

COUNCIL ACTION FORM

SUBJECT: PURCHASE AGREEMENT FOR PROPERTY AT 5658 ONTARIO STREET (SANDS-MCDORMAN PROPERTY)

BACKGROUND:

In approximately 2011-12, City staff held initial conversations with the owners of the property at 5658 Ontario Street regarding purchasing this land for a City park. The property, referred to as the Sands – McDorman (SMD) property, is outlined in green in Figure 1 below (North is at the top).

Figure 1



The SMD property consists of three parcels totaling 77.85 acres (see Figure 2). Parcel 1 is 8.6 acres; Parcel 2 is 40.0 acres; Parcel 3 is 27.28 acres. Public roads account for the remaining 1.97 acres.

Figure 2



Following these initial conversations in 2011-12, the owners decided not to sell at that time. Subsequently, staff was approached by the owners in 2021 to see if the City was still interested in purchasing this property. Staff indicated the City may be interested and several conversations were held about this proposal. The primary desire of the owners is to have this land developed into a City park.

In 2013, the Iowa Natural Heritage Foundation (INHF) contracted with Hertz Farm Management to complete an appraisal on the property. The property's appraised value was determined to be \$1,100,000. When the City was made aware of the seller's renewed interest in selling the property in 2021, the INHF contracted with Hertz Farm Management to update the 2013 appraisal. **The new appraised value of the entire property is approximately \$1,790,000.** Table 1 shows a breakdown of each parcel's appraised value.

Table 1

Parcel	Appraised Value
1	\$ 202,874
2	\$ 943,600
3	\$ 643,526
Total	\$1,790,000

Staff presented this information to City Council at its September 13, 2022 meeting. Council was in favor of purchasing Parcels 1 & 2 to develop this property in the future as a community park. **Council directed staff to negotiate a purchase agreement for Parcels 1 and 2 of Sands-McDorman Property (5658 Ontario Street) in the amount not to exceed \$1,146,474. The owners intend to keep Parcel 3 at this time.**

FUNDING FOR LAND ACQUISITION:

Sufficient funding existed to finance this land acquisition solely from the Park Development Fund. Despite this, staff submitted applications for Resource Enhancement and Protection (REAP) and Land and Water Conservation grants to offset a portion of the purchase price. **The City has been approved to receive funding from both grants, which lessens the amount needed from the Park Development Fund.** The funding for this land acquisition is shown in Table 2.

Table 2

Funding Source	Amount
Park Development Fund*	\$ 771,474
REAP Grant	\$ 200,000
Land and Water Conservation Grant	\$ 175,000
Total	\$1,146,474

*As of June 30, 2023, the Park Development Fund balance is \$1,361,589

PURCHASE AGREEMENT:

Staff has met with the property owners to determine the conditions of the purchase which have been incorporated into the Purchase Agreement (Attachment A). Several of the highlights of the agreement are summarized below:

Section 1.4 Purchase Price – The purchase price is \$1,146,474.

Section 1.5 Closing Date – This is scheduled for 10:00 AM on September 18, 2023

Section 6 Tenants – The Seller currently leases the land on the south portion of the property to a local farmer for agricultural production. Section 6.6 requires the Seller to terminate this lease by September 1, 2023. The City will then determine if it wants to continue to lease a portion of the purchased land to a farmer or farm management company.

Section 7 CRP – The Seller has notified the Iowa Department of Natural Resources to terminate the contract for the land currently in the Conservation Reserve Program (CRP), as the City does not agree to keep this land in the CRP.

Section 16 Access Reservation – Since the Seller will be keeping Parcel 3, the Seller may reserve a right of access to and from the adjacent right-of-way to their land. The reservation of access rights is shown in Exhibit B of the agreement and the access area is shown in Exhibit C.

Section 21 Personal Property – All personal property shall be removed by the Seller at their expense prior to closing. A walk-through inspection between the Seller and Buyer will occur seven days prior to closing.

Section 26 Private Wastewater Systems – The Seller is required to have the septic system pumped and the bottom of the tank demolished so it does not hold water. Additionally, terms for an inspection of the system are detailed in this section.

Section 29 Signage – The City agrees to install signage to indicate the park boundary along the western property line of the land being purchased adjacent the Seller's remaining property.

FUTURE DEVELOPMENT:

The City Council should understand that purchasing land for a future community park is only the first step in the park development process. Developing the park will require years to plan and implement. Additionally, the cost to fully develop this park over time could be several million dollars.

After purchasing the land, one of the first steps will be the development of a concept plan for this new park. Staff will need to host a series of community-wide meetings to determine how residents would like to see the park developed. **Since the costs to develop this park would be significant, a phased plan would need to be created so the park could be developed over time.** In addition, grant funding will be applied for regarding trails, facilities/amenities, and natural elements (i.e. pollinator gardens, streambank stabilization, nutrient reduction in waterways, etc.).

Until such time that a plan is developed and funding secured, staff will do the following:

- Solicit buyers to move the existing house off the property. If a buyer is not found, the house will be demolished.
- Solicit buyers for the wood on the barn and corn crib and then demolish what remains.
- Per Council direction, conduct further inspection of the milk house building and garage and, if feasible, incorporate them into the final park design.
- Remove hazardous trees, unwanted fencing, and invasive species as time allows.
- Manage the prairie areas (e.g. burning, mowing, etc.) as needed.
- Mow paths throughout the property so residents can enjoy the park until it is fully developed.

ALTERNATIVES:

1. Approve the Purchase Agreement in the amount of \$1,146,474 for the Sands-McDorman property located at 5658 Ontario Street.
2. Do not approve the Purchase Agreement for the Sands-McDorman Property.
3. Refer the agreement back to staff for modification or for further information.

CITY MANAGER'S RECOMMENDED ACTION:

There has been a long-standing goal of the Park Master Plan to add a Community Park on the west side of Ames. The availability of sufficient land to accommodate this type of park is limited, and the property owner of the Sands-McDorman property is willing to sell to allow this land be developed into a park. Therefore, it is the recommendation of the City Manager that the City Council approve Alternative #1, as described above.

Fortunately, the Park Development Fund was created to allow the City Council to respond in a timely manner to opportunities to expand the City's park system without having to wait for the annual budget process, and there are sufficient funds available to accomplish this purchase. Additionally, \$375,000 in grant funding has been secured which reduces the amount of funding needed from the Park Development Fund.

It must be remembered that the ultimate development of this land into a Community Park will be a multi-million-dollar project. Given the significant number of major park projects already planned for and yet to be accomplished in our park system, the development of this new park will not occur in the immediate future.

Real Property Purchase Agreement

THIS IS AN AGREEMENT made by and between Seller and Buyer upon the following terms and conditions:

- 1 **Definitions & Summary.** As used in this Agreement, unless otherwise required by the context:
 - 1.1 "Effective Date" means the date this Agreement becomes effective by its execution by both of the parties hereto.
 - 1.2 "Seller" means, Timothy McDorman, as Trustee of the Sands-McDorman Trust, whose mailing address for the purpose of this Agreement is: 604 Agg Avenue, Ames IA 50014.
 - 1.3 "Buyer" means the **City of Ames, Iowa**, an Iowa municipal corporation, whose mailing address for the purpose of this Agreement is: 515 Clark Avenue – P.O. Box 811, Ames IA 50010.
 - 1.4 "Purchase Price" means u.s.\$1,146,474.00.

"Real Property" means the real property, together with all easements and servient estates appurtenant thereto, located in Story County, Iowa (Parcels No. 09-06-100-205 and 09-06-100-400) and legally described as follows: See Exhibit 'A' attached hereto for legal description.

[Approximately 49 acres more or less]

The foregoing legal description, if abbreviated or inaccurate, shall be amended as necessary to conform to the correct and proper legal description as shown by abstracting or surveying as provided in this Agreement.
 - 1.5 "Closing Date" is at **10:00 A.M. on September 18, 2023**.
 - 1.6 "Date of Possession" shall be the Closing Date, the date on which Buyer is to receive possession of the Real Property from Seller and are thereafter entitled to the beneficial use of the Real Property.
 - 1.7 "Closing" means a meeting of Seller and Buyer, or their agents, at which the transaction contemplated by this Agreement is finally concluded by delivery of a deed conveying title in the Real Property to Buyer and payment of the purchase price to Seller.
 - 1.8 "Agreement" means this instrument as signed by Seller and Buyer.
- 2 **Sale & Purchase.** Buyer agrees to buy, and Seller agrees to sell the Real Property upon the terms and conditions set out in this Agreement.
- 3 **Purchase Price.** Buyer agrees to pay the total Purchase Price for the Real Property to Seller as follows:
 - 3.1 **Payment at Closing.** At the Closing of this Agreement, Buyer agrees to pay to Seller the Purchase Price in the amount of \$1,146,474.00 as may be adjusted by other provisions of this Agreement. Payment shall be in the form of a wire transfer, an ACH direct deposit, a City of Ames check, or a bank money order issued by a commercial bank doing business in the state in which the Real Property is located and insured by the Federal Deposit Insurance Corporation.
- 4 **Closing.** The Closing of this Agreement shall take place on the Closing Date above stated at City Hall, 515 Clark Avenue, Ames, Iowa, or such other time and place as the parties may mutually agree. At Closing, Seller shall furnish, *if applicable and as required*: the deed; a bill of sale for included personal property; a Title Guaranty or title insurance affidavit; a mechanic's lien affidavit; an assignment of leases; tenant and mortgagee estoppel letters; the Iowa Department of Revenue's required Declaration of Value Statement; the Iowa Department of Natural Resources' required Groundwater Hazard Statement; proof of authority to execute instruments on behalf of an entity; a certificate duly executed by Seller under penalty of perjury certifying that each Seller is not a "foreign person" as may be required under 26 U.S.C. sec. 1445, as amended, and any regulations thereunder; and any corrective title instruments. The Iowa Real Estate Transfer Tax pursuant to chapter 428A of the Code of Iowa, the cost of preparing instruments necessary to convey title, and costs of recording instruments required to cure title deficiencies and to document authority of or

reliance on Seller's authority to convey shall be paid for by Seller. Seller transfer tax, real property taxes (both levied and future as provided hereinafter), and similar charges to the Seller customarily paid by a seller shall be offset against the purchase price at Closing. Seller shall timely provide to Buyer or Buyer's agents and employees the pay-off statements for all mortgages or other liens encumbering the Real Property. Buyer or Buyer's agents may, at their discretion, withhold from the Purchase Price the sums due such creditors together with such interest and fees as determined by Buyer or Buyer's agents necessary for the release of the liens and remit such sums directly to such creditors on behalf of Seller.

- 5 **Date of for Accruals.** If Seller and Buyer hereafter select an alternate Date of Possession, such alternate date shall become the effective date for the accrual of interest earned under this Agreement and the proration of real estate taxes, utility charges, and rentals.
- 6 **Tenants.** This Agreement is subject to the leasehold rights of a tenant (Donald Uthe) presently farming the Real Property.
- 6.1 Seller has provided to Buyer the Lease Agreement ("Iowa Cash Rent Farm Lease") dated November 12, 2011, with the farm tenant, Donald Uthe. Seller certifies that there are no other leasehold interests upon the Real Property.
- 6.2 At the Closing, Seller shall assign and transfer to Buyer on the Date of Possession all lease agreements with the tenant as to the Real Property, to be effective on the Date of Possession.
- 6.3 Seller shall retain all rents attributable to the crop year ending March 1, 2024.
- 6.4 While in continued possession of the Real Property, Seller shall ensure that the Real Property is cultivated in accordance with the best farming practices and in a good husbandmanlike manner to as the nature of the soil and the season will permit, maintaining soil fertility and not unduly depleting fertility.
- 6.5 Seller shall indemnify and hold Buyer harmless from as to all claims asserted and suits prosecuted against Buyer by third parties for injuries and damages to persons or property arising out of acts or omissions of Seller and Seller's relationship to Buyer under the lease agreement for the crop year ending March 1, 2024. Indemnification under this paragraph shall include, but not be limited to, a judgment amount awarded by a court plus accrued interest, a negotiated settlement amount, fines, penalties, and attorney fees and other costs of defending against such claims and suits. The covenants and agreements of the parties contained in this paragraph shall survive the performance of all other provisions of this Agreement and shall thereafter be enforceable.
- 6.6 Prior to September 1, 2023, Seller shall terminate the existing leasehold interest described herein as to the Real Property in a manner consistent with Iowa Code § 562.6. Prior to Closing, Seller shall provide the Notice of Termination and sufficient evidence of proper and timely service of said Notice to Buyer.
- 7 **CRP.** Seller represents that all or a part of the Real Property is presently in the Conservation Reserve Program ("CRP"), and Buyer does not agree to continue to maintain the Real Property in CRP. Seller shall be entitled to rental payments accruing before the Date of Possession. Prior to Closing, Seller shall terminate the CRP contract on the Real Property and provide evidence of said termination to Buyer. Seller shall be responsible for all consequences, financial and otherwise, associated with the termination of removing the Real Property from the CRP Program and shall hold harmless and indemnify Buyer from the same. The covenants and agreements of the parties contained in this paragraph shall survive the performance of all other provisions of this Agreement and shall thereafter be enforceable.
- 8 **Real Property Taxes.** Real property taxes are levied annually upon the Real Property by public authorities for each fiscal year ended June 30 (the "levy year") and are payable during the subsequent fiscal year (the "collection year") without penalty, if paid in two equal installments on or by September 30 and March 31 of the collection year. Seller agrees to pay all of the real property taxes previously levied upon the Real Property and all or any prorated part of future real property taxes

to be levied upon the Real Property and attributable to a levy year or any part of a levy year preceding (i.e., up to, but not including) the Date of Possession. Buyer agrees to pay, before they become delinquent, all other real property taxes levied upon the Real Property.

- 9 **Assessments for Public Improvements.** Seller agrees to pay all special assessments levied or to be levied against the Real Property for public improvements which have been installed at the date of this Agreement; and Buyer agrees to pay, before they become delinquent, all other special assessments that may be levied against the Real Property for public improvements installed in the future. Seller represents that Seller has not received a notice regarding any new improvement project from any assessing authorities, the costs of which project may be assessed against the Real Property. Any such notice received by Seller after the date of this Purchase Agreement and before Closing shall be provided to Buyer immediately.
- 10 **Utility & Maintenance Charges.** Seller agrees to pay all charges for solid waste removal, sewage and other utility services and assessments for maintenance of the Real Property attributable to any period preceding the Date of Possession.
- 11 **Property Status – “As Is.”** Buyer acknowledges that they have made a sufficient and satisfactory inspection of the Real Property and are purchasing the Real Property in its “as is” condition.
- 12 **Status Quo.** Seller shall maintain the Real Property in the condition substantially the same as it exists on the date of this Agreement until the Date of Possession, except as provided by this Agreement and except for ordinary wear and tear. Seller agrees to have all utility systems and mechanical systems in good working order on the Date of Possession; and Buyer shall have the right to inspect same immediately prior to the Date of Possession. Personal property (including waste) not included as a part of the sale of Real Property must be removed by and at the expense of Seller before the Date of Possession.
- 13 **Risk of Casualty Loss on Seller.** Seller agrees to keep in force at their expense until the Date of Possession existing insurance policies insuring against loss by fire, tornado and other casualties customarily covered by extended coverage all improvements now or hereafter constituting a part of the Real Property. Seller assumes all risk of loss to the Real Property due to fire, storm or other casualty occurring before the date of possession. If any of the Real Property is substantially damaged or destroyed by fire, storm or other casualty before the Date of Possession, Seller shall promptly notify Buyer thereof and furnish to Buyer a written statement of the amount of any insurance payable on account thereof. For purposes of this Agreement, the Real Property shall be deemed to be substantially damaged if the cost of replacement or repair of all damage before the Date of Possession will exceed \$1,000. Within ten days after receipt of notice of any such damage or destruction and the written statement of insurance payable on account thereof, Buyer may elect to terminate this Agreement by written notice of termination to Seller. Upon such termination, any part of the purchase price previously paid shall be promptly refunded to Buyer, and thereafter neither Buyer nor Seller shall have any further obligation under this Agreement. If Buyer fails to make such election to terminate, Seller shall apply all insurance proceeds payable by reason of such damage or destruction to the payment of the purchase price and any excess proceeds shall be payable to Buyer. If the Real Property is not substantially damaged, it shall be repaired or replaced at Seller’s expense before the Date of Possession. All insurance proceeds payable by reason of damage which Seller are obligated to repair or replace shall be paid to Seller.
- 14 **Abstract.** Seller agrees to deliver forthwith to Buyer for Buyer’s examination an abstract of title to the Real Property continued at Seller’s expense to the date of this Agreement showing merchantable title in conformity with this Agreement, Iowa State Bar Association’s *Iowa Land Title Standards*, and Iowa land title law. After Buyer’s examination, the abstract shall be held by Seller. With delivery of the deed, Seller shall deliver the abstract to Buyer. Seller agrees to pay for any additional abstracting which may be required by acts, omissions or change in the legal status of Seller occurring before delivery of deed.
- 15 **Deed.** Upon payment of all sums owing by Buyer to Seller provided by this Agreement, Seller agrees to execute and contemporaneously to deliver to Buyer a deed conveying the Real Property

to Buyer in fee simple absolute. The deed shall contain general warranties of title, provided, however, that the warranties shall be limited, with respect to the period after equitable title passes to Buyer under this Agreement, to the lawful claims of persons claiming by, through or under Seller. The deed shall be subject to: (a) Liens and encumbrances suffered or permitted by Buyer and taxes and assessments payable by Buyer. (b) Applicable zoning, subdivision, health and rental housing regulations; restrictive covenants of record; and existing easements, streets and other public right-of-way that may cross the Real Property.

- 16 Access Reservation.** Seller may reserve a right of access to and from the adjacent right-of-way to Seller's land ("Remnant Parcel") located in the East Half of the West Fractional Half of the Northwest Fractional Quarter of Section 6, Township 83 North, Range 24 West of the 5th P.M. over land described as the West 385 feet of the North 500 feet of the East Fractional Half of the Northwest Fractional Quarter of Section 6, Township 83 North, Range 24 West of the 5th P.M. The right of access shall terminate the earlier of the date on which the Seller or Seller's beneficiaries transfer ownership of the Remnant Parcel to an unrelated party or ten years. The reservation of access rights will be in conformance with the attached Exhibit B and as illustrated in Exhibit C attached hereto.
- 17 Survey.** If required by Buyer prior to Closing, the precise boundaries of the Real Property shall be determined by a field survey to be made at Buyer's expense, and a survey drawing thereof showing such boundaries by courses and distances and certified by a registered land surveyor. The boundary description determined by such survey shall be used to describe the Real Property in the deed by which Seller convey title to Buyer.
- 18 Buyer To Plat.** Buyer assumes all responsibility for satisfying all subdivision platting requirements applicable to the Real Property under Chapter 354 of the Code of Iowa and local ordinances.
- 19 Condition & Conformance.** Seller represents and warrants with respect to the Real Property that Seller has not received any notice from any governmental authority as to condemnation proceedings or violation of any law, ordinance, or regulation and that the conveyance of the Real Property will not violate any applicable statute, ordinance, governmental restriction or regulation, or any private restriction or agreement binding or otherwise applicable to Seller or the Real Property. If the property is subject to easements or restrictive covenants, Seller warrants that Seller have not received any notice from any person or authority as to a breach of the covenants. Any such notices received by Seller shall be provided to Buyer immediately.
- 20 Fixtures.** All personal property that integrally belongs to or is part of the Real Property, whether attached or detached, such as floor coverings, window and door treatments, light fixtures, electrical service cables, plumbing fixtures, water heater, water softener, sump pump, heating and cooling equipment, door chimes, and built-in furniture, fencing, trees and plants, radio and television antennae and automatic garage door opener, shall be considered a part of the Real Property and included in this sale. Notwithstanding the foregoing, Buyer and Seller agree that Buyer may elect to remove temporary fencing and plants around the house in the garden beds (t-posts and chicken wire) prior to Closing.
- 21 Personal Property.** Seller shall remove all personal property not included in this sale, at Seller's expense prior to the Date of Possession. Specifically, Seller shall be responsible for removing all dumpsters, appliances left outdoors, vehicles, machinery (including, but not limited to, the equipment and implements near the creek) and all hazardous materials on or upon the Real Property prior to the Date of Possession, or Buyer may elect to withhold funds at the time of Closing to pay for the removal of said items from Seller's sales proceeds. Seller shall give access to Buyer to the Real Property to conduct a walk-through inspection within seven (7) days of the Closing Date to identify remaining personal property items that must be removed from the property prior to Closing. Buyer shall have no obligation to close the transaction if Seller fails to remove personal property identified for removal.

- 22 **Timeliness.** Timely performance is the essence of this Agreement. No delay in exercising any right or remedy, however, shall be deemed a waiver of or preclude the exercise of such right or remedy or constitute a waiver of any existing or subsequent default.
- 23 **Forfeiture.** If Buyer fails to perform this Agreement, Seller may forfeit this Agreement as provided by Iowa Code ch. 656. Buyer shall have no right of reclamation or compensation for money paid or improvements made, if any, which shall be retained by Seller as compensation for use of the Real Property, as liquidated damages, or both. Upon completion of forfeiture, Seller may treat any person in possession as tenants holding over after the expiration of a lease and may remove them as provided by Iowa Code ch. 648 or any other legal or equitable remedy.
- 24 **Foreclosure.** If Buyer fails to perform this Agreement, Seller may foreclose this Agreement as provided by Iowa Code chapter 654 and a receiver may be appointed. The period of redemption after sale provided by Iowa Code section 628.3 may be reduced.
- 25 **Notices.** Unless otherwise required by law, any notice or demand required or permitted by the terms of this Agreement shall be sufficient and deemed complete when expressed in writing and either (a) personally delivered to the person entitled thereto, or (b) deposited at any office of the United States Postal Service in the form of certified mail addressed to the last known mailing address of the party entitled thereto, or (c) served on the party entitled thereto in the manner of an original notice under the Iowa Rules of Civil Procedure, or (d) delivered electronically with acknowledgment of delivery by the receiver, or (e) delivered by a reputable private courier service, such as FedEx or UPS, which provides and does provide evidence of delivery to the party.
- 26 **Private Wastewater Systems.** There is a private wastewater or septic system connected to a building upon the Real Property. Prior to Closing, and at the sole expense of the Seller, Seller shall be responsible for pumping the septic system tank and demolishing the bottom of the tank by breaking up or punching holes in the structure so that it is not able to hold water. After the approval of this Agreement by the Ames City Council, Buyer shall promptly determine whether Buyer is able to enter into a "Time of Transfer Inspection Waiver for Building Demolition" with the Story County Board of Health containing terms that are acceptable to the City of Ames. If, in Buyer's sole judgment, Buyer cannot enter into a Waiver acceptable to Buyer, Buyer shall promptly notify Seller and Seller shall cause a state-certified Time of Transfer inspector to inspect and report on the condition of the wastewater disposal system for the Real Property. The cost of any remedial action required by the inspection, if any, shall be done at the expense of the Seller prior to closing, unless Buyer and Seller agree to the contrary by a written amendment to this Agreement.
- 27 **Private Water Supply Systems.** If there is a private well or water supply system upon the Real Property, promptly after the execution of this Agreement and at their expense, Seller shall cause a qualified inspector to inspect and report on the condition of the well or water system for the Real Property. If it should be determined that there is a substantial failure of the system to comply with the health regulations of the county in which the Real Property is located or of the Iowa Department of Natural Resources, Buyer shall have the option to rescind this Agreement by giving notice of such election to the Seller within seven days after receiving the report. The cost of any remedial action required by the inspection, if Buyer elects to proceed to Closing, shall be done at the expense of the Seller prior to closing, unless Buyer and Seller agree to the contrary by a written amendment to this Agreement.
- 28 **Affidavit As To Mechanic's Liens.** Seller shall furnish to Buyer at the time of Closing an affidavit attesting to the absence, unless otherwise provided for herein, of any financing statements, claims of lien or potential lienors known to Seller and further attesting that there have been no improvements or repairs to the Real Property for 90 days immediately preceding the date of Closing. If the Real Property has been improved or repaired within that time, Seller shall deliver releases or waivers of mechanics' liens executed by all general contractors, subcontractors, suppliers and materialmen in addition to Seller's lien affidavit setting forth the names of all such general contractors, subcontractors, suppliers and materialmen and further affirming that all charges for

improvements or repairs which could serve as a basis for a mechanic’s lien or a claim for damages have been paid or will be paid at the Closing of this Agreement.

- 29 **Signage.** After the Closing of this Agreement, Buyer shall install signs on the western boundary of the Real Property abutting the Remnant Parcel (Story County Parcel No. 09-06-100-140), as that term is defined herein, designed to warn trespassers from entering the Remnant Parcel owned by Seller. The content, number and placement of said signage shall be at the Buyer’s sole discretion, however, Buyer shall consult with Seller and provide a draft sign for review prior to installation.
- 30 **Broker’s Commission.** Seller and Buyer represent, respectively, that they have not engaged or used the services of a broker at any time for purposes of consummating the transaction represented by this Agreement and that no broker is entitled to any compensation as a result of the consummation of the transaction represented by this Agreement.
- 31 **City Council Approval.** This Agreement is subject to approval by the Ames City Council. If such approval should be denied, this Agreement shall thereupon become null and void.
- 32 **Entire Agreement.** This instrument constitutes the entire agreement between the parties with respect to the subject matter thereof and supersedes all prior oral or written agreements, statements, representations, and promises. No addition to or change in the terms of this Agreement shall be binding upon the parties unless it is expressed in a writing signed by the parties.
- 33 **Parties.** Words and phrases used in this Agreement shall be construed as in the single or plural number and as the masculine, feminine or neuter gender according to the context. “Parties” refers to both Seller and Buyer together. “Party” may refer to either a Seller or a Buyer. If a Seller or a Buyer, as defined in this Agreement, consists of two or more entities or persons, each is jointly and severally liable and responsible for the duties and warranties of that party.
- 34 **Interpretation.** This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of Iowa. The paragraph headings in this Agreement are for convenience only and in no way define or limit the scope or intent of any provisions of this Agreement. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original and all of which shall constitute but one and the same instrument.

IN WITNESS OF THIS Agreement Seller and Buyer have executed this instrument under date of _____, 2023.

SELLER:

SANDS-MCDORMAN TRUST

Dated _____, 2023.

By: _____
Timothy McDorman, Trustee

STATE OF IOWA, COUNTY OF STORY, SS.:

This instrument was acknowledged before me on _____, 2023, by Timothy McDorman, as Trustee of the Sands-McDorman Trust.

NOTARY PUBLIC

BUYER:

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

At-
test: _____
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

Exhibit A
Legal Description

The East Fractional Half (E Frl. $\frac{1}{2}$) of the Northwest Fractional Quarter (NW Frl. $\frac{1}{4}$) of Section Six (6), Township Eighty-three (83) North, Range Twenty-four (24) West of the 5th P.M., Story County, Iowa **EXCEPT** Tract "B", a part of the NW Frl. $\frac{1}{4}$ of Sec. 6 -T83N-R24W of the 5th P.M., Story County, Iowa, as shown on the "Acquisition Plat" filed in the office of the Recorder of Story County, Iowa, on September 19, 1996, as Inst. No. 96-10066, Book 14, Page 73, **AND EXCEPT** Public Road Right of Way.

Exhibit B
Deed Reservation of Temporary Access

Reservation of Access Rights. Grantor reserves to Grantor and certain successors in interest as described hereinafter a temporary easement for a right of access to and from the public right-of-way over and across the following described area: West 385 feet of the North 500 feet of the East Fractional Half of the Northwest Fractional Quarter of Section 6, Township 83 North, Range 24 West of the 5th P.M. This reservation of access rights is subject to the following conditions: (1) The City of Ames shall have no responsibility for the maintenance or costs of the access. (2) Grantor shall indemnify and hold the City of Ames harmless from Grantor's use of the temporary easement area and the access and shall bear all costs of repair to the access easement area occasioned by Grantor's use. (3) The existing path shall not be enlarged. (4) It is intended that the Grantor and the trustor's family members only shall have a right to maintain this access. This temporary easement for access shall terminate the earlier of ten years from the recording of this instrument or the recording of a transfer instrument taxable pursuant to Iowa Code chapter 428A, unless extended by the City Council pursuant to a request made by Grantor or Grantor's successors in interest who are beneficiaries of the Grantor.

EXHIBIT C

OREGON AVE.

CALIFORNIA AVE.

ONTARIO ST.

NW NW

NE NW

SW NW

NE NW

500.0'

385.0'

POINT OF
ENTRANCE/EXIT

POINT OF
ENTRANCE/EXIT

POINT OF
ENTRANCE/EXIT

VICINITY SKETCH
STORY COUNTY IOWA
R-24-W

