

**COUNCIL ACTION FORM**

**SUBJECT: IOWA STATE UNIVERSITY LAND LEASE AGREEMENTS 2016**

**BACKGROUND:**

Several parks or portions of parks in the Ames park system are leased from Iowa State University. Five of these leases expired March 1, 2015, however, prior to that date City Council approved an amendment for each that extended the lease through January 31, 2016. Since the Board of Regents will not take action on these leases until its February meeting, Iowa State University has approved continuing under the existing lease terms until March 1, 2016. Information regarding these leases is shown in the table below. Maps of each park are attached which show the lease area, as well as, any adjacent area owned by the City.

<b>Park</b>	<b>Lease Initiated</b>	<b>Acres</b>	<b>Lease Expires*</b>
Brookside	1951	66.92	January 31, 2016
Franklin	1960	4.00	January 31, 2016
McDonald Woods	1967	10.60	January 31, 2016
Stuart Smith	1973	26.11	January 31, 2016
Zumwalt Trail Railroad	1970	7.99	January 31, 2016

\* Iowa State University has approved continuing under the existing lease terms until March 1, 2016.

Staff has met with Iowa State University representatives regarding renewing the leases for 50 years and both parties are in agreement. The lease agreements are generally the same as in the past. Changes made are highlighted below.

- Section 1 – Premises; Term: The term is going from 30 years to 50 years.
- Section 2 – Rent: Changed from \$1.00 per year to no rent being charged due to the City maintaining the premises.
- Section 3 – Use of Premises: Indicates the City shall use the premises only as a public park for the benefit of the residents of Ames and the students, faculty and guests of ISU.
- Section 4 – Maintenance, Utilities: This details the City shall maintain the premises at its expense, including all buildings, structures, equipment, playgrounds, walks, foot trails, bicycle paths, roads, parking, stream banks, utilities and other improvements on the premises, in good order and safe condition. It also requires ISU approval for cutting down live trees.
- Section 5 – Improvements: Language was added regarding if an improvement is added, the City and ISU will agree in writing as to whether the City will be required to remove the improvement upon termination or expiration of the lease,

and, if not, the amount of any compensation ISU is to pay the City for the improvement.

- Section 6 – Assignment and Subletting: Any assignment of this lease or subletting of the premises is prohibited without ISU's written permission.
- Section 7 - Is relevant only to the McDonald Woods Park, where the City is required to maintain a dedication plaque.
- Section 8 – Taxes: This has been added stating that no taxes or assessments are anticipated for the premises, however, if there are, the City is responsible for the payment.
- Section 9 – Termination: This now defines a serious breach and includes a provision that ISU notify the City of a breach of contract and the right to cure prior to termination.
- Section 10 – Surrender of Premises: Clarifies the responsibility of the City as it relates to removing all buildings, structures, and equipment from the premises and restoring the site to a safe and useful condition, unless the City and ISU have agreed otherwise.
- Section 11 – Liability: Language regarding liability has been updated.
- Section 12 – Insurance: This section is new and requires the City to provide, at its own expense, insurance or risk finance programs in the amounts it deems appropriate to cover General Liability, Automobile Liability, Workers Compensation, Employers Liability, and Property Insurance.
- Section 13 – Notices: This section is new and states notices shall be in writing and shall be delivered by messenger or overnight carrier to the other party.
- Section 14 – Miscellaneous: This section is new and requires the lease shall not be modified without the written mutual consent of the parties.

These agreements will allow the City to continue using the parks through January 31, 2066.

#### **ALTERNATIVES:**

1. Approve the Lease Agreements for Brookside Park, Franklin Park, MacDonald Woods, Stuart Smith Park, and Zumwalt Trail Railroad Park which extend the leases through January 31, 2066.
2. Do not approve the Lease Agreements for Brookside Park, Franklin Park, MacDonald Woods, Stuart Smith Park, and Zumwalt Trail Railroad Park.

#### **MANAGER'S RECOMMENDED ACTION:**

These leases have afforded Ames residents and Iowa State University students and faculty additional park space to utilize for their recreational needs. These agreements will continue to offer users with this additional park space for another 50 years.

Therefore, it is the recommendation of the City Manager that the City Council adopt Alternative #1, thereby approving the Lease Agreements for Brookside Park, Franklin Park, MacDonald Woods, Stuart Smith Park, and Zumwalt Trail Railroad Park which extend the leases through January 31, 2066.

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**DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER**

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, 515 Clark Ave., P.O. Box 811, Ames, IA 50010

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Lease  
Brookside Park

THIS LEASE AGREEMENT (“this Lease”), effective as of February 1, 2016, between the Board of Regents, State of Iowa acting for and on behalf of Iowa State University of Science and Technology (“ISU”), 1350 Beardshear Hall, Ames, Iowa, and the City of Ames, Iowa (“the City”), 515 Clark Avenue, Ames, Iowa.

1. Premises; Term. ISU, in consideration of the rentals to be paid by the City, leases to the City for use as a public park the following described premises situated in Story County, Iowa (“Premises”):

That part of the East half of the West half of Section 3, Township 83 North, Range 24, West of the 5<sup>th</sup> P.M. lying North of the main East and West line of the Chicago and Northwestern Railroad right-of-way, containing approximately 66.92 acres,

from February 1, 2016, to January 31, 2066.

2. Rent. ISU shall not charge any rent to the City. This Lease is of mutual benefit to both parties, and the City’s consideration for this Lease is its agreement to maintain the Premises.

3. Use of Premises. The City shall use the Premises only as a public park for the benefit of the residents of Ames and the students, faculty and guests of ISU. In the event the City ceases to properly maintain the Premises for that purpose or diverts the Premises to any other use, ISU may terminate this Lease as set forth in Section 9. The City shall comply with all applicable laws in connection with its use of the Premises and shall not permit any hazardous substances to be stored or handled on the Premises.

4. Maintenance; Utilities. The City shall maintain the Premises at its expense, including all buildings, structures, equipment, playgrounds, walks, foot trails, bicycle paths, roads, parking, stream banks, utilities and other improvements on the Premises, in good order and safe condition. The City shall not cut down live trees on the Premises without the consent of ISU, but the City may transplant existing trees and shrubs, install new plantings and trim dead and/or broken limbs that create hazardous situations. The City shall establish all utilities to the Premises in its name and timely pay all utility service providers. ISU reserves the right to require the City to remove, at the City's expense, any building, structure or equipment that is unsafe, damaged beyond ordinary wear and tear, or inconsistent with the use as a public park.

5. Improvements. The City may grade the Premises for playground or other park purposes, establish walks, foot trails, bicycle paths, roads and parking and place on the Premises equipment proper and suitable for use in a public park. The City may also construct and maintain on the Premises shelter houses and other permanent buildings or structures for park purposes after obtaining ISU's prior approval of plans, specifications and costs. The approval by ISU of the permanent buildings and structures shall not be unreasonably withheld. At the time the plans are approved, the City and ISU shall mutually agree in writing as to whether the City will be required to remove approved improvement upon termination or expiration of this Lease and, if not, the amount of any compensation ISU is to pay the City for the approved improvement. The City shall keep the Premises free and clear of all liens arising out of any work performed or material furnished for the City.

6. Assignment and Subletting. Any assignment of this Lease or subletting of the Premises is prohibited without ISU's written permission. Such written permission shall not be unreasonably withheld. Such permission from ISU shall not be necessary if the City desires to enter into agreements with organizations and individuals to use the Premises periodically or temporarily, so long as such use is consistent with the use of the Premises as a public park.

7. Reserved

8. Taxes. The parties anticipate that there will be no real estate taxes or assessments assessed against the Premises or the City's improvements. Should such taxes or assessments be assessed, the City shall be responsible for the payment of such taxes or assessments.

9. Termination. The lease shall terminate upon expiration of this Lease unless earlier terminated by mutual agreement of the parties or as set forth in this paragraph related to a breach of contract. In recognition that the City might want to make additional improvements that will require additional time to depreciate, it is agreed that the City may request, and ISU may grant with the approval of the Board of Regents, extensions to this Lease Agreement term at any time.

ISU may terminate this Lease if the City breaches a material term of this Lease and such breach is serious and goes against the essence of the transaction. A breach is serious and goes against the essence of the transaction only in the following cases:

- a. The City uses the Premises for purposes other than stated in Section 3.
- b. The breach has caused or is reasonably expected to cause damages in excess of \$500,000, such amount to be adjusted annually each July 1 for inflation using the Department of Labor's Consumer Price Index-Urban [CPI-U, All Items, All City Average, 1982-84-100] issued in the preceding month; or
- c. The City has repeatedly breached a material term of this Lease within any two-year period, or the City has engaged in a pattern of material breaches of this Lease Agreement; provided, however, this clause may only apply where the City's breaches indicate deliberate indifference to the terms of this Lease.

ISU shall notify the City of its intent to terminate and the nature of the breach ISU believes has occurred and shall provide the City with a reasonable period commensurate with the nature of the breach to cure such breach. If the City fails to cure such breach by the end of the cure period, ISU shall give at least 30 days advance written notice of termination and termination shall be automatic at the end of the notice period.

10. Surrender of the Premises. Upon the termination of this Lease, the City shall vacate the Premises. Unless ISU and the City have agreed otherwise, the City shall remove, at its expense, all buildings, structures and equipment from the Premises and restore the site of such removed building, structure and equipment to a safe and useful condition. The parties agree to meet at that time and determine a reasonable removal schedule. However, if the City makes a request in writing to extend the term of the Lease Agreement for purposes consistent with Paragraph 3 and such request is made in the period beginning three years prior and ending no later than one year prior to the end of the fifty year term of the Lease Agreement (or any mutually agreed upon modification of the term) and ISU denies the request, then the obligation to remove all improvements will be based on mutually satisfactory terms agreed to by the parties in writing.

11. Liability. The City shall indemnify and hold harmless ISU, the Board of Regents, State of Iowa and the State of Iowa and their respective officers and employees from any and all claims, demands, damages or expenses arising out of (i) the use of the Premises by any and all persons, including employees and contractors of the City or (ii) the City's breach of this Lease.

12. Insurance. The City agrees to provide and maintain, at its own expense, for the term of the lease, insurance or risk finance programs in the amounts it deems appropriate to cover the following risks:

- General Liability – for Bodily Injury and Property Damage
- Automobile Liability – for Bodily Injury and Property Damage

- Workers Compensation – statutory requirements, including self-insurance or large deductible programs
- Employers Liability – statutory requirements, including self-insurance or large deductible program
- Property Insurance – Fire and Extended Coverage, covering Physical Damage for owned property or equipment

The City shall take action reasonably required to ensure collection from insurers under any applicable policies of insurance.

13. Notices. Notices relating to this Lease shall be in writing and shall be delivered by messenger or overnight carrier to the other party at the address set forth above or such other address as may be given in writing in accordance with this section. Notice shall be deemed effective upon receipt.

14. Miscellaneous. This Lease shall not be modified without the written mutual consent of the parties. The failure of either party to require performance of any term or condition of this Lease by the other party shall not constitute a waiver to subsequently enforce such term or condition. The rights and remedies set forth in this Lease are not exclusive and are in addition to any other rights and remedies available in law or equity. The invalidity or illegality of one or more provisions of this Lease shall not affect the enforceability of the remaining provisions. The parties' rights and obligations in this Lease that, by their nature, would continue beyond the termination of this Lease shall survive such termination.

(The remainder of this page is intentionally blank)

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by their duly authorized representatives as of the date first above written.

<p>IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY</p> <p>By _____ Warren Madden Senior Vice President for Business and Finance</p> <p>BOARD OF REGENTS, STATE OF IOWA</p> <p>By _____ Robert Donley Executive Director</p> <p>STATE OF IOWA, COUNTY OF POLK, ss:</p> <p>On this ____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Robert Donley, to me personally known and who, by me duly sworn, did say that he is Executive Director of Board of Regents, State of Iowa, that the instrument was signed on behalf of and by the authority of the Board of Regents, State of Iowa and that Robert Donley was authorized to execute this instrument by vote of the Board of Regents, State of Iowa at its meeting on the ____ day of _____ 2016, and the execution of this instrument is a voluntary act and deed of the Board of Regents, State of Iowa and of the executive director.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>	<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell Mayor</p> <p>Attest _____ Diane R. Voss City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this ____ day of _____, 2016, 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 _____, 2016, 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.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>
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ATTACHMENT A



Brookside Park



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**DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER**

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, 515 Clark Ave., P.O. Box 811, Ames, IA 50010

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Lease

Franklin Park

THIS LEASE AGREEMENT (“this Lease”), effective as of February 1, 2016, between the Board of Regents, State of Iowa acting for and on behalf of Iowa State University of Science and Technology (“ISU”), 1350 Beardshear Hall, Ames, Iowa, and the City of Ames, Iowa (“the City”), 515 Clark Avenue, Ames, Iowa.

1. Premises; Term. ISU, in consideration of the rentals to be paid by the City, leases to the City for use as a public park the following described premises situated in Story County, Iowa (“Premises”):

A tract of land in the Northwest Quarter of the Northeast Quarter of Section 8, Township 83 North, Range 24 West of the 5<sup>th</sup> P.M. Iowa, described as follows: Beginning at the Southeast corner of Lot 12, Block 2 of West Ames, now known as West Ames Addition to the City of Ames, Iowa; thence west along the south line of said Lot 12 and said south line extended for a distance of 604.9 feet; thence south parallel with the west line of South Franklin Avenue in Ames, Iowa 294.22 feet; thence east 604.9 feet to the west line of said South Franklin Avenue; thence north along the west line of South Franklin Avenue 294.22 feet to the place of beginning, containing approximately 4 acres,

from February 1, 2016, to January 31, 2066.

2. Rent. ISU shall not charge any rent to the City. This Lease is of mutual benefit to both parties, and the City’s consideration for this Lease is its agreement to maintain the Premises.

3. Use of Premises. The City shall use the Premises only as a public park for the benefit of the residents of Ames and the students, faculty and guests of ISU. In the event the City ceases to properly maintain the Premises for that purpose or diverts the Premises to any other use, ISU may terminate this Lease as set forth in Section 9. The City shall comply with all applicable laws in connection with its use of the Premises and shall not permit any hazardous substances to be stored or handled on the Premises.

4. Maintenance; Utilities. The City shall maintain the Premises at its expense, including all buildings, structures, equipment, playgrounds, walks, foot trails, bicycle paths, roads, parking, stream banks, utilities and other improvements on the Premises, in good order and safe condition. The City shall not cut down live trees on the Premises without the consent of ISU, but the City may transplant existing trees and shrubs, install new plantings and trim dead and/or broken limbs that create hazardous situations. The City shall establish all utilities to the Premises in its name and timely pay all utility service providers. ISU reserves the right to require the City to remove, at the City's expense, any building, structure or equipment that is unsafe, damaged beyond ordinary wear and tear, or inconsistent with the use as a public park.

5. Improvements. The City may grade the Premises for playground or other park purposes, establish walks, foot trails, bicycle paths, roads and parking and place on the Premises equipment proper and suitable for use in a public park. The City may also construct and maintain on the Premises shelter houses and other permanent buildings or structures for park purposes after obtaining ISU's prior approval of plans, specifications and costs. The approval by ISU of the permanent buildings and structures shall not be unreasonably withheld. At the time the plans are approved, the City and ISU shall mutually agree in writing as to whether the City will be required to remove approved improvement upon termination or expiration of this Lease and, if not, the amount of any compensation ISU is to pay the City for the approved improvement. The City shall keep the Premises free and clear of all liens arising out of any work performed or material furnished for the City.

6. Assignment and Subletting. Any assignment of this Lease or subletting of the Premises is prohibited without ISU's written permission. Such written permission shall not be unreasonably withheld. Such permission from ISU shall not be necessary if the City desires to enter into agreements with organizations and individuals to use the Premises periodically or temporarily, so long as such use is consistent with the use of the Premises as a public park.

7. Reserved

8. Taxes. The parties anticipate that there will be no real estate taxes or assessments assessed against the Premises or the City's improvements. Should such taxes or assessments be assessed, the City shall be responsible for the payment of such taxes or assessments.

9. Termination. The lease shall terminate upon expiration of this Lease unless earlier terminated by mutual agreement of the parties or as set forth in this paragraph related to a breach of contract. In recognition that the City might want to make additional improvements that will require additional time to depreciate, it is agreed that the City may request, and ISU may

grant with the approval of the Board of Regents, extensions to this Lease Agreement term at any time.

ISU may terminate this Lease if the City breaches a material term of this Lease and such breach is serious and goes against the essence of the transaction. A breach is serious and goes against the essence of the transaction only in the following cases:

- a. The City uses the Premises for purposes other than stated in Section 3.
- b. The breach has caused or is reasonably expected to cause damages in excess of \$500,000, such amount to be adjusted annually each July 1 for inflation using the Department of Labor's Consumer Price Index-Urban [CPI-U, All Items, All City Average, 1982-84-100] issued in the preceding month; or
- c. The City has repeatedly breached a material term of this Lease within any two-year period, or the City has engaged in a pattern of material breaches of this Lease Agreement; provided, however, this clause may only apply where the City's breaches indicate deliberate indifference to the terms of this Lease.

ISU shall notify the City of its intent to terminate and the nature of the breach ISU believes has occurred and shall provide the City with a reasonable period commensurate with the nature of the breach to cure such breach. If the City fails to cure such breach by the end of the cure period, ISU shall give at least 30 days advance written notice of termination and termination shall be automatic at the end of the notice period.

10. Surrender of the Premises. Upon the termination of this Lease, the City shall vacate the Premises. Unless ISU and the City have agreed otherwise, the City shall remove, at its expense, all buildings, structures and equipment from the Premises and restore the site of such removed building, structure and equipment to a safe and useful condition. The parties agree to meet at that time and determine a reasonable removal schedule. However, if the City makes a request in writing to extend the term of the Lease Agreement for purposes consistent with Paragraph 3 and such request is made in the period beginning three years prior and ending no later than one year prior to the end of the fifty year term of the Lease Agreement (or any mutually agreed upon modification of the term) and ISU denies the request, then the obligation to remove all improvements will be based on mutually satisfactory terms agreed to by the parties in writing.

11. Liability. The City shall indemnify and hold harmless ISU, the Board of Regents, State of Iowa and the State of Iowa and their respective officers and employees from any and all claims, demands, damages or expenses arising out of (i) the use of the Premises by any and all persons, including employees and contractors of the City or (ii) the City's breach of this Lease.

12. Insurance. The City agrees to provide and maintain, at its own expense, for the term of the lease, insurance or risk finance programs in the amounts it deems appropriate to cover the following risks:

- General Liability – for Bodily Injury and Property Damage
- Automobile Liability – for Bodily Injury and Property Damage
- Workers Compensation – statutory requirements, including self-insurance or large deductible programs
- Employers Liability – statutory requirements, including self-insurance or large deductible program
- Property Insurance – Fire and Extended Coverage, covering Physical Damage for owned property or equipment

The City shall take action reasonably required to ensure collection from insurers under any applicable policies of insurance.

13. Notices. Notices relating to this Lease shall be in writing and shall be delivered by messenger or overnight carrier to the other party at the address set forth above or such other address as may be given in writing in accordance with this section. Notice shall be deemed effective upon receipt.

14. Miscellaneous. This Lease shall not be modified without the written mutual consent of the parties. The failure of either party to require performance of any term or condition of this Lease by the other party shall not constitute a waiver to subsequently enforce such term or condition. The rights and remedies set forth in this Lease are not exclusive and are in addition to any other rights and remedies available in law or equity. The invalidity or illegality of one or more provisions of this Lease shall not affect the enforceability of the remaining provisions. The parties' rights and obligations in this Lease that, by their nature, would continue beyond the termination of this Lease shall survive such termination.

(The remainder of this page is intentionally blank)

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by their duly authorized representatives as of the date first above written.

<p>IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY</p> <p>By _____ Warren Madden Senior Vice President for Business and Finance</p> <p>BOARD OF REGENTS, STATE OF IOWA</p> <p>By _____ Robert Donley Executive Director</p> <p>STATE OF IOWA, COUNTY OF POLK, ss:</p> <p>On this ____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Robert Donley, to me personally known and who, by me duly sworn, did say that he is Executive Director of Board of Regents, State of Iowa, that the instrument was signed on behalf of and by the authority of the Board of Regents, State of Iowa and that Robert Donley was authorized to execute this instrument by vote of the Board of Regents, State of Iowa at its meeting on the ____ day of _____ 2016, and the execution of this instrument is a voluntary act and deed of the Board of Regents, State of Iowa and of the executive director.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>	<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell Mayor</p> <p>Attest _____ Diane R. Voss City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this ____ day of _____, 2016, 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 _____, 2016, 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.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>
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ATTACHMENT A



Franklin Park



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**DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER**

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, 515 Clark Ave., P.O. Box 811, Ames, IA 50010

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Lease

McDonald Woods Park

THIS LEASE AGREEMENT (“this Lease”), effective as of February 1, 2016, between the Board of Regents, State of Iowa acting for and on behalf of Iowa State University of Science and Technology (“ISU”), 1350 Beardshear Hall, Ames, Iowa, and the City of Ames, Iowa (“the City”), 515 Clark Avenue, Ames, Iowa.

1. Premises; Term. ISU, in consideration of the rentals to be paid by the City, leases to the City for use as a public park the following described premises situated in Story County, Iowa (“Premises”):

Lot 2 in the West half of the East half of the Southwest quarter of Section 36, Township 84 North, Range 24, West of the 5<sup>th</sup> P.M. That portion of the 40 acres owned by the grantor described as the Southwest quarter of the Southwest quarter of Section 36, Township 84 North, Range 24, West of the 5<sup>th</sup> P.M. lying North and East of the Skunk River to a point where the said River makes a sharp turn to the West, and at which point a draw from the Northeast enters said River. The said land conveyed consists of the wooded bluffs overlooking said River, and is bounded on the East by the Brown acreage, on the south and west by the Skunk River, and on the north by said draw; containing approximately 10.6 acres,

from February 1, 2016, to January 31, 2066.

2. Rent. ISU shall not charge any rent to the City. This Lease is of mutual benefit to both parties, and the City’s consideration for this Lease is its agreement to maintain the Premises.



3. Use of Premises. The City shall use the Premises only as a public park for the benefit of the residents of Ames and the students, faculty and guests of ISU. In the event the City ceases to properly maintain the Premises for that purpose or diverts the Premises to any other use, ISU may terminate this Lease as set forth in Section 9. The City shall comply with all applicable laws in connection with its use of the Premises and shall not permit any hazardous substances to be stored or handled on the Premises.

4. Maintenance; Utilities. The City shall maintain the Premises at its expense, including all buildings, structures, equipment, playgrounds, walks, foot trails, bicycle paths, roads, parking, stream banks, utilities and other improvements on the Premises, in good order and safe condition. The City shall not cut down live trees on the Premises without the consent of ISU, but the City may transplant existing trees and shrubs, install new plantings and trim dead and/or broken limbs that create hazardous situations. The City shall establish all utilities to the Premises in its name and timely pay all utility service providers. ISU reserves the right to require the City to remove, at the City's expense, any building, structure or equipment that is unsafe, damaged beyond ordinary wear and tear, or inconsistent with the use as a public park.

5. Improvements. The City may grade the Premises for playground or other park purposes, establish walks, foot trails, bicycle paths, roads and parking and place on the Premises equipment proper and suitable for use in a public park. The City may also construct and maintain on the Premises shelter houses and other permanent buildings or structures for park purposes after obtaining ISU's prior approval of plans, specifications and costs. The approval by ISU of the permanent buildings and structures shall not be unreasonably withheld. At the time the plans are approved, the City and ISU shall mutually agree in writing as to whether the City will be required to remove approved improvement upon termination or expiration of this Lease and, if not, the amount of any compensation ISU is to pay the City for the approved improvement. The City shall keep the Premises free and clear of all liens arising out of any work performed or material furnished for the City.

6. Assignment and Subletting. Any assignment of this Lease or subletting of the Premises is prohibited without ISU's written permission. Such written permission shall not be unreasonably withheld. Such permission from ISU shall not be necessary if the City desires to enter into agreements with organizations and individuals to use the Premises periodically or temporarily, so long as such use is consistent with the use of the Premises as a public park.

7. Dedication Plaque. The City shall maintain the dedication plaque to Professor G. B. McDonald and the area shall be further identified as McDonald Woods, maintained as a suitable memorial to him as a forester, conservationist, community leader and Boy Scout executive.

8. Taxes. The parties anticipate that there will be no real estate taxes or assessments assessed against the Premises or the City's improvements. Should such taxes or assessments be assessed, the City shall be responsible for the payment of such taxes or assessments.

9. Termination. The lease shall terminate upon expiration of this Lease unless earlier terminated by mutual agreement of the parties or as set forth in this paragraph related to a breach of contract. In recognition that the City might want to make additional improvements that will require additional time to depreciate, it is agreed that the City may request, and ISU may grant with the approval of the Board of Regents, extensions to this Lease Agreement term at any time.

ISU may terminate this Lease if the City breaches a material term of this Lease and such breach is serious and goes against the essence of the transaction. A breach is serious and goes against the essence of the transaction only in the following cases:

- a. The City uses the Premises for purposes other than stated in Section 3.
- b. The breach has caused or is reasonably expected to cause damages in excess of \$500,000, such amount to be adjusted annually each July 1 for inflation using the Department of Labor's Consumer Price Index-Urban [CPI-U, All Items, All City Average, 1982-84-100] issued in the preceding month; or
- c. The City has repeatedly breached a material term of this Lease within any two-year period, or the City has engaged in a pattern of material breaches of this Lease Agreement; provided, however, this clause may only apply where the City's breaches indicate deliberate indifference to the terms of this Lease.

ISU shall notify the City of its intent to terminate and the nature of the breach ISU believes has occurred and shall provide the City with a reasonable period commensurate with the nature of the breach to cure such breach. If the City fails to cure such breach by the end of the cure period, ISU shall give at least 30 days advance written notice of termination and termination shall be automatic at the end of the notice period.

10. Surrender of the Premises. Upon the termination of this Lease, the City shall vacate the Premises. Unless ISU and the City have agreed otherwise, the City shall remove, at its expense, all buildings, structures and equipment from the Premises and restore the site of such removed building, structure and equipment to a safe and useful condition. The parties agree to meet at that time and determine a reasonable removal schedule. However, if the City makes a request in writing to extend the term of the Lease Agreement for purposes consistent with Paragraph 3 and such request is made in the period beginning three years prior and ending no later than one year prior to the end of the fifty year term of the Lease Agreement (or any mutually agreed upon modification of the term) and ISU denies the request, then the obligation to remove all improvements will be based on mutually satisfactory terms agreed to by the parties in writing.

11. Liability. The City shall indemnify and hold harmless ISU, the Board of Regents, State of Iowa and the State of Iowa and their respective officers and employees from any and all claims, demands, damages or expenses arising out of (i) the use of the Premises by any and all persons, including employees and contractors of the City or (ii) the City's breach of this Lease.

12. Insurance. The City agrees to provide and maintain, at its own expense, for the term of the lease, insurance or risk finance programs in the amounts it deems appropriate to cover the following risks:

- General Liability – for Bodily Injury and Property Damage
- Automobile Liability – for Bodily Injury and Property Damage
- Workers Compensation – statutory requirements, including self-insurance or large deductible programs
- Employers Liability – statutory requirements, including self-insurance or large deductible program
- Property Insurance – Fire and Extended Coverage, covering Physical Damage for owned property or equipment

The City shall take action reasonably required to ensure collection from insurers under any applicable policies of insurance.

13. Notices. Notices relating to this Lease shall be in writing and shall be delivered by messenger or overnight carrier to the other party at the address set forth above or such other address as may be given in writing in accordance with this section. Notice shall be deemed effective upon receipt.

14. Miscellaneous. This Lease shall not be modified without the written mutual consent of the parties. The failure of either party to require performance of any term or condition of this Lease by the other party shall not constitute a waiver to subsequently enforce such term or condition. The rights and remedies set forth in this Lease are not exclusive and are in addition to any other rights and remedies available in law or equity. The invalidity or illegality of one or more provisions of this Lease shall not affect the enforceability of the remaining provisions. The parties' rights and obligations in this Lease that, by their nature, would continue beyond the termination of this Lease shall survive such termination.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by their duly authorized representatives as of the date first above written.

<p>IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY</p> <p>By _____ Warren Madden Senior Vice President for Business and Finance</p> <p>BOARD OF REGENTS, STATE OF IOWA</p> <p>By _____ Robert Donley Executive Director</p> <p>STATE OF IOWA, COUNTY OF POLK, ss:</p> <p>On this ____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Robert Donley, to me personally known and who, by me duly sworn, did say that he is Executive Director of Board of Regents, State of Iowa, that the instrument was signed on behalf of and by the authority of the Board of Regents, State of Iowa and that Robert Donley was authorized to execute this instrument by vote of the Board of Regents, State of Iowa at its meeting on the ____ day of _____ 2016, and the execution of this instrument is a voluntary act and deed of the Board of Regents, State of Iowa and of the executive director.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>	<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell Mayor</p> <p>Attest _____ Diane R. Voss City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this ____ day of _____, 2016, 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 _____, 2016, 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.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>
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ATTACHMENT A



McDonald Woods (Part of River Valley Park)



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**DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER**

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, 515 Clark Ave., P.O. Box 811, Ames, IA 50010

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Lease  
Stuart Smith Park

THIS LEASE AGREEMENT (“this Lease”), effective as of February 1, 2016, between the Board of Regents, State of Iowa acting for and on behalf of Iowa State University of Science and Technology (“ISU”), 1350 Beardshear Hall, Ames, Iowa, and the City of Ames, Iowa (“the City”), 515 Clark Avenue, Ames, Iowa.

1. Premises; Term. ISU, in consideration of the rentals to be paid by the City, leases to the City for use as a public park the following described premises situated in Story County, Iowa (“Premises”):

Parcel No. 1: That part of the Northwest  $\frac{1}{4}$  Section 10 Township 84 North Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa, described as beginning at a point 802.6 feet West and 75 feet South of the North  $\frac{1}{4}$  Corner of said Section 10; thence Southerly along the East line of Elwood Drive to the North line of South 4<sup>th</sup> Street; thence Easterly along the North line of South 4<sup>th</sup> Street to the West line of “old” South Riverside Drive; thence North to a point 33 feet West and 292 feet South of the Northeast Corner Southeast  $\frac{1}{4}$  Northwest  $\frac{1}{4}$  Section 10; thence West 234 feet, thence North 292 feet to the Southwest Corner of Riverside Addition; thence Northerly along the West line of Riverside Addition to the South line of Lincoln Way; thence West along the South line of Lincoln Way to the point of beginning.

Parcel No. 2: Beginning at the intersection of the North right-of-way line of Lincoln Way & the West right-of-way line of Riverside Drive, thence North & Northeasterly along the West right-of-way line of Riverside Drive to the South right-of-way line of the Chicago and Northwestern Railroad, thence Northwesterly along the South right-of-way line of the Chicago and Northwestern Railroad to the centerline of

Squaw Creek. Thence Southerly along the centerline of Squaw Creek to the North right-of-way line of Lincoln Way, thence East along the North right-of-way line of Lincoln Way to the point of beginning, above described land being a part of the Southeast ¼ Southwest ¼ and Southwest ¼ Southeast ¼ and Northwest ¼ Southeast ¼ of Section 3, Township 83 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa, containing approximately 26.11 acres,

from February 1, 2016, to January 31, 2066.

2. Rent. ISU shall not charge any rent to the City. This Lease is of mutual benefit to both parties, and the City's consideration for this Lease is its agreement to maintain the Premises.

3. Use of Premises. The City shall use the Premises only as a public park for the benefit of the residents of Ames and the students, faculty and guests of ISU. In the event the City ceases to properly maintain the Premises for that purpose or diverts the Premises to any other use, ISU may terminate this Lease as set forth in Section 9. The City shall comply with all applicable laws in connection with its use of the Premises and shall not permit any hazardous substances to be stored or handled on the Premises.

4. Maintenance; Utilities. The City shall maintain the Premises at its expense, including all buildings, structures, equipment, playgrounds, walks, foot trails, bicycle paths, roads, parking, stream banks, utilities and other improvements on the Premises, in good order and safe condition. The City shall not cut down live trees on the Premises without the consent of ISU, but the City may transplant existing trees and shrubs, install new plantings and trim dead and/or broken limbs that create hazardous situations. The City shall establish all utilities to the Premises in its name and timely pay all utility service providers. ISU reserves the right to require the City to remove, at the City's expense, any building, structure or equipment that is unsafe, damaged beyond ordinary wear and tear, or inconsistent with the use as a public park.

5. Improvements. The City may grade the Premises for playground or other park purposes, establish walks, foot trails, bicycle paths, roads and parking and place on the Premises equipment proper and suitable for use in a public park. The City may also construct and maintain on the Premises shelter houses and other permanent buildings or structures for park purposes after obtaining ISU's prior approval of plans, specifications and costs. The approval by ISU of the permanent buildings and structures shall not be unreasonably withheld. At the time the plans are approved, the City and ISU shall mutually agree in writing as to whether the City will be required to remove approved improvement upon termination or expiration of this Lease and, if not, the amount of any compensation ISU is to pay the City for the approved improvement. The City shall keep the Premises free and clear of all liens arising out of any work performed or material furnished for the City.

6. Assignment and Subletting. Any assignment of this Lease or subletting of the Premises is prohibited without ISU's written permission. Such written permission shall not be unreasonably withheld. Such permission from ISU shall not be necessary if the City desires to

enter into agreements with organizations and individuals to use the Premises periodically or temporarily, so long as such use is consistent with the use of the Premises as a public park.

7. Reserved

8. Taxes. The parties anticipate that there will be no real estate taxes or assessments assessed against the Premises or the City's improvements. Should such taxes or assessments be assessed, the City shall be responsible for the payment of such taxes or assessments.

9. Termination. The lease shall terminate upon expiration of this Lease unless earlier terminated by mutual agreement of the parties or as set forth in this paragraph related to a breach of contract. In recognition that the City might want to make additional improvements that will require additional time to depreciate, it is agreed that the City may request, and ISU may grant with the approval of the Board of Regents, extensions to this Lease Agreement term at any time.

ISU may terminate this Lease if the City breaches a material term of this Lease and such breach is serious and goes against the essence of the transaction. A breach is serious and goes against the essence of the transaction only in the following cases:

- a. The City uses the Premises for purposes other than stated in Section 3.
- b. The breach has caused or is reasonably expected to cause damages in excess of \$500,000, such amount to be adjusted annually each July 1 for inflation using the Department of Labor's Consumer Price Index-Urban [CPI-U, All Items, All City Average, 1982-84-100] issued in the preceding month; or
- c. The City has repeatedly breached a material term of this Lease within any two-year period, or the City has engaged in a pattern of material breaches of this Lease Agreement; provided, however, this clause may only apply where the City's breaches indicate deliberate indifference to the terms of this Lease.

ISU shall notify the City of its intent to terminate and the nature of the breach ISU believes has occurred and shall provide the City with a reasonable period commensurate with the nature of the breach to cure such breach. If the City fails to cure such breach by the end of the cure period, ISU shall give at least 30 days advance written notice of termination and termination shall be automatic at the end of the notice period.

10. Surrender of the Premises. Upon the termination of this Lease, the City shall vacate the Premises. Unless ISU and the City have agreed otherwise, the City shall remove, at its expense, all buildings, structures and equipment from the Premises and restore the site of such removed building, structure and equipment to a safe and useful condition. The parties agree to meet at that time and determine a reasonable removal schedule. However, if the City makes a request in writing to extend the term of the Lease Agreement for purposes consistent with Paragraph 3 and such request is made in the period beginning three years prior and ending no later than one year prior to the end of the fifty year term of the Lease Agreement (or any



mutually agreed upon modification of the term) and ISU denies the request, then the obligation to remove all improvements will be based on mutually satisfactory terms agreed to by the parties in writing.

11. Liability. The City shall indemnify and hold harmless ISU, the Board of Regents, State of Iowa and the State of Iowa and their respective officers and employees from any and all claims, demands, damages or expenses arising out of (i) the use of the Premises by any and all persons, including employees and contractors of the City or (ii) the City's breach of this Lease.

12. Insurance. The City agrees to provide and maintain, at its own expense, for the term of the lease, insurance or risk finance programs in the amounts it deems appropriate to cover the following risks:

- General Liability – for Bodily Injury and Property Damage
- Automobile Liability – for Bodily Injury and Property Damage
- Workers Compensation – statutory requirements, including self-insurance or large deductible programs
- Employers Liability – statutory requirements, including self-insurance or large deductible program
- Property Insurance – Fire and Extended Coverage, covering Physical Damage for owned property or equipment

The City shall take action reasonably required to ensure collection from insurers under any applicable policies of insurance.

13. Notices. Notices relating to this Lease shall be in writing and shall be delivered by messenger or overnight carrier to the other party at the address set forth above or such other address as may be given in writing in accordance with this section. Notice shall be deemed effective upon receipt.

14. Miscellaneous. This Lease shall not be modified without the written mutual consent of the parties. The failure of either party to require performance of any term or condition of this Lease by the other party shall not constitute a waiver to subsequently enforce such term or condition. The rights and remedies set forth in this Lease are not exclusive and are in addition to any other rights and remedies available in law or equity. The invalidity or illegality of one or more provisions of this Lease shall not affect the enforceability of the remaining provisions. The parties' rights and obligations in this Lease that, by their nature, would continue beyond the termination of this Lease shall survive such termination.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by their duly authorized representatives as of the date first above written.

<p>IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY</p> <p>By _____ Warren Madden Senior Vice President for Business and Finance</p> <p>BOARD OF REGENTS, STATE OF IOWA</p> <p>By _____ Robert Donley Executive Director</p> <p>STATE OF IOWA, COUNTY OF POLK, ss:</p> <p>On this ____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Robert Donley, to me personally known and who, by me duly sworn, did say that he is Executive Director of Board of Regents, State of Iowa, that the instrument was signed on behalf of and by the authority of the Board of Regents, State of Iowa and that Robert Donley was authorized to execute this instrument by vote of the Board of Regents, State of Iowa at its meeting on the ____ day of _____ 2016, and the execution of this instrument is a voluntary act and deed of the Board of Regents, State of Iowa and of the executive director.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>	<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell Mayor</p> <p>Attest _____ Diane R. Voss City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this ____ day of _____, 2016, 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 _____, 2016, 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.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>
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ATTACHMENT A



Stuart Smith Park



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**DO NOT WRITE IN THE SPACE ABOVE THIS LINE; RESERVED FOR RECORDER**

Prepared by: Judy K. Parks, Ames City Attorney, 515 Clark Ave., Ames, IA 50010; 515-239-5146

Return to: Ames City Clerk, 515 Clark Ave., P.O. Box 811, Ames, IA 50010

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Lease

Zumwalt Trail Railroad Park

THIS LEASE AGREEMENT (“this Lease”), effective as of February 1, 2016, between the Board of Regents, State of Iowa acting for and on behalf of Iowa State University of Science and Technology (“ISU”), 1350 Beardshear Hall, Ames, Iowa, and the City of Ames, Iowa (“the City”), 515 Clark Avenue, Ames, Iowa.

1. Premises; Term. ISU, in consideration of the rentals to be paid by the City, leases to the City for use as a public park the following described premises situated in Story County, Iowa (“Premises”):

Tract “A”

That part of the SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 17, Township 83 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa, lying Southeasterly of the former Ft. Dodge, Des Moines and Southern Railroad Right-of-Way (except the South 630.81 feet and except that part of the North  $\frac{1}{2}$  NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  of said Section 17, lying Southeasterly of said railroad), containing 2.59 acres more or less exclusive of public road;

Tract “B”

That part of the South  $\frac{1}{2}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 17, Township 83 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa, lying Northwesterly of the former Ft. Dodge, Des Moines and Southern Railroad Right-of-Way, containing 2.72 acres more or less;

Tract "C"

That part of Lot 15, Christensen's Subdivision in the West ½ of Section 16, Township 83 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa, lying South of Dartmoor Road and West of State Avenue, containing 1.48 acres more or less exclusive of public roads;

Tract "D"

That part of the S½ NE¼ SE¼ SE¼ of Section 17, Township 83 North, Range 24 West of the 5<sup>th</sup> P.M., Story County, Iowa, lying Northwesterly of the former Ft. Dodge, Des Moines and Southern Railroad Right-of-Way, containing 1.20 acres more or less;

from February 1, 2016, to January 31, 2066.

2. Rent. ISU shall not charge any rent to the City. This Lease is of mutual benefit to both parties, and the City's consideration for this Lease is its agreement to maintain the Premises.

3. Use of Premises. The City shall use the Premises only as a public park for the benefit of the residents of Ames and the students, faculty and guests of ISU. In the event the City ceases to properly maintain the Premises for that purpose or diverts the Premises to any other use, ISU may terminate this Lease as set forth in Section 9. The City shall comply with all applicable laws in connection with its use of the Premises and shall not permit any hazardous substances to be stored or handled on the Premises.

4. Maintenance; Utilities. The City shall maintain the Premises at its expense, including all buildings, structures, equipment, playgrounds, walks, foot trails, bicycle paths, roads, parking, stream banks, utilities and other improvements on the Premises, in good order and safe condition. The City shall not cut down live trees on the Premises without the consent of ISU, but the City may transplant existing trees and shrubs, install new plantings and trim dead and/or broken limbs that create hazardous situations. The City shall establish all utilities to the Premises in its name and timely pay all utility service providers. ISU reserves the right to require the City to remove, at the City's expense, any building, structure or equipment that is unsafe, damaged beyond ordinary wear and tear, or inconsistent with the use as a public park.

5. Improvements. The City may grade the Premises for playground or other park purposes, establish walks, foot trails, bicycle paths, roads and parking and place on the Premises equipment proper and suitable for use in a public park. The City may also construct and maintain on the Premises shelter houses and other permanent buildings or structures for park purposes after obtaining ISU's prior approval of plans, specifications and costs. The approval by ISU of the permanent buildings and structures shall not be unreasonably withheld. At the time the plans are approved, the City and ISU shall mutually agree in writing as to whether the City will be required to remove approved improvement upon termination or expiration of this Lease and, if not, the amount of any compensation ISU is to pay the City for the approved

improvement. The City shall keep the Premises free and clear of all liens arising out of any work performed or material furnished for the City.

6. Assignment and Subletting. Any assignment of this Lease or subletting of the Premises is prohibited without ISU's written permission. Such written permission shall not be unreasonably withheld. Such permission from ISU shall not be necessary if the City desires to enter into agreements with organizations and individuals to use the Premises periodically or temporarily, so long as such use is consistent with the use of the Premises as a public park.

7. Reserved

8. Taxes. The parties anticipate that there will be no real estate taxes or assessments assessed against the Premises or the City's improvements. Should such taxes or assessments be assessed, the City shall be responsible for the payment of such taxes or assessments.

9. Termination. The lease shall terminate upon expiration of this Lease unless earlier terminated by mutual agreement of the parties or as set forth in this paragraph related to a breach of contract. In recognition that the City might want to make additional improvements that will require additional time to depreciate, it is agreed that the City may request, and ISU may grant with the approval of the Board of Regents, extensions to this Lease Agreement term at any time.

ISU may terminate this Lease if the City breaches a material term of this Lease and such breach is serious and goes against the essence of the transaction. A breach is serious and goes against the essence of the transaction only in the following cases:

- a. The City uses the Premises for purposes other than stated in Section 3.
- b. The breach has caused or is reasonably expected to cause damages in excess of \$500,000, such amount to be adjusted annually each July 1 for inflation using the Department of Labor's Consumer Price Index-Urban [CPI-U, All Items, All City Average, 1982-84-100] issued in the preceding month; or
- c. The City has repeatedly breached a material term of this Lease within any two-year period, or the City has engaged in a pattern of material breaches of this Lease Agreement; provided, however, this clause may only apply where the City's breaches indicate deliberate indifference to the terms of this Lease.

ISU shall notify the City of its intent to terminate and the nature of the breach ISU believes has occurred and shall provide the City with a reasonable period commensurate with the nature of the breach to cure such breach. If the City fails to cure such breach by the end of the cure period, ISU shall give at least 30 days advance written notice of termination and termination shall be automatic at the end of the notice period.

10. Surrender of the Premises. Upon the termination of this Lease, the City shall vacate the Premises. Unless ISU and the City have agreed otherwise, the City shall remove, at

its expense, all buildings, structures and equipment from the Premises and restore the site of such removed building, structure and equipment to a safe and useful condition. The parties agree to meet at that time and determine a reasonable removal schedule. However, if the City makes a request in writing to extend the term of the Lease Agreement for purposes consistent with Paragraph 3 and such request is made in the period beginning three years prior and ending no later than one year prior to the end of the fifty year term of the Lease Agreement (or any mutually agreed upon modification of the term) and ISU denies the request, then the obligation to remove all improvements will be based on mutually satisfactory terms agreed to by the parties in writing.

11. Liability. The City shall indemnify and hold harmless ISU, the Board of Regents, State of Iowa and the State of Iowa and their respective officers and employees from any and all claims, demands, damages or expenses arising out of (i) the use of the Premises by any and all persons, including employees and contractors of the City or (ii) the City's breach of this Lease.

12. Insurance. The City agrees to provide and maintain, at its own expense, for the term of the lease, insurance or risk finance programs in the amounts it deems appropriate to cover the following risks:

- General Liability – for Bodily Injury and Property Damage
- Automobile Liability – for Bodily Injury and Property Damage
- Workers Compensation – statutory requirements, including self-insurance or large deductible programs
- Employers Liability – statutory requirements, including self-insurance or large deductible program
- Property Insurance – Fire and Extended Coverage, covering Physical Damage for owned property or equipment

The City shall take action reasonably required to ensure collection from insurers under any applicable policies of insurance.

13. Notices. Notices relating to this Lease shall be in writing and shall be delivered by messenger or overnight carrier to the other party at the address set forth above or such other address as may be given in writing in accordance with this section. Notice shall be deemed effective upon receipt.

14. Miscellaneous. This Lease shall not be modified without the written mutual consent of the parties. The failure of either party to require performance of any term or condition of this Lease by the other party shall not constitute a waiver to subsequently enforce such term or condition. The rights and remedies set forth in this Lease are not exclusive and are in addition to any other rights and remedies available in law or equity. The invalidity or illegality of one or more provisions of this Lease shall not affect the enforceability of the remaining provisions. The

parties' rights and obligations in this Lease that, by their nature, would continue beyond the termination of this Lease shall survive such termination.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be signed by their duly authorized representatives as of the date first above written.

<p>IOWA STATE UNIVERSITY OF SCIENCE AND TECHNOLOGY</p> <p>By _____ Warren Madden Senior Vice President for Business and Finance</p> <p>BOARD OF REGENTS, STATE OF IOWA</p> <p>By _____ Robert Donley Executive Director</p> <p>STATE OF IOWA, COUNTY OF POLK, ss:</p> <p>On this ____ day of _____, 2016, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Robert Donley, to me personally known and who, by me duly sworn, did say that he is Executive Director of Board of Regents, State of Iowa, that the instrument was signed on behalf of and by the authority of the Board of Regents, State of Iowa and that Robert Donley was authorized to execute this instrument by vote of the Board of Regents, State of Iowa at its meeting on the ____ day of _____ 2016, and the execution of this instrument is a voluntary act and deed of the Board of Regents, State of Iowa and of the executive director.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>	<p>CITY OF AMES, IOWA</p> <p>By _____ Ann H. Campbell Mayor</p> <p>Attest _____ Diane R. Voss City Clerk</p> <p>STATE OF IOWA, COUNTY OF STORY, ss:</p> <p>On this ____ day of _____, 2016, 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 _____, 2016, 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.</p> <p>_____ Notary Public in and for the State of Iowa My Commission Expires: _____</p>
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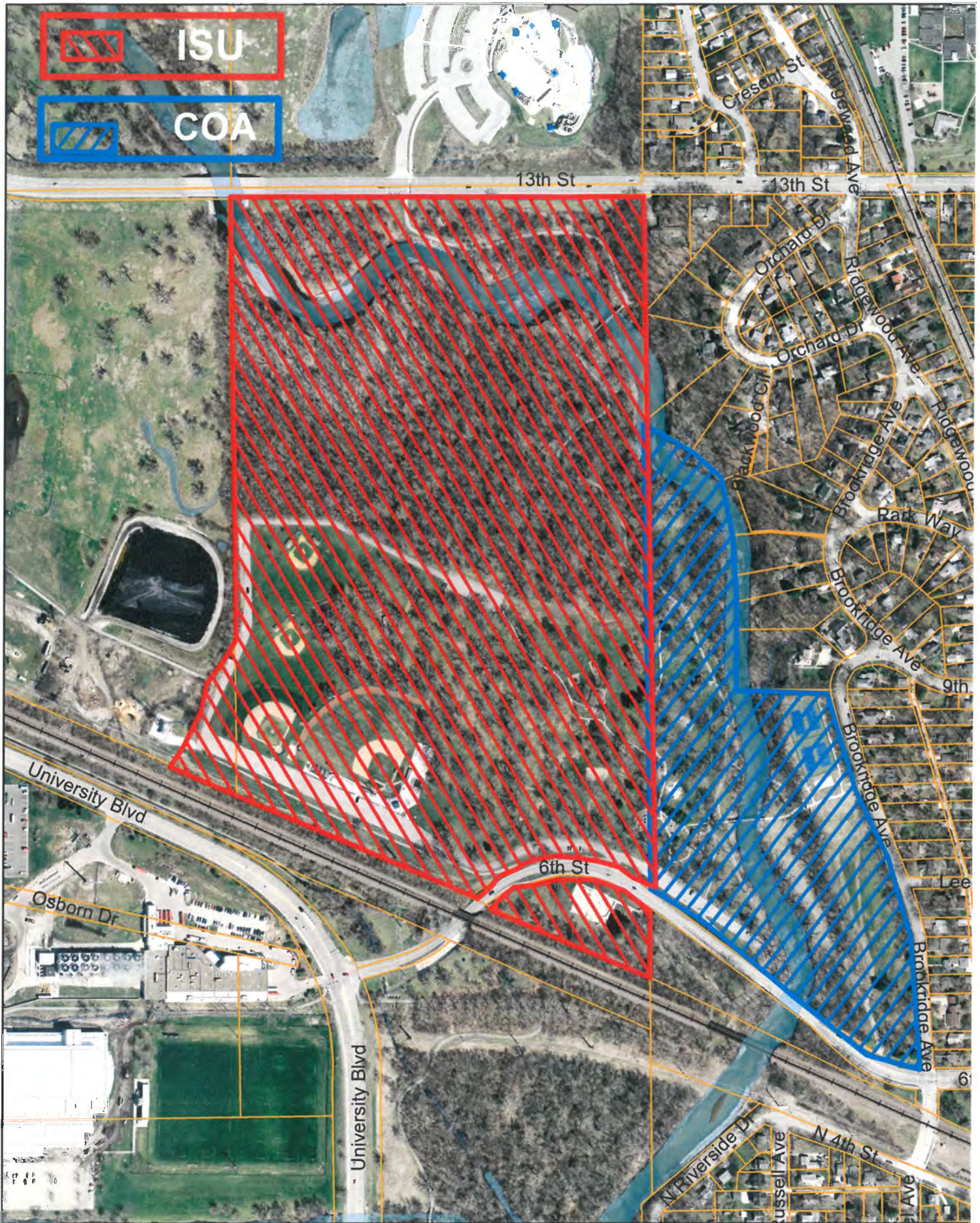


ATTACHMENT A



Railroad Park





Brookside Park



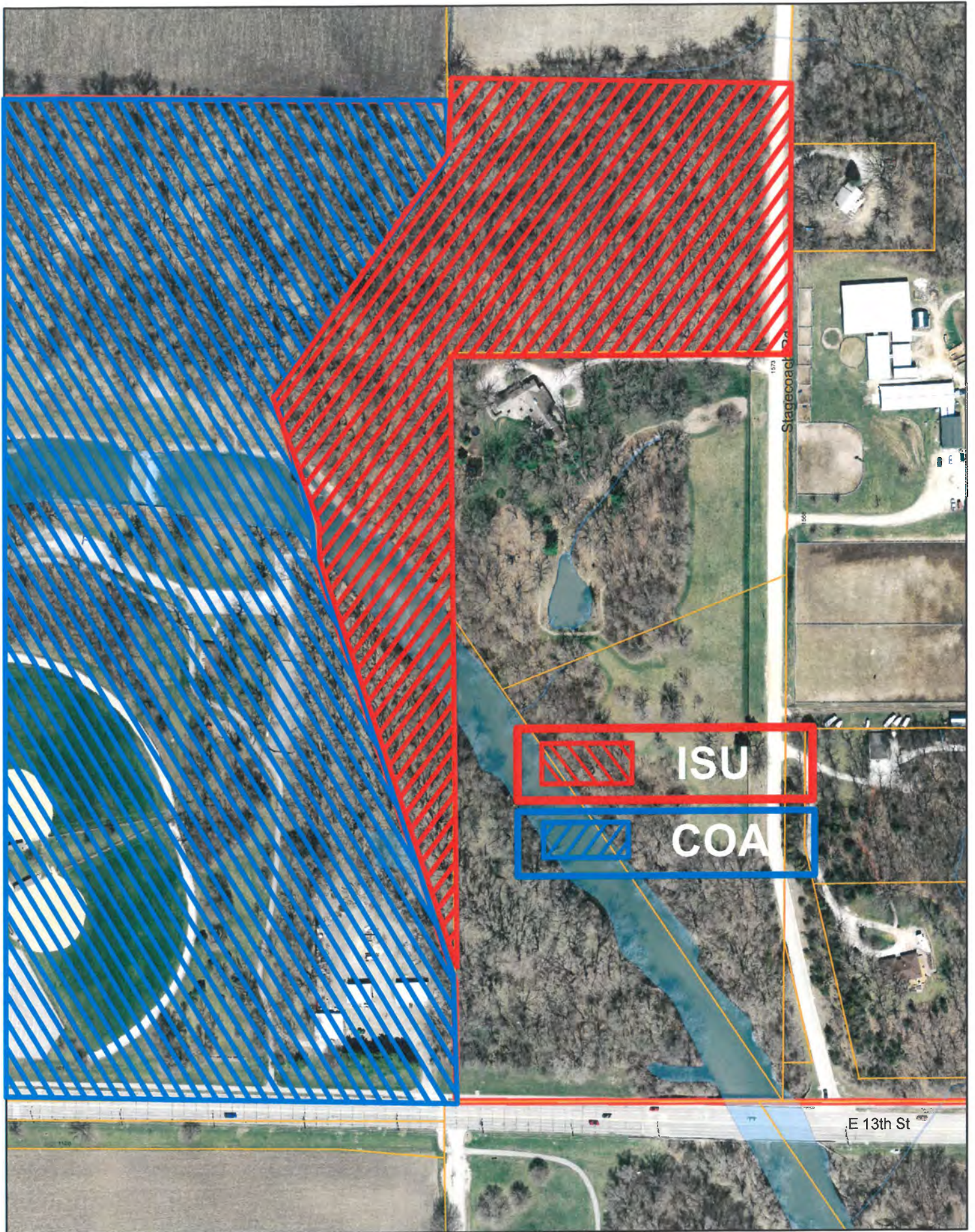
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Date: 1/7/2016



Franklin Park



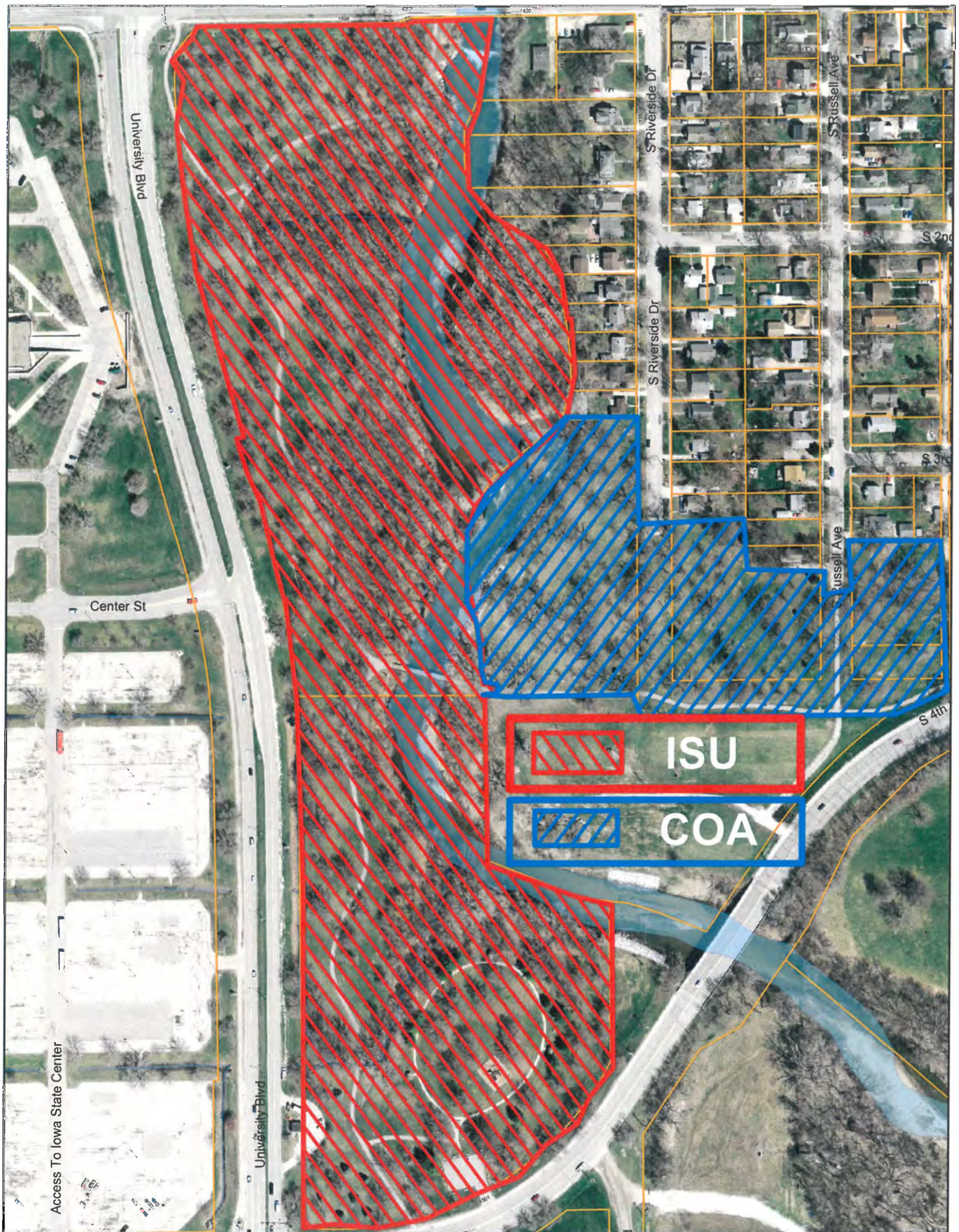
1 inch = 126 feet  
Date: 1/7/2016



McDonald Woods  
(Part of River Valley Park)



1 inch = 208 feet  
Date: 1/7/2016



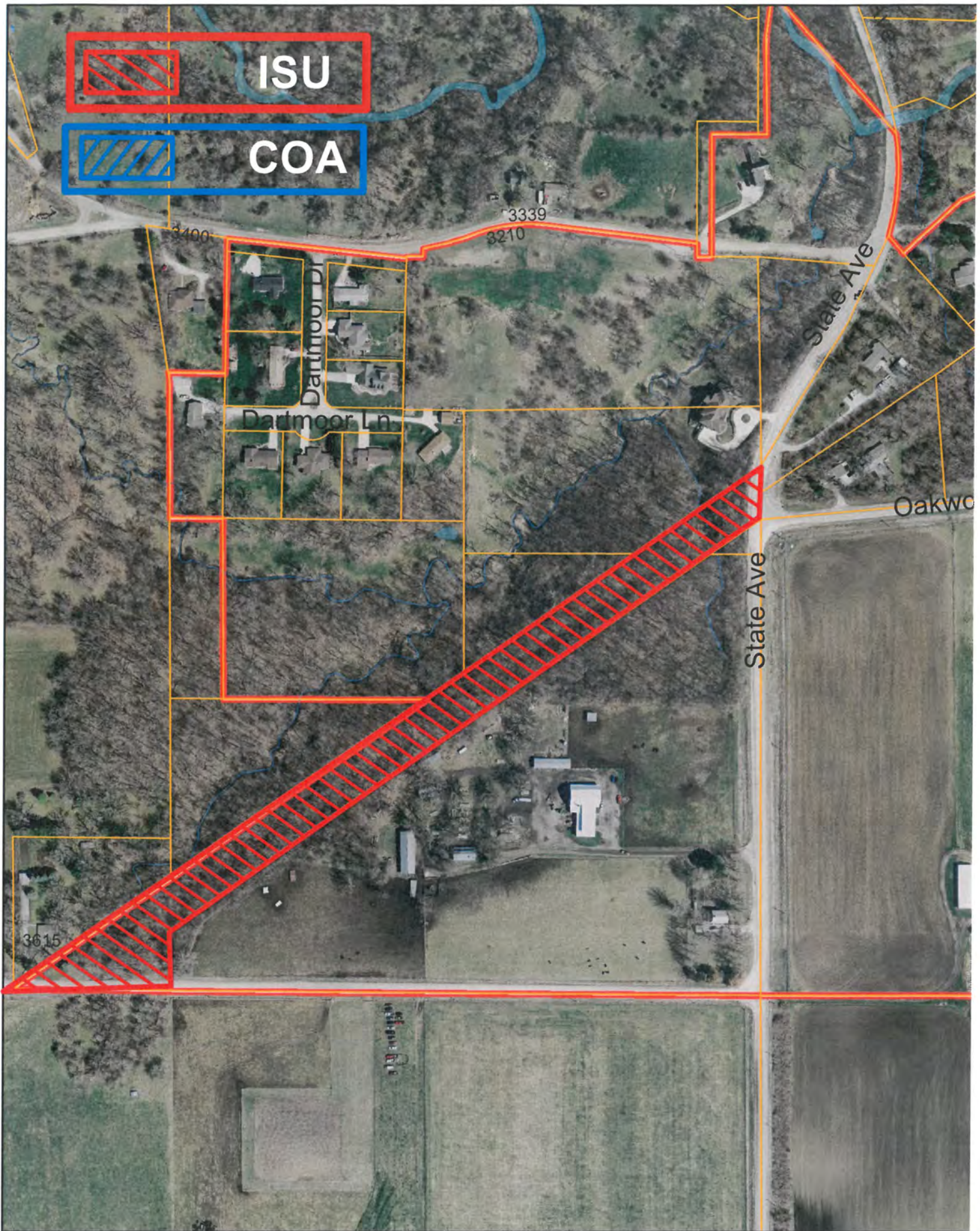
Access To Iowa State Center



# Stuart Smith Park



1 inch = 233 feet  
Date: 1/7/2016



 ISU

 COA