and generally known as the “summer league’s” materials.

## **Part II: Scheduling of Fields**

- The City will maintain the field use schedule between April 1<sup>st</sup> (first week of April) and July 1<sup>st</sup> (first week of July) for the “summer league” boys and girls diamonds.
- Usage of the facilities by the City for the purposes of recreational and competitive baseball and softball will be permitted as stated above for a period of one year. (April 1, 2019 – March 31, 2020)

**Monday – Thursday:** Summer league priority on the boys’ and girls’ diamonds from the start of the second week in April until the start of the first week in July.

- 1-2 grade boys’ and girls’ teams-approx. 60 kids
- 3 - 4 grade boys’ teams - approx. 25 kids
- 3 - 6 grade girls’ teams - approx. 25 kids

**Friday – Sunday:** USSSA and ASA team priority on the boys’ and girls’ diamonds from the start of the second week in April until the start of the first week in July.

- USSSA competitive boys' teams- approx. 20 kids
  - ASA competitive girls' teams - approx. 30 kids
- USSSA, ASA, and other competitive teams will fall under the umbrella of the city summer league program. They will continue to share responsibility for daily care and maintenance of the fields, share in the cost of maintenance and maintenance items, and schedule field usage through the city. The teams will continue to use the provided supplies and equipment for preparation and care of the playing surfaces. USSSA and ASA are responsible for their own insurance per their organizations requirements or as directed by the city.
  - Any further development, beyond general maintenance and repair to the "summer league" baseball and softball fields can only occur with the school's permission.

**Part III: Fees and Account Transfers per Merger**

- The City's Parks and Recreation Division will establish an annual budget of \$1000 to reimburse the district for use of fields and lights as needed; summer league use, USSA use, ASA team use between April 1st (first week of April) and July 1st (first week of July) each year.
- The Legion baseball complex is not, and has not been a part of summer league. They are their own stand-alone organization and not part of this agreement except for electricity usage.

\_\_\_\_\_  
City Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Board President

\_\_\_\_\_  
Date

**RESOLUTION 1793**

**A RESOLUTION APPROVING A MEMORANDUM OF UNDERSTANDING WITH  
THE WEST BRANCH COMMUNITY SCHOOL DISTRICT RELATING TO THE  
SUMMER LEAGUE PROGRAMS.**

**WHEREAS**, the West Branch Community School District and the City of West Branch have common interest in supporting sports and activities during the summer months; and

**WHEREAS**, Summer League Programs has the power to shape kids and adults alike with positive experiences by creating an environment for a healthy outlet for physical activity and while these benefits are innumerable; and

**WHEREAS**, it is important for the School District and the City to seek partnerships where possible to provide services when our goals are shared; and

**WHEREAS**, the Memorandum of Understanding related to this resolution explains the areas of commitment as it relates to the implementation of the Summer League Program; and

**WHEREAS**, it is now necessary to approve the Memorandum of Understanding.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of West Branch, Iowa. That the aforementioned Memorandum of Understanding is hereby accepted.

\* \* \* \* \*

**Passed and approved this 18<sup>th</sup> day of March, 2019.**

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Roger Laughlin, Mayor

ATTEST:

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Redmond Jones II, City Administrator/Clerk





## REQUEST FOR COUNCIL CONSIDERATION

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Resolution 1794</b> – A Resolution Approving Various Contracts for the Hoover’s Hometown Days Celebration in the Amount of \$6,530.17.
<b>CITY GOAL:</b>	Develop inviting high profile visual impact projects; including gateways, establishing destination, branding and other projects that reflect tax results.
<b>PREPARED BY:</b>	Melissa Russell, Parks and Recreation Director
<b>DATE:</b>	March 12, 2019

### BACKGROUND:

Vendor	Contracts
Coralville Parks & Recreation	\$ 925.00
Big Ten Rentals	\$1,166.17
Jordan Danielsen	\$ 600.00
Martika Daniels	\$ 575.00
Pony Rides	\$1,280.00
Port O Jonny	\$ 784.00
Vintage	\$ 200.00
Yotty’s	<u>\$1,000.00</u>
Total	\$6,530.17

<b>STAFF RECOMMENDATION:</b> Approve Resolution – Move to Action
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<b>REVIEWED BY CITY ADMINISTRATOR:</b>
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<b>COUNCIL ACTION:</b>
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<b>MOTION BY:</b>
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<b>SECOND BY:</b>
-------------------

*"Turning Vision into Reality is our Business"*

**COMMUNITY SHOWCASE RENTAL**  
Coralville Parks and Recreation Department  
1506 8<sup>th</sup> Street, Coralville, Iowa 52241  
Phone (319) 248-1750; Fax (319) 248-1899  
sprochaska@coralville.org



Date March 7, 2019

Individual or Organization City of West Branch Group Representative Melissa Russell

Address 110 N. Poplar, PO Box 218 West Branch, IA 52358

643-4212 Day 930-0393 Cell Saturday, 3 2019  
Day Phone / Evening Phone Date Requested

For the purpose of Music Concert Event start and end time (# of people performing)  
Set up by 11:00 a.m. Friday.

Contact person at the site Melissa Russell

Showcase delivered on Friday August 2 by 11:00am. Showcase removed Sunday, August 4<sup>th</sup> by 11:00 a.m. or before. Location in the National Park facing the museum. The exact positioning is something the NPS will need to determine. If the removal is delayed due to a dead battery caused by the lights being left on the stage, additional fees will be charged.

Yes Power available (110 volt outlets, distance)

Large Staging needed (size and layout)

No Public address system (complete with microphone and stands)

Special Needs: Showcase will be set up in the Library parking lot/adjoining property.

*Should the showcase need to be pulled or towed out of an area due to the placement on a non-hard surface and become stuck, the costs will be assessed to the person/s renting the showcase.*

I accept responsibility for care of the showcase and its accessories and agree to pay for any damages or loss. I agree to assume responsibility for the rental organization and performance group's adherence to regulations and policy set forth.

Signature	Address	Phone
Base Fee <u>\$525 + \$400 Sunday Removal</u>		Deposit Due <u>N/A</u> (1/3 of Base Fee due with contract)
Hourly Fee <u>\$75 (3 hours of set up/tear down included in base fee) Additional hour estimate:</u>		
Mileage <u>N/A</u>		Balance Due – <u>will be billed after the event</u>
Total Estimate <u>\$925</u>		Date Paid <u></u>

**Hoover Hometown Days**

**For Parks Department use on delivery.**

Delivery Signature: Group Representative Showcase Staff Initials

*I have approved the location of the Showcase and have received training on opening and closing the stage.*

## TERMS AND CONDITIONS OF RENTAL CONTRACT

(1) For good and valuable consideration, you and Big Ten Rentals, Inc. agree as follows: As used in this Contract, "Page 1" refers to the first page or "face" of this Contract, "Contract" means Page 1 together with these Terms and Conditions of Rental Contract. "Rented item(s)" or "item(s)" means the items rented or sold to you, as identified on Page 1 (including any "instructions" provided per the terms of Section 5 below). "Customer," "Lessee," "you" and "your" mean the customer or "Lessee" identified on Page 1, and "BTR," "Lessor," "we," "us" and "our" mean Big Ten Rentals Incorporated, an Iowa corporation d/b/a "Big Ten Rentals, Inc." "Contract" means Page 1 together with these Terms and Conditions of Rental Contract.

(2) You agree to rent the Rented Item(s) from BTR for the period(s) specified on Page 1 (the "Term"), and to pay our stated rental rate(s) (the "Rent"), together with any other charges accruing hereunder, without proration, reduction or setoff, until all Rented Item(s) are returned to and accepted by BTR. Except only as otherwise specifically agreed in writing by BTR, all rental rates are for normal use of the Rented Item(s) on: (a) a ~~per-hour~~ basis during the Term, not exceeding 8 hours per day, 40 hours per week, and/or 160 hours per 4-week period with respect to equipment and tools; and (b) a single-day/single-event basis with respect to party and special events-related items (e.g., tents, inflatables, tables, chairs, and other special events items). The Rent will be increased for overtime, overtime and late returns, as well as misuse. No allowance will be made for weekends, holidays, time in transit or any other period of nonuse. We have estimated the Rent based on your estimate of the length of the Term (the "Estimated Rent"). You agree: (a) to pay BTR: (i) the Estimated Rent, together with any deposit specified on Page 1 (or if none, 35% of the Estimated Rent) at least 8 days prior to commencement of the Term (the "Prepayment"); and (ii) any additional amounts coming due hereunder upon demand; and (b) that: (i) BTR may deduct any amount you owe us from any Prepayment; (ii) no interest will accrue on any Prepayment; (iii) no Prepayment will be deemed a limit of your liability hereunder; and (iv) all Prepayments are **NON-REFUNDABLE** unless otherwise specifically agreed by BTR in writing. Anything remaining with, in or on any Rented Item(s) upon return will, at our option, be deemed surrendered and abandoned, and will become the property of BTR.

(3) You will ensure that each item is used safely and only: (a) for its intended purpose(s); (b) within its rated capacity; (c) at the address set forth on Page 1 (the "Site"); (d) by properly qualified, certified, and if required, licensed, operators; and (e) otherwise in full compliance with the instructions, as well as all applicable laws, rules and regulations, at all times. You will not, nor will you permit anyone else to: (i) abuse, misuse, overuse, remove, modify, tamper, modify, damage or destroy any Rented item; (ii) violate any applicable policy of insurance or warranty; or (iii) take possession of or exercise control over any Rented item without our prior consent, granted, conditioned or withheld in our sole discretion.

(4) Upon your execution of this Contract (or upon later delivery of the item(s), unless you immediately reject it/them), you represent, warrant, acknowledge and agree that: (a) each item: (i) is in good repair and operating condition, free of defects, and is in all ways acceptable to you; (ii) is appropriate for your purposes; and (iii) was selected solely by you and based on any recommendation by BTR; and (b) you: (i) have received, read and understood all training, instructions, user manuals, maintenance requirements, and other information, if any (including all applicable EPA, OSHA, NEPA, ASSE, ANSI and Standards) regarding the proper and safe transportation, installation, fitting, use, maintenance and storage of such item(s), collectively, "instructions"; (ii) will fully comply with the same (including EPA, NEPA, ASSE, ANSI and Standards); (iii) have been made aware of the need to use all recommended and required safety equipment; (iv) will use each item only for its intended purpose, in a reasonable and safe manner; (v) will give any required notice(s) to governmental authorities; (vi) will timely obtain all necessary licenses, authorizations and approvals; (vii) will ensure all underground utilities are clearly marked before driving stakes or using any item(s) to disturb the ground surface (call BTR at 888-292-3989 or go to [www.bigtentrentals.com](http://www.bigtentrentals.com) at least 48 hours in advance); (viii) will immediately cease using any item that breaks down, malfunctions, or proves defective (a "Malfunction"); (ix) will create and post in a conspicuous place an OSHA-compliant EVACUATION PLAN for all rented items; and (x) will ensure that all others comply with this Section.

(5) You will protect each Rented item at all times, keep it safely and securely stored and locked when not in use, and return it to BTR on time, clean and otherwise in good order, condition and repair, properly serviced and maintained, and if applicable, full of the appropriate fuel, fluid and lubricants. If you fail to do so, you will pay BTR: (a) Rent for each succeeding full rental period until all Rented item(s) have been returned or replaced as required; and (b) any and all costs and expenses, both direct and indirect, BTR may incur in connection with your failure to do so.

(6) If we agree to deliver and/or retrieve any item(s), you will: (a) pay our regular charge(s) for such service(s), and for time spent awaiting access to the Site; (b) be present for delivery and retrieval; and (c) ensure our personnel have timely and adequate access to the Site. ~~We will not be responsible for delays(s) caused by the acts or omissions of any other parties~~, including providers of other equipment or services ("Other Providers") for which you hereby release and agree to indemnify and hold harmless BTR. If you are not present upon delivery and/or retrieval of any item(s), you agree to accept the statements of our representatives regarding the same (including status, condition and quantities).

(7) Certain (typically special events) items may be delivered on pallets, or in crates, cartons or boxes, and may be stacked, bagged, racked, folded, rolled and/or strapped ("Packed"). Upon return, you will ensure that all such Rented items are properly Packed. ~~YOU AGREE NOT TO PACK ANY RENTED ITEM UNLESS IT IS COMPLETELY DRY. PACKING WET OR DAMP RENTED ITEMS MAY RESULT IN MOLD OR MILDEW FOR WHICH YOU WILL BE LIABLE.~~

(8) In the event of a Malfunction, you will immediately notify BTR, and provided the Malfunction did not result from your breach of this Contract, we will, at our option: (a) repair the subject Rented item; (b) provide you with a comparable item as soon as possible; or (c) return the unused portion of the Rent and cancel this Contract. The foregoing remedy is **EXCLUSIVE**. BTR will have no other obligations regarding Malfunctions, all of which you hereby waive.

(9) BTR owns and will retain title to all Rented items at all times. Your only right with respect to such item(s) is to use it/them in full compliance with this Contract during the Term. You will not permit the taking or existence of any lien, claim or encumbrance on any Rented item.

(10) ~~You may not transfer, sublease, or assign any Rented Item(s)~~ or this Contract without BTR's prior written consent. BTR may sell and/or assign all or any part of its interests in the Rented Item(s) and/or this Contract, in which event, you will assign to the assignee, and such assignee shall not be responsible for, any pre-existing obligations or liabilities of BTR.

(11) You will maintain all insurance BTR deems necessary, including (unless we waive it), at least: (a) commercial general liability insurance with minimum limits of \$1,000,000 USD per occurrence; and (b) "all-risk" or inland marine insurance (or the equivalent), covering all loss of, and damage to, the Rented item(s) (including while in transit) for the full (new) replacement value thereof; (c) hired auto liability insurance with limits of not less than \$1,000,000 USD per occurrence; and (d) host liquor liability insurance. All such policies shall be primary; shall name BTR as an additional insured and loss payee; shall be primary and non-contributory; and shall waive subrogation against BTR.

(12) If and only if you have elected to purchase the Optional Damage Waiver (set forth on Page 1, if available) and paid the Damage Waiver Fee prior to commencement of the Term, you will have no liability to BTR for physical damage to covered Rented Item(s), except that you will remain liable in all events for: (a) loss or damage caused in whole or in part by: (i) your breach of any provision of this Contract; (ii) theft or other failure to return Rented Item(s); (iii) misuse and/or abuse; (iv) vandalism and/or malicious mischief; (v) use of alcohol or drugs; and (vi) all repair/replacement costs exceeding \$500 with respect to rented trailers. **DAMAGE WAIVER IS NOT INSURANCE, NOR IS IT A WARRANTY.** Your insurance will continue to apply for our benefit and will remain primary (we will be subrogated to your rights under such policy). You agree to assign to BTR all of your rights hereunder and to take all actions necessary to assist us in recovering from your insurer for all damages covered by Damage Waiver.

(13) **WARNINGS:** (A) TENTS, INFLATABLES, LAWN & GARDEN EQUIPMENT, LIFTS, SAWS, PRESSURE WASHERS, SEWER SNAKES, AND EQUIPMENT USED FOR LIFTING, LOADING, HAMMERING, STAPLING, CUTTING, BORING, CHIPPING, EDGING, SANDING, GRINDING, COMPACTING, DIGGING, NAILING, WELDING, SPRAYING, HEATING, COOKING, TOWING, AND/OR HAULING IS/ARE **INHERENTLY DANGEROUS** AND SHOULD BE USED, MOVED, MAINTAINED AND REPAIRED WITH GREAT CARE ONLY BY PROPERLY QUALIFIED, INSTRUCTED, AND IF APPLICABLE, LICENSED, INDIVIDUALS; AND (B) TENTS, INFLATABLES, AND OTHER TEMPORARY STRUCTURES MAY MOVE, LEAK, COLLAPSE, OVERTURN OR CATCH FIRE, PARTICULARLY DURING HAZARDOUS WEATHER (e.g., rain, snow, sleet, hail and winds ~~not less than 25 mph~~). If hazardous weather occurs or threatens, you will: (a) cause all persons to discontinue using and EVACUATE the Rented Item(s); (b) protect such item(s); and (c) permit BTR to delay delivery, installation AND/OR USE of, or dismantle and/or retrieve ANY of, SUCH Item(s) (without obligating us to do so) TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW. **YOU ASSUME ALL RISKS ASSOCIATED WITH THE RENTED ITEM(S).**

(14) BTR IS NOT THE MANUFACTURER OR DESIGNER OF ANY OF THE RENTED ITEM(S). ALL SUCH ITEMS ARE PROVIDED "AS-IS," ACCORDINGLY, EXCEPT ONLY TO THE EXTENT OTHERWISE REQUIRED BY APPLICABLE LAW, **BTR MAKES NO WARRANTY, EXPRESS OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY, SUITABILITY, FITNESS FOR A PARTICULAR PURPOSE, FUNCTION, DESIGN, CAPACITY, FREEDOM FROM DEFECTS OR WORKMANLIKE PERFORMANCE) REGARDING ANY ITEM(S) OR SERVICE(S) PROVIDED BY OR AT THE DIRECTION OF BTR, NOR DOES BTR MAKE ANY WARRANTY AGAINST INTERFERENCE OR INFRINGEMENT, ALL OF WHICH YOU WAIVE. NO DESCRIPTIONS OR ADVERTISEMENTS BY BTR CONSTITUTE REPRESENTATIONS OR WARRANTIES BY BTR. TO THE MAXIMUM EXTENT PERMITTED UNDER LAW, YOU (A) ASSUME ALL RISK OF INJURY, LOSS, DAMAGE, DESTRUCTION AND ENVIRONMENTAL CONTAMINATION OF, TO, AND/OR ARISING IN CONNECTION WITH ALL ITEM(S) AND SERVICE(S) REFERENCED HEREIN, INCLUDING WITHOUT LIMITATION, ANY AND ALL LIABILITIES, CLAIMS AND DAMAGES ARISING FROM OR IN CONNECTION WITH THE PROVISION, SELECTION, INSPECTION, DESIGN, MANUFACTURE, USE, LOADING, UNLOADING, TRANSPORTATION, DEMONSTRATION, STORAGE, MAINTENANCE, REPAIR AND/OR RETAINING OF ANY SUCH ITEM(S) OR SERVICE(S), WHETHER OR NOT YOUR FAULT, AND (B) YOU HEREBY RELEASE AND DISCHARGE BTR FROM AND AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS BTR AND ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, OWNERS, REPRESENTATIVES, INSURERS, SUBROGEEES, SUCCESSORS AND ASSIGNS, FROM AND AGAINST ANY AND ALL LIABILITIES, CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES (INCLUDING WITHOUT LIMITATION, ATTORNEYS' FEES) ARISING FROM OR ASSOCIATED WITH ANY AND/OR ALL OF SUCH ITEM(S) AND/OR SERVICES. You waive all rights, remedies, claims, damages and setoffs conferred upon you under applicable law including the Uniform Commercial Code, as well as all incidental, consequential special and punitive damages against BTR. Your duties hereunder are UNCONDITIONAL.**

(15) This Contract, and any Addenda BTR provides, represent the entire agreement between you and BTR, superseding all other agreements and representations (including BTR's website and advertising). The terms of this Contract are severable. If any provision hereof is deemed invalid or unenforceable by any court of competent jurisdiction, such provision will be deleted, and the remainder of this Contract will remain valid and in full force and effect. None of the essence. BTR may, without notice or liability to you, inspect any Rented Item(s) at any time. If any performance required of BTR is rendered impractical as a result of any act or omission of any Other Provider(s) or any "Act of God" (e.g., any fact or circumstance beyond BTR's reasonable control), BTR will be excused from such performance. You waive all statutes of limitations regarding BTR's rights and remedies. All amounts due from you hereunder did not timely paid will bear interest at the highest rate permitted under applicable law until paid. You grant to BTR a perpetual, paid-up, royalty-free license to create, edit, display, and distribute photos and videos of the Rented Item(s) at your event, publicly or privately, in we deem appropriate. ~~You authorize BTR to submit all amounts coming due to BTR for payment on your order or upon card and hereby waive all claims to the contrary.~~ You agree to pay BTR the maximum lawful charge for any check you write which is returned unpaid. This Contract cannot be further amended or extended except in a writing signed by both you and BTR. ~~BTR's maximum liability in connection with this Contract is limited to the amount actually paid by you hereunder.~~ You will pay: (a) BTR's attorney's fees and other costs of enforcing this Contract; and (b) all taxes (including all sales and use taxes), fees, fees, assessments and other charges related to each item. Neither BTR's exercise, nor its failure or delay in the exercise, of any rights or remedies will constitute an election of remedies or a waiver of any right or remedy BTR may have.

(16) Any Item(s) sold to you ("Sale Item(s)"), as provided on Page 1 and provided "AS-IS" and "WITH ALL FAULTS," and are subject to the terms of this Contract (modified as necessary to apply to sales). All Item(s) not specifically identified as Sale Item(s) on Page 1 will be deemed to be "Rented Item(s)."

(17) If you or any guarantor: (a) fail to fully and timely comply with this Contract; (b) provide any incorrect or misleading information to us; (c) become insolvent; or (d) die or cease conducting business, or if any Rented Item(s) shall be lost, damaged or destroyed during the Term (subject, however, to Section 12 hereof), you will be in default, whereupon, to the maximum extent permitted under applicable law, BTR may without notice or liability to you: (i) terminate your rental; (ii) seek relief from any automatic stay; (iii) recover, look or discontinue the Rented Item(s) without being guilty of trespass or other transgression (for which you hereby indemnify and hold harmless BTR); (iv) perform your obligations on your behalf, without being obligated to do so; (v) purchase replacement item(s) as necessary; (vi) recover from you and/or any guarantor our associated direct and indirect damages, costs and expenses (including Rent for the remainder of the Term and attorney's fees); and/or (vi) pursue any other rights and/or remedies available hereunder, at law or in equity.

(18) This Contract allocates to you the risk of injury, loss of, or damage to, persons or property arising in connection with the item(s), and that allocation is reflected in a reduced Rent (or purchase price, as applicable). This Contract will be deemed to apply not only to all item(s) identified on Page 1, but also to all other items you obtain from BTR at any time in the future (except only as otherwise agreed by BTR). This Contract (a) has been carefully and thoroughly reviewed, and specifically negotiated by each the parties hereto (each waiving any and all claims regarding its enforcement or enforceability, including without limitation, any preference in its interpretation or enforcement, as well as any right to claim it constitutes an "adhesion contract"); and (b) shall be interpreted under the laws of the State of Iowa. Proper venue for any and all legal proceedings commenced in connection herewith shall lie solely and exclusively in the federal and state courts located in or nearest to Johnson County, Iowa, and you hereby consent and submit to such jurisdiction and venue. Digital, electronic, photocopied or facsimiled signatures on this Contract will be enforceable as originals.

**ITL WARNING: FAILURE TO RETURN RENTED ITEM(S) CAN, IN CERTAIN CIRCUMSTANCES, BE CONSIDERED THEFT, RESULTING CIVIL PENALTIES AND/OR CRIMINAL PROSECUTION. See Iowa**

Code §714.1, et seq.



Contract #: 21438

City of West Branch

Page 3 of 3

1820 BOYRUM STREET  
IOWA CITY, IA 52240  
www.bigtenrentals.com  
319-337-7368 Phone

**Status: Reservation**

Contract #: 21438

Event Beg: Fri 8/ 2/2019 3:00PM

Event End: Sat 8/ 3/2019 4:30PM

Operator: Nathaniel Lieving

Customer #: 16675

City of West Branch

319-643-7100 Phone

Main Street

Job Descr: Hoover Days 2019

PO Box 218

WEST BRANCH, IA 52358

**\*\*DELIVERY/PU DATES ARE NOT CONFIRMED. \*\***

Ordered By: Melissa Russell 319-930-0393

Salesman: Adolfo sales2@bigtenrentals.com

**Delivery Fri 8/ 2/2019**

Melissa Russell 319-930-0393

Main and Downey

103 N. Downey

WEST BRANCH, IA 52358

Up by noon 8/. Strike after event 8/3.

**Pickup Sat 8/ 3/2019**

Melissa Russell 319-930-0393

Main and Downey

103 N. Downey

WEST BRANCH, IA 52358

Qty	Items Rented	Retail Each	Price
1	Frame Top 20x40 1day \$399.00 1week \$399.00 2weeks \$598.50 Main Street Tent	\$399.00	\$399.00
6	Water Barrel 55-gallon w/ ratchet straps 1day \$10.00 1week \$10.00 2weeks \$15.00 Customer must have a water source NEARBY.	\$10.00	\$60.00
150	Chair - Black Plastic Folding 1day \$1.10 NOTE: Please re-stack chairs as delivered. Rental price does not include set-up or take-down.	\$1.10	\$165.00
6	Umbrella 4ft Table Package 1day \$23.45 For pick-up of items have all items stacked as delivered. Prices do not include set-up or take-down of tables.	\$23.45	\$140.70
1	Labor Set up 20-wide Frame Tents	\$50.00	\$100.00
1	Setup & Strike - After Hours Charges	\$0.00	\$100.00
1	Delivery / Pickup	\$125.00	\$125.00

**Rental Contract**

Big Ten requires at minimum 72 hour window for Deliveries and Pickups. The delivery and pickup times on the contract are just a reference and not actual time of services. We will call you to confirm your actual delivery and pickup times. Additional labor fees might be added if we don't have direct access to the delivery and pickup site and/or no one is there when we deliver/pickup the items and need to return to the site at a later time. ...  
Customer must call "Iowa One Call" (811) if any items are to be staked into the ground.

A 35% Non-Refundable deposit is due at the time of reservation. Balances must be paid in full 8 days before delivery will be scheduled. A finance charge of 1.5% monthly will be charged on all unpaid balances. An open credit card will be kept on file for any and all additional charges resulting from: damage, items kept longer than the agreed upon rental period, delinquent payments, cleaning fees, other fees and/or for the purchase of nonreturned items.  
Cancellations can be made anytime 1 week prior to the reservation with only the loss of the 35% deposit. Cancellations made after will be subject to full contract payment.

Prompt return of your rentals saves you money. All time is charged including Saturday, Sunday and holidays.  
I have read and understand the terms and conditions of both sides of this agreement and certify that those printed on the other side are agreed to as if printed above my signature. There are no oral or other representations not included herein. Unless declined, I

Signature: \_\_\_\_\_

City of West Branch

Rental:	\$764.70
Damage Waiver:	\$76.47
Sales:	\$200.00
Delivery Charge:	\$125.00

Subtotal: \$1,166.17

Total: \$1,166.17

Paid: \$0.00

Amount Due: \$1,166.17

STORE HOURS MON-FRI 8AM-5:30PM SAT 8AM-5PM

Printed On Thu 8/ 2/2019 1:48:45PM

Software by Point-of-Rental Software www.point-of-rental.com

Modification #1  
Contract-Params.rpt (5)

### City of West Branch PERFORMANCE CONTRACT

This contract (the "Agreement") is made on this day of 03/06/19, between The City of West Branch ("City") and Jordan Danielson (the "Performer") for the hiring of the Performer as independent contractors to perform (the "Show") for the City at \_\_\_\_\_ (the "Venue"), located at the address \_\_\_\_\_.

It is agreed as follows:

1. **Place, date, and time of Show.** The parties agree that the time and place of Show will be Venue, located at the address \_\_\_\_\_, on the 3rd day of August, 2019, from 11am to 12pm.

2. **Description of Show.** \_\_\_\_\_

Show will last of a minimum of 60 minutes.

3. **Payment.** Compensation for the Show will be \$600 dollars, payable by \_\_\_\_\_ being the "Fee." The whole of the Fee is due immediately following the Performer's Show, but may be made earlier.

4. **Cancellation.** Cancellation may be made by City before two days prior to the time of Show. The City is unable and therefore will not pay funds if the Show is not performed for any reason.

5. **Force Majeure.** In the event Show cannot reasonably be put on because of unpredictable occurrences such as an act of nature, government, or illness/disability of the Performer, the 50% deposit of Fee is non-refundable, but no other portion of Fee is due, and the parties may negotiate a substitute Show on the same terms as this Agreement save for the time of Show, with no further deposit of Fee due, in which case a new Agreement reflecting this will be signed by the parties. No further damages may be sought for failure to perform because of force majeure.

6. **Food and Drink.** The Performer is responsible for providing all food and drink required to complete the performance.

7. **Parking.** the City will secure sufficient parking for the Performer's personnel and equipment transportation within a reasonably convenient distance to Venue for a minimum period of 2 hours prior to the show and lasting until 1 hour after the show.

8. **Sound Systems Check.** A sound check conducted by the Performer of Venue's sound system is required, at a time to be mutually arranged between the Performer and the City.

9. **Insurance, Security, Health, and Safety.** The Performer is required to have Proof of Insurance provided to the City at the time that this contract is signed. Insurance documents must show coverage for any and all damage to equipment as well as any personal injury that may be incurred as a result of the scheduled Show. The City warrants that the Venue will be of sufficient size to safely conduct Show, that the Venue is of stable construction and sufficiently

protected from weather, and that there will be adequate security and/or emergency medical responders available if foreseeably necessary.

10. **Indemnification.** The City indemnifies and holds the Performer harmless for any claims of property damage or bodily injury caused by Show attendees. The Performer indemnifies and holds the City harmless for any claims of property or bodily injury caused by performance in the Show.

11. **Severability.** If any portion of Agreement is in conflict with any applicable law, such portion will become inoperative, but all other portions of Agreement will remain in force.

12. **Interpretation.** Agreement will be interpreted according to the laws of Iowa.

13. **Riders.** Nothing in Agreement shall prevent any rider from being added to Agreement that is favorable to the Performer or City, as judged by the City. All riders must be in writing and signed by the party against whom enforcement is sought.

14. **Video/Photography.** The City reserves the right to record and photograph the show for use for publicity and use on the local Cable Access Channel. Attribution will be given to performers when used on the local channel.

The below-signed the Performer Representative warrants s/he has authority to enforceably sign this agreement for the Performer in its entirety. The below signed the City's Representative warrants s/he has authority to bind the City and Venue (above).

Signature of the Performer Representative:  \_\_\_\_\_

Performer's Representative typed name and title: Jordan Daniels

Performer's typed name: Jordan Daniels & Jef Spradley

Performer's Address: 528 E. Columbia Ave

Performer's Phone #: 563-570-5317

City's Representative Signature: \_\_\_\_\_

City's Representative typed name and title: \_\_\_\_\_



### City of West Branch PERFORMANCE CONTRACT

This contract (the "Agreement") is made on this day of February 4th, 2019, between The City of West Branch ("City") and Martika Daniels (the "Performer") for the hiring of the Performer as independent contractors to perform (the "Show") for the City at West Branch, IA (the "Venue"), located at the address \_\_\_\_\_.

It is agreed as follows:

1. **Place, date, and time of Show.** The parties agree that the time and place of Show will be Venue, located at the address \_\_\_\_\_, on the August day of 3rd, 2019, from \_\_\_\_\_ to \_\_\_\_\_.

2. **Description of Show.** The performer will perform one- hour long mix Circus and Fire show. Show will include but not limited to: Fire eating, Fire hula hooping, (non fire) silk fans, and flag poi etc. As well as an interactive circus game.

Show will last of a minimum of 45 minutes.

3. **Payment.** Compensation for the Show will be \$575.00 dollars, payable by \_\_\_\_\_ being the "Fee." The whole of the Fee is due immediately following the Performer's Show, but may be made earlier.

4. **Cancellation.** Cancellation may be made by City before two days prior to the time of Show. The City is unable and therefore will not pay funds if the Show is not performed for any reason.

5. **Force Majeure.** In the event Show cannot reasonably be put on because of unpredictable occurrences such as an act of nature, government, or illness/disability of the Performer, the 50% deposit of Fee is non-refundable, but no other portion of Fee is due, and the parties may negotiate a substitute Show on the same terms as this Agreement save for the time of Show, with no further deposit of Fee due, in which case a new Agreement reflecting this will be signed by the parties. No further damages may be sought for failure to perform because of force majeure.

6. **Food and Drink.** The Performer is responsible for providing all food and drink required to complete the performance.

7. **Parking.** the City will secure sufficient parking for the Performer's personnel and equipment transportation within a reasonably convenient distance to Venue for a minimum period of 2 hours prior to the show and lasting until 1 hour after the show.

8. **Sound Systems Check.** A sound check conducted by the Performer of Venue's sound system is required, at a time to be mutually arranged between the Performer and the City.

9. **Insurance, Security, Health, and Safety.** The Performer is required to have Proof of Insurance provided to the City at the time that this contract is signed. Insurance documents must show coverage for any and all damage to equipment as well as any personal injury that may be incurred as a result of the scheduled Show. The City warrants that the Venue will be of sufficient size to safely conduct Show, that the Venue is of stable construction and sufficiently protected



from weather, and that there will be adequate security and/or emergency medical responders available if foreseeably necessary.

10. **Indemnification.** The City indemnifies and holds the Performer harmless for any claims of property damage or bodily injury caused by Show attendees. The Performer indemnifies and holds the City harmless for any claims of property or bodily injury caused by performance in the Show.

11. **Severability.** If any portion of Agreement is in conflict with any applicable law, such portion will become inoperative, but all other portions of Agreement will remain in force.

12. **Interpretation.** Agreement will be interpreted according to the laws of Iowa.

13. **Riders.** Nothing in Agreement shall prevent any rider from being added to Agreement that is favorable to the Performer or City, as judged by the City. All riders must be in writing and signed by the party against whom enforcement is sought.

14. **Video/Photography.** The City reserves the right to record and photograph the show for use for publicity and use on the local Cable Access Channel. Attribution will be given to performers when used on the local channel.

The below-signed the Performer Representative warrants s/he has authority to enforceably sign this agreement for the Performer in its entirety. The below signed the City's Representative warrants s/he has authority to bind the City and Venue (above).

Signature of the Performer Representative: Martika Daniels

Performer's Representative typed name and title: \_\_\_\_\_

Performer's typed name: Martika Daniels

Performer's Address: 7112 East 100th Terrace Kansas City, MO 64134

Performer's Phone #: 913-653-5064

City's Representative Signature: \_\_\_\_\_

City's Representative typed name and title: \_\_\_\_\_

# General Agreement

THIS AGREEMENT made this 25<sup>TH</sup> day of FEBRUARY, 2019, by and between  
DAVID and DEBORAH GRIMM D.B.A. PONY GO ROUND PONY RIDES (First Party),  
and HOOVER'S HOMETOWN DAYS, WEST BRANCH, IOWA (Second Party),  
MELISSA RUSSELL - 319-930-0393

**WITNESSETH:** That in consideration of the mutual covenants and agreements to be kept and performed on the part of said parties hereto, respectively as herein stated, the said party of the first part does hereby covenant and agree that it shall:

I. Said party of the first part covenants and agrees that it shall:

- a) PROVIDE A LIVE 6 PONY CAROUSEL RIDE FOR THE DATE OF SATURDAY AUG. 3<sup>RD</sup>, 2019, Noon - 4pm
- b) PROVIDE FREE RIDES TO THE PUBLIC FOR THESE 4 HOURS.
- c) PROVIDE CERTIFICATE OF INSURANCE UPON ARRIVAL AT THE EVENT.
- d) RESERVE THE RIGHT TO REFUSE RIDES TO RIDERS IT DEEMS TOO LARGE FOR THE PONIES.

II. And said party of the second part covenants and agrees that it shall:

- 1) PROVIDE ADEQUATE SPACE FOR THE RIDE. APPROX. 30' DIAMETER.
- 2) PAY PONY GO ROUND A \$220<sup>00</sup> SET UP FEE AND \$265<sup>00</sup> PER HOUR FOR THE 4 HOURS OF FREE RIDES. \$1,280<sup>00</sup> TOTAL.

III. Other terms to be observed by and between the parties:

- A) IN CASE OF RAINOUT, PARTY #2 WILL PAY PARTY #1 ONLY FOR HOURS THAT THE RIDE WAS RUNNING AND THE SET UP FEE. IF WE HAVE NOT LEFT HOME AND THE EVENT IS CANCELLED, NO MONEY IS EXCHANGED.

This agreement shall be binding upon the parties, their successors, assigns and personal representatives. Time is of the essence on all undertakings. This agreement shall be enforced under the laws of the State of IOWA.  
This is the entire agreement.

Signed the day and year first above written.

Signed in the presence of:

319-461-3926

Witness: Deborah J. Grimm

First Party: David E. Grimm

Witness: \_\_\_\_\_

Second Party: \_\_\_\_\_

Port O Jonny, Inc

2740 Stonegate Ct  
Hiawatha, Ia 52233

## Estimate/Contract

Date      Estimate #  
3/7/2019      1625

Name / Address

City of West Branch  
304 E Main Street  
PO Box 218  
West Branch, Iowa 52358

Ship To

City of West Branch  
Hometown Days  
West Branch, IA 52358

		Purchase Order	
		Hometown Days 2019	
Description	Qty	Rate	Total
August 2-3, 2019 Regular Unit No Service Special Event	4	62.00	248.00
August 2-3, 2019 Handicap Unit No Service Special Event	4	67.00	268.00
August 2-3, 2019 Double Sink No Service Special Event	4	67.00	268.00
<p>Please sign and return. Email copies can be sent to chris@portojonny.com Customer is responsible for any and all damages. In the event of non-payment customer will be responsible for fees associated with the collection process, including but not limited to attorney and small claims courts fees. This is a written agreement of services, payment and acceptance. Signature of Acceptance:_____</p>		<b>Subtotal</b> \$784.00	
		<b>Sales Tax (7.0%)</b> \$0.00	
		<b>Total</b> \$784.00	

### **City of West Branch PERFORMANCE CONTRACT**

This contract (the "Agreement") is made on this day of **February 5, 2019**, between The City of West Branch ("City") and **Vintage** (the "Performer") for the hiring of the Performer as independent contractors to perform (the "Show") for the City at **Hoover Days main event stage** (the "Venue"), located at the address, **West Branch, Iowa**.

It is agreed as follows:

1. **Place, date, and time of Show.** The parties agree that the time and place of Show will be Venue, located at the address: Hoover Days main stage, on the day of **Saturday, August 3, 2019**, from **11:30am to 12:30pm. 2:00pm - 3:00pm**

2. **Description of Show: One hour live performance of the band Vintage, on the main stage with professional sound system, monitors, and sound engineer provided by the City.**

Show will last of a minimum of **60** minutes.

3. **Payment.** Compensation for the Show will be **\$200.00** dollars, payable by check being the "Fee." The whole of the Fee is due immediately following the Performer's Show, but may be made earlier, **made payable to: Vintage.**

4. **Cancellation.** Cancellation may be made by City before two days prior to the time of Show. The City is unable and therefore will not pay funds if the Show is not performed for any reason.

5. **Force Majeure.** In the event Show cannot reasonably be put on because of unpredictable occurrences such as an act of nature, government, or illness/disability of the Performer, the 50% deposit of Fee is non-refundable, but no other portion of Fee is due, and the parties may negotiate a substitute Show on the same terms as this Agreement save for the time of Show, with no further deposit of Fee due, in which case a new Agreement reflecting this will be signed by the parties. No further damages may be sought for failure to perform because of force majeure.

6. **Food and Drink.** The Performer is responsible for providing all food and drink required to complete the performance.

7. **Parking.** the City will secure sufficient parking for the Performer's personnel and equipment transportation within a reasonably convenient distance to Venue for a minimum period of 2 hours prior to the show and lasting until 1 hour after the show.

8. **Sound Systems Check.** A sound check conducted by the Performer of Venue's sound system is required, at a time to be mutually arranged between the Performer and the City.

9. **Insurance, Security, Health, and Safety.** The Performer is required to have Proof of Insurance provided to the City at the time that this contract is signed. Insurance documents must show coverage for any and all damage to equipment as well as any personal injury that may be incurred as a result of the scheduled Show. The City warrants that the Venue will be of sufficient size to safely conduct Show, that the Venue is of stable construction and sufficiently



protected from weather, and that there will be adequate security and/or emergency medical responders available if foreseeably necessary.

10. **Indemnification.** The City indemnifies and holds the Performer harmless for any claims of property damage or bodily injury caused by Show attendees. The Performer indemnifies and holds the City harmless for any claims of property or bodily injury caused by performance in the Show.

11. **Severability.** If any portion of Agreement is in conflict with any applicable law, such portion will become inoperative, but all other portions of Agreement will remain in force.

12. **Interpretation.** Agreement will be interpreted according to the laws of Iowa.

13. **Riders.** Nothing in Agreement shall prevent any rider from being added to Agreement that is favorable to the Performer or City, as judged by the City. All riders must be in writing and signed by the party against whom enforcement is sought.

14. **Video/Photography.** The City reserves the right to record and photograph the show for use for publicity and use on the local Cable Access Channel. Attribution will be given to performers when used on the local channel.

The below-signed the Performer Representative warrants s/he has authority to enforceably sign this agreement for the Performer in its entirety. The below signed the City's Representative warrants s/he has authority to bind the City and Venue (above).

Signature of the Performer Representative:  2/11/19

Performer's Representative typed name and title: **Keith R. Shriver, bassist and vocalist.**

Performer's typed name: **Keith R. Shriver**

Performer's Address: **941 25<sup>th</sup> Ave., #302, Coralville, IA 52241**

Performer's Phone #: **319-930-9210**

City's Representative Signature: \_\_\_\_\_

City's Representative typed name and title: \_\_\_\_\_



EXCELLENCE IN MOTION



A Textron Company



## YOTTYS GOLF CARS

### AUTHORIZED E-Z-GO DEALER

CONTACT US FOR ALL YOUR GOLF CAR NEEDS

P.O. BOX 1201 KALONA, IOWA 52247

TEL 319-656-2512 FAX 319-656-3117

EMAIL [yottysgolfcars@yottys.com](mailto:yottysgolfcars@yottys.com)

### YOTTYS GOLF CARS

#### CONTRACT FOR SPECIAL EVENT RENTALS

This agreement, made and entered into and executed by and between, Yottys Golf Cars, hereinafter called the "Lessor", and West Branch Hooverfest hereinafter called the "Lessee".

I West Branch Hooverfest hereby agree to the terms of this contract with Lessor of Kalona, Iowa.

**RENTALS-** The term of this contract is for the lease of said number of car(s) 10. For the length of time from pick-up date of Aug. 2 and returned date of Aug 3. Total number of days 2.

**PAYMENT-** The Lessee agrees to pay set amount for rental in amount of \$100.00 per car upon return of car(s) to the Lessor. A deposit or a credit card authorization is required.

**CONDITIONS-** The Lessee is responsible for all public liability and property damage. Lessee is to return the car in the same condition as which it was picked up. If the car is damaged or stolen and not returned as said above, the Lessee will pay for the car(s) at this set amount \$7000.00 per each car.

The Lessor is not liable or responsible for any actions, accidents or damage done while the car(s) is in the Lessee's possession.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT ON:

Date 3/7/2019

Date \_\_\_\_\_

Lessor Yotty's Golf Cars Sales & Service

Lessee

Name & Title Jerry Zahradnek VP

Name & Title \_\_\_\_\_

Witness \_\_\_\_\_

Witness \_\_\_\_\_

10 cars total- 2-utility boxes, 6-passenger as many as possible 5 minimum rest 4-passenger.

**RESOLUTION 1794**

**A RESOLUTION APPROVING VARIOUS CONTRACTS FOR THE HOOVER'S  
HOMETOWN DAYS CELEBRATION IN THE AMOUNT OF \$6,530.17**

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

**WHEREAS**, the fiscal year 2019-2020 budget for Hoover's Hometown Days includes funding for entertainment and services for the event; and

**WHEREAS**, three organizations have submitted proposed service agreements in the amount of \$6,530.17 to provide musical entertainment, children's activities, performance stages, golf carts and restroom facility services for use during the event; and

**WHEREAS**, it is now necessary to approve said agreements.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of West Branch, Iowa, that the aforementioned agreements are hereby approved. Further, the Mayor is directed to execute the agreements on behalf of the City.

\* \* \* \* \*

**Passed and approved this 18<sup>th</sup> day of March, 2019.**

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Roger Laughlin, Mayor

ATTEST:

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Redmond Jones II, City Administrator/Clerk

**REQUEST FOR COUNCIL CONSIDERATION**

<b>MEETING DATE:</b>	March 18, 2019
<b>AGENDA ITEM:</b>	<b>Resolution 1795</b> – Approving the Recreation Facility, Park & Sport Field Use and Fee Policy.
<b>CITY GOAL:</b>	Establish a sound and sustainable government supported by professionalism, progressive thinking and modernizing the organization.
<b>PREPARED BY:</b>	Melissa Russell, Parks and Recreation Director
<b>DATE:</b>	March 12, 2019

**BACKGROUND:**

It is the policy of the West Branch Parks Department and Recreation Department to control the use of recreation facilities, parks and sport fields, to protect these resources and to allow usage to individuals, groups and organizations based on availability and priority. Use shall be consistent with City Policies and Ordinances, and promote wellness, recreation, and positive participation and sportsmanship. The City desires to be supportive of such use and will schedule and help facilitate their use in accordance with the requirements of this policy.

This policy is intended to enhance the recreation opportunities and events available to the citizens of West Branch; to facilitate City and non-City use and scheduling of recreational venues; to offer recreation programming for participants and spectators and to adequately reimburse the City for expenses related to providing this use.

Field rental fees recommendations are based on the fees in other communities and what would be appropriate for the West Branch community. The West Branch Parks and Recreation Commission discussed the fees at the January 10, 2019 meeting and the February 14, 2019.

Please see attached:

- Field Rental Rates Comparison
- West Branch Parks and Recreation Field Use Request Form
- Recreation Facility, Park and Sports Field Use and Fee Policy

<b>STAFF RECOMMENDATION:</b>	Approve Resolution – Move to Action
<b>REVIEWED BY CITY ADMINISTRATOR:</b>	
<b>COUNCIL ACTION:</b>	
<b>MOTION BY:</b>	
<b>SECOND BY:</b>	

*"Turning Vision into Reality is our Business"*



## Field Rental Rates Comparison

<b>Resident</b>	<b>West Branch</b>	<b>Solon (non-park and rec fees)</b>	<b>West Liberty</b>
Practice 1 1/2 hours	\$ 5.00	NA	NA
Game-2 hours dragged not lined	\$ 10.00	\$ 12.50	\$ 5.00
Tournament 1 field 1 day	\$ 75.00	\$ 125.00	\$ 40.00
Tournament 1 fields 2 days	\$ 125.00	\$ 250.00	\$ 80.00
Tournament 2 fields 1 day	\$ 125.00	\$ 200.00	\$ 80.00
Tournament 2 fields 2 days	\$ 175.00	\$ 400.00	\$ 160.00
Tournament 3 fields 1 day	\$ 150.00	\$ 275.00	\$ 120.00
Tournament 3 fields 2 days	\$ 225.00	\$ 550.00	\$ 240.00
<b>Non-resident</b>	<b>West Branch</b>	<b>Solon (non-park and rec fees)</b>	<b>West Liberty</b>
Practice 1 1/2 hours	\$ 10.00	NA	NA
Game-2 hours lined field	\$ 15.00	\$ 12.50	\$ 5.00
Tournament 1 field 1 day	\$ 125.00	\$ 125.00	\$ 60.00
Tournament 1 fields 2 days	\$ 200.00	\$ 250.00	\$ 120.00
Tournament 2 fields 1 day	\$ 150.00	\$ 200.00	\$ 120.00
Tournament 2 fields 2 days	\$ 250.00	\$ 400.00	\$ 240.00
Tournament 3 fields 1 day	\$ 200.00	\$ 275.00	\$ 180.00
Tournament 3 fields 2 days	\$ 325.00	\$ 550.00	\$ 360.00



West Branch Parks and Recreation  
Field Use Request Form

Name of Organization or Group \_\_\_\_\_

Person in Charge of Supervision \_\_\_\_\_

Contact Information: \_\_\_\_\_  
(cell phone) (home phone) (e-mail)

**Field(s) Requested (check):**

Summer League Diamond 1 \_\_\_\_\_ Summer League Diamond 2 \_\_\_\_\_  
Cubby Park Diamond 1 \_\_\_\_\_ Cubby Park Diamond 2 \_\_\_\_\_ Cubby Park Diamond 3 \_\_\_\_\_  
Lions Soccer Field 1 \_\_\_\_\_ Lions Soccer Field 2 \_\_\_\_\_  
Sand Volleyball Court 1 \_\_\_\_\_ Sand Volleyball Court 2 \_\_\_\_\_ Sand Volleyball Court 3 \_\_\_\_\_ Sand Volleyball Court 4 \_\_\_\_\_

Day of the week requested (please list 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> choice): M \_\_\_\_\_, T \_\_\_\_\_, W \_\_\_\_\_, TH \_\_\_\_\_, F \_\_\_\_\_, Sat \_\_\_\_\_, Sun \_\_\_\_\_

Dates requested: \_\_\_\_\_ Time slot requested (please list 1<sup>st</sup>, 2<sup>nd</sup>, and 3<sup>rd</sup> choice):

8:00am-12:00pm \_\_\_\_\_ 12:00pm-5:00pm \_\_\_\_\_ 5:00pm-9:00pm \_\_\_\_\_ Pitching distance \_\_\_\_\_ Base distance \_\_\_\_\_

Diamonds will be dragged and chalked one time. If you feel you will need lines chalked more than once, you may chalk the fields. You may use the field equipment (line marker, rakes, hand drags, etc.). NO motorized equipment is allowed on the fields without the permission of the Parks and Recreation Director.

**Rental Fees**

Non-Parks and Rec Practice and game for WB resident and team (at least 1 team player must reside in West Branch City limits) at Cubby Park or Summer League Fields:

**1.5-hour practice per diamond** (not lined only dragged)-\$5

**2-hour game** (not lined only dragged)-\$10

Non-Parks and Rec Practice and game for non-WB resident at Cubby Park or Summer League Fields:

**1.5-hour practice per diamond** (not lined only dragged)-\$10

**2-hour game per diamond** (not lined only dragged)-\$15

Tournament Fee (3 teams or more) Cubby Park Only or Lions Field for WB Resident and team

<b>1 diamond or soccer field</b> - \$75 per day	\$50 for 2 <sup>nd</sup> day of 2-day tournament
<b>2 diamonds</b> - \$100 per day	\$75 for 2 <sup>nd</sup> day of 2-day tournament
<b>3 diamonds</b> - \$125 per day	\$100 for 2 <sup>nd</sup> day of a 2-day tournament

Tournament Fee (3 teams or more) Cubby Park Only or Lions Field for non-WB Resident and team

<b>1 diamond or soccer field</b> - \$125 per day	\$75 for 2 <sup>nd</sup> day of 2-day tournament
<b>2 diamonds</b> - \$150 per day	\$100 for 2 <sup>nd</sup> day of 2-day tournament
<b>3 diamonds</b> - \$200 per day	\$125 for 2 <sup>nd</sup> day of 2-day tournament

**Insurance Waiver:** We, the undersigned, understand the City of West Branch provides no insurance coverage for medical costs and other damages arising out of any participation while using the City of West Branch. Any insurance coverage, while on the City's property, will not be provided by the City of West Branch. We do hereby give authorization and consent for the undersigned to use the designated fields during the days and times listed above.

West Branch Parks and Recreation: 113 N 1<sup>st</sup> Street – West Branch - Iowa - 52358

Phone: (319) 930-0393 - Fax: (319) 643-2782- Email- [melissa@westbranchiowa.org](mailto:melissa@westbranchiowa.org)



*West Branch Parks and Recreation*

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113 N 1<sup>st</sup> Street • PO Box 218 • West Branch, Iowa 52358  
(319) 930-0393 • Fax (319) 643-2305 • [www.westbranchiowa.org](http://www.westbranchiowa.org) • [melissa@westbranchiowa.org](mailto:melissa@westbranchiowa.org)

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### **Recreation Facility, Sport Field Use & Fee Policy**

It is the policy of the West Branch Parks Department and Recreation Department to control the use of recreation facilities, parks and sport fields, to protect these resources and to allow usage to individuals, groups and organizations based on availability and priority. Use shall be consistent with City Policies and Ordinances, and promote wellness, recreation, and positive participation and sportsmanship. The City desires to be supportive of such use and will schedule and help facilitate their use in accordance with the requirements of this policy.

#### **Purpose**

This policy is intended to enhance the recreation opportunities and events available to the citizens of West Branch; to facilitate City and non-City use and scheduling of recreational venues; to offer recreation programming for participants and spectators and to adequately reimburse the City for expenses related to providing this use.

#### **User Groups**

The City recognizes the following categories of users and user groups:

- City ~~of~~ West Branch Programs
- West Branch School District
- Community-based (organizations organized in and operated from West Branch), volunteer-operated recreation organizations
- Organizations providing competitive, accelerated or super league programming
- Adult recreation leagues or programs
- Privately owned and operated program providers
- Corporate, commercial, business, church or family groups

#### **Prioritization of Users**

The West Branch Parks and Recreation Departments reserve the right to schedule activities and events on facilities, parks and sport fields on an "as available" basis. The following priority applies to all scheduling for use of facilities:

1. West Branch Parks and Recreation programs
2. West Branch Community School District
3. West Branch community-based recreation organizations

4. West Branch non-profit competitive, accelerated or super league youth programs
5. West Branch non-profit adult recreation leagues or programs
6. All others

#### **Guidelines**

1. West Branch Parks and Recreation reserves the right to schedule activities and events on facilities and parks on an "as available" basis. West Branch Parks and Recreation reserves the right to cancel any scheduled activity due to conditions or circumstances that are determined to be detrimental, unsafe or in conflict with City Ordinances and policies.
2. Users conducting their activities for commercial or individual financial gain are not endorsed by the City. Conducting business or sale of merchandise for profit is prohibited, without prior approval by the City Park and Recreation Director.
3. The recreation facilities, parks and sport field use fees will be paid in advance of use and before the event ~~is scheduled on the calendar~~ for a single ~~use~~ event such as a tournament. Regular weekly practices, games, or events will be billed at the end of the month based on the reservation calendar. Teams, team members, or individuals that do not pay the fee by the deadline will have all future reservations deleted until the previous bill is up to date.
4. Cancellation of an event due to weather, facility or field conditions, or city-declared emergency will be rescheduled, if possible, or refunded. Playability of fields will be determined by the Sport Site Supervisor or Parks ~~Supervisor~~ and Recreation Director.
5. Cancellation of an event due to user failing to comply with this policy or City Code and policies, or due to acts or activities deemed to be offensive or harmful, shall not receive a refund. The City reserves the right to prohibit the user from future use of or scheduling of the facilities.
6. No fireworks, weapons or other dangerous devices are permitted in park or facility areas. Camping, archery or amplified sound equipment must be approved through the City's special event policy.
7. Alcohol is not allowed at Heritage Square, Lions Field, or Wapsi Park without West Branch City Council authorization.
- ~~7~~8. User shall release, indemnify and hold harmless the City of West Branch, its elected and appointed officials, officers, employees and volunteers from any and all claims, damages, lawsuits, losses and expenses (including attorney fees) arising out of or resulting from User's performance or failure to perform this agreement and all of User's activities conducted on City's facilities/property.
- ~~8~~9. Users shall make every reasonable and prudent effort to keep the area in which user's activities are held, clean and free from trash or other debris. User will clean up any trash and debris generated by user's activities and place it in trash containers provided by the City. The User is responsible for any maintenance or cleanup cost incurred through the negligence of the User of any area or facility.

~~9~~10. Scheduling must be requested annually. No automatic or protected right to use because of previous use shall be granted. The City reserves the right to deny use of City facilities to any user that, in the City's opinion, has had public relations problems, has abused City facilities or property, has administered its programs in such a way to cause discredit to the City or has not paid all fees due or past due.

~~10~~11. The City assumes no financial responsibility for the user's group, programs or any of their constituents.

~~11~~12. Users shall abide by sport or event-specific rules and field usage rules. All tournaments, games and practice games need to be scheduled through West Branch Parks and Recreation. A game is defined by any one of the following criteria:

- a. If there is more than one team present.
- b. If there are officials present, certified or not, or coaches acting as officials.
- c. If players are in uniform.
- d. If one of the teams travels to game site from another city or location.

~~12~~13. All games and programs must end by 9:45 p.m., unless approved by the Parks and Recreation Director at least 48 hours in advance. All lights must be turned off by 10:00 p.m.

~~13~~14. No painting or altering of fields is allowed. Moving of bleachers, tables or other equipment owned, maintained or managed by the City is not allowed.

~~14~~15. Concessions will be maintained and operated by the City of West Branch unless specifically directed otherwise by the Parks and Recreation Director.

~~15~~16. Users are allowed to charge a gate fee to spectators of the event, however the park patrons will not be charged the fee.

### **Fees**

Non-Parks and Rec Practice and game for WB resident and team (at least 1 team player must reside in West Branch City limits) at Cubby Park:

***1.5-hour practice per diamond*** (not lined only dragged)-\$5

***2-hour game*** (not lined only dragged)-\$10

Non-Parks and Rec Practice and game for non-WB resident at Cubby Park and Summer League Field:

***1.5-hour practice per diamond*** (not lined only dragged)-\$10

***2-hour game per diamond*** (not lined only dragged)-\$15

Tournament Fee (3 teams or more) Cubby Park Only or Lions Field for WB Resident and team

**1 diamond or soccer field** - \$75 per day                      \$50 for 2<sup>nd</sup> day of 2-day tournament

**2 diamonds** - \$100 per day                                      \$75 for 2<sup>nd</sup> day of 2-day tournament

**3 diamonds** - \$125 per day                                      \$100 for 2<sup>nd</sup> day of a 2-day tournament

Tournament Fee (3 teams or more) Cubby Park Only or Lions Field for non-WB Resident and team

<b>1 diamond or soccer field</b> - \$125 per day	\$75 for 2 <sup>nd</sup> day of 2-day tournament
<b>2 diamonds</b> - \$150 per day	\$100 for 2 <sup>nd</sup> day of 2-day tournament
<b>3 diamonds</b> - \$200 per day	\$125 for 2 <sup>nd</sup> day of 2-day tournament

Event and Tournament Fee at Summer League Fields

Events / tournaments requiring (4) hours or less of facilities time will be charged \$20 dollars for post maintenance fee.

Events / tournaments requiring (4) hours or more of facilities time will be charged \$30 dollars per facility(field) for facilities use, in addition to a \$30 fee for post-maintenance.



**RESOLUTION 1795**

**AN RESOLUTION APPROVING THE RECREATION FACILITY, PARK & SPORT  
FIELD USE AND FEE POLICY**

**WHEREAS,** It is the policy of the West Branch Parks Department and Recreation Department to control the use of recreation facilities, parks and sport fields, to protect these resources and to allow usage to individuals, groups and organizations based on availability and priority; and

**WHEREAS,** the use of such facilities shall be consistent with City Policies and Ordinances; and

**WHEREAS,** it the intent of the City of West Branch to promote wellness, recreation, and positive participation and sportsmanship; and

**WHEREAS,** the City desires to be supportive of such use and will schedule and help facilitate their use in accordance with the requirements of this policy; and

**WHEREAS,** it is now necessary to approve said policy and resolution.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of West Branch, Iowa, that the aforementioned policy is hereby approved. Further, the Mayor is directed to execute the agreements on behalf of the City.

\* \* \* \* \*

**Passed and approved this 18<sup>th</sup> day of March, 2019.**

---

Roger Laughlin, Mayor

ATTEST:

---

Redmond Jones II, City Administrator/Clerk