

**GIFT AGREEMENT
(CANOE LAUNCH)**

This Gift Agreement is entered into this ____ day of May, 2019, by and between **GREEN MEADOWS, LTD.**, an Iowa corporation, with its principal place of business located at 5608 Merle Hay Road, Johnston, Polk County, Iowa ("Green Meadows") and **THE CITY OF JOHNSTON, IOWA**, a municipal corporation with its office at 7100 NW 62nd Ave, Johnston, Polk County, Iowa ("City").

WITNESSETH:

WHEREAS, Green Meadows is the owner of a tract of land containing approximately 4.11 acres, more or less, located in the City of Johnston, Iowa, as more particularly described in Exhibit "A" attached hereto ("Gift Property"); and

WHEREAS, Green Meadows desires to convey the Gift Property to the City and to set forth the terms and conditions of said gift; and

WHEREAS, the City is willing to accept the Gift Property from Green Meadows on the terms and conditions as set forth below;

NOW, THEREFORE, Green Meadows and the City agree as follows:

1. **Gift.** Green Meadows hereby agrees to irrevocably gift to the City, upon the terms and conditions as hereinafter set forth, the property as described in Exhibit "A" (Gift Property") attached hereto for public park purposes, together with any easements and appurtenant servient estates and subject to reasonable easements and restrictions of record. The conveyance by Green Meadows to the City of the Gift Property shall not require the payment of any sums of money to Green Meadows by the City and the conveyance shall strictly be a gift.
2. **Real Estate Taxes.** Green Meadows shall pay all real estate taxes which would be delinquent if not paid by September 30, 2018 and March 31, 2019, including any unpaid real estate taxes for any prior years and shall also pay its prorated share of real estate taxes which will be due by September 30, 2019, but which are not yet spread on the tax books of Polk County, Iowa.
3. **Risk of Loss.** Green Meadows shall bear the risk of loss or damage to the Gift Property prior to closing this transaction. Green Meadows shall maintain existing insurance coverage regarding the Gift Property pending closing.
4. **Closing.** Subject to conditions precedent as described below in paragraph 5, closing of this transaction shall take place on or before the 1st day of July, 2019 at the Johnston City Hall or other place mutually agreeable to the parties.
5. **Conditions Precedent.** The following are conditions precedent to closing of the transaction. If the conditions are not met to the reasonable satisfaction of either Green Meadows or the City, either party may rescind this Gift Agreement and thereafter neither party shall have any claim against the other and neither party shall have any further rights or duties hereunder:
 - a. **Abstract and Title.** Green Meadows, at its expense, shall promptly obtain an abstract of title to the Gift Property continued through the date of this Agreement and deliver it to the City Attorney for examination. The abstract shall show merchantable title in Green Meadows in conformity with this Agreement, Iowa law, and the Title Standards of the Iowa State Bar Association. Green Meadows

shall make every reasonable effort to promptly perfect title. If closing is delayed due to Green Meadows' inability to provide merchantable title, this Agreement shall nevertheless continue in force and effect until either party rescinds the Agreement after giving ten (10) days' prior written notice to the other party, after which neither party shall have any claim against the other party. The abstract of title shall become the property of the City at the time of closing. Green Meadows shall pay the costs of any additional abstracting and title work due to any act or omission of Green Meadows.

- b. **Survey.** Green Meadows, at its expense, shall have the Gift Property surveyed by a Registered Land Surveyor and shall prepare a plat of survey acceptable to the City and Polk County Auditor so as to enable the City to record the Special Warranty Deed for the Gift Property. If the survey shows any encroachments on the Gift Property, the encroachments shall be treated as a title defect.
- c. **Environmental Matters.** Green Meadows represents that it has received no notice from any governmental authority nor does it have any personal knowledge of any governmental requirement to correct or remediate any environmental hazard or to correct any environmental violation regarding the Gift Property. The City may conduct an environmental site assessment as well as soil tests within thirty (30) days after the execution of this Agreement, at the City's expense, to satisfy the City as to whether or not the Gift Property contains any hazardous waste, presents any environmental problems or is suitable for the City's intended purpose. If the City conducts such an environmental site assessment or soil tests, the City shall promptly furnish Green Meadows with the copy of any reports and the City shall indicate within ten (10) days following the City's receipt of the reports, if the reports are acceptable or not acceptable. Notice given by the City that the environmental site assessment or soil tests are acceptable or a failure or waiver by the City to timely respond in writing to Green Meadows, or a failure or waiver of the City to conduct an environmental site assessment or soil tests within the thirty (30) day period prescribed in this paragraph, shall be deemed to be an automatic acceptance of the condition of the Gift Property by the City and satisfaction of the condition precedent set forth in this paragraph C, in which event the City shall take the Gift Property in its present state and condition "as is" including its present environmental state and condition with no warranties from Green Meadows, express or implied, whatsoever concerning the condition of the Gift Property or the suitability of the Gift Property for the City's intended purpose. The City covenants and agrees not to assert any claim, commence any lawsuit or seek indemnification against Green Meadows in regard to the condition of the Gift Property after closing. If the City conducts an environmental site assessment or soil tests and determines within the above prescribed ten (10) day time period following receipt of the assessment or report that the Gift Property is not acceptable, Green Meadows shall have no duty to remediate or correct any purported deficiency except as required by Federal or State law; provided, however, either Green Meadows or the City, in that event, shall have the right, without penalty, to rescind this Agreement. The covenants contained in this paragraph shall survive closing and shall be fully binding on the City and Green Meadows thereafter.
- d. **Fence.** The City of Johnston, at its sole expense, shall erect a chain link or other appropriate fence along the eastern and southern border of the Gift Property to the reasonable satisfaction of Green Meadows.
- e. **Access Easement.** The City of Johnston and Green Meadows shall enter into an access easement whereby Green Meadows and/or its affiliates shall retain

access to the existing gated field entrance to allow access to the field located to the south and east of the Gift Property. Such easement shall be sufficient to ensure uninterrupted access to the field by agricultural equipment and vehicles.

6. **Special Warranty Deed.** If the conditions precedent described above in paragraph 5 are met to the reasonable satisfaction of the parties, Green Meadows shall convey the Gift Property to the City by Special Warranty Deed, free and clear of all liens and encumbrances in the form set forth in Exhibit "B" attached hereto, subject to all use restrictions, sewer and overland flowage easements and limitations set forth therein.
7. **Assignment Prohibited.** Green Meadows has entered into this Agreement because the City is a municipal corporation acting for the benefit of the public within the City of Johnston, Iowa. Therefore, this Agreement shall not be assigned by the City to any other party; provided, however, the Property after closing may be transferred and conveyed by the City subject to the use restrictions contained in the Specialty Warranty Deed.
8. **Acknowledgement by City of Johnston.** The City of Johnston is accepting the property solely in reliance on its own investigation, and accepts the property "as is, where is," with all faults and defects, latent or otherwise. The City of Johnston expressly acknowledges that Green Meadows makes and has made no representations or warranties, express or implied, or arising by operation of law, including, but not limited to, any warranty as to condition, merchantability or fitness for a particular use or purpose, with respect to the property or any matter related thereto, or (without limitation) to any of the following matters:
 - a. soils, hydrological, geological and topographical conditions and configurations.
 - b. archeological, prehistoric and historic artifacts, remains and relics.
 - c. endangered Species. Endangered plant, animal and insect species.
 - d. hazardous Materials. Hazardous Materials and other environmental conditions, including without limitation, lead-based paint, asbestos and mold.
 - e. availability of adequate utilities, water, schools, public access, and fire protection.
 - f. present, past or future conformity of any Property with planning, building, zoning, subdivision and development statutes, ordinances, regulations and permits, the general plan and the specific plan.
 - g. Other Matters. Any other matter relating to any Property or to the development or operation of any Property, including, but not limited to, value, feasibility, cost, governmental permissions or entitlements, marketability and investment return.
9. **Release.** The City of Johnston fully releases and discharges Green Meadows from and relinquishes all rights, claims and actions that the City of Johnston may have or acquire against Green Meadows which arise out of or are in any way connected with the condition of the property, including without limitation (a) any matter set forth in section 8 above, (b) the presence of hazardous materials on, under or about any property (including but not limited to any undiscovered hazardous materials located beneath the surface of the property) and (c) violations of any hazardous materials laws pertaining to the property or the activities thereon. this release applies to all described rights, claims and actions, whether known or unknown, foreseen or unforeseen, present or future. For purposes of this section, all references to "Green Meadows" shall include: (a) donor's parent, subsidiary and affiliate corporations, (b) donor's directors, officers, shareholders, employees and agents, and (c) the heirs, successors, personal representatives and assigns of donor's directors, officers, shareholders, employees and agents. The provisions of this section 9 shall be effective as of the closing date and shall survive the closing date or termination of this donation agreement.
10. **Indemnification:** The City of Johnston agrees to indemnify, defend, and hold harmless Green Meadows, its agents, officers, directors, employees, subsidiaries, successors, and assigns (collectively the "**Indemnified Parties**"), from and against any and all claims, judgments,

causes of action, or demands, of whatever kind or nature occurring after Closing, contingent or otherwise, known or unknown, included under, or imposed by, any provision of federal, state or local law or regulation, or common law, or in equity, relating to the Property or the use of the Property to access adjacent and downstream areas, including, but not limited to, all lien claims, administrative claims, claims for injunctive relief, claims of property damage, natural resources damages, nuisance claims, bodily injury claims (including death), emotional distress claims, punitive damages, environmental response and cleanup costs, fines, penalties, and expenses (including, without limitation, counsel fees, consultant fees, expert fees, costs, and expenses included in investigating and defending against the assertion of such liabilities), which may be sustained, suffered, or incurred by an Indemnified Party. In addition, the City of Johnston hereby agrees to indemnify, defend, and hold harmless Green Meadows from and against any and all claims, judgments, causes of action, or demands, of whatever kind or nature, contingent or otherwise, known or unknown, incurred under, or imposed by, any provision of federal, state or local law or regulation, or common law, or in equity, relating to the Property and caused solely by Buyer, its members, employees, or agents, including, but not limited to, all lien claims, claims for injunctive relief, claims of property damage, natural resources damages, nuisance claims, bodily injury claims (including death), emotional distress claims, punitive damages, environmental response and cleanup costs, fines, penalties, and expenses (including, without limitation, counsel fees, consultant fees, expert fees, costs, and expenses incurred in investigating and defending against the assertion of such liabilities), which may be sustained, suffered, or incurred by an Indemnified Party. It is understood and agreed that the obligations of this Section 10 shall survive the termination of this Agreement, shall survive Closing, shall not merge into the Deed, and shall be a continuing obligation of City and its successors and assigns.

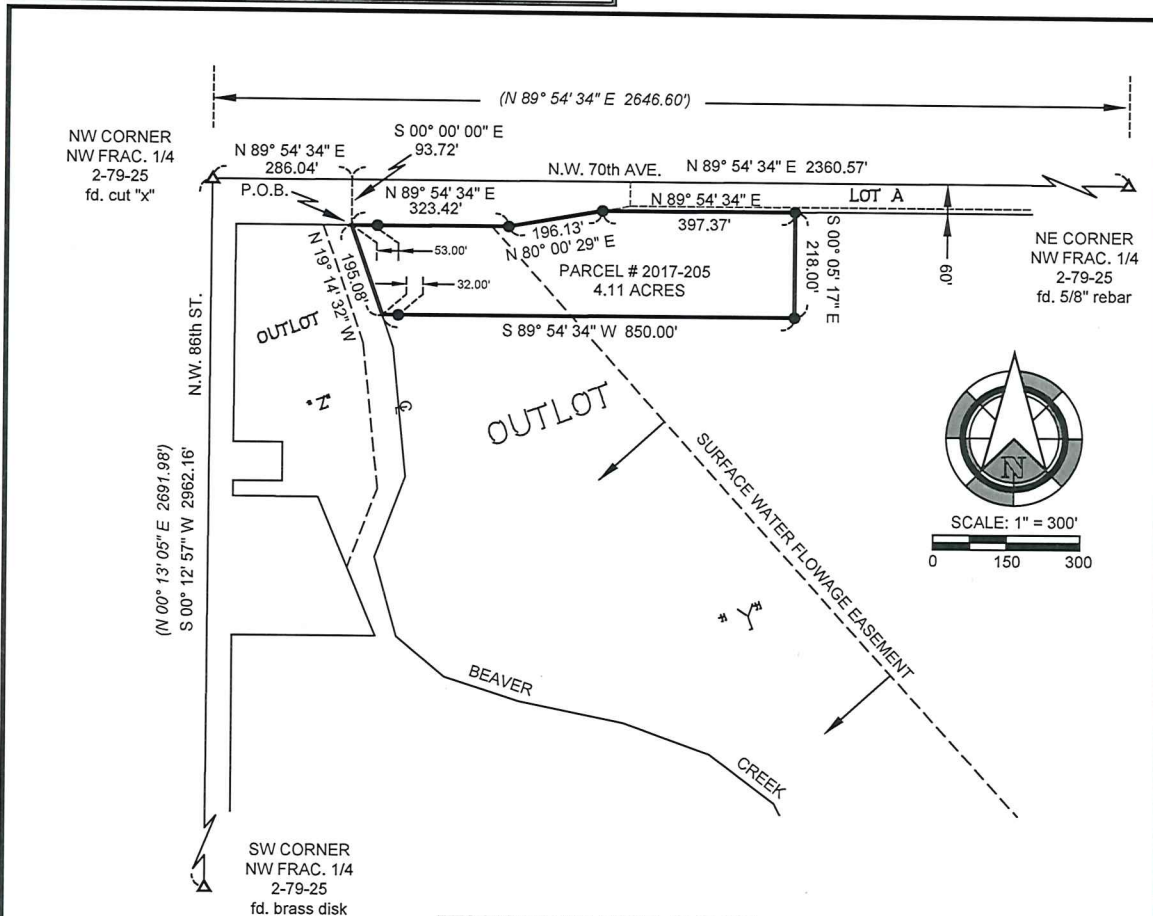
City of Johnston, Iowa

Name: _____
Signature: _____
Title: _____
Date: _____

Green Meadows, LTD

Name: _____
Signature: _____
Title: _____
Date: _____

INDEX LEGEND	
PLAT OF SURVEY PARCEL # 2017-205	
CITY:JOHNSTON	
COUNTY:POLK	
SUBDIVISION/ADDITION NAME: AUGUSTINE	
LOT: PART OUTLOT "Y"	
PROPRIETOR: GREEN MEADOWS, LTD.	
SURVEY PREPARED FOR: CITY OF JOHNSTON	
SURVEY PREPARED BY: J. SCOTT SHEVEL IOWA PLS NO. 11810	
COMPANY NAME: ISG	
ADDRESS: 1725 N. LAKE AVE, STORM LAKE, IA. 50588	
PHONE: 712-732-7745	



DESCRIPTION PARCEL 2017-205

A TRACT OF LAND LOCATED IN PART OF OUTLOT Y IN THE PLAT OF AUGUSTINE BEING A PART OF THE NORTHWEST QUARTER OF THE NORTHWEST FRACTIONAL QUARTER (NW ¼ NW FRAC. ¼) OF SECTION 2, TOWNSHIP 79 NORTH, RANGE 25 WEST OF THE 5TH P.M., WITHIN THE CORPORATE LIMITS OF THE CITY OF JOHNSTON, POLK COUNTY, IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:


Commencing at the Northwest (NW) corner of the Northwest Fractional Quarter (NW Frac. ¼); Thence on a previously recorded bearing of North 89° 54' 34" East, along the North line of said Northwest Fractional Quarter (NW Frac. ¼), 286.04 feet; Thence South 00° 00' 00" East, 93.72 feet to the North line of said Outlot Y, being also the Point of Beginning. Thence continuing along said North line the following three (3) courses: North 89° 54' 34" East, 323.42 feet; Thence North 80° 00' 29" East, 196.13 feet; Thence North 89° 54' 34" East, 397.37 feet; Thence South 00° 05' 17" East, 218.00 feet; Thence South 89° 54' 34" West, 850.00 feet to the West line of said Outlot Y; Thence North 19° 14' 32" West, along said West line, 195.08 feet to the Point of Beginning.

Hereafter known as Parcel # 2017-205 in the Northwest Quarter of the Northwest Fractional Quarter (NW ¼ NW Frac. ¼) of Section 2 Township 79 North, Range 25 West of the 5th P.M., City of Johnston, Polk County, Iowa.

Tract contains 4.11 acres and is subject to all easements of record.

LEGEND OF SYMBOLS/ABBREVIATIONS	
○	CORNERS FOUND (monuments as described)
●	CORNERS SET (1/2" rebar w/red plastic cap no. 11810)
Δ	SECTION CORNER FOUND (monuments as described on plat)
P.O.B.	POINT OF BEGINNING
100.00'	MEASURED
(100.00')	RECORDED AS (bk. 11357, pgs. 78-94)

I hereby certify that this land surveying document was prepared by me and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.



J. Scott Shevel
J. Scott Shevel
License Number 11810
My License renewal date is December 31, 2019
Pages covered by this seal 1

4/18/19
Date:

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I+S GROUP
PN: 17-21005
Drawn: JSS
Sheet 1 OF 1
Surveyed by: JSS
Survey Date: 11/2/17
Revised: 4/18/19
Drawing Name: