



# BOARD MEETING

October 14, 2015

5:30 p.m.

Polk County Administration Bldg., Room 120  
111 Court Ave., Des Moines

## AGENDA

- 1) Roll Call
- 2) Public Comments
- 3) Financial Reports
- 4) Encroachment Policy
- 5) Action on the Minutes of the Previous Meeting(s)

### CONSENT AGENDA

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) Action on Bill List

### ACTION ITEMS

- 7) **Public Hearing & Award of Bid: Jester Park Septic System:** Approving plans, specifications, form of contract documents, engineer estimate and designating lowest responsible bidder for installation of a new Peat septic system at Jester Park
- 8) **Awarding Jester Lodge Guest Services Contract:** Awarding Guest Services Management contract to Food With Flair for bookings and catering at the Jester Park Lodge with an effective date of January 1, 2017 and authorizing Board Chair to sign Agreement upon Legal review and approval as to form
- 9) **Jester Park Cabins, Addition of Internal Staircase:** Approving purchase of materials and perform the work necessary to construct 4 enclosed spiral stairway additions to 4 Jester Park cabins
- 10) **Land Acquisition: Metro Waste Authority:** Approving offer to buy a tract of land near the Metro Waste Authority East facility adjacent to County owned property
- 11) **Sustainable Funding, Resolution:** Approving resolution encouraging the Iowa Legislature to develop and pass legislation that Funds the Natural Resources and Outdoor Recreation Trust Fund in 2016
- 12) **Cooperative Agreement with Iowa Department of Natural Resources:** Approving Cooperative Agreement by and between the Iowa Department of Natural Resources and Polk County Conservation in the amount of \$4,982,196 to support the Easter Lake Park lake restoration developments

### BOARD DISCUSSION

- 13) Director's Report
- 14) Board Chair and Member's Remarks

### ADJOURNMENT

## 2015- 2016 Revenue Budget

- as of 09/30/15 (25% of budget year expired)

UNIT #	UNIT	Revenue Budget	Total Revenues Received	Balance Due	% Received
<b>General - Fund 1</b>					
0213	Equipment	\$ 5,000	\$ -	\$ 5,000	0.0%
6006	Environmental Ed	\$ 56,000	\$ 3,035	\$ 52,965	5.4%
6009	Natural Resources	\$ 76,710	\$ 301	\$ 76,409	0.4%
6101	Administration	\$ 142,550	\$ 63,452	\$ 79,098	44.5%
6103	Community Outreach	\$ -	\$ -	\$ -	0.0%
6104	Conservation Grants	\$ -	\$ -	\$ -	0.0%
6110	Parks Advocacy Unit	\$ 416,100	\$ 203,307	\$ 212,794	48.9%
6119	Construction/Maint.	\$ 1,000	\$ 102	\$ 899	0.0%
6124	Equestrian Center	\$ 300,000	\$ 76,163	\$ 223,837	25.4%
<b>Sub-Total - General Fund 1</b>		<b>\$ 997,360</b>	<b>\$ 346,359</b>	<b>\$ 651,001</b>	<b>34.7%</b>
<b>REAP - Fund 26</b>					
0211	Resource Enhancement	\$ 156,400	\$ 9,881	\$ 146,519	6.3%
<b>Reserve - Fund 50</b>					
0210-0214	Special Projects	\$ -	\$ -	\$ -	0.0%
<b>Bond - Fund 51</b>					
0210	Water & Land Dev & Trails	\$ 2,612,500	\$ 60,053	\$ 2,552,447	2.3%
<b>Conservation Enterprises - Fund 286</b>					
6121	Golf Course	\$ 215,100	\$ 68,359	\$ 146,741	31.8%
6123	JP Cabins	\$ 52,750	\$ 18,780	\$ 33,970	35.6%
<b>Sub-Total - Enterprises Fund 286</b>		<b>\$ 267,850</b>	<b>\$ 87,139</b>	<b>\$ 180,711</b>	<b>32.5%</b>
<b>Grand Total - Conservation</b>		<b>\$ 4,034,110</b>	<b>\$ 503,432</b>	<b>\$ 3,530,678</b>	<b>12.5%</b>

## 2015-2016 Expense Budget

- as of 09/30/15 (25% of budget year expired)

UNIT #	UNIT	Expense Budget	Total Expended	Balance Remaining	% Expended
<b>General - Fund 1</b>					
0213	Equipment	\$ 158,500	\$ 50,976	\$ 107,524	32.2%
6006	Environmental Ed	\$ 392,322	\$ 115,786	\$ 276,536	29.5%
6009	Natural Resources	\$ 667,829	\$ 203,680	\$ 464,149	30.5%
6101	Administration	\$ 1,085,395	\$ 286,870	\$ 788,525	27.4%
6103	Community Outreach	\$ 219,708	\$ 53,827	\$ 165,881	24.5%
6104	Conservation Grants	\$ -	\$ -	\$ -	0.0%
6110	Parks Advocacy Unit	\$ 476,968	\$ 140,977	\$ 335,991	29.6%
6119	Construction/Maint.	\$ 1,123,966	\$ 370,023	\$ 753,943	32.9%
6124	Equestrian Center	\$ 424,376	\$ 190,505	\$ 233,871	44.9%
<b>Sub-Total - General Fund 1</b>		<b>\$ 4,549,064</b>	<b>\$ 1,422,644</b>	<b>\$ 3,126,420</b>	<b>31.3%</b>
<b>General Supplemental - Fund 2</b>					
<b>All Units Benefits (PERS/FICA/Ins, Etc.)</b>		<b>\$ 1,083,343</b>	<b>\$ 275,494</b>	<b>\$ 807,849</b>	<b>25.4%</b>
<b>Risk Management - Fund 3</b>					
6100	Insurance, Med., Work. Comp.	\$ 96,300	\$ 65,746	\$ 30,554	68.3%
<b>REAP - Fund 26</b>					
0211	Resource Enhancement	\$ 127,651	\$ 54,977	\$ 72,674	43.1%
<b>Reserve - Fund 50</b>					
0210-0214	Trails, Special Projects	\$ 520,000	\$ -	\$ 520,000	0.0%
<b>Bond - Fund 51</b>					
0210	Water & Land Dev & Trails	\$ 4,433,000	\$ 824,265	\$ 3,608,735	18.6%
<b>Conservation Enterprises - Fund 286</b>					
6121	Golf Course	\$ 265,000	\$ 10,616	\$ 254,384	4.0%
6123	JP Cabins	\$ 59,412	\$ 13,677	\$ 45,735	23.0%
<b>Sub-Total - Enterprises Fund 286</b>		<b>\$ 324,412</b>	<b>\$ 24,293</b>	<b>\$ 300,119</b>	<b>7.5%</b>
<b>Grand Total - Conservation</b>		<b>\$ 11,133,770</b>	<b>\$ 2,667,419</b>	<b>\$ 8,466,351</b>	<b>24.0%</b>

**PCWLL EXPENDITURES AS OF :  
September 30, 2015**

SUB- LEDGER	PROJECT	DECEMBER 2013 BOND ISSUANCE	JUNE 2015 BOND ISSUANCE	CONSTRUCTION COSTS	CONTRACTED CONSTRUCTION EXPENDITURES	ENGINEERING & MISC. COSTS CONTRACTED	ACTUAL CONSTRUCTION EXPENDITURES	ACTUAL ENGINEERING EXPENDITURES	ACTUAL MISCELLANEOUS EXPENDITURES	GRANT REVENUES AND DONATIONS	ACTUAL COSTS TO DATE	ACTUAL BALANCE REMAINING
C05-R003	GAY LEA WILSON TRAIL CONNECTION (DSM-ANKEN)	\$ 50,600	\$ -	\$ 787,580	\$ 254,644	\$ -	\$ 77,032	\$ -	\$ 175	\$ (787,462)	\$ 50,443	\$ 157
C06-6134	CBG SHAW ACQUISITION	\$ 430,915	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 691,636	\$ (258,860)	\$ 432,776	\$ (1,861)
C08-6142	JESTER PARK CABINS	\$ 687,894	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 687,625	\$ 269
C11-6205	CVT CONNECTOR-BROADWAY TO BONDURANT	\$ 36,818	\$ 1,565,933	\$ 1,935,769	\$ 174,091	\$ -	\$ 131,607	\$ -	\$ 7,262	\$ (757,671)	\$ 1,335,612	\$ 267,139
C12-6213	CBG WELL REPLACEMENT	\$ 73,859	\$ -	\$ 71,746	\$ -	\$ -	\$ 150	\$ -	\$ 1,963	\$ -	\$ 73,859	\$ 0
C12-6214	CBG OBSERVATION DECK	\$ 83,844	\$ -	\$ -	\$ 11,200	\$ -	\$ 11,200	\$ -	\$ -	\$ -	\$ 89,040	\$ (5,196)
C12-6218	JP EQUIPMENT MAINTENANCE BLDG RELOCATION	\$ 450,000	\$ 50,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 420,241	\$ 79,759
C12-6219	EC IMPROVEMENTS	\$ 10,671	\$ -	\$ -	\$ -	\$ -	\$ 1,118	\$ -	\$ -	\$ -	\$ 10,671	\$ 0
C12-6220	4-MILE CREEK BANK STABILIZATION	\$ 340,725	\$ 650,000	\$ -	\$ 22,500	\$ -	\$ 20,309	\$ -	\$ -	\$ -	\$ 20,309	\$ 970,416
C12-6221	JP CONSERVATION CENTER	\$ 2,404,200	\$ 1,595,800	\$ -	\$ 1,445,722	\$ -	\$ 765,269	\$ -	\$ 5,683	\$ (412,825)	\$ 358,127	\$ 3,641,873
C12-6222	CBG MASTER PLAN	\$ 106,000	\$ -	\$ -	\$ 98,368	\$ -	\$ 95,859	\$ -	\$ -	\$ -	\$ 95,859	\$ 10,141
C12-6223	ACKELSON TRAIL PHASE I (fkn EL Trail Phase I)	\$ 1,100,532	\$ -	\$ 903,781	\$ 176,108	\$ -	\$ 176,108	\$ -	\$ 3,762	\$ -	\$ 1,083,651	\$ 16,881
C12-6224	ACKELSON TRAIL PHASE II (fka EL Trail Phase II)	\$ 141,013	\$ 227,871	\$ 1,043,238	\$ 205,658	\$ -	\$ 218,505	\$ -	\$ 14,872	\$ (532,000)	\$ 725,230	\$ (356,346)
C12-6225	ACKELSON TRAIL PHASE III (fka EL Trail Phase III)	\$ -	\$ 498,000	\$ -	\$ 159,534	\$ -	\$ 11,238	\$ -	\$ -	\$ -	\$ 62,362	\$ 435,638
C12-6226	FDM POND IMPROVEMENTS & SEDIMENT BASIN	\$ 854,903	\$ -	\$ 723,989	\$ 132,209	\$ -	\$ 136,036	\$ -	\$ 22,911	\$ (200,000)	\$ 728,346	\$ 126,557
C12-6227	FDM PARK IMPR-SHELTER/TRAILS/PENINSULA	\$ 81,179	\$ 1,332,169	\$ -	\$ 59,245	\$ -	\$ 140,968	\$ -	\$ 113,352	\$ -	\$ 254,320	\$ 1,159,028
C12-6228	JP PARK IMPROVEMENTS-CAMP AREA #2 ELECTRIC	\$ 410,000	\$ -	\$ 336,945	\$ 29,200	\$ -	\$ 30,450	\$ -	\$ 15,516	\$ -	\$ 382,911	\$ 27,089
C12-6229	HTT CONNECTOR TO GLW (fka Neal Smith)	\$ 9,800	\$ -	\$ -	\$ 9,800	\$ -	\$ 11,204	\$ -	\$ -	\$ -	\$ 11,204	\$ (1,404)
C12-6230	TM CAMP CREEK STABILIZATION	\$ 1,097,465	\$ -	\$ 876,665	\$ 194,600	\$ -	\$ 198,000	\$ -	\$ 113	\$ -	\$ 1,065,807	\$ 31,658
C12-6231	TM PARK IMPROVEMENTS& SHOWER HOUSE	\$ 119,000	\$ 725,000	\$ -	\$ 57,630	\$ -	\$ 57,553	\$ -	\$ 226	\$ (1,205)	\$ 56,574	\$ 787,426
C12-6232	YB PARK IMPROVEMENTS	\$ 87,000	\$ 290,000	\$ -	\$ 173,450	\$ -	\$ 47,640	\$ -	\$ 113	\$ -	\$ 55,797	\$ 321,203
C12-6233	TRAIL IMPROVEMENTS ALL AREAS	\$ 100,000	\$ 350,000	\$ -	\$ 12,000	\$ -	\$ 12,000	\$ -	\$ 3	\$ -	\$ 23,228	\$ 426,772
C12-6234	JP ENTRANCE RELOCATION	\$ 586,000	\$ 660,000	\$ 279,839	\$ 73,050	\$ -	\$ 80,235	\$ -	\$ 3,186	\$ -	\$ 363,260	\$ 882,740
C12-6235	CBG WOOSLEY PROPERTY-NO SALE	\$ 1,200	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,200	\$ -	\$ 2,200	\$ (1,000)
C12-6236	CBG MENDENHALL ACQUISITION	\$ 676,267	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 681,167	\$ -	\$ 681,167	\$ (4,900)
C12-6237	CXT VAULT TOILETS	\$ 75,000	\$ 180,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 81,790	\$ -	\$ 81,790	\$ 173,210
C12-6238	CBG WETLANDS/DRAINAGE RESTORATION	\$ 104,476	\$ 350,000	\$ -	\$ 86,476	\$ -	\$ 82,719	\$ -	\$ -	\$ -	\$ 82,719	\$ 371,757
C12-6239	YB DAM REPAIRS	\$ 797,000	\$ -	\$ 775,964	\$ 112,525	\$ -	\$ 112,507	\$ -	\$ 9,626	\$ -	\$ 898,097	\$ (101,097)
C12-6240	BEAVER CREEK LAND ACQUISITION	\$ 93,469	\$ -	\$ -	\$ -	\$ -	\$ 457	\$ -	\$ 93,012	\$ -	\$ 93,469	\$ 0
C12-6242	ROAD & PARKING LOT RESURFACING ALL AREAS	\$ 200,000	\$ 830,000	\$ -	\$ -	\$ -	\$ 200,237	\$ -	\$ -	\$ -	\$ 200,237	\$ 829,763
C12-6243	CAMP CREEK-MILLER/RIST LAND ACQUISITION	\$ 342,197	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 342,197	\$ -	\$ 342,197	\$ -
C12-6244	CBG AIRPORT 16 ACQUISITION	\$ 75,588	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 75,588	\$ -	\$ 75,588	\$ -
C12-6245	YB ALITZ PROPERTY ACQUISITION	\$ 298,950	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 298,950	\$ -	\$ 298,950	\$ 0
C12-6246	CBG FREELAND LAND ACQUISITION	\$ 204,437	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 204,437	\$ -	\$ 204,437	\$ -
C12-6247	CBG AIRPORT 60 LAND ACQUISITION	\$ 238,687	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 242,087	\$ -	\$ 242,087	\$ (3,400)
C12-6248	CBG EVERLY PROPERTY-NO SALE APPRAISAL ONLY	\$ 1,200	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,200	\$ -	\$ 1,200	\$ -
C12-6249	BROWN'S WOODS TRAILHEAD IMPROVEMENTS	\$ 90,700	\$ -	\$ 48,320	\$ 5,000	\$ -	\$ 5,225	\$ -	\$ 15,817	\$ -	\$ 109,108	\$ (18,408)
C12-6250	YB PREIST PROPERTY ACQUISITION	\$ 1,500	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 321,640	\$ -	\$ 321,640	\$ (320,140)

PCWLL EXPENDITURES AS OF :  
September 30, 2015

SUB-LEDGER	PROJECT	DECEMBER 2013 BOND ISSUANCE	JUNE 2015 BOND ISSUANCE	CONSTRUCTION COSTS	ENGINEERING & MISC. COSTS	ACTUAL CONSTRUCTION EXPENDITURES	ACTUAL ENGINEERING EXPENDITURES	ACTUAL MISCELLANEOUS EXPENDITURES	GRANT REVENUES AND DONATIONS	ACTUAL COSTS TO DATE	ACTUAL BALANCE REMAINING
C12-9999	MISC MINOR IMPROVEMENTS	\$ 78,633	\$ 150,000	\$ -	\$ -	\$ -	\$ 20,150	\$ 43	\$ -	\$ 20,193	\$ 208,440
C12-9999	CONSTRUCTION EQUIPMENT & SUPPLIES	\$ 291,367	\$ 150,000	\$ -	\$ -	\$ -	\$ -	\$ 319,299	\$ -	\$ 319,299	\$ 122,068
C13-6251	OVERALL PROGRAM MANAGEMENT	\$ 40,000	\$ -	\$ -	\$ 47,000	\$ -	\$ 43,095	\$ -	\$ -	\$ 43,095	\$ (3,095)
C13-6252	EL LODGE CONSTRUCTION	\$ 35,000	\$ 365,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400,000
C13-6253	TM ACCESSIBLE TRAIL AROUND POND	\$ 175,000	\$ -	\$ 90,357	\$ -	\$ 94,351	\$ -	\$ 70,987	\$ -	\$ 165,338	\$ 9,662
C13-6254	TM OVERLIN PROPERTY ACQUISITION	\$ 74,257	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 74,257	\$ -	\$ 74,257	\$ -
C13-6255	MALLY'S STREAMBANK STABILIZATION	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400	\$ -	\$ -	\$ 400	\$ (400)
C13-6256	PCWLL PUBLIC AWARENESS	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,723	\$ -	\$ 2,723	\$ (2,723)
C13-6258	NATURAL AREA RESTORATIONS	\$ 20,000	\$ 440,000	\$ -	\$ -	\$ -	\$ -	\$ 8,481	\$ -	\$ 8,481	\$ 451,519
C13-6259	JP CAMP STORE	\$ -	\$ -	\$ -	\$ 4,250	\$ -	\$ 4,200	\$ -	\$ -	\$ 4,200	\$ (4,200)
C13-6261	ANKENY HTT EXTENSION TO DSM	\$ 28,566	\$ 900,000	\$ -	\$ -	\$ -	\$ -	\$ 3,073,585	\$ (2,165,000)	\$ 908,585	\$ 19,981
C13-6262	EL J.C. WHITE PROPERTY	\$ 187,685	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 279,895	\$ (92,209)	\$ 187,685	\$ (0)
C13-6263	MALLY'S CVT & GLW TRAIL CONNECTOR	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,786	\$ 1,397	\$ -	\$ 12,183	\$ (12,183)
C13-6265	YB BANE PROPERTY	\$ 238,325	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 263,124	\$ -	\$ 263,124	\$ (24,799)
C14-6268	EL DIKES/DREDGING/WATER QUALITY	\$ 25,000	\$ 1,400,000	\$ -	\$ 753,800	\$ -	\$ 501,972	\$ 21,633	\$ (220,440)	\$ 303,165	\$ 1,121,835
C14-6269	FDM OUTDOOR CLASSROOM	\$ 11,201	\$ 100,000	\$ -	\$ 7,908	\$ -	\$ -	\$ 12,873	\$ -	\$ 12,873	\$ 98,328
C14-6270	EL COVERED BRIDGE IMPROVEMENTS	\$ 40,000	\$ -	\$ 57,220	\$ -	\$ 56,920	\$ -	\$ 5,794	\$ -	\$ 62,714	\$ (22,714)
C14-6271	CBG KAL-DEN FARMS PROPERTY	\$ 143,950	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 143,590	\$ (43,500)	\$ 100,090	\$ 43,860
C14-6272	EL RAIN GARDENS	\$ 10,000	\$ 10,000	\$ -	\$ -	\$ -	\$ -	\$ 15,709	\$ (12,604)	\$ 3,105	\$ 16,895
C14-6274	CONSERVATION CORPS	\$ -	\$ 201,600	\$ 201,600	\$ -	\$ -	\$ -	\$ 72,898	\$ -	\$ 72,898	\$ 128,702
C14-6275	GWT-BILL RILEY TRAIL/FEASIBILITY STUDY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 22,650	\$ 44	\$ -	\$ 22,694	\$ (22,694)
C14-6276	CBG SMITH PROPERTY	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 155,425	\$ -	\$ 155,425	\$ (155,425)
	LAND ACQUISITIONS	\$ 73,807	\$ 2,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,073,807
	GLW TRAIL CONNECTION TO MALLY'S	\$ 33,800	\$ 250,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 283,800
	WATERSHED MANAGEMENT AUTHORITY	\$ -	\$ 400,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 400,000
	BEAVER CREEK WATERSHED IMPROVEMENTS	\$ -	\$ 100,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000
	JESTER PARK CAMPGROUND #1 IMPROVEMENTS	\$ -	\$ 200,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 200,000
		<b>\$ 13,969,680</b>	<b>\$ 15,971,373</b>	<b>\$ 8,133,012</b>	<b>\$ 4,305,968</b>	<b>\$ 9,409,670</b>	<b>\$ 3,066,527</b>	<b>\$ 7,772,240</b>	<b>\$ (5,483,775)</b>	<b>\$ 14,764,663</b>	<b>\$ 15,176,390</b>



**Date**

October 14, 2015

**Agenda Item No. 4 RECEIVE & FILE**  
**Roll Call No. 15-1004**  
**Submitted by: Douglas C. Romig**  
**Deputy Director**

**AGENDA HEADING:**

Receiving and Filing Encroachment Policy.

**SYNOPSIS:**

Receiving and filing staff recommended Encroachment Policy to be voted upon at the Board's November 4, 2015 meeting.

**FISCAL IMPACT: N/A**

Amount:

Funding Source:

**ADDITIONAL INFORMATION:**

Due to the recent acquisition of lands by Polk County Conservation, there has been an increase identification of encroachment upon acquired lands. Items range from mowing, trimming and pesticide applications to physical structures within the acquired property. The Boundary Line Policy adopted by the Board at their March 11, 2009 meeting has been revamped and is being submitted for review and comment with the goal to have the Board vote on this policy at their November 4, 2015 Board meeting.

Polk County Conservation staff is recommending that this policy be distributed to all adjacent landowners to PCCB owned/managed property allowing approximately 20 days for public comment prior to the next Board meeting.

**PREVIOUS BOARD ACTION(S):**

Date: March 11, 2009

Roll Call Number: N/A

Action: Approved Boundary Line Policy

**RECOMMEDATION:**

For more information on this and other agenda items, please Polk County Conservation Office at 515-323-5300 or visit the office (11407 NW Jester Drive, Granger, Iowa). Polk County Conservation Board 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 [pccb\\_info@polkcountyiowa.gov](mailto:pccb_info@polkcountyiowa.gov) or request to receive meeting notices and agendas by email by calling the office or sending their request via email to [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov)

## Polk County Conservation Property Encroachment Policy

### **Purpose and Intent**

The Polk County Conservation Board (PCCB) manages land in the public trust. Protection of these lands, in the best interest of the public, includes but is not limited to: protection of the natural environment; animal habitat (food and shelter) and public access/enjoyment. Areas where public and private land intersect requires that public lands be unencumbered by private or commercial uses that have a negative impact on the environment and/or interfere with or limit public access, use and/or enjoyment of the land. The purpose and intent of this policy is to protect and preserve all real property owned and managed by PCCB from unauthorized land use, development or degradation; and removal of any encroachments upon publically owned or managed property. Restoration of PCCB property shall be to the satisfaction of the PCCB. Consideration regarding encroachments shall address; land, water and habitat protection; public access, enjoyment, safety and public health concerns; and protection of the general health and welfare of the users of PCCB managed lands.

### **Policy**

It is the policy of Polk County Conservation Board that any encroachment on, to, under, over, or modification of County owned, managed, maintained or leased park or open space property without prior authorization will be deemed trespassing regardless of when the property was initially encroached upon. The PCCB prohibits the unauthorized placement of natural or manmade materials on or within PCCB managed property and the unauthorized construction or placement of any structures or other "improvements" on or within PCCB property and the unauthorized alteration of PCCB property in anyway (hereafter referred to as "Encroachment"). PCC may immediately remove encroachments that pose safety, maintenance, and/or access issues. Examples of encroachment include, but are not limited to, the following:

- Placing of grass clippings, tree clippings, stumps, yard waste, animal waste, or other similar natural materials on or within PCCB property;
- Placing trash or other refuse on or within PCCB property;
- Erecting buildings, structures, fences, walls, or bridges, on or within PCCB property;
- Planting of any vegetation, including trees, shrubs, flowers, or vegetables on or within PCCB property;
- Placing or erecting any type of play equipment or playing field, on or within PCCB property;
- Landscaping on or within PCCB property;
- Irrigating or placing any irrigation device on or within PCCB property;
- Application of pesticide or herbicide on or within PCCB property;
- Placing pipes or trenches that provide drainage into PCCB property from downspouts, sump pumps, or detention ponds on or within PCCB property;
- Mowing of grass, tree trimming, or cutting of vegetation on or within PCCB property;
- Any nuisance affecting PCCB property or trespass upon PCCB property.

The property owner that has encroached upon PCCB property shall be notified in writing and directed to remove any and all encroachments to the land not previously approved by the County within 90 days. The property owner may submit a written request for an extension that the PCC Director is authorized to approve. Failure of the property owner to remove the encroachment within 90 days or after a granted extension shall result in PCC removing the encroachment and restoring the property to its original condition. In this situation, the property owner shall be assessed the actual costs for removal and restoration of the encroached upon area. The determination of costs shall include salary and benefits of all employees performing work on the encroached upon areas; equipment usage fees; disposal fees and a five-percent administrative fee.

In the event that the property boundary is disputed, a boundary survey may be requested by the encroaching party and performed by a licensed and qualified surveyor. Cost for surveys shall be paid by the encroaching land owner if it is determined that there is an encroachment upon PCC property without authorization. The County shall reimburse the property owner for any boundary survey where it is determined that no encroachment has occurred.

**Exceptions:**

In order to maintain property lines, private property owners may mow a 48" path along the property line boundary. Other exceptions to the policy may be granted by the Polk County Conservation Director and reported to the Board at their first available meeting only when encroachments are deemed to be in the overall Agency's best interest. Every request for accommodation shall be evaluated individually and on its own merit, and may be denied for any reason deemed appropriate by the Director.

If PCCB has encroached upon private property (tree roots) the property owner may contact PCCB to have the situation evaluated by PCCB with any action taken at the cost of the property owner. If tree branches encroach onto private property, the owner may trim the tree up to the property line at their expense. This policy does not apply to authorized uses approved by the PCCB pursuant to license, easement or permit.

**Procedure:**

**Notification:**

Upon discovery that an unauthorized encroachment has occurred, staff shall review the encroachment and recommend appropriate action to PCC Administration. If it is determined by PCC that an encroachment requires corrective action, the property owner will be notified, and every effort will be made to resolve the situation on an informal basis. If informal action does not resolve the issue, the property owner shall be notified in writing and directed to remove the unauthorized encroachment within 90 days. The property owner may submit a written request for an extension that the PCC Director is authorized to approve. Failure of the property owner to remove the encroachment within 90 days or after a granted extension shall result in PCC removing the encroachment and restoring the property to its original condition. In this situation, the property owner shall be assessed the actual costs for removal and restoration of the encroached upon area.

### **Costs to Resolve Unauthorized Encroachments:**

Costs to resolve or correct unauthorized encroachments shall be charged to the violator. If the violator fails to meet their financial obligation, County staff may pursue any legal options for recovery of all costs for such efforts. Such costs shall include, but are not limited to, boundary surveys, construction permit fees, engineering or architectural fees, demolition, removal and restoration, legal fees, and accrued interest if payment is not received within 30 days of invoicing.

### **Appeals:**

Individuals may appeal encroachment decisions to the Polk County Conservation Board for consideration. Written requests for an accommodation must be received within 30 days of receipt of the written notice of unauthorized encroachment.

### ***Referenced Code Sections***

#### **461A.35 Prohibited Destructive Acts.**

It shall be unlawful for any person to use, enjoy the privileges of, destroy, injure or deface plant life, or to construct or operate for private or commercial purposes any structure, or to remove any plant life, trees buildings, sand gravel, ice, earth, stone, wood or other natural material, or to operate vehicles, within the boundaries of any state park, preserve, or stream or any other lands or waters under the jurisdiction of the commission for any purpose whatsoever, except upon the terms, conditions, limitations and restrictions as set forth by the commission.

#### **350.10 Statutes Applicable.**

Sections 461A.35 through 461A.57 apply to all lands and waters under control of a county conservation board, in the same manner as if the lands and waters were state parks, lands or waters. As used in sections 461A.35 through 461A.57, "*natural resource commission*" includes county conservation board, and "*director*" includes a county conservation board or its director, with respect to lands or waters under control of a county conservation board. However, sections 461A.35 through 461A.57 may be modified or superseded by rules adopted as provided in section 350.5.

## PROCEEDINGS OF THE POLK COUNTY CONSERVATION BOARD

The Polk County Conservation Board met in regular session on Wednesday, September 9, 2015. The meeting was called to order at 5:32 p.m.

#15-0901 Roll Call

Members Present: Northway, Johnson, Levis, Cataldo  
Members Absent: Smith

#15-0902 Public Comments  
None.

#15-0903 Four Mile Creek Watershed Plan Presentation

Mark Land, Snyder and Associates, appeared before the Board to review and give presentation on the final results of the Four Mile Creek Watershed Plan.

#15-0904 Easter Lake Park, Lodge – Preliminary Design Presentation

Stan Thompson and Barry Vosler, EL Neighborhood Assoc., appeared before the Board to give presentation on preliminary design of the Easter Lake Lodge.

Next step in the process is conducting a feasibility study on the Lodge.

#15-0905 Financial Reports  
No comments

#15-0906 **MOVED BY** Levis to approve the August 12, 2015 meeting minutes as written.  
**Vote Yea:** Levis, Northway, Johnson, Cataldo

### CONSENT AGENDA

#15-0907 **MOVED BY** Cataldo to approve the PCCB August 2015 bill list  
**Vote Yea:** Cataldo, Johnson, Northway, Levis

## ACTION ITEMS

#15-0908 **MOVED BY** Northway to approve authorizing PCC Director or his designee to issue competitive bids for Easter Lake improvements and Easter Lake watershed improvements at a project cost currently estimated at \$19,070,000 and authorize committing a not to exceed amount of \$3.2M of agency funds towards said improvements.

**Vote Yea:** Johnson, Levis, Cataldo, Northway

#15-0909 **MOVED BY** Levis to approve the PCC Procurement Policy effective immediately.

**Vote Yea:** Levis, Cataldo, Northway, Johnson

## BOARD DISCUSSION

#15-0910 Director reported on the following:

- Parks Superintendent Clarke Johnson resigned. Recruitment strategy underway
- Brown's Woods Grand Reopening, October 7.
- Work at Yellow Banks Park will start after Fort Des Moines work is completed.
- Chichaqua Bottoms Greenbelt Master Plan open house was held September 8.
- Guide by Cell Program – shared statistics
- Acknowledged Candy Morgan's last meeting

#15-0911 Board Chair and Member's Remarks

- Lodge RFP Update requested. Romig provided update
- Kudos to Lela Mullen – Eq. Ctr. looked fabulous for August meeting
- Inquired if Brown's Woods is open for bow hunting. Yes it would be.
- Presentations at meetings – would like to limit time of presentation with limited Q & A following, keep short and to the point
- Great Western Trail completion date, November 15
- What has Conservation Corps completed – Rich will provide a report on that information.

#15-0912 Meeting adjourned at 6:59 p.m.



<b>Date</b>	October 14, 2015
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<b>Agenda Item No. 7 ACTION</b> <b>Roll Call No. 15-1007</b> <b>Submitted by: Wayne Johnson</b> <b>Construction/Maintenance</b> <b>Operations Manager</b>
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**AGENDA HEADING:**

Public Hearing approving plans, specifications, form of contract documents, engineer estimate and designating lowest responsible bidder for installation of a new Peat septic system at Jester Park.

**SYNOPSIS:**

Holding Public Hearing and award of contract for new Peat septic system to replace the current sand filter system that services the Jester Park Golf Course Clubhouse and Jester Park Administrative Office complex. Engineers estimate for this project is \$135,000.

**FISCAL IMPACT:**

<u>Amount:</u>	<b><u>\$114,447.12</u></b>	<b>Total Not to Exceed</b>
	\$104,043.09	Hartland Bobcat Services, LLC Bid
	\$10,404.03	10% Contingency

Funding Source: Polk County General Fund.

**ADDITIONAL INFORMATION:**

The current sand filter system located near the Jester Park Administrative office building serves all of the main complex, RV dump-station, and the Golf Course Clubhouse. This system needs to be replaced due to ground water infiltration into the 6” sewer line running from the clubhouse to the main complex sand filter; iron bacteria build up; and challenges with current system treatment capabilities.

The original bid opening date for this project was scheduled for Thursday, August 27, 2015 at 2:00 pm. No bids were received so an Addendum was sent to all potential bidders providing an extended completion date. The new bid opening date was scheduled for Thursday, October 17, 2015 at 2:00 pm. Polk County Conservation received only one bid from Hartland Bobcat Services, LLC

Polk County Conservation published the Official Notice regarding the bid documents and setting the date of the Public Hearing for Wednesday, October 14, 2015.

**PREVIOUS BOARD ACTION(S):**

Date: July 8, 2015

Roll Call Number: N/A

Action: Approving continuance of this Public Hearing as the information and design of this project was not received in time.

**RECOMMEDATION:**

Approving plans, specifications, form of contract documents, engineer estimate (\$135,000) and designating lowest responsible bidder for installation of a new Peat septic system at Jester Park with Hartland Bobcat Services, LLC for the amount not to exceed \$114,447.00.

For more information on this and other agenda items, please Polk County Conservation Office at 515-323-5300 or visit the office (11407 NW Jester Drive, Granger, Iowa). Polk County Conservation Board 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 [pcb\\_info@polkcountyiowa.gov](mailto:pcb_info@polkcountyiowa.gov) or request to receive meeting notices and agendas by email by calling the office or sending their request via email to [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov)



<b>Date</b>	October 14, 2015
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<b>Agenda Item No. 8 ACTION</b>
<b>Roll Call No. 15-1008</b>
<b>Submitted by: Carol Ann Carlson</b>
<b>Accountant</b>

**AGENDA HEADING:**

Awarding Guest Services Management contract to Food With Flair (400 4th Street, West Des Moines, Iowa 50265) for bookings and catering at the Jester Park Lodge with an effective date of January 1, 2017 and authorizing Board Chair to sign Agreement upon Legal review and approval as to form.

**SYNOPSIS:**

Approval to award contract to highest scoring proposer from the Request For Proposals issued by Polk County Conservation for the guest service management (bookings and catering) at the Jester Park Lodge beginning in January 1, 2017. Authorizing the Board Chair to sign five year contract upon Legal review and approval and one five year renewal upon mutual agreement of both parties.

**FISCAL IMPACT:**

Amount:        **\$900,000.00**    **Estimated Revenues over five year contract period**

Funding Source:    Polk County Conservation Enterprise Fund - Jester Park Lodge

**ADDITIONAL INFORMATION:**

The current Jester Park Lodge concessionaire contract with Christiani's expires on December 31, 2016. In order to secure an operator for the Lodge, a Request For Proposals (RFP) was issued on July 6, 2015. Included in the RFP were opportunities for facility tours between July 20 - 31, 2015; submittal of questions due by August 7, 2015; responses to the submitted questions sent out August 14, 2015 and a proposal submittal date of September 1, 2015.

A Jester Park Lodge RFP Review Committee was established and consisted of the following individuals:

- Carol Ann Carlson, PCC Accountant
- Jim Cataldo, PCC Board Member
- Mike Ransom, Ovations Area General Manager (Iowa Events Center);
- Cindy Lentz, PCC Administrative Supervisor; and
- Kami Rankin, PCC Community Outreach Supervisor;

The five committee members met on Monday, September 21, 2015 to review the proposals and coordinate a composite score as a committee. During this initial meeting, it was determined based on the responses to the RFP that elements within the RFP and RFP responses needed to be clarified. This included defining gross revenues; payment of all utility costs by contractor, non-acceptance of minimum financial goals by proposers and verification of most current health inspections. While none of the above are considered substantial deviations from the RFP or the proposers responses, staff wanted to ensure consistency among the proposers and RFP reviewers in finalizing the scoring and ultimate recommendation on the award of this contract.

Based on the RFP responses and follow-up clarification statements from the proposers, the Jester Park Lodge RFP Review Committee unanimously selected Food With Flair as the best overall proposer to provide guest services for Polk County Conservation's Jester Park Lodge operations.

Attached to this communication is the DRAFT Management Agreement that is currently under review by Polk County's Legal Department. The general terms and conditions set forth in the Agreement provide for the exclusive rights of Food With Flair to provide guest services management of the Jester Park Lodge including but not limited to: bookings, food and beverage sales, confections and hosting/managing events at the venue. For this right Food With Flair has agreed to the following:

- \$1,000.00 per month management fee;
- 100% of all rental fees;
- 12% of gross revenues excluding rental fees;
- 3% of gross revenues once \$500,000 in total revenues has been generated annually excluding rental fees;
- payment of all utilities, trash and pest control services

Additionally, Food With Flair has established a non-catering fee for non-profits and family social events (non-weddings) whereby they will charge a \$50.00 administrative fee and \$30.00 per hour staffing fee. These types of events would allow pot-luck style use of the Lodge Monday - Thursday and weekends if available upon two weeks' notice.

A transition plan will need to be developed to allow temporary access prior to the start of the Agreement to allow Food With Flair to show the venue to prospective renters prior to the official start date of January 1, 2017. Staff will work with Christiani's and Food With Flair to ensure a seamless transition.

#### **PREVIOUS BOARD ACTION(S):**

Date: June 10, 2015

Roll Call Number: 15-0607

Action: Received and filed Jester Park Lodge RFP process and timeline.

#### **RECOMMEDATION:**

Awarding the Jester Park Lodge Guest Service Management contract effective January 1, 2017 for a five year term with one five-year renewal option to Food With Flair and authorizing the Board Chair to sign the contract upon Legal review and approval as to form.

For more information on this and other agenda items, please Polk County Conservation Office at 515-323-5300 or visit the office (11407 NW Jester Drive, Granger, Iowa). Polk County Conservation Board 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 [pccb\\_info@polkcountyiowa.gov](mailto:pccb_info@polkcountyiowa.gov) or request to receive meeting notices and agendas by email by calling the office or sending their request via email to [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov)

**JESTER PARK LODGE GUEST SERVICES  
MANAGEMENT AGREEMENT**

THIS AGREEMENT, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between POLK COUNTY CONSERVATION BOARD, hereinafter referred to as "PCCB," whose address for the purpose of this Agreement is 11407 N.W. Jester Park Drive, Granger, Iowa 50109, and FOOD WITH FLAIR, hereinafter referred to as "CONTRACTOR," whose address for the purpose of this Agreement is 400 4th Street, West Des Moines, Iowa 50265, WITNESSETH:

WHEREAS, the PCCB is engaged in the operation and maintenance of the public facilities called Jester Park Lodge, and the PCCB desires to engage a competent and qualified guest services professional to operate and manage the lodge, and provide all rentals and catering services; and

WHEREAS, the CONTRACTOR is desirous of procuring from the PCCB the right to operate and provide said services and maintenance and can provide competent and qualified staff willing and able to manage said lodge and qualified to provide the requisite services associated therewith; and

WHEREAS, on October 14, 2015, by Roll Call No. 15-1008, the PCCB approved the Jester Park Lodge Guest Services Management Agreement; and

NOW, THEREFORE, in consideration of the mutual covenants, promises, and agreements hereinafter set forth, IT IS AGREED BY AND BETWEEN THE PARTIES HERETO, AS FOLLOWS:

**I. CONTENTS OF AGREEMENT**

This Agreement contains Polk County Conservations Request For Proposals, the Proposers response and the supplemental clarification form. Should there be a discrepancy between any of these documents, the contract language shall prevail.

**II. LENGTH OF AGREEMENT**

This Agreement shall be in effect from January 1, 2017, to December 31, 2021. Thereafter, this Agreement may be renewed for one five-year renewal term upon mutual agreement of both parties at least twelve months prior to the expiration of the initial term. Access rights shall be granted from the date of execution of this Agreement for the purposes of showing the facility to interested renters as long as it does not conflict with an existing rental under the current contractor.

**III. PCCB RESPONSIBILITIES AND REQUIREMENTS**

**A. Exclusive Privileges and Obligations**

The PCCB shall grant to CONTRACTOR the exclusive privilege and obligation to operate Jester Park Lodge, including the following exclusive rights, privileges and obligations:

1. To rent the lodge for commercial, private and special events;
2. To sell food, beverage, confections and other items related to events held at the lodge;
3. To host and/or support special events on the leased premises.

**B. Relationship**

The relationship between the PCCB and the CONTRACTOR shall be contractual and not one of employer/employee.

**C. Structure Maintenance and Repairs.**

The PCCB shall provide all maintenance at its expense to keep the Lodge, maintenance and out buildings, parking lots, signs, fixtures, HVAC and electrical systems, furniture, equipment and structures at the

Lodge in good working condition, presentable appearance, and in safe operating condition. In addition, all repairs, including capital repairs are the sole obligation of the PCCB. Capital repairs are subject to prior approval by the PCCB Director. PCCB shall also pay for the grease trap interceptor cleaning.

D. Grounds Maintenance and Tree Trimming. The PCCB shall provide services to maintain the grounds, plantings and trees within the area of the leased premises.

E. Administrative and Transitional

1. Rental Fees. The PCCB reserves the right to establish all rental fees for use of the lodge.
2. Transition Period. The PCCB shall provide access to the Lodge from the date of execution of this Agreement for the purposes of showing the facility to interested renters as long as it does not conflict with an existing rental under the current contractor.
3. Inspections. The PCCB may periodically inspect the premises for maintenance of facilities used by and under the control of the CONTRACTOR for purposes of ascertaining if PCCB standards are being met.
4. Disposable Assets. The PCCB shall provide equipment and furnishings shown as Exhibit A and by this reference made a part hereof to the CONTRACTOR. The PCCB shall be responsible for replacement of said items due to normal wear and tear.

F. 1. Gross Revenues Defined. For the purposes of payment to PCCB, Gross Revenues shall be defined as follows:

- Catering Revenues
- Liquor Revenues
- Event Set-up Revenues
- "Non-catered" Revenues (Buyouts, Etc.)
- Decor Revenues
- Service Charges Revenues
- Billed gratuities
- Gross Revenues shall not include any paid taxes.

2. Financial Records. The PCCB shall have access to all books, banking records, cash register tapes and customer contracts of the CONTRACTOR, kept and/or used in conjunction with the operation of the Jester Park Lodge, said books and records to be made available on-site to the PCCB with no advance notice required for inspection and audit by the PCCB. No written copies shall be taken from the site.

G. Buildings, Grounds and Shelter. The PCCB shall provide the CONTRACTOR the use of the Jester Park Lodge, out-building, parking lot, shelter, all built-in fixtures, and the area contiguous to the buildings which may be used for event rental purposes and special events. Refer to "Leased Premises Map" on page 12 of this Agreement.

#### **IV. CONTRACTOR RESPONSIBILITIES AND REQUIREMENTS**

A. Obligations and Qualifications

1. The CONTRACTOR agrees to provide one (1) on-site staff person for managing the Jester Park Lodge during any showing or rental of the facility

during the term of this Agreement to devote time, attention, and energies to the performances of the duties detailed herein. He/She shall conduct himself/herself at all times and in all matters in accordance with the standards accepted for Guest Management Services.

2. Revenues & Payment to PCCB. The PCCB shall establish all rental fees. The CONTRACTOR shall submit their recommended service fees, non-catering fees and alternate catering fees to the Polk County Conservation Director for approval prior to implementation annually. All other fees associated with said operation (food, beverage, decor, etc.) shall be established by the CONTRACTOR at their sole discretion. The CONTRACTOR shall collect all revenues generated through this Agreement. This includes but is not limited to:

- facility rentals;
- decor rentals;
- food and beverage sales;
- non-catering fees;
- service fees, etc.

The CONTRACTOR shall pay to PCCB:

- \$1,000.00 per month management fee;
- one-hundred percent (100%) of all rental fees;
- twelve percent (12%) of all gross revenues excluding rental fees;
- an additional 3% of gross revenues beyond \$500,000 in total revenues on an annual basis excluding rental income.

The CONTRACTOR agrees to pay PCCB a minimum of \$100,000 annually for this right from all revenue sources.

3. Payment of Taxes. In the event that any real estate or sales taxes are levied or assessed by lawful authority by reason of the fact of this Agreement and of CONTRACTOR's use of the premises or against any structure erected by PCCB or CONTRACTOR on the premises owned by PCCB, such taxes shall be timely paid by CONTRACTOR. CONTRACTOR further agrees to timely pay all taxes, assessments of other public charges levied or assessed by lawful authority (but reasonably preserving CONTRACTOR's right of appeal) against its personal property on the premises, during the term of this Agreement or any renewals or extensions thereof. PCCB and CONTRACTOR agree there is no intent to establish a tax liability on either party. If a tax liability accrues to either party, this Agreement shall be subject to termination or renegotiation.

4. Evaluation. CONTRACTOR shall participate in an annual evaluation of performance no later than February 1st of each year for the prior year operations during the term of this Agreement. The evaluation may cover, but is not limited to:
- (a) Financial performance in comparison RFP proposal and past operational history (Attachment A).
  - (b) Lodge usage, catering, beverage sales, etc.

(c) Facility care including maintenance and cleanliness of the Lodge, deck, surrounding grounds, fixtures, furnishings, signs and equipment.

Since a primary goal of the PCCB is to provide public access/use as an opportunity to all citizens and maximize revenues and performance, if the CONTRACTOR's operation results in a significant decline in usage and revenues, as compared to CONTRACTORS proposal and past usage and revenues, the PCCB may notify the CONTRACTOR that he/she is in default. The CONTRACTOR shall have ninety (90) days to cure said default. If the CONTRACTOR fails to cure said default, as determined by the PCCB, within the ninety (90) day cure period, the PCCB may terminate this Agreement for just cause by sending a notice of termination effective at the end of the then current calendar year. In making its determination regarding CONTRACTOR's default, the PCCB shall take into consideration any special circumstances that exist, the percentage of equity and investment each party has made and whether expectations held by the PCCB are reasonable, weather, acts of nature, any uncontrollable or unusual problems, or any other reasonable facts as maybe submitted.

5. Mediation. If the CONTRACTOR disagrees with the PCCB's determination that its performance is in default of this Agreement, the CONTRACTOR shall notify the PCCB of its objection in writing not less than fifteen (15) days after receipt of the receipt of notice of termination, therein identifying the nature of its objection. If the objection cannot be resolved within 60 days thereafter, either party may cause the matter to be submitted to non-binding mediation. Any request for mediation from one party to the other must be in the form of a written notice requesting mediation. Such notice shall identify each disputed matter to be submitted to mediation. Upon receipt of a written request for mediation, the parties shall execute and acknowledge a written agreement specifying which disputes are to be submitted to the mediator, and the mediation shall be limited to such disputes.

(a) The parties shall mutually agree on a mediator. If the parties fail to select a mediator fifteen (15) days from the written request for mediation, then such mediator shall be chosen by the presiding officer of the Polk County Bar Association. Should the party requesting mediation fail to propose a mediator within ten (10) days of its demand, its right to mediation shall lapse. Should the other party fail to propose a mediator within the said ten (10) days, then such presiding officer shall appoint as mediator. The mediator may recommend remedies in lieu of termination.

(b) The costs of mediation shall be shared equally by the parties.

6. Replacement/Repair of Lodge Improvements. In the event the PCCB determines that any or all Lodge improvements need to be replaced during the term of this Agreement, the replacements will be paid for by the PCCB.

7. Lodge Maintenance. The CONTRACTOR shall maintain the physical and structural condition of the Lodge, including without limitation, the grounds, deck, plants, trees, and out-building in at least as good a condition as it presently exists.

8. Utilities. The CONTRACTOR shall reimburse PCCB for all public utilities (gas, water, electric and sewer) (including continuous outside lighting) incurred in the use and operation of the facilities referred to in this Agreement.
9. Trash and Snow Removal. The CONTRACTOR shall provide services to keep the Lodge clean and presentable by providing for the hauling of trash and snow within the contracted area excluding the driveways and parking lots. Trash collection services shall be provided by PCCB and the CONTRACTOR shall reimburse PCCB for their portion of this service. Snow removal shall be limited to those times that the Lodge is being used to conduct course business.
10. Pest Control. The CONTRACTOR shall reimburse PCCB for routine pest control services performed on the leased premises.

B. Financial Procedures.

1. Accounting. CONTRACTOR shall report all revenues via customer contracts and cash register system and report all revenues on a single spreadsheet by the 15th day of each month for the previous month's activities along with full payment as outlined in Sections III.F.1 and IV.A.2.
2. Financial Records. The CONTRACTOR shall keep and maintain true and accurate books and financial records of the Lodge including rental fees, decor rentals, non-catering and service fees and all food and beverage sales. CONTRACTOR will provide full access to the PCCB of CONTRACTOR's records but PCCB may not take written copies of the annual report from the site without CONTRACTOR's prior approval.
3. Fee Collection. The CONTRACTOR shall collect all rental fees, decor fees, non-catering fees, service fees, food and beverage sales, etc.
4. Purchase or Lease of Supplies and Equipment. The CONTRACTOR shall be responsible for the purchase or lease of all equipment needed to operate the Jester Park Lodge that is not provided by PCCB as noted in Attachment B.

C. Insurance, and Indemnification Requirements

1. Insurance and Indemnification. The CONTRACTOR shall purchase and maintain insurance in accordance with the insurance requirements set forth in Exhibit A to protect the CONTRACTOR, PCCB and Polk County throughout the duration of this Agreement. The CONTRACTOR shall not commit any act which shall invalidate any policy of insurance. The CONTRACTOR shall defend, indemnify and hold harmless the PCCB and Polk County in accordance with the indemnification requirements set forth in Exhibit A. The CONTRACTOR shall be subject to all terms and provisions set forth in Exhibit A and any attachments thereto.
2. CONTRACTOR Responsibility. The CONTRACTOR will be responsible for any damages whatsoever to property in the custody of the CONTRACTOR or

his/her employees. The CONTRACTOR may not subcontract or assign work for this Agreement without the express written permission of the Director. If the CONTRACTOR has received written authorization to subcontract work, it is agreed that all subcontractors performing work under this Agreement shall comply with its provisions. It also is expressly understood that all persons employed by the CONTRACTOR, either directly or indirectly, shall be considered employees of the CONTRACTOR and not employees of the PCCB.

3. Licenses and Permits. The CONTRACTOR shall be responsible for obtaining all necessary permits and licenses for full operation of the guest services operations (e.g., beer and liquor).
4. Logo. The CONTRACTOR agrees to cooperate with the promotional efforts of Polk County Conservation whenever possible. The individual specific use of the logo shall be subject to the written approval of the Director or his designee.
5. Advertising. The CONTRACTOR shall pay for all marketing and advertising including but not limited to maintenance of the web-site promoting Jester Park Lodge. PCCB shall retain ownership of the Jester Park web-site but provide authorization rights to the CONTRACTOR to maintain the information contained therein.

E. Buildings, Grounds, and Maintenance

1. Accessibility

a. Hours of Operations. The CONTRACTOR shall provide rental services at a minimum between the hours of 6:00 am through 12:00 midnight seven days a week excluding the following holidays:

- Easter;
- Thanksgiving Day;
- Christmas Eve Day
- Christmas Day; and
- New Year's Day

The Lodge shall be made available as much as possible to rental groups. Reservation of the Lodge during non-prime times (Monday - Thursday) will be granted to special groups (family and/or non-profit functions) allowing for pot-luck styled food and beverage. The CONTRACTOR may allow outside caterer's to meet a guests needs and shall have the sole right to establish the fee payment for this service.

b. Availability to the Public. It is expressly understood and agreed that the Jester Park Lodge is a public facility available to the public and that the CONTRACTOR shall have no right to restrict or prohibit the use of the Lodge or charge a fee for the use of the Lodge or any facilities therein, except as set forth in the Agreement or approved by the Director.

2. Control of Facility. The CONTRACTOR expressly understands and agrees that Polk County Conservation acting by and through their Board shall retain

final control and supervision of the Lodge. The CONTRACTOR shall observe and obey all County Conservation Board rules and regulations now in effect or those which might hereafter be promulgated, which does not regard fees, procurement requirements or impose costs on the CONTRACTOR. Furthermore, the PCCB shall have the right to enter PCCB buildings used by the CONTRACTOR and their premises for the purposes of making alterations, improvements, repairs, or to make periodic inspections of the Lodge and grounds as to cleanliness and operations.

3. Cleanliness. The CONTRACTOR shall conduct the Lodge operations in a sanitary and creditable manner, keeping the premises and areas contiguous to the building in a tidy and presentable condition at all times. CONTRACTOR shall maintain any public restrooms in or about the Lodge. CONTRACTOR shall also keep clean any other area where refuse accumulates from the operation of the Lodge and grounds.
4. Alterations or Improvements. The CONTRACTOR shall make no structural alterations, additions, or improvements to the Lodge, deck, exterior grounds, or other facilities without the written approval of the Director. The CONTRACTOR shall submit such plans and specifications to Director for Director's approval.

F. Supervision

The CONTRACTOR shall provide suitable and adequate supervision of the Lodge including all activities being conducted therein. Such supervision shall ensure the orderliness of activities so as not to permit any unlawful or disorderly conduct on the premises. The CONTRACTOR shall assist the PCCB in the enforcement of all rules and regulations of the PCCB regarding use of the Lodge, shelter and grounds.

1. Staffing. Employees needed to carry out the CONTRACTOR's provisions of this Agreement shall be the employees of the CONTRACTOR. The CONTRACTOR's choice of personnel will be respected by the PCCB to the maximum extent. The PCCB recognizes that the CONTRACTOR has the right and obligation to employ a staff capable of performing assigned duties.

The CONTRACTOR shall hire an off-duty officer for all events that have participation in excess of 100 people and where alcohol is being served. Said officer shall arrive within two-hours from the start of the event and shall remain on-site until the event concludes.

2. Staff Limitations. The CONTRACTOR's hiring practices will comply with all State and Federal laws, including affirmative action. The CONTRACTOR's employees shall not be eligible for any PCCB employee rights or benefits. Further, the PCCB reserves the right to advise but not demand the dismissal of any employee of the CONTRACTOR's whose performance or actions are perceived by the PCCB as detrimental to the operation or the premises of Jester Park Lodge.
3. Uniforms. The CONTRACTOR shall ensure that his/hers employees present themselves in a neat, clean, and courteous manner at all times.

4. Accident Reports. The CONTRACTOR shall report all injuries to Lodge patrons on the form supplied by the PCCB. The original of this completed form shall be filed with the Park Superintendent within three days of the date of the injury.
5. Subcontracting. The CONTRACTOR may, if necessary, subcontract services performed under the Agreement, such as decorating, but shall be held responsible for the adequate provisions of and payment for such services by the subcontractor and for full liability and obligations for the performance of such subcontractor. No such approval shall make the PCCB a party of or to any subcontract or subject the PCCB to liability of any kind to any subcontractor. The subcontractor and his/her employees shall be considered as employees of the CONTRACTOR.

**V. GENERAL PROVISIONS:**

- A. Damage to Premises. The PCCB owns all facilities located at Jester Park. The CONTRACTOR will be responsible for insuring the entire Lodge, exterior deck, out-building and shelter for Property Insurance at the total replacement value of the facility as a whole. The replacement value for these facilities will be estimated each year by the CONTRACTOR and the PCCB. The PCCB and Polk County shall be named on the CONTRACTOR's Property Insurance policy as an Additional Insured to the extent of the PCCB's insurable interest in these facilities located within Jester Park. The replacement value of the above aforementioned facilities, will be determined by a professional appraisal done on each portion of the facility and of the facility as a whole by a professional appraiser agreeable to both the CONTRACTOR and the PCCB. The CONTRACTOR's Property Insurance policy shall reflect the appraised value as the replacement value. From that time forward, the replacement value shall be estimated and adjusted annually by the CONTRACTOR and the PCCB, with an appraisal being conducted no less than every five (5) years.

If any facility located on leased premises or any portion thereof or improvements thereto, are damaged or destroyed by fire or other casualty and can be repaired or rebuilt within one-hundred-eighty (180) days from the happening of said damage or destruction, CONTRACTOR shall cause the facility so damaged or destroyed to be repaired or rebuilt within that period of time. CONTRACTOR shall not have the right to terminate this Agreement, but shall, as soon as reasonably possible from the happening of said damage or destruction, continue its normal operation subject to the provisions herein contained. If any facility located on the leased premises or any portion thereof are damaged or destroyed by fire or other casualty so that CONTRACTOR cannot conduct its normal business, and if the facility so damaged or destroyed cannot be repaired or rebuilt within one-hundred-eighty (180) days from the happening of said damage or destruction, then CONTRACTOR shall at its election have the right to cancel this Agreement. It shall immediately surrender said premises, paying such amounts as may be due up to the time of the damage or destruction and CONTRACTOR shall thereafter be relieved from any obligation under the terms of this Agreement.

- B. Encumbrances and Liens. Neither CONTRACTOR nor anyone claiming by, through, or under CONTRACTOR shall have the right to file or place any mechanic's lien or

any other lien of any kind or character whatsoever, upon said premises or improvement thereon, and notice is given that no contractor, subcontractor, or anyone else who may furnish any material, service, or labor for any improvements, alterations, repairs, or any part thereof shall at any time be or become entitled to any lien thereon, and for the further security of PCCB, CONTRACTOR covenants and agrees to give actual notice thereof in advance to any and all contractors and subcontractors who may furnish or agree to furnish any such material or labor.

- C. Assignment. The CONTRACTOR shall not assign this Agreement, sublease the premises, or allow the use of the premises by any other party without first obtaining the written consent of the Director endorsed on or incorporated in any such assignment, sublease or subagreement. Any assignment made without so first obtaining written consent of the Director shall be null and void, shall confer no rights on any third party, and shall be cause for cancellation of this Agreement by PCCB at PCCB's option. This provision against such assignment, sublease, or use shall be deemed to be a continuing covenant and shall apply not only to the CONTRACTOR herein, but to any and all assignees of said Agreement and to anyone who may, in any manner, acquire any interest therein. Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, and assigns of the parties hereto. Notwithstanding anything herein to the contrary, this Agreement may be assigned to a corporation controlled by the CONTRACTOR.
- D. Modification. CONTRACTOR is granted only such rights and privileges as are explicitly set out in this Agreement. None of the covenants, provisions, terms, or conditions of this Agreement to be kept or performed by PCCB and CONTRACTOR shall be in any manner modified, waived, or abandoned, except by a written instrument duly signed by both parties and delivered to PCCB and CONTRACTOR. This Agreement contains the whole agreement of the parties.
- E. Rights and Remedies. The various rights, powers, options, elections, and remedies of either party provided in this Agreement shall be construed as cumulative and no one of them as exclusive of the others, or exclusive of any rights, remedies, or priorities allowed either party by law, and shall in no way affect or impair the right of either party to pursue any other equitable or legal remedy to which either party may be entitled as long as any default remains in any way unremedied, unsatisfied, or undischarged.
- F. Cancellation. In the event of any material breach by the CONTRACTOR under this Agreement, which shall continue more than ninety (90) days after receipt of written notice to cure said default, the PCCB may terminate this Agreement and the privileges granted hereunder by giving ninety (90) days written notice to CONTRACTOR. In the event the PCCB fails to carry out the material terms and provisions of this Agreement, and such failure continues for more than thirty (30) days after receipt of notice to cure said breach, the CONTRACTOR may terminate this Agreement by giving thirty (30) days written notice to the PCCB. Notwithstanding the foregoing, either party may request to renegotiate this Agreement after year four (4) subject to mutual agreement of both parties. Said changes shall be incorporated into the renewal agreement that would become effective in year six.

- G. Notices, Communications. All complaints by PCCB with regard to the operation of the concessions included in this Agreement shall be directed in writing to CONTRACTOR by the Director or his designee. All complaints by CONTRACTOR directed to PCCB shall be in writing to the Park Superintendent. Notices as provided for in this Agreement shall be given to the respective parties:

POLK COUNTY CONSERVATION  
Parks Superintendent  
PCCB\_Info@polkcountyiowa.gov  
11407 N.W. Jester Park Drive  
Granger, IA 50109

FOOD WITH FLAIR  
Diana Quick  
diana@foodwithflair.com  
400 4th Street  
West Des Moines, IA 50265

- H. Personal Property. All personal property in the subject premises shall be at the risk of the CONTRACTOR, and PCCB shall not be liable for any damage or loss either to person or property sustained by CONTRACTOR unless the loss was caused by the failure of the PCCB to fulfill its obligation under the Agreement.

- I. Bankruptcy. If CONTRACTOR shall become insolvent or be declared bankrupt or said premises shall come into the possession of any receiver, assignee, or other officer acting under an order of any court, then PCCB shall have the right to terminate this Agreement, and in the event PCCB shall not exercise such right, the PCCB may accept rent from said receiver, trustee or officer in possession thereof, for the term of said receiver, trustee or officer in possession thereof, for the term of such occupancy, without impairing or affecting in any way the rights of the PCCB under this Agreement.

- J. Discrimination. Polk County Conservation receives Federal funds from the U.S. Department of the Interior and other Federal agencies. **David, Please fill in this section if warranted.**

- K. Contract Language. Words and phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine, or neuter gender according to the context.

- L. Termination. Upon the termination by cancellation or otherwise of this Agreement and any extensions thereof, the CONTRACTOR will surrender, yield up, and deliver the premises in good and clean condition, except for the effects of ordinary wear and tear and depreciation arising from lapse of time, or damage without fault or liability of CONTRACTOR.

APPROVED AS TO FORM:

---

David W. Hibbard  
Assistant Polk County Attorney

Attest:

POLK COUNTY CONSERVATION BOARD

\_\_\_\_\_  
Cynthia Lentz  
Polk County Conservation Board Clerk

By \_\_\_\_\_  
Connie Johnson  
Polk County Conservation Board Chair

CONTRACTORS

By \_\_\_\_\_  
Diana Quick, Owner  
Food With Flair

By \_\_\_\_\_  
JoBeth Hanke, Business Manager  
Food With Flair

STATE OF IOWA     )  
                                  ) ss:  
COUNTY OF POLK    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a Notary Public in the State of Iowa, personally appeared CONNIE JOHNSON and CYNTHIA LENTZ, to me personally known, and who, being by me duly sworn did state that they are the Chair and Clerk of the Polk County Conservation Board, respectively; that the seal affixed to the foregoing instrument is the corporate seal of the corporation; that the instrument was signed on behalf of the Polk County Conservation Board, by authority of its Board, and that CONNIE JOHNSON and CYNTHIA LENTZ acknowledged the execution of the instrument to be the voluntary act and deed of Polk County Conservation Board, by it and by them voluntarily executed.

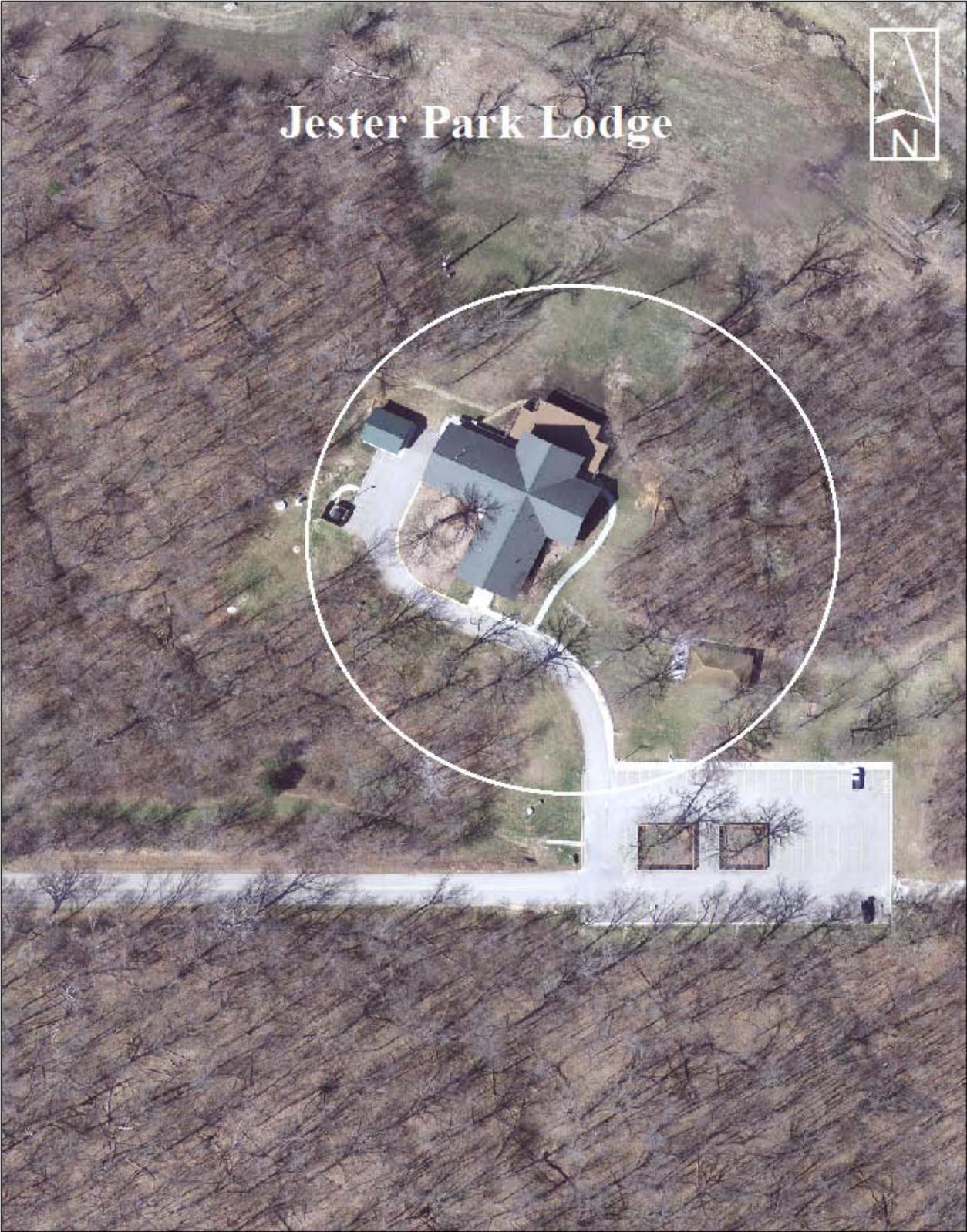
\_\_\_\_\_  
Notary Public in State of Iowa

STATE OF IOWA     )  
                                  ) ss.  
COUNTY OF POLK    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2015, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared DIANA QUICK and JOBETH HANKE, to me personally known, who, being by me duly sworn, did say that they are the OWNER and BUSNIESS MANAGER, of the corporation executing the foregoing instrument; that (no seal has been procured by)(the seal affixed thereto is the seal of) the corporation; that the instrument was signed (and sealed) on behalf of the corporation by authority of its Board of Directors; that DIANA QUICK and JOBETH HANKE acknowledges the execution of the instrument to be the voluntary act and deed of the corporation and of the fiduciary, by it, by them and as the fiduciary voluntarily executed.

\_\_\_\_\_  
Notary Public in the State of Iowa

**LEASED PREMISES MAP**  
**(Includes all parking areas)**



**Attachment A  
Three-Year Event/Gross Revenue History**

<b>Item</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Number of Events	87	81	89
Catering Revenue	\$319,000	\$274,595	\$375,881
Liquor Revenue	\$97,562	\$109,263	\$135,190
Event Set-up Revenue	\$27,650	\$26,425	\$30,100
"Non-catered" Revenue	\$475	\$2,110	\$992
Decor Revenue	\$49,713	\$66,252	\$90,271
<b>Total Annual Income</b>	<b>\$494,312</b>	<b>\$478,645</b>	<b>\$632,434</b>

DRAFT

**Attachment B  
Furnishings & Kitchen Equipment Inventory**

**Banquet Furnishings:**

<b>Item</b>	<b>Quantity</b>	<b>Condition</b>
8' Rounds	20	Good
8' Rectangle Tables	20	Good
6' Rectangle Tables	10	Good
6' Conference Tables	6	Good
Burgundy molded chairs	240	Good

**Kitchen/Storage Equipment:**

<b>Item</b>	<b>Quantity</b>	<b>Condition</b>
6 burner gas stove w/ 2'x2' griddle	1	Good
Side by side ovens	1	Good
Stainless steel tables (2- 6' x 30" & 1 -4' x 30')	3	Good
Two door commercial refrigerator	1	Good
Two door commercial freezer	1	Good
Four compartment sink	1	Good
Quick cycle dishwasher	1	Good
Two (2) keg, keg cooler	1	Good
# ice maker	1	Good
Walk-in cooler (88' x 88" x 95" high)	1	Excellent
1 Gallon coffee maker	1	Good
2.5 gallon Ice Tea maker	1	Good
Dolly carts ( 2' x 3')	2	Good
Wire shelving (2' x 4')	6	Good

**Audio / Visual Equipment:**

<b>Item</b>	<b>Quantity</b>	<b>Condition</b>
Podium	1	Good
Sound System (dual frequency)	1	Good
Handheld wireless mic	2	Good
Lapel wireless mic	2	Good
Mic stand	1	Good
Portable tripod video screen	1	Good
Projector stand	1	Good
A-frame white board (large)	2	Good
A-frame white board (small)	2	Good
Poster Board frame	1	Good

## Exhibit A 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	<b>\$ 1,000,000</b>
General Aggregate	<b>2,000,000</b>
Products-Completed Operations Aggregate	<b>2,000,000</b>
Personal & Advertising Injury	<b>2,000,000</b>
Fire Damage (Any one Fire)	<b>100,000</b>
Medical Expenses (Any One Person)	<b>5,000</b>

- 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 **\$1,000,000/\$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
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 certificate 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."**

*Request For Proposals  
Jester Park Lodge  
Guest Services Management  
(Bookings and Catering)*

Polk County Conservation  
11407 NW Jester Park Drive  
Granger, Iowa 50109

RFP 2015-#002



**PREFACE**

This Request For Proposals ("RFP") has been developed by Polk County Conservation to provide a clear illustration of its expectations for the privatization of the guest services operations (bookings and full-service catering) of the Jester Park Lodge and immediate grounds located at 11407 NW Jester Park Drive on the northeastern side of Jester Park, Granger, Iowa. The venue is surrounded by mature woodlands and has an overlook deck providing beautiful Saylorville Lake views.

The RFP is designed to provide interested parties with sufficient information on the proposed project to enable submission of a proposal that will respond to the Polk County Conservation Board expectations for the management of the guest services operations (bookings and food and beverage services including a full-service bar) of the Jester Park Lodge.

The Request for Proposals provides all instructions and forms for submission of a proposal and associated reference material.



**Contact for Information:**

Clarke Johnson, Parks Superintendent

[clarke.johnson@polkcountyiowa.gov](mailto:clarke.johnson@polkcountyiowa.gov)

## EXECUTIVE SUMMARY

Polk County Conservation constructed the Jester Park Lodge overlooking the Des Moines River within Jester Park that opened to the public on December 12, 2001. In 2006, Polk County Conservation issued its initial Request For Proposals (RFP) seeking qualified and competent food and beverage service including full-banquet dining concessionaires to provide services at the Jester Park Lodge. This rental facility accommodates approximately 260 people and overlooks Saylorville Lake in the northeastern part of Jester Park. It specializes in four seasons of beautiful scenery nestled in mature woodlands and lake overlook and is a unique destination for weddings, receptions, family gatherings, corporate retreats and other group outings. The Lodge has a kitchen equipped to be used with an on-site caterer and the seating area can be divided into two separate meeting rooms.

The existing contract will expire on December 31, 2016. Through this RFP process, the successful bidder will be provided exclusivity for the room rentals operations (booking management), catering and liquor sales for all Lodge related activities and events. (Attachment B) is a multiple year history of rental information and gross income). The intent of this process is to award the new contract at least 12 months prior to the expiration of the current contract to ensure no loss of service.

Jester Park is open to the public from 6:00 am to 10:30 p.m. year-round. The Lodge hours may be extended to midnight for rental functions and days of operations are established by the awarded proposer through rental uses as there are no public hours for the lodge.

The private operator would have exclusive rights to the management and operations of the reservations of indoor/outdoor space, full-service catering and liquor sales to all customers and renters of the Lodge excluding; 1) four (4) weekend days for programs (pre-scheduled for a Saturday, Sunday or Holiday); 2) 24 weekday uses for County meetings, educational programs, Great Outdoors Foundation meetings, public presentations, etc. annually. Additionally, Polk County Conservation shall have access to any open weekday times at no cost (pre-scheduled) and the right to bring in outside food;.

**The proposal and five (5) copies should be delivered no later than the close of business (4:30 p.m.), Tuesday, September 1, 2015 to:**

Clarke Johnson  
Parks Superintendent  
Polk County Conservation  
11407 NW Jester Park Drive  
Granger, IA 50109

**Please submit 1 original and 5 copies of your proposal in a sealed envelope.** Questions regarding this RFP should be directed to Clarke Johnson in writing and either faxed to (515) 323-5354 or via e-mail at [clarke.johnson@polkcountyiowa.gov](mailto:clarke.johnson@polkcountyiowa.gov). No questions or responses will be received or provided verbally. All proposals will become public at the time of the bid opening. Trade secrets may be marked as confidential. If challenged, defending the trade secret is the Proposer's obligation and not the obligation of Polk County Conservation. The entire proposal cannot be marked confidential.

# STATEMENT OF INTENT AND INSTRUCTIONS TO PROPOSER

## SERVICES PROVIDED BY POLK COUNTY CONSERVATION

Polk County Conservation shall maintain and manage the following operations of the Jester Park Lodge and grounds:

- Maintenance of the exterior grounds (mowing, trimming, snow removal, etc.);
- Infrastructure of the physical building and mechanical equipment;
- Partner with the contractor for marketing and promotions of the Lodge;
- Provide maintenance subject to normal wear and tear. (E.g. Painting, plumbing, electric, flooring, etc.);
- Wifi capabilities within Lodge.

The Polk County Conservation shall also provide to the Contractor the following space and equipment at the Jester Park Lodge:

- All existing tables, chairs, and audio/visual equipment;
- Kitchen and all existing equipment and storage;
- Meeting room storage areas;
- Exterior storage for event set-up and operations (out building adjacent to Lodge);
- Parking area to service lodge uses.

## SERVICES TO BE PROVIDED BY THE CONTRACTOR

Polk County Conservation (PCC) shall provide the Contractor the right to provide the following services:

- Room rentals for all space within the Jester Park Lodge and adjacent grounds (approximately three-acres surrounding the Lodge including the parking lot and shelter with an attached aerial map for reference) with the following exceptions:
  - A. four (4) weekend days or holiday date's annually for PCC use (pre-scheduled);
  - B. twenty-four (24) weekday uses for programming by PCC;
  - C. Free access for non-booked weekday's (pre-scheduled) for PCC uses.
- Exclusive rights for reservation bookings, full service food and beverage operations including full-service liquor offerings and on-site vending, with the following exceptions:
  - A. "Non-catered" functions whereby a renter such as a family reunion, non-profit meeting, etc. that would bring in their own food (pot-luck style) will be allowed. The contractor will receive a "non-catered event" fee for these uses. The non-catered fee shall be submitted as a part of your response to this RFP in the submittal document section. Polk County Conservation will be waived this restriction and fee for their uses.

Other responsibilities of the Contractor for the exclusive rights above include:

- Management, staffing and financing of the above rights and responsibilities;
- Custodial care of the building and immediate grounds (walkways, flooring, rest rooms, window's, walkway to road and deck/patio areas, etc.);
- Pay all utility expenses (electric, gas, trash, water and sewer). The utility costs have averaged approximately \$10,000 annually;
- Providing at cost (food and labor) an annual volunteer banquet for up to 250 volunteers and Board Members.
- Provide proof of insurance naming the Polk County Conservation and Polk County as additional insured's. See Exhibit A for insurance requirements.
- Provide dram shop insurance and liquor license.
- Provide Polk County Conservation compensation for the rights listed above.

**CONTRACT TERMS/LENGTH OF AGREEMENT:**

The formal contract shall include this RFP, the awarded Proposer's proposal and the negotiated contract. The awarded proposer will be offered a five-year contract with one option to renew for an additional five-years upon mutual agreement of both parties.

**SCHEDULE OF PROCESS:**

Date of RFP Issuance:	July 6, 2015
Lodge Facility Tours:	July 20 - 31, 2015 (Proposer to schedule)
Final submittal of questions:	August 7, 2015 (By close of business)
Responses to questions submitted:	August 14, 2015
Proposals due:	September 1, 2015 (By close of business)

The Polk County Conservation Office is open to the public Monday - Friday 8:00 am to 4:30 p.m.

**RFP Contact Information:** (Scheduling of Lodge tours)

Clarke Johnson  
Park Superintendent  
Polk County Conservation  
11407 NW Jester Park Drive  
Granger, Iowa 50109  
Fax: (515) 323-5354  
Email: [clarke.johnson@polkcountyiowa.gov](mailto:clarke.johnson@polkcountyiowa.gov)

**Note:** All questions must be submitted in writing. No questions will be answered in person or over the phone and Polk County Conservation shall only consider items in writing regarding the process and review of this RFP. All verbal responses to questions shall be considered null and void and not subject to dispute from proposers.

**PROPOSAL FORMAT**

The proposal submission shall be prepared in a straightforward and concise manner, identifying clearly and succinctly any deviations, enhancements and other differences that exist between the RFP and the Contractor’s proposed services.

- Proposed compensation to Polk County Conservation. Acceptable payment options include a straight percentage of gross sales, a fixed monthly lease payment, or the Contractor pays a percentage of gross sales after a minimum of gross sales are processed. Include any annual or renewal term adjustments in your proposal;
- Evidence of Financial Capacity;
- Current Department of Public Health license and copy of most recent inspection;
- Anticipated staffing levels and hours of operation. Please indicate if your operation will include any closings due to holidays or other reasons;
- Submittal of current catering menu options and pricing;
- Brief history of your company. Years in business, major accounts, references.

**EVALUATION CRITERIA**

A committee made up of representatives from Polk County Conservation staff; Polk County Conservation Board and one representative from the event/hospitality industry shall score the RFP’s. **One composite score shall be established by the committee with the committee's recommendations being forwarded to the Polk County Conservation Board for award at their meeting on October 14, 2015; 5:30 p.m. Polk County Administration Building (11407 NW Jester Park Drive), Granger, IA 50109.** The RFP Review Committee will select the most responsible and responsive Proposer with the highest point value to be recommended for award to the Polk County Conservation Board.

<u>Criteria</u>	<u>Value</u>
1. Compensation to Polk County Conservation	30 pts.
2. Business plan, staffing levels, marketing ideas	25 pts.
3. History of company, contractors experience and reputation	20 pts.
4. References, client list, years of similar service and governmental related contracts	15 pts.
5. Portfolio; photos of room set-ups, food displays, menus	10 pts.
6. Local preference*	<u>02 pts.</u>
<b>Total Points Available:</b>	<b>100 + 2</b>

\* Given to businesses with headquarters, or headquarters of its parent or holding company, residing within the corporate limits of Polk County, Iowa.

**COMPENSATION FORMULA SCORING**

The Polk County Conservation Board shall establish the RFP Compensation score as follows:

Highest payment total to PCCB = full point value

2nd highest payment total to PCCB = 2nd highest payment/highest payment X 25

**Example:**

Point Value: 30 maximum points (example)

Formula:	\$10,000 annually (highest payment)	= 30 pts.
	\$8,000 annually (second highest payment)	= 20 pts.
	$((\$8,000/\$10,000) \times 25) = 20$	

**PCCB RIGHT TO ACCEPT OR REJECT PROPOSALS**

Proposals may be rejected for the following reasons:

- Failure to provide any information requested is cause for rejection;
- Providing false or incomplete information is grounds for rejection;
- Proposals received after the deadline will not be considered;
- Conditions placed on proposal is cause for rejection;
- Direct contact with PCCB staff or officials, except as permitted in these instructions, between the issuance date and award date are grounds for disqualification.

The Polk County Conservation Board (PCCB) can accept or reject any proposal in whole or in part; can seek clarification from any proposer and can waive any irregularities in proposal submissions.

**AWARD**

All proposers will be notified of the intent to award to a particular contractor. The award will be made at a public meeting of the Polk County Conservation Board, tentatively scheduled for October 14, 2015; 5:30 p.m. at the Polk County Administration Building (111 Court Avenue; Board of Supervisors Chambers). The Board's decision is final.

# Jester Park Lodge



**Attachment A  
Furnishings & Kitchen Equipment Inventory**

**Banquet Furnishings:**

Item	Quantity	Condition
8' Rounds	20	Good
8' Rectangle Tables	20	Good
6' Rectangle Tables	10	Good
6' Conference Tables	6	Good
Burgundy molded chairs	240	Good

**Kitchen/Storage Equipment:**

Item	Quantity	Condition
6 burner gas stove w/ 2'x2' griddle	1	Good
Side by side ovens	1	Good
Stainless steel tables (2- 6' x 30" & 1 -4' x 30')	3	Good
Two door commercial refrigerator	1	Good
Two door commercial freezer	1	Good
Four compartment sink	1	Good
Quick cycle dishwasher	1	Good
Two (2) keg, keg cooler	1	Good
# ice maker	1	Good
Walk-in cooler (88' x 88" x 95" high)	1	Excellent
1 Gallon coffee maker	1	Good
2.5 gallon Ice Tea maker	1	Good
Dolly carts ( 2' x 3')	2	Good
Wire shelving (2' x 4')	6	Good

**Audio / Visual Equipment:**

Item	Quantity	Condition
Podium	1	Good
Sound System (dual frequency)	1	Good
Handheld wireless mic	2	Good
Lapel wireless mic	2	Good
Mic stand	1	Good
Portable tripod video screen	1	Good
Projector stand	1	Good
A-frame white board (large)	2	Good
A-frame white board (small)	2	Good
Poster Board frame	1	Good

**Attachment B  
Three-Year Event/Gross Revenue History**

<b>Item</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>
Number of Events	87	81	89
Catering Revenue	\$319,000	\$274,595	\$375,881
Liquor Revenue	\$97,562	\$109,263	\$135,190
Event Set-up Revenue	\$27,650	\$26,425	\$30,100
"Non-catered" Revenue	\$475	\$2,110	\$992
Decor Revenue	\$49,713	\$66,252	\$90,271
<b>Total Annual Income</b>	<b>\$494,312</b>	<b>\$478,645</b>	<b>\$632,434</b>



**Attachment C**  
**Polk County Conservation Jester Park Lodge RFP Entity Submittal Form**

Name of Company: \_\_\_\_\_

Address: \_\_\_\_\_  
Street City State Zip

Type of Company: (Corporation, LLC, Etc.): \_\_\_\_\_

Contact Person: \_\_\_\_\_  
Name Title

Contact Info: \_\_\_\_\_  
Email Phone

Person Authorized to execute Contract: \_\_\_\_\_  
Name Title

Non-catered event fee: \$ \_\_\_\_\_ (for pot-luck style events)

Total Annual Compensation Value Estimate: \$ \_\_\_\_\_

**Please propose contract compensation terms; annual adjustments and renewal adjustments to Polk County Conservation:**

Regarding the sections related to the following please prepare a concise response or attach as appropriate to the below items as an attachment to this submittal:

- Compensation to Polk County Conservation: **PCC shall require a monthly management fee of \$1,000.** Your proposal should include other consideration to be provided to PCC regarding your rights to rental income and food/beverage income including liquor and vending. Ex. revenue sharing offer (% of gross revenues, flat fee, minimum compensation and then % thereafter, etc.) and include any annual increases and/or renewal term increases). **Value = 30 pts.;**
- Business plan, staffing levels and marketing ideas. **Value = 25 pts.;**
- History of company, contractors experience and reputation. **Value = 20 pts.;**
- References, client list, complexity of events, similar service and governmental contracts. **Value = 15 pts.;**
- Photo's events, room set-ups, food displays and menus. **Value = 10 pts.;**

**Additional pages, exhibits, photo's, etc. may be attached to this response**  
**Attachment C (cont.)**

**Evidence of Financial Capacity**

Attached hereto is a letter from the Federal or State regulated Bank (Financial Institution) who will fund my proposal.

It is signed by an authorized signer for the Financial Institution, attesting to my financial capacity to perform guest management services (rentals, full-service catering and full-service liquor sales and services) at the real property locally known as **the Jester Park Lodge (11407 NW Jester Park Drive, Granger, Iowa 50109)** for the monthly management fee of \$1,000.00 plus: (List terms of additional compensation to Polk County Conservation below):

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By signing this representation and **attaching the Bank (Financial Institution)** letter confirming my financing capacity for this proposal, I hereby warrant that the information contained in this representation is true and correct to the best of my knowledge and belief.

PLEASE PRINT all the following:

Bank Name: \_\_\_\_\_

Bank Local Address: \_\_\_\_\_  
Street City State Zip

Bank Officer: \_\_\_\_\_ Phone Number: \_\_\_\_\_

PROPOSER's Signature

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I understand that any misrepresentation or incomplete disclosure by Proposer of this financial status is grounds for rejection of my proposal.

**PLEASE NOTE:**

The attached confirmation letter of your availability of funds must come from the Bank (Financial Institution) funding your company, and/or retaining your bank accounts, and must demonstrate eligibility for financing operations for a venue of this size.

September 1, 2015

**Re: Jester Park Lodge RFP – RFP 2015-#002 Proposal**

Dear Jester Park RFP Review Committee:

Tuscany Event Center and Food with Flair Catering are pleased to submit our Proposal for the rights to provide exclusive guest services management for the Jester Park Lodge RFP (RFP 2015-#002). As a locally owned company we have been in the catering business for over 33 years and have managed and operated the Tuscany Event Center since 2011. We have provided professional services to as little as two people (anniversary) and as large as 3,000+ catering the town of Chariton, Iowa for a local business 150 year anniversary. We strive to provide excellent customer service, quality food, exceptional displays and go above and beyond our clients expectations.

We believe that we will have an immediate and positive impact as the exclusive guest services manager for Polk County Conservation. The following proposal outlines the requested information for your review and consideration.

Sincerely,

Diana Quick, Owner  
Food with Flair  
400 Fourth Street  
West Des Moines, IA50265  
515-277-7775  
[Diana@foodwithflair.com](mailto:Diana@foodwithflair.com)

Sincerely,

JoBeth Hanke, Business Manager  
Tuscany Event Center  
3901 NW 121<sup>st</sup> Street  
Urbandale, Iowa, 50323  
515-276-4142  
[Jobeth@foodwithflair.com](mailto:Jobeth@foodwithflair.com)

Encl.

- ❖ Compensation to Polk County Conservation
- ❖ Hours of Operation and anticipated staffing levels
- ❖ History of Food with Flair and Tuscany Event Center
- ❖ Business Plan & Marketing Ideas
- ❖ Non-catering fee proposal
- ❖ References
- ❖ Sample Portfolio
- ❖ Evidence of Financial Capacity
- ❖ Current Department of Public Health License
- ❖ Copy of last inspection
- ❖ Catering menu options

**Compensation to Polk County Conservation:**

As required in the RFP, Tuscany/Food with Flair shall provide the following:

- ❖ \$1,000.00 per month management fee;
- ❖ Payment for all utilities, trash collection, pest control, cleaning supplies and custodial care of the premises.

In addition to the above RFP required revenues and expense obligations, Tuscany/Food with Flair shall also provide to Polk County Conservation:

- ❖ 100% of all rental fees
- ❖ 12% of all gross sales
- ❖ 3% bonus of all revenues after annual revenues exceed \$500,000

Our estimated annual contribution to Polk County Conservation, based on the 2014 RFP published Event/Gross Revenue History is estimated at **\$127,443**.

2014 Gross Revenues	\$678,500	12%	\$122,088
Threshold Adjustment	(\$678,500 – \$500,000) = \$178,500	03%	\$5,355
<b>Total Compensation to Polk County Conservation</b>			<b>\$127,443</b>

**Hours of Operation & Anticipated Staffing Levels:**

As manager of the Jester Park Lodge we would be open and available for rentals seven days a week based on the requested needs of our customers. I.e. 6:00 am breakfast meetings, multiple day training meetings, evening and weekend social events until midnight as afforded in the RFP, etc. We would be closed for rental on the following major holidays:

- ❖ Easter;
- ❖ Thanksgiving Day;
- ❖ Christmas Eve;
- ❖ Christmas Day;
- ❖ New Year’s Day

As an experienced event facility manager, staffing levels vary depending on the size and client’s desired level of service. Under our current operations we provide a variety of staffed positions to meet our guest’s needs. These include: Bartenders, Bar Backs, Chef, Food Prep, Hors D’Oeuvers servers, wait staff and dishwasher positions. We operate a graduated staffing plan whereby we provide a higher staffing level at the beginning of an event to ensure great customer service with no wait times at the bar and fully plenished food stations. As the event slows down, staff are released throughout the evening but maintained at a level to ensure great customer service throughout the entire event.

With each major event the business owner (Diana Quick) and/or business manager (JoBeth Hanke) are on premises to ensure a quality event and complete satisfaction for the client. Smaller/reoccurring events are staffed by a select few key employees. Being a family owned business our employees are family members and friends of family thereby instilling both a personal and professional relationship with our workers. The quality of staffing provided is excellent as the average tenure of Food with Flair employees is over 15 years. Our companies currently have four full-time employees and over 60 part-time employees.

***Brief History of Tuscany & Food with Flair:***

Food with Flair was started by Diana Quick in 1982 out of a second basement kitchen providing quality homemade fare with exquisite displays. Food with Flair is now operated out of a 5,000 square feet building located at 400 Fourth Street, West Des Moines, Iowa. Major accounts include:

- ❖ MidAmerican Energy
- ❖ American Equity
- ❖ Delta Dental
- ❖ Iowa Bankers
- ❖ Master Builders
- ❖ Blessman Ministries
- ❖ Strategic America

Tuscany Event Center was acquired through a Lease arrangement beginning in 2011. This location, a former retail outlet was converted to a high end multi-use event venue. From January 1, 2015 through the submittal of this proposal we have managed over 110 events. Located at 3901 N.W. 121<sup>st</sup> Street, Urbandale, Iowa, the venue offers the following spaces:

- ❖ Tuscany Room: 320 Banquet style or 350 Classroom style;
- ❖ Florence Room: 220 Banquet style or 250 Classroom style;
- ❖ Sierra Room: 30 Banquet style or 50 Classroom style;
- ❖ Open entrance lobby with full bar service (271 Standing capacity);
- ❖ Board meeting room (seating for 8);

Events at Tuscany include: business socials, corporate, family events, showers, trade shows, weddings and wedding receptions. Other notable events managed by our company include:

- ❖ Jordan Creek Grand Opening;
- ❖ Events at the Salsbury House; the Governor’s Mansion, Rollins Mansion, Presidential airplanes and Presidential campaign catering;
- ❖ We have served numerous entertainers and prior on-site catering at the Des Moines Civic Center;
- ❖ Nordstrom Rack Grand Opening

***Business Plan & Marketing Ideas:***

Our primary business referrals have been through word of mouth and event guests from our 33 years of catering. We have had several news stories published about our company and services and have invested in limited marketing campaigns. In today’s digital society we actively utilize our web-site, facebook, twitter, plus.google.com, Instagram and Linked-in social media outlets. Having an alternative venue to augment our more formal atmosphere (Tuscany) in the City of Urbandale, Jester Park Lodge will provide another unique environment to our customers. With the surrounding park amenities, marketing efforts will focus on the Lodges’ outdoor opportunities for business and social events in the scenic views provided in this natural space.

Our number one request at Tuscany and the trend for weddings is for an outdoor setting. Upon reviewing the grounds and outdoor shelter, we believe that we can capitalize on this unmet need within the community at Jester Park, therefore increasing usage and income. We have a great business relationship with Bella Flora Exquisite Event Design who is the premier event planning space designer in the metropolitan area. We will work with Bella Flora to transform the indoor and outdoor spaces to create an elegant setting for all type of events (corporate, social, weddings, etc.). Our vision would be to develop some set-ups showing how various events could be hosted on the contract grounds. For example,

hanging white flowing drapery with an archway at the open air shelter will illustrate an excellent outdoor wedding hall with the shelter providing both shade and rain protection for the wedding party and guests.

The use of outdoor planters, sculptures and other props on the outdoor Lodge deck will help frame the scenic views of Saylorville Lake as another outdoor option for smaller weddings. The exterior grounds create some issues regarding wedding participant's access to the expansive lakefront lawn. The use of natural stone pavers creating a walkway to the natural amphitheater would allow greater opportunities for weddings but also social and entertainment events. Other events could include Movies in the Park (food and beverage sales); small trade fairs (jewelry, local art, etc.) and artisan events (wood carving, natural art, etc.) with wine and cheese, and local craft beer. Additionally, craft beer has a large following and creating an opportunity to allow sampling local brews with food and live music within Jester Park would draw visitors from throughout Polk County.

Upon notification of the contract award we will immediately reach out to the Des Moines Convention and Visitors Bureau (member agency) and local Chambers informing them of this venue and their potential to partner with us to market and promote their events. Our connections over the past 33 years in the business will be utilized to directly market to our current and former clients highlighting the affordability and beauty of this unique venue. We would also like to schedule a meeting with key Polk County Conservation staff to discuss joint programming and marketing opportunities (Web-sites, Nature news, client publications, etc.) to establish win/win opportunities. Success of this wonderful location is based on maximizing its use and revenue potential which can be achieved through strong collaborative efforts between our company and your Agency as you are our greatest advocate as the owner of this venue.

***Non-catering Fee Proposal:***

In evaluating the non-catering fee; we fully understand Polk County Conservation's desires to allow for general public access/use and have noted some special event opportunities that we will market to engage the general public to access the Lodge. Additionally, we will work with you to promote the use of this space for smaller family and non-profit events. Our proposed fee for non-catered events would be: 1)a management fee of \$50.00; and 2) \$30.00 per hour to cover our administrative and staffing costs to be on-site for these uses. This opportunity would be available Monday – Thursday and Friday and Saturday two weeks prior to any open times/dates.

***References:***

**Corporate:**

American Equity: Debbie Richardson, Ex. Vice President Ph: (515) 221-0002

Amway: Mike Waechter, Regional Ex. Director Ph: (515) 276-5988

Strategic America Mike Schreurs, CEO Ph: (515) 453-2000

**Weddings:**

Pam and Doug Freeman: Ph: (515) 276-3653

Andrea and Bruno Leonardi: Ph: (515) 991-3182

Kyra and Patrick Jacobson: Ph: (515) 537-6227

**Letters of Thanks: (attached)**

**RFP 2015-#002 Jester Park Lodge  
Guest Services Management**

**September 22, 2015**

**Clarifications**

The Jester Park Lodge RFP Review Committee is submitting clarifications based on review from the bid responders to the Jester Park Lodge RFP. Please review the information below and submit a formal response no later than Monday, September 28 by 1:00 p.m. This information may be submitted electronically to Cindy Lentz at [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov).

1. Polk County Conservation defines Gross Revenues as follows:

Catering Revenues  
Liquor Revenues  
Event Set-up Revenues  
"Non-catered" Revenues (Buyouts, Etc.)  
Decor Revenues  
Service Charges Revenues  
Billed gratuities

Please acknowledge your understanding of the above. **We understand Polk County Conservation's definition of Gross Revenues.**

2. Utilities to be paid by Management Company:

Actual Electricity  
Actual Gas  
Actual Water/Sewer  
Actual Extermination Services  
Actual Refuse Disposal Services

Please acknowledge your understanding of the above expectations towards full utility payments for operating the Jester Park Lodge. **We understand Polk County Conservation's expectations regarding Utility payments.**

3. Polk County Conservation will not accept any adjustment provisions for any prior notice of not being able to make projected revenues. If you included this provision in your response, please acknowledge that you understand our position. **We understand Polk County Conservation's position regarding the above adjustment provision.**
4. Please note that you have provided your most current inspection report, where it can be found in your proposal and if not, please submit. **We have provided our most current inspection report. It can be located on pages 19 and 20 of the proposal.**

	<b>Date</b>	October 14, 2015
	<b>Agenda Item No. 9 ACTION</b> <b>Roll Call No. 15-1009</b> <b>Submitted by: Wayne Johnson</b> <b>Construction/Maintenance</b> <b>Operations Manager</b>	

**AGENDA HEADING:**

Approving Polk County Conservation Construction/Maintenance & Operations staff to purchase materials and perform the work necessary to construct 4 enclosed spiral stairway additions to 4 Jester Park cabins.

**SYNOPSIS:**

Approving staff to construct enclosed stairway additions to the 4 cabins at Jester Park and to purchase materials from the lowest cost estimate from various vendors for the materials needed to complete this work.

**FISCAL IMPACT:**

Amount: **\$66,750** **Total Not to Exceed**  
 \$60,075 Materials  
 \$6,675 10% Contingency

Funding Source: Polk County Conservation Enterprise/Reserve Fund.

**ADDITIONAL INFORMATION:**

Since the cabins opened in May of 2014 staff has included a comment sheet to be filled out by the cabin users. Numerous comments have indicated a request for an internal access between the upper and lower levels. Reasons listed were, safety, security, not having to use the outside stairs in bad weather, etc. The additions will be on the back side of the cabins and not reduce the cabin size. Staff will block out times to do the work this coming winter and spring.

**PREVIOUS BOARD ACTION(S):**

Date: N/A

Roll Call Number: N/A

Action: N/A

**RECOMMEDATION:**

Approving staff to purchase the materials and perform the work to complete this project.

For more information on this and other agenda items, please Polk County Conservation Office at 515-323-5300 or visit the office (11407 NW Jester Drive, Granger, Iowa). Polk County Conservation Board 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 [pccb\\_info@polkcountyiowa.gov](mailto:pccb_info@polkcountyiowa.gov) or request to receive meeting notices and agendas by email by calling the office or sending their request via email to [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov)



**Date**

October 14, 2015

**Agenda Item No. 10 ACTION**  
**Roll Call No. 15-1010**  
**Submitted by: Richard Leopold**  
**Director**

**AGENDA HEADING:**

Authorizing Director and/or his designee to negotiate the acquisition of approximately 41.5 acres from Metro Waste Authority.

**SYNOPSIS:**

Authorization for Polk County Conservation Director and/or his designee to negotiate the acquisition of approximately 41.5 acres of land from the Metro Waste Authority for conservation/educational purposes.

**FISCAL IMPACT:**

Amount: Not to exceed \$41,524.00

Funding Source: Polk County Water and Land Legacy bond

**ADDITIONAL INFORMATION:**

Metro Waste Authority (MWA) owns two parcels of land along Camp Creek south of SE 6th Avenue (area outlined in red on attached map). MWA bought both parcels of land in November of 2010; the north portion was 28.504 acres for \$239,000 and the south portion was 13.020 acres for \$91,000. The total area is 41.524 acres purchased for \$330,000.

Polk County Conservation (PCC) owns properties south and west of MWA property (areas shaded in green). MWA and PCC management staff have been meeting to discuss how to best manage our properties in partnership. Paramount goals for both agencies are continued environmental education, public use, habitat restoration, and water quality.

PCC staff discussed the management of these two properties with the MWA Board of Directors on August 19, 2015 (see attached memo used to facilitate that discussion). Subsequently, MWA has asked PCC to make a formal offer to purchase their property and create one unified park. The following is a property analysis and recommendations created by PCC staff. This plan will reviewed, considered, and recommended by PCC staff for approval by the Polk County Conservation Board at their regularly scheduled meeting on October 14, 2015. PCC will then submit the formal offer to the MWA Board for their consideration.

These two parcels of 29.09 and 13.020 acres are lying adjacent to and bisected by the channel of Camp Creek. The majority of the northern parcel is in cool-season grasses with approximately 1.75 acres under crop in the far SE of the tract. The northern parcel lies primarily within the floodplain of Camp Creek and/or a significant drainage flowing from the NE and is subject to frequent inundation. The southern parcel of 13+acres is mostly forested with a full conservation easement on 11.57 acres, recorded and running concurrently with the land and that excludes all commercial use.

The MWA property was purchased as part of their effort to improve the health of the environment surrounding the MWA East facility and in particular the health of Camp Creek. It was also envisioned as

a property that would support the activities of the environmental learning facility immediately to the north. PCC fully supports this effort and will continue to manage in support of these worthy goals.

### **Polk County Conservation Land and Plans**

PCC owns 50.441 acres of land immediately south of the MWA southern parcel. PCC lacks access to our property and management is difficult and dependent upon neighboring landowners for access. Without permanent access, it is increasingly difficult to justify owning and managing property that has no public access. There are potential multiple benefits such as water quality, wildlife, environmental education, and public recreation that could be realized if there was access to install and manage best management practices.

To repair the streambed, stream bank, build footpaths for access, and to restore wetland and grassland systems PCC has identified approximately \$330,000 of needed investment to incorporate the property into our parkland and preserve system (see attached memo.) This restoration cost is equal to the purchase price paid by MWA in 2010 to acquire the property.

The purpose for acquisition and protection of this property by MWA and the management and educational mission of PCC are compatible goals.

PCC will commit to restoration of these lands. To do so, PCC will primarily be using Polk County Water and Land Legacy funds (PCWLL). A long-term lease or an acquisition of the property is required before investment of PCWLL bond funds; PCC must own or manage this property in order to expend bond funding for restoration of this area. If MWA chooses not to sell the property currently under their control, PCC staff will likely recommend that PCC sell the PCC property to either the MWA or other interested buyers and reinvest the proceeds in another more strategically located, accessible property.

### **MWA Property Value Analysis**

The 11+ acres of land within the southern parcel has no commercial value with the easement in place. The northern remaining property has value only as permanent pastureland with only 1.75 acres of cropland (too small of an area to be of value to all except a neighboring agricultural cooperator).

Value of the property would be similar to Wetland Reserve Program (WRP) lands available near the Des Moines metro area as hunting property. Tracts of 50+ acres and up have been sold to urban residents for use as hunting preserves for the average of \$1,000 per acre. Adjacency to the MWA Environmental Learning Center educational facility and to MWA East landfill, as well as MWA's desire to not have firearms hunting next to their facility, negate that value.

PCC and MWA jointly recognize the value of a larger more manageable property for wildlife, water quality, and education purposes and believe this is strong justification for the acquisition of this property by PCC. However, for PCC, this is a large responsibility and considerable investment of capital and staff time necessary to restore the site over the coming years. Additionally, there will be ongoing maintenance and operations that will be carried by PCC.

In accordance with the wishes of MWA, there will be open and facilitated access of the property to the public, which will include cooperative and extensive use by the MWA Environmental Learning Center. PCC will accept the condition of prohibiting firearm hunting, although bow-hunting as facilitated by PCC controlled urban hunt program will be necessary to control deer herd numbers. These hunters are certified and permitted by PCC within this very successful program, managed by PCC, for the greater Des Moines metro.

PCC recommends that the Polk County Conservation Board approve the proposal to approach the Metro Waste Authority Board with an offer to assume ownership of the property and restore the site as best management practices will allow, dependent on funding and staff availability. Due to the high initial and capital costs, PCC would like to assume ownership at no cost. If required by the MWA Board, PCC could offer a maximum of \$1,000 per acre for \$41,524. With the cash offer, there will be an understanding that MWA will commit to help PCC with remediation by offering heavy machinery work and some dedication of MWA staff time for the heavy equipment operations required for stream stabilization and other restoration work.

**PREVIOUS BOARD ACTION(S): N/A**

Date:

Roll Call Number:

Action:

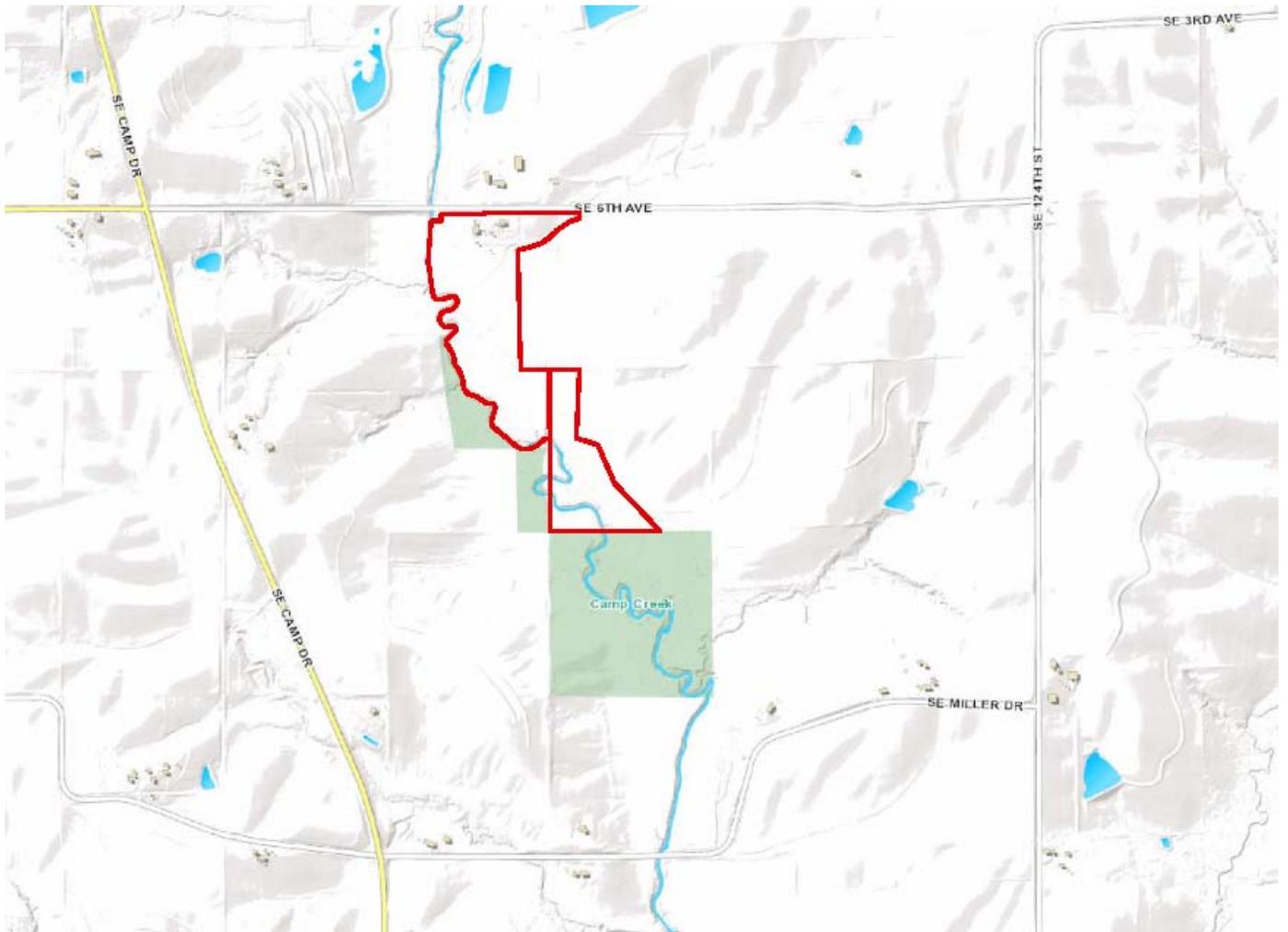
**RECOMMEDATION:**

Approving offer to buy a tract of land near the Metro Waste Authority East facility adjacent to County owned property.

For more information on this and other agenda items, please Polk County Conservation Office at 515-323-5300 or visit the office (11407 NW Jester Drive, Granger, Iowa). Polk County Conservation Board 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 [pcb\\_info@polkcountyiowa.gov](mailto:pcb_info@polkcountyiowa.gov) or request to receive meeting notices and agendas by email by calling the office or sending their request via email to [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov)



Property Value Analysis for Metro Waste Authority Property Lying Within the NE 1/4 Sec 11-78-22, Polk County.





<b>Date</b>	October 14, 2015
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<b>Agenda Item No. 11 ACTION</b> <b>Roll Call No. 15-1011</b> <b>Submitted by: Richard Leopold</b> <b>Director</b>
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**AGENDA HEADING:**

Approving Resolution to encourage the State of Iowa Legislature and Governor to fund the Natural Resources and Outdoor Recreation Trust Fund.

**SYNOPSIS:**

Approval of a Resolution encouraging the State of Iowa Legislature and Governor to fund the Natural Resources and Outdoor Recreation Trust Fund.

**FISCAL IMPACT: N/A**

**ADDITIONAL INFORMATION:**

In 2010, Iowa voters passed the Constitutional Amendment that created the Natural Resources and Outdoor Recreation Trust Fund. This fund once established by the State of Iowa would provide a funding stream to support conservation of Iowa's soil, water, fish, wildlife, habitat, parks and trails.

The Iowa County Conservation Board is requesting each County Conservation Board to approve the attached Resolution requesting the State of Iowa to appropriate funds for this Trust in the 2016 Legislative session. Sustainable funding of this Trust will aid in the conservation and preservation of Iowa's ecosystems, parks and trails. Iowa's natural resources are essential and critical for economic, social and recreational quality of life opportunities for all Iowan's.

The initial Constitutional Amendment received overwhelming support from Iowa voters in 2010 and continues to receive a high level of support with over 66% of those polled supporting funding for this Trust Fund.

**PREVIOUS BOARD ACTION(S): N/A**

Date:

Roll Call Number:

Action:

**RECOMMEDATION:**

Approving Funding the Natural Resources and Outdoor Recreation Trust Fund and authorizing the Polk County Conservation Board Chair to sign said Resolution on behalf of the Board.

For more information on this and other agenda items, please Polk County Conservation Office at 515-323-5300 or visit the office (11407 NW Jester Drive, Granger, Iowa). Polk County Conservation Board 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 [pccb\\_info@polkcountyiowa.gov](mailto:pccb_info@polkcountyiowa.gov) or request to receive meeting notices and agendas by email by calling the office or sending their request via email to [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov)



*Iowa's County Conservation System*

**RESOLUTION**

**Funding the Natural Resources and  
Outdoor Recreation Trust Fund**



**WHEREAS**, Iowa's natural resources are essential and critical for economic, social and recreational quality of life, and

**WHEREAS**, conservation of soil, water, wildlife, habitat, parks and trails is essential to ensure long term benefits for all Iowans, and

**WHEREAS**, healthy soil, water and fish and wildlife habitat, parks and trails contributes billions of dollars to Iowa's rural, suburban and urban economies, and

**WHEREAS**, these benefits ensure sustainable jobs and ensure an attractive job market for those seeking gainful employment, and

**WHEREAS**, Iowa's quality of life is greatly enhanced through beautiful parks, abundant fish and wildlife for hunting and fishing, clean lakes for swimming and boating, and connected trails for biking, hiking and recreating, and

**WHEREAS**, voters in 2010 passed the Constitutional Amendment that created the Natural Resources and Outdoor Recreation Trust Fund, and polling in 2014 continues to show a high level of support (>66%) for Funding the Trust,

**THEREFORE**, be it resolved that Iowa's County Conservation System and specifically Polk County Conservation, supports funding the Natural Resources and Outdoor Recreation Trust Fund, and therefore encourages the Iowa Legislature to develop and pass legislation that Funds the Trust Fund in 2016,

And be it further resolved that the Governor of the Great State of Iowa sign this legislation into law, creating a permanent source of funding that ensures Iowa's natural resources are conserved for economic, social and recreational benefits for all Iowans.

Signed this day \_\_\_\_\_ of October, 2015

By Connie Johnson, Chair of the Polk County Conservation Board

\_\_\_\_\_  
Connie Johnson  
Polk County Conservation Board Chair



<b>Date</b>	October 14, 2015
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<b>Agenda Item No. 12 ACTION</b> <b>Roll Call No. 15-1012</b> <b>Submitted by: Douglas C. Romig</b> <b>Deputy Director</b>
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**AGENDA HEADING:**

Approving Cooperative Agreement by and between the Iowa Department of Natural Resources and Polk County Conservation in the amount of \$4,982,196 to support the Easter Lake Park lake restoration developments.

**SYNOPSIS:**

Approval of Cooperative Agreement by and between the Iowa Department of Natural Resources and Polk County Conservation for a grant in the amount of \$4,982,196 for Easter Lake Park lake restoration improvements.

**FISCAL IMPACT:**

Amount: \$4,982,196 (Revenue from grant funds)

Funding Source: Iowa Department of Natural Resources.

**ADDITIONAL INFORMATION:**

At the September 9, 2015 Board meeting by Roll Call No. 15-0908, the Board authorized the Polk County Conservation Director to issue bids for Easter Lake improvements and Easter Lake watershed improvements in an amount not to exceed \$19,070,000 and authorization to commit up to \$3.2 million of Polk County Water and Land Legacy bonds towards said improvements. On October 8, 2015, the Iowa Natural Resources Commission approved a Cooperative Agreement by and between the Iowa Department of Natural Resources (IDNR) and Polk County Conservation for IDNR funding of approximately \$5.0 million of the \$19.0 million plan to aid in the initial development projects (Contracts I - III).

Polk County Conservation staff have been working with Mike McGhee, consultant (former Lake Restoration Coordinator with the Iowa Department of Natural Resources) and Snyder Engineering to generate the initial conceptual plans and are currently seeking bids for:

**Contract I:** Fish rearing pond, gate value control, spillway, shoreline and erosion control improvements - \$561,000 - Bids due October 23, 2015 for Board award on November 4, 2015

**Contract II:** Water control structure, ditch checks and excavation work - \$376,000 - Bids due October 23, 2015 for Board award on November 4, 2015

**Contract III:** Dredge piping, dredging, debris removal, erosion control - \$6,465,000 - Bids to be published October 26, 2015 and due November 24, 2015 for Board award on December 9, 2015

The total of the above three contracts is approximately \$7.4 million, with \$5.0 million coming from the IDNR. Additional sources for these projects include Iowa Department of Agriculture and Land Stewardship (\$100,000) and donated riprap (in-kind expense reduction). The remaining funds (approximately \$2.1 million) will come from the Polk County Water and Land Legacy bond.

An additional Cooperative Agreement with additional IDNR financial support shall be drafted in 2016/17 for the remaining lake restoration work in **Contract IV** which includes: shoreline restoration, jetties and in-lake fish habitat - \$2,358,000 cost estimate.

The construction contract breakdown will allow Polk County Conservation to seek local bids, expedite renovation work and coordinate overall logistics related to the complete scope of work need to implement the water quality improvement projects.

A breakdown of the two major projects (Lake Restoration and Watershed Restoration) include:

#### **Lake Restoration**

<b><u>Amount:</u></b>	<b><u>\$12,045,000</u></b>	
	\$ 9,100,000	Construction
	\$ 1,765,000	Architectural, Engineering & Permits
	\$ 280,000	J.C. White Land Acquisition
	\$ 900,000	Contingency (10%)

<b><u>Funding Source:</u></b>	<b><u>\$12,045,000</u></b>	
	\$ 3,120,000	PCWLL bond
	\$ 8,925,000	Iowa DNR Lake Restoration Grants

Leverage impact: 26% PCCB and 74% IDNR

#### **Watershed Restoration**

<b><u>Amount:</u></b>	<b><u>\$7,025,000</u></b>	
	\$ 5,746,500	Construction
	\$ 500,000	Architectural, Engineering & Permits
	\$ 778,500	Contract Management and Monitoring

<b><u>Funding Source:</u></b>	<b><u>\$7,025,000</u></b>	
	\$ 469,000	PCWLL bond
	\$ 974,190	Iowa DNR Lake Restoration Grants
	\$ 2,275,310	EPA/DNR 319 Funding
	\$ 2,159,300	Local Government
	\$ 302,000	Iowa Department of Agriculture and Land Stewardship
	\$ 443,000	Natural Resources Conservation Service
	\$ 402,200	Landowners

Leverage Impact: 7% PCCB and 93% Other

Implementation of the complete Easter Lake Master Plan is estimated to cost approximately \$32.0 million. To date the following projects have been completed:

➤ Phase I and II of the Ackelson trail	\$2,350,000
➤ Covered Bridge restoration has been	\$ 62,714
➤ J.C. White property has been acquired for the lake dredging spoils	\$ 279,894
➤ Water quality improvement with installation of 1 of the 3 rain gardens	<u>\$ 50,000</u>
<b>Total</b>	<b>\$2,742,608</b>

Future work includes the following:

➤ Phase III of the Ackelson trail	\$ 2,100,000
➤ Watershed and lake quality improvements	\$19,069,000
➤ Easter Lake Lodge	<u>\$ 8,000,000</u>
<b>Total</b>	<b>\$29,169,000</b>

**PREVIOUS BOARD ACTION(S):**

Date: September 9, 2015

Roll Call Number: 15-0908

Action: Authorizing Polk County Conservation Director or his designee to issue competitive bids for Easter Lake improvements and Easter Lake watershed improvements in an amount not to exceed \$19,070,000 and authorization to commit up to \$3.2 million of Agency funds towards said improvements.

**RECOMMEDATION:**

Approval of Cooperative Agreement by and between the Iowa Department of Natural Resources and Polk County Conservation and authoring the Polk County Board Chair to sign said Agreement on behalf of Polk County Conservation.

For more information on this and other agenda items, please Polk County Conservation Office at 515-323-5300 or visit the office (11407 NW Jester Drive, Granger, Iowa). Polk County Conservation Board 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 [pccb\\_info@polkcountyiowa.gov](mailto:pccb_info@polkcountyiowa.gov) or request to receive meeting notices and agendas by email by calling the office or sending their request via email to [cynthia.lentz@polkcountyiowa.gov](mailto:cynthia.lentz@polkcountyiowa.gov)

IOWA DEPARTMENT OF NATURAL RESOURCES  
CONTRACT NUMBER 16CRDFBGANTO-0003

Between

IOWA DEPARTMENT OF NATURAL RESOURCES

And

POLK COUNTY CONSERVATION BOARD

This Cooperative Agreement was approved by the [Natural Resource Commission](#) on [October 8, 2015](#).

IN WITNESS THEREOF, the parties hereto have entered into this Cooperative Agreement on the day and year last specified below.

**DEPARTMENT OF NATURAL RESOURCES**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Bruce Trautman, Deputy Director](#)

**POLK COUNTY CONSERVATION BOARD**

By: \_\_\_\_\_ Date: \_\_\_\_\_  
[Connie Johnson, Board Chair](#)

**For DNR use only:**

1. Retain the original contract in the project file and send a hardcopy with the first invoice.
2. a) Fax contract to 515-281-8895 (check one box below before faxing)  
OR  
b) Email scanned copy to your Division's Contract Rep:

<b>DIVISION</b>	<b>DIVISION CONTRACT REP</b>
<input type="checkbox"/> Conservation & Recreation	<a href="mailto:Kim.Rasler@dnr.iowa.gov">Kim.Rasler@dnr.iowa.gov</a>
<input type="checkbox"/> Director's Office	<a href="mailto:Karen.Fynaardt@dnr.iowa.gov">Karen.Fynaardt@dnr.iowa.gov</a>
<input type="checkbox"/> Environmental Services	<a href="mailto:Jerah.Sheets@dnr.iowa.gov">Jerah.Sheets@dnr.iowa.gov</a>
<input type="checkbox"/> Management Services	<a href="mailto:Jennifer.StJohn@dnr.iowa.gov">Jennifer.StJohn@dnr.iowa.gov</a>

If you do not have faxing or scanning/emailing capabilities, you may mail a copy of the contract to IA DNR, Wallace State Office Building, Attention: (your respective bureau's contract rep), 502 East 9<sup>th</sup> Street, Des Moines, IA 50319.

## COOPERATIVE AGREEMENT - SPECIAL CONDITIONS

This Cooperative Agreement is entered into between the Iowa Department of Natural Resources (DNR) and the [Polk County Conservation Board \(Polk CCB\)](#). The parties agree as follows:

### Section 1 IDENTITY OF THE PARTIES

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**1.1 Parties.** DNR is authorized to enter into this Contract. DNR's address is: Wallace State Office Building, 502 East 9<sup>th</sup> Street, Des Moines, Iowa 50319.

The [Polk CCB](#), a [County agency](#) is organized under Chapter 350 of Iowa Code. The [Polk CCB's](#) address is: [11407 NW Jester Park Drive, Granger, Iowa 50109](#).

**1.2 Project Managers.** Each party has designated a Project Manager, who shall be responsible for oversight and negotiation of any contract modifications, as follows:

**DNR Project Manager:** [George Antoniou, Lake Restoration Program](#)  
[DNR, 502 East 9<sup>th</sup> Street](#)  
[Des Moines, Iowa 50319-0034](#)  
[Phone: 515-725-8449](#)  
[Email: \[george.antoniou@dnr.iowa.gov\]\(mailto:george.antoniou@dnr.iowa.gov\)](#)

**Polk CCB Project Manager:** [Doug Romig, Deputy Director](#)  
[Polk County Conservation Administration Office](#)  
[11407 NW Jester Park Drive](#)  
[Granger, Iowa 50109](#)  
[Phone: 515-323-5355](#)  
[Email: \[Doug.Romig@polkcountyiowa.gov\]\(mailto:Doug.Romig@polkcountyiowa.gov\)](#)

### Section 2 STATEMENT OF PURPOSE

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**2.1 Statutory Authority.** DNR enters into this Cooperative Agreement based on statutory authority provided in Iowa Code section [456A.24](#)

**2.2 Background.** Easter Lake, located within Easter Lake Park, has been a great recreational resource for the residents of Des Moines, Iowa and surrounding communities since 1967. However, over the last several years the water quality of the lake has diminished due to increased loads of nutrients and sediment as development has occurred around the lake. Currently, the lake suffers from poor water clarity, algal blooms, high sedimentation rates, low oxygen concentrations and a poor fishery.

In response to these water quality problems, area stakeholders worked together to develop the Easter Lake Water Quality Management Plan (the Plan). The planning effort was co-sponsored by the Iowa Department of Natural Resources, Polk County Conservation Board and the City of Des Moines. Other support agencies involved in review and development of the Plan included; the Iowa Department of Agriculture and Land Stewardship, Polk County Soil and Water Conservation District and the Natural Resources Conservation Service. The Plan serves as the most current culmination of existing studies, citizen and stakeholder input, and the consultant's recommendations for structural and nonstructural Best Management Practices intended to reduce delivery of pollutants to Easter Lake and restoration of Easter Lake. The Easter Lake Water Quality

Management Plan is on file at the Iowa Department of Natural Resources, Wallace State Office Building, 502 E. 9<sup>th</sup> Street, Des Moines, Iowa 50319.

**2.3 Purpose.** The DNR’s purpose in entering into this Cooperative Agreement is to reimburse the Polk CCB for construction of restoration and improvements to Easter Lake (the Project). Improvements include targeted dredging, modifications to the existing dam and spillway, shoreline restoration, repair of an existing fish rearing pond, sedimentation basins and drainage way improvements.

**Section 3 DURATION OF COOPERATIVE AGREEMENT**

**3.1 Term of Cooperative Agreement.** The term of this Cooperative Agreement shall be November 1, 2015 through June 30, 2017, unless terminated earlier in accordance with the Termination section of this Cooperative Agreement. However, this Cooperative Agreement shall not begin until it has been signed by both parties.

**3.2 Approval of Cooperative Agreement.** The amount of compensation to be paid by DNR according to the terms of this Cooperative Agreement is equal to or greater than \$25,000.00; therefore, performance shall not commence unless by November 1, 2015 this Cooperative Agreement has been approved by the Natural Resource Commission.

**Section 4 DEFINITIONS**

“Task Milestone Date” shall mean a deadline for accomplishing a Task required by this Cooperative Agreement.

**Section 5 STATEMENT OF WORK – RESPONSIBILITIES OF THE PARTIES**

**5.1** The responsibilities of the Polk CCB shall be to perform the following tasks by the Task Milestone Dates set out in the following table. For all tasks set out in the following table, the Polk CCB shall be responsible for all aspects of designing and constructing the Project, including but not limited to planning and design; procuring contracts and obtaining any and all permits and clearances needed related to installation of the Project. The Project shall be consistent with Snyder & Associates, Inc. design plans approved by the DNR, included as Exhibit A.

Obligation	Task Milestone Date
<p><b>Task 1A: Fish Rearing Pond Reconstruction and Spillway Modification</b>  <b>Description:</b>                      The project includes the construction of fish rearing pond improvements and approximately 520 feet of rip rap shoreline armoring at Easter Lake Park in the City of Des Moines. The project also includes the installation of structural steel fish barrier improvements at the existing spillway and constructing a concrete access walkway. Repair of the lake drain structure is also required. The drain structure repairs include demolition and removal of existing equipment and installation of two new sluice gates and accessories.</p>	No later than <b>June 30, 2016</b>
<p><b>Task 1B: Sedimentation Basins and Drainage way Improvements</b>  <b>Description:</b>                      The project includes implementation of sediment/water control</p>	No later than <b>June 30, 2016</b>

structures and stabilization of drainage ways above the structures.	
<b>Task 2: Dredging</b> <b>Description:</b> The project includes dredging of approximately 500,000 cubic yards of material and disposal of the material on Polk CCB owned land.	No later than <b>May 31, 2017</b>
<b>Task 3: Engineering Services</b> <b>Description:</b> The Polk CCB shall enter into a Professional Services Agreement with Snyder & Associates, Inc. to provide engineering services for Task 1A, Task 1B and Task 2. Engineering services shall include, but are not limited to, attending pre-construction meetings, preparing pre-construction meeting notes, site visits, review of contractor pay submittals, final inspection and project administration as determined by Polk CCB.	No later than <b>June 30, 2017</b>

**Section 6 MONITORING AND REVIEW**

**6.1 Task Milestone Dates.** The parties agree to complete their respective obligations under this Cooperative Agreement by the Task Milestone Dates set out in Section 5.1.

Failure by either party to complete the above-designated portions of its obligations by the Task Milestone Dates set out herein shall constitute material breach of this Cooperative Agreement and shall be grounds for the other party to immediately terminate this Cooperative Agreement for cause.

**6.2 Review Meetings.** Commencing with beginning performance of this Cooperative Agreement, the Project Managers shall meet **quarterly** to discuss progress made during the performance of this Cooperative Agreement. The meetings shall occur, either in person or by telephone conference call. Meetings may be postponed only on a case-by-case basis by mutual written agreement of the parties.

**6.3 Status Reports.** Prior to each review meeting, each Project Manager shall provide a status report listing:

- o Accomplishments during the previous period,
- o Activities planned for the upcoming period,
- o Tasks completed or Deliverables produced during the previous period,
- o An updated schedule of upcoming Deliverables, and
- o Any problems or concerns encountered since the last meeting.

At the next scheduled meeting after which any party has identified in writing a problem, the party responsible for resolving the problem shall provide a report setting forth activities undertaken, or to be undertaken, to resolve the problem, together with the anticipated completion dates of such activities. Any party may recommend alternative courses of action or changes that shall facilitate problem resolution.

**6.4 DNR right to review and observe.** Each party shall have the right to review and observe, at any time, completed work or work in progress. Each party agrees to provide access, upon request and without cost to the other party, to inspect its facilities and books and records relating to invoicing and time records for the purpose of monitoring and evaluating performance of this Cooperative Agreement.

**Section 7 COMPENSATION**

**7.1 Sources of Funding.** DNR’s source of funding for this Cooperative Agreement is Iowa Code 456A.33B Lake Restoration Plan and Report, known as the State Lake Restoration Program.

**7.2 Not-to-exceed total amount of Cooperative Agreement.** Payment by DNR for work performed according to the terms of this Cooperative Agreement shall not exceed **\$4,982,196**. Payment shall be for satisfactory completion of the Statement of Work outlined in this Cooperative Agreement, provided that the parties have complied with the terms of this Cooperative Agreement.

**7.3 Budget.** The budget for this Cooperative Agreement shall be as follows:

**DNR Contribution**

<b>Total amount of DNR monetary contribution</b>	Not to exceed <b>\$ 4,982,196</b>
<b>Task 1A: Fish Rearing Pond Reconstruction and Spillway Modification</b>	Not to exceed \$377,497 or 75%, whichever is the lesser amount, of the total project costs.
<b>Task 1B: Sedimentation Basins and Drainage way Improvements</b>	Not to exceed \$267,242 or 75%, whichever is the lesser amount, of the total project costs.
<b>Task 2: Dredging</b>	Not to exceed \$4,122,913 or 75%, whichever is the lesser amount, of the total project costs.
<b>Task 3: Engineering Services</b>	Not to exceed \$214,544 or 75%, whichever is the lesser amount, of the total project costs.
<b>Total amount of DNR contribution</b>	<b>\$4,982,196</b>

The budget for each task may be adjusted by up to 10% as long as the total DNR contribution does not exceed \$4,982,196. For any change greater than 10%, Polk CCB must notify DNR in writing and receive DNR approval prior to the expenditure.

**7.4 Submission of Invoices**

Polk CCB shall submit invoices no later than June 30, 2017. The invoices shall itemize the work performed pursuant to the Cooperative Agreement. Each invoice shall comply with all applicable rules concerning payment of such claims and shall contain appropriate documentation necessary to support the fees or charges included in the invoice. The party receiving the invoice shall have the right to dispute any invoice item submitted for payment and to withhold payment of any disputed amount if that party reasonably believes the invoice is inaccurate or incorrect in any way.

Original invoices shall be submitted to:

[George Antoniou, Lake Restoration Program](mailto:george.antoniou@dnr.iowa.gov)  
[DNR, 502 East 9<sup>th</sup> Street, Des Moines, Iowa 50319-0034](mailto:george.antoniou@dnr.iowa.gov)  
 Phone: 515-725-8449  
 Email: [george.antoniou@dnr.iowa.gov](mailto:george.antoniou@dnr.iowa.gov)

**7.5 Payment of Invoices.** DNR shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. If the other party is subject to the provisions of Iowa Code section 8A.514, then the other party shall pay approved invoices in arrears and in conformance with Iowa Code section 8A.514. Unless otherwise agreed to in writing by the parties, neither party shall be entitled to receive any other payment or compensation for any services provided under this Cooperative Agreement.

**7.6 No advance payment.** No advance payments shall be made for any Deliverables provided by Polk CCB pursuant to this Cooperative Agreement.

**7.7 Delay of Payment.** If either party determines that the other party has failed to perform or deliver any Deliverable required by this Cooperative Agreement, then compensation may be withheld until such Deliverable is performed or delivered according to the terms of this Cooperative Agreement.

## COOPERATIVE AGREEMENT

### GENERAL CONDITIONS WHEN OTHER PARTY IS A GOVERNMENTAL ENTITY

#### **Section 1**        **COMPLIANCE WITH THE LAW**

The parties shall comply with all applicable federal, state, and local laws, rules, ordinances, regulations and orders when performing the services under this Contract, including without limitation, all laws applicable to the prevention of discrimination in employment and the use of targeted small businesses as suppliers. The parties, and their employees and agents shall also comply with all federal, state and local laws regarding business permits and licenses that may be required to carry out the work performed under this Contract. The parties represents that they will comply with all federal, state, foreign and local laws applicable to their performance under this Contract.

#### **Section 2**        **TERMINATION**

**2.1 Termination Due to Lack of Funds or Change in Law.** DNR shall have the right to terminate this Contract without penalty by giving sixty (60) days written notice to the Contractor as a result of any of the following:

**2.1.1** The legislature or governor fail in the sole opinion of DNR to appropriate funds sufficient to allow DNR to either meet its obligations under this Contract or to operate as required and to fulfill its obligations under this Contract; or if funds anticipated for the continued fulfillment of the Contract are, at any time, not forthcoming or are insufficient, either through the failure of DNR to appropriate funds or funding from a federal source is reduced or discontinued for any reason, or through discontinuance or material alteration of the program for which funds were provided; or

**2.1.2** If funds are de-appropriated, reduced, not allocated, or receipt of funds is delayed, or if any funds or revenues needed by DNR to make any payment hereunder are insufficient or unavailable for any other reason as determined by DNR in its sole discretion; or

**2.1.3** If DNR's authorization to conduct its business or engage in activities or operations related to the subject matter of this Contract is withdrawn or materially altered or modified; or

**2.1.4** If DNR's duties, programs or responsibilities are modified or materially altered;  
or

**2.1.5** If there is a decision of any court, administrative law judge or an arbitration panel or any law, rule, regulation or order is enacted, promulgated or issued that materially or adversely affects DNR's ability to fulfill any of its obligations under this Contract.

**2.2 Immediate Termination by DNR.** DNR may terminate this Contract for any of the following reasons effective immediately without advance notice and without penalty:

**2.2.1** In the event the Contractor is required to be certified or licensed as a condition precedent to providing services, the revocation or loss of such license or certification will result in immediate termination of the Contract effective as of the date on which the license or certification is no longer in effect;

**2.2.2** DNR determines that the actions, or failure to act, of the Contractor, and its agents and employees have caused, or reasonably could cause, any person's life, health or safety to be jeopardized;

**2.2.3** The Contractor fails to comply with confidentiality laws or provisions;

**2.2.4** The Contractor furnished any statement, representation or certification in connection with this Contract or the RFP which is materially false, deceptive, incorrect or incomplete.

**2.3 Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for DNR to declare the Contractor in default of its obligations under this Contract.

**2.3.1** The Contractor fails to perform, to DNR's satisfaction, any material requirement of this Contract or is in violation of a material provision of this Contract, including, but without limitation, the express warranties made by the Contractor;

**2.3.2** DNR determines that satisfactory performance of this Contract is substantially endangered or that a default is likely to occur;

**2.3.3** The Contractor fails to make substantial and timely progress toward performance of the Contract;

**2.3.4** The Contractor becomes subject to any bankruptcy or insolvency proceeding under federal or state law to the extent allowed by applicable federal or state law including bankruptcy laws; the Contractor terminates or suspends its business; or DNR reasonably believes that the Contractor has become insolvent or unable to pay its obligations as they accrue consistent with applicable federal or state law;

**2.3.5** The Contractor has failed to comply with applicable federal, state and local laws, rules, ordinances, regulations and orders when performing within the scope of this Contract;

**2.3.6** The Contractor has engaged in conduct that has or may expose the State or DNR to liability, as determined in DNR's sole discretion;

**2.3.7** The Contractor has infringed any patent, trademark, copyright, trade dress or any other intellectual property right or proprietary right, or the Contractor has misappropriated a trade secret, or

**2.3.8** Contractor fails to comply with any of the Task Milestone dates contained in this Contract.

**2.4 Notice of Default.** If there is a default event caused by the Contractor, DNR shall provide written notice to the Contractor requesting that the breach or noncompliance be remedied within the period of time specified in DNR's written notice to the Contractor. If the breach or noncompliance is not remedied by the date of the written notice, DNR may either:

**2.4.1** Immediately terminate the Contract without additional written notice; or,

**2.4.2** Enforce the terms and conditions of the Contract and seek any legal or equitable remedies.

**2.5 Termination upon Notice.** Following thirty (30) days written notice, DNR may terminate this Contract in whole or in part without the payment of any penalty or incurring any further obligation to the Contractor. Following termination upon notice, the Contractor shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under this Contract to DNR up to and including the date of termination.

**2.6 Remedies of the Contractor in Event of Termination by DNR.** In the event of termination of this Contract for any reason by DNR, DNR shall pay only those amounts, if any, due and owing to the Contractor for services actually rendered up to and including the date of termination of the Contract and for which DNR is obligated to pay pursuant to this Contract. Payment will be made only upon submission of invoices and proper proof of the Contractor's claim. This provision in no way limits the remedies available to DNR under this Contract in the event of termination. However, DNR shall not be liable for any of the following costs:

**2.6.1** The payment of unemployment compensation to the Contractor's employees;

**2.6.2** The payment of workers' compensation claims, which occur during the Contract or extend beyond the date on which the Contract terminates;

**2.6.3** Any costs incurred by the Contractor, including, but not limited to, startup costs, overhead or other costs not directly associated with the performance of the Contract;

**2.6.4** Any taxes that may be owed by the Contractor not directly in connection with the performance of this Contract, including, but not limited to, sales taxes, excise taxes, use taxes, income taxes or property taxes.

**2.7 The Contractor's Termination Duties.** The Contractor upon receipt of notice of termination or upon request of DNR, shall:

**2.7.1** Cease work under this Contract and take all necessary or appropriate steps to limit disbursements and minimize costs, and furnish a report within thirty (30) days of the date of notice of termination, describing the status of all work under the Contract, including, without limitation, results accomplished, and conclusions resulting there from, or any other matters DNR may require.

**2.7.2** Immediately cease using and return to DNR any personal property or materials, whether tangible or intangible, provided by DNR to the Contractor.

**2.7.3** Comply with DNR's instructions for the timely transfer of any active files and work product produced by the Contractor under this Contract.

**2.7.4** Cooperate in good faith with DNR, its employees, agents and contractors during the transition period between the notification of termination and the substitution of any replacement contractor.

**2.7.5** Immediately return to DNR any payments made by DNR for services that were not rendered by the Contractor.

**2.8 Rights in incomplete products.** In the event the Contract is terminated, all finished or unfinished documents, data, reports, or other materials prepared by the Contractor under this Contract shall, at the option of DNR, become DNR's property and the Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents and other material.

**Section 3 INDEPENDENT CONTRACTOR**

The status of the Contractor shall be that of an independent contractor. The Contractor, and its employees and agents performing under this Contract are not employees or agents of the DNR. Neither the Contractor nor its employees shall be considered employees of DNR for federal or state tax purposes. DNR will not withhold taxes on behalf of the Contractor. Contractor shall be responsible for payment of all taxes in connection with any income earned from performing this Contract.

**Section 4 CONFLICT OF INTEREST**

The parties agree that they will comply with the provisions of the Iowa Code with respect to Conflicts of Interest.

**Section 5 AMENDMENTS**

This Contract may be amended only by written mutual consent of the parties.

**Section 6 CHOICE OF LAW AND FORUM**

The laws of the State of Iowa shall govern and determine all matters arising out of or in connection with this Contract without regard to the choice of law provisions of Iowa law. If applicable, the parties shall comply with the provisions of Iowa Code section 679A.19 regarding disputes between government agencies of the State of Iowa. In the event any proceeding of a quasi-judicial or judicial nature is commenced in connection with this Contract, the exclusive jurisdiction for the proceeding shall be brought in Polk County District Court for the State of

Iowa, Des Moines, Iowa or in the United States District Court for the Southern District of Iowa, Central Division, Des Moines, Iowa, wherever jurisdiction is appropriate. No provision of this Contract shall be construed as waiving any immunity to suit or liability including without limitation sovereign immunity in State or Federal court, which may be available to DNR, Contractor, or the State of Iowa

**Section 7 SEVERABILITY**

If any provision of this Contract is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of this Contract.

**Section 8 ENTIRE AGREEMENT**

This Contract constitutes the entire agreement between the parties with respect to the subject matter hereof, and the parties acknowledge that they are entering into the Contract solely on the basis of the terms and conditions herein contained and not in reliance upon any representation, statement, inducement or promise, whether oral or written, not contained herein. This Contract supersedes all prior contracts and agreements between the parties for the services provided in connection with this Contract.

**Section 9 ASSIGNMENT AND DELEGATION**

This Contract may not be assigned, transferred or conveyed, in whole or in part, without the prior written consent of the other party. For the purpose of construing this provision, a transfer of a controlling interest in the Contractor shall be considered an assignment.

**Section 10 CONFIDENTIALITY**

The parties agree to comply with applicable Iowa law regarding confidentiality.

**Section 11 WAIVER**

Except as specifically provided for in a waiver signed by duly authorized representatives of the parties, failure by either party at any time to require performance by the other party or to claim a breach of any provision of the Contract shall not be construed as affecting any subsequent right to require performance or to claim a breach.

**Section 12 CUMULATIVE RIGHTS**

The various rights, powers, options, elections and remedies of any party provided in this Contract, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed either party by law, and shall in no way affect or impair the right of any party to pursue any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

**Section 13 TIME IS OF THE ESSENCE**

Time is of the essence with respect to the performance of the terms of this Contract.

**Section 14 RECORD RETENTION AND ACCESS**

The parties shall maintain books, records and documents according to their respective law with regard to records retention. All parties shall permit the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the Contractor relating to orders, invoices or payments or any other documentation or materials pertaining to this Contract, wherever such records may be located. The Contractor shall not impose a charge for audit or examination of the Contractor's books and records.

**Section 15 OBLIGATIONS BEYOND CONTRACT TERM**

This Contract shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this Contract. All obligations of DNR and the Contractor incurred or existing under this Contract as of the date of expiration, termination or cancellation will survive the termination, expiration or conclusion of this Contract.

**Section 16 SUPERCEDES FORMER CONTRACTS OR AGREEMENTS**

Unless this Contract is an amendment to a Contract entered into between the parties and is designated as such, then this Contract supersedes all prior contracts or agreements between the parties for the services provided in connection with this Contract.

**Section 17 USE OF THIRD PARTIES AND SUBCONTRACTORS**

Contractor may not contract with third parties for the performance of any of Contractor's obligations under this Contract, unless and then only to the extent that the Special Conditions of this Contract specify otherwise. If the Special Conditions provide for a subcontractor or subcontractors, then the following conditions shall apply:

**17.1** All subcontracts shall be subject to prior approval by the DNR. The DNR's consent shall not be deemed in any way to provide for the incurrence of any obligation of DNR in addition to the remuneration agreed upon in this Contract. Any subcontract to which DNR has consented shall be in writing and shall in no way alter the terms and conditions of this Contract.

**17.2** The Contractor may enter into subcontracts to complete the work required by this Contract provided that the Contractor remains responsible for all services performed under this Contract. No subcontract or delegation of work shall relieve or discharge the Contractor from any obligation, provision, or liability under this Contract. The Contractor shall remain responsible for such performance and shall be fully responsible and liable for all acts or omissions of any subcontractor.

**17.3** All restrictions, obligations and responsibilities of the Contractor under this Contract also shall apply to the subcontractors.

**17.4** DNR shall have the right to request the removal of a subcontractor from the Contract for good cause. The Contractor shall indemnify, defend and hold harmless DNR and the State from and against any and all claims, demands, liabilities, suits, actions, damages, losses, costs and expenses of every kind and nature whatsoever arising as a result of Contractor's breach of any subcontract in which it enters, including Contractor's failure to pay any and all amounts due by Contractor to any subcontractor.

**17.5** Each subcontract shall contain provisions for DNR access to the subcontractor's books, documents, and records and for inspections of work, as required of Contractor herein.

**17.6** Any action of a subcontractor, which, if done by Contractor, would constitute a breach of this Contract, shall be deemed a breach by Contractor and have the same legal effect.

**17.7** If delay results from a subcontractor's conduct, from the Contractor's negligence or fault, or from circumstances which by the exercise of reasonable diligence the Contractor should have been able to anticipate or prevent, then the Contractor shall be in default.

**17.8** If the Contract is subject to the provisions of Iowa Code chapter 8F, then the Contractor shall comply with Iowa Code chapter 8F with respect to any subcontract Contractor enters into pursuant to this Contract. Any compliance documentation, including but not limited to certification, received from any subcontractor shall be forwarded to DNR immediately.

#### **Section 18 SELF-INSURANCE BY THE STATE OF IOWA**

Pursuant to Iowa Code chapter 669, DNR and the State of Iowa are self-insured against all risks and hazards related to this Contract. No separate fund has been established to provide self-insurance, and the State of Iowa is not obligated to establish any such fund during the term of this Contract.

#### **Section 19 IMMUNITY FROM LIABILITY**

Every person who is a party to the Contract is hereby notified and agrees that the State, DNR, and all of their employees, agents, successors, and assigns are immune from liability and suit for Contractor's and subcontractors' activities involving third parties arising from the Contract.

#### **Section 20 NON-SUPPLANTING REQUIREMENT**

To the extent required by federal or state law, federal and state funds made available under this Contract shall be used to supplement and increase the level of state, local, and other non-federal funds that would in the absence of such federal and state funds be made available for the programs and activities for which funds are provided and will in no event take the place of state, local, and other non-federal funds.

**Section 21 CERTIFICATION REGARDING SALES AND USE TAX**

By executing this Contract, the Contractor certifies that it is either (a) registered with the Iowa Department of Revenue, collects and remits sales and use taxes as required by Iowa Code chapter 432; or (b) not a “retailer” or a “retailer maintaining a place of business in this state” as those terms are defined in Iowa Code section 423.1. The Contractor also acknowledges that the DNR may declare the Contract void if the above certification is false. The Contractor also understands that fraudulent certification may result in the DNR or its representatives filing action for damages for breach of contract.

**Section 22 TAXES**

The State of Iowa is exempt from federal excise tax, and no payment will be made for any taxes levied on Contractor’s employees’ wages. The State of Iowa is exempt from state and local sales and use taxes on the Deliverables.

**Section 23 EQUAL EMPLOYMENT PROVISIONS**

The Contractor has read and understands the provisions in Attachment A, Equal Employment Opportunity, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

**Section 24 FEDERALLY-FUNDED AGREEMENTS**

If this Contract is funded by federal monies, then the Contractor has read and understands the provisions of Attachment B, Additional Requirements for Federally-Funded Agreements, attached hereto and made part of this Contract by this reference, and the Contractor agrees to conform to the requirements contained therein.

**Section 25 INFORMATION TECHNOLOGY SECURITY**

The Contractor and all Contractor personnel shall comply with Iowa information technology security statutes, rules and policies. By signing this contract, the Contractor acknowledges that the Contractor has read and understands the provisions of the information technology security policies adopted by the Iowa Department of Administrative Services (DAS) and DNR in effect on the date of signing. These policies are located on the respective agency websites at [www.iowadnr.gov](http://www.iowadnr.gov) and <http://das.iowa.gov/index.html>. The Contractor further agrees to read and abide by any revised DAS and DNR policies, posted on the respective agency websites that come into effect during the term of this Contract.

## **Attachment A**

### **Equal Employment Opportunity.**

The Contractor agrees to the following:

**A.1** The Contractor shall not discriminate against any employee or applicant for employment because of race, creed, color, religion, sex, national origin, age, gender identity, gender orientation, pregnancy, family status, marital status or mental or physical disability. The Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated, during employment, without regard to their race, creed, color, religion, sex, national origin, age, gender identity, gender orientation, pregnancy, family status, marital status or mental or physical disability except where mental or physical disability relates to a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor's business. Such action shall include but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post notices, setting forth provisions of this nondiscrimination clause, in conspicuous places available to employees and applicants for employment.

**A.2** The Contractor shall in all solicitations or advertisements for employees, placed by or on behalf of the Contractor, state that all qualified applicants shall receive consideration for employment without regard to race, creed, color, religion, sex, national origin, age, gender identity, gender orientation, pregnancy, family status, marital status or mental or physical disability except where mental or physical disability is a bona fide occupation qualification reasonably necessary to the normal operation of the Contractor's business.

**A.3** The Contractor shall comply with all relevant provisions of the Iowa Civil Rights Act of 1965, as amended, Iowa Executive Order 15 or 1973, Chapter 19B, Code of Iowa, Federal Executive Order 11246 of 1965, as amended by Federal Executive Order 11376 of 1967, and Title VI of the Civil Rights Act of 1964, as amended. The Contractor shall furnish all information and reports requested by the state of Iowa or required by, or pursuant to, the rules and regulations thereof and shall permit access to payroll and employment records by the state of Iowa for purposes of investigation to ascertain compliance with such rules, regulations or requests, or with this nondiscrimination clause.

**A.4** In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the aforesaid rules, regulations or requests, this Contract may be canceled, terminated or suspended in whole or in part. In addition, the state of Iowa may take such further action, and such other sanctions may be imposed and remedies invoked, as

provided by the Iowa Civil Rights Act of 1965, as amended, Chapter 216, Code of Iowa, or as otherwise provided by law.

**A.5** The Contractor shall include the provisions of paragraphs A.1 through A.4 hereof in every subcontract, unless specifically exempted by approval of the state of Iowa, so that such provisions shall be binding on each subcontract. The Contractor shall take such action with respect to any subcontract as the state of Iowa may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the state of Iowa, the Contractor may request the state of Iowa to enter into such litigation to protect the interests of the state of Iowa.

**A.6** In accordance with the provisions of 541 Iowa Administrative Code chapter 4:

- The Contractor or subcontractor is prohibited from engaging in discriminatory employment practices forbidden by federal and state law, executive orders and rules of the department of management, which pertain to equal employment opportunity and affirmative action.
- The Contractor or subcontractor may be required to have on file a copy of the affirmative action program, containing goals and time specifications. These contractual provisions shall be fully enforced. Any breach of them shall be regarded as a material breach of the Contract.
- Compliance with the provisions of Iowa Code section 19B.7 and all applicable rules of the department of management prior to the execution of the Contract shall be a condition of the Contract binding upon the Contractor or service provider, its successors, and assignees.
- Failure to fulfill the nondiscrimination requirements of this Contract or any of the rules and orders may cause the Contract to be canceled, terminated, or suspended in whole or in part, and the Contractor or service provider may be declared ineligible for future state contracts in accordance with authorized procedure or the Contractor may be subject to other sanctions as provided by law or rule.
- The Contractor may be required to submit to the department of management or the DNR a copy of its affirmative action plan containing goals and time specifications.
- The Contractor shall be able to demonstrate to the satisfaction of the department of management or the DNR that its affirmative action program is productive.
- The Contractor may be required to submit reports as requested by the department of management. The department of management may request other relevant information from a contractor at any time.
- The department of management may undertake a compliance review of the Contractor, and the department of management may take action, as appropriate, to seek to terminate contracts or funding found to be in violation of the rules.

## Attachment B

### Additional Requirements for Federally-funded Agreements

**B.1 Suspension and Debarment.** The Contractor certifies pursuant to 31 CFR Part 19 that neither it nor its principles are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this Contract by any federal department or agency.

**B.2 Lobbying Restrictions.** The Contractor shall comply with all certification and disclosure requirements prescribed by 31 U.S.C. Section 1352 and any implementing regulations and shall be responsible for ensuring that any subcontractor fully complies with all certification and disclosure requirements.

**B.3 Pro-Children Act of 1994.** Public Law 103-227, also known as the Pro-Children Act of 1994 (Act), requires that smoking not be permitted in any portion of any indoor facility owned or leased or contracted for by an entity and used routinely or regularly for the provision of health, day care, early childhood development services, education or library services to children under the age of 18, if the services are funded by federal programs either directly or through state or local governments, by federal grant, contract, loan or loan guarantee. Federal programs include grants, cooperative agreements, loans or loan guarantees and contracts. The law also applies to children's services that are provided in indoor facilities that are constructed, operated or maintained with such federal funds. The law does not apply to children's services provided in private residences; portions of facilities used for inpatient drug or alcohol treatment; service providers whose sole source of applicable federal funds is Medicare or Medicaid; or facilities (other than clinics) where WIC coupons are redeemed. Failure to comply with the provisions of the law may result in the imposition of a civil monetary penalty of up to \$1,000 for each violation and/or the imposition of an administrative compliance order on the responsible party. The Contractor certifies that it will comply with the requirements of the Pro-Children Act of 1994 and will not allow smoking within any portion of any indoor facility used for the provision of services for children as defined by the Act.

**B.4 Certified Audits.** Local governments and non-profit subrecipient entities that expend \$500,000 or more in a year in federal awards (from all sources) shall have a single audit conducted for that year in accordance with the provisions of OMB Circular A-133 "Audit of States, Local Governments, and Non-Profit Organizations." A copy of the final audit report shall be submitted to DNR if either the schedule of findings and questioned costs or the summary schedule of prior audit findings includes any audit findings related to federal awards provided by DNR. If an audit report is not required to be submitted per the criteria above, the subrecipient must provide written notification to DNR that the audit was conducted in accordance with Government Auditing Standards and that neither the schedule of findings and questioned costs nor the summary schedule of prior audit findings includes any audit findings related to federal awards provided by the DNR. See A-133 Section 21 for a discussion of subrecipient versus vendor relationships.

**B.5 Drug Free Work Place.** The Contractor shall provide a drug free workplace in accordance with the Drug Free Workplace Act of 1988 and all applicable regulations.