

S P A C E A B O V E R E S E R V E D F O R O F F I C I A L U S E

Legal description: See page 1.

Return document to: City Clerk, 515 Clark Avenue, Ames IA 50010

Document prepared by: Mark O. Lambert, City of Ames Legal Department, 515 Clark Ave., Ames, IA 50010 – 515-239-5146

**REZONING AGREEMENT FOR ADOPTION OF
THE MASTER PLAN FOR 4098 E 13th Street**

THIS AGREEMENT, made and entered into this ____ day of July 2023, by and between the **City of Ames, Iowa**, (hereinafter “City”) and **ELWELL-RUETER, L.L.C.**, its successors and assigns (hereinafter “Developer”), collectively referred to as the “Parties,”

WITNESSETH THAT:

WHEREAS the Parties hereto desire the improvement and development of real property (Parcel No. 10-05-100-110) in the City of Ames, locally known as 4098 E 13th Street (hereinafter referred to as the “Site”) and legally described as:

Parcel “A” in the Northwest Fractional Quarter (NW frl ¼) of Section Five (5), Township Eighty-three (83) North, Range Twenty-three (23) West of the 5th P.M., Story County, Iowa, as shown on Plat of Survey (Amended) filed in the office of the Recorder of Story County, Iowa, on the 12th Day of December, 1997 and recorded as Instrument No. 97-13483, in Book 15, Page 90 [approximately 55.18 acres more or less];

and

WHEREAS, the Site is designated on the Ames Plan 2040 as Employment (EMP) Expansion) which has an allowable zoning category of General Industrial (GI), and the Developer is seeking rezoning of the Site from the current zoning of Planned Industrial (PI) with Northeast Gateway Overlay (O-GNE) to General Industrial (GI) removing the Northeast Gateway Overlay (O-GNE) with Master Plan; and

WHEREAS, Developer has proposed a Master Plan to address compatibility of use and layout of the site with the proposed GI zoning; and

WHEREAS, the City Council has determined that due to specific conditions that exist on or around the area proposed to be rezoned, or due to specific situations that require more careful consideration of how the layout and design of a site affects general health, safety and welfare, a Master Plan is necessary for the proposed rezoning request as set forth in Ames Municipal Code §29.1507;

WHEREAS, the Developer has submitted a Master Plan in conformance with the requirements set forth in Ames Municipal Code §29.1507(4); and

WHEREAS, Ames Municipal Code §29.1507(5) requires approval of a zoning agreement when a Master Plan is required and that all development of the Site comply with the Master Plan; and

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

**I.
4098 EAST 13th STREET MASTER PLAN ADOPTED**

The Master Plan set forth as Attachment A and incorporated by reference in this agreement shall be the Master Plan for the Site at 4098 East 13th Street. Developer agrees that all development upon the Site shall be in compliance with the Master Plan attached hereto. Developer further agrees that:

- (a) Developer shall restrict uses upon the Site as shown on the Master Plan.
- (b) The Site shall be divided into two or more lots with a preliminary and final plat prior to development of the site.
- (c) Developer shall adhere to the general layout shown in the attached Master Plan in all material aspects, including but not limited to, the placement of two buildings on Lot 1, placement of one or more buildings on Lot 2, circulation of traffic, setbacks, landscaping and building façade characteristics.

**II.
NON-INCLUSION OF OTHER OBLIGATIONS**

The Parties acknowledge and agree that this Agreement is being executed to fulfill a specific requirement of §29.1507(5) of the Ames Municipal Code. The Parties further acknowledge that all site development and subdivision standards continue to apply to the Site.

**III.
GENERAL PROVISIONS**

- A. Modification. The parties agree that this Agreement may be modified,

amended, or supplemented only by written agreement of the parties. In addition, any modifications or changes to the Master Plan shall be undertaken in accordance with the process provided for in Ames Municipal Code §29.1507(5).

B. Incorporation of Recitals and Exhibits. The recitals, together with all exhibits attached hereto, are confirmed by the parties as true and incorporated herein by reference as if fully set forth verbatim. The recitals and exhibits are a substantive contractual part of this Agreement.

C. Prior Agreements Binding. The terms of all prior Agreements affecting this Property in which the City is a party, including any pre-annexation agreement and/or development agreement, are hereby reaffirmed in their entirety except as they may be expressly modified by this Agreement.

D. Noninclusion of Other Improvement Obligations. The Parties acknowledge and agree that it is not possible to anticipate all the infrastructure and Code requirements that the Developer may be required to complete or comply with to properly develop the Site. Therefore, the Parties agree that all work done by and on behalf of the Developer with respect to other improvements, including but not limited to, building design, building construction, and utilities, both on-site and off-site, shall be made in compliance with the Iowa Code, SUDAS, and all other federal, state, and local laws and policies of general application, including but not limited to building and zoning codes, whether or not such requirements are specifically stated in this Agreement.

**IV.
COVENANT WITH THE LAND**

This Agreement shall be filed for record in the office of the Story County Recorder and all covenants, agreements, promises, and representations herein stated shall be deemed to be covenants running with the Site and shall endure and be binding on the parties hereto, their mortgagees, lienholders, successors and assigns, for a period of twenty-one (21) years from the date of the recording of these covenants, unless claims to continue any interest in the covenants are filed as provided by law. The parties understand and agree that the zoning of the property is a matter that may only be modified by the City Council. The City shall have the right to file a claim to continue its interest in these covenants. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the other provisions, which shall remain in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed effective as of the date first above written.

(S i g n a t u r e s o n f o l l o w i n g p a g e)

Dated this _____ day of July 2023.

ELWELL-RUETER, L.L.C.

By:

_____, Manager

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on _____, 2023, by
_____, as Manager of Elwell-Rueter, L.L.C.

NOTARY PUBLIC

Passed and approved on _____, 2023, by Resolution No. 23-_____
adopted by the City Council of the City of Ames, Iowa.

CITY OF AMES, IOWA

By:

John A. Haila, Mayor

Attest:

Renee Hall, City Clerk

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on _____, 2023, by John A. Haila and Renee Hall, as Mayor and City Clerk, respectively, of the City of Ames, Iowa.

NOTARY PUBLIC

ATTACHMENT 'A' – MASTER PLAN