

**COUNCIL ACTION FORM**

**SUBJECT: APPROVAL OF AMES INTERMODAL FACILITY LICENSE AGREEMENT FOR INCIDENTAL USE OF PREMISES BY AMES POLICE DEPARTMENT**

**BACKGROUND:**

The Ames Intermodal Facility (AIF) currently has three tenants: Executive Express, Jefferson Lines, and the Ames Police Department (APD). The APD has had a no-cost lease in this facility since 2012 and shares space of the facility's management office with the Iowa State University (ISU) Parking Division. Currently, the APD has a five-year lease for occupancy that will expire on June 30, 2022.

Occupancy of the management office by the APD has strengthened security at the facility and minimized incidents of vandalism to the property. In addition, sharing the management office at the AIF has been a successful utilization of resources and space for both the APD and the ISU Parking Division. At the Transit Board meeting on February 23, 2022, CyRide staff received informal guidance to prepare a new five-year lease agreement with the APD.

CyRide has worked with the APD and the Legal Department to prepare the new lease agreement. No significant changes have been made to the previous agreement. The attached lease reflects the following changes from the previous agreement:

- Contract term dates
- Updates to contact information for the Chief of Police, Mayor, and Transit Director
- Updates to CyRide's address

This agreement has been reviewed by the APD and the Legal Department. Additionally, this agreement was approved by the Transit Board of Trustees at its meeting on April 27, 2022.

**ALTERNATIVES:**

1. Approve the attached five year, no cost contract between the Ames Transit Agency and City of Ames Police Department for shared use of the Ames Intermodal Facility management office effective July 1, 2022 – June 30, 2027.
2. Do not approve a contract between the Ames Transit Agency and City of Ames Police Department for shared use of the Ames Intermodal Facility management office.

**CITY MANAGER'S RECOMMENDED ACTION:**

The presence of the Ames Police department at the AIF has helped strengthen security at the facility and has provided a substantial benefit for the surrounding neighborhood.

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

# Ames Intermodal Facility License Agreement for Incidental Use of Premises By the Ames Police Department

Witnesseth

## 1. BASIC PROVISIONS

1.1 Parties: This license agreement dated July 1, 2022, is made by and between the City of Ames, Iowa, d/b/a Ames Transit (hereinafter referred to as “Licensor”) and the City of Ames, Iowa, d/b/a Ames Police Department (hereinafter referred to as “Licensee”) (collectively the “Parties” or individually a “Party”) for the property located at 129 Hayward Avenue (hereinafter referred to as “Intermodal Facility”).

1.2 Premises:

(a) Common Areas: Licensor shall make available for the common use of Licensee up to 50% of certain real property consisting of approximately 548 square feet of floor space in the Management office area, including all improvements therein, and more particularly described on Exhibit “A-1” (hereinafter referred to as “Premises”). This office area will be shared with the management firm overseeing daily operations of the facility and will coordinate with its representative.

Licensor shall also make available for the common use of the Licensee and tenants of Licensor certain real property consisting of approximately 705 square feet of lobby area adjacent to Licensee’s office, 1,042 square feet of floor space in the central entry vestibule/men’s and women’s restrooms/shower area, and approximately 1,000 square feet of Bus Lane, including all improvements therein or to be provided by Licensor under the terms of this License Agreement, and more particularly illustrated in Exhibit “A-2” (herein referred to as “Common Areas”).

(b) Address: The legal address of the premises is as follows:

129 Hayward Avenue, Suite 102  
Ames, Iowa 50014

(c) Hours of Operation: Premises and common areas will be available for use by the Licensee seven (7) days a week, typically between the hours of 3:30 p.m. and 5:00 a.m., with accommodations made for incidental use of the space at other times. Licensee will have a representative on site during times when the Premises are utilized by Licensee.

1.3 Term: The term of this License Agreement commences on July 1, 2022, (hereinafter referred to as “Commencement Date”) and ends June 30, 2027 (hereinafter referred to as “Expiration Date”). Any License Agreement must be approved by the Federal Transit Administration prior to execution of an extension of the agreement. Notwithstanding any term or condition to the contrary, Licensor reserves the right to terminate and revoke this License Agreement, without cause, by providing written notice of termination to Licensee.

1.4 License:

a) Security Services: Licensee shall have license to occupy and utilize Premises for police substation functions and in exchange will provide security services for the Ames Intermodal Facility during the evening/early morning hours. Security services for the facility will include, but not be limited to:

- Providing random patrol through parking lot and ramp.
- Providing walking patrol of parking area and administration facility as time permits.
- Providing immediate law enforcement response from administration area when in the building.
- Assisting patrons and facility administration with law enforcement and security related concerns in and around the facility.

1.5 Permitted Incidental Use: Operation of police substation functions by the Licensee may include routine report writing and conducting interviews, telephone calls, planning, briefings, and other administrative activities. The Licensee's use of all Common Areas shall be nonexclusive, and the Common Area may be used by Licensor for such other purposes it deems appropriate at times of the day not utilized by Licensee under this agreement.

1.6 Parking Spaces: Included in the license for use of the Premises is use of the bus lane west of the bus bays. This space will be identified in writing by the Representative annually and will be subject to change upon written notification by the Representative.

**2. PREMISES**

2.1 License for Use of Premises: Licensor hereby licenses to Licensee the incidental use of Premises, for the term, under the conditions set forth in this License Agreement. Unless otherwise provided herein, any statement of square footage set forth in this License Agreement is an approximation which Licensor and Licensee agree is reasonable and the agreement based thereon is not subject to whether the actual footage is.

2.2 Condition: Licensor shall deliver the Premises to Licensee with all improvements described in the construction plans and specifications dated December 14, 2010. Licensee shall provide all remaining furnishings and fixtures to be utilized by Licensee in the Licensee's office area. Any alteration of the Premises must be approved by Licensor's Representative in writing prior to said alteration.

2.3 Compliance: Licensor represents and warrants to Licensee that the Premises complies with all applicable zoning requirements, ordinances, regulations, and all applicable law affecting Premises and/or required in Licensee's use of the Premises or common areas appurtenant to the Premises, including the Americans with Disabilities Act (or other laws affecting handicapped access) and any environmental impact or traffic studies or requirements.

**3. TERM**

3.1 Term: The Commencement Date, Expiration Date and Original Term of this License Agreement are as specified in paragraph 1.3.

#### 4. USE

4.1 Use: Licensee shall use and occupy the Premises only for the purposes set forth in paragraph 1.5 or any other use which is incidental thereto including, but not limited to, the supplying of services customarily provided to ensure public safety. Licensee shall not use or permit the use of the Premises in a manner that creates waste or a nuisance. Licensor acknowledges that Licensee's proposed use of the premises for its public policing operations does not constitute a nuisance.

#### 4.2 Hazardous Substances:

- (a) Licensee will comply with all environmental laws during the term of the License Agreement and agrees to indemnify, defend, and hold harmless the Licensor from and against all loss, damage, liability, and expense (including reasonable attorney's fees) that the Licensor may incur as a result of any claim, demand or action related to environmental conditions because of Licensee's use of the Premises.
- (b) Licensor represents and warrants to Licensee that the Premises do not contain any asbestos or Hazardous Materials (as defined below) and Licensor is not in violation of any federal, state, or local law, ordinance or regulation relating to industrial hygiene or to the environmental conditions on, under or about the premises including, but not limited to, soil and groundwater condition.
- (c) The term "Hazardous Material" as used herein shall include, but not be limited to, asbestos, flammable explosives, dangerous substances, pollutants, contaminants, hazardous wastes, toxic substances and any other chemical, material or related substance, exposure to which is prohibited or regulated by any governmental authority having jurisdiction over the Premises, any substances defined as "hazardous substances," "hazardous materials" or "toxic substances" in the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended, by the Superfund Amendments and Reauthorization Act 42 U.S.C. § 9601, *et seq.*; the Hazardous Material Transportation Act, 49 U.S.C. § 1801, *et seq.*; Clean Air Act 42 U.S.C. § 7901, *et seq.*; Toxic Substances Control Act, 15 U.S.C. § 2601, *et seq.*; Clean Water Act, 33 U. S. C. § 1251, *et seq.*; the laws, regulations or rulings of the state in which the Premises is located or any local ordinance affecting the Premises, or the regulations adopted in publication promulgated pursuant to any of such laws and ordinances.

4.3 Ingress and Egress: Licensee shall have the non-exclusive right of ingress and egress to and from the Premises and shall not be unreasonably restricted in the operation of its vehicles to and from the Premises. Licensee shall ingress the Premises from Sheldon Avenue and egress the Premises on Hayward Avenue.

#### 5. MAINTENANCE AND REPAIRS; IMPROVEMENTS, ADDITIONS & ALTERATIONS

Licensee shall maintain the Premises in a clean and orderly condition. Licensee shall, at Licensee's sole cost and expense, repair all damage done to the Premises or Common Areas, or the Licensor's adjoining premises by Licensee's employees, agents, contractors, business invitees, customers, and patrons. Licensor shall maintain and promptly make all common area and exterior repairs (including landscaping, snow removal and common area maintenance), all repairs, replacements or retro-fitting of a permanent character (including, but not limited to, components in the air conditioning, boiler and heating systems, HVAC systems, sprinkler systems, gas lines, electrical and plumbing fixtures and hot water systems, including heaters), and all floors and floor surfaces, driveways, parking lots, bus docks, wall, roof (including water

tightness), foundation, footings, Building Systems (as herein defined) and structural repairs, support systems, strengthening, alternations, reconstructions or additions necessitated by reason of lapse of time, weakness or decay, insect infestation or damage to or destruction of the Premises, or to any part thereof, or which may, at any time, be required by any governmental or public authority, except for any damage caused solely by Licensee's negligence. The "Building Systems" shall be construed as the building utility elements essential for Licensee's use and occupancy of the Premises including, but not limited to, such systems as are not readily accessible to Licensee, such as underground water, sewer, electric and other utility lines, and all trash removal related to the Premises. Licensee shall surrender the Premises in as good order, repair, and condition as the same were at the commencement of the Term, damage by fire and items covered by extended coverage, insurance, unavoidable casualty, reasonable wear and tear, alternations, improvements, and additions made by Licensee and Licensor's failure to repair excepted.

**6. NO ASSIGNMENT**

Licensee shall not have the right to assign any rights under this License Agreement.

**7. SEVERABILITY**

The invalidity of any provision of this License Agreement, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this License Agreement.

**8. NO PRIOR OR OTHER AGREEMENTS**

This License Agreement contains all agreements between the parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective.

**9. NOTICES**

9.1 All notices required or permitted by the License Agreement shall be in writing and may be delivered in person (by hand or by messenger or courier service) or may be by certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by a nationally recognized overnight courier (next day delivery) and shall be deemed sufficiently given if served in a manner specified in this section 9. Timely delivery of notices as specified in this License Agreement to the individuals and addresses noted below shall constitute the Party's sufficient delivery of notice. Either Party may, by written notice to the other, specify a different address or individual for notice purposes. A copy of all notices required or permitted to be given to Licensor hereunder shall be concurrently transmitted to such party or parties at such addresses as Licensor may from time-to-time hereafter designate by written notice to Licensee.

<b>Licensor</b>	<b>Representative</b>	<b>Licensee</b>
Barbara Neal	Mark Miller	Geoff Huff
Transit Director	Program Manager I	Police Chief
Ames Transit Agency	Iowa State University	City of Ames
600 N. University Blvd.	Room 27, Armory Bldg.	515 Clark Ave.
Ames, IA 50010	Ames, IA 50011	Ames, Iowa 50010

9.2 Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given twenty-four (24) hours after delivery of the same to the United States Postal Service or courier. If notice is received on a Sunday or legal holiday, it shall be deemed received on the next business day.

**10. WAIVERS**

No waiver by Licensor of the Default or Breach of any term, covenant, or condition hereof by Licensee shall be deemed a waiver of any other term, covenant, or condition hereof, or of any subsequent Default or Breach by Licensee of the same or of any other term, covenant, or condition hereof. Licensor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Licensor's consent to, or approval of, any subsequent or similar act by Licensee, or be construed as the basis of an estoppel to enforce the provision or provisions of this License Agreement requiring such consent. Regardless of Licensor's knowledge of a Default or Breach at the time of accepting rent, the acceptance of rent by Licensor shall not be a waiver of any preceding Default or Breach by Licensee of any provision hereof, other than the failure of Licensee to pay the rent so accepted. Any payment given Licensor by Licensee may be accepted by Licensor on account of monies or damages due Licensor, notwithstanding any qualifying statements or conditions made by Licensee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Licensor at or before the time of deposit of such payment.

**11. SIGNS**

Under this License Agreement, vinyl letters will be added (at no cost to the Licensee) to the entrance of the shared management/Executive Express lobby, indicating the presence of the Safe Neighborhoods Team in the management office. Additionally, a sign in the same style and format as other office signage will indicate the "Safe Neighborhoods Team" next to the sign indicating "Management Office" at the door to this shared office when entering from the lobby. No additional signage will be permitted indicating the presence of the policing function as the facility is intended as a transportation facility.

**12. AMENDMENTS**

This License Agreement may be modified only in writing, signed by the Parties in interest at the time of the modification.

[ S I G N A T U R E S O N N E X T P A G E ]

**LICENSOR AND LICENSEE HAVE CAREFULLY READ AND REVIEWED THIS LICENSE AGREEMENT AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THE LICENSE AGREEMENT SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO.**

The parties hereto have executed this License Agreement at the place on the dates specified above to their respective signatures.

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**For City of Ames  
d/b/a Ames Transit Agency:**

**For City of Ames  
d/b/a Ames Police Department:**

\_\_\_\_\_  
John A. Haila, Mayor

\_\_\_\_\_  
John A. Haila, Mayor

\_\_\_\_\_  
Barbara Neal, Transit Director  
Ames Transit Agency (CyRide)

\_\_\_\_\_  
Geoff Huff, Chief of Police  
City of Ames

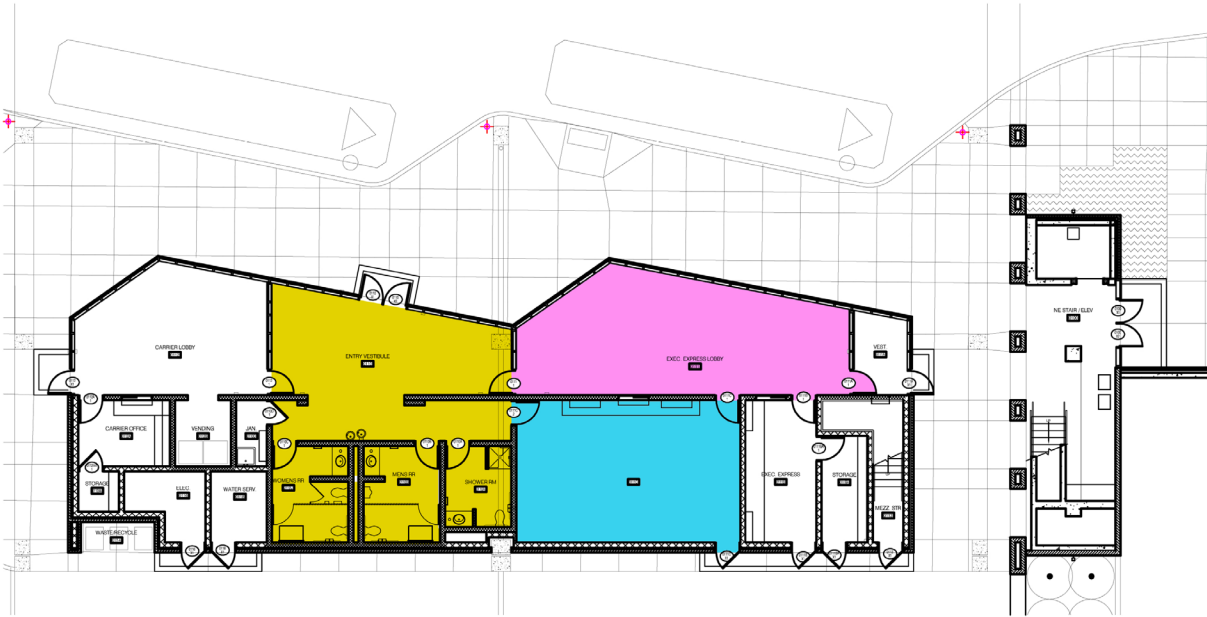


EXHIBIT A-1

Exhibit A-1

Key

- Management Office
- Management Lobby
- Entry Vestibule/Restrooms/Showers



TRANSIT TERMINAL - MAIN LEVEL PLAN

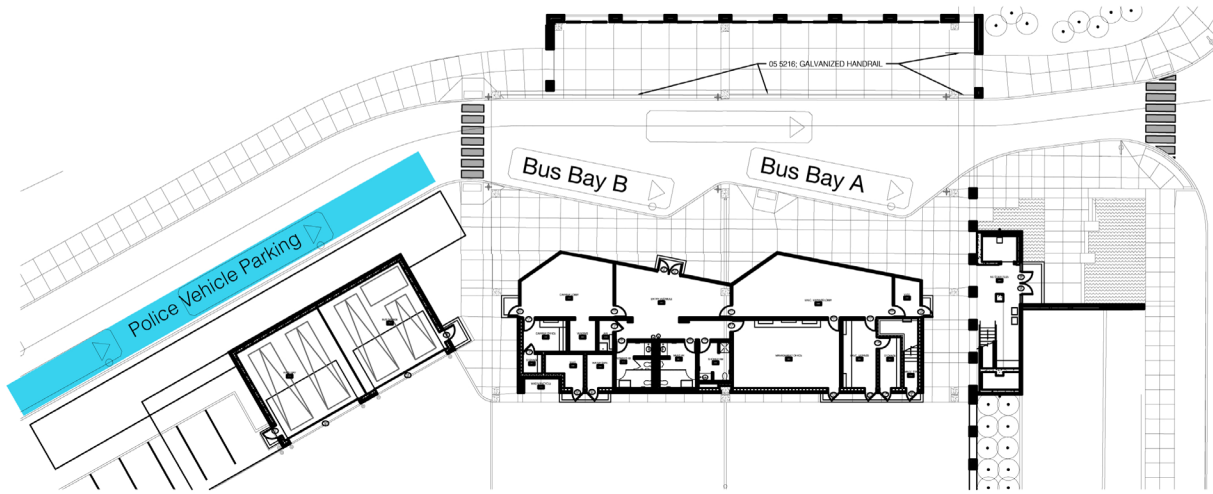
1/16" = 1'-0"

EXHIBIT A-2

Exhibit A-2

Key

Police Vehicle Parking



BUS GARAGE

1/32" = 1'-0"