

ITEM #: 30
DATE: 08-23-22

COUNCIL ACTION FORM

SUBJECT: DEVELOPMENT AGREEMENT FOR A NEW HANGAR AT THE AMES AIRPORT

BACKGROUND:

The City was approached by Summit Agricultural Group, LLC (Summit) with a proposal to construct a new private hangar at the Airport. For the project, potential locations on Airport property were evaluated in accordance with the Airport's Master Plan. Following this evaluation, Summit proposed a site plan (attached) through the City's Development Review Committee (DRC) process and received conditional approval for the site northwest of the old terminal building where the Ramp Service building is located.

To complete the process, City staff worked with Summit on a Development Agreement (attached) and Land Lease (covered under separate agenda item). The agreement details Summit's requirements for the new hangar development. It also, defines what occurs in case of default during the construction process to protect the Airport's interest.

The cost to demolish the Ramp Service building to make way for the new hangar is estimated at \$60,000. Impact 7G conducted an environmental investigation of the building and found small amounts of asbestos in the roofing material and the window glazing. This is estimated to increase the cost of demolition by up to \$30,000. Normally, the City would be responsible for clearing the site for development. However, to expedite the project, Summit has agreed to take the lead and contract for the demolition and asbestos abatement. In return for this work, the Development Agreement calls for the City to provide an annual rent rebate of \$6,000 to reimburse Summit for the actual demolition costs, not to exceed \$90,000 (no more than 15 years).

An illustration of the financial benefit of the Summit development to the Airport is shown below, utilizing the first year of the lease (FY 2022/23). The lease payment will increase by the percentage called for in the Lease Agreement which is 2.7% annually for the first five years. Summit has said they will initially have two jets using up to 45,000 gallons of jet fuel per year, with plans to base a third jet in the hangar. The Airport receives a fuel flowage payment of \$0.08 per gallon. In addition, the City will benefit from Summit paying taxes on the estimated \$4.5 million development, which is not included in the illustration.

	<u>Annual Amount</u>
Lease – Hangar area	\$6,055
Lease – Fuel tank area	\$ 687
Fuel Flowage	\$3,600
<u>Demolition Rebate</u>	<u>(\$6000)</u>
Net Revenue Gained In 1st Year	\$4,342

As noted, the proposed site for the Summit hangar is where the existing “Ramp Service Building” is located. Because this building is listed in the Fixed Base Operator (FBO) agreement with the City, an addendum to that agreement will be needed. It has been provided in the Development Agreement that Summit will compensate the FBO for the loss of the building rental revenue. This side agreement will be between Summit and the FBO only. The addendum to the FBO agreement (covered under separate agenda item) has been drafted, acknowledging the loss of the availability to the FBO of the Ramp Service Building.

ALTERNATIVES:

1. Approve the Development Agreement with Summit Agricultural Group, LLC for a new private hangar at the Airport.
2. Reject the agreement.

MANAGER’S RECOMMENDED ACTION:

By approving the Development Agreement, the Airport will see its first new private hangar development in several decades. It also marks the beginning of those private investment-driven improvements anticipated by the Airport Master Plan, which are critical for the long-term financial viability of the Airport.

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

INSTRUMENT PREPARED BY:	Ryan L. Haaland, 111 E. Grand Ave., Ste. 301, Des Moines, IA 50309; (515) 242-8900
RETURN TO:	City of Ames, Iowa, Attn: City Clerk, 515 Clark Ave., Ames, IA 50010

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this “Agreement”), is made and entered into as of the Effective Date (as that term is defined herein) by and between the City of Ames, Iowa (the “City”) and Summit Aviation, LLC, an Iowa limited liability company (“Summit”). City and Summit are hereinafter collectively referred to as the “Parties” or individually as a “Party”. This Agreement shall be effective as of the date the City approves the same (the “Effective Date”).

RECITALS

WHEREAS, Summit desires to construct an airplane hangar and ancillary improvements (collectively, the “Hangar”) on real property owned by the City, as legally described on the attached Exhibit A (the “Site”); and

WHEREAS, Summit intends to construct the Hangar pursuant to an approved Site Plan (the “Plan”) approved subject to certain conditions by the City’s Department of Planning and Housing on or about June 20, 2022, (a true and accurate copy of the Plan is located at the office of the City’s Department of Planning and Housing and is incorporated herein by reference as if fully set forth) as may be amended from time to time; and

WHEREAS, the Parties desire to enter into this Agreement to delineate the rights, responsibilities, and obligations of each Party as it relates to the construction of the Hangar and the Site.

NOW, THEREFORE, in consideration of the Recitals and of the mutual covenants contained herein, and reliance on the same, the receipt and sufficiency of which is hereby acknowledged, the Parties do hereby agree as follows:

I
INTENT AND PURPOSE

It is the intent of this Agreement to: (a) Recognize that the City is the fee simple owner of the Site; (b) Acknowledge that Summit will need to obtain a lease of the Site from the City for the use and occupancy of the Hangar; (c) Acknowledge that the City and Summit desire the development of the Site, in accordance with the Plan, but only if the Conditions Precedent (as that term is defined herein) are satisfied; and (d) Provide remedies to the City in the event Summit fails to fulfill its obligations under this Agreement.

II
CONDITIONS PRECEDENT

1. The City and Summit agree that for the rights, duties and responsibilities of this Agreement to become effective as to either Party, the Parties must execute the Hangar Lease (the "Lease") on a form prescribed by the City, which shall be considered by the City Council contemporaneous with this Agreement.

2. The Parties hereby understand, acknowledge, and agree that if the Lease, as contemplated by this Article II, is not approved, this Agreement shall be deemed null and void and of no force or effect whatsoever.

3. Summit shall be solely responsible the demolition of the existing old ramp service building currently upon the site prior to commencing construction and the City shall have no responsibility for the costs of demolition except as set forth in Section VIII(1) below.

4. The Parties hereby understand, acknowledge and agree that construction of the Hangar upon the Site is subject to the terms and conditions of the Plan and that Summit must submit for approval a construction staging plan to the City's Airport Manager before commencing construction.

III
CONSTRUCTION OF HANGAR

1. Summit agrees to commence construction of the Hangar on the Site as shown in the plans and specifications, attached hereto as Exhibit B and in accordance therewith within twenty-four (24) months of the Effective Date. Summit shall submit to the Airport Manager a construction staging plan for approval prior to commencing any construction activities.

2. Except as otherwise expressly set forth herein, Summit shall pay all costs and expenses arising out of or in connection with the construction of the Hangar. Summit further agrees that it will make payments of all such costs and expenses when due. Summit shall be solely responsible at its cost for obtaining any and all construction permits, site plan approvals and any other approvals or permits associated with Summit's use or potential use of the Site.

3. Summit agrees that the Hangar to be erected and completed on the Site will be constructed in a good and workmanlike manner and that the Hangar, as well as any improvements, alterations or repairs to or in and about the Site thereon shall be in compliance with the approved plans and specifications and all applicable ordinances, statutes, rules and regulations of all city, county, political subdivisions or other

governmental authority having jurisdiction to regulate or supervise the Building.

4. Any and all development on the Site shall be in accordance with and pursuant to the Plan.

5. Summit shall provide sufficient parking, landscaping, and other improvements to the Site, all as set forth in the Plan.

6. All ordinances, regulations, and policies of the City now existing, or as may hereafter be enacted, shall apply to activity on the Site.

7. Notwithstanding anything in this Agreement to the contrary, it is understood and agreed that the Site shall include, in all events, a location to store and dispense fuel, but only in accordance with a valid City of Ames Self-Fueling Permit authorizing such activity, and subject to the following standards:

- a. National Fire Protection Association (NFPA) 407, *Standard for Aircraft Fuel Servicing*,
- b. Federal Aviation Administration (FAA) Airport Circular: AC 150/5230-4, *Aircraft Fuel Storage, Handling and Dispensing on Airports*,
- c. Ames Municipal Airport Master Plan, Appendix B, *Standards and Requirements for Self-Fueling*, and
- d. Any operator of a private fuel storage tank, prior to engaging in any fuel storage or dispensing, shall first complete a Fire Safety Training Course that complies with the standards established by 14 CFR section 139.321(e)(1).
- e. Ames Municipal Fire Code (Chapter 8) and NFPA standards.
- f. All City, State, or Federal Laws having any applicability whatsoever to self-fueling or the storage of Fuel.
- g. Execution of a Fuel Addendum Agreement on a form prescribed by the City of Ames permitting said activities.

8. As soon as reasonably practicable after completing construction and demolition, Summit shall restore, to the satisfaction of the City, the Site to substantially the same condition as existed prior to Summit's construction and demolition activities. Summit shall submit to the City's Airport Manager for his approval a copy of Summit's restoration plans which approval shall not be unreasonably withheld.

9. Summit shall have access to the Site, upon the approval of this Agreement, from adjacent public rights of way during construction of the hangar, however, nothing herein shall be interpreted as granting a permanent easement to Summit by the City.

IV REMEDIES

- 1. The City shall not issue a building permit, zoning permit, or any other permit of the City with

respect to any excavation, construction, reconstruction, or remodeling on the Site unless said work is undertaken in accordance with the provisions of this Agreement and meets the requirements of the Ames Municipal Code.

2. The City reserves all remedies allowable under law or in equity in the event of a breach of this Agreement by Summit, including, but not limited to, obtaining an order for specific performance and an order for injunctive relief. Summit shall indemnify and hold harmless the City, its respective officers employees and agents from any claims, fines and expenses arising from this Agreement or for any property damage or personal injury arising from the acts or omissions of Summit, or its agents, contractors, officers or employees to the fullest extent allowed by law.

V
MODIFICATION OF AGREEMENT & ASSIGNMENT

The Parties agree that this Agreement may be modified, amended or supplemented by written agreement of the Parties. Summit's obligations set forth in this Agreement may not be assigned in whole or in part to any other party without the written consent of the City.

VI
COVENANTS RUN WITH THE LAND

This Agreement shall run with the Site and shall be binding upon Summit, its successors and assigns.

VII
INCORPORATION OF RECITALS AND EXHIBITS

The Recitals, together with any and all exhibits and/or other attachments hereto, are confirmed by the Parties as true and correct and incorporated herein by reference as if fully set forth verbatim. The Recitals, exhibits, and/or other attachments are a substantive, contractual part of this Agreement.

VIII
MISCELLANEOUS

1. Notwithstanding any term or condition to the contrary contained either herein or in the Lease, the City shall reimburse Summit for its actual Demolition and Abatement Costs in an amount not to exceed \$90,000. Reimbursement by the City shall be in the form of abatement of rent due under the Hangar Lease approved concurrent with this Agreement. The credit against rent due under the Hangar Lease shall not exceed \$6,000.00 per year. For purposes of this Section, the term "Demolition and Abatement Costs" shall mean all costs of demolishing the old ramp service building currently upon the Site including, without limitation, all labor and materials required to demolish the structure upon the Premises and remove the same from the Site, all hauling and dumping fees related thereto, all costs to remove/abate existence of asbestos within the said structure, and any required remediation of any asbestos found to exist upon the Premises. Summit shall provide proof of "Demolition and Abatement Costs" to the City's Airport Manager not later than 90 days following demolition of the old hanger service building or said costs shall not be reimbursed in the manner set forth above.

2. In recognition of the economic loss of the current FBO resulting from the demolition of the current structure upon the Premises, Summit agrees to enter into an agreement with the current FBO

within 90 days of this Agreement to provide compensation to the FBO as may be mutually agreed to by both parties. A failure to abide by this provision shall constitute a material breach of this Agreement.

3. The Parties anticipate approval of this Agreement and the Lease will allow Summit to commence demolition not later than September 1, 2022.

4. Summit shall maintain appropriate insurance coverage for liabilities that may arise from its activities and the obligations imposed under this Agreement and shall provide proof of coverage to the City's Airport Manager upon request.

5. The City's property shall not be subjected to liens of any nature by reason of Summit's activities, including, but not limited to mechanic's and materialman's liens. Summit has no authority to subject the City's property to any lien or claim of lien.

6. Because of the relationship of this Agreement to the Hangar Lease Agreement (the "Concurrent Agreement") approved concurrently with this Agreement, Summit and the City agree that a breach of any terms or conditions of the Concurrent Agreement shall constitute a breach of this Agreement and a breach of any of the terms of this Agreement shall constitute a breach of the Concurrent Agreement.

7. Time is of the essence in this Agreement. The failure to promptly assert any rights herein shall not, however, be a waiver of such rights or a waiver of any existing or subsequent default. To facilitate execution, this Agreement may be executed in as many counterparts as may be required. It shall not be necessary that the signature on behalf of the Parties hereto appear on each counterpart. All counterparts shall collectively constitute a single Agreement.

IX **GOVERNING LAW**

The laws of the State of Iowa shall govern this Agreement. Any dispute relating to this Agreement shall be adjudicated in the Iowa District Court for Story County.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be executed as of the Effective Date.

(SIGNATURE PAGES FOLLOW)

**SIGNATURE PAGE OF
DEVELOPMENT AGREEMENT**

SUMMIT AVIATION, LLC

By _____
Name _____
Title _____

STATE OF _____, COUNTY OF _____, SS:

This record was acknowledged before me on this _____ day of _____, 202_, by
_____ as _____ for Summit Aviation, LLC.

Notary Public, State of Iowa
My Commission Expires: _____

**ADDITIONAL SIGNATURE PAGE OF
DEVELOPMENT AGREEMENT**

CITY OF AMES, IOWA

By: _____
John Haila, Mayor

Attest by: _____
Renee Hall, City Clerk

STATE OF IOWA, COUNTY OF STORY, ss:

On this _____ day of _____, 202_, before me, the undersigned, a Notary Public in and for said State, personally appeared John Haila, Mayor, and Renee Hall, City Clerk, to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public, State of Iowa
My Commission Expires: _____

EXHIBIT A
DESCRIPTION OF SITE

SUMMIT HANGER BUILDING PERIMETER DESCRIPTION

SUMMIT HANGER BUILDING PERIMETER IN THE NORTHEAST QUARTER OF THE SOUTHEAST QUARTER SECTION 15, TOWNSHIP 83 NORTH, RANGE 24 WEST, TO THE CITY OF AMES, STORY COUNTY, IOWA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST QUARTER CORNER OF SECTION 15, TOWNSHIP 83 NORTH, RANGE 24 WEST, STORY COUNTY, IOWA: THENCE S 89°44'02" W, ON THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 15, A DISTANCE 1010.60 FEET; THENCE S 00°00'00" W, TO A POINT ON THE NORTHEAST CORNER OF SAID BUILDING, BEING THE POINT OF BEGINNING, A DISTANCE OF 457.57 FEET; THENCE S 34°13'05" E, TO A BUILDING CORNER, A DISTANCE OF 129.73 FEET; THENCE S 55°46'55" W, TO A BUILDING CORNER, 57.66 FEET; THENCE S 34°13'05" E, TO A BUILDING CORNER, A DISTANCE OF 30.72 FEET; THENCE S 55°46'55" W, TO THE SOUTHWEST CORNER OF SAID BUILDING, A DISTANCE OF 66.34 FEET; THENCE N 34°13'05" W, TO A BUILDING CORNER, A DISTANCE OF 31.63 FEET; THENCE N 55°46'55" E, TO A BUILDING CORNER, A DISTANCE OF 7.00 FEET; THENCE N 34°13'05" W, TO THE NORTHWEST BUILDING CORNER, A DISTANCE OF 128.87 FEET; THENCE N 55°48'32" E, A DISTANCE OF 117.00 FEET TO THE POINT OF BEGINNING.

THE DESCRIBED BOUNDARY CONTAINS 0.39 ACRES (17,225.51 S.F.), MORE OR LESS.

OWNER: CITY OF AMES

EXHIBIT B
PLANS & SPECIFICATIONS

Partial copy of Plan is attached for reference; full copy of Exhibit B is on file with the Department of Planning and Housing and is dated June 20, 2022.



June 20, 2022

FOX STRAND
Attn: John Washington
414 S. 17th Unit 107
Ames, IA 50010

RE: Minor Site Development Plan- Summit Hanger- 2475 Airport Road- Ames Airport, Ames, IA, Case File SDP-001424

Dear John:

I am pleased to enclose the **approved Minor Site Development Plan** for construction of a new Airport Hanger at the Ames Municipal Airport located at 2475 Airport Road in Ames. This approval is conditioned on the following:

- That; 1) The FAA's finding of No Hazard to the Airport from their airspace study (7460 submittals), and 2) That there is an approved developer's agreement with the City for the construction of the improvements, and 3) That the owner has an approved land lease with the Airport.

Enclosed is your copy of the approved site plan. This letter constitutes a Certificate of Compliance with the zoning requirements of the City. Please be aware that any departure from the approved Minor Site Development Plan, may require a resubmission and review by the Planning and Housing Department.

If you have any questions about your development, please feel free to contact me at (515) 239-5400.

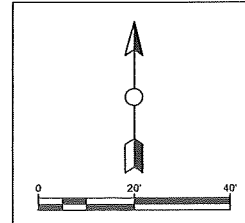
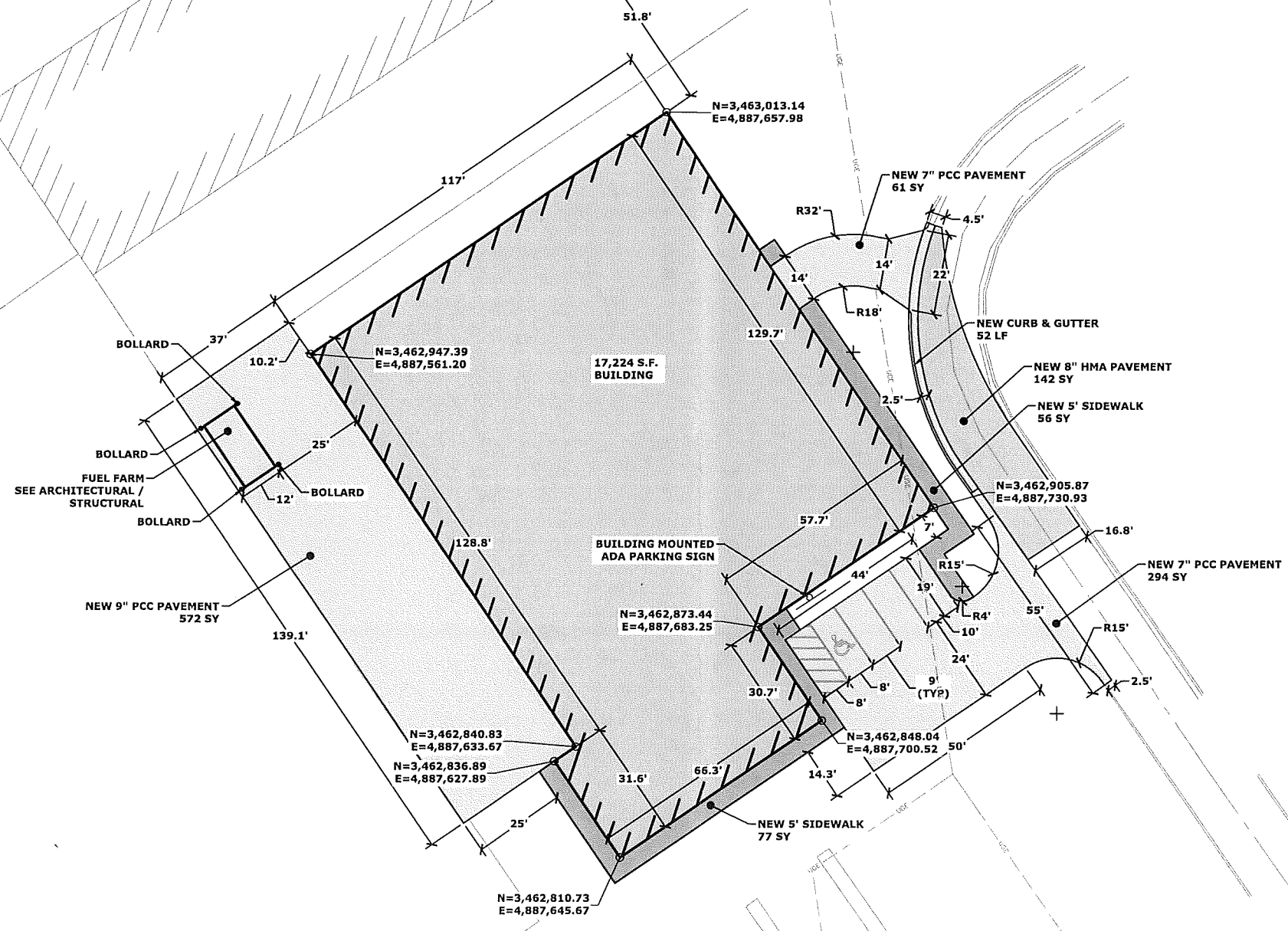
Sincerely,

Justin Moore
Planner

Enclosures

K:\iproy\5000\5528-21A Summit Hanger - Ames Airport\Drawings\Civil\5528-21A Hanger Relocation Concept.dwg

DRAWING FILENAME	5528-21A Summit Hanger - Ames Airport\Drawings\Civil\5528-21A Hanger Relocation Concept.dwg
PLOT STYLE TABLE	FORGEV5528.ctb
LAYER MGR NAME	LAYOUT NAME
	C2.1



PROJECT NO.	5528-21A
SHEET	C2.1
LAYOUT & DIMENSION PLAN	
SUMMIT HANGER - AMES AIRPORT	
AMES, IOWA	
2022	
FOX STRAND ASSOCIATES	
414 South 17th Street, Suite 107	
Ames, Iowa 50010	
Phone: (515) 233-0000	
FAX: (515) 233-0103	
DESIGNED: JSW	DATE: 06/22
DRAWN: NWD	DATE: 06/22
CHECKED:	
LAST UPDATE: 06/06/23	