MANAGEMENT AGREEMENT

GEOTECHNICAL_MR_9 SEEPAGE BERM

1. PARTIES. This agreement is made between the State of Iowa, acting through the Iowa Department of Natural Resources (DNR), and City of Council Bluffs (City).

2. PROPERTY. The DNR and the City have jointly determined that it is in the public interest to transfer the care and maintenance of state-owned real property, as depicted in Appendix A containing 0.4 acres, more or less, more particularly described to with and referred hereafter as the Property:

See Appendix A for legal description.

3. AUTHORITY. This agreement is entered into under the authority of Iowa Code Sections 364.1 and 461A.27. Pursuant to said Section, the parties mutually agree that the City shall undertake the development, care and maintenance of the state-owned real property described above according to the following terms and conditions:

4. TERM OF AGREEMENT. This agreement is effective on the date it is last signed below and continues in full force and effect until terminated by mutual agreement of both parties. If the Section 6(f) encumbrance placed on the property by the National Park Service is removed, a permanent easement shall be immediately granted to the City and this agreement terminated once the permanent easement has been granted.

5. INDEMNIFICATION. To the extent allowed by law, the City agrees to indemnify and hold harmless the State of Iowa and the DNR, its officers, employees and agents appointed and elected and volunteers from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, and the costs and expenses and reasonable attorneys' fees of other counsel required to defend the State of Iowa or the Department, related to or arising from: any breach of this agreement; any negligent or wrongful act or omission; or any other act, or omission, by the City, its officers, agents, employees, volunteers or contractors that results in damage to property or injury to a person or persons by virtue of its activities under this agreement.

6. MANAGEMENT OF PROPERTY. The City agrees to maintain and manage the Property as a public access area for the citizens thereof and for the people of the State of Iowa in substantially the same manner as state owned state park areas are maintained and managed by the DNR.

7. BOUNDARY MANAGEMENT. The City shall annually inspect the boundary of the Property and submit a written report to the DNR if any changes, encroachments or boundary problems are discovered. The DNR shall be responsible for addressing any boundary problems affecting title to the Property.

8. COMPLIANCE WITH LAWS. The City, its officers, employees, agents and contractors shall comply with all applicable federal, state and local laws, rules, ordinances, regulations and orders in conducting activities pursuant to this agreement, including without limitation, those laws, rules and regulations related to the use of the Lake Manawa State Park under the jurisdiction of the DNR and the Natural Resources Commission and those specifically related to public safety and public water supplies, as they may apply. Any claim or obligation arising out of this section, either by DNR or a third party, shall survive the termination, expiration or conclusion of this agreement.

9. DNR'S USE OF PROPERTY. The DNR reserves the right to enter upon the Property at any time for any purpose in connection with programs of the DNR and temporarily use the area in such manner as to not materially interfere with the use of the area by the City.

10. PRESERVATION OF NATURAL FEATURES. No trees or other vegetation may be removed or other natural features of the area disturbed without written permission of the DNR. Removal of vegetation deemed a public hazard is permitted.

11. IMPROVEMENTS. The City shall make no permanent improvements to the Property until the development plans for such improvements have been approved by the DNR. Such approval shall be in the form of an issuance of a Sovereign Lands construction permit pursuant to Iowa Code section 461A.4 and 571 IAC chapter 13 and may require compliance with additional requirements, including the State Historical Preservation Office requirements, identified in said permit. DNR shall not unreasonably withhold Sovereign Lands construction permits that are required for the City to comply with paragraph 8 of this agreement. The City shall comply with all Sovereign Lands construction permit requirements for the Property described in the permit during the term of this agreement. Regular management practices conducted by the City on the Property, including normal maintenance of any permitted improvements, that do not permanently alter the characteristics of the Property may be performed without additional DNR approval. All costs associated with installing and maintaining improvements under this paragraph shall be the express responsibility of the City.

A copy of the Sovereign Lands construction permit is included in Appendix B.

12. COMMERCIAL USE OF PROPERTY. The City may make commercial use of the Property or permit commercial use by others in accordance with the City's adopted regulations. Commercial use of the Property shall not be permitted when it will or may exclude the general public from using the Property. Non-discriminatory access restrictions are allowed where necessary for safety considerations.

All permitted commercial uses conducted by the City, its employees, agents, officers and volunteers, or an independent contractor working for the City shall be approved in writing by the DNR. DNR shall have the right to review all bids reviewed and considered by the City in providing its permission for such commercial uses. Receipts from commercial uses shall be retained by the City and must be used to make improvements to and maintain the Property. Permitted commercial uses include agricultural operations and forest harvest operations with the purpose of supporting outdoor recreation, resource management, and public access to the property.

13. SIGNS. All DNR signs (e.g., boundary, directional, area name or regulation) may remain in place at the discretion of the City. Removal and disposal of DNR signage shall be coordinated with DNR area manager and conducted as approved by the DNR area manager. The City shall install and maintain signs on the boundary of the area designating it as a public use area and alerting the users that it is managed

by the City. Signs restricting hunting shall be installed and maintained in the event hunting is restricted by City ordinance. The City may add additional boundary, directional and regulatory signs as it deems necessary, provided they comply with all laws, the City maintains them, and the City removes them upon termination of this agreement.

14. EXPENDITURE OF FUNDS. Except as may be required to comply with paragraphs 5 and 8 of this agreement, nothing in this agreement shall obligate or bind either party to the expenditure of funds in excess of funds available to each party.

15. PUBLIC USE OF PROPERTY. Nothing in this agreement shall deny the right of the public to enter upon and use the Property for any lawful purpose whatsoever.

16. NONDISCRIMINATION. It is agreed that, with respect to use of the Property, the City will not exclude anyone from participation in, deny anyone the benefits of, or otherwise subject anyone to discrimination because of the person's race, color, sex, gender identity, sexual preference, national origin, age or disability.

17. SEVERABILITY. If any provision of this agreement 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.

18. 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 agreement without regard to the choice of law provisions of Iowa law. 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 City 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.

19. OBLIGATIONS BEYOND AGREEMENT TERM**.** This agreement shall remain in full force and effect to the end of the specified term or until terminated or canceled pursuant to this agreement. All obligations the City incurred during or existing under this agreement as of the date of expiration, termination or cancellation shall survive the termination, expiration or conclusion of this agreement.

20. SPECIAL TAX ASSESSMENTS. The City agrees that it shall not levy special tax assessments against the Property, and any improvements thereon, during the term of this agreement. Nothing in this provision shall be construed as a waiver of sovereign immunity.

21. EXECUTION. This agreement is entered into under the authority of a resolution adopted at the regular Council meeting of City of Council Bluffs on _____, as shown in the minutes thereof.

Matt Walsh

By: _____
Mayor

This agreement is entered into under the authority of a resolution adopted at the regular meeting of the Natural Resource Commission on _____, as shown in the minutes thereof.

IOWA DEPARTMENT OF NATURAL RESOURCES

_____
(insert name), Director

Date: _____

APPENDIX A
MANAGEMENT AGREEMENT AREA LEGEAL DESCRIPTION

MANAGMENT AGREEMENT EXHIBIT

LEGAL DESCRIPTION

A MANAGEMENT AGREEMENT FOR CONSTRUCTION AND MAINTENANCE OF LEVEE OVER THAT PART OF THE ACCRETIONS TO LOT D OF SECTION 23, TOWNSHIP 74 NORTH, RANGE 44 WEST OF THE 5TH P.M., POTTAWATTAMIE COUNTY, IOWA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 23;

THENCE SOUTH 87°53'15" EAST FOR 2498.16 FEET ON THE NORTH LINE OF SAID SECTION 23 TO THE WEST LINE OF SAID LOT D;

THENCE SOUTH 10°47'46" WEST FOR 3876.52 FEET ON SAID WEST LINE TO THE NORTHWEST CORNER OF THE PORTION OF SAID LOT D ACQUIRED BY THE CITY OF COUNCIL BLUFFS DESCRIBED IN WARRANTY DEED FILED IN BOOK 996 AT PAGE 567 WITH THE POTTAWATTAMIE COUNTY RECORDER;

THENCE SOUTH 05°27'04" EAST FOR 352.87 FEET ON THE NORTHERLY LINE OF SAID PARCEL TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 64°36'11" EAST FOR 61.76 FEET;

THENCE SOUTH 02°11'04" WEST FOR 242.24 FEET;

THENCE SOUTH 46°52'54" EAST FOR 140.53 FEET TO THE NORTH LINE OF SAID PARCEL;

THENCE SOUTH 84°32'56" WEST FOR 113.83 FEET ON SAID NORTH LINE;

THENCE NORTH 05°27'04" WEST FOR 377.13 FEET TO THE POINT OF BEGINNING.

CONTAINS 16,802 SQUARE FEET.

400 0

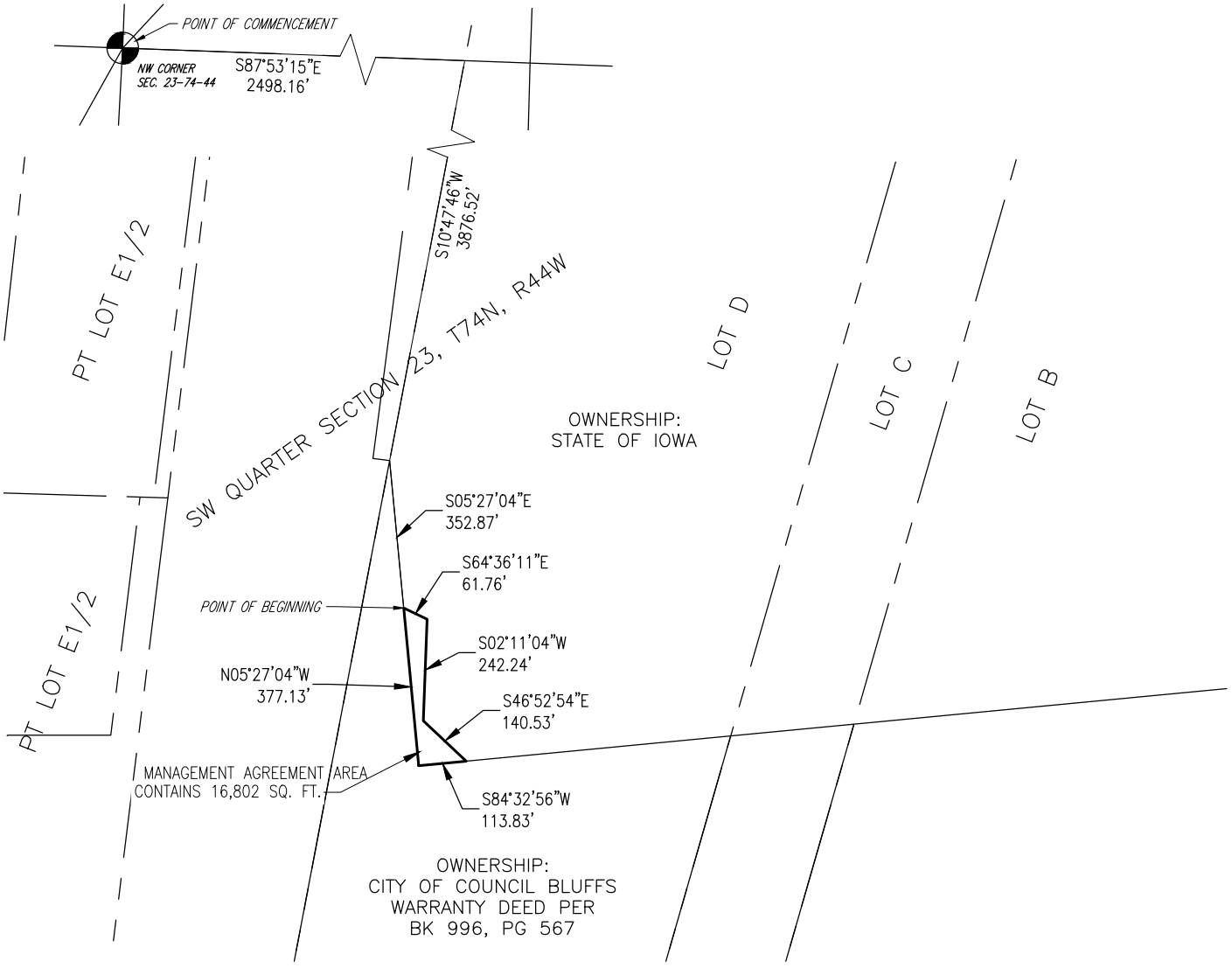
SCALE: 1"= 400'
U.S. SURVEY FEET

LEGEND

EASEMENT LINE

LOT LINE

SECTION CORNER



LAMP RYNEARSON

LAMPRYNEARSON.COM

OMAHA, NEBRASKA
14710 W. DODGE RD, STE. 100 (402)496.2498

FORT COLLINS, COLORADO
4715 INNOVATION DR., STE. 100 (970)226.0342

KANSAS CITY, MISSOURI
9001 STATE LINE RD., STE. 200 (816)361.0440

DESIGNER / DRAFTER	RACHEL E. RENNECKER
REVIEWER	TODD L. WHITFIELD
PROJECT NUMBER	0120084.01-422
DATE	7/19/2021
SURFACE LOCATION	
BOOK AND PAGE	

MANAGEMENT AGREEMENT AREA EXHIBIT

L:\Engineering\0120084 HDR CB Levee MR9\SURVEY\DRAWINGS\EXHIBITS\0120084-EAS-01.dwg, 6/29/2022 3:19:54 PM, TODD L. WHITFIELD, LAMP RYNEARSON

APPENDIX B
SOVEREIGN LANDS PERMIT

12/9/2021

JOHN ENGEL
HDR
1917 S 67TH STREET
OMAHA, NE 68106

Subject: Sovereign Lands Construction Permit 2021-1907SL-01
Project Description: Council Bluffs Levees Program: Geotechnical MR-9
Project Location: Lake Manawa State Park
Project County: Pottawattamie
Project Latitude / Longitude Location(s): 41.1923/-95.8681
Project Legal Description: Sec. 23/T74N/R44W

Dear Mr. Engel,

As provided under Chapter 461A of the Code of Iowa, the Department of Natural Resources (DNR) hereby grants permission to City of Council Bluffs (the Permittee) to do the following work subject to stipulations stated herein and in the documents submitted in application for this permit which are now on file in the central office of the DNR. Any special conditions and stipulations contained in this permit shall take precedence over plans or specifications provided by the applicant.

Work shall not begin in advance of contact with the Park Ranger in charge of the area. That person is Chris Anunson at 712-366-0220.

The Permittee is required to complete a "Report of Completion" upon conclusion of the project in accordance with 571 IAC—13.18.Report may be provided through the Department PERMT website https://programs.iowadnr.gov/permt/, or by mail.

The Permittee is hereby authorized to complete the proposed project at Lake Manawa State Park, consistent with this permit and the plans and specifications the Permittee, or its authorized agent, submitted for consideration of this permit (collectively, the Project).

The Permittee shall have, or shall cause there to be, a copy of this permit on-site during construction.

Although this permit authorizes the Permittee to construct this Project on state lands and/or waters, the Permittee must acquire other applicable federal, state and local permits before initiating the permitted activity. This Project may also require a permit from the U.S. Army Corps of Engineers. If the Permittee has not already done so, it should contact Mr. Ward Lenz of the U.S. Army Corps of Engineers in writing or by telephone at 309-794-5057 to determine if a Corps permit is required for this project.

Any construction activity that bares the soil of an area greater than or equal to one acre including clearing, grading or excavation may require a storm water discharge permit from the Department. Construction activities may include the

temporary or permanent storage of dredge material. For more information regarding this matter, please call (515)204-9234.

This permit is also a record of review for protected species, rare natural communities, state lands and waters in the Project area, including review by personnel representing state parks, preserves, recreation areas, fisheries and wildlife. The Department has searched Natural Areas Inventory records for the project area and found no site-specific records of rare species or significant natural communities that would be impacted by this project. Department data are not the result of thorough field surveys. If additional endangered or threatened listed species or rare communities are found during the planning or construction phases, additional studies and/or mitigation may be required.

The Permittee is presumed to be familiar with all laws, ordinances, and regulations that may affect employees, materials, or equipment used in or upon the project. By accepting this permit and conducting activities pursuant thereto, the Permittee hereby indemnifies and saves harmless the State of Iowa, the Department of Natural Resources, and all its officers and agents from claims or liability of any character arising out of any acts or damages that might result from the installation or construction of the project described in this permit.

This permit expires Sunday, December 31, 2023.

Please direct questions to me by telephone at 515-330-6432 or email at seth.moore@dnr.iowa.gov.

Sincerely,

Seth Moore

Digitally signed by Seth Moore
Date: 2021.12.09 09:52:04 -06'00'

Seth Moore
Environmental Specialist
Conservation and Recreation Division

CC: Jeff Krist; 209 Pearl Street; Council Bluffs, IA, 51503, jkrist@councilbluffs-ia.gov
Chris Anunson, Iowa DNR Parks, Preserves, and Forests Bureau (email)