

**COUNCIL ACTION FORM**

**SUBJECT: CY STATUE DONATIONS AND AGREEMENTS**

**BACKGROUND:**

In conjunction with the celebration of the Ames Sesquicentennial in 2014, the CyclONE City group placed life-sized Iowa State University mascot "Cy" statues throughout the community. The City entered into an agreement with the Chamber of Commerce to allow the temporary placement of the statues on City property. The City was approached by the Ames Police Benefit Association (APBA) and the Chamber of Commerce to keep the Police statue near City Hall and to allow the statue at Kellogg Avenue and Main Street to remain in place.

The issue was taken to the Public Art Commission, and it declined to take the pieces into the collection, but had no issue if the City would allow the pieces to be permanently displayed. **After some discussion, the APBA offered to donate the piece to the City of Ames. It also agreed to do all maintenance of the piece, including cleaning, damages, repairing vandalism, etc., if it was entitled to the right of first refusal on ownership if the City ever wishes to have the statue removed or relocated away from the Police entrance. The Chamber signed an agreement consistent with an encroachment permit for the statue at Kellogg Avenue and Main Street, meaning it would be responsible for insurance and maintenance of the statue. A separate agreement was used instead of typical encroachment so the maintenance of the piece could be specifically stated. It also submitted a letter offering to donate the Cy statue at Inis Grove Park to the City. If the City accepts the statue, there is no requirement to have the statue stay in that location, so the City will have the opportunity to move it where it sees fit.**

**ALTERNATIVES:**

1. a) Approve the attached agreement with the Ames Police Benefit Association for the permanent placement of a Cy statue on City property.  
  
b) Approve the attached agreement with the Chamber of Commerce for the permanent placement of a Cy statue on City property.  
  
c) Accept the donation of the Cy statue currently located at Inis Grove Park
2. Do not approve one, or all, of the agreements or accept the donation.

**MANAGER'S RECOMMENDED ACTION:**

These agreements will allow the two statues to remain in place from a successful campaign by CyclONE City. The City will also receive a Cy statue to display.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative No. 1.

**AGREEMENT FOR AMES POLICE BENEFIT ASSOACTION DONATION OF  
POLICE CY STATUE TO THE CITY OF AMES**

**THIS AGREEMENT**, effective \_\_\_\_ day of \_\_\_\_\_, 2015, made and entered into by and between the CITY OF AMES, IOWA, a municipal corporation organized and existing pursuant to the laws of the State of Iowa (hereinafter called "City") and AMES POLICE BENEFIT ASSOCIATION, a non-profit organization, organized and existing pursuant to the laws of the State of Iowa (hereinafter called "APBA");

**WITNESSETH THAT:**

**WHEREAS**, APBA has determined that it desires to donate the life-sized Iowa State University mascot "Cy" statue dressed as a police officer (hereinafter "statue") to the City. The current location of the statue is outside the north police department entrance of City Hall (hereinafter "permanent location");

**NOW, THEREFORE**, the parties hereto have agreed and do agree as follows:

1. Purpose. The purpose of this Agreement is to transfer ownership of the statue from APBA to the City and to establish other duties, responsibilities, terms and conditions mutually undertaken and agreed to by the parties hereto regarding the placement, liability, and maintenance of the statue.
2. Responsibilities.
  - a. The City shall be responsible for the following:
    - i. The City shall accept the donation of the statue and maintain the statue's permanent location.
    - ii. The City shall maintain comprehensive general liability coverage and extend that coverage to the statue.
  - b. The APBA shall be responsible for the following:
    - i. The APBA shall provide for maintenance of the pad and statue including, but not limited to, repairing any damages, cleaning any vandalism, etc.
    - ii. The APBA shall be responsible for pad and statue removal, should the statue be transferred back to APBA upon termination of this Agreement.
    - iii. The APBA shall be responsible for restoration of the sites at all locations if the pad and statue are removed.
3. Insurance. The City shall maintain a comprehensive general insurance policy which extends coverage to the statue. The policy shall remain in full force and effect during the life of this agreement.


4. Liability. The City does hereby covenants and agrees to indemnify and hold harmless the APBA, its officers and members, against any loss or liability whatsoever, including attorney's fees, pertaining to any and all claims whatsoever made by any and all persons whomsoever, resulting from or arising out of the location and maintenance of the statue.
5. Governing Law. This contract is governed by the laws of the State of Iowa with venue in Story County District Court.
6. Assignment. This Agreement may not be assigned or transferred by the APBA without the prior written consent of the City.
7. Termination. This Agreement may be terminated upon mutual agreement of the parties.
8. First Right of Refusal. In the event the City decides to remove or relocate the statue, APBA shall have the first right of refusal to regain ownership of the statue.
9. Duration. This Agreement shall be in full force and effect from the date of the Agreement until such time that the statue is removed from the permanent location.

**IN WITNESS WHEREOF**, the parties hereto have, by their authorized representatives, set their hand and seal as of the date first above written.

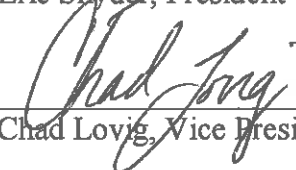
**CITY OF AMES, IOWA**

**AMES CHAMBER OF COMMERCE**


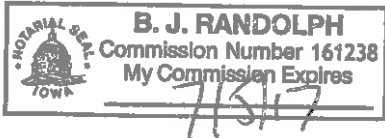
By: \_\_\_\_\_  
Mayor Ann Campbell

By:   
Eric Snyder, President

Attest: \_\_\_\_\_  
Diane Voss, City Clerk

By:   
Chad Lovig, Vice President

STATE OF IOWA, COUNTY OF STORY, ss:  
  
On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, a Notary Public in and for the State of Iowa, personally appeared Ann H. Campbell and Diane R. Voss, to me personally known and who, by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Ames, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as contained in Resolution No. \_\_\_\_\_ adopted by the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2015, and that Ann H. Campbell and Diane R. Voss acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.  
  
\_\_\_\_\_  
Notary Public in and for the State of Iowa

STATE OF IOWA, COUNTY OF STORY, ss:  
  
This instrument was acknowledged before me on July 23, 2015, by Eric Snyder and Chad Lovig, as President and Vice President, respectively, of Ames Police Benefit Association.  
  
  
Notary Public in and for the State of Iowa  
  




*Smart Choice*

August 5, 2015

City of Ames  
515 Clark Avenue  
Ames, IA 50010

RE: Donation of CyclONE City Statue titled "Celebrating 150 Years of Town and Gown" to City of Ames  
Presented as a Sesquicentennial Anniversary Gift by the Ames Chamber of Commerce

Dear City of Ames,

On behalf of the Ames Chamber of Commerce and the Leadership Ames Class of 27, we proudly present to the City of Ames, the "Celebrating 150 Years of Town and Gown" CyclONE City statue, as a commemorative gift celebrating the Sesquicentennial of Ames. This statue is currently located in Inis Grove Park.

As part of this donation to the City of Ames, the Ames Chamber of Commerce will take responsibility for:

- maintenance and repairs to the statue, including paint touch ups, as needed
- maintenance and repairs to the cement statue pad as needed
- costs and labor associated with removal of the cement pad and statue as deemed necessary in the future

Thank you for your continued support and partnership with the Ames Chamber of Commerce and the Leadership Ames program.

Thank you,

A handwritten signature in black ink that reads 'Crystal D. Davis'.

Crystal D. Davis  
Executive Vice President, Ames Chamber of Commerce  
Lead Staff for Leadership Ames

**ENCROACHMENT PERMIT AGREEMENT**  
(304 Main Street, Ames, Iowa 50010)

**IT IS AGREED** between the Ames Chamber of Commerce (hereinafter "Chamber") and the City of Ames, Iowa (hereinafter "City"), that:


1. With respect to the Cy Statue located in the right-of-way of the above listed address and more fully detailed on the attachment, which by this reference is made a part hereof, for which an Encroachment Permit under Section 22.3 of the *Municipal Code* of Ames may be issued, the Chamber does hereby covenant and agree to indemnify and hold harmless the City, its officers and employees, against any loss or liability whatsoever, including attorney's fees, pertaining to any and all claims whatsoever made by any and all persons whomsoever, resulting from or arising out of the location and maintenance of said encroachment.
2. There shall be maintained in effect by the Chamber, for the period of the encroachment, comprehensive general liability insurance coverage in an amount of not less than \$500,000 combined single limit. Said certificate must be accompanied with a copy of Endorsement CG 2013, naming the City of Ames and its employees and assigns, as an additional insured on the policy. The certificate must be on file in the Office of the City Clerk, City of Ames, before a permit shall be issued.
3. The Chamber shall be responsible for (1) maintenance of the pad and statue, including, but not limited to, repairing any damages, cleaning any vandalism, etc; (2) pad and statue removal shall the Cy Statue ever be removed from the site; and (3) restoration of the site if the pad and statue are removed.
4. It is expressly understood and agreed that nothing herein contained shall be deemed a waiver or exemption from any ordinances or amendments thereto enacted by the City of Ames; and, that the City may require the Chamber, after notice and an opportunity for hearing, to remove said encroachment for any legitimate reason.
5. This Covenant and Agreement shall run with the land and be binding upon the successors and assignees of the parties hereto. The Chamber shall notify the City Clerk at the time that the encroachments cease to exist.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2015

**CITY OF AMES, IOWA**  
**515 CLARK AVENUE**

By: \_\_\_\_\_  
Ann H. Campbell, Mayor

**AMES CHAMBER OF COMMERCE**  
**304 MAIN STREET**

By:   
Dan Culhane, President and CEO

Attest: \_\_\_\_\_  
Diane Voss