September 13, 2023
Sleepy Hollow Sports Park
4051 Dean Ave, Des Moines, IA 50317
5:30 PM – PCC Board Meeting at Sleepy Hollow Lodge
(Park in parking lot)

AGENDA

1) Roll Call
2) Public Comments
3) Sleepy Hollow Business Plan Presentation
4) Financial Reports
5) Action on the Minutes of the Previous Meeting(s)

<u>CONSENT AGENDA</u>

Note: These are routine items and will be enacted by one roll call vote without separate discussion unless a Board Member or member of the public requests an item be removed to be considered separately. Please notify a PCCB Member to have an item removed.

6) Approving bill list.
7) Approving a Federal Recreational Trails Grant application for the Great Western Trail Improvements project and providing a minimum of 20% matching funds from Polk County Conservation and other funding sources.
8) Approving a Federal Recreational Trails Grant application for the Mountain Bike Park project and providing a minimum of 20% matching funds from Polk County Conservation and other funding sources.
9) Recommending that the Polk County Board of Supervisors approve a Perpetual Easement for Private Ingress-Egress to Saga Communications for the ongoing inspection, repair and maintenance of guy wires associated with their communications tower located on Polk County land in Alleman, Iowa.
10) Approving Polk County Conservation's participation in the Bird City Network and recommending that the Board of Supervisors approves the application.

<u>ACTION ITEMS</u>

11) Approving the revised Polk County Conservation (PCC) Procurement Policy.
12) Approving a project budget for the Jester Park Nature Center Streamscape Renovation project in an amount not to exceed $75,000.
13) Approving contract with Botanical and Ecological Consulting to complete a comprehensive floristic survey on the Brenton Slough property in the amount of $80,862.25.
14) Approving contract with JEO Consulting Group, Inc for engineering/design services for the Chichaqua Bottoms Greenbelt floodplain rehydration project in the amount of $179,500.
15) Approving the Sleepy Hollow Renaissance Faire and Scream Park concessions contract to RMF, Inc. for the 2024 season.
16) Authorizing additional funds for the Switchgrass and Lane wetland restoration project at Chichaqua Bottoms Greenbelt, not to exceed $75,000.

17) Approving purchase of native grass and wildflower seed in an amount not to exceed $185,837 for 13 restoration/mitigation banking seeding projects on approximately 250 acres that will be completed between November 2023 and May 2024.

BOARD DISCUSSION

Director Remarks

Board Chair & Members Remarks

CLOSED SESSION

18) Going into closed session pursuant to Iowa Code Section 21.5(j) to discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property.

ADJOURNMENT

Upcoming Events

- September 13 – Polk County Conservation Board Meeting at Sleepy Hollow
- September 15-17 – White Eagle Multicultural PowWow at Jester Park Campground
- September 16 – Grow Wild at Jester Park Nature Center, 10 am – 4 pm
- September 21-23 – Skate DSM Streetstyle Open at Lauridsen Skatepark
- September 23 – Foraged Feast with Django at Jester Park Nature Center, 4:30 – 8 pm
- September 24 – Iowa Trail Run Series at Jester Park, 9 am – 1 pm
- October 4 – All-Staff Work Day at Fourmile Creek Greenway, 8 am – 12:30 pm
- October 11 -- Polk County Conservation Board Meeting at County Administration Building, 111 Court Ave.

For more information on agenda items or to receive an accommodation to participate in a meeting, hearing, service, program or activity conducted by this office, please contact Polk County Conservation Office at 515-323-5300 or visit the office (12130 NW 128th St, Granger, Iowa). The information identified on this agenda may be obtained in accessible formats by qualified persons with a disability. PCCB meeting agendas are available to the public at the Polk County Conservation Office on Monday afternoon preceding Wednesday's Board meeting. Citizens can also view the Board agenda on Agency's website at www.leadingyououtdoors.org or request to receive meeting notices and agendas by email by calling the office or sending their request via email to pccb_info@polkcountyiowa.gov

2023-24 Revenue Budget
- as of 08/31/23 (16.67% of budget year expired)

	UNIT	Revenue Budget	Total Revenues Received	Balance Due	% Received
General - Fund 1					
0212	Conservation Infrastructure	$ 20,000	$ -	$ 20,000	0.0%
0213	Equipment	$ 5,000	$ -	$ 5,000	0.0%
6006	Environmental Ed	$ 127,000	$ 27,033	$ 99,967	21.3%
6009	Natural Resources	$ 114,000	$ 3,393	$ 110,607	3.0%
6101	Administration	$ 33,500	$ 3,194	$ 30,306	9.5%
6103	Community Outreach	$ -	$ -	$ -	0.0%
6104	Conservation Grants	$ 4,100	$ 4,100	$ 0	100.0%
6110	Parks Advocacy Unit	$ 740,000	$ 157,768	$ 582,232	21.3%
6118	Fleet Services	$ 15,000	$ -	$ 15,000	0.0%
6119	Construction/Maint.	$ 1	$ 1,570	$ (1,569)	0.0%
6124	Equestrian Center	$ 215,000	$ 15,467	$ 199,533	7.2%
Sub-Total - General Fund 1		**$ 1,273,601**	**$ 212,524**	**$ 1,061,077**	**16.7%**
Conservation Special Projects- Fund 6					
6125	JP Lodge	$ 97,000	$ 7,866	$ 89,134	8.1%
6127	Miscellaneous	$ 7,500	$ 3,064	$ 4,436	40.9%
6128	Cabins	$ 140,000	$ 30,005	$ 109,995	21.4%
6129	Laurisden Skatepark	$ 35,000	$ 697	$ 34,303	2.0%
Sub-Total - General Fund 6		**$ 279,500**	**$ 41,632**	**$ 237,868**	**14.9%**
REAP - Fund 26					
0211	**Resource Enhancement**	**$ 111,000**	**$ 747**	**$ 110,253**	**0.7%**
Reserve - Fund 50					
6126	**Mitigation Banking**	**$ 1,000,000**	**$ 41,250**	**$ 958,750**	**4.1%**
Bond - Fund 51					
0210/0215	**Water & Land Dev & Trails**	**$ 6,725,340**	**$ 279,727**	**$ 6,445,613**	**4.2%**
Conservation Enterprises - Fund 286					
6121	Golf Course	$ 350,800	$ 147,489	$ 203,311	42.0%
6126	Sleepy Hollow	$ -	$ 1,694	$ (1,694)	0.0%
Sub-Total - Enterprises Fund 286		**$ 350,800**	**$ 149,183**	**$ 201,617**	**42.5%**
Grand Total - Conservation		**$ 9,740,241**	**$ 725,063**	**$ 9,015,178**	**7.4%**

2023 - 2024 Expense Budget
- as of 08/31/23 (16.67% of budget year expired)

UNIT #	UNIT	Expense Budget	Total Expended	Balance Remaining	% Expended
General - Fund 1					
0212	Conservation Infrastructure	$ 43,627	$ 30,000	$ 13,627	68.8%
0213	Equipment	$ 384,743	$ 273,030	$ 111,713	71.0%
6006	Environmental Ed	$ 756,620	$ 137,980	$ 618,640	18.2%
6009	Natural Resources	$ 1,489,125	$ 251,618	$ 1,237,507	16.9%
6101	Administration	$ 1,242,812	$ 191,245	$ 1,051,567	15.4%
6103	Community Outreach	$ 248,245	$ 39,436	$ 208,809	15.9%
6104	Conservation Grants-FEMA	$ -	$ -	$ -	0.0%
6110	Parks Advocacy Unit	$ 1,802,340	$ 332,842	$ 1,469,498	18.5%
6118	Fleet Services	$ 737,583	$ 138,622	$ 598,961	18.8%
6119	Construction/Maint.	$ 875,571	$ 121,990	$ 753,581	13.9%
6124	Equestrian Center	$ 832,725	$ 138,844	$ 693,881	16.7%
Sub-Total - General Fund 1		**$ 8,413,391**	**$ 1,655,607**	**$ 6,757,784**	**19.7%**
6125	JP Lodge	$26,500	$ 1,903	$24,598	7.2%
6127	Miscellaneous	$33,452	$ 5,745	$27,707	17.2%
6128	JP Cabins	$78,298	$ 10,827	$67,471	13.8%
6129	Laurisden Skatepark	$552,840	$ 35,453	$517,387	6.4%
Sub-Total - General Fund 6		**$691,090**	**$53,927**	**$637,163**	**7.8%**
General Supplemental - Fund 2					
All Units	**Benefits (IPERS/FICA/Ins, Etc.)**	**$ 1,849,251**	**$ 288,934**	**$ 1,560,317**	**15.6%**
Risk Management - Fund 3					
6100	**Insurance,Med., Work. Comp.**	**$ 50,000**	**$ 24,736**	**$ 25,264**	**49.5%**
REAP - Fund 26					
0211	**Resource Enhancement**	**$ 132,000**	**$ -**	**$ 132,000**	**0.0%**
Mitigation Banking - Fund 31					
6003	**Mitigation Banking**	**$ 500,000**	**$ 5,000**	**$ 495,000**	**1.0%**
Bond - Fund 51					
0210/0215	**Water & Land Dev & Trails**	**$ 22,105,629**	$ 6,355,003	**$ 15,750,626**	**28.7%**
Conservation Enterprises - Fund 286			$ -		
6121	Golf Course	$399,500	$ 28,611	$370,889	7.2%
6126	Sleepy Hollow	$249,096	$ 96,287	$152,809	38.7%
Sub-Total - Enterprises Fund 286		**$648,596**	**$124,898**	**$523,698**	**19.3%**
Grand Total - Conservation		**$ 34,389,957**	**$ 8,508,105**	**$ 25,881,853**	**24.7%**

2021 Bond PCWLL EXPENDITURES AS OF :
August 31, 2023

SUB-LEDGER	PROJECT	BALANCE 2012 BOND	May 2022 BOND ISSUANCE	ACTUAL CONSTRUCTION EXPENDITURES	ACTUAL ENGINEERING EXPENDITURES	ACTUAL MISCELLANEOUS EXPENDITURES	GRANT REVENUES AND DONATIONS	ACTUAL COSTS TO DATE	ACTUAL BALANCE REMAINING
C12-6221	JP NATURE CENTER	($68,793)	$ 68,793					$ -	-
C12-6222	CBG MASTER PLAN		$ 250,000					$ -	250,000
C12-6228	JP PARK IMPROVEMENTS		$ 580,000	$ 450,012	$ 3,923	$ 61,956		$ 515,890	64,110
C12-6233	TRAIL IMPROVEMENTS ALL AREAS		$ 350,000		$ 40,263	$ 56,377		$ 96,640	253,360
C12-6242	ROAD & PARKING LOT RESURFACING ALL AREAS	$13,666	$ 100,000	$ 42,652	$ 23,894	$ 30,248		$ 96,794	16,872
C12-6250	YB PRIEST PROPERTY ACQUISITION					$ 751		$ 751	(751)
C12-9999	MISC MINOR IMPR, EQUIP & INTEREST	$31,595	$ -			$ 1,032		$ 1,032	911,073
C12-6250	YB PRIEST PROPERTY ACQUISITION					$ 14,418		$ 14,418	(14,418)
C13-6256	PCWLL PUBLIC AWARENESS		$ 2,430			$ 4,930		$ 4,930	(2,500)
C13-6258	NATURAL AREA RESTORATIONS	$185,859	$ 1,500,000		$ 22,747	$ 944,936	$ (150,950)	$ 816,733	869,126
C14-6272	EL RAIN GARDENS					$ 7	$ 12,604	$ 12,611	(12,611)
C15-6277	WATER QUALITY	($857,705)	$ 1,500,000	$ 456,953	$ 46,507	$ 362,441	$ (1,159,371)	$ (293,470)	935,765
C17-6291	4-MILE BANE PROPERTY					$ 27,762		$ 27,762	(27,762)
C17-6297	CBG-DYKSTRA PROPERTY				$ 2,465			$ 2,465	(2,465)
C17-6299	CBG-K KIMBERLY PROPERTY	($1,255,237)	$ 1,087,558			$ 3,492	$ (272,879)	$ (269,387)	101,708
C18-6302	WETLAND BANKING				$ 7,600	$ 2,000		$ 9,600	(9,600)
C18-6312	MISCELLANEOUS LAND	($5,400)			$ 4,785	$ 7,600	$ (6,500)	$ 5,885	(11,285)
C19-6324	4-MILE GREENWAY RESTORATION	($6,652)	$ 17,652			$ 11,000		$ 11,000	-
C19-6327	EL - NORTH SHORE IMPROVEMENTS	$99,779	$ 500,000		$ 513,717	285,821	$ (113,175)	$ 686,363	(86,584)
C19-6334	CBG LANE PROPERTY	$28,258				$ 19,548		$ 19,548	8,710
C20-6343	4-MILE/SLEEPY HOLLOW	($2,919)	$ 5,750,000	$ 404,157	$ 116,323	$ 3,302,746		$ 3,823,225	1,923,856
C20-6346	JESTER PARK CAMPGROUND IMPROVEMENTS		$ 1,000,000		$ 4,385			$ 4,385	995,615
C20-6348	ARTIFACTS		$ 54,710			$ 54,710		$ 54,710	(0)
C20-6349	COPPER CREEK		$ 150,000		$ 43,500	$ 28,809		$ 72,309	77,691
C20-6352	HTT TO POLK CITY		$ 700,000		$ 2,252			$ 2,252	697,748
C20-6353	SPECK PROPERTY		$ 1,612			$ 20,388		$ 20,388	(18,776)
C21-6354	TRAILS END MITIGATION BANKING	($400,205)	$ 1,000,000	$ 5,806,570	$ 176,411	$ 4,190		$ 5,987,171	(5,387,376)
C22-6355	SUSTAINABILITY	($5,995)	$ 250,000			$ 105,862		$ 105,862	138,143
C22-6356	4-MILE/MEEK		$ 232,884			$ 232,684		$ 232,684	200
C22-6357	4-MILE/LOCKARD		$ 2,260		$ 380	$ 1,880		$ 2,260	-
C23-6358	CBG - BAILEY PROPERTY		$ 435,529			$ 465,329	$ (91,442)	$ 373,887	61,642
C23-6359	SKATEPARK PARKING LOT		$ 250,000		$ 145,902			$ 145,902	104,098
C23-6360	SEPTICS		$ 300,000		$ -	$ 15,051	$ -	$ 15,051	284,949
C23-6361	ALLEMAN/ZIEL		$ 371,268		$ 2,930	$368,338		$ 371,268	0
C23-6362	CAMP DODGE/HARDING		$ 10,464			$ 1,300,464	$ (1,290,000)	$ 10,464	-
C23-6363	YE-DEATON (MILDRED)		$ 297,559			$ 299,013		$ 299,013	(1,454)
C23-6364	BRENTON SLOUGH		$ -			$ 231		$ 231	(231)
C24-6365	BRANDING		$ -			$ 4,810		$ 4,810	(4,810)
C24-6366	ICON WATER TRAILS		$ 1,500,000			$ 843,082		$ 843,082	656,918
C24-6367	WATER TRAILS - CONSERVATION		$ 1,000,000		$ 5,188			$ 5,188	994,812
C24-6368	JPEC - MOLD REMEDIATION		$ -	$ -		$ 6,289		$ 6,289	(6,289)
C22-9999	MINOR BOND IMPROVEMENTS		$ 1,225,290			$ 678,516	$ (2,000)	$ 676,516	548,774
	INTEREST INCOME		$ -				$ (880,510)	$ (880,510)	880,510
	CONSTRUCTION MAINTENANCE SHOP		$ 200,000					$ -	200,000
	CBG-SKUNK RIVER BRIDGE		$ 100,000					$ -	100,000
	PLAYGROUND RENOVATIONS		$ 400,000					$ -	400,000
	PUBLIC ART		$ 40,000					$ -	40,000
	RETENTION FEE (5%)		$ 1,400,000					$ -	1,400,000
	TAXABLE PORTION OF BOND		$ 3,000,000					$ -	3,000,000
LAND ACQ	LAND ACQUISITIONS		$ 2,608,735					$ -	2,608,735
		($2,307,005)	**$ 28,300,000**	**$ 7,160,344**	**$ 1,163,171**	**$ 9,566,710**	**$ (3,954,223)**	**$ 13,420,111**	**12,623,394**

August 9, 2023
Sleepy Hollow Sports Park
4051 Dean Ave, Des Moines, IA 50317
5:00 PM - Tour
5:30 PM – PCC Board Meeting

PROCEEDINGS OF THE POLK COUNTY CONSERVATION BOARD

The Polk County Conservation Board met in person for regular session Wednesday, August 9, 2023. The meeting was called to order at 5:30 pm.

#23-0801 **Roll Call**
Members Present: **Crane, Mollenhauer, Altringer (CALLED IN)**
Members Absent: **Lewis, Cataldo**

#23-0802 **Public Comments**

#23-0803 **Public Hearing on rejection of all bids for Priest Ravine Remediation Project**

PUBLIC HEARING NARRATIVE

At this time, I'm going to open the Public Hearing rejecting all bids after considering plans, specifications, form of contract, engineer's estimate, and bid for the remediation of the Priest ravine at Yellow Banks Park.
Does anyone present have any comments? ***NO COMMENTS***

If there are no (further) comments, the public hearing is closed.

#23-0803A Chairperson Altringer requested that the Consent Agenda and all Action Items be moved up the Agenda and reviewed and voted on before Item #23-0804 due to a pending engagement she had that was starting at 6:00 PM. Chairperson Altringer also requested that Item #23-0813 (to approve the revised Polk County Conservation Procurement Policy), be postponed for further review and vote until the September 13, 2023 PCC Board Meeting.

MOVED BY Mollenhauer to approve the request to move the Consent Agenda and all Action Items before Item #23-0804 to be reviewed and voted on, and postpone the review and vote of Item #23-0813 until the September 13, 2023 PCC Board Meeting.
SECONDED BY Crane
Vote Yea: **Crane, Mollenhauer, Altringer**
Members Absent: **Lewis, Cataldo**

BOARD CLERK STOKLASA REQUESTED THERE BE A VOTE ON THE PREVIOUS MONTH'S MINUTES ALSO.

#23-0806 **MOVED BY** _Crane_ to approve the July 12, 2023 meeting minutes.
SECONDED BY _Mollenhauer__
Vote Yea: **Crane, Mollenhauer, Altringer**
Members Absent: **Lewis, Cataldo**

CONSENT AGENDA

#23-0807 **Approving** bill list.

#23-0808 **Approving** grant submission to the Iowa Department of Natural Resources (DNR) for funding through the Water Trails Enhancement Grant for the design and construction of a water trails access on Fourmile Creek, with a $14,805.45 match from Polk County Conservation.

#23-0809 **Approving** a Supplemental Agreement for additional professional services with Snyder & Associates for the Great Western Trail Improvements project in an amount not to exceed $72,000.00.

#23-0810 **Approving** a 28E Agreement for cooperative management between Polk County Conservation Board and the Iowa Department of Natural Resources at the Chichaqua Bottoms Greenbelt.

#23-0811 **Approving** staff to submit an Iowa Department of Natural Resources Resource Enhancement and Protection (REAP) grant in the amount of $500,000 for the Brenton Slough acquisition and sign the resolution requirement in support of this project.

LET THE RECORD SHOW it was moved by **_Crane__** to approve the consent agenda.
SECONDED BY _Mollenhauer_
Vote Yea: **Crane, Mollenhauer, Altringer**
Members Absent: **Lewis, Cataldo**

ACTION ITEMS

#23-0812 **Public Hearing rejecting** all bids after considering plans, specifications, form of contract, engineer's estimate, and bid for the remediation of the Priest ravine at Yellow Banks Park.

LET THE RECORD SHOW it was moved by **_Mollenhauer__** to approve Action Item 23-0812.
SECONDED BY __Crane__
Vote Yea: **Crane, Mollenhauer, Altringer**
Members Absent: **Lewis, Cataldo**

~~#23-0813 **Approving** the revised Polk County Conservation Procurement Policy.~~ ***POSTPONED UNTIL SEPT 13, 2023 PCC BOARD MEETING.***
~~**LET THE RECORD SHOW** it was moved by ________________ to approve Action Item 23-0813.~~
~~**SECONDED BY** __________________~~
~~Vote Yea:~~
~~Members Absent:~~

#23-0814 **Awarding** the bid for re-sprout spraying of woody vegetation on 180 acres in various parks to Four Seasons Conservation in a contracted amount of $59,500.

LET THE RECORD SHOW it was moved by **_Crane_** to approve Action Item 23-0814.
SECONDED BY _Mollenhauer_
Vote Yea: **Crane, Mollenhauer, Altringer**
Members Absent: **Lewis, Cataldo**

#23-0804 **New Employee Introduction**

a. Sam Lorton – Maintenance Technician (Sleepy Hollow)
b. Joe Chebuhar – Maintenance Technician (CBG)
c. Ryan McPherren – Iowa Roadside Vegetation Biologist (shared role with Public Works)

#23-0805 **Financial Reports**

~~#23-0806~~ ~~**MOVED BY** _______________ to approve the July 12, 2023 meeting minutes.~~ ***MOVED BEFORE ITEM #23-0804***
~~**SECONDED BY** _______________~~
~~Vote Yea:~~
~~Members Absent:~~

~~**CONSENT AGENDA**~~ ***MOVED BEFORE ITEM #23-0804***

~~#23-0807 **Approving** bill list.~~

~~#23-0808 **Approving** grant submission to the Iowa Department of Natural Resources (DNR) for funding through the Water Trails Enhancement Grant for the design and construction of a water trails access on Fourmile Creek, with a $14,805.45 match from Polk County Conservation.~~

~~#23-0809 **Approving** a Supplemental Agreement for additional professional services with Snyder & Associates for the Great Western Trail Improvements project in an amount not to exceed $72,000.00.~~

~~#23-0810 **Approving** a 28E Agreement for cooperative management between Polk County Conservation Board and the Iowa Department of Natural Resources at the Chichaqua Bottoms Greenbelt.~~

~~#23-0811 **Approving** staff to submit an Iowa Department of Natural Resources Resource Enhancement and Protection (REAP) grant in the amount of $500,000 for the Brenton Slough acquisition and sign the resolution requirement in support of this project.~~

~~**LET THE RECORD SHOW** it was moved by _____________ to approve the consent agenda.~~
~~**SECONDED BY** __________________~~
~~Vote Yea:~~
~~Members Absent:~~

~~**ACTION ITEMS**~~ ***MOVED BEFORE ITEM #23-0804***

~~#23-0812 **Public Hearing rejecting** all bids after considering plans, specifications, form of contract, engineer's estimate, and bid for the remediation of the Priest ravine at Yellow Banks Park.~~

~~**LET THE RECORD SHOW** it was moved by _________________ to approve Action Item 23-0812.~~
~~**SECONDED BY** ___________________~~
~~Vote Yea:~~
~~Members Absent:~~

~~#23-0813 **Approving** the revised Polk County Conservation Procurement Policy.~~ ***POSTPONED UNTIL SEPT 13, 2023 PCC BOARD MEETING.***

~~**LET THE RECORD SHOW** it was moved by ________________ to approve Action Item 23-0813.~~
~~**SECONDED BY** __________________~~

~~Vote Yea:~~
~~Members Absent:~~

~~#23-0814 **Awarding** the bid for re-sprout spraying of woody vegetation on 180 acres in various parks to Four Seasons Conservation in a contracted amount of $59,500.~~

~~**LET THE RECORD SHOW** it was moved by _________________ to approve Action Item 23-0814.~~
~~**SECONDED BY** _________________~~

~~Vote Yea:~~
~~Members Absent:~~

BOARD DISCUSSION

Director Remarks –
The next PCC Board Meeting will be longer. PCC Board Members and staff have an upcoming work session with ICON/Two Rivers site visit. It will be a good forum to talk about all the projects/future planning/money for ICON on Aug 28th.
Two Rivers Park: MidAmerican Energy will be doing a presentation at the September board meeting to review the project. Rich will have one more meeting with the Two Rivers Park project director also. Rich has gone back and forth with MidAmerican regarding staffing and management of the park – the end result was an estimate of $300,000/annually to staff and manage the park (the City of Des Moines will provide $150,000/year and the Polk City Board of Supervisors will provide $150,000/year). Rich was very specific with what was going to be expected – it will be great to have you see the project presentation on Sept 13. The September 13 board meeting will be at Sleepy Hollow due to the presentation of the Sleepy Hollow business plan. Income projections vs. expenses will be looked at. The Business Plan will show goals for the next two years.

West Des Moines city staff is working in partnership with PCC on a boat ramp – PCC is using bond money dedicated to water trails – they decided that boat ramp needed to be pushed in so W. DSM wanted a planning session with PCC staff. A master plan has been developed. PCC is still focusing on boat ramp and the projected cost is now $1.2 million with PCC agreeing to fund half of the project with West Des Moines funding the other half. PCC is also hoping for a MidAmerican grant to help with offsetting the cost.
Rich presented a map showing 63rd St and the Racoon River – the area has room for a future campground of self-contained small units and the project consultant was positive about the feasibility of the campground. A West Des Moines-managed trail will go through the area that we manage. The area to the north of our parcel will have a single lane bike trail and a road that goes to a pond (which will be promoted as a kayaking/biking destination - plan projections are 3-5 years out). Farther north will be more soft trails. No decisions have been finalized as of right now – a bid letting is planned for November with the goal of construction in the spring.

Jordan House/Nazarene Church Camp site: the City of West Des Moines has purchased this property and has reached out to PCC again (West Des Moines inquired with PCC 3 years ago and PCC opted out). They would like to form a partnership for managing this property. A tour with PCC/West Des Moines staff has been scheduled for Thursday, 9-7-23, 9:30 AM – 11:00 AM. Possible uses of the property could include an arboretum, residential housing for Americorps, and a campground.

Sleepy Hollow: construction and building materials are trickling in. There will be a financial bump in the road. The contract was executed in British pounds and the market has fluctuated. As the dollar has lost ground against the British pound, there will be a financial impact to PCC. We may be able to absorb the difference by using the contingency built in to the project. The impact will probably be around six figures.

Americorps Planning – PCC has been using Americorps every year but we are not a host site. PCC works with other host sites to recruit Americorps members. The Natural Resources and Environmental Education departments both use Americorps crews from other host sites. Americorps has asked if PCC would consider being a host site and submit a planning grant. The planning grant would allow PCC to hire a consultant to analyze PCC's operations to identify if serving as a Host Site would be feasible and recommended. PCC's pre-application was approved and we intend on submitting the planning grant by Aug 25th, 2023. We find out 9-15-23 if PCC has been approved for the planning grant and will have to hit the ground running after that. There is a lot of opportunity in this and leadership feels like this is a good direction to go in.

Mollenhauer – so the intention is to create a billet/job description?

Rankin – we are working on what the structure of Year 1 would look like and what PCC will do as a Americorps Host Site. PCC would continue to use outside Americorps teams during the planning grant phase. If PCC is awarded the planning grant, the funding would come next fall (2024) and the grant would allow PCC to hire staff to help with Americorps logistics and paperwork.

Rich: Americorps is a wonderful program but is extremely bureaucratic and the paperwork is onerous.

Rankin: The planning grant funding will allow PCC to hire a coordinator to help with logistics and paperwork.

The **Lauridsen Dog Park parking lot** is still in process! Still planning on a fall bid with spring construction PCC now owns the land and should be able to move forward as planned.

Trails End Mitigation Bank has been a convoluted and complicated project with many phases. We now have a better handle on the funding but the project will extend at least 2 more years. At the next PCC Board Meeting there will be a more detailed narrative outlining the project's evolution. There are now 2 phases – dirt movement (IADNR – 350,000 yards from basin excavation and stream construction) – there are quantity overruns that weren't planned before. Because phases were implemented for this project, the DOT reimbursement is coming but we had to take more dirt on one side vs the other side.

Board & Chair Remarks –

Crane – PCC Board Meeting content and timewise we did ok!

Mollenhauer – I guarantee we will go over the topics again!

NO CLOSED SESSION

~~CLOSED SESSION~~

~~PROCEEDINGS OF THE POLK COUNTY CONSERVATION BOARD~~

~~The Polk County Conservation Board met in closed session Wednesday, August 9, 2023 at _N/A________ p.m.~~

~~MOTION~~~~:~~

~~#23-0815~~ **~~MOVED BY ________________~~** ~~to go into closed session pursuant to Iowa Code Section 21.5(j)~~

~~to discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property.~~
~~**SECONDED BY**~~ ______________

~~VOTE YEA:~~
~~Members Absent:~~

~~MEMBERS PRESENT:~~

~~**MOTION**: Moved by ______________, Seconded by _______________ to go back into open session.~~

~~VOTE YEA:~~

~~The Board returned to open session.~~
~~There was no action taken during closed session.~~

MOTION: Moved by Crane to adjourn.

VOTE YEA: **Crane, Mollenhauer**
Members Absent: **Lewis, Altringer, Cataldo**

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE BOARD AND WITH NO OBJECTIONS, THIS MEETING IS ADJOURNED.

Meeting adjourned at **6:08 pm**.

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	CONSENT 23-0907 Adam Fendrick Park Planner

AGENDA HEADING:
Approving a Federal Recreational Trails Grant application for the Great Western Trail Improvements project and providing a minimum of 20% matching funds from Polk County Conservation and other funding sources.

INFORMATION:
The Federal Recreational Trails Grant Program administered through the Iowa Department of Transportation is funded at $1.5M for fiscal year 2024 projects. Staff will submit a grant request of $400,000 for Great Western Trail Improvements scheduled to begin in spring 2024. The grant submission requires a signed resolution from the applicant committing a minimum of 20% matching funds toward the project.

In Spring 2023, Snyder & Associates was hired to conduct a Pavement Management Analysis of the Great Western Trail sections managed by Polk County Conservation. Furthermore, Snyder & Associates is putting together the bid package for these improvements to begin Spring 2024. That study looked at the entire trail from County Line Rd to George Flagg Parkway. This project includes cutting out many of the larger cracks and repairing the base and then repaving (full-depth patch). Also, some areas will get removed and replaced with concrete.

FISCAL IMPACT:

Amount:	$ 400,000	Grant Request (80%)
	$ 500,000	Estimated project costs

Funding Source: 2022 Polk County Water and Land Legacy Bond – Trails

PREVIOUS BOARD ACTION(S):
Date: August 9, 2023
Roll Call Number: 23-0809 (Yea-3, Absent-2)
Action: Approving a Supplemental Agreement for additional services with Snyder & Associates for the Great Western Trail Improvements project in an amount not to exceed $72,000.00.

RECOMMENDATION:
Approving a Federal Recreational Trails Grant application for the Great Western Trail Improvements project and providing a minimum of 20% matching funds from Polk County Conservation and other funding sources and direct the Board Chair to sign the Resolution and staff to submit the application.

POLK COUNTY CONSERVATION BOARD

R E S O L U T I O N

MOVED by _________________________ that the following Resolution be adopted:

WHEREAS, A resolution authorizing Polk County Conservation staff to submit an application for funding from the Federal Recreational Trails Program sponsored by the Iowa Department of Transportation (Polk County, Iowa); and

WHEREAS, Polk County Conservation requests $400,000 of funding from the Federal Recreational Trails Program for the Great Western Trail Improvements project; and

WHEREAS, the Federal Recreational Trails Program provides funding for the construction of eligible projects; and

WHEREAS, Polk County Conservation will have ownership of the Park and will maintain it for a period of 20-years as outlined in the grant requirements; and

NOW, THEREFORE BE IT RESOLVED that Polk County Conservation Board has approved their commitments and any matching funds necessary to build the project and agree to a 20-year maintenance for the project.

Approved this 13th day of September, 2023

POLK COUNTY CONSERVATION BOARD

____

Jill Altringer, Chair

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	CONSENT 23-0908 Adam Fendrick Park Planner

AGENDA HEADING:
Approving a Federal Recreational Trails Grant application for the Mountain Bike Park project and providing a minimum of 20% matching funds from Polk County Conservation and other funding sources.

INFORMATION:
The Federal Recreational Trails Grant Program administered through the Iowa Department of Transportation is funded at $1.5M for fiscal year 2024 projects. Staff will submit a grant request of $800,000 for the Mountain Bike Park improvements. The grant submission requires a signed resolution from the applicant committing a minimum of 20% matching funds toward the project.

This grant money will go towards construction of the soft surface singletrack trail system at the mountain bike park located north of Copper Creek Lake Park. If awarded this grant, the timeline would be impacted by having to switch to a Department of Transportation (DOT) bid letting schedule that would require a revised bid package to meet DOT standards, thus delaying the project by a few months. This results in the need to ask for a larger grant request amount.

FISCAL IMPACT:

Amount:	$ 800,000	Grant Request
	$ 400,000	PCC matching funds (20% minimum)
	$1,200,000	Estimated Project Cost

Funding Source: 2022 Polk County Water and Land Legacy Bond – (up to $1,000,000)
LAWCON Grant ($200,000)
Private Donations ($6,500)

PREVIOUS BOARD ACTION(S):

Date: December 17, 2022
Roll Call Number: 23-0609 (Yea - 3, Absent – 2)
Action: Approving a State Recreational Trails Grant application for the Mountain Bike Park project and providing a minimum of 25% matching funds from Polk County Conservation and other funding sources.

Date: December 17, 2022
Roll Call Number: 22-1217 (Yea – 5)
Action: Approving Professional Service Agreement with Snyder and Associates for Design/Engineering Services for the Mountain Bike Park in the contract amount of $106,500.

Date: December 14, 2021
Roll Call Number: 21-1214 (Yea - 4, Absent – 1)

Action: Approving the proposal from IMBA (International Mountain Biking Association) Trail Solutions in the contract amount of $44,930.00 for Planning/Design Services for the Copper Creek Mountain Bike Park.

RECOMMENDATION:
Approving a Federal Recreational Trails Grant application for the Mountain Bike Park project and providing a minimum of 20% matching funds from Polk County Conservation and other funding sources and direct the Board Chair to sign the Resolution and staff to submit the application.

TRAILS CONCEPT PLAN

Mountain MTB Park
Polk County, IA
MAY 2022

Prepared for:

CITA Central Iowa Trail Association

Prepared by:

TRAIL SOLUTIONS IMBA

POLK COUNTY CONSERVATION *Leading You Outdoors*

LEGEND

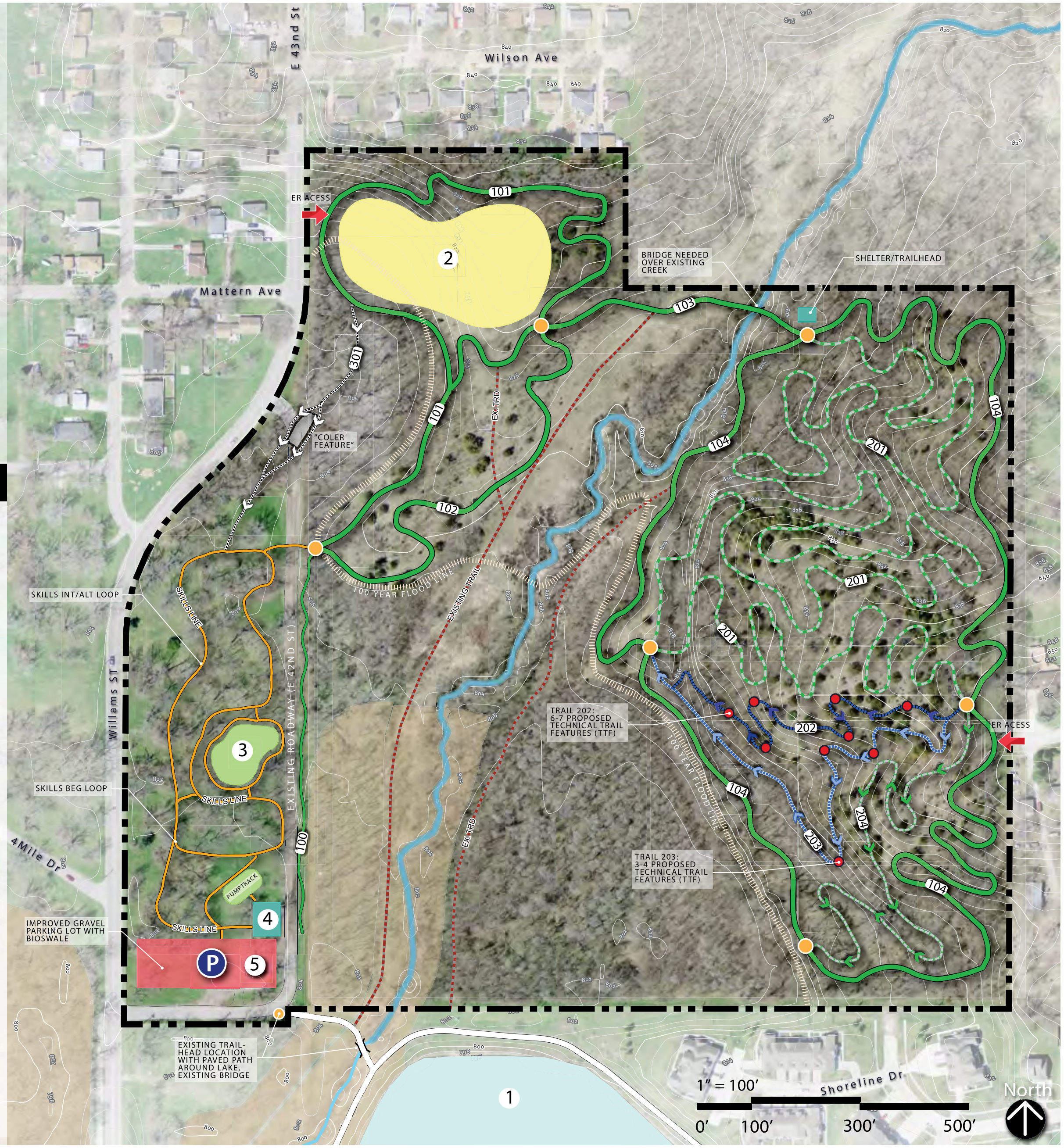
- PROJECT AREA
- WETLANDS
- EXISTING PAVED PATH
- EXISTING TRAIL
- CONCEPTUAL ROUND-ABOUT TRAIL HUB
- PROPOSED TECHNICAL TRAIL FEATURE (TTF)
- P EXISTING/IMPROVED PARKING

SITE AMENITY ZONES

1. PLEASANT LAKE TRAIL SYSTEM
2. FLOW/JUMP LINES
3. PUMPTRACK(S)
4. SHELTER / RESTROOM
5. IMPROVED PARKING LOT

PLANNED TRAILS

- EASY, TRADITIONAL TRAIL
- EASY, TRADITIONAL ADAPTIVE TRAIL
- EASY, BIKE OPTIMIZED
- EASY, FLOW TRAIL (ONE-WAY)
- EASY/MODERATE, SKILLS AREA
- MORE-DIFFICULT, FLOW TRAIL (ONE-WAY)
- MORE-DIFFICULT, TEC TRAIL (ONE-WAY)
- MOST-DIFFICULT, TECHNICAL TRAIL



BIKE AMENITY TYPES


PUMPTRACK (PREFAB CONCRETE)


INTERMEDIATE SKILLS DEVELOPMENT


FLOW/JUMP LINES

TRAIL TYPES


TRADITIONAL


TECHNICAL


FLOW/GRAVITY

Note: This map is intended for planning purposes only.
Property boundaries are approximate.

Do not use for design development or construction estimates.

ver221508

POLK COUNTY CONSERVATION BOARD

R E S O L U T I O N

MOVED by __________________________ that the following Resolution be adopted:

WHEREAS, A resolution authorizing Polk County Conservation staff to submit an application for funding from the Federal Recreational Trails Program sponsored by the Iowa Department of Transportation (Polk County, Iowa); and

WHEREAS, Polk County Conservation requests $800,000 of funding from the Federal Recreational Trails Program for the Copper Creek Mountain Bike (MTB) Park; and

WHEREAS, the Federal Recreational Trails Program provides funding for the construction of eligible projects; and

WHEREAS, Polk County Conservation will have ownership of the Park and will maintain it for a period of 20-years as outlined in the grant requirements; and

NOW, THEREFORE BE IT RESOLVED that Polk County Conservation Board has approved their commitments and any matching funds necessary to build the project and agree to a 20-year maintenance for the project.

Approved this 13th day of September, 2023

POLK COUNTY CONSERVATION BOARD

____

Jill Altringer, Chair

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	CONSENT 23-0909 Adam Fendrick Park Planner

AGENDA HEADING:
Recommending that the Polk County Board of Supervisors approve a Perpetual Easement for Private Ingress-Egress to Saga Communications for the ongoing inspection, repair and maintenance of guy wires associated with their communications tower located on Polk County land in Alleman, Iowa.

INFORMATION:
Polk County Conservation purchased approximately 42 acres of land from Eric and Carol Ziel in Alleman, Iowa for future use as a public park. The land that was carved out includes 3 guy wire anchor points for the communication tower owned and operated by Saga Communications. This easement grants Saga Communications permanent access to maintain their guy wire anchors. Currently, Saga Communications accesses their tower and guy wires from the southern access point, and this will remain the same. We will install access gates in our fence to provide them access to the guy wires with the most direct route limiting impacts to the park. Attached is the concept plan with the areas of this easement marked.

FISCAL IMPACT:

Amount: N/A

Funding Source: N/A

PREVIOUS BOARD ACTION(S): N/A

Date:
Roll Call Number:
Action:

RECOMMENDATION:
Recommending that the Polk County Board of Supervisors approve a Perpetual Easement for Private Ingress-Egress to Saga Communications for the ongoing inspection, repair and maintenance of guy wires associated with their communications tower located on Polk County land in Alleman, Iowa, and directing staff to proceed with this agreement.


NE 134TH AVE
DENNLER DR
69
POTENTIAL FOR FUTURE TRAIL CONNECTION TO NORTH POLK HIGH SCHOOL
FORMER RAILROAD LINE CORRIDOR
RESTORE OXBOWS
OAK/WALNUT SAVANNA RESTORATION
CREEK ACCESS STEPS
PROPOSED GRAVEL PARKING LOT & SMALL PICNIC SHELTER
FORMER RAILROAD BRIDGE POTENTIAL TO BE CONVERTD INTO RECREATIONAL TRAIL BRIDGE
PROPOSED 10 FOOT WIDE GRAVEL RECREATIONAL TRAIL W/ BRIDGE OVER FOURMILE CREEK
500-YEAR FLOODPLAIN
RESTORE TO DRY PRAIRIE
RESTORE TO wet PRAIRIE
500-YEAR FLOODPLAIN
EXISTING GUY WIRE
STREAM RESORATION:
J-HOOKS
TOE WOOD
CROSS VANES
RIFFLES
REGRADE SLOPES 3:1
PARK INFORMATION:
Owner: Polk County Conservation Board
Park Size: 41.76 acres
Trail: 1-mile walking loop
10-foot wide gravel surface
Potential mowed paths
Fourmile Creek: 1-mile of creek.
Stream restoration projected in 2025.
EXISTING KDSM-TV TOWER
EXISTING GUY WIRE
69
POLK COUNTY CONSERVATION
Future Park
PREPARED BY POLK COUNTY CONSERVATION June, 2023
0 100' 200' 300'
SCALE: 1" = 100'-0"
NORTH

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	CONSENT 23-0910 Cassandra Cook Conservation Ecologist

AGENDA HEADING:
Approving Polk County Conservation's participation in the Bird City Network and recommending that the Board of Supervisors approves the application.

INFORMATION:
Polk County Conservation (PCC) has been a part of Bird Friendly Iowa for many years. Now under the umbrella of the Bird City Network, the mission is to bring together communities from across the western hemisphere to showcase their accomplishments and share ideas for making their little parts of the world more bird friendly. As a public entity that manages land for a variety of wildlife, PCC staff feels that our participation in the Network is a great way to showcase the work that we do and provide an example to the community of how more "bird friendly" areas can be maintained. As a part of the Network, PCC has a dedicated webpage that highlights conservation work completed, and park areas with high bird diversity to guide public use. PCC would like to renew its annual membership. As a part of the renewal process, the Polk County Board of Supervisors has to approve the application. Upon Conservation Board approval, staff will take this request to the Board of Supervisors.

The link to Polk County Conservation's page on the website is:
https://birdcity.org/iowa/polkcounty?tab=0

FISCAL IMPACT:
Annual Membership: $100

Funding Source: 2022 NR Bond Funds

PREVIOUS BOARD ACTION(S): None.

RECOMMENDATION: Approving Polk County Conservation's participation in the Bird City Network and recommending that the Board of Supervisors approves the application.

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. ACTION Roll Call No. 23-0911 Submitted by: Amanda Brown Ecologist	

AGENDA HEADING:
Approving the revised Polk County Conservation (PCC) Procurement Policy.

ADDITIONAL INFORMATION:
Polk County Conservation (PCC) staff have been working to update the internal procurement policy. These updates were needed in order to address current needs, clear up confusion, and ensure the procurement process is conducted according to one policy standard throughout the organization.

The PCC Procurement Policy is largely the same as the Polk County Procurement Policy with the exemption of a few items. The procurement office for the County and the Polk County Attorney were consulted throughout this process. There are a few major differences from the County procurement policy and the updated PCC procurement policy along with a few minor differences that are highlighted on the attached policy document. The major differences include:

- PCC policy states that formal sealed bids are only required for purchases/projects $100,000 and over regardless of the project type. The County policy states that projects which are not public improvement projects must be formally bid if costs are $50,000 or above while public improvement projects must be bid if $100,000 or above.
- Contracts may extend longer than three years in certain cases (Jester Park Lodge, Jester Park golf course…etc), but must still be reviewed internally every three years. The County policy states that no contract can last longer than three years.

After multiple internal meetings, it was decided these changes were in the best interest of PCC due to most of the work conducted by PCC being public improvement projects as well as other factors. These decisions have been vetted through the Attorney's Office and are legally covered under state code 117.2(8A) which states the following regarding who must follow the procurement policy:

"Agency" or "state agency" means a unit of state government, which is an authority, board, commission, committee, council, department, examining board, or independent agency as defined in Iowa Code section 7E.4, including but not limited to each principal central department enumerated in Iowa Code section 7E.5. However, "agency" or "state agency" does not mean any of the following…. 4. a political subdivision of the state or its offices or units, including but not limited to a county, city of community college.

FISCAL IMPACT: None
Amount:
Funding Source:

PREVIOUS BOARD ACTION(S):
Date: October 14th, 2020
Roll Call Number: 20-1008 (Yea-4, Absent-1)

Action: Approving Procurement Policy language regarding the level and/or use of contingency approvals afforded to the Polk County Conservation Director and Deputy Director. The Director and/or Deputy Director are hereby authorized to execute change orders as approved by the Board at the time of award. The provisions for establishing change orders shall be as follows:

Project Amount: <$500,000 Contingency Amount:10% Maximum Change Order Threshold:$15,000
Project Amount: >$500,000 Contingency Amount:5% Maximum Change Order Threshold:$25,000

Regardless of the contingency amount, the Director and/or Deputy Director cannot exceed the cumulative change order (Maximum Change Order Threshold) limit. All change orders afterwards shall be placed on the Board agenda for Board action.

Date: August 14th, 2019
Roll Call Number: 19-0818 (Yea-4, Absent-1)
Action: Approving amendments to the Administrative Manual Procurement Policy, increasing Deputy Director and Directors' purchasing authority from $10,000 to $25,000.

Date: July 13, 2016
Roll Call Number: 16-0708 (Yea-3, Absent-1)
Action: Approved the revised Polk County Conservation Procurement Policy,

RECOMMENDATION:
Approving the revised Polk County Conservation (PCC) Procurement Policy.

Procurement Policy

March 2023

Revised August 2023

Table of Contents:

Section I - Introduction

1. Overview

Procurement in a government organization is the process of finding qualified suppliers, establishing vendor agreements, and acquiring goods and services through fair and open competition. Polk County Conservation (PCC) departments, offices, and staff should follow procedures in this manual when purchasing supplies, equipment, and services with county funds.

2. Procurement Authority

This policy is applicable to any employee who is authorized to purchase supplies, services, equipment and public improvements for Polk County Conservation Board (PCCB) and complies with or exceeds requirements of State Code Statutes.

3. Definitions

1. "Agreement" means a legal instrument by which a recipient or subrecipient purchases property or services.

2. "County" means the governmental entity Polk County Iowa.

3. "Capital Goods Assets" Tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP. Capital assets include:

(i) Land, buildings (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, exchange, or through a lease accounted for as financed purchase under Government Accounting Standards Board (GASB) standards or a finance lease under Financial Accounting Standards Board (FASB) standards; and

(ii) Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

(iii) For purpose of this part, capital assets do not include intangible right-to-use assets (per GASB) and right-to-use operating lease assets (per FASB). For example, assets capitalized that recognize a lessee's right to control the use of property and/or equipment for a period of time under a lease contract.

4. “Conflict of Interest” means the same as described in Iowa Code section 331.342. Generally, when an officer, employee, or agent, any member of his or her immediate family, his or her partner, or an organization which employees or is about to employee any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

5. “Contractor” means an entity that receives a contract as defined in this section.

6. “Invitation for Bid (IFB)” means a request for services used when seeking specific services or goods from vendors. An example would be construction of a wetland in which detailed design plans are available. Typically, a detailed list of all items that will have an associated cost are listed within the IFB and the vendor bids on each, resulting in a total cost for the project. **Cost is the main factor.**

7. “Procurement,” or “Purchase” means the acquisition of goods and services through lease, lease/purchase, acceptance of, contracting for, obtaining title of, use of, or any other manner of method for acquiring an interest in a good or service.

8. “Professional Services” means any type of professional service which may be legally performed pursuant to a certificate of license and any other type of contractual service, required by Polk County but not furnished by its own employees, which is in its nature so unique that it should be acquired by negotiation on the basis of competence and qualification for the type of services required and for a fair and reasonable price rather than by competitive sealed bidding.

9. “Public Improvement” means a building or construction work which is constructed under the control of a governmental entity and is paid for in whole or part with funds of the governmental entity, including a building or improvement constructed or operated jointly with any other public or private agency, but excluding urban renewal demolition and low-rent housing projects, industrial aid projects authorized under chapter 419 of the Code of Iowa, emergency work or repair or maintenance work performed by employees of a governmental entity, excluding a highway, bridge, or culvert project, and excluding construction or repair performed for a rural water district under chapter 357A by its employees.

10. “Request for Proposal (RFP)” means a request for services used when less details are known about the service or product needed. The project is more general and not as specific as one that would go through the IFB process. **Cost is the main factor.**

11. “Request for Qualification (RFQ)” means a request for services used when **cost is NOT the determining factor.** Types of services that may be procured using RFQ procedures include: program management, construction management, preliminary engineering, design, surveying, mapping, and/or services that require performance of a registered or licensed architect. Award criteria will be based on qualifications and geographic location before price

considerations. Respondents must submit costs proposals on a separate document clearly marked “Cost Proposal” which will not be reviewed until the qualifications have been reviewed and scored.

Section II – Procurement Policies

1. Vendor Preference Policy Statement

Polk County Conservation Board (PCCB) retains discretion in applying preference in purchasing goods and services from vendors who produce goods, provide services or maintain an office in Polk County. Preference may also be given to suppliers of goods and services who maintain facilities in Iowa, but outside of Polk County. Further, it shall be the policy of PCCB to actively solicit and seek out local vendors of goods and services and to encourage said vendors to stock and supply Polk County and Iowa-made products.

PCCB also retains discretion in applying preference in purchasing goods and services from vendors who sell sustainable products or operate with sustainable business models and principles.

2. Excluded Parties

All respondents will be searched on the System for Award Management (SAM), https://www.sam.gov to verify they have not been excluded from entering into agreements funded with public monies. This must be documented and placed in the specific bid file.

3. Conflicts of Interest

As used in this section, “contract” means a claim, account, or demand against or agreement with a county, express or implied, other than a contract to serve as an officer or employee of the county. However, contracts subject to Iowa Code section 314.2 are not subject to this section.

An officer or employee of a county shall not have an interest, direct or indirect, in a contract with that county. A contract entered into in violation of this section is void. The provisions of this section do not apply to:

a. The designation of a bank or trust company as a depository, paying agent, or for investment of funds.
b. An employee of a bank or trust company, who serves as treasurer of a county.
c. Investment firms utilized by the Polk County Treasury Office.
d. Contracts made by a county upon competitive bid in writing, publicly invited and opened.

e. Contracts in which a county officer or employee has an interest solely by reason of employment, or a stock interest of the kind described in paragraph "h", or both, if the contracts are made by competitive bid, publicly invited and opened, or if the remuneration of employment will not be directly affected as a result of the contract and the duties of employment do not directly involve the procurement or preparation of any part of the contract. The competitive bid qualification of this paragraph does not apply to a contract for professional services not customarily awarded by competitive bid.
f. The designation of official newspapers.
g. A contract in which a county officer or employee has an interest if the contract was made before the time the officer or employee was elected or appointed, but the contract shall not be renewed.
h. A contract with volunteer fire fighters or civil defense volunteers.
i. A contract with a corporation in which a county officer or employee has an interest by reason of stockholdings when less than five percent of the outstanding stock of the corporation is owned or controlled directly or indirectly by the officer or employee or the spouse or immediate family of the officer or employee.
j. A contract made by competitive bid, publicly invited and opened, in which a member of a county board, commission, or administrative agency has an interest, if the member is not authorized by law to participate in the awarding of the contract. The competitive bid qualification of this paragraph does not apply to a contract for professional services not customarily awarded by competitive bid.
k. Contracts not otherwise permitted by this section, for the purchase of goods or services by a county, which benefit a county officer or employee, if the purchases benefiting that officer or employee do not exceed a cumulative total purchase price of six thousand dollars in a fiscal year.
l. A contract that is a bond, note, or other obligation of the county and the contract is not acquired directly from the county, but is acquired in a transaction with a third party, who may or may not be the original underwriter, purchaser, or obligee of the contract. *See* Iowa Code § 331.342.

Polk County employees whom conduct procurements and/or purchase goods and services must disclose all potential conflicts of interest upon request.

4. Gratuity and Gift Policy

In order to maintain integrity and to continue to foster ethical and equal opportunity among the business community, PCC employees are prohibited from accepting any gratuities, in any form, from any supplier or potential supplier either directly or indirectly. PCC employees are required to adhere to the state of Iowa Gift Law. (*See* Iowa Code § 68B.22).

5. **Sales Representative Office Visits**

Sales representatives are essential in establishing lines of communications between the vendor and PCC staff in regards to state of the art advancements or product improvements, in resolving problems with products and services, billing and payment difficulties, and other similar procurement-related matters. During these meetings, any information that could be considered evaluation criteria provided to PCC outside of a requested quote or formal bid may exclude that supplier from entering into an agreement with the county.

6. **Discrimination and Affirmative Action**

Responders shall comply with the provisions of federal, state, and local laws and regulations to ensure that no employee or applicant for employment is discriminated against because of race, religion, color, sex, age, sexual orientation, gender identity, national origin, creed, genetic information, disability, veteran or military service. When requested, respondents shall provide the County with reports required to ensure compliance with equal employment legislation and regulations if requested. Respondents shall insure that all authorized sub-contractors comply with the provisions of this clause. A copy of the respondent's policy (or sub-contracted supplier's policy) must be made available to Polk County upon request.

PCCB, in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 U.S.C. 2000d to 2000d-4 and Title 49, Code of Federal Regulations, hereby notifies all bidders that it will affirmatively insure that in any procurement conducted on behalf of Polk County that minority business enterprises will be afforded full opportunity to submit bids in response to an invitation and will not be discriminated against on the basis of any protected classification in consideration for an award.

7. **Confidential Information**

Iowa Code Chapter 22 makes certain records in the possession of a government body, such as PCCB, public and subject to examination and/or copying. There are, however, some public records that remain confidential unless otherwise ordered by a court, a lawful custodian, or another person duly authorized to release information. Some of these confidential records include:

   a. Trade secrets and proprietary information recognized and protected as such by law [Iowa Code 22.7(3)].
   b. Records that represent and constitute the work product of an attorney, related

to litigation or claim made by or against a public body [Iowa Code 22.7(4)].

c. Reports to governmental agencies that if released, would give advantage to competitors and serve no public purpose. [Iowa Code 22.7(6)].
d. Personal information in confidential personnel records of government bodies relating to identified or identifiable individuals who are officials, officers, or employees of the government bodies. [Iowa Code § 22.7(11)]
e. Copies of voided checks from vendors containing bank account information.

Respondents who submit records, as defined by Iowa Code chapter 22, to PCC acknowledge that such records may be subject to release by Polk County to a requesting party. To the extent a Respondent asserts some of the record(s) it submits are confidential, the Respondent must specifically designate which part(s) of the records it maintains are confidential and cite specific legal authority supporting its confidentiality claim.

8. Collusion Amongst Suppliers

Any agreement or collusion among respondents/prospective bidders or among proposers/prospective proposers, in restraint of freedom of competition by agreement to bid or propose a fixed price or otherwise shall render the bids or proposals of such bidders or proposers void. Each bidder/proposer shall accompany his or her bid/proposal with a sworn statement or shall otherwise swear or affirm that he or she has not been a party to any such agreement. Any disclosure by one bidder or proposer to another bidder or proposer of the content of a bid or proposal in advance or the submission of bids or proposals shall render the bids or proposals of both such bidders or proposers void, and may at the discretion of the procurement administrator render the proceedings void and/or bar the supplier(s) from future bid opportunities and agreements with the county.

9. Change Orders and Contingencies

A contingency of 10% of the project total should be approved by the PCCB at the time of overall project approval. This authorizes the Director and/or Deputy Director to execute change orders as approved by the Board at the time of award. The Director and/or Deputy Director cannot exceed the cumulative change order (Maximum Change Order Threshold) limit of 10%. All change orders afterwards shall be placed on the Board agenda for Board action.

All change order requests submitted by the contractor will be evaluated for fair market value and must be approved by PCC staff before the vendor implements the change. If the change order is $25,000 or more, it must also be approved by the Polk County Conservation Board (PCCB). Any change order performed without pre-approval of the PCCB and/or their designated personnel, will not be billable to the county. If the evaluation of the proposed change order cost determines that the change order request from the contractor is not of fair market value, PCCB reserves the right to deny the change order, request the vendor match the fair market value, or procure the item from another source. All change order requests must be submitted on the to the PCC Project Manager.

10. Using outside firms to conduct bidding process

In cases where outside firms or organizations are being used to conduct the bidding process on behalf of PCC, the adherence to the PCC procurement policy is required except for the posting to BidNet.

11. Federal, State, County, and Municipal Contracts

Each year, the State of Iowa establishes contracts for purchases of various products and services. To the extent that these state bids meet county requirements, Polk County Conservation may purchase from the existing state bids. Open state of Iowa contracts and open bid opportunities for the state of Iowa may be found at https://das.iowa.gov/procurement

12. Split Purchasing (Iowa Code, Chapter 26)

Purchases are not to be broken into smaller quantities to avoid following purchasing guidelines.

13. Tax Exempt

When making any purchase, vendors shall be notified that PCCB is a tax exempt entity. Sales tax Exemption Certificates may be obtained from the Administration office.

14. **Record Keeping**

All documents related to project procurement should be kept on the S drive at the following location:

S Drive > Agreements & Contracts > IFBs and RFPs > [Specific Project Folder]

Specific Project Folder: For each project that will be going through the competitive quote process, a specific folder should be created. This folder should be titled as follows and saved in the location above.

[Year]-[Solicitation #] - [IFB/RFP] – [Name of Project]

Example: 2022-001 – IFB – Priest Ravine Remediation

The solicitation # is based on the number of projects that have gone through this competitive process in the year. You will choose the next solicitation number in numerical order following the most recent solicitation number within the folder. For example, if the most recent solicitation # in the folder is 010, your solicitation # would be 011. This solicitation number will be listed on ALL bidding documents moving forward.

Items required in this folder once created:
- Project designs/engineers estimates
- IFB/RFP form
- All received proposals/bids
- Bid tabulation
- Documentation related to rationale for vendor selection
- Change orders/agreement modifications

Other items to include but not required:
- Any other pre-bid documents related to the project
- Email correspondence
- Project maps
- Invoices/budget table for tracking expenses
- Signed agreement
- Brief project description

Records shall be maintained for three years.

Section lll – Procurement Purpose and Methods

1. Purpose

The primary purpose of any governmental procurement is to obtain optimal quality and service at minimum cost through fair and open competition. Secondary purposes are to guard against favoritism and profiteering at public expense and to provide equal opportunities to participate by every qualified vendor. All procurements should be designed to ensure that all qualified vendors have a fair opportunity to benefit from the use public funds. The ultimate goal of any governmental procurement should be to provide the best value to the public.

2. Competition

Competition in procurement is defined as the process in which two or more vendors attempt to secure business by the most favorable price, quality, and service. Procurement practices should only rule out vendors for sound business reasons. Exclusionary practices that limit competition for reasons other than business or bona fide policy goals will not be allowed. Two sources/vendors are not considered adequate when there are additional sources/vendors in the area that are fully qualified to compete. Examples of procurements that may restrict competition by using exclusionary or discriminatory specifications are:

- Placing unreasonable requirements on firms in order for them to not qualify to do business
- Requiring unnecessary experience and bonding
- Allowing noncompetitive practices between firms (collusion, price fixing)
- Non-competitive awards to any person or firm on retainer contracts
- Conflicts of interest within the county
- Specification of a product without listing its salient characteristics and not allowing an alternative product to be considered
- Specifications provided by a supplier
- Using any arbitrary action in the procurement process

The intent of Polk County is to offer all goods and services for public bidding when feasible.

3. Agreement Life

No agreement with a vendor should exceed 3 years without that product or service being re-solicited. Agreements longer than 3 years may eliminate fair and open competition practices. In rare instances, situations may arise where agreements need to be extended beyond 3 years, but it is the objective to limit to 3 years if at all possible.

Prior approval to extend agreements past 3 years must be received from the Deputy Director or Director **PRIOR** to initial agreement being signed. Employees should internally review these extended agreements every 3 years to determine if it is in PCC's best interest to rebid.

4. Fair and Open Quotes and Proposals

No quotes, specifications, nor performance proposals shall be presented by a vendor to any PCC employee and/or other suppliers prior to bid opening. No attempt shall be made by any vendor to induce any person or firm to submit, not to submit, adjust pricing, and/or provide pre-bid specifications in any manner that may be viewed as limiting far and open competition. Any information deemed to be part of the selection process that is presented to any PCC employee and/or other suppliers prior to bid opening may eliminate that supplier from submitting a response on a specific project and/or may bar the supplier from bidding/agreeing with the county on future business.

Employees may contact vendors to receive general estimates of cost for budgeting purposes. This must be done through written communication (email) to at least two vendors and employees must state that they are not asking for an official itemized quote. It should be stated that we may solicit official quotes in the future.

5. Procurement Methods

a. *Consortium* **-** A consortium is a competitive procurement involving more than one agency. Each agency in the consortium must agree on the specifications and work together with one lead agency to develop common specifications.
b. *Government to Government Cooperative Purchases* – PCC may utilize a current contract, agreement, or purchase order issued by another governmental agency to make a purchase without further competition. PCC may join a contract or agreement let by a government purchasing consortium when they reasonably believe it is in their best interest.

   PCC shall request use of a contract, agreement, or purchase order to the procuring governmental agency prior to purchasing any goods and services provided:
   1. The original procuring agency allows for government to government cooperative purchases
   2. The original award was made through fair and open competition
   3. PCC and vendor agree to adhere to terms and conditions of the original contract
   4. The conditions of PCC's purchase do not adversely impact the governmental entity which was the original signatory to the contract.

   Each year, the State of Iowa establishes contracts for purchases of various products and services (i.e. Sourcewell). To the extent that these state bids meet county requirements, Polk County Conservation may purchase from the existing state bids. Open state of Iowa contracts and open bid opportunities for the state of Iowa may be found at https://das.iowa.gov/procurement

c. *Piggybacking* **–** The post award practice of allowing someone who was not included in the original procurement to purchase the same supplies or equipment through the original contract. The distinction between Piggybacking and a Government to Government Competitive Purchase is in how the original procurement was written. If an RFP was written for a specific number of items only and not all of those were purchased, Piggybacking is the ability to only order the remaining number of available items to the max allowed on the contract. For example, a bid is conducted for only 50 vehicles and the agency that conducted the RFP only ended up purchasing 40. Another agency could “piggyback” and purchase the remaining 10 units to fulfill the max allowed in the RFP. Purchases above the max stated in the original RFP is not allowed. Piggybacking should be considered the last option in procurement and will only be conducted when a competitive procurement has yielded no qualified bidders, all proposals are cost prohibitive, and/or no other governmental agency administered contracts have products available that would meet the county needs. To be considered an eligible party in which to piggyback, the following rules are required:
    1. the original solicitation must include an assignability clause that provides for the assignment of all or part of the deliverables as originally advertised and competed
    2. the original solicitation and contract must contain both a minimum and maximum quantity
    3. no additional quantities can be added
    4. units must be as originally specified with no "cardinal changes” which is defined as a fundamental change to a product of service drastic enough to require the supplier to perform duties or purchase materials outside of the original scope of work and/or specifications. This could be viewed as an intentional attempt to circumvent fair procurement practices.

d. *Governmental Grants and Funding Sources (Non-Polk County)* - In the event that grants and/or any public funding sources become available outside of Polk County funds, Polk County Conservation has the authority to waive their procurement rules in order to follow the specific funding agency rules only for that specific project in order to be eligible for funding. Assigned staff will work with the funding agency to determine what rules and regulations must be followed and will have the responsibility to author any and all documents and administer all processes from initial research through vendor award. **PCC procurement policy must be used in conjunction if it is stricter than grant funding policies related to procurement.** The federal procurement policies can be found at the end of this document and must be followed for federal grant projects.

e. Competitive Procurements -

1. *Micro-Purchase* – Micro Purchases are procurements under $5,000 that can be made without obtaining competitive quotations. These purchases should be equitably distributed amongst qualified Polk County and state of Iowa suppliers if available. No purchases or projects can be split to be under the dollar threshold to avoid competition.
2. *Informal Quotes* **–** The informal quotes procedure may be used for goods or services (including public improvement projects) costing between $5,000 and $24,999. It is the value of the total agreement that determines the procedure to use. If an individual item is under $25,000, but the approved total project cost is $25,000 or more, the competitive quotes or formal bid procedure will be followed even if the items are purchased individually. Preference will be given to companies that have offices and/or manufacturing facilities in first Polk County then second in Iowa. To use the informal quotes procedure, obtaining competitive pricing from three adequate qualified sources is recommended. Typically, low price is the sole determining factor in a small purchase procurement, but other factors may be considered (e.g., lead time on deliveries, timeline compliance, and company location). Determining factors should be part of the quote instructions.
3. *Competitive Quotes* – The competitive quotes procedure may be used for goods or services (including public improvement projects) costing between $25,000 and $99,999. It is the value of the total agreement that determines the procedure to use. If an individual item is under $100,000 but the approved total project cost is $100,000 or more, the formal bid procedure will be followed even if the items are purchased individually. Preference will be given to companies that have offices and/or manufacturing facilities in first Polk County then second in Iowa. To use the competitive quotes procedure, soliciting competitive pricing from three adequate qualified sources is required. Actively soliciting at least three qualified sources is adequate even if less than three quotes are ultimately received. Typically, low price is the sole determining factor in a small purchase procurement, but other factors may be considered (e.g., lead time on deliveries, timeline compliance, and company location). Determining factors should be part of the quote instructions. Approval to not select low bid must be granted by the Deputy Director or Director. A performance bond in the amount of the project is required as well as a payment bond if subcontractors are used.
4. *Request for Proposal/Invitation for Bid (RFP/IFB – Formal Bid)* **-** The RFP/IFB procurement process must be conducted for all products and services (including public improvement projects) with a total cost over $100,000. RFPs should be conducted when projects are general and specifications less detailed. Respondents may have different features in their proposals that will be evaluated for best value. IFBs are conducted when projects are specific with detailed specifications. Soliciting from three adequate qualified sources is required. Actively soliciting at least three qualified sources is adequate even if less than three bids are ultimately received. Notice of the IFB/RFP must be placed in BidNet Direct. It

also must be placed on the Master Builders of Iowa Website if applicable. Respondents should only bid according to the exact specifications listed and awards are primarily based on lowest priced bid, but other factors may be considered (e.g., lead time on deliveries, timeline compliance, and company location). Determining factors should be part of the IFB instructions. Approval to not select low bid must be granted by the Deputy Director or Director. A bid bond in the amount of 5% is required. Performance bond and payment bond in the amount of the project cost are required.

5. *Request for Qualifications (RFQ – Qualifications Based)* –The RFQ procedure is used when cost will not be the deciding factor in the award decision. Example of types of services that may be procured using RFQ procedures include: program management, construction management, preliminary engineering, design, surveying, mapping, and/or services that require performance of a registered or licensed architect. Award criteria will be based on qualifications and geographic location before price considerations. Soliciting from three adequate qualified sources is required. Actively soliciting at least three qualified sources is adequate even if less than three bids are ultimately received. Respondents must submit costs proposals on a separate document clearly marked “Cost Proposal” which will not be reviewed until the qualifications have been reviewed and scored. If the RFQ review committee concludes the cost proposal of initial selected vendor precludes an award to the most qualified vendor, the office maintains the right to negotiate a lower cost. If that negotiation does not yield the results the County desires, the County may move to the next most qualified vendor and review their pricing.

	Micro Purchase	Informal Quotes	Competitive Quotes	(RFP/IFB-formal bid)	Request for Qualifications (RFQ)
Amount of Purchase	Total under $5,000	Total under $25,000 for goods and services	Total under $100,000 for goods and services	Total $100,000 or more for good and services	**Design & Engineering**
Nature of Product or service	Standardized Product/service	Specific product/service in which price is the primary evaluating factor	Specific product/service in which price is the primary evaluating factor	Typically, non- specific product/service where combination of factors may be evaluated for best value	**Any project where cost will NOT be a determining factor**
Competitive	No	Yes	Yes	Yes	Yes
Advanced Authority to Incur Costs (see page 15)	No	Yes	Yes	Yes	Yes

f. Non Competitive Procurements

1. *Sole Source Purchases* - Sole source procurements are allowed **ONLY** when the award of an agreement is infeasible through a competitive process by any one of the following conditions:
   a. The item is only available from one source (determined by way of only receiving one qualified bid).
   b. The procurement is of such a specialized nature or related to a specific geographical location that by virtue of experience, expertise, proximity, or ownership of intellectual property rights, only one vendor could most satisfactorily provide the good or service.
   c. Applicable law requires, provides for, or permits use of a sole source procurement.
   d. The federal government or other provider of funds for the procurement (other than Polk County) has imposed clear and specific restrictions on the use of the funds in a way that restricts the procurement to only one vendor.
   e. The procurement is an information technology device or service that is systems software or an upgrade; or compatibility is the overriding consideration; or the procurement would prevent voidance or termination of a warranty, or the procurement would prevent or default under a agreement or other obligations.
   f. A current contracted Polk County or state of Iowa vendor can meet all requirements and specifications of only the specific item or service being procured at a substantial cost savings.
2. *Emergency Procurements* - It is sometimes necessary to make an emergency purchase of an item or service. Instances where emergency procurements are required are rare (e.g., needing a sump pump in a flood, tree removal service following a violent storm, or power outage at a facility,), but such situations require a policy so there is no doubt about having authority to make an emergency purchase.
   a. A situation in which an immediate or emergency need exists for the item or service because of events and circumstances not reasonably foreseeable;
   b. The situation threatens the public health, safety, or welfare;
   c. The situation dictates a need to protect the health, safety, or welfare of persons occupying or visiting a public property; and
   d. A situation requiring a department or office to act quickly to preserve critical services or programs.

   In these circumstances, Polk County departments, offices, and staff may not have time to conduct a formal bid, solicit quotes, or notify the Procurement Office. Therefore, Polk County staff should be empowered to make quick decisions. In creating the emergency procurement policy, it is emphasized these situations are rare and short-lived in nature. Emergency procurements should not be used often and should not be utilized just to get around the traditional, required procurement process. The intent of this process is still to purchase as many goods and services from current contracted County suppliers, but when certain situations arise, the ability to make quick, ethical, non-competitive purchases is allowed.

Before making an emergency purchase, the employee must receive permissions from their department manager. The department manager must inform the deputy director of the emergency procurement (including an explanation of the circumstances generating the need for emergency procurement) as soon as possible. All attempts should be made to purchase from existing contracted suppliers.

3. *Internal Polk County Department Conducting Work* – If in the best interest of the County, internal Polk County offices and departments may perform tasks without seeking bids from outside parties when they are capable of meeting project scope, specifications, and timelines. Examples of this are: The Print Shop printing pamphlets, PCC staff carrying out construction, installations, landscaping/lawn care, or IT developing a program.

4. *Architectural, Design, and Engineering* - bidding for licensed architectural and engineering services is not required regardless of estimated project cost. These services may be obtained without going through any procurement process. A Request for Qualifications MUST be used if competitive procurement is desired. Cost MUST NOT be a factor.

<u>Section IV –Competitive Bid Process</u>

Standard outline of a formal sealed RFP/IFB procurement:

Step 1: Pre-Bid Activities

1. Determine project title and description
2. Determine scope of procurement

Step 2: Develop solicitation package (use template on S drive)

1. General Instruction to bidders, including standard terms and conditions, required clauses, evaluation process, and protest procedures.
2. Scope of Work
3. Specifications
4. Documents and attachments

Step 3: Send out IFB/RFP

1. Finalize solicitation package
2. Develop list of vendors to solicit (County and State if possible)
3. Advertise procurement on BidNet Direct. Posting to the Master Builders of Iowa website may be required if applicable.
4. Send digital RFP package to all vendors on list and those requesting package
5. Conduct pre-bid conference if deemed necessary by the County. Pre-Bid Conferences should not be mandatory (as that may be considered a competition limiting practice), rather should be considered "highly recommended."
6. Respond to vendors' questions (verbal questions/responses are not official)
7. Author and post addendums and amendments to the original solicitation if applicable
8. Public opening of proposals at time and location specified in solicitation package

Step 4: Internal review of bids

1. Analyze bid for responsiveness to requirements, vendor responsibility, tabulate quotes (or determine most qualified if RFQ)
2. Send all bidders a bid tabulation through email and on BidNet Direct. Include the intent to award pending board approval within this email. Notify non-responsive and/or non-responsible bidders.
3. Wait three days for protests/respond to protests
4. Place item on next PCCB agenda to be approved with recommendation on which vendor to select. Prepare board item. A public hearing must be held prior to agreement award. This public hearing should be published in the Des Moines Register no more than 20 days but not less than 4 days prior.
5. All bids may be rejected if in the public interest
6. Following approval at board meeting, send out notice of award/rejection notification to all bidders (normally through email)

7. Award agreement

<u>Section V – Developing Solicitation Packages</u>

1. Determining Project Parameters – Pre-Bid Activities

Before beginning the procurement process, the project title, description, and goals of the procurement should be established. Clearly stated goals will lead to more effective decisions regarding the methods and procedures needed to make the purchase. Once the goals of a procurement are clear, detailed specifications can be developed.

2. General Instructions to Bidders ****USE TEMPLATE ON S DRIVE ALREADY CREATED****

a. *Cover Sheet* – The cover sheet may contain a brief synopsis of the requirement(s) or any other brief facts that will be restated in greater detail in later parts of the bid package. This sheet should show the procurement schedule.

b. *Procurement Schedule* – The schedule should include the following dates (time frames are suggestions only):
   1. Date of Pre-bid conference if one will be held
   2. Deadline for submission of requests for approved equals, exceptions, and clarifications
   3. Date sealed/electronic bids are due
   4. Date and time of bid opening
   5. Date of anticipated agreement award – Date needs to allow time for bid analysis, staff concurrence, board action if required and announcement of intent to award

c. *Conditions and Notices to Bidders* – This section provides special information to prospective bidders, such as:
   1. The availability of a pre-bid conference
   2. Pre-Bid Standard Terms and Conditions
   3. Directions for obtaining copies of documents (plans, drawings)
   4. The requirement for a certification of compliance with specifications - PCC assumes the responsibility for verifying a bid's compliance. The certificate of compliance may suffice, but requirements for submission of descriptive literature and/or bid samples may also be required. Supplemental information necessary to confirm responsiveness of product may be required after bids are opened:
      a. The name, address and phone number of designated contact person should be identified
      b. Agreement provisions required by law and regulation
      c. Evaluation factors for award
      d. Remedies such as bid or performance bond requirements, liquidated damages, etc.

d. *Approved Equals, Exceptions and Clarifications* - The instructions to bidders should explain the approved equals, exceptions and clarifications procedure. The deadline for receipt of these requests must be specified. Vendors must be given the opportunity to request changes or clarifications in the bid package. By allowing vendors this opportunity, you will enhance competition and improve the likelihood that your needs will be met. All requests must be submitted in writing only (via email) to the staff member administering the procurement. Staff should then communicate with all bidders about the changes/approved equals.
e. *Evaluation Factors for Award* - This section should contain a statement of the exact basis upon which bids will be evaluated and the award made. In an RFP procurement, awards shall normally be made based on best value for a unit which fully complies with the specifications. The exact nature of each factor, and the relative weighting, must be presented. No factors other than those listed may be used once bids are received. Preference will be given to first suppliers with offices and/or manufacturing facilities in Polk County, second the state of Iowa.
f. *Protest Process* - The procuring agency must make every effort to make award recommendations in a fair, open, ethical, and transparent manner. In the event that a contractor feels that an "Intent to Award" has been made unfairly or improperly, the contractor has the right to protest that "Intent to Award" within three (3) days of receiving the notification of award. If a protest has been filed before the opening of bids (pre-bid protest must be submitted at least 48 business hours prior to bid opening), the procurement administrator should not open bids prior to the resolution of the protest, unless the Procurement Division has given approval to open the bids based on an emergency situation.

   Formal protests must be submitted in writing to the procurement supervisor. The procurement supervisor will meet with the staff administering the procurement and all evaluation team members and respond in writing with a formal decision which will include explanation of how the decision was derived. If the protest is approved, the Procurement Division will notify all contractors and may issue an addendum to the original bid, extend the due date, terminate the bid and re-issue, eliminate any or all respondents based on a "Non-Responsive" and/or "Non- Responsible" determination, and/or change the "Intent to Award" to a different respondent based on the findings of the protest investigation. The decision of the procurement supervisor is final.

g. *Scope of Work*
   1. *Supplies/Services, and Quantities* – This section should contain the specifications, a detailed description of the items or services being procured, and the quantities required (if applicable). An informal quote will have straightforward specifications of products and request quantities. An RFP will describe a scope of work and a description of intended product and tasks to complete the scope of work.
   2. *Delivery Performance* – This bid should state the required time of delivery, delivery destination, and method of delivery. The county should have goods

shipped F.O.B. to the receiving location stated in the bid. All delivered products should be inspected upon delivery to final end user location to verify product is in good working order and meets the specifications stated in the bid.

3. *Bid/Performance Bond* –Iowa Code requires that a performance bond must be secured for public improvement projects that exceed $25,000. If a bid bond is required (greater than $100,000), the bond amount should not be less than 5% of total project cost and not more than 10% of the project cost. Whether a contractor uses subs or not does not have a bearing on the bond requirement.
4. *Special Provisions* – This bid should contain provisions pertaining to optional features, quantity options, and other special provisions, which support the requirements if applicable.
5. *Descriptive Literature* – The term "descriptive literature" means information, such as illustrations, floor plans, drawings and brochures showing the characteristics or construction of a product or explaining its operation. Descriptive literature is furnished by a bidder as a part of the bid to describe the products offered in the bid. It may be appropriate to require descriptive literature in the procurement of highly technical or specialized equipment, or where considerations such as design or style are important in determining acceptability of the product. If descriptive literature is not required, but such literature is furnished with a bid, it should not be considered to qualify the bid. If the vendor has certified compliance with the bid specifications, but the literature appears inconsistent with the bid specifications, the vendor should be challenged to reconfirm their certification of compliance. It is important to note that submission of descriptive material showing nonconformance with specifications does not establish an exception, even if PCC fails to challenge the vendor.
6. *Bid Sample* – A "bid sample" is a sample unit of the items being procured and may be required to be furnished by a bidder. Such samples should be used only for the purpose of determining the responsiveness of the bid. The bid should not be considered on the issue of a bidder's ability to produce the required item or sample. If bid samples are not required by the solicitation, but samples are furnished with bids, they should not be considered as qualifying the bid. In a few cases, a bid sample may be required, particularly when the product has characteristics that cannot be described adequately in the specifications. A bid sample should not be sent unless requested by the county. A bid sample may be requested when the procurement is for products that must be suitable from the standpoint of balance, ease of use, general "feel", color or pattern, or that have certain other characteristics that cannot be described adequately in the specifications. The bid package should list all of the characteristics of the sample that will be examined. Also, bids should be rejected as non-responsive if the sample fails to conform to any of the listed characteristics.

h. *Specifications* – A specification is defined as a clear and accurate description of the technical requirements for a material, product or service, including any procedures by which it will be determined that the requirements have been met.

It is PCCs responsibility to prepare or secure specifications that best reflect the County's needs. The procurement administrator should state exactly what the requirements are and not leave specifications open to differing interpretations unless conducting a general IFB. Wording should always be clear and specific as possible so the respondent knows what is needed by the County. Specifications should not be so narrow that bids are restricted to a sole provider.

Use the following guidelines when writing valid specifications:

- Reflect the actual minimum functional requirements of the county, not what may be desired
- Describe requirements in plain, precise language
- Allow the preparation and evaluation of bids on a common basis
- Deal with measurable/verifiable features, not intangibles
- List all salient features of a required item in generic terms -- use of brand names shall generally be limited to illustrative examples. (If a brand name is given, the specifications should state "or approved equal" and a listing of salient features which will allow something to be considered equal must be made available upon request.) In some instances, a specific name brand may be required but would only be allowed if that name brand is available from more than one supplier; thus keeping the procurement competitive.

There are three basic types of specifications that can be described in your bid package: Design Specifications, Performance Specifications, and Combined Design and Performance Specifications.

1. *Design specifications* - contain the data necessary to produce an item (this normally would include details, size, dimensions, etc.). Any specific design details must have a functional justification.
2. *Performance specifications* - express requirements in the form of output, function or operation of an item and equipment, and leave the details of design, fabrication, formulation or internal workings to the producer's option.
3. *Combined Specifications* - Most specifications have both design and performance characteristics. When a specification is referred to as a performance specification, it indicates that the requirements in the specification are predominately performance.

i. *Amendments* - Specifications and instructions may be amended prior to the bid opening, as long as a reasonable amount of time is provided for vendors to respond to the change(s). The responses to requests for approved equals, exceptions and clarifications, and answers to publicly submitted questions may include some minor amendments to the specifications. An amendment which causes a major (cardinal) change in the scope of the procurement may result in cancelation of the solicitation in order to update and post as a new solicitation.

j. *Addendums* – On occasion, additional information not included in the original bid documents may be added. It is typically an ad hoc item, usually compiled and executed after the bid has been published, which contains additional terms, obligations, answers to public questions, other relevant information. If the addendum has any form of required response from the bidder, a reasonable amount of time shall be provided for vendors to respond.

   An amendment and/or addendum to either the solicitation specifications or bidder instructions becomes a permanent part of the bid packet. Amendments and Addendums should be sent to each vendor solicited to bid and published publicly with the original bid posting. Each amendment and addendum must:
   1. Identify the bid with description, date and/or number and specify amendment date;
   2. Clearly state the changes made and/or additional information added to the bid package and whether there is to be an extension of the opening date. If no extension of time set for opening is involved, the amendment should state accordingly;
   3. Include instructions to prospective bidders for acknowledging receipt of the amendment and/or addendum. The effect of failure to acknowledge any amendments and/or addendums should be made clear for the prospective bidders.

3. Solicitation Activities

a. *Identify and Notify Potential Bidders* – A list of prospective bidders should be developed for each procurement and the solicitation sent to each without their request. Bids must also be published and open to the general public via BidNet Direct and the Master Builders of Iowa Website. A bid notice should include:
   1. A specific solicitation identifier
   2. General description of item/service to be procured
   3. Contact person, phone number, email address, and physical address
   4. How to obtain the bid packet
   5. Date and time of bid opening
   6. Statement of funding source

b) *The Pre-bid Conference* – A pre-bid conference may be used to brief prospective bidders and explain and/or exhibit complicated specifications and requirements as early as possible after the bid package has been advertised, and before the bids are to be submitted. The pre-bid conference should never be used as a substitute for amending a defective or ambiguous solicitation. Attendance at the pre-bid conference cannot be mandatory; rather, worded as "highly recommended." Any clarifications, exceptions, or approved equals provided at a pre-bid conference must be put in writing and sent to all potential bidders. It should be clear that oral statements do not take precedence over written specifications or instructions.

c) *Bid Openings* – Proposals should be date and time stamped (either physically or digitally) as they are received, and a log kept to provide documentation of their receipt. Bids received in response to a sealed IFB/RFP are opened publicly (or public access granted if digital procurement) and recorded at the time and place.

4. Handling Late Bids and Withdrawals

It is PCC's responsibility to ensure the policies and procedures relating to receipt of bids conforms to and supports the principle of integrity. The bid package will inform prospective bidders of the county policies concerning the receipt and withdrawal of bids, and the handling of late bids. No bids will be accepted after the precise due date and time. It is solely the bidder's responsibility to have the bid documents delivered or submitted electronically by the exact due date and time. If the bid is submitted electronically, an electronic notification will be sent to the bidder with the exact time of submission. The County reserves the right to extend, re-open, or re-bid a procurement if it is in the best interest of the County due to extenuating circumstances. The intent is not to circumvent a fair, open, ethical, transparent procurement process.

Section VI – Evaluating Responses

1. Bid Analysis and Recommendations for Awards

Once bids have been opened, it is the responsibility of PCC staff and/or review committee to analyze the bids in terms of responsiveness, responsibility, and quotes. Corrections for irregularities (see "Waiving Minor Formalities or Irregularities" below) may be requested by PCC. Major irregularities (i.e. not being able to meet delivery requirements, negative reference, missing essential documentation, etc.) will result in the determination of non-responsive and/or non-responsible resulting in the dismissal of the bid. These determinations are final. Document all of these decisions in a word document and save in the project folder on the S drive.

2. Evaluating Responsiveness

"Responsiveness" refers to a potential contractor's conformance to the requirements of the solicitation. In a formally advertised procurement, any bid that fails to conform to the essential requirements (specifications, terms and conditions) shall be deemed non-responsive and rejected. The vendor cannot tie their bid to another bid or make reservations such as, "price may increase due to raw metal price increases". Examples of some instances that make a bid non-responsive are:

- Bidder states a price but qualifies such price as being subject to price in effect at time of delivery
- Bidder takes exception to the terms and conditions by limiting the county's rights under any clause or extending the delivery period
- Bidder has not completed, signed, or submitted the required certifications with bid package
- Bidder's proposal does not meet specifications
- When using a procurement process in which the bidders certify the product bid is in full compliance with the specifications, responsiveness is assumed unless the bidder withdraws that certification. If the procurement supervisor and/or assigned procurement staff has reason to believe that the certification may be based on a misunderstanding, the procurement is encouraged to challenge the bidder on specific points during the bid analysis. If it is clear that there has been a misunderstanding, a bidder should be allowed to withdraw a bid.

If a bid bond is required, or a bid sample or descriptive literature is required for evaluation purposes, the failure to furnish the requested item will result in the bid being rejected. A bid bond is a financially binding obligation or guarantee to insure fulfillment of a bid. The bid package should clearly state that failure to submit required documents will cause the bid to be rejected.

3. Waiving Minor Formalities or Irregularities

Polk County may waive minor deviations at the discretion of the PCC Deputy Director/Director. Examples of minor deviations are:

- Failure of bidder to return number of copies of signed bids required by the bid package
- Failure of bidder to sign bid, but only if the unsigned bid is accompanied by other material indicating the bidder's intention to be bound by the unsigned bid document, such as the submission of a bid guarantee or a letter signed by the bidder with the bid, referring to and clearly identifying the bid itself.

4. Evaluating Responsibility

Responsibility refers to the potential bidder's potential ability to perform successfully under the terms of the proposed agreement. Such responsibility encompasses both technical (plant or facility) and financial capacities. Responsibility can be determined up to the time of bid award. The following are minimum standards that a potential bidder should meet as a responsible contractor:

- Has adequate financial resources or the ability to obtain such resources as required during performance of the agreement;
- Must be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments;
- Has a satisfactory record of performance (for contractors who are or have been deficient in current or recent contract performance, consideration should be given to the number of contracts, and the extent of, the reason for, and the deficiency of each);
- Has a satisfactory record of integrity and business ethics;
- Must be otherwise qualified and eligible to receive an award under applicable laws and regulations;
- Must document the search of the System for Award Management (https://www.sam.gov/portal/public/SAM/) to verify excluded parties are not participating in the covered transaction;
- Must not appear on any list of debarred, suspended, or ineligible concerns or individuals which is mandatory to the purchaser;
- Must have evidence of fiscal capacity based on apparent successful bidder financial data, such as balance sheet, profit and loss statements, financial histories of the contract and affiliated concerns, current and past production records, personnel records, list of tools, equipment, and facilities, written statements of commitments concerning financial assistance and subcontracting

arrangements, and analysis of operational control procedures;

- Must provide evidence of production capacity and quality documents in publications, including credit rating, trade and financial journals, and business directories and registers; and,
- Must have a reputation for meeting debt obligations based on references from other sources, such as bank and financial institutions.

5. Evaluating Price

The lowest bid is the response with the lowest dollar value when using the criteria stated in the bid package, i.e., low base bid or low life-cycle cost. Quantity discounts for the purchase of more units than listed in the bid package or discounts for early payments do not count. The bid analysis must be based on the bid price as listed in the bid submittal. Lowest price should only be one evaluation factor in an IFB/RFP where the goal is overall best value. In an IFB or Small Purchase (informal quote) procurement, lowest price may be the only evaluation factor depending on the project specifics (i.e. the county requires a supplier to provide delivery lead time; one supplier is two day delivery another is 4 week delivery, this could impact award) stated in the solicitation.

6. Geographic Location

Geographic location of offices and/or manufacturing facilities in Polk County and the state of Iowa may be selection criteria in the purchase of goods and services for the county. In the event that a known supplier is in the geographic area, a competitive process (for goods and services over $25,000 in total project cost) must still be conducted in order to verify fair market value of the local vendor's quote(s) (see Vendor Preference Policy Statement section above).

7. Dealing with Ties

Should you receive two or more equally low, responsive bids from responsible bidders, the award should be in accordance with pre-established procedures consistent with requirements of state and local law which reflect the order of award priorities. It should be stated in the bid package how this will occur, e.g., coin toss. It must be based on chance and not allow any type of preference. Ties will be handled through a coin toss.

8. Dealing with Mistakes

Any clerical mistake apparent in the face of a bid may be corrected by PCC prior to award. Examples of apparent mistakes are:

- obvious errors in placing decimal point

- obvious discount error
- obvious reversal of the price Free On Board (FOB) destination and the FOB factory
- obvious error in designation of unit

Correct the bid by attaching the verification to the original bid and a copy of the verification to the duplicate bid. Correct the face of the bid and make sure the correction is reflected in the award document.

For other mistakes in bids before award, consideration should be given to permitting the bidder to withdraw the bid where the bidder requests permission to do so, and clear convincing evidence establishes the existence of a mistake. However, if the evidence is clear and convincing both as to the existence of a mistake and as to the bid actually intended, and if the bid both as uncorrected and corrected is the lowest received, a determination may be made to correct the bid and not permit its withdrawal.

When a mistake in a contractor's bid is not discovered until after the award, the mistake may be corrected by agreement modification if correcting the mistake would make the agreement more favorable to the county without changing the essential requirements of the agreement.

9. Dealing with Non-responsive and Non-responsible Bidders

An award to a respondent other than apparent best value supplier can occur when the apparent best value supplier is deemed either non-responsive or non-responsible. In either case, PCC should document their determination by outlining the rationale that serves as the basis for such determination.

10. Rejecting All Bids

Bid packages should only be cancelled or rejected for valid reasons that are documented. Single bid situations may justify rejecting all bids if it is felt that greater competition can be obtained through re-soliciting. When only a single bid is received, analysis of the response should be conducted to verify the specifications are not too restrictive as to limit fair and open competition. It is important to recognize, however, that the single bidder has expended effort in responding to the initial procurement and will be placed at a disadvantage in a re-bidding since their pricing has been made public. If the bid specifications are deemed fair and open after single bid review, verification that the quote/proposal is of fair market value, and the single bidder is responsive and responsible, the single bidder should be awarded.

11. Notifying Vendors of Intent to Award and Awarding Bid

Once PCC staff has concurred in the award decision the employee should communicate the decision in writing to all parties submitting bids as an intent to award. This should be sent out immediately following bid opening and include a bid summary.

PCC shall then allow a 3-day-waiting period to determine whether there will be any protest of the award decision. At the end of that period, if no protest has been received, PCC may proceed with approval of decision at the PCCB meeting and then issue an agreement to the winning bidder. Once the agreement has been signed by both parties, the county may offer "Advanced Authority to Incur Costs" (see definition below) and/or begin to issue purchase orders according to agreement terms.

12. Advanced Authority to Incur Costs

Once the award has been made to the best value supplier and the agreement is signed by both parties, PCC may provide the supplier with "Advanced Authority to Incur Costs." Many Polk County procurements are conducted ahead of the July 1 state fiscal year start date with funds to pay for goods and services coming out of that next fiscal year's budget. In order for suppliers to have ample time to place their own orders and be able to start supplying to the county on the July 1 date, PCC may grant a supplier with "Advanced Authority to Incur Costs" (at the supplier's request) with the understanding the county will only purchase agreed upon goods and services specifically stated in the bid in the quantities needed for the initial purchase order if the agreement were to be terminated by PCC. No startup or planning costs will be eligible for payment. If the supplier were to terminate the agreement prior to the first purchase order being submitted by PCC to the supplier, PCC would not be obligated to pay for any costs incurred by the supplier.

13. Protest Process

The procuring agency must make every effort to make award recommendations in a fair, open, ethical, and transparent manner. In the event that a contractor feels that an "Intent to Award" has been made unfairly or improperly, the contractor has the right to protest that "Intent to Award" within three (3) days of receiving the notification of award. If a protest has been filed before the opening of bids (pre-bid protest must be submitted at least 48 business hours prior to bid opening), the procurement administrator should not open bids prior to the resolution of the protest, unless the Procurement Division has given approval to open the bids on the basis of an emergency situation.

Formal protests must be submitted in writing to the procurement supervisor. The procurement supervisor will meet with the staff administering the procurement and all evaluation team members and respond in writing with a formal decision which will include explanation of how the decision was derived. If the protest is approved, the Procurement Division will notify all contractors and may issue an addendum to the original bid, extend the due date, terminate the bid and re-issue, eliminate any or all respondents based on a “Non-Responsive” and/or “Non- Responsible” determination, and/or change the “Intent to Award” to a different respondent based on the findings of the protest investigation. The decision of the procurement supervisor is final.

Section VII – Federally Funded Procurement Guidelines

In order to be eligible for federal grants and/or other federal funds, Polk County will follow the below federal guidelines; 2 CFR Part 200. These will only be followed when conducting procurements with federal funds. All other procurements will follow the policy in sections I-VI above.

FEDERAL PROCUREMENT AND CONTRACTING GUIDANCE FOR SUBRECIPIENTS CODE OF FEDERAL REGULATIONS 2 (CFR) PART 200, SECTIONS 200.317-200.327 AND 22.307 EXEMPTIONS

PURPOSE

The purpose of a procurement policy is to ensure that sound business judgement is utilized in all procurement transactions. That supplies, equipment, construction and services are obtained efficiently and economically, and in compliance with applicable federal and state law, and executive orders, and to ensure that all procurement transactions are conducted in a manner that provides full and open competition. These procedures will ensure that all solicitations incorporate clear and accurate descriptions of the technical requirements for the goods or services being procured. Chapter 26 and Section 331.341 of the Iowa Code must be followed on all applicable purchases. All other appropriate sections of the Iowa Code shall also apply.

FEDERAL PROCUREMENT STANDARDS

Subrecipients should use this guidance to review their current written procurement policies and procedures to ensure compliance with the federal requirements at 2 CFR, Sections 200.318-200.327. It applies to the procurement of all supplies, equipment, and construction and services that include any federal program funding. 2 CFR references are noted. All other appropriate sections of Iowa Code and Local Code shall also apply.

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a State must follow the same policies and procedures it uses for procurements from its non-Federal funds. The State will comply with §§ 200.321, 200.322, and 200.323 and ensure that every purchase order or other contract includes any clauses required by § 200.327. All other non-Federal entities, including subrecipients of a State, must follow the procurement standards in §§ 200.318 through 200.327

§ 200.318 General procurement standards.

(a) The non-Federal entity must have and use documented procurement procedures, consistent with State, local, and tribal laws and regulations and the standards of this section, for the acquisition of property or services required under a Federal award or subaward. The non-Federal entity's documented procurement procedures must conform to the procurement standards identified in §§ 200.317 through 200.327.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)

(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a State, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal Government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services. Competition requirements will be met with documented procurement actions using strategic sourcing, shared services, and other similar procurement arrangements.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources. See also § 200.214.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to, the following: Rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j)

(1) The non-Federal entity may use a time-and-materials type contract only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time-and-materials type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a

high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

[85 FR 49543, Aug. 13, 2020, as amended at 86 FR 10440, Feb. 22, 2021]

§ 200.319 Competition.

(a) All procurement transactions for the acquisition of property or services required under a Federal award must be conducted in a manner providing full and open competition consistent with the standards of this section and § 200.320.

(b) In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, or invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

(1) Placing unreasonable requirements on firms in order for them to qualify to do business;

(2) Requiring unnecessary experience and excessive bonding;

(3) Noncompetitive pricing practices between firms or between affiliated companies;

(4) Noncompetitive contracts to consultants that are on retainer contracts;

(5) Organizational conflicts of interest;

(6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and

(7) Any arbitrary action in the procurement process.

(c) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state, local, or tribal geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(d) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

(1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a "brand name or equivalent" description may be used as a means to define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(e) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

(f) Noncompetitive procurements can only be awarded in accordance with § 200.320(c).

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must have and use documented procurement procedures, consistent with the standards of this section and §§ 200.317, 200.318, and 200.319 for any of the following methods of procurement used for the acquisition of property or services required under a Federal award or sub-award.

(a) ***Informal procurement methods.*** When the value of the procurement for property or services under a Federal award does not exceed the *simplified acquisition threshold (SAT),* as defined in § 200.1, or a lower threshold established by a non-Federal entity, formal procurement methods are not required. The non-Federal entity may use informal procurement methods to expedite the completion of its transactions and minimize the associated administrative burden and cost. The informal methods used for procurement of property or services at or below the SAT include:

(1) ***Micro-purchases*** -

(i) ***Distribution.*** The acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (See the definition of *micro-purchase* in § 200.1). To the maximum extent practicable, the non-Federal entity should distribute micro-purchases equitably among qualified suppliers.

(ii) ***Micro-purchase awards.*** Micro-purchases may be awarded without soliciting competitive price or rate quotations if the non-Federal entity considers the price to be reasonable based on research, experience, purchase history or other information and documents it files accordingly. Purchase cards can be used for micro-purchases if procedures are documented and approved by the non-Federal entity.

(iii) ***Micro-purchase thresholds.*** The non-Federal entity is responsible for determining and documenting an appropriate micro-purchase threshold based on internal controls, an evaluation of risk, and its documented procurement procedures. The micro-purchase threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations. Non-Federal entities may establish a threshold higher than the Federal threshold established in the Federal Acquisition Regulations (FAR) in accordance with paragraphs (a)(1)(iv) and (v) of this section.

(iv) ***Non-Federal entity increase to the micro-purchase threshold up to $50,000.*** Non-Federal entities may establish a threshold higher than the micro-purchase threshold identified in the FAR in accordance with the requirements of this section. The non-Federal entity may self-certify a threshold up to $50,000 on an annual basis and must maintain documentation to be made available to the Federal awarding agency and auditors in accordance with § 200.334. The self-certification must include a justification, clear identification of the threshold, and supporting documentation of any of the following:

(A) A qualification as a low-risk auditee, in accordance with the criteria in § 200.520 for the most recent audit;

(B) An annual internal institutional risk assessment to identify, mitigate, and manage financial risks; or,

(C) For public institutions, a higher threshold consistent with State law.

(v) ***Non-Federal entity increase to the micro-purchase threshold over $50,000.*** Micro-purchase thresholds higher than $50,000 must be approved by the cognizant agency for indirect costs. The non-federal entity must submit a request with the requirements included in paragraph (a)(1)(iv) of this section. The increased threshold is valid until there is a change in status in which the justification was approved.

(2) ***Small purchases*** -

(i) ***Small purchase procedures.*** The acquisition of property or services, the aggregate dollar amount of which is higher than the micro-purchase threshold but does not exceed the simplified acquisition threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources as determined appropriate by the non-Federal entity.

(ii) ***Simplified acquisition thresholds.*** The non-Federal entity is responsible for determining an appropriate simplified acquisition threshold based on internal controls, an evaluation of risk and its documented procurement procedures which must not exceed the threshold established in the FAR. When applicable, a lower simplified acquisition threshold used by the non-Federal entity must be authorized or not prohibited under State, local, or tribal laws or regulations.

(b) ***Formal procurement methods.*** When the value of the procurement for property or services under a Federal financial assistance award exceeds the SAT, or a lower threshold established by a non-Federal entity, formal procurement methods are required. Formal procurement methods require following documented procedures. Formal procurement methods also require public advertising unless a non-competitive procurement can be used in accordance with § 200.319 or paragraph (c) of this section. The following formal methods of procurement are used for procurement of property or services above the simplified acquisition threshold or a value below the simplified acquisition threshold the non-Federal entity determines to be appropriate:

(1) ***Sealed bids.*** A procurement method in which bids are publicly solicited and a firm fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bids method is the preferred method for procuring construction, if the conditions.

(i) In order for sealed bidding to be feasible, the following conditions should be present:

(A) A complete, adequate, and realistic specification or purchase description is available;

(B) Two or more responsible bidders are willing and able to compete effectively for the business; and

(C) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(ii) If sealed bids are used, the following requirements apply:

(A) Bids must be solicited from an adequate number of qualified sources, providing them sufficient response time prior to the date set for opening the bids, for local, and tribal governments, the invitation for bids must be publicly advertised;

(B) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;

(C) All bids will be opened at the time and place prescribed in the invitation for bids, and for local and tribal governments, the bids must be opened publicly;

(D) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and

(E) Any or all bids may be rejected if there is a sound documented reason.

(2) ***Proposals.*** A procurement method in which either a fixed price or cost-reimbursement type contract is awarded. Proposals are generally used when conditions are not appropriate for the use of sealed bids. They are awarded in accordance with the following requirements:

(i) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Proposals must be solicited from an adequate number of qualified offerors. Any response to publicized requests for proposals must be considered to the maximum extent practical;

(ii) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and making selections;

(iii) Contracts must be awarded to the responsible offeror whose proposal is most advantageous to the non-Federal entity, with price and other factors considered; and

(iv) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby offeror's qualifications are evaluated and the most qualified offeror is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.

(c) ***Noncompetitive procurement.*** There are specific circumstances in which noncompetitive procurement can be used. Noncompetitive procurement can only be awarded if one or more of the following circumstances apply:

(1) The acquisition of property or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (see paragraph (a)(1) of this section);

(2) The item is available only from a single source;

(3) The public exigency or emergency for the requirement will not permit a delay resulting from publicizing a competitive solicitation;

(4) The Federal awarding agency or pass-through entity expressly authorizes a noncompetitive procurement in response to a written request from the non-Federal entity; or

(5) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

(1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;

(4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;

(5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and

(6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (b)(1) through (5) of this section.

Search the Iowa Targeted Small Business Directory - **https://iowaeda.microsoftcrmportals.com/tsb-search/**

Search Federal DBE Directory for minority and woman owned businesses

https://secure.iowadot.gov/DBE/Directory/Results

§ 200.322 Domestic preferences for procurements.

(a) As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award.

(b) For purposes of this section:

(1) "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

§ 200.323 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds $10,000 or the value of the quantity acquired during the preceding fiscal year exceeded $10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.324 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under subpart E of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.325 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a “brand name” product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third-party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.326 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The “bid guarantee” must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A “performance bond” is one executed in connection with a contract to secure fulfillment of all the contractor's requirements under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A “payment bond” is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.327 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in appendix II to this part.

§ 22.807 Exemptions.

(a) Under the following exemptions, all or part of the requirements of E.O.11246 may be excluded from a contract subject to E.O.11246:

(1) *National security*. The agency head may determine that a contract is essential to the national security and that the award of the contract without complying with one or more of the requirements of this subpart is necessary to the national security. Upon making such a determination, the agency shall notify the Deputy Assistant Secretary in writing within 30 days.

(2) *Specific contracts*. The Deputy Assistant Secretary may exempt an agency from requiring the inclusion of one or more of the requirements of E.O.11246 in any contract if the Deputy Assistant Secretary deems that special circumstances in the national interest so require. Groups or categories of contracts of the same type may also be exempted if the Deputy Assistant Secretary finds it impracticable to act upon each request individually or if group exemptions will contribute to convenience in the administration of E.O.11246.

(b) The following exemptions apply even though a contract or subcontract contains the Equal Opportunity clause:

(1) *Transactions of $10,000 or less*. The Equal Opportunity clause is required to be included in prime contracts and subcontracts by 22.802(a). Individual prime contracts or subcontracts of $10,000 or less are exempt from application of the Equal Opportunity clause, unless the aggregate value of all prime contracts

or subcontracts awarded to a contractor in any 12-month period exceeds, or can reasonably be expected to exceed, $10,000. (Note: Government bills of lading, regardless of amount, are not exempt.)

(2) *Work outside the United States.* Contracts are exempt from the requirements of E.O.11246 for work performed outside the United States by employees who were not recruited within the United States.

(3) *Contracts with State or local governments*. The requirements of E.O.11246 in any contract with a State or local government (or any agency, instrumentality, or subdivision thereof) shall not be applicable to any agency, instrumentality, or subdivision of such government that does not participate in work on or under the contract.

(4) *Work on or near Indian reservations*. It shall not be a violation of E.O.11246 for a contractor to extend a publicly announced preference in employment to Indians living on or near an Indian reservation in connection with employment opportunities on or near an Indian reservation. This applies to that area where a person seeking employment could reasonably be expected to commute to and from in the course of a work day. Contractors extending such a preference shall not, however, discriminate among Indians on the basis of religion, sex, sexual orientation, gender identity, or tribal affiliation, and the use of such preference shall not excuse a contractor from complying with E.O.11246, rules and regulations of the Secretary of Labor, and applicable clauses in the contract.

(5) *Facilities not connected with contracts*. The Deputy Assistant Secretary may exempt from the requirements of E.O.11246 any of a contractor's facilities that the Deputy Assistant Secretary finds to be in all respects separate and distinct from activities of the contractor related to performing the contract, provided, that the Deputy Assistant Secretary also finds that the exemption will not interfere with, or impede the effectiveness of, E.O.11246.

(6) *Indefinite-quantity contracts*. With respect to indefinite-quantity contracts and subcontracts, the Equal Opportunity clause applies unless the contracting officer has reason to believe that the amount to be ordered in any year under the contract will not exceed $10,000. The applicability of the Equal Opportunity clause shall be determined by the contracting officer at the time of award for the firstyear, and annually thereafter for succeeding years, if any. Notwithstanding the above, the Equal Opportunity clause shall be applied to the contract whenever the amount of a single order exceeds $10,000. Once the Equal Opportunity clause is determined to be applicable, the contract shall continue to be subject to such clause for its duration regardless of the amounts ordered, or reasonably expected to be ordered, in anyyear.

(7) *Contracts with religious entities*. Pursuant to E.O. 13279, Section 202 of E.O. 11246, shall not apply to a Government contractor or subcontractor that is a religious corporation, association, educational institution, or society, with respect to the employment of individuals of a particular religion to perform work connected with the carrying on by such corporation, association, educational institution, or society of its activities. Such contractors and subcontractors are not exempted or excused from complying with the other requirements contained in the order.

(c) To request an exemption under paragraph (a)(2) or (b)(5) of this section, the contracting officer shall submit, under agency procedures, a detailed justification for omitting all, or part of, the requirements of E.O.11246. Requests for exemptions under paragraph (a)(2) or (b)(5) of this section shall be submitted to the Deputy Assistant Secretary for approval.

(d) The Deputy Assistant Secretary may withdraw the exemption for a specific contract, or group of contracts, if the Deputy Assistant Secretary deems that such action is necessary and appropriate to achieve the purposes of E.O.11246. Such withdrawal shall not apply-

(1) To contracts awarded before the withdrawal; or

(2) To any sealed bid contract (including restricted sealed bidding), unless the withdrawal is made more than 10 days before the bid opening date.

Parent topic: Subpart 22.8 - Equal Employment Opportunity

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	ACTION 23-0912 Adam Fendrick Park Planner

AGENDA HEADING:
Approving a project budget for the Jester Park Nature Center Streamscape Renovation project in an amount not to exceed $75,000.

INFORMATION:
The Jester Park Streamscape project is a renovation to the streamscape water feature at the Nature Center. This project will only look at redesigning the lower pond to make it a safer, more welcoming experience for children to interact with the water. This project also includes incorporating the "spitting frog" art piece that was donated to us for inclusion into the new design. The project scope will look at redesigning the aqua-blocks system (the water storage system that provides water for the recirculation pumps) to make them safer as they currently get exposed and broken, presenting a trip hazard below the water surface. Work on these improvements can start as early as this fall and be completed by Spring 2024. Attached is a concept plan of the proposed improvements.

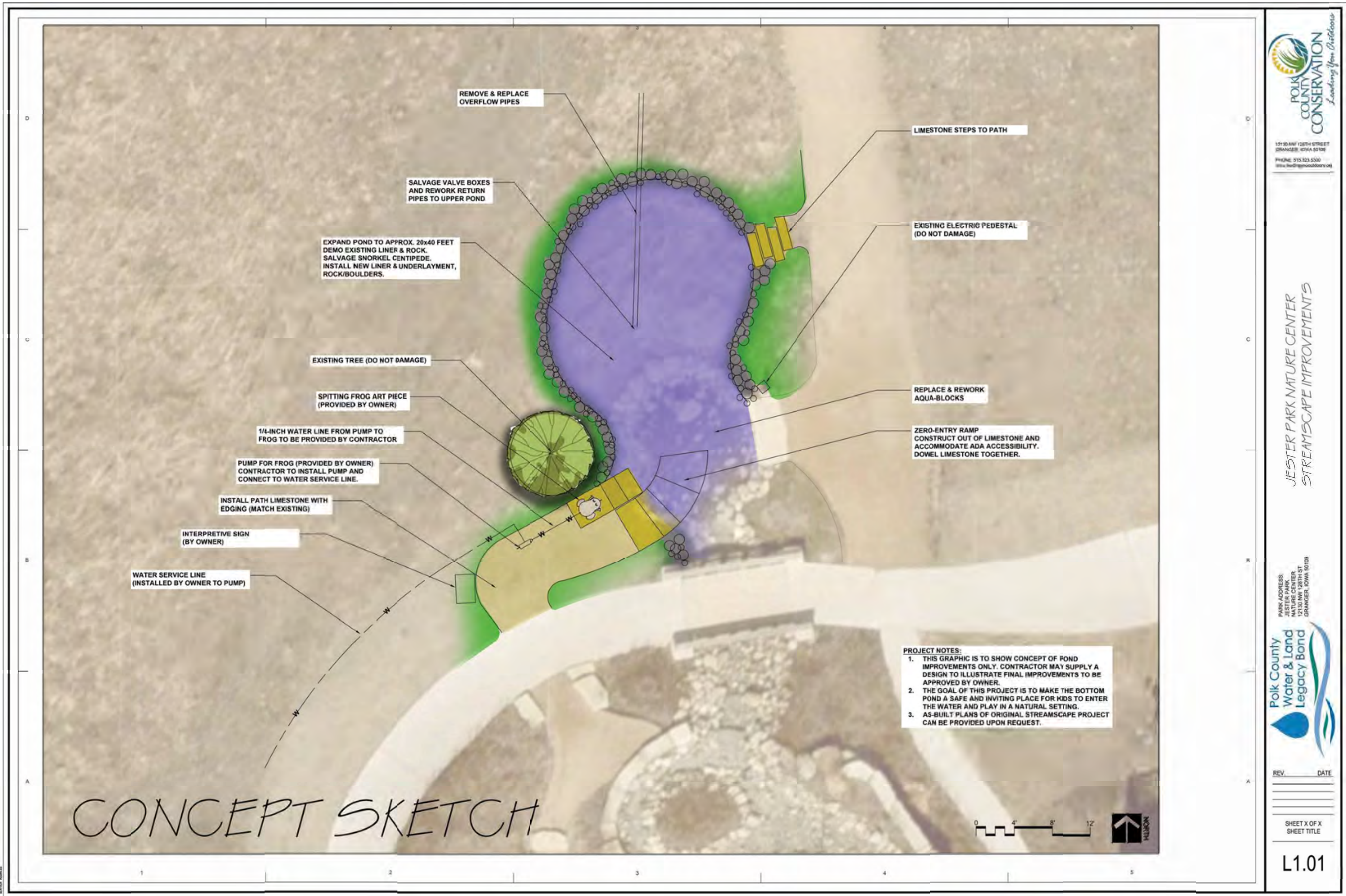
This funding will go towards hiring a professional landscape contractor to perform these improvements. Staff is currently soliciting quotes from contractors that were originally due Wednesday, September 6th. One company did request an extension to Wednesday, September 13th and that request was granted. Staff will have the quotes for this work to present to the Board at the September 13th Board meeting.

FISCAL IMPACT:

Amount: $75,000 Not to Exceed
Funding Source: 2022 Polk County Water and Land Legacy Bond

PREVIOUS BOARD ACTION(S): NA
Date:
Roll Call Number:
Action:

RECOMMENDATION:
Approving a project budget for the Jester Park Nature Center Streamscape Renovation project in an amount not to exceed $75,000 and directing the Director or Deputy Director to sign said agreement.


REMOVE & REPLACE OVERFLOW PIPES
LIMESTONE STEPS TO PATH
SALVAGE VALVE BOXES AND REWORK RETURN PIPES TO UPPER POND
EXISTING ELECTRIC PEDESTAL (DO NOT DAMAGE)
EXPAND POND TO APPROX. 20x40 FEET DEMO EXISTING LINER & ROCK. SALVAGE SNORKEL CENTIPEDE. INSTALL NEW LINER & UNDERLAYMENT, ROCK/BOULDERS.
EXISTING TREE (DO NOT DAMAGE)
REPLACE & REWORK AQUA-BLOCKS
SPITTING FROG ART PIECE (PROVIDED BY OWNER)
1/4-INCH WATER LINE FROM PUMP TO FROG TO BE PROVIDED BY CONTRACTOR
ZERO-ENTRY RAMP CONSTRUCT OUT OF LIMESTONE AND ACCOMMODATE ADA ACCESSIBILITY. DOWEL LIMESTONE TOGETHER.
PUMP FOR FROG (PROVIDED BY OWNER) CONTRACTOR TO INSTALL PUMP AND CONNECT TO WATER SERVICE LINE.
INSTALL PATH LIMESTONE WITH EDGING (MATCH EXISTING)
INTERPRETIVE SIGN (BY OWNER)
WATER SERVICE LINE (INSTALLED BY OWNER TO PUMP)
PROJECT NOTES:
1. THIS GRAPHIC IS TO SHOW CONCEPT OF POND IMPROVEMENTS ONLY. CONTRACTOR MAY SUPPLY A DESIGN TO ILLUSTRATE FINAL IMPROVEMENTS TO BE APPROVED BY OWNER.
2. THE GOAL OF THIS PROJECT IS TO MAKE THE BOTTOM POND A SAFE AND INVITING PLACE FOR KIDS TO ENTER THE WATER AND PLAY IN A NATURAL SETTING.
3. AS-BUILT PLANS OF ORIGINAL STREAMSCAPE PROJECT CAN BE PROVIDED UPON REQUEST.
CONCEPT SKETCH
0 4' 8' 12'
NORTH
POLK COUNTY CONSERVATION
Leading You Outdoors
12130 NW 128TH STREET
GRANGER, IOWA 50109
PHONE: 515.323.5300
JESTER PARK NATURE CENTER
STREAMSCAPE IMPROVEMENTS
PARK ADDRESS:
JESTER PARK
NATURE CENTER
12130 NW 128TH ST
GRANGER, IOWA 50109
Polk County Water & Land Legacy Bond
REV. DATE
SHEET X OF X
SHEET TITLE
L1.01

	Date	September 13th, 2023
POLK COUNTY CONSERVATION	Item No. Roll Call No. Submitted by:	ACTION 23-0913 Amanda Brown Ecologist

AGENDA HEADING:
Approving contract with Botanical and Ecological Consulting to complete a comprehensive floristic survey on the Brenton Slough property in the amount of $80,862.25.

INFORMATION:
Brenton Slough was recently acquired by the Iowa Natural Heritage Foundation (INHF) with plans to transfer ownership to Polk County Conservation (PCC) once funds are secured. Due to the land being privately owned prior to INHF purchasing, little is currently known about the existing natural resources on the 1,114 acre parcel. PCC staff would like to gain an understanding of the extant natural resources by conducting a floristic inventory and ecological assessment.

This inventory and assessment will map all of the various ecosystem plant communities present on the site (wetland, upland prairie…etc.) and identify every plant that is present within each ecosystem community. In order to accomplish this, the site will be surveyed four times throughout the 2024 growing season. The final deliverable will be a comprehensive report with an ecosystem plant community evaluation and assessment, lists of plant species, maps, a multi-layered GIS project, and comments on management and conservation priorities.

PCC staff will utilize results from this research to prioritize areas for management activities, restoration and protection. This assessment and inventory will also serve as a baseline of the current condition of the natural floristic resources at the Brenton Slough. Once PCC has worked to restore the landscape, this same process could be conducted in order to gauge how the management techniques are influencing the plan communities.

FISCAL IMPACT:
Amount: $80,862.25

Funding Source: PCC Protected Fund

PREVIOUS BOARD ACTION(S): NA

RECOMMENDATION:
Approving contract with Botanical and Ecological Consulting to complete a comprehensive floristic survey on the Brenton Slough property in the amount of $80,862.25 and authorize the Chair or their designee to sign the contract.

AGREEMENT

THIS AGREEMENT effective this August 22nd, 2023, by and between the Polk County Conservation Board (hereafter referred to as "Sponsor") and Botanical and Ecological Consulting (hereinafter referred to as "Consultant").

WITNESSETH:

WHEREAS, the research project outlined in this Agreement is of mutual interest and benefit to Consultant and to the Sponsor, will further the instructional and research objectives of Consultant and to Sponsor in a manner consistent with its status as a non-profit, tax-exempt, educational institution, and may derive benefits for both Sponsor and Consultant through inventions, improvements, and/or discoveries;

NOW, THEREFORE, in consideration of the premises and mutual covenants herein contained, the parties hereto agree to the following:

ARTICLE 1 - Definitions

As used herein, the following terms shall have the following meanings:

1.1 "Project" shall mean the description of the project as described in Exhibit A hereof, under the direction of Thomas Rosburg with Consultant and Doug Sheeley with Sponsor.

1.2 "Contract Period" is September 1st, 2023, through February 28th, 2025

1.3 "Intellectual Property" shall mean individually and collectively all inventions, improvements and/or discoveries which are conceived and/or made (i) by one or more employees of Consultant, (ii) by one or more employees of Sponsor, or (iii) jointly by one or more employees of Consultant and by one or more employees of Sponsor, in performance of the Project.

ARTICLE 2 - Research Work

2.1 Consultant shall commence performance of the Project promptly after the effective date of this Agreement, and shall use all reasonable efforts, care, and diligence to perform such Project in accordance with the terms and conditions of this Agreement. Anything in this Agreement to the contrary notwithstanding, Sponsor and Consultant may at any time amend the Project by mutual written agreement.

2.2 In the event that the Principal Investigator becomes unable or unwilling to continue the Project, a notice must be given to the Sponsor prior to a substitute being named. If a mutually acceptable substitute is not available, Consultant and/or Sponsor shall have the option to terminate said Project pursuant to Article 10.1.

ARTICLE 3 - Reports and other Deliverables

3.1 A written progress report shall be provided by Consultant to Sponsor in March 2024, and a final report shall be submitted by Consultant within forty-five (45) days of the conclusion of the Contract

Period, or the earlier termination of this Agreement. Four survey's will be conducted by the Consultant throughout the agreement period and are highlighted in exhibit A.

3.2 During the term of this Agreement, representatives of Consultant will meet with representatives of Sponsor at times and places mutually agreed upon to discuss the progress and results, as well as ongoing plans, or changes therein, of the Project to be performed hereunder.

ARTICLE 4 – Retainage

4.1 The Sponsor agrees to pay Consultant the total amount mutually agreed upon in Article 5.1 less retainage of 5%. This retainage will be held until Sponsor receives all deliverables from Consultant mutually agreed upon in Article 3. Once Sponsor receives said deliverables from Consultant, retainage will be paid to Consultant in full.

ARTICLE 5 - Costs, Billings, and Other Support

5.1 It is agreed to and understood by the parties hereto that, subject to Articles 2 and 4, total costs to Sponsor hereunder shall not exceed the sum of eighty thousand eight hundred sixty two dollars and twenty five cents ($80,862.25). Payment shall be made by Sponsor according to the following schedule:

Periodic invoicing based on project costs incurred (not more frequent than once per month).

5.2 Invoices shall be submitted to the Sponsor representative listed in Article 19. Invoices submitted to Sponsor shall include Botanical and Ecological Consulting, Principal Investigator name, and project title. Payments to Consultant shall include Sponsor name, Principal Investigator name, and project title and shall be submitted to the Consultant representative listed in Article 19.

5.3 Sponsor shall loan/donate/provide the following equipment to Consultant under the following conditions:

NA

5.4 Anything herein to the contrary notwithstanding, in the event of early termination of this Agreement by Sponsor pursuant to Article 10.1 hereof, Sponsor shall pay all costs accrued by Consultant as of the date of termination, including non-cancelable obligations, subject to Article 4.1.

ARTICLE 6 - Publicity

6. 1 Sponsor shall not use the name of Consultant, nor of any member of Consultant's Project staff, in any publicity, advertising, or news release or in any way imply endorsement of the Consultant without the prior written approval of an authorized representative of Consultant. Consultant shall not use the name of Sponsor, nor any employee of Sponsor, in any publicity without the prior written approval of Sponsor. Consultant may disclose, without Sponsor's approval, the terms of this Agreement that are a matter of public record under the Iowa Open Records Law, Iowa Code Chapter 22. Sponsor may disclose, without Consultant's approval, the terms of this Agreement that are a matter of public record under the Iowa Open Records Law, Iowa Code Chapter 22.

ARTICLE 7 - Publications

7.1 Sponsor recognizes that under Consultant policy, the results of Consultant research must be publishable and agrees that researchers engaged in the Project shall be permitted to present research results at symposia, national or regional professional meetings, and to publish in journals, theses or disseminations, or otherwise of their own choosing, methods and results of the Project, provided, however, that Sponsor shall have been furnished copies of any proposed publication or presentation at least one (1) month in advance of the submission of such proposed publication or presentation to a journal, editor, or other third party. Sponsor shall have thirty (30) days, after receipt of said copies, to object to such proposed presentation or proposed publication because there is patentable subject matter or proprietary information of Sponsor that needs protection. In the event that Sponsor makes such objection, said researcher(s) shall refrain from making such publication or presentation for a maximum of six (6) months from date of receipt of such objection in order for Consultant to file patent application(s) with the United States Patent and Trademark Office and/or foreign patent office(s) directed to the patentable subject matter contained in the proposed publication or presentation. Sponsor does not possess a right to delay publication if the publication or presentation contains only findings and conclusions of basic science or results that would not affect the ability of Sponsor to obtain a patent.

7.2 Sponsor may publish research findings on their website, social media accounts, or other means of public notification.

ARTICLE 8 - Proprietary Information

8.1 It is the responsibility of Sponsor to mark or otherwise identify in writing prior to submission any information considered confidential that it deems necessary to share with Consultant ("Confidential Information"). Oral disclosures of Confidential Information shall be identified as confidential at the time of disclosure and confirmed in writing within ten (10) business days of the disclosure. Consultant shall have the right to accept or reject Sponsor' s Confidential Information. If such information is accepted it will be withheld by Consultant from publication, and in all other respects shall be maintained by Consultant as confidential and proprietary to Sponsor for a period of five (5) years after termination of this Agreement. Consultant shall have no such obligation with respect to any portion of such Confidential Information which:

a) is or later becomes generally available to the public by use, publication or the like, through no fault of Consultant;

b) is obtained on a non-confidential basis from a third party who disclosed the same to Consultant;

c) Consultant already possesses, as evidenced by its written records, predating receipt thereof from Sponsor; or

d) is required to be disclosed by law, regulation or court order.

8.2 All documentation concerning Intellectual Property submitted to Sponsor in accordance with Article 9.4 shall be treated as confidential in order to preserve any patent rights.

ARTICLE 9 - Intellectual Property

9.1 All rights, title and interest to Intellectual Property under the Project, except as provided in Article 9.3, shall belong to Consultant and shall be subject to the terms and conditions of this Agreement.

9.2 Rights to inventions, improvements, and/or discoveries, whether patentable or copyrightable or not, relating to the Project made solely by employees of Sponsor shall belong to Sponsor. Such inventions, improvements, and/or discoveries shall not be subject to the terms and conditions of this Agreement.

9.3 Rights to inventions, improvements, and/or discoveries conceived and/or made during the Contract Period, whether patentable or copyrightable or not, relating to the Project, which are made jointly by employees of Consultant and employees of Sponsor, shall be the joint property of Consultant and Sponsor and shall be subject to the terms and conditions of this Agreement.

9.4 Consultant will promptly notify Sponsor of any Intellectual Property conceived and/or made during the Contract Period under the Project. If Sponsor directs that a patent application or application for other intellectual property protection be filed, Consultant shall promptly prepare, file, and prosecute such U.S. and foreign application in Consultant's name. Sponsor shall bear all costs incurred in connection with such preparation, filing, prosecution, and maintenance of U.S. and foreign application(s) directed to said Consultant Intellectual Property. Sponsor shall cooperate with Consultant to assure that such application(s) will cover, to the best of Sponsor's knowledge, all items of commercial interest and importance. While Consultant shall be responsible for making decisions regarding scope and content of application(s) to be filed and prosecution thereof, Sponsor shall be given an opportunity to review and provide input thereto. Consultant shall keep Sponsor advised as to all developments with respect to such application(s) and shall promptly supply to Sponsor copies of all papers received and filed in connection with the prosecution thereof in sufficient time for Sponsor to comment thereon.

9.5 If Sponsor elects not to exercise its option granted in Article 10.1 or decides to discontinue the financial support of the prosecution and maintenance of the patent protection, all right, title and interest in such patent, patent application, and Consultant Intellectual Property shall automatically revert to Consultant. Consultant shall then be free to file or continue prosecution or maintain any such application(s), and to maintain any protection issuing thereon in the U.S. and in any foreign country at Consultant's sole expense.

ARTICLE 10- Grant of Rights

10.1 Subject to Article 9.3, Consultant grants Sponsor the first option to elect an exclusive license to Consultant Intellectual Property developed under this Agreement, and a right to sub-license any and all Consultant Intellectual Property developed under this Agreement on terms and conditions to be mutually agreed upon. If Sponsor elects to exercise this option, Sponsor shall notify Consultant in writing of its decision within one (1) year from the date of termination of this Agreement.

10.2 No grant described in this Article shall be construed to limit Consultant's right to utilize Consultant Intellectual Property for research, instruction or academic publication purposes.

ARTICLE 11 - Term and Termination

11.1 This Agreement shall become effective upon the date first hereinabove written and shall continue in effect for the full duration of the Contract Period unless sooner terminated in accordance with the provisions of this Article. The parties hereto may, however, extend the term of this Agreement for additional periods as desired under mutually agreeable terms and conditions which the parties reduce to writing and sign. Either party may terminate this Agreement upon sixty (60) days prior written notice to the other.

11.2 In the event that either party hereto shall commit any material breach or default in any of the terms or conditions of this Agreement, and also shall fail to remedy such default or breach within ninety (90) days after receipt of written notice thereof from the other party hereto, the party giving notice may, at its option and in addition to any other remedies which it may have at law or in equity, terminate this Agreement by sending notice of termination in writing to the other party to such effect, and such termination shall be effective as of the date of the receipt of such notice.

11.3 Termination of this Agreement by either party for any reason shall not affect the rights and obligations of the parties accrued prior to the effective date of termination of this Agreement. No term intention of this Agreement, however effectuated, shall release the parties hereto from their rights and obligations under the Articles within this Agreement.

ARTICLE 12 - Independent Contractor

12.1 In the performance of all services hereunder Consultant shall be deemed to be and shall be an independent contractor and, as such, Consultant shall not be entitled to any benefits applicable to employees of Sponsor.

12.2 Neither party is authorized or empowered to act as agent for the other for any purpose and shall not on behalf of the other enter into any contract, warranty, or representation as to any matter. Neither shall be bound to the acts or conduct of the other.

ARTICLE 13 - Insurance

13.1 Each party shall be liable for any and all claims for wrongful death, personal injury or property damage attributable to the negligent acts or omissions of that party and the officers, employees, and agents thereof.

13.2 Consultant shall be responsible and agrees to pay for any and all claims for wrongful death, personal injury or property damage directly resulting from the negligence of Consultant, its officers, employees and agents, and arising from activities under this Agreement to the full extent permitted by Chapter 669, Code of lowa, which is the exclusive remedy for processing tort claims against the State of lowa.

ARTICLE 14 - Governing Law

14.1 This Agreement shall be governed and construed in accordance with the substantive laws of the State of lowa, excluding its conflict of laws provisions.

ARTICLE 15 -Assignment

15.1 This Agreement shall not be assigned by either party without the prior written consent of the parties hereto.

15.2 This Agreement is assignable to any division of Sponsor provided that such assignee assumes all of the rights, obligations and liabilities of Sponsor hereunder.

ARTICLE 16 - Agreement Modification

16.1 Any agreement to change the terms of this Agreement in any way shall be valid only if the change is made in writing and approved by mutual agreement of authorized representatives of the parties hereto.

ARTICLE 17 - Warranties

17.1 NO WARRANTIES, EITHER EXPRESSED OR IMPLIED, ARE MADE PART OF THIS AGREEMENT.

ARTICLE 18 - Export Control

18.1 The disclosing party agrees to share any export control determinations when products, services, and/or technical data under this Agreement are subject to export controls under U.S. Government export laws and regulations; however, each party will be solely responsible for compliance with U.S. Government export laws and regulations.

ARTICLE 19 - Notices

19.1 Notices, invoices, and communications, hereunder shall be given by U.S. mail, or express delivery service, postage or delivery charge prepaid, and addressed to the party to receive such notice, invoice, or communication at the address given below, or such other address as may hereafter be designated by notice in writing. Notice shall be deemed made on the date of postmark or receipt (for express delivery services).

If to Sponsor:

Polk County Conservation
11204 NE 116th Ave
Maxwell, IA 50161
Attention: Doug Sheeley
Phone: (515) 323-5395
Email: Doug.Sheeley@polkcountyiowa.gov

For Submission of Invoices:

Polk County Conservation
11204 NE 116th Ave
Maxwell, IA 50161
Attention: Doug Sheeley
Phone: (515) 323-5395
Email: Doug.Sheeley@polkcountyiowa.gov

If to Consultant:

Botanical and Ecological Consulting
73448 260th Street
Colo, Iowa 50056
Attention: Tom Rosburg
Phone: (515) 460-4468
Email: Thomas.rosburg@drake.edu

For Payment Remittance:

Botanical & Ecological Consulting
73448 260th Street
Colo, Iowa 50056
Attention: Tom Rosburg
Phone: (515) 460-4468
Email: Thomas.rosburg@drake.edu

IN WITNESS WHEREOF, the parties, duly authorized, have executed this Agreement in duplicate as of the day and year first written above.

SPONSOR	Botanical and Ecological Consulting
________________________________	________________________________
By:	By:
Title:	Title:
Date: ____________________________	Date: ____________________________

Exhibit A – Scope of Work/Submitted Proposal

CONSULTANT SCOPE OF SERVICES

Floristic inventory and ecological assessment for Brenton Slough, Polk and Dallas Counties, Iowa

August 1, 2023

To: Doug Sheeley, Polk County Conservation, 11204 NE 118th Ave, Maxwell, IA 50161
From: Dr. Thomas Rosburg, Department of Biology, Drake University, Des Moines, IA 50311
Botanical and Ecological Consulting, Colo, IA 50056

I. Project Introduction

The primary objective for this research is to conduct a floristic inventory and ecological assessment for a tract of land identified as Brenton Slough, near Granger, Iowa (Figure 1). The conservation site contains 1,114 acres of semi-natural and agricultural habitats that straddle Dallas and Polk Counties. Portions of the site are present in sections 13 and 24 of T80N R26W (Dallas County), and in sections 18 and 19 in T80N R25W (Polk County). A slough is a type of wetland usually used to describe a linear, relatively deep, body of slowly moving water. Sloughs often form in old river channels. Brenton Slough is associated with Beaver Creek and the glacially-formed valley it occupies.

The management goals for Brenton Slough include the 1) protection of the area's natural heritage to enhance biodiversity, 2) the restoration of native ecosystems particularly wetlands, woodlands, restored prairies and savanna for promotion of ecosystem services, 3) the use of fire, mechanical methods and herbicides to control invasive species and manage vegetation, and 4) the management of all wildlife taxa (e.g., birds, herps and invertebrates).

About 67% of Brenton Slough, or 750 acres, is included in this study (Figure 1). The focus will be on the semi-natural habitats. Agricultural land will be excluded. There are several features of this site and the survey methods that will increase the time needed to complete a thorough and comprehensive floristic inventory. The intention of this work is to find every vascular plant species that is present.

1) There are at least 13 different soils mapped on the project area (Table 1). The diversity of soils exemplifies the complex geological history of the valley and the great potential for a landscape with high community and floral diversity. This natural heterogeneity combined with variation in historic land use means a high number of extant ecosystems and plant communities can be expected. Since the goal is to map all the extant ecosystems and deliver a plant species list for each one, the site's landscape complexity will add more time to the field research.

2) Much of the landscape is occupied by flooded wetlands which will require more time to survey. A canoe or kayak will be used for deep water habitats (over 60 cm).

3) Wetland species, such as in the Cyperaceae, Poaceae, and submergent plant families, will require more time for keying and identification.

4) Access to project site is limited thus more time will be needed to survey the more remote and inaccessible sections of the site. A John Deere gator will be used improve accessibility and efficiency. It will be transported to the site and stored in a safe location.

5) In order to obtain an exceptional quality floristic inventory, the project site (and its extant ecosystems) will be surveyed at least four times during the growing season. This is an essential element for finding the highest number of plant species. The more time invested and the more area searched, the greater the number of species observed.

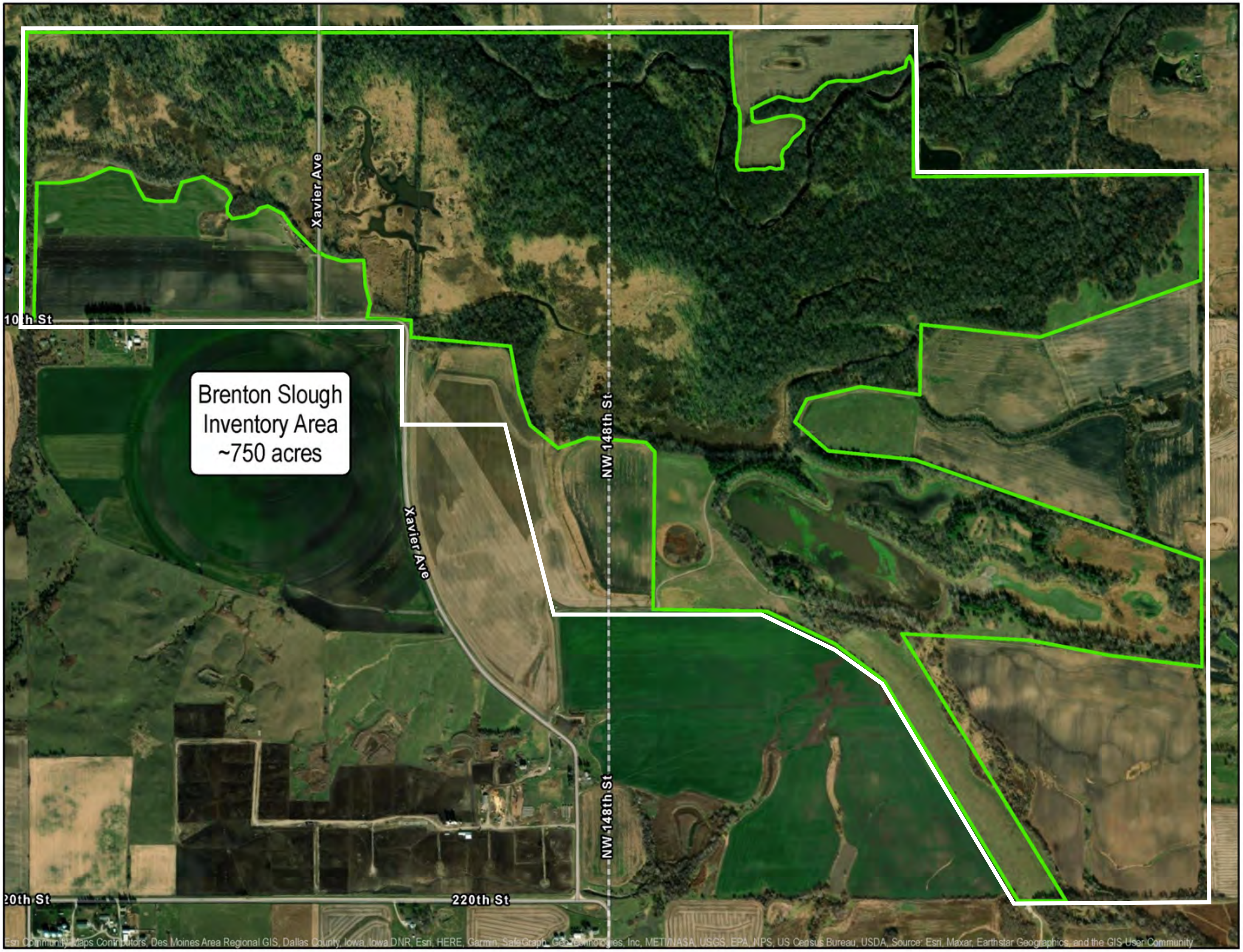


Figure 1. Brenton Slough Conservation Area (white) and the floristic inventory project area (green) located south of Granger, Iowa.

Table 1. Soils present on Brenton Slough Conservation Area, Polk and Dallas Counties, Iowa.

Soil	Parent Material	Drainage	Native Vegetation
Coland	alluvium	poorly	wet prairie
Dickinson	glacial or alluvial deposits that have been reworked by wind	well	mesic tallgrass prairie
Cylinder	24 to 40 inches of loamy alluvium overlying sand and gravel outwash	somewhat poorly	wet-mesic tallgrass prairie
Biscay	50 to 100 centimeters of loamy glacial outwash and the underlying calcareous sandy and gravelly glacial outwash	very poorly or poorly	wet prairie, sedge meadow
Wadena	glacial outwash consisting of a 24 to 40 inch loamy mantle over sandy and sandy-skeletal sediments	well	mesic tallgrass prairie
Ridgeport	50 to 100 centimeters of moderately coarse textured alluvium and the underlying calcareous sandy and gravelly sediments.	somewhat excessively	dry-mesic tallgrass prairie
Hanlon	alluvium	moderately well	tallgrass prairie
Spillville	dark colored, medium-textured alluvium	moderately well drained or somewhat poorly	mesic tallgrass prairie
Okoboji	alluvium or lacustrine sediments	very poorly	marsh
Zenor	glacial outwash	somewhat excessively	dry tallgrass prairies
Webster	glacial till or local alluvium derived from till on uplands	poorly	wet prairie
Canisteo	calcareous, loamy till or a thin mantle of loamy or silty sediments and the underlying calcareous, loamy till	poorly and very poorly	wet prairie, sedge meadow
Storden	calcareous loamy glacial till on glacial moraines.	well	dry-mesic tallgrass prairie
Aquents		very poorly	marsh

6) Quantitative data will be collected that describes a plant species abundance in each community. The frequency of each species in a community will be estimated using the following frequency classes – sparse (1 to 10%), occasional (11 to 30%), frequent (31 to 65%) and very common (66 to 100%).

7) Data will be collected that characterizes the population age structure of woody species. The presence of individuals in various size classes will be recorded. Woody class sizes include seedling/sprouts (< 50 cm in height), shrubs (50 to 200 cm), saplings (≥ 200 cm in height and < 5 cm DBH), and trees (DBH estimated to the nearest multiple of 5 cm).

8) Although many plants will be collected for verification of their identity, only those that represent new records (state or county) or are state-listed species will be vouchered. Plant vouchers will not be made for every species observed.

II. Services and Tasks

The primary objectives of the research are outlined below:

1. Conduct botanical field surveys of the project area to accomplish these floristic components:
   a) delineate, map and identity the extant ecosystems and their plant associations
   b) compile a vascular plant species list for each association
   c) map the locations of large diameter trees
   d) map the locations of imperiled or highly conservative plant species (priority plant species)
   e) map locations of certain invasive species
   f) utilize nomenclature of Eilers and Roosa (1994), with synonymy to the Flora of North America

2. Collect ancillary data on vertebrate, invertebrate and fungi observations.

3. Provide an ecosystem evaluation and assessment using more than 60 floristic quality variables.

4. Compile a multi-layered GIS project for the site, including layers for vegetation, priority plant species, soils, GLO vegetation, native vegetation interpreted from soils, topography and land use history.

5. Prepare a progress and final report with comments on management and conservation priorities.

Two subcontractors will be hired to assist with field research. These individuals are Loren Lown (retired Polk County Conservation natural resource manager) and Bill Norris (professor, Western New Mexico University).

III. Fees and Budget

1. Fees for the services of the consultant are hourly at $60.00 per hour. The total survey area is about 750 acres.
2. Travel expense includes mileage at $0.60 per mile. Mileage will be 96 miles per round trip to the study site for Tom and Bill; 62 miles per round trip for Loren.

Table 2. Proposed budget for completion of the project.

Tasks	Labor (hours & cost)		Mileage (miles & cost)		Supplies	Total Cost
Field Surveys						
Survey #1	375	$22,500	2,963	$1,777.50	$25	$24,302.50
Survey #2	250	$15,000	1,975	$1,185.00	$25	$16,210.00
Survey #3	187.5	$11,250	1,481	$888.75	$25	$12,163.75
Survey #4	150	$9,000	1,185	$711.00	$25	$9,736.00
Plant keying	193	$11,550	$0		$0	$11,550.00
Data entry, analyses, and GIS	35	$2,100	$0		$0	$2,100.00
Report preparation	80	$4,800	$0		$0	$4,800.00
Project Total Costs		**$76,200**	**$4,562.25**		**$100**	**$80,862.25**

IV. Timeline

September 2023	Begin field work, identify and map communities, collect floristic data (initial Survey 1 work)
March 2024	Progress report
April/May 2024	Survey 1
June 2024	Survey 2
July/August 2024	Survey 3
September 2024	Survey 4
February 2025	Final report

V. Insurance

Botanical and Ecological Consulting carries business insurance that provides $1,000,000 in coverage for professional liability. The policy number is SP 1573069A with United States Liability Insurance Company.

VI. Literature Cited

Eilers, L., and D. Roosa. 1994. The vascular plants of Iowa: an annotated checklist and natural history. University of Iowa Press, Iowa City, IA.

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	ACTION 23-0914 Amanda Brown Ecologist

AGENDA HEADING:
Approving contract with JEO Consulting Group, Inc for engineering/design services for the Chichaqua Bottoms Greenbelt floodplain rehydration project in the amount of $179,500.

INFORMATION:
In 2021, JEO was hired to complete a hydrology and water quality feasibility study for Chichaqua Bottoms Greenbelt. The results of this study showed an opportunity to divert water from the current drainage ditches within Chichaqua Bottoms Greenbelt into adjacent wetlands and the old Skunk River Channel. This concept would allow the water to move across the landscape closer to historical flow patterns as well as provide both water quality and wildlife benefits.

In 2022, additional funds were approved which allowed JEO to determine feasibility of this concept and what benefits it could provide to the current Chichaqua Bottoms Greenbelt ecosystem. Through this additional work, three locations highlighted on the attached map were identified. These locations were chosen due to location on the landscape and adjacency of features such as wetlands and the old skunk river channel. Now that the locations have been identified, final design and creation of construction documents is needed.

Due to the water quality benefits (specifically nutrient reduction) of this proposed project, the Iowa Department of Agriculture and Land Stewardship (IDALS) has committed to reimbursing the costs for two of the locations. Funding for the third location will come out of the American Rescue Plan Act (ARPA) funds that were designated by the Polk County Board of Supervisors for Chichaqua Bottoms Greenbelt in 2022.

FISCAL IMPACT:

Amount:	IDALS	$115,900
	ARPA Funds	$ 63,600
	Total Project Cost	$179,500

Funding Source: American Rescue Plan Act (ARPA) Funds

PREVIOUS BOARD ACTION(S):

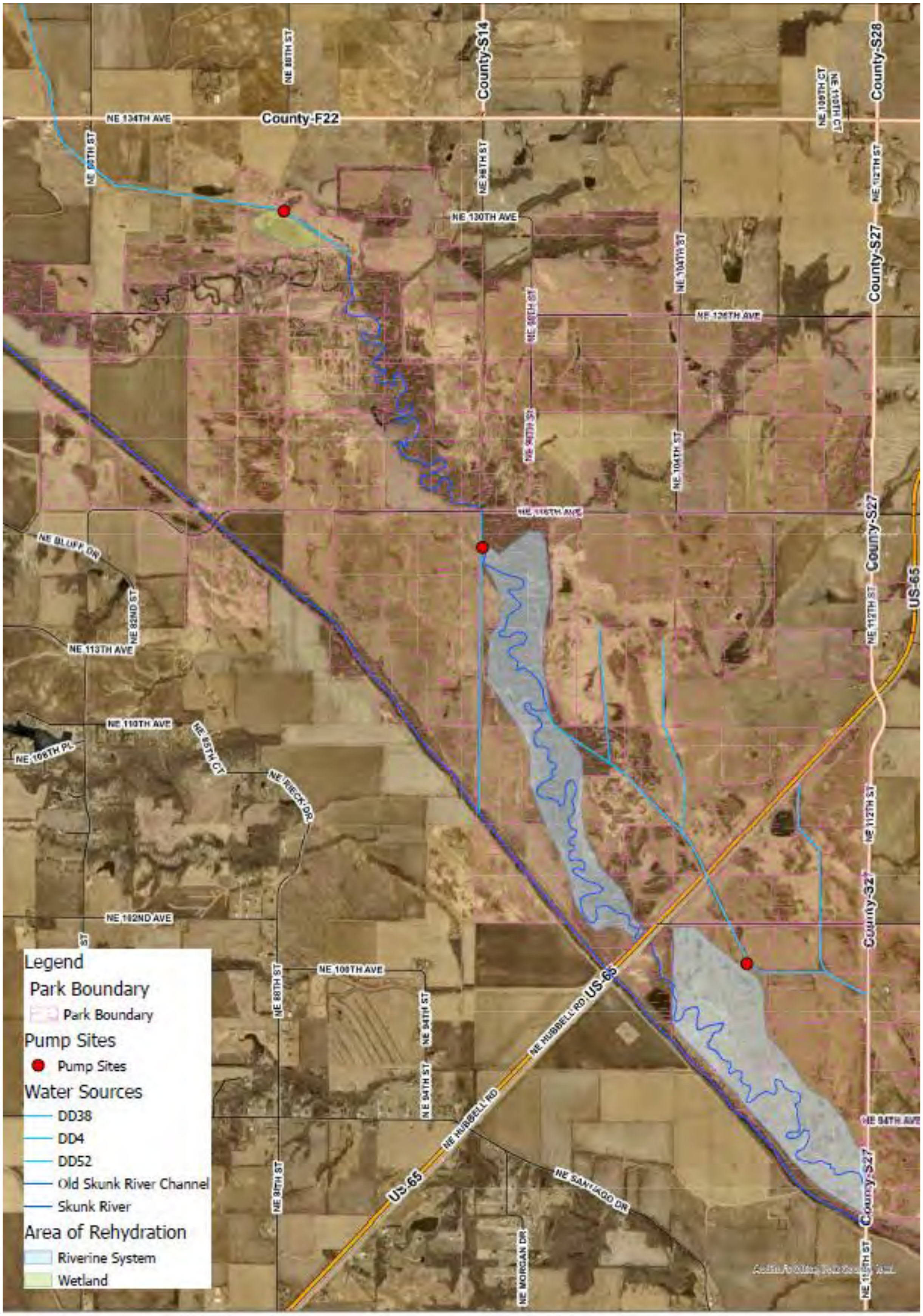
Date: January 13th, 2021
Roll Call Number: 21-0112 (Yea - 4, Absent – 1)

Action: Approving contract award to JEO Consulting Group for design/ engineering services for the Chichaqua Drainage Study within the Chichaqua Bottoms Greenbelt in the amount of $50,000.

Date: August 10th, 2022
Roll Call Number: 22-0810 (Yea - 3, Absent – 2)
Action: Approving contract with JEO Consulting Group, Inc for engineering/design services for a floodplain restoration project at Chichaqua Bottoms Greenbelt in the amount of $32,500.

Date: January 11th, 2023
Roll Call Number: 23-0108 (Yea - 4, Absent – 1)
Action: Approving amendment to contract with JEO Consulting Group, Inc for engineering/design services for a floodplain restoration project at Chichaqua Bottoms Greenbelt and additional funds in the amount of $2,500.

RECOMMENDATION:
Approving contract with JEO Consulting Group, Inc for engineering/design services for the Chichaqua Bottoms Greenbelt floodplain rehydration project in the amount of $179,500 and authorize the Chair or their designee to sign the contract.



Chichaqua Bottoms Greenbelt
Floodplain Rehydration

AGREEMENT
BETWEEN OWNER AND ENGINEER
FOR
PROFESSIONAL SERVICES

THIS IS AN AGREEMENT effective as of ____________ between Polk County Conservation ("Owner") and JEO Consulting Group, Inc. ("Engineer").

Owner's project, of which Engineer's services under this Agreement are a part, is generally identified as follows:

Chichaqua Greenbelt Pumped Wetlands ("Project").

JEO Project Number: 231175.00

Owner and Engineer further agree as follows:

ARTICLE 1 - SERVICES OF ENGINEER

1.01 Scope

A. Engineer shall provide, or cause to be provided, the services set forth herein and in Exhibit A.

ARTICLE 2 - OWNER'S RESPONSIBILITIES

2.01 Owner Responsibilities

A. Owner responsibilities are outlined in Section 3 of Exhibit B.

ARTICLE 3 - COMPENSATION

3.01 Compensation

A. Owner shall pay Engineer as set forth in Exhibit A and per the terms in Exhibit B.

B. The fee for the Project is listed in Exhibit A.

C. The Standard Hourly Rates Schedule shall be adjusted annually (as of approximately January 1st) to reflect equitable changes in the compensation payable to Engineer. The current hourly rate schedule can be provided upon request.

ARTICLE 4 - EXHIBITS AND SPECIAL PROVISIONS

4.01 Exhibits

Exhibit A – Scope of Services
Exhibit B – General Conditions

4.02 Total Agreement

A. This Agreement (consisting of pages 1 to 2 inclusive, together with the Exhibits identified as included above) constitutes the entire agreement between Owner and Engineer and supersedes all prior written or oral understandings. This Agreement may only be amended, supplemented, modified, or canceled by a duly executed written instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement.

Owner: Polk County Conservation	Engineer: JEO Consulting Group, Inc.
______________________	______________________
By:______________________	By: Jacob Miriovsky, P.E.
Title:______________________	Title: Project Manager
Date Signed:______________________	Date Signed: 8/4/2023
Address for giving notices:	Address for giving notices:
11204 NE 118th Ave.	JEO Consulting Group, Inc.
Maxwell, IA 50161	1937 North Chestnut Street
______________________	Wahoo, NE 68066

SCOPE OF SERVICES:
Exhibit A

PROJECT DESCRIPTION:

Polk County Conservation: Continuing from the previous studies of the Chichaqua Greenbelt area, Polk County Conservation (Owner), in coordination and partnership with Polk County Public Works, desires to move forward with design of three wetland sites identified in the feasibility study of pumped wetlands, see attached Figure 1. All sites are located on property owned by the Owner.

It is anticipated that all three sites will include one storm water pump station each. The pump stations will be package systems. The north site will include pumping water into an existing wetland, with an outlet back to the old river channel; minimal grading design is anticipated for the north site and is anticipated for the pump station and outlet locations only. The middle site will include a pump station with an outlet into the old river channel to provide rehydration of the old channel and hydraulic analysis of the culvert under Highway 65; minimal grading design is anticipated for the middle site and is anticipated for the pump station location only. The south site may include a combination of pumping into small wetland cells and rehydration of the old river channel. Water level control structure location for the south site will need evaluation in the preliminary design phase to develop the overall flow schematic for the system. If grading design and water level control structures are selected for inclusion during the preliminary design phase for the south site, the scope and fee for the south site may be subject to change. It is assumed that all sites will have electrical service routed to the pump station location. The Owner will coordinate with electrical service provider. It is anticipated that all three projects will be bid as one bid package. NRCS review of design documents is anticipated for the South Site.

1 SURVEY

- 1.1 Gather/obtain/draft LiDAR data to supplement the topographic survey, as needed.
- 1.2 Engineer will schedule and obtain a topographic survey containing the following:
  - 1.2.1 Survey the locations of all visible physical features within the proposed site location, immediately adjacent to the proposed pump station location.
  - 1.2.2 Collect available utility location information.
  - 1.2.3 Create an electronic drawing using AutoCAD illustrating elevations, site features, property boundaries from GIS data, and existing utilities resulting from the surveys performed.
- 1.3 Engineer will utilize LiDAR and existing topographic information provided by the Owner to model topography of the areas not immediately adjacent to the proposed pump station locations.
- 1.4 Engineer will make a “One Call” for utility locates to be marked in the project corridor and together with other survey data, will map existing site conditions within the electronic drawing.
- 1.5 JEO understands that the entire property is owned by the Owner. No property research or title searches will be completed.
- 1.6 Any required right-of-way acquisition, negotiation, title research, or tract maps will be completed by others.

2 PRELIMINARY DESIGN

2.1 Provide project management:

2.1.1 Provide timely and coordinated communication to and from the Owner for requests for information, providing progress updates, scheduling meetings, and receiving and providing feedback.

2.1.2 Provide oversight to ensure scope of services and schedule are met.

2.1.3 Work with disciplines to identify potential risks and how to mitigate those risks.

2.1.4 Review billed hours by design team and prepare invoice statements for Owner.

2.1.5 Provide monthly progress reports.

2.2 Kickoff Meeting and Site Review: meet with the Owner to review the project goals, timeline, and visit the site to review site specific requirements at each location, such as construction access.

2.3 Preliminary Design

2.3.1 Prepare necessary sheets for each site:

2.3.1.1 Removal plan

2.3.1.2 Overall site plan

2.3.1.3 Preliminary grading plan

2.3.1.4 Preliminary electrical plan

2.3.1.5 Preliminary pump station cross section

2.3.2 Prepare preliminary water balance calculations and summary for each site utilizing readily available data from USGS StreamStats.

2.3.3 Prepare preliminary pump and motor sizing calculations. Provide estimated electrical power usage. It is assumed that inclusion of remote controls for the pump stations, such as SCADA, is not included, but could be added via amendment.

2.3.4 Prepare a 30% complete opinion of probable construction cost. Perform an internal quality assurance/quality control (QA/QC) review of the 30% complete plans and specifications.

2.3.5 Conduct a plan-in-hand review in the field with the Owner to confirm the proposed layout, survey information and opinion of probable construction cost.

3 FINAL DESIGN

3.1 70% Design

3.1.1 Advance the sheets and specifications developed during the preliminary design. Provide updated OPCC. Anticipated sheets include:

3.1.1.1 General location maps.

3.1.1.2 Survey control sheets.

3.1.1.3 Removal plan.

3.1.1.4 Plan and profile including geometrics and grades.

3.1.1.5 Staging area and construction access plan.

3.1.1.6 Pump station cross section(s).

3.1.1.7 Electrical plans and details.

3.1.1.8 Cross sections.

3.1.1.9 Phasing plan.

3.1.1.10 Erosion control plan.

3.1.2 Prepare draft front end and technical specifications.

3.1.3 Perform basic H&H modeling in conjunction with StreamStats data to determine water availability and estimate pumped volumes for each site.

3.1.4 Prepare a 70% complete opinion of probable construction cost. Perform an internal quality assurance/quality control (QA/QC) review of the 70% complete plans and specifications.

3.1.5 Conduct a virtual review with the Owner to confirm the proposed layout, survey information and opinion of probable construction cost.

3.1.5.1 Owner may choose to include ISU or another 3rd party specialist at this stage to review nutrient reduction rates for the wetlands.

3.2 90% Design

3.2.1 Advance the sheets and specifications developed during the 70% design. Provide updated OPCC. Anticipated sheets include all those previously listed and any additional detail sheets necessary for completion of the drawings.

3.2.2 Specifications and contract documents.

3.2.3 Perform an internal QA/QC review of the 90% complete plans and specifications.

3.2.4 Submit the proposed bidding documents, construction contract, and payment and performance bonds to the Owner's legal counsel for review and comments.

3.2.5 Schedule and conduct a virtual review meeting.

3.3 Provide completed final documents (Plans, Specifications, and Contract Documents) signed and sealed by a professional engineer registered in the State of Iowa to Owner.

3.4 Attend up to one (1) meeting to review final design documents and opinions of probable construction cost, obtain approval of the final plans, specifications and bid documents.

3.5 Additional meetings may be conducted at an hourly rate if necessary to coordinate with stakeholders, regulatory agencies, consultants, or other entities.

4 BIDDING

4.1 Obtain approval of plans and specifications and authorization to advertise for bids from Owner.

4.2 Provide assistance with authorizing the advertisement for bids and setting the bid date and time.

4.3 Assist Owner with the development of a joint Notice to Bidders and Notice of Public Hearing to be placed into publication.

4.4 Send Notice to Bidders to Contractors, Builder Bureaus and Plan Rooms.

4.5 Furnish electronic or paper copies of plans, specifications, and contract documents of the project to prospective bidders, material suppliers, and other interested parties upon their request and payment of the non-refundable purchase cost established by the Engineer for the documents.

4.6 Respond to inquiries from prospective bidders and prepare any addenda required.

4.7 Assist the Owner in securing construction bids for the project.

4.8 Assist the Owner at the bid opening consisting of one (1) meeting to ensure proper rules are followed and adhered to during the process to ensure all requirements of State and Federal law are fulfilled.

4.9 Tabulate and analyze construction bids and report on them to the Owner, together with advice and assistance to the Owner in award of construction contract.

4.10 Prepare and submit necessary information to the Owner for project award approval.

4.11 Attendance by one (1) JEO employee at an Owner board meeting to recommend project award approval.

4.12 Prepare Contract Documents (Construction Contract and Notice to Proceed) for execution by the Prime Contractor(s) and the Owner; provide cursory reviews of all insurance and bonds submittals; then advise the Owner to proceed with execution of all documents.

4.13 Provide copies of all executed Contract Documents to the Owner and Prime Contractor(s).

5 CONSTRUCTION

5.1 Schedule and conduct a Pre-construction Conference, consisting of one (1) meeting prior to construction beginning. This conference (Pre-Con) will review the required timelines set forth in the specifications, lines of communication, key contacts of those involved, review any conflicts with utilities or schedules, review the schedule proposed by the Contractor, review any requirements of the Contractor for locates and staking needs, etc. Minutes of the Pre-construction Conference will be provided to all participants by the Engineer.

5.2 Provide baseline survey for horizontal and vertical controls for the proposed improvements, to be referenced by both the Engineer and Contractor during the construction of the project.

5.3 Provide construction staking. Three (3) staking trips are provided with this scope; one trip for each site.

5.4 Review shop drawings and related data supplied by the Contractor.

5.5 Progress meeting will be held as need, in conjunction with regularly scheduled site visits.

5.6 Provide interpretation of the plans and specifications, when necessary.

5.7 Review and process Contractor’s monthly payment applications and change orders (if necessary) and provide to Owner for review and approval.

5.8 Attend up to four (4) Board meetings during construction to provide project updates and assistance with pay applications, change orders, etc.

5.9 Consult with and advise Owner during construction in regard to all aspects of the project.

5.10 Coordinate and review geotechnical and concrete testing results. Construction material testing (compaction and concrete compressive strength) will be included in the construction contract. Any retesting is the responsibility of the Contractor.

5.11 Conduct a final inspection of project with the Contractor and Owner.

5.12 Prepare a final punch list of outstanding items needing completion prior to finalization of the project based on field observations and reviews by the Resident Project Representative, Contractor, and Owner.

5.13 Obtain as-built drawings from the contractor; review and compile with JEO’s records from construction and deliver to the Owner.

5.14 Recommend to the Owner the acceptance of the project and complete the necessary certificate(s). This recommendation will be based on the Engineer’s observation of construction utilizing professional judgment and accepted tests to determine that the Contractor has completed their contracts in substantial compliance with the plans, specifications and contract documents.

6 RPR

6.1 The Design Team will furnish a part-time Resident Project Representative (RPR) to observe construction progress and quality of the work. Estimated at 30 hours per site.

6.2 The duties and responsibilities of the RPR are described as follows:

6.2.1 Review of contractors work for general compliance with the plans and specifications.

6.2.2 Complete Construction Observation Reports when on site.

6.2.3 Coordinate pay quantities with contractor and engineer.

6.2.4 Review of materials delivered to the site for specification compliance.

6.2.5 Assist the engineer in interpretation of the plans and specifications to the contractor.

6.2.6 Review and coordinate materials testing by assigned testing firm.

6.2.7 Attend progress meetings.

6.2.8 Compile records for use in preparing record drawings.

7 OWNER RESPONSIBILITIES

7.1 Provide timely review of documents or requests for information.

7.2 Provide access to property to conduct proposed services.

7.3 Provide contact information for utility companies within the right-of-way along the project route.

7.4 Provide available survey data relevant to the project sites.

7.5 Copies of the most current property boundary survey plats/drawings.

8 FEE

8.1 JEO proposes to provide the services defined above for the fees defined below:

North and Middle Sites:

Task:	Fee
Survey (Hourly, Not to Exceed)	**$ 3,600**
Preliminary Design (Hourly, Not to Exceed)	**$ 34,800**
Final Design (Hourly, Not to Exceed)	**$ 44,900**
Bidding (Hourly, Not to Exceed)	**$ 2,000**
Construction (Hourly, Not to Exceed)	**$ 17,600**
RPR (Hourly, Not to Exceed)	**$ 13,400**
Total (Not to Exceed)	**$ 115,900**

South Site:

Task:	Fee
Survey (Hourly, Not to Exceed)	**$ 1,800**
Preliminary Design (Hourly, Not to Exceed)	**$ 18,700**
Final Design (Hourly, Not to Exceed)	**$ 26,900**
Bidding (Hourly, Not to Exceed)	**$ 1,300**
Construction (Hourly, Not to Exceed)	**$ 8,500**
RPR (Hourly, Not to Exceed)	**$ 6,700**
Total (Not to Exceed)	**$ 63,600**

Total – All Sites (Not to Exceed) **$ 179,500**

9 CONTRACT TIME

9.1 JEO will work as expeditiously as possible, pending authorization from Owner to complete the tasks in this project. (The following schedule is based upon receipt of Notice to Proceed on or around July 2023).

9.1.1 Survey ……………………………………………………………. Aug./Sept. 2023

9.1.2 Preliminary Design ………………………………………. October 2023

9.1.3 Final Design …………………………………………………. February 2024

9.1.4 Bidding …………………………………………………………. March 2024

9.1.5 Construction ………………………………………………. Summer – Fall 2024

9.2 If the Basic Services covered by this Agreement have not been completed by the dates listed above through no fault of JEO, extension or adjustment of JEO's services beyond that time shall be compensated as additional services.

9.3 The information in this proposal and fee estimate is valid until December 2023. After that time, the scope of services and estimated are subject to adjustment.

10 EXCLUSIONS

10.1 Permitting, including USACE 404, NPDES, and/or DNR Floodplain.

10.2 Landowner and Drainage District coordination.

10.3 Nutrient reduction analysis.

10.4 Construction material testing.

10.5 Post construction services.

10.6 Preparation of record drawings.

10.7 Geotechnical investigation of subsurface soils conditions.

10.8 Land rights and ownership.

10.9 SWPPP administration and inspections.

10.10 Any permit fees associated with permit applications.

10.11 Meetings not outlined in the Scope of Services.

10.12 Wetland Mitigation plans and/or design.

10.13 Land rights, easements, property boundary survey.

10.14 Site design of utilities (other than electrical) and streets.

10.15 Groundwater modeling.

10.16 Costs for additional insurance requirements or increased limits of coverage.

10.17 Retaining wall design, if needed.

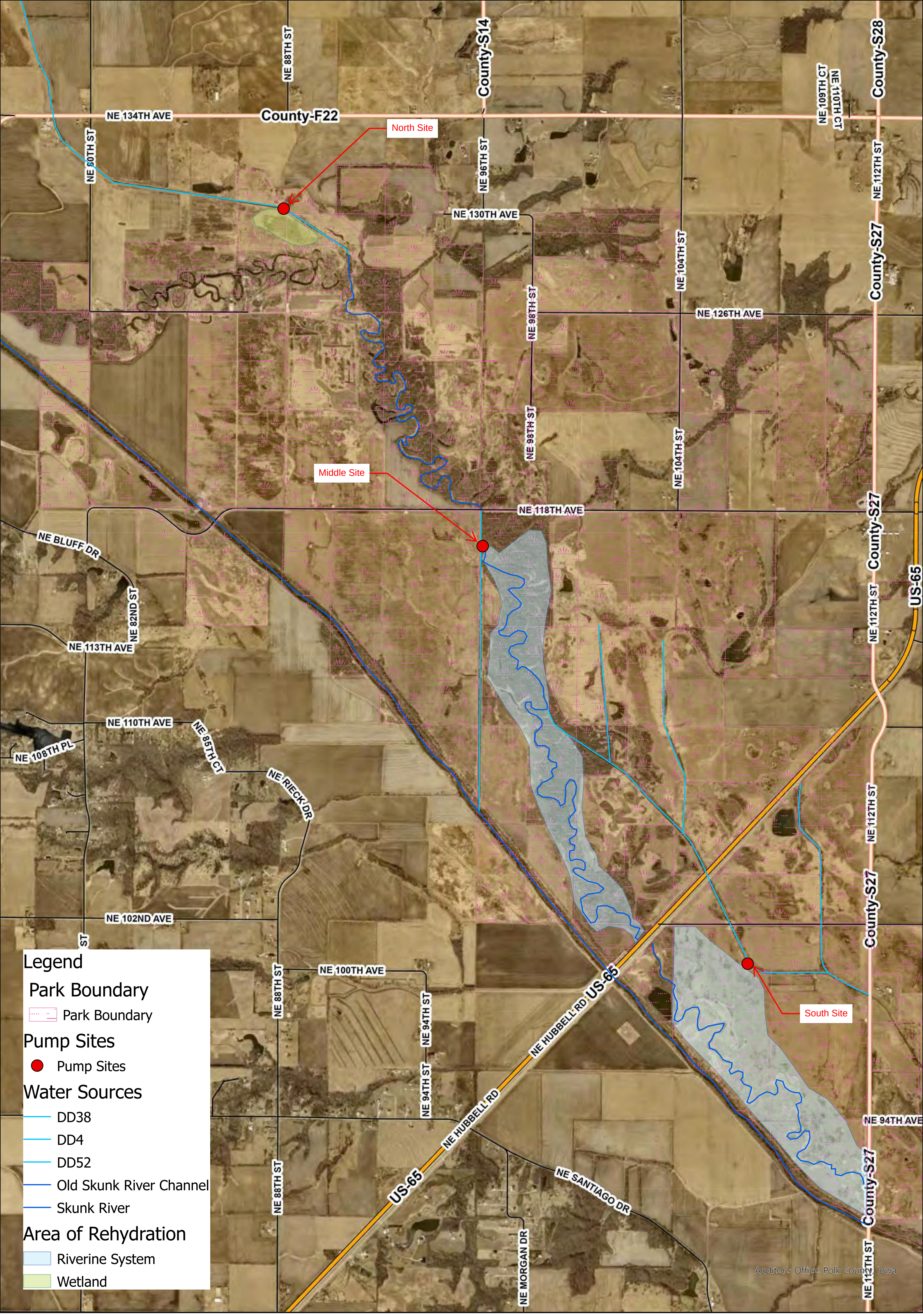
10.18 Landscaping design.

10.19 Design of pedestrian/biking trails.

10.20 Solar power system design.

11 REIMBURSABLE EXPENSES

11.1 Typical reimbursable expenses are included in the fee and cover: mileage for trips required to complete the work defined above, long-distance phone calls, meals, other travel expenses, software, copies/prints, and faxes.



Chichaqua Bottoms Greenbelt - FIGURE 1
Floodplain Rehydration

1. SCOPE OF SERVICES: JEO Consulting Group, Inc. (JEO) shall perform the services described in Exhibit A. JEO shall invoice the client for these services at the fee stated in Exhibit A.

2. ADDITIONAL SERVICES: JEO can perform work beyond the scope of services, as additional services, for a negotiated fee or at fee schedule rates.

3. CLIENT RESPONSIBILITIES: The client shall provide all criteria and full information as to the client's requirements for the project; designate and identify in writing a person to act with authority on the client's behalf in respect to all aspects of the project; examine and respond promptly to JEO's submissions; and give prompt written notice to JEO whenever the client observes or otherwise becomes aware of any defect in work.

Unless otherwise agreed, the client shall furnish JEO with right-of-access to the site in order to conduct the scope of services. Unless otherwise agreed, the client shall also secure all necessary permits, approvals, licenses, consents, and property descriptions necessary to the performance of the services hereunder. While JEO shall take reasonable precautions to minimize damage to the property, it is understood by the client that in the normal course of work some damage may occur, the restoration of which is not a part of this agreement.

4. TIMES FOR RENDERING SERVICES: JEO's services and compensation under this agreement have been agreed to in anticipation of the orderly and continuous progress of the project through completion. Unless specific periods of time or specific dates for providing services are specified in the scope of services, JEO's obligation to render services hereunder shall be for a period which may reasonably be required for the completion of said services.

If specific periods of time for rendering services are set forth or specific dates by which services are to be completed are provided, and if such periods of time or date are changed through no fault of JEO, the rates and amounts of compensation provided for herein shall be subject to equitable adjustment. If the client has requested changes in the scope, extent, or character of the project, the time of performance of JEO's services shall be adjusted equitably.

5. INVOICES: JEO shall submit invoices to the client monthly for services provided to date and a final bill upon completion of services. Invoices are due and payable within 30 days of receipt. Invoices are considered past due after 30 days. Client agrees to pay a finance charge on past due invoices at the rate of 1.0% per month, or the maximum rate of interest permitted by law.

If the client fails to make any payment due to JEO for services and expenses within 30 days after receipt of JEO's statement, JEO may, after giving 7 days' written notice to the client, suspend services to the client under this agreement until JEO has been paid in full all amounts due for services, expenses, and charges.

6. STANDARD OF CARE: The standard of care for all services performed or furnished by JEO under the agreement shall be the care and skill ordinarily used by members of JEO's profession practicing under similar circumstances at the same time and in the same locality. JEO makes no warranties, express or implied, under this agreement or otherwise, in connection with JEO's services.

JEO shall be responsible for the technical accuracy of its services and documents resulting therefrom, and the client shall not be responsible for discovering deficiencies therein. JEO shall correct such deficiencies without additional compensation except to the extent such action is directly attributable to deficiencies in client furnished information.

7. REUSE OF DOCUMENTS: Reuse of any materials (including in part plans, specifications, drawings, reports, designs, computations, computer programs, data, estimates, surveys, other work items, etc.) by the client on a future extension of this project, or any other project without JEO's written authorization shall be at the client's risk and the client agrees to indemnify and hold harmless JEO from all claims, damages, and expenses including attorney's fees arising out of such unauthorized use.

8. ELECTRONIC FILES: Copies of Documents that may be relied upon by the client are limited to the printed copies (also known as hard copies) that are signed or sealed by JEO. Files in electronic media format of text, data, graphics, or of other types that are furnished by JEO to the client are only for convenience of the client. Any conclusion or information obtained or derived from such electronic files shall be at the user's sole risk.

a. Because data stored in electronic media format can deteriorate or be modified inadvertently or otherwise without authorization of the data's creator, the party receiving electronic files agrees that it shall perform acceptance tests or procedures within 30 days, after which the receiving party shall be deemed to have accepted the data thus transferred. Any errors detected within the 30 day acceptance period shall be corrected by the party delivering the electronic files. JEO shall not be responsible to maintain documents stored in electronic media format after acceptance by the client.

b. When transferring documents in electronic media format, JEO makes no representations as to long term compatibility, usability, or readability of documents resulting from the use of software application packages, operating systems, or computer hardware differing from those used by JEO at the beginning of the project.

c. The client may make and retain copies of documents for information and reference in connection with use on the project by the client.

d. If there is a discrepancy between the electronic files and the hard copies, the hard copies govern.

e. Any verification or adaptation of the documents by JEO for extensions of the project or for any other project shall entitle JEO to further compensation at rates to be agreed upon by the client and JEO.

9. SUBCONSULTANTS: JEO may employ consultants as JEO deems necessary to assist in the performance of the services.

JEO shall not be required to employ any consultant unacceptable to JEO.

10. INDEMNIFICATION: To the fullest extent permitted by law, JEO and the client shall indemnify and hold each other harmless and their respective officers, directors, partners, employees, and consultants from and against any and all claims, losses, damages, and expenses (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) to the extent such claims, losses, damages, or expenses are caused by the indemnifying parties' negligent acts, errors, or omissions. In the event claims, losses, damages, or expenses are caused by the joint or concurrent negligence of JEO and the client, they shall be borne by each party in proportion to its negligence.

11. INSURANCE: JEO shall procure and maintain the following insurance during the performance of services under this agreement:

- **a.** Workers' Compensation: Statutory
- **b.** Employer's Liability
  - **i.** Each Accident: $500,000
  - **ii.** Disease, Policy Limit: $500,000
  - **iii.** Disease, Each Employee: $500,000
- **c.** General Liability
  - **i.** Each Occurrence (Bodily Injury and Property Damage): $1,000,000
  - **ii.** General Aggregate: $2,000,000
- **d.** Auto Liability
  - **i.** Combined Single: $1,000,000
- **e.** Excess or Umbrella Liability
  - **i.** Each Occurrence: $1,000,000
  - **ii.** General Aggregate: $1,000,000
- **f.** Professional Liability:
  - **i.** Each Occurrence: $1,000,000
  - **ii.** General Aggregate: $2,000,000
- **g.** All policies of property insurance shall contain provisions to the effect that JEO and JEO's consultants' interests are covered and that in the event of payment of any loss or damage the insurers shall have no rights of recovery against any of the insureds or additional insureds thereunder.
- **h.** The client shall require the contractor to purchase and maintain general liability and other insurance as specified in the Contract Documents and to cause JEO and JEO's consultants to be listed as additional insured with respect to such liability and other insurance purchased and maintained by the contractor for the project.
- **i.** The client shall reimburse JEO for any additional limits or coverages that the client requires for the project.

12. TERMINATION: This agreement may be terminated by either party upon 7 days prior written notice. In the event of termination, JEO shall be compensated by client for all services performed up to and including the termination date. The effective date of termination may be set up to thirty (30) days later than otherwise provided to allow JEO to demobilize personnel and equipment from the site, to complete tasks whose value would otherwise be lost, to prepare notes as to the status of completed and uncompleted tasks, and to assemble project materials in orderly files.

13. GOVERNING LAW: This agreement is to be governed by the law of the state in which the project is located.

14. SUCCESSORS, ASSIGNS, AND BENEFICIARIES: The client and JEO each is hereby bound and the partners, successors, executors, administrators and legal representatives of the client and JEO are hereby bound to the other party to this agreement and to the partners, successors, executors, administrators and legal representatives (and said assigns) of such other party, with respect to all covenants, agreements and obligations of this agreement.

- **a.** Neither the client nor JEO may assign, sublet, or transfer any rights under or interest (including, but without limitation, monies that are due or may become due) in this agreement without the written consent of the other, except to the extent that any assignment, subletting, or transfer is mandated or restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under this agreement.
- **b.** Unless expressly provided otherwise in this agreement: Nothing in this agreement shall be construed to create, impose, or give rise to any duty owed by the client or JEO to any contractor, contractor's subcontractor, supplier, other individual or entity, or to any surety for or employee of any of them.
- **c.** All duties and responsibilities undertaken pursuant to this agreement shall be for the sole and exclusive benefit of the client and JEO and not for the benefit of any other party.

15. PRECEDENCE: These standards, terms, and conditions shall take precedence over any inconsistent or contradictory language contained in any proposal, contract, purchase order, requisition, notice to proceed, or like document regarding JEO's services.

16. SEVERABILITY: Any provision or part of the agreement held to be void or unenforceable shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the client and JEO, who agree that the agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

17. E-VERIFY: JEO shall register with and use the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee pursuant to the Immigration Reform and Control Act of 1986, to determine the work eligibility status of new employees physically performing services within the state where the work shall be performed. Engineer shall require the same of each consultant.

POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	ACTION 23-0915 Jeff Condon Leisure Services Manager

AGENDA HEADING:
Approving the Sleepy Hollow Renaissance Faire and Scream Park concessions contract to RMF, Inc. for the 2024 season.

INFORMATION:
The board action under consideration pertains to the culmination of a comprehensive bidding process aimed at concession-ing the operations of the Renaissance Faire and Scream Park situated within the Sleepy Hollow Sports Park. This action is motivated by the overarching objective of fostering community involvement and ensuring the optimal utilization of the park, beyond solely focusing on generating income. By outsourcing the management of these attractions to a qualified and capable entity, we aim to not only optimize the overall visitor experience but also ensure sustainable financial stability for our operations. The bidding process identified a highly competent partner in RMF Inc., whose proposal aligns with our objectives and quality standards. Although only one bid was received from RMF, Inc., multiple bidders did express interest in the concessions contract and attended the on-site pre-bid meeting.

At the June Board meeting, a new contract for the concessionaire of the Renaissance Faire and Haunted Scream Park was approved. Some key highlights from the updated contract include:

1. A rate increase from 10% to 15% of gross goods sold.
2. The Board also granted approval for an initial one-year contract term, with the option to extend for an additional two years upon mutual agreement after the first year.

Furthermore, this endeavor promotes outdoor engagement, fostering adventure and nature connection, aligning with our goal of promoting active lifestyles and creating cherished community memories. We look forward to establishing a mutually beneficial relationship marked by financial growth, community enrichment, and a commitment to excellence at Sleepy Hollow.

FISCAL IMPACT: Amount: $80,000 annual revenues

Funding Source: RMF, INC.

PREVIOUS BOARD ACTION(S):

Date: 06/14/2023

Roll Call Number: 23-0614 (Yea-3, Absent-2)

Action:
Approved the Renaissance Faire and Scream Park Concessionaire Contract at Sleepy Hollow that will be publicly bid for the 2024 season

RECOMMENDATION:
Approving the Sleepy Hollow Renaissance Faire and Scream Park concessions contract to RMF, Inc. for the 2024 season and direct the Director or their designee to sign said contract.

Des Moines Renaissance Faire LLC
Highlights of Our Proposal

- 15% fee to Polk County Conservation Board on gross sales

- Management Team 95 Years of Combined Experience In the Following:
  - Enlisting Vendors
  - Booking Quality Entertainment
  - Developing Local Talent
  - Supporting Local Vendors

- Maintenance Free Tennant - “We Take Care of it All” (April through October) The park is always ready to show to prospective events and ready to use for in-house PCCB events.
  - Painting (free of peeling paint)
  - Building Repairs
  - Grounds
    - Mowing
    - Trimming
    - Tree Care
    - Pest Control
    - Flowers, Shrubs and Ornamentals
    - Licensed Pesticide Applicator

  Thus saving PCCB thousands of dollars and allowing PCCB to focus on new activities and construction projects.

- Food Safe Certified

- Fully Insured
  - Work Comp
  - General Liability
  - Liquor Liability (no complaints filed in 30 years of operating events at Sleepy Hollow)

Flexibility
- Understanding of current projects and “*a partner in progress*”
- Ability to pivot with changing needs of new projects
- Experience to “*make things work*” as demonstrated in current agreement
- Vested Interest
- Dedicated to success of PCC’s vision of Sleepy Hollow
- Willing to sacrifice for “*greater good*”
  - Reduced income by giving up “Terror in the Trees” haunted attraction and accepting reduced parking which meant cancelling camping for the Fall Renaissance Faire to expedite the installation of Snowflex.

Kevin and Amy Coble have placed their lives on hold for 2 years to prepare themselves to take the reins of the Renaissance Faire at Sleepy Hollow and the Haunted Scream Park. Also, they will bring a new approach with Rick and Mary Flatt there to support them with their experience and financial backing.

Track Record: “*We have weathered the storms*” from “*rain-outs to floods*” It is important to take note of the financial strength required to finance these events and choosing someone who has the ability to survive weather-related challenges is crucial. These Sleepy Hollow events have grown every year of their existence. We respectfully ask you to allow us to continue this trajectory and in so doing maximize the financial rewards, community benefits and image of PCCB.

History

In 1994, Rick Flatt created Sleepy Hollow Sports Park, Inc. (SHSP, Inc). In doing so, he took the first step to grow not only a business supporting his wife and children, but to also create a recreational destination point for central Iowans.

Starting with only open farm ground, Mr. Flatt developed the land into the successful park purchased by the Polk County Conservation Board. Some of the most outstanding accomplishments were construction of the following: Snow Tubing, Skiing and Snowboarding areas, 9 hole golf course, driving range, 18 hole miniature golf course, go-kart track, batting cages, sand volleyball court, the Renaissance Faire park with permanent buildings and sites for 320 RVs / campers of those attending the Iowa State Fair.

The Renaissance Faire at Sleepy Hollow, previously known as the Des Moines Renaissance Faire, has been in operation and overseen by Rick Flatt since 2004. The faire has gained in popularity during that time and has a reputation for being a well run venue with quality entertainment, food and shopping within beautiful permanent grounds.

The Haunted Scream Park is Central Iowa's largest, longest running and most popular Halloween destination. It has grown from a haunted hayrack ride to a Scream Park with 6 main attractions and a village of activities. More than just a haunted house, Sleepy Hollow is the home to the area's only haunted scream park.

Vision

Under Des Moines Renaissance Faire llc's management, the Renaissance Faire and Halloween Scream Park will continue to be central Iowa's destination for seasonal family entertainment and a welcoming environment for all.

Mission

Des Moines Renaissance Faire LLC's mission is to deliver quality entertainment at a great value in a welcoming atmosphere to the people of Central Iowa. We want our events to be family friendly, while at the same time, making it fun for adults. We strive to have the best entertainment available with a mix for all ages.

Strategy

Des Moines Renaissance Faire LLC will keep Sleepy Hollow established as the premier destination for Renaissance Faires and Halloween Haunted Attractions by focusing its resources on the following goals and objectives:

1. Support PCCB's mission of providing quality outdoor recreation.
2. Continuing a value-based organization to drive performance levels and support sustainability.
3. Promote events via social media, email blasts, press releases and billboards to assure high visibility and attendance.
4. Maintain the grounds and planting areas for the benefit of pollinators and the beautification of the events.
5. Maintain fees at an affordable level.
6. Continue to support local artisans by providing a place for them to vend.
7. Employ central Iowa entertainers and encourage local people to become involved.
8. Assist Sleepy Hollow staff to develop additional park uses as desired.
9. Work with Sleepy Hollow staff to cross-promote events for the benefit of all events.
10. Provide personalized customer service in a friendly and fun environment.
11. Provide friendly trained staff to maintain well run events.
12. Continue to attend and learn from conventions and symposiums as well as network with other professionals in like industries.
13. Secure additional parking to support current attendance and allow for future growth.

Key Personnel

The Des Moines Renaissance Faire LLC (DMRF LLC) owner-management team consists of Rick and Mary Flatt with Kevin and Amy Coble. These four people share a combined history with Sleepy Hollow of nearly 100 years.

Rick and Mary Flatt have been the owners and managers of Sleepy Hollow Sports Park, Inc from its inception in 1994. Kevin and Amy Coble of JoustEvolution and Jester Puppets have been the providers of the joust team for 17 years, entertainment managers for the Renaissance Faire and Scream Park for the last 6 years as well as serving in additional capacities.

Rick Flatt - President

- Former President Sleepy Hollow Sports Park, Inc. (SHSP, Inc)
- Oversee all aspects of events
- In charge of budgeting
- Construction and maintenance schedules
- All financial matters

Mary Flatt - Management and support services

- Food manager including procurement and staff management. Food Safe Certified
- Renaissance Faire vendor manager, ticket sales manager, program design, site decoration.
- Group Sales
- Marketing Manager - oversee social media and online advertising, billboard purchase and design
- Bedding plant gardening design and maintenance as well as ornamentals
- Chemical Applicator License

Kevin Coble - Creative Director, Head of Security

* Design and build Scream Park attractions
* Develop marketing artwork
* Manage performer training and development
* Oversee event managers and teams
* Design in-house acts for Renaissance Faire
* Assist current acts in multiple facets such as fight choreography, scripts, acting, etc.
* Coordinate and handle security situations as needed

Amy Coble - Festivals Director

* Investigate and procure entertainment
* Manage contractual agreements and scheduling with entertainment
* Coordinate ticketing systems
* Assist with online marketing

History of Renaissance Faire:

The faire began as a small tent event last held at the Iowa State Fairgrounds. It was moved to Sleepy Hollow Sports Park in 2004 following the construction of the permanent Tudor village which included 35 vendor/food shoppes, a castle, restroom, joust arena with a dais, dining pavilion, pub, shaded arbor and fairie tree house. The park was expanded to include a pirate stage and living history encampment area, an additional 3 vendor shoppes and later the "south glenn" home of 2 more shoppes, a tent vendor area, knight fight arena, another castle where the birds of prey professionals perform, highland game field and an second living history encampment area. Sleepy Hollow (Rick and Mary Flatt) took over full production of the faire in 2014. It was under the Flatt's management that the faire grew to what it is today.

Fall Renaissance Faire *: (Ticket price ranges from $14 - $19 and children are free)
For the last 5 years, the Fall Renaissance Faire attendance has been approximately 10,000 and is steadily growing

Spring Renaissance Faire *: The first year of Spring Faire was 2021. The first two years attendance ran approximately 2,200 per year. For 2023, it jumped to over 4,000.

* Note for Renaissance Faire: Patrons who purchase their ticket on Saturday are allowed to return Sunday for free, and their return admittance is not reflected in the count. However, they do contribute to food and vendor sales on both days. Children ages 12 and under are admitted free and are also not included in attendance numbers.

History of Scream Park:

Halloween haunted hayrack rides were introduced in the early years of Sleepy Hollow and were an instant success. From there we added a haunted house, then a haunted walk. Shortly after building the Renaissance Park in 2004, the haunted attractions moved into the Renaissance Park. Gradually Sleepy Hollow went from those 3 attractions to 2 haunted trails, 4 haunted houses and several smaller activities utilizing the whole park and trails outside the Renaissance Park. The Scream Park is now open every weekend in October. Over the years the ticket sales have grown to approximately 15,000 tickets with accommodating weather and adequate parking.

It is of vital importance to provide a safe environment for our guests to enjoy the grounds, and part of that ideal is maintaining appropriate insurance policies.

Insurance:

Des Moines Renaissance Faire LLC will provide the following insurance:

Worker's Compensation

a. $5000,000 Per Accident
b. $5000,000 Disease, Policy Limit
C. $500,000 Disease, Each Employee

General Liability

General Aggregate	$2,000.00
Personal and Advertising Injury	$1,000,000
Each Occurrence	$1,000,000
Fire Damage	$100,000
Excess Liability Umbrella	$2,000,000
Automobile Liability	$1,000,000
Liquor Liability	$1,000,000

Compensation

Des Moines Renaissance Faire LLC will compensate Polk County Conservation Board as follows:

1. Direct monetary payment:

- 15% of gross income from admissions, vendor fees and food and beverage sales.
- Utilities and water usage in the Renaissance Park during event times.

Capital Improvement / **Capital Retention**:

Not only are capital improvements important, but Capital Retention may be even more so. The more than $1,000,000 invested in this park needs to be protected with constant upkeep. This year alone, Rick and Mary Flatt have financed roof repairs on 3 buildings, building painting and road resurfacing and bathroom repairs. The total expenditure is approximately $10,000. This amount does not include maintenance of the park grounds and bedding areas.

2. Capital Retention:

DMRF LLC agrees to maintain the following on the site east of 4 Mile Creek from April 1 through October 31 including:

- Grounds (mowing, trimming, ornamental pruning)
- Flower and Bedding plots (purchasing, planting and maintaining of flower beds incl. perennials)
- Chemical Application by licensed applicator (insecticides and pesticides)
- Permanent Buildings (interiors, exteriors, roofs, painting) cost - $10,000 for 2023

By maintaining this area, it will save PCCB over **2,000** hrs of labor. Also, the park will be curated by staff who are dedicated and experienced with the soil conditions and area. Taking into account the current labor shortage, it is an additional benefit by reducing the cost and number of seasonal employees required by PCCB.

3. Capital Improvement Year 1

PCCB staff has advised that Halloween events will no longer be able to use the haunted trail at the top of the tubing hill nor the one on the west side of Four Mile Creek. That leaves the bid winning company with only 4 of the 6 main attractions advertised to the public for the last 8 years. To compensate, the winning company will have to create 2 new haunted attractions to avoid a loss of revenue from dissatisfied customers. The cost to construct 2 new attractions is estimated at $30,000 which DMRF LLC is willing to bear.

4. Capital Improvement Year 2 and 3

Should DMRF LLC be awarded the bid, we will consider a capital improvement in years 2 and 3. This will hinge on the amount of off site parking required with the limitations placed on parking by PCCB and the costs associated with procuring that parking. Parking limitations are due to area needed by PCCB for the construction and operation of the Snowflex tubing hill.

Given the current limitations, back-up parking will be necessary, and there is no room for event growth. If there are financial assets available for capital improvements, we will work with PCCB to best address the needs of the park.

Budgeted Expenses		
One Weekend of Renaissance Faire (4 total weekends for year)		
Projected Revenue based on Spring Fling 2023 (perfect weather + 100%parking)		$165,000
Entertainment Incl. Hotel Rooms	$20,000	
Advertising	$15,000	
Staff	$20,000	
Utilities and Water	$2,000	
Cost of Goods Sold	$28,000	
Security	$3,000	
Set-Up	$6,000	
Clean-up	$3,000	
Misc. (Incl. ticketing fees, cc fees and sales tax, etc.)	$6,000	
Insurance	$2,000	
Payment to Polk County Conservation (based on $15% of spring 2023)	$21,680	
Total Expenses	$132,680	
Halloween **Estimate for the full season (based on optimal weather)**		
Projected Revenue with 100% parking $500,000 *Projected Revenue with 70% of parking $350,000*		$500,000 $350,000
Entertainment	$70,000	
Construction, Supplies and Props New	$15,000	
Supplies	$15,000	
Cost of Goods Sold	$5,000	
Set-up and Tear Down	$20,000	
Staff	$40,000	
Advertising	$50,000	
Insurance	$10,000	
Security and Parking	$5,000	
Utilities and Water	$5,000	
Misc. (Incl. ticketing fees, cc fees and sales tax, etc.)	$25,000	
Payment to Polk County Conservation (based on sales of	$70,000	
Total Expenses	$330,000	

Halloween Capital Improvement for year 1 will be required to hit maximum earnings. See Capital Improvement.

Additional Opportunities:

We are looking to the future, and we see that an exciting goal can be reached. Through coordination with Polk County, we can work together to inspire youth to become passionate about nature, the environment and all of its inhabitants, fulfilling the mission at Sleepy Hollow in providing quality outdoor recreation combined with conservation education.

Conservation is not only about the environment, but it also includes people…of all ages. Teaching our community's kids to care for animals and the world around them at a young age will give them a life full of conservation contributions.

Since 2012, Jester Puppets has performed with Summer Reading Programs for public libraries in Iowa, Nebraska, Illinois and South Dakota. Each summer, a theme is shared in libraries across the country. For 2024, the theme is "Read, Renew and Repeat" which focuses on conservation.

Having been in the works for several years, our 2024 SRP will feature one of the favorite characters seen across the US, Recycle Rabbit. As a main character in our "H.E.R.O.s" anti-bullying show, Recycle Rabbit teaches both youth and adults how they can help their community through our energetic and hilarious show.

1. Together with PCCB, Jester Puppets could develop a program and help Sleepy Hollow become a destination point for conservation education and recreation. For 2024, Sleepy Hollow could host multiple area libraries, schools and child care centers. Jester Puppets would provide educational entertainment with Recycle Rabbit and a host of other original characters. Kids could then practice what they have learned while hiking trails through Sleepy Hollow, and then finish their day on the Snowflex tubing hill.

2. For those libraries, schools or child care facilities that cannot travel to Sleepy Hollow, PCCB and Jester Puppets can coordinate to bring Recycle Rabbit to them. Jester Puppets is very adaptable to performing in varying venues, large or small.

3. In addition to the Recycle Rabbit conservation program, the H.E.R.O.s anti-bullying program can also share its message of respecting others and respecting the environment. The 2024 Summer Reading Program is merely the tip of the iceberg for bringing conservation educational entertainment to children of Iowa.

4. During winter months, programs of Jester Puppets can be held inside, and kids can enjoy the Snowflex tubing hill in the snow.

5. Working with JoustEvolution, summer activities for kids could be held within the park through the "Age of Chivalry" educational program. It would be an opportunity for kids to experience elements of the Renaissance life and learn how respect, communication and trust are integral in a stunt show as well as their lives each day. Continuing their outdoor experience, kids will learn how to train a joust horse using positive reinforcement as well as conservation and husbandry.

Through the different phases of the day, young people will learn how to protect their environment for themselves and their animal friends. JoustEvolution, like Jester Puppets, can provide exciting entertainment and conservation education in conjunction with PCCB's outdoor recreation.

Backgrounds:

<u>Kevin Coble</u>

Employment: JoustEvolution 2006 - Current
Owner, Director, Writer, Fight Choreographer, Performer

Jester Puppets. 2012 - Current
Owner, Director, Writer, Set Designer, Performer

Sleepy Hollow Haunted Scream Park - General Manager 2019 - Current
Design and implement haunted attractions
Procure and oversee entertainment / actors
Head of Security

Stage Fright. 2014 - Current
Owner, Director, Writer, Costume Designer
Oversee and train scare actor performance team

Renaissance Faire at Sleepy Hollow - Creative Director 2021 - Current
Design new acts, assist current acts with writing, costuming, acting
Head of Security

New Riders of the Golden Age. 2000 - 2006
Stuntman, Jouster, Writer, Fight choreographer

Hanlon Lees Action Theatre. 1998 - 2000
Stuntman, Jouster, Fight choreographer

Accomplishments:

* Certified as professional stuntman in high falls, burns and motorcycles - 1999
  - Chicago, IL
* Blackbelts in Okinawan Isshinryu and Shotokan. Proficient in Kung Fu, bow staff, 3 section staff and nunchucks
* Founded Charlotte Roller Hockey League -1991
  League is still operating in NC
* Founded Iowa Saber League - 2016
  League is still in operation
* Established light saber dueling as sport in Iowa Games - 2019
  Organized and operated competitions - 2019, 2020, 2021, 2022
* Established light saber dueling as sport in State Games of America 2021
  Organized and operated National competition in 2021

<u>Amy Coble</u>

Education: Oklahoma Christian University of Science and Arts
Oklahoma City, Oklahoma
Graduated Cum Laude with a Bachelor of Science Degree in Medical Biology in Dec 1991

The Mandt System - De-escalation and incident prevention in difficult situations
Certified in Basic and Intermediate Levels - March 2002

NARHA Certified Therapeutic Riding Instructor - June 2001

AALAS Certified Assistance Laboratory Animal Technician - 1994

Employment: JoustEvolution 2006 - Current
Assistant Director
- Head horse trainer and riding instructor, design and implement equine management policies, Performer, stage fight combatant, procure venues for performances, manage contractual agreements, manage performance teams on the road

Jester Puppets 2013 - Current
- Procure performance venues, manage contractual agreements, marketing, performer

Stage Fright 2014 - Current
- Oversee Scream Park events and personnel, assist with security issues

Sleepy Hollow - Festivals Director 2020 - Current
Procure and oversee entertainment / actors for RFSH and SH Scream Park
Coordinate ticketing systems, assist with marketing, security, customer service

Jennifer Steensen Field of Dreams Therapeutic Riding and Driving Program
(Jester Park Equestrian Center)
2000-2002, 2003 - 2006
Executive Director, Program Director, Riding and Driving Instructor for able-bodied and therapeutic lessons

Wildwood Hills Ranch 2002
Equine Director
- Oversee horse herd of over 20 head as well as volunteers
- Develop equestrian curriculum for campers, including children at-risk

Intervet - Veterinary Pharmaceutical. 1992 - 1999
Quality Control Tech, Safety officer for all animal facilities, Government sampler

Team Accomplishments

JoustEvolution:

- One of less than 25 joust teams across the United States to carry a full performance schedule.
- One of less than 10 joust teams in the US that has been viable for over 15 years and is still performing
- Educational program, “Age of Chivalry,” to promote respect, communication and trust which has been presented in schools, libraries and social organizations

Jester Puppets: www.JesterPuppets.com

- Performance schedule has grown each year, and prior to Covid, performed over 70 shows in June and July for Summer Reading Programs in public libraries across IA, NE, IL and SD
- Toured with Wizard World for two years and was featured performer in Kids Zone with “H.E.R.O.s,” our anti-bullying show
- Managed Wizard World Kids Zone for 1.5 years across the US
- Worked with celebrities to promote anti-bullying at Wizard World including Henry Winkler, Ted DiBiase, Kevin Sorbo, Ray Parks, Nichelle Nichols, John Barrowman, Kato Kaelin and others.

Renaissance Faire & Haunted Scream Park Concession Agreement

This Concession Agreement by and between the Polk County Conservation Board, 12130 NW 128th Street, Granger, Iowa, 50109-9675, hereafter referred to as “PCCB”.

WITNESSETH:

WHEREAS, Polk County Conservation issued a Request for Proposal for the concession services at Sleepy Hollow East of Fourmile Creek; and

WHEREAS, Polk County Conservation negotiated an agreement to provide food, beverage and entertainment services that are appropriately suited to enhance the Renaissance Faire and Haunted Scream Park operations, so that Polk County Conservation does not have to provide these services directly; and

WHEREAS, the Board desires to provide these facilities and services for the public use; and

WHEREAS, a one-year agreement was negotiated with ______________________________to manage and operate the concessions at ***Sleepy Hollow Sports Park East of Fourmile Creek.***

NOW THEREFORE, BE IT UNDERSTOOD AND AGREED by the aforementioned parties as follows:

1. **Scope of Services**: The Concessionaire shall provide the Services described in the contract to PCCB during the agreed-upon event dates and at the designated event locations. Maps are attached to illustrate the boundaries that the concessionaire will operate within. The Vendor shall ensure that all Services provided are of the highest quality and are delivered in accordance with the terms outlined in the contract.

2. **Dates**: Here are the designated dates for the year 2024 in which the concessionaire shall be granted access to the grounds situated East of Fourmile Creek. The Concessionaire agrees to provide Services during the stated contract dates and to allow sufficient time for setup and takedown.

    a. First Renaissance Faire: April 15th – May 31st, 2024
    b. Second Renaissance Faire: August 15th - September 31st, 2024
    c. Haunted Scream Park: 2nd week of September - 2nd week of November, 2024

3. **Hiring:** The Concessionaire agrees to the hiring, management, and payment of all vendors, performers, and other participants for both the Renaissance Faire & Haunted Scream Park"

4. **Percentage of Gross Sales**: The Concessionaire agrees to pay PCCB a percentage of gross sales for the Services rendered, which shall be set at 15%. The Concessionaire shall maintain accurate records of all gross sales and shall provide PCCB with regular reports of such sales upon request. In the event of any dispute

regarding the calculation of the percentage owed to PCCB, the Concessionaire shall provide all necessary records and information to resolve the dispute in good faith.

5. **Income**: It is explicitly agreed that any and all revenue streams resulting from the provision of the Services, including income generated from parking, food and beverage sales, retail transactions, subletting, and any other related income streams, shall be subject to a 15% fee payable to PCCB.

6. **Mowing**: PCCB shall assume responsibility for the upkeep of the grounds and ensure that mowing is carried out June 1st through August 14th when the Concessionaire is not permitted to use the grounds. Conversely, the Concessionaire shall bear the responsibility of mowing during their designated time period(s).

7. **Plant Maintenance**: shall be the exclusive obligation of the Concessionaire with respect to all plants and flowers that are associated with the Renaissance Village and Haunted Scream Park. The Concessionaire shall ensure that such attractions are adequately maintained at all times. Additionally, the Concessionaire must hold a valid applicator's license for all spraying activities performed within the Polk County Park.

8. **Storage**: All storage shall be contained to *the designated* areas within “Castle”, and there shall be NO outdoor storage of any prop, equipment, tools or vehicles of any kind unless written approval is granted by PCCB.

9. **Removal of Equipment**: Upon the conclusion of the agreed-upon dates, the Concessionaire shall be required to remove all equipment and possessions, unless they are contained solely within the areas designated part of the "Castle" during non-contract periods.

10. **Access**: PCCB shall have unfettered access to all buildings at all times. All locks utilized for the purpose of securing these buildings shall be provided by PCCB. The use of any locks that have not been explicitly approved by PCCB is strictly forbidden.

11. **Audits**: PCCB or its authorized third-party shall have the right to conduct financial audits, event audits, space audits, and office audits at any time, and without prior notice. The financial audits shall include a comprehensive review of all financial transactions, including but not limited to, revenue generated, expenses incurred, and taxes paid. Event audits shall include a review of all events hosted by the Concessionaire, including the number of attendees, ticket sales, and any other relevant details. Space audits shall include a review of all spaces utilized by the Concessionaire, including the designated areas for storage, parking, and vending. Office audits shall include a review of all documents, records, and other materials related to the operation of the Concessionaire. The Concessionaire shall cooperate fully with PCCB or its authorized third-party during the course of these audits and shall provide access to all requested materials and information.

12. **Camping**: Camping by vendors or staff is strictly prohibited unless explicit prior approval has been granted by PCCB. Any request for camping must be submitted in writing and approved by PCCB prior to any camping occurring on the premises. The

request shall contain all relevant details regarding the proposed camping arrangements, including the location, duration, and intended use. PCCB reserves the right to deny any camping request at its sole discretion.

13. **Personal Equipment**: No personal or non-PCCB equipment may be left on the premises between or after the stated contract dates unless explicit written approval has been granted by PCCB. The Concessionaire shall remove all equipment, materials, and belongings from the premises by the conclusion of the contract period, unless explicit written approval has been granted by PCCB to leave certain equipment or materials on the premises. If any equipment or materials are left on the premises without prior approval, PCCB shall have the right to remove and dispose of such items at the Concessionaire's expense.

14. **Deposit/Bond**: The Concessionaire is required to provide a deposit or bond in the amount of $10,000 to PCCB prior to the commencement of the contract period. The deposit or bond shall serve as security for the Concessionaire’s performance of its obligations under the contract, including but not limited to, payment of any fees or expenses owed to PCCB, compliance with all applicable laws and regulations, and the timely and satisfactory completion of all services to be provided by the Concessionaire. The deposit or bond shall be held by PCCB and may be applied towards any damages, losses, or expenses incurred by PCCB as a result of the Concessionaire’s breach of the contract or failure to perform its obligations thereunder. If the Concessionaire satisfactorily performs all of its obligations under the contract, the deposit or bond shall be returned to the Concessionaire at the conclusion of the contract period.

15. **Subleasing:** The subleasing of vendor space is contingent upon obtaining prior approval from PCCB, which may, at its discretion, impose a fee on sublet vendors. Additionally, PCCB reserves the right to require background checks of all sublet vendors.

16. **Alterations, modifications, or improvements to buildings**: The Concessionaire shall not make any modifications, alterations, or improvements to any building or structure located on the premises without the prior written approval of PCCB. Any such modifications or alterations shall be performed in compliance with all applicable laws and regulations, and shall be subject to inspection and approval by PCCB prior to use. The Concessionaire shall be responsible for obtaining all necessary permits and approvals from local and state authorities, and for any costs associated with such permits and approvals. If the Concessionaire makes any modifications or alterations to any building or structure without obtaining prior approval from PCCB, the Concessionaire shall be solely responsible for any damages, losses, or liabilities resulting therefrom. PCCB reserves the right to require the Concessionaire to remove any modifications or alterations made without prior approval, at the Concessionaire's expense. Any changes or alterations made to PCCB's property by the concessionaire or any other third party shall become the property of PCCB.

17. **Parking**: The Concessionaire must obtain prior written approval from PCCB before utilizing the West side of Fourmile parking for any purposes related to the Renaissance Faire and Haunted Scream Park, or any other event hosted by the

Concessionaire. The Concessionaire acknowledges that the West side of Fourmile parking is subject to specific use restrictions, and shall comply with all such restrictions as set forth by PCCB. The Renaissance Fair and Haunted Scream Park activities shall be limited to the East side of Fourmile Creek, and shall not be permitted on the West side of Fourmile parking without the express written consent of PCCB.

18. **Repair Maintenance & Upkeep**: The Vendor agrees to address repairs and maintenance in the contract:

- Cleaning: Regular cleaning of the concession stand or booth is important to maintain hygiene standards and prevent the buildup of debris or dirt. This may involve cleaning surfaces, equipment, and utensils as well as disposing of trash and other waste.
- Equipment maintenance: The concessionaire is responsible for maintaining their equipment and equipment provided by PCCB, including any cooking or refrigeration appliances. This may involve regular cleaning, inspection, and repair to ensure that the equipment operates safely and efficiently. The concessionaire shall be responsible for ensuring that all equipment used in the operation passes all applicable public health inspections and meets the required standards and regulations. Failure to comply with public health requirements may result in the termination of this Agreement and the removal of the equipment from the premises at the concessionaire's expense.
- Structural maintenance: The concessionaire is responsible for maintaining the structural integrity of their booth, stand, or building. This may involve repairing any damage to the walls, roof, or flooring, as well as ensuring that any electrical or plumbing systems are in good working order.
- Health and safety compliance: The concessionaire must comply with all health and safety regulations related to their operations. This may involve obtaining any necessary permits or licenses, ensuring that food is stored and prepared properly, and maintaining safe food handling practices.
- Repairs and replacements: The concessionaire is responsible for repairing or replacing any equipment or facilities that become damaged or malfunction. This may involve sourcing replacement parts, hiring contractors for repairs, or purchasing new equipment.

19. **Restrictions**: The Concessionaire shall be responsible for obtaining all necessary permits, licenses, and approvals required by any applicable laws, rules, and regulations, including but not limited to health and safety codes, alcohol permits, and noise permits, and shall maintain all such permits, licenses, and approvals in good standing throughout the term of this Agreement. The Vendor shall comply with all laws and regulations that apply to its business and the activities that it conducts on Polk County Conservation Board ("PCCB") property. In addition, the Vendor shall comply with any restrictions on excessive noise or other activities that may disrupt the event or surrounding community, as determined by PCCB in its sole discretion. The Concessionaire shall ensure that all of its employees and agents comply with all applicable laws, rules, and regulations, and shall indemnify and hold harmless PCCB from any and all claims, damages, losses, liabilities, and expenses arising out

of or related to any violation of any such laws, rules, or regulations by the Concessionaire, its employees, or its agents.

20. **Security personnel**: The concessionaire is required to ensure the safety and security of all attendees and personnel during the event. To this end, the concessionaire must provide an adequate number of security personnel to monitor the event and respond to any security concerns that may arise.

    The concessionaire may be required to hire private security personnel or work with the event security team to fulfill this obligation. All security personnel must be trained and certified in accordance with local and state regulations and must comply with all applicable laws and regulations regarding security services.

    The concessionaire must also provide PCCB with a detailed security plan at least 30 days prior to the event, outlining the number and placement of security personnel, emergency response procedures, and any other relevant security details. PCCB reserves the right to review and approve the security plan, and may require modifications as deemed necessary to ensure the safety and security of all attendees and personnel.

    The concessionaire shall provide the Park Ranger with comprehensive security plans for all events. The Park Ranger shall be included in all communication pertaining to security planning, implementation, and updates. This includes but is not limited to sharing event schedules, site layouts, crowd management strategies, emergency response plans, and any other relevant security information. The concessionaire acknowledges and agrees that the involvement of the Park Ranger is essential to ensure the safety and security of the events, as well as compliance with applicable laws and regulations.

21. **Emergency response plan**: The concessionaire must prepare and maintain an emergency response plan that outlines specific procedures and protocols to be followed in the event of any security incidents or emergencies that may occur during the event. This plan should include detailed information on the types of incidents that may occur, the appropriate responses to these incidents, and the roles and responsibilities of all personnel involved in the response effort.

    The plan must also include information on communication protocols and procedures for notifying the appropriate authorities and emergency responders, as well as procedures for evacuating the premises and managing any potential hazards or threats to public safety.

    In addition, the concessionaire must ensure that all personnel involved in the response effort, including security personnel and other staff, are adequately trained and prepared to respond to emergencies in accordance with the emergency response plan. This may involve conducting regular training exercises and drills to test the effectiveness of the plan and identify areas for improvement.

22. **Indemnification**: The Concessionaire hereby agrees to indemnify and hold harmless PCCB, its officers, directors, employees, agents, and affiliates from and against any

and all claims, demands, damages, losses, expenses, or liabilities, including attorney's fees and costs, arising out of or in connection with the Services provided by the Concessionaire. This indemnification includes, but is not limited to, claims for personal injury, property damage, or any other harm that may arise as a result of the concessionaire's negligence, intentional acts, or failure to comply with any applicable laws, rules, or regulations.

The Concessionaire shall also be responsible for defending any claims, demands, or actions that may be brought against PCCB related to the Services provided by the Vendor, including any costs associated with such defense. The Concessionaire shall provide PCCB with prompt notice of any claim or demand, and shall cooperate fully with PCCB in the defense of any such claim or demand.

This indemnification obligation shall survive the termination or expiration of this Agreement and shall remain in effect for any claims arising out of the Services provided by the Concessionaire.

23. **Hours of Operation:** Shall be posted in a conspicuous location for public viewing, as directed by the PCCB. The Concessionaire shall have the right to not open, close early or adjust hours based on weather, use and/or demand for services upon written notification to Conservation's approval.

24. **Concession, Length and Payment:** The initial contract length shall be one year, with a two-year renewal allowed, for a total maximum of three years. It is important to note that renewals need to be mutually agreed upon by both parties involved in the contract.
The parties agree that the Concessionaire shall pay PCCB 15% of gross sales from all revenue streams derived from the Renaissance Faire and Haunted Scream Park, and all other events/vendors related to said events. Payment shall be made no later than the 15th of each month for the preceding month's sales. Both parties agree to negotiate in good faith during each renewal term. If an agreement cannot be reached, PCCB reserves the right to issue competitive bids for concession services at Renaissance Faire and Haunted Scream Park.

25. **Evaluation:**
The Vendor shall participate in an evaluation of performance at the end of each agreed upon term. The evaluation may cover, but is not limited to:

1. Financial Performance: The Vendor's financial performance shall be evaluated based on their ability to adhere to the agreed-upon payment schedule and to provide timely and accurate financial reports as per the contract terms.
2. Grounds and Structural Upkeep and Maintenance: The Vendor shall be evaluated based on their ability to maintain the grounds and structures in a safe and attractive condition, free of any hazards and in compliance with all applicable codes and regulations.
3. Customer Satisfaction: The Vendor shall be evaluated based on their ability to provide excellent customer service and maintain high levels of customer satisfaction. This shall include prompt response times, courteous and knowledgeable staff, and the ability to resolve customer issues in a timely and satisfactory manner.

The evaluation process shall be conducted on a regular basis, as per the contract terms, and the results of the evaluation shall be shared with the Concessionaire in a timely manner. The Concessionaire shall be provided with feedback and recommendations for improvement where necessary, and shall be given an opportunity to address any concerns raised during the evaluation process.

Payments to be made no later than:

- First Renaissance Faire: No later than June 15th
- Second Renaissance Faire: October 15th
- Haunted Scream Park: December 1st

26.**Fees/Licenses**: The Concessionaire shall be responsible for obtaining and maintaining all necessary licenses and permits required by law for their operations at the Renaissance Faire and Haunted Scream Park. This includes but is not limited to licenses for the sale of food, alcohol, and other products, as well as permits for entertainment, rides, and any other activities offered by the Concessionaire. The Concessionaire shall pay all required fees associated with obtaining and maintaining these licenses and permits, including any annual inspection fees. Failure to obtain or maintain any necessary licenses or permits may result in the termination of the contract and removal from the event. The Concessionaire shall provide proof of all necessary licenses and permits to PCCB upon request.

27. **Records:** The Concessionaire shall prepare and submit reports monthly to include detailed sales records. Monthly reports shall be due on the 15th of each month for the preceding month's activities/sales. At the end of the season, the Concessionaire shall provide a report for the season within thirty-days from the last day of operations.

28. **Public Records/Open Process**: The laws of Iowa require that all proposals be placed in the public domain and be opened to inspection by interested parties. Trade secrets or proprietary information that are recognized as such and are protected by law may be withheld if clearly identified as such. If a request is received to examine portions designated as proprietary or a trade secret, PCCB will notify the Concessionaire to permit the Concessionaire to defend the proprietary nature of the information.

29. **Charges:** The Board reserves the right to establish rental rates for equipment provided by PCCB and the Concessionaire retains the right to establish the prices for the products and services they provide. Concessionaire will prepare a formal list of prices for PCCB Director to approve prior to any rentals and sales.

Rates must be posted in full view of the public.

30. **Responsibilities of the Concessionaire**: It is further understood and agreed that neither the State of Iowa, the County of Polk, nor any agency thereof shall be responsible for accidents of any nature which may occur within the concession areas or in connection with food and beverage portion of the concession activities incidental to the operation under this permit. Concessionaire agrees to hold harmless and indemnify the Polk County Conservation, Polk County Government, its Elected Officials, Employees, Agents and Assigns, from any and all claims, demands, actions or causes of action of whatever character or nature, arising out of or by reason of personal property damage, personal

injury, bodily injury, or any other damage or injury which arises out of the Concessionaire's, his officers', agents' or employees', acts and/or omissions. The Concessionaire further agrees to pay the cost of any litigation (including attorney fees) arising out of the aforementioned claims, demands, action or causes of actions, regardless of their merit or lack thereof. In carrying out the provisions of this permit there shall be no liability, personal or otherwise upon the Polk County Conservation Board, Polk County Government, its Elected Officials, Employees, Agents and Assigns, due to or arising out of the acts or omissions of the Concessionaire or his/her officers, agents or employees.

The Concessionaire shall provide and maintain adequate insurance as described in Attachment C – Polk County Government, Insurance and Certificate Requirements.

The Concessionaire shall have the Polk County Conservation Board, Polk County Government, its Elected Officials, Employees Agents and Assigns included as additional insureds under said policy and shall provide evidence of same to the Director.

The Concessionaire shall protect all county property from damage by himself, his employees, the public or other elements. No trees or other vegetation may be removed or other natural features of the area disturbed without permission of the PCCB.

All rubbish, garbage and debris that may accrue due to the operation of the concession shall be collected daily and placed by the Concessionaire in trash containers.

The use of loudspeakers or other sound amplifying equipment shall not be so loud as to interfere with other park users as determined by the Park Ranger.

The PCCB may permit such remodeling of the interior or exterior of buildings as may be needed to best operate the concession and as may be mutually agreed on.

The PCCB reserves the right to use the concession building for storage purposes during the off-season when the concession is not in operation and reserves the right to enter the premises covered in this agreement at any time for the purpose of making alterations, improvements, repairs and to make periodic inspections of the concession as to cleanliness and operation.

It is understood that the Concessionaire, or his responsible agent, who shall be eighteen (18) years of age or older, shall be in active charge and be on the premises of the concession at all times that the concession is open for business.

No dogs, cats, birds or other pets are to be kept in, on, or around the premises covered by this agreement.

The Concessionaire shall be disqualified and the Concession Agreement void if the Concessionaire should engage in any business venture detrimental to, or in conflict with or in competition with this agreement.

31. **Capital Improvements:**

Any capital improvements made by the Concessionaire to PCCB's property shall become the property of PCCB upon completion of the work. The Concessionaire shall not remove or dispose of any equipment, materials, or structures used in the capital improvements without the express written consent of PCCB.

The Concessionaire shall provide PCCB with detailed plans and specifications for any proposed capital improvements, including timelines and estimated costs. PCCB shall have the right to review and approve all plans and specifications prior to commencement of work.

The Concessionaire shall be responsible for obtaining all necessary permits, licenses, and approvals required for the capital improvements, and shall ensure that all work is performed in compliance with all applicable laws, codes, and regulations.

PCCB shall have the right to inspect all work performed by the Concessionaire to ensure that it is completed to the PCCB's satisfaction. If any defects or deficiencies are found in the work, the Concessionaire shall promptly correct them at their own expense.

The Concessionaire shall be responsible for all costs associated with the capital improvements, including labor, materials, equipment, and any other expenses necessary to complete the work. PCCB shall not be responsible for any cost overruns or delays caused by the Concessionaire.

Upon completion of the capital improvements, the Concessionaire shall provide the County with all necessary documentation, including warranties and maintenance instructions, and shall ensure that all work areas are cleaned up and restored to their pre-construction condition.

All capital improvements made by the Concessionaire shall be subject to the terms and conditions of this contract, and the Concessionaire shall be liable for any damages caused by their workmanship or materials.

32. **Office Trailer Usage:**

The concessionaire shall have the right to utilize the office trailer (hereinafter referred to as the "Trailer") exclusively during the contracted period as stipulated in the Concessionaire Agreement. The concessionaire acknowledges that the usage of the Trailer is strictly limited to the agreed-upon duration and does not extend beyond the contracted times.

Outside of the contracted period, the concessionaire shall vacate the Trailer and shall not have any rights or entitlements to access or utilize the office space within the Trailer. The concessionaire shall ensure that the Trailer is promptly cleaned and left empty upon the conclusion of their contracted period.

Any use of the Trailer beyond the contracted times, without the express written consent of the party granting the usage rights, shall be considered a breach of this Agreement and may result in termination or other legal remedies as determined by the party granting the usage rights.

This clause serves to emphasize that the concessionaire's rights to the Trailer are limited to the contracted times, ensuring that the office space is available for other designated purposes during non-concessionaire periods.

Limitations:
The Concessionaire shall comply with all laws, rules and regulations of the federal, state and county including but not limited to the American Disabilities Act P.L. 101-336, 1990, and applicable regulations therein (including but not limited to 28 CFR, Parts 35-36 and the American Disabilities Accessibility guidelines) and secure necessary licenses and permits as pertain to the operation of the various parts of the concession. Nothing in this permit shall restrict the state, county or any agency thereof, from entering the premises in order to carry out its responsibilities.

All facilities covered under this contract shall not be used for the private use by the Concessionaire or his guests except as authorized by the PCC Director.

The sale, use, or installation of activities, services, or devices other than those covered in this permit must have the approval of the PCC Director.

The Concessionaire and employees may not discriminate against any individual because of race, creed, age, sex, color or national origin in serving the public or in employment.

At the end of this one-year contract, the PCCB and Concessionaire agree to negotiate the first renewal term at least 60 days prior to expiration.

If at any time the Board determines that it is in the public's interest, this agreement may be cancelled by giving 30 days' written notice.

This permit, or any part thereof, cannot be sublet or assigned in any manner without the written consent of the Director.

IN TESTIMONY WHEREOF, witness the signature of the parties hereto as of the date executed by both parties.

POLK COUNTY CONSERVATION

____ ____________________
Richard Leopold, Director, Polk County Date

____ ____________________
Date

ATTACHMENT C

POLK COUNTY GOVERNMENT

SMALL BID INSURANCE REQUIREMENTS

CONTRACTOR OBLIGATION

The contractor shall secure and maintain throughout the duration of this contract, insurance of such types and not less than the amounts specified herein. The Contracting Authority (POLK COUNTY CONSERVATION AND POLK COUNTY GOVERNMENT) shall be named as "Additional Insured," using the following language: **"POLK COUNTY CONSERVATION, POLK COUNTY GOVERNMENT, its Elected** Officials, Employees, Agents, and Assigns**."**

Insurance coverage will be considered acceptable when provided in one of the following methods:

The Contractor shall furnish the Contracting Authority with a proper Certificate of Insurance or affidavits executed by representatives of duly qualified insurance companies, doing business in IOWA for approval by the Contracting Authority.

The Certificate shall identify the following: the insurance company firm name and address; contractor firm name and address; insurance policy(s) number(s); policy period; type of policy and coverage; limits of coverage; description of operations covered; certificate holder/"Additional Insured"; and cancellation clause.

All certificates submitted for the purpose of complying with these specifications shall identify as the "Named Insured" the Contractor; and the Contracting Authority, its agents and representatives, as "Additional Insureds."

This requirement shall apply with equal force, whether the work is performed by (1) persons employed directly by the Contractor, (2) by a subcontractor, or (3) by an independent contractor.

Regardless of such approval by the Contracting Authority, it shall be the responsibility of the Contractor to maintain adequate insurance coverage at all times, and failure to do so shall not relieve the Contractor of any contractual obligation or responsibility. Failure on the part of the Contractor to maintain this insurance in full effect will be treated as such by the Contracting Authority. Failure on the part of the Contractor to comply with the requirements of this article will be considered sufficient cause to suspend the work, withhold payment(s), and/or be disqualified from receiving further contract awards.

Insurance policies filed with the Contracting Authority shall state that thirty (30) calendar days prior written notice will be given to the Contracting Authority before any policy covered thereby is changed or canceled.

Evidence of insurance coverage as identified and stipulated by these specifications shall be approved by the Contracting Authority prior to any work being performed by the Contractor, subcontractor(s), or agents of the Contractor.

TYPES OF INSURANCE

A. **Workers' Compensation and Employers' Liability**. This insurance shall protect the Contractor against all claims under Iowa Workers' Compensation Law. The Contractor shall also be protected against claims for injury, disease, or death, or employees which for any reason, may not fall within the provisions of the Workers' Compensation Law. The insurance requirements shall not be less than the following:

1. Workers' Compensation – Statutory

2. Employers' Liability

a. $500,000 Per Accident
b. $500,000 Disease, Policy Limit
c. $500,000 Disease, Each Employee

B. Commercial General Liability. This insurance shall be written in comprehensive form and shall protect the Contracting Authority against all claims arising from injuries to any person or damage to property of others arising out of any negligence of the Contractor.

The Contractor shall provide and maintain insurance coverage to protect the Contracting Authority against any and all claims for damages for personal injury, including accidental death, as well as from claims under this contract, whether such operations be performed by the Contractor or any subcontractors, or by one directly or indirectly employed by the Contractor or any subcontractors.

The liability limits shall not be less than the following:

Each Occurrence	$ 1,000,000
General Aggregate	2,000,000
Products-Completed Operations Aggregate	2,000,000
Personal & Advertising Injury	2,000,000
Fire Damage (Any one Fire)	100,000
Medical Expenses (Any One Person)	5,000

($2,000,000 per occurrence single limit will meet the requirement.)

C. Automobile Liability. This insurance shall be written in comprehensive form and shall protect the Contractor against all claims for the operation of motor vehicles, whether they are owned, non-owned, or hired, by or on behalf of the Contractor. The liability limits shall not be less than the following:

$1,000,000 CSL (Combined Single Limit) per accident

D. Excess Liability Umbrella. The Contractor shall procure and maintain, during the life of this contract $1,000,000 Excess Liability Coverage (Umbrella). This coverage is over and above the underlying coverage of $2,000,000 the General Liability and Automobile & Employers Liability.

E. Builders Risk Insurance. Coverage shall be equal to 100 per cent of the replacement cost of all proposed construction up to $100,000 (when applicable).

F. Subcontractors. The contractor shall require that any of its agents and / or subcontractors, who perform work and/or services pursuant to the provisions of this contract, meet the same insurance requirements as are required of the prime contractor.

G. Performance Bond. A bond for the faithful and timely completion of the entire proposal must be provided with a limit of 100 percent of the contract sum (when applicable).

H. Liquor Liability. Comprehensive liquor liability coverage shall be purchased with limits not less than $1,000,000. This coverage is mandatory when the contractor/vendor will be serving alcohol for consumption.

MISCELLANEOUS.

A. Cost of Insurance. The Contracting Authority shall make no direct payments to the Contractor for any costs associated with securing, maintaining, and/or providing the insurance coverage required by the Contract Department. All costs of such coverage shall be included in the prices bid and no additional payments for such costs shall be made.

B. Personal Liability of Public Officials. In carrying out any of the provisions of the contract, or in exercising any power or authority granted to any agent or representative of the County Board thereby, there shall be no liability upon such agent or representative, including the engineer or authorized assistants, either personally or as an official of the County Board, it being understood that in such matters they act as the agent and representative of the County Board.

C. Non-Waiver of Legal Rights. The Contracting Authority shall not be precluded or estopped by any measurement, estimate, or certificate made either before or after the completion and acceptance of the work and payment thereof, from showing the true amount and character of the work performed and the materials furnished by the Contractor, or from showing that such measurement, estimate, or certificate is untrue or incorrectly made or that the work or materials do not in fact conform to the contract.

The Contracting Authority shall not be precluded or estopped, notwithstanding any such measurement, estimate, or certificate and payment in accordance therewith, from recovering from the Contractor and Surety such damages as it may sustain by reason of failure to comply with the terms of the contract. Neither the acceptance by the Contracting Authority, nor any representative(s), nor payment for acceptance of the whole or any part of the work, nor any extent of time, nor any possession taken place by the Contracting Authority shall operate as a waiver of any portion of the contract, or any powers herein reserved, or any right to damages herein provided. A waiver of any breach of the contract shall not be held to be a waiver of any other subsequent breach.

D. Litigation for Claims and Save Harmless Clause. The Contractor shall indemnify and hold harmless the Contracting Authority, Board of Supervisors, Elected Officials, Employees, Agents, and Assigns from all suits, actions, or claims of any character brought because of any injuries or damages received or sustained by any person(s), or property because of any act, omission, or neglect in safeguarding or performing the work, or through use of unacceptable materials in constructing the work.

The Contractor shall also hold the Contracting Authority, Board of Supervisors, Elected Officials, Employees, and their Assigns harmless from all claims for damages arising from any neglect, default, or mismanagement or omission of the Contractor, any subcontractor(s), agent, or employee in the performance of any duties imposed by this contract, or by law. If any litigation on account of such claims shall be commenced against the Contracting Authority, Board of Supervisors, Elected Officials, Employees, Agents, or Assigns, the Contractor, upon notice thereof from the Contracting Authority, shall defend the same at their cost and expense; and the record of any judgement rendered against the Contracting Authority, Board of Supervisors, Elected Officials, Employees, Agents, or Assigns to recover the full amount thereof, with interest and costs, and attorney's fees incurred by said Contracting Authority. The right of action therefore shall accrue to the Contracting Authority as soon as judgement shall have been rendered, whether the Contracting Authority shall have paid the amount or not.

THE CONTRACTOR IS REQUIRED TO BE IN ACCORDANCE WITH ALL O.S.H.A. SAFETY GUIDELINES AND REGULATIONS AT ALL TIMES DURING THE CONTACT PERIOD.

POLK COUNTY GOVERNMENT

CERTIFICATE OF INSURANCE

REQUIREMENTS.

Certificates of Insurance are required on every contract to show proof of adequate insurance. A Certificate shall be submitted with each set of contract documents to the Risk Manager for review. Contract documents will not be submitted to the Conservation Board for execution until the Certificate of Insurance is correct and has received staff approval. The Certificate(s) must specifically identify the project (No yearly or all – project certificates will be accepted), and show POLK COUNTY GOVERNMENT, its Elected Officials, Employees, Agents, and Assigns, as "Additional Insured."

The following statements are requirements and should aid in the preparation of an acceptable certificate. The statement numbers refer to the circled numbers on the sample certificate.

1. The name of the producer with complete address, zip code, and telephone number.

2. The Name of the Insured with complete address, zip code, and telephone number.

3. The issue date must be complete.

4. The insurance companies affording coverage must be named and approved by the Insurance Commission of the State of Iowa. The Company letters (4a) must be placed along the corresponding insurance coverages (4b).

5. All Certificates shall state that XCU Coverage is included. (If applicable)
   The limits listed below are minimum acceptable limits. The Insurance Agent should review the Contract Special Provisions for each project, and verify with POLK COUNTY RISK MANAGEMENT that the insurance requirements have not been changed, as limits may vary from project to project.

6. General Liability:

Each Occurrence	$ 1,000,000
General Aggregate	$ 2,000,000
Product Completed Operations Aggregate	$ 2,000,000
Personal & Advertising Injury	$ 2,000,000
Fire Damage (Any one fire)	
Medical Expense (Any one person)	$ 5,000

   ($2,000,000 per occurrence single limit will meet the requirement)

7. Automobile Liability:

Each Occurrence	$ 1,000,000
General Aggregate	$ 2,000,000

8. **Workers' Compensation:**
   - Statutory Benefits
   - Employers' Liability (Coverage B) $ 500,000

9. Excess Liability Umbrella $ 1,000,000

10. Builders Risk
    a. Shall be equal to 100 per cent of replacement cost of construction.
       (When Applicable)

11. Performance Bond
   a. For the faithful and timely completion of the entire proposal with a limit of 100 percent of the contract sum
   (When Applicable)

12. Liquor Liability $ 1,000,000
   a. Mandatory for contractors/vendors who serve alcohol for consumption

13. Policy numbers for all policies must be included

14. Policy effective dates for all policies must be included

15. Policy expiration dates must be included.

16. Description of Operations: The Project Name and Work Order Number must be shown. All contracts require "POLK COUNTY CONSERVATION, POLK COUNTY GOVERNMENT, its Elected Officials, Employees, Agents, and **Assigns"** to be additionally insured.

17. POLK COUNTY CONSERVATION AND POLK COUNTY GOVERNMENT must clearly and explicitly be shown as the Certificate Holder.

18. The Cancellation Clause must read exactly as follows:
   "Should any of the above described policies be canceled before the expiration date thereof, the issuing company will mail thirty (30) days written notice to the cer**tificate holder named to the left."**

19. All certificates of insurance must be signed by an authorized representative.

20. In order to preserve the governmental immunities available as defenses to contractor (or Licensor) and its officials and employees, any insurance policy must contain an endorsement with the following language:

"The Company and the Insured expressly agree and state that the purchase of this policy of insurance by the Insured does not provide coverage for torts specified in Iowa Code 670.4, and that the Insured does not waive any of the defenses of governmental immunity available to the Insured under Iowa Code 670.4 as it now exists and as it may be amended from time to time. The Company and the Insured further expressly agree and state that the Insured may, at any time, assert any of the governmental immunity defenses available to it without **affecting the coverage afforded under this policy."**

	Date	September 13, 2023
POLK COUNTY CONSERVATION	Item No. Roll Call No. Submitted by:	ACTION 23-0916 Amanda Brown Conservation Ecologist

AGENDA HEADING:
Authorizing additional funds for the Switchgrass and Lane wetland restoration project at Chichaqua Bottoms Greenbelt, not to exceed $75,000.

INFORMATION:
The Lane and Switchgrass wetland restoration project involves restoring eight wetlands and one oxbow on two parcels at Chichaqua Bottoms Greenbelt. Staff worked with the Great Outdoors Foundation (GOF) and the Natural Resources Conservation Service (NRCS) to obtain funding to support this project. An amount of $358,198 ($273,379 for Switchgrass parcel and $84,819 for the Lane parcel) has been secured from the NRCS through their Environmental Quality Incentives Program (EQIP) for these projects.

An invitation to bid was sent out to contractors in May of 2023. The bid and contract for the project was awarded to Wenthold Excavating, LLC in the amount of $180,308.50. Construction of the wetland basins on the Switchgrass parcel began at the end of August 2023. During excavation of the first one of the wetland basins, an area of sand was discovered. Presence of sand poses a threat to the integrity of the wetlands by reducing the ability to hold water due to its permeable nature.

To remedy this problem, staff require over excavation of the sandy areas, followed by backfilling with clay or similar material to a depth of 18-24" and packing of the clay. Due to the additional excavation and work needed to complete this repair, the contractor will require additional funds. To expedite similar repair, in the case of sand being found in other excavation sites, staff are asking for a not to exceed amount in order to prevent having to poll the Board for additional funds. We do not anticipate expending all of these funds. If approved, these funds would bring the total project cost to $280,308.50. This is still well within the amount allocated by the NRCS for this project ($358,198), so there are still no funds anticipated to be expended by Polk County Conservation.

FISCAL IMPACT:

<u>Amount</u>:	Funding provided by NRCS-EQIP	$358,198.00
	Original contracted cost	-$180,308.50
	This "not to exceed" request	-$75,000.00
	Balance of NRCS funds	$102,889.50

<u>Funding Source</u>: NRCS EQIP Program

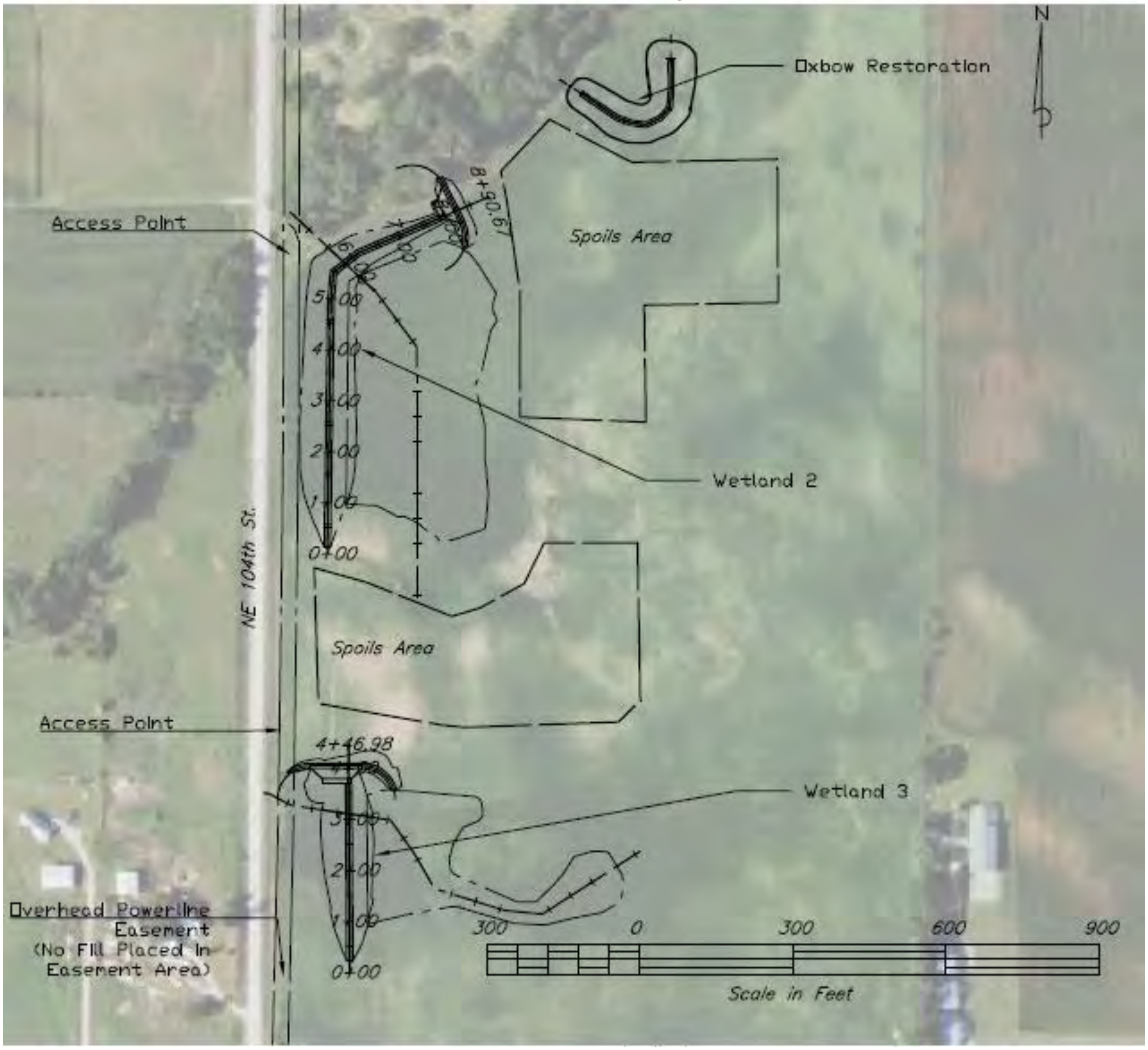
PREVIOUS BOARD ACTION(S):
<u>Date</u>: June 14th, 2023
<u>Roll Call Number</u>: 23-0612 (Yea – 3, Absent – 2)

Action: Awarding lowest contractor bid for wetland excavation at the Switchgrass and Lane parcels at Chichaqua Bottoms Greenbelt to Wenthold Excavating, LLC in a maximum contracted amount of $180,308.50 with a 5% contingency.

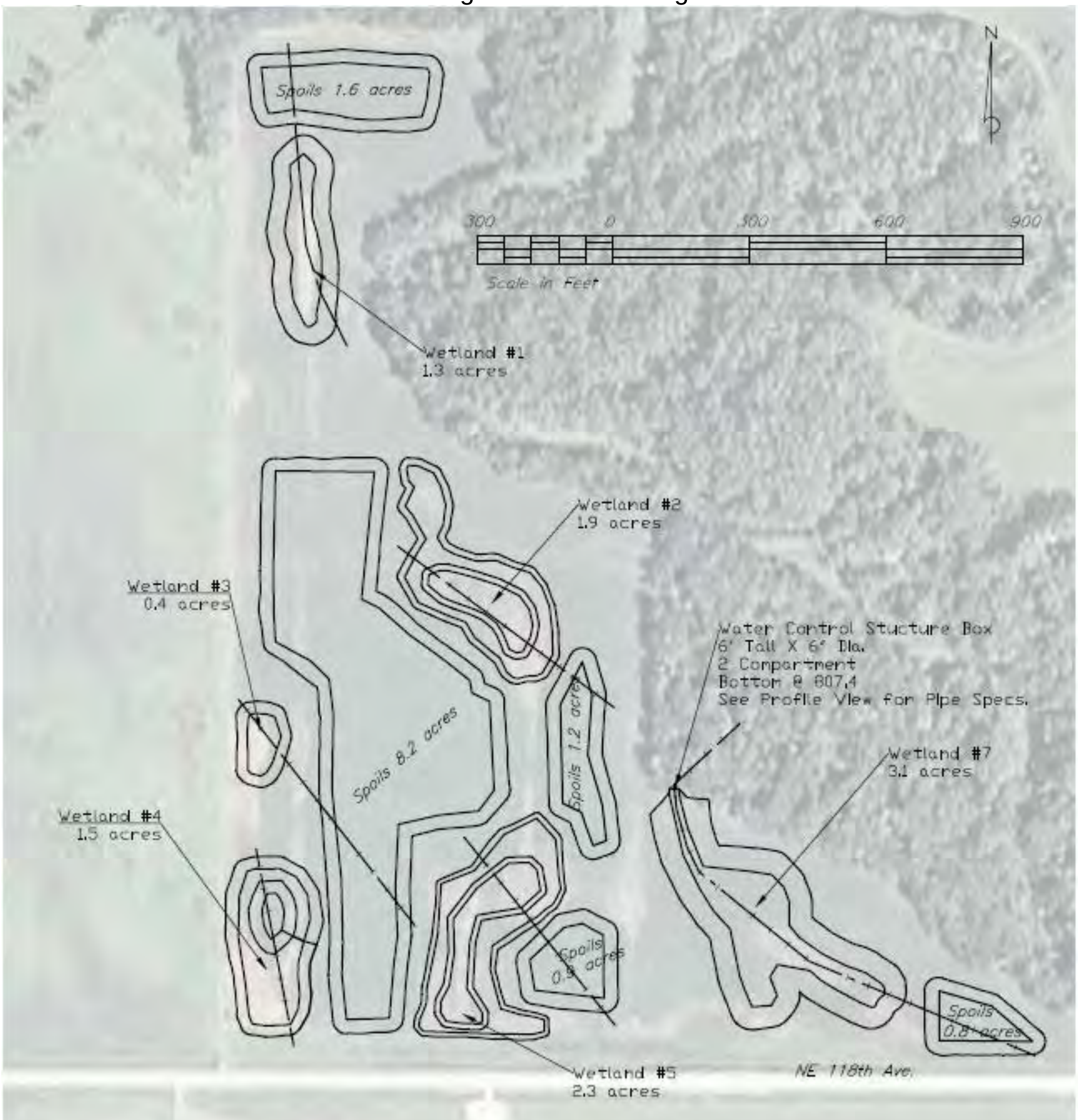
RECOMMENDATION: Authorizing additional funds for the Switchgrass and Lane wetland restoration project at Chichaqua Bottoms Greenbelt, not to exceed $75,000.

Project Location

Lane Parcel Design



Switchgrass Parcel Design



POLK COUNTY CONSERVATION	Date	September 13, 2023
	Item No. Roll Call No. Submitted by:	ACTION 23-0917 Doug Sheeley Natural Resources Manager

AGENDA HEADING:
Approving purchase of native grass and wildflower seed in an amount not to exceed $185,837 for 13 restoration/mitigation banking seeding projects on approximately 250 acres that will be completed between November 2023 and May 2024.

INFORMATION:
The Polk County Conservation (PCC) Natural Resources Division will be embarking on an ambitious program of native/restoration seeding projects between November 2023 and May 2024. This program will include projects at eight parks/natural areas and encompass more than 250 acres.

Grant funding has been secured for 23.5 acres. Harvested seed from local remnant and restored parcels by staff and volunteers is expected to cover an additional 79 acres of need. The cost of planting the remaining acreage – 146.5 acres – will need to be funded by PCC. Most of this area represents seeding needs for the Trails End Mitigation Bank, which were not included in the construction contract. The cost to PCC for purchased seed is expected to cost $185,837 and will be covered by bond and mitigation banking funds.

FISCAL IMPACT:
<u>Amount</u>: $185,837
<u>Funding Source</u>: Polk County Water & Land Legacy Bond (Natural Resource and Water Quality categories) & mitigation banking revenues

PREVIOUS BOARD ACTION(S):
None

RECOMMENDATION: Approving purchase of native grass and wildflower seed in an amount not to exceed $185,837 for 13 restoration/mitigation banking seeding projects on approximately 250 acres that will be completed between November 2023 and May 2024 and directing the Director or Deputy Director to sign said purchased agreements.

	Date	September 13, 2023
POLK COUNTY CONSERVATION	Item No. CLOSED SESSION Roll Call No. 23-0918 Submitted by:	

AGENDA HEADING:
Action from Closed Session discussion of land acquisition opportunities.

INFORMATION:
Polk County Conservation has the opportunity to acquire land with excellent conservation potential at several locations within Polk County. Cost-share opportunities may be available to assist with acquisition and restoration expenses. Nearby PCC landholdings add additional interest to these properties.

FISCAL IMPACT: TBD

PREVIOUS BOARD ACTION(S):

Date:
RollCall:
Action:

RECOMMEDATION:
Direct staff to proceed on these land acquisition opportunities based on information presented and pursuant to Board discussion.