



**Roll Call Number**

**Agenda Item Number**

26

**Date** January 10, 2022

**RECEIVE AND FILE COMMUNICATION FROM THE PLAN AND ZONING COMMISSION REGARDING CITY-INITIATED REQUEST FOR VACATION OF A REMAINING EAST TO WEST ALLEY SEGMENT TO THE WEST OF 6<sup>TH</sup> AVENUE IN THE BLOCK BETWEEN WALNUT STREET AND MULBERRY STREET**

**WHEREAS**, the City Plan and Zoning Commission has advised that at a public hearing held on December 16, 2021, its members voted 10-0 to recommend **APPROVAL** of a City-initiated request to vacate an east-west alley segment within the 200 block and to the west of 6<sup>th</sup> Avenue, between Walnut Street and Mulberry Street. The adjoining properties are 218 6<sup>th</sup> Street to the north (owned by ND 22 Fleming LLC), 606 Walnut Street to the west (owned by Lawmark, LP) and 206 6<sup>th</sup> Avenue to the south (owned by 206 6<sup>th</sup> Avenue LLC). Recommendation of approval is subject to the following conditions:

1. Any fencing and/or gate(s) shall be architecturally compatible with the adjoining development, to the satisfaction of the City’s Planning and Urban Design Administrator; and
2. Reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated.

**MOVED** by \_\_\_\_\_ to receive and file the attached communication from the Plan and Zoning Commission, and refer to the Engineering Department, Real Estate Division.

FORM APPROVED:

Judy K. Parks-Kruse  
Judy K. Parks-Kruse, Assistant City Attorney

(ROWV-2021-000005)

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
MANDELBAUM				
SHEUMAKER				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	
_____ Mayor				

**CERTIFICATE**

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

\_\_\_\_\_ City Clerk

Date January 10, 2022

Agenda Item 26

Roll Call # \_\_\_\_\_

January 4, 2022

Communication from the City Plan and Zoning Commission advising that at their December 16, 2021 meeting, the following action was taken regarding a City initiated request for vacation of a remaining east to west alley segment to the west of 6<sup>th</sup> Avenue in the block between Walnut Street and Mulberry Street. The adjoining properties are 218 6<sup>th</sup> Avenue to the north (owned by ND 22 Fleming LLC), 606 Walnut Street to the west (owned by Lawmark. LP), and 206 6<sup>th</sup> Avenue to the south (owned by 206 6<sup>th</sup> Avenue LLC).

**COMMISSION RECOMMENDATION:**

After public hearing, the members voted 9-0 as follows:

Commission Action:	Yes	Nays	Pass	Absent
Francis Boggus	X			
Dory Briles	X			
Abby Chungath				X
Kayla Berkson	X			
Chris Draper				X
Jann Freed	X			
Todd Garner				X
Johnny Alcivar	X			
Lisa Howard				X
Carolyn Jenison	X			
William Page	X			
Steve Wallace				X
Greg Wattier	X			
Emily Webb	X			

**APPROVAL** of the requested vacations subject to the following conditions:

1. Any fencing and/or gate(s) shall be architecturally compatible with the adjoining development, to the satisfaction of the City's Planning & Urban Design Administrator.
2. Reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated. (ROWV-2021-000005)

## Written Responses

2 in Favor

0 in opposition

## **STAFF RECOMMENDATION TO THE P&Z COMMISSION**

Staff recommends approval of the requested vacations subject to the following conditions:

1. Any fencing and/or gate(s) shall be architecturally compatible with the adjoining development, to the satisfaction of the City's Planning & Urban Design Administrator.
2. Reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated.

## **STAFF REPORT TO THE PLANNING COMMISSION**

### **I. GENERAL INFORMATION**

1. **Purpose of Request:** The requested vacation of alley Right-of-Way would allow installation of fencing and gate(s) at the east terminus of the alley segment. The proposed controlled access is intended to minimize on going nuisance activity that has been occurring within the alley.
2. **Size of Site:** 1,007 square feet.
3. **Existing Zoning (site):** "DX1" Downtown Mixed-Use District.
4. **Existing Land Use (site):** Alley right-of-way.
5. **Adjacent Land Use and Zoning:**  
  
**North** – "DX1"; Uses are mixed-use residential and multiple-tenant commercial.  
**South** – "DX1"; Use is hotel building.
6. **General Neighborhood/Area Land Uses:** The surrounding area contains a mix of commercial, office, retail, and residential uses in the Downtown Core.
7. **Applicable Recognized Neighborhood(s):** The subject property is located within the Downtown Des Moines Neighborhood. All neighborhood associations were notified of the public hearing by mailing of the Preliminary Agenda on November 29, 2021 and by mailing of the Final Agenda on December 6, 2021. Additionally, separate notifications of the hearing for this specific item were mailed on December 6, 2021 (10 days prior to the public hearing) to the neighborhood associations and to the primary titleholder on file with the Polk County Assessor for each property adjoining the subject public right-of-way.

All agendas and notices are mailed to the primary contact(s) designated by the recognized neighborhood association to the City of Des Moines Neighborhood Services Department on the date of the mailing. The Downtown Des Moines



Neighborhood Association mailings were sent to Sebastian Hamirani, 1400 Walnut Street, Unit 413, Des Moines, IA 50309.

**8. Relevant Zoning History:** None.

**9. PlanDSM: Creating Our Tomorrow Plan Land Use Plan Designation:** Downtown Mixed Use.

**10. Applicable Regulations:** Taking into consideration the criteria set forth in Chapter 18B of the Iowa Code, the Commission reviews all proposals to vacate land dedicated for a specific public purpose, such as for streets and parks, to determine whether the land is still needed for such purpose or may be released (vacated) for other use. The recommendation of the Commission is forwarded to the City Council.

## **II. ADDITIONAL APPLICABLE INFORMATION**

- 1. Streets/Sidewalks:** The requested vacation would not negatively impact access to private properties or traffic patterns in the area. It is anticipated that the subject segment of alley will remain closed with restricted vehicle and pedestrian entry. Staff recommends approval be subject to the provision that any fencing and/or gate(s) shall be architecturally compatible with the adjoining development. This would ensure that the fence and gates are in character with the surrounding development.
- 2. Easements:** There are existing easements within the alley that would be maintained. Easements must be maintained until such time that they are abandoned or relocated.

## **SUMMARY OF DISCUSSION**

Dory Briles asked if any member of the public or the commission desired to speak on the item. No one requested to speak.

## **COMMISSION ACTION:**

Jann Freed made a motion for approval of the requested vacations subject to the following conditions:

1. Any fencing and/or gate(s) shall be architecturally compatible with the adjoining development, to the satisfaction of the City's Planning & Urban Design Administrator.
2. Reservation of any necessary easements for any existing utilities until such time that they are abandoned or relocated.

Motion passed: 9-0

Respectfully submitted,

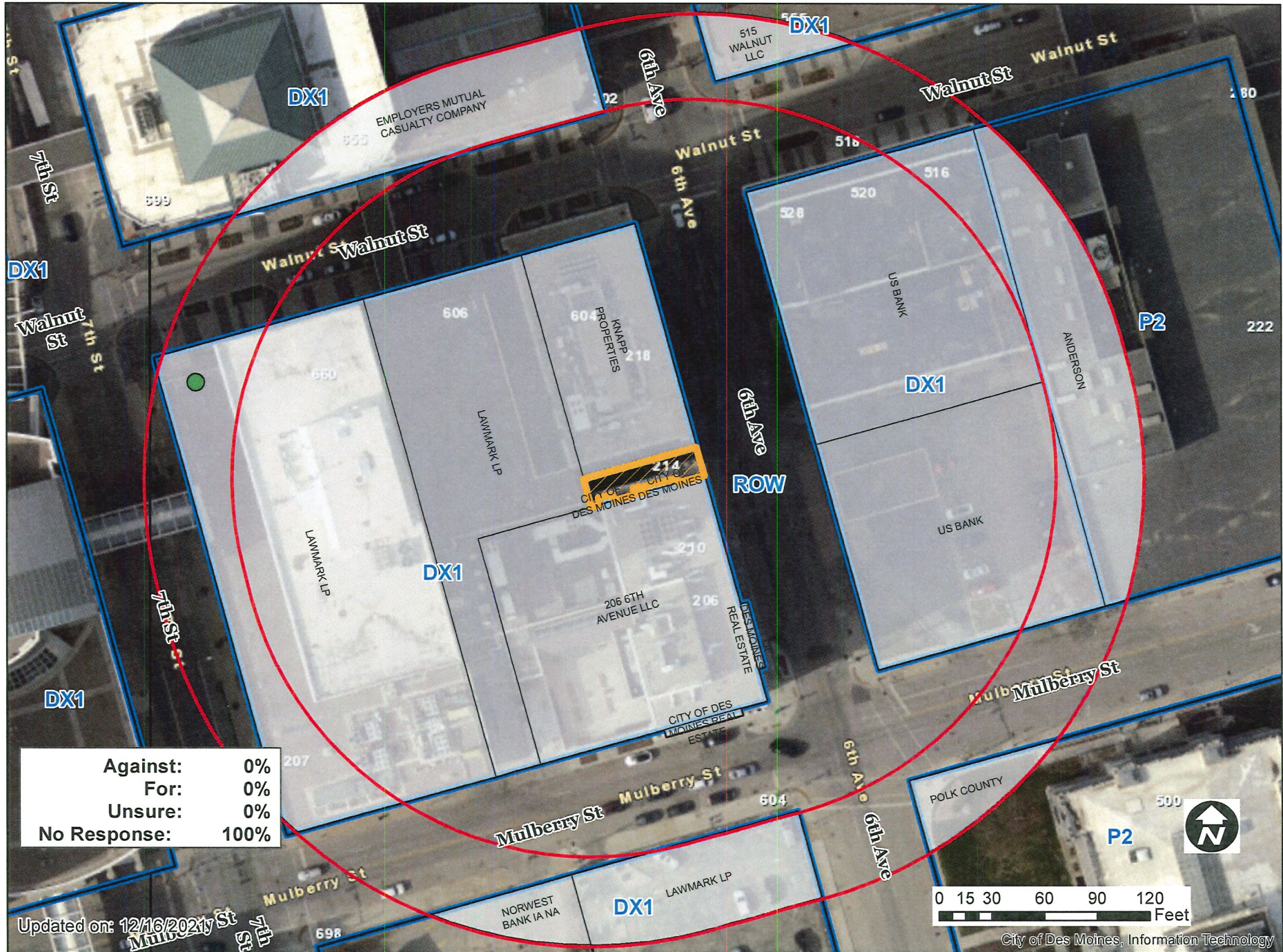
*Bert Drost*

Bert Drost, AICP  
Deputy Planning & Urban Design Administrator

BAD:tjh

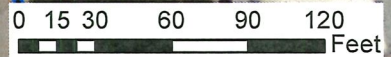






Against:	0%
For:	0%
Unsure:	0%
No Response:	100%

Updated on: 12/16/2021



City of Des Moines, Information Technology

1 inch = 73 feet

*one*



Item: ROWV-2021-000005

Date: 12/10/21 26

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: \_\_\_\_\_

Name: Brandon Brown

Address: 120 SW 5th St. #701

Staff Use Only

**RECEIVED**  
COMMUNITY DEVELOPMENT

DEC 14 2021

Reason for opposing or approving this request may be listed below:

Hopefully, this will eliminate many of  
the problems reported around the  
Downtown Parking. Lucky forward to  
the gate!

Item: ROWV-2021-000005

Date: \_\_\_\_\_

Please mark one of the following

- I am in favor of the request
- I am not in favor of the request

Signature: \_\_\_\_\_

Name:  Jesse Bunney

Address: 666 Walnut #1540

Staff Use Only

**RECEIVED**  
COMMUNITY DEVELOPMENT

DEC 14 2021

Reason for opposing or approving this request may be listed below:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**EXHIBIT A**

6th Ave

PT LOT 7

PT LOT 7

**BLOCK 11  
FORT DES MOINES**

VACATED AREAS  
OF ALLEY (ORD 15706)

NE CORNER  
OF LOT 6

PT VAC EW ALLEY  
66 FT

VAC N/S ALLEY


WEST LINE  
OF LOT 6

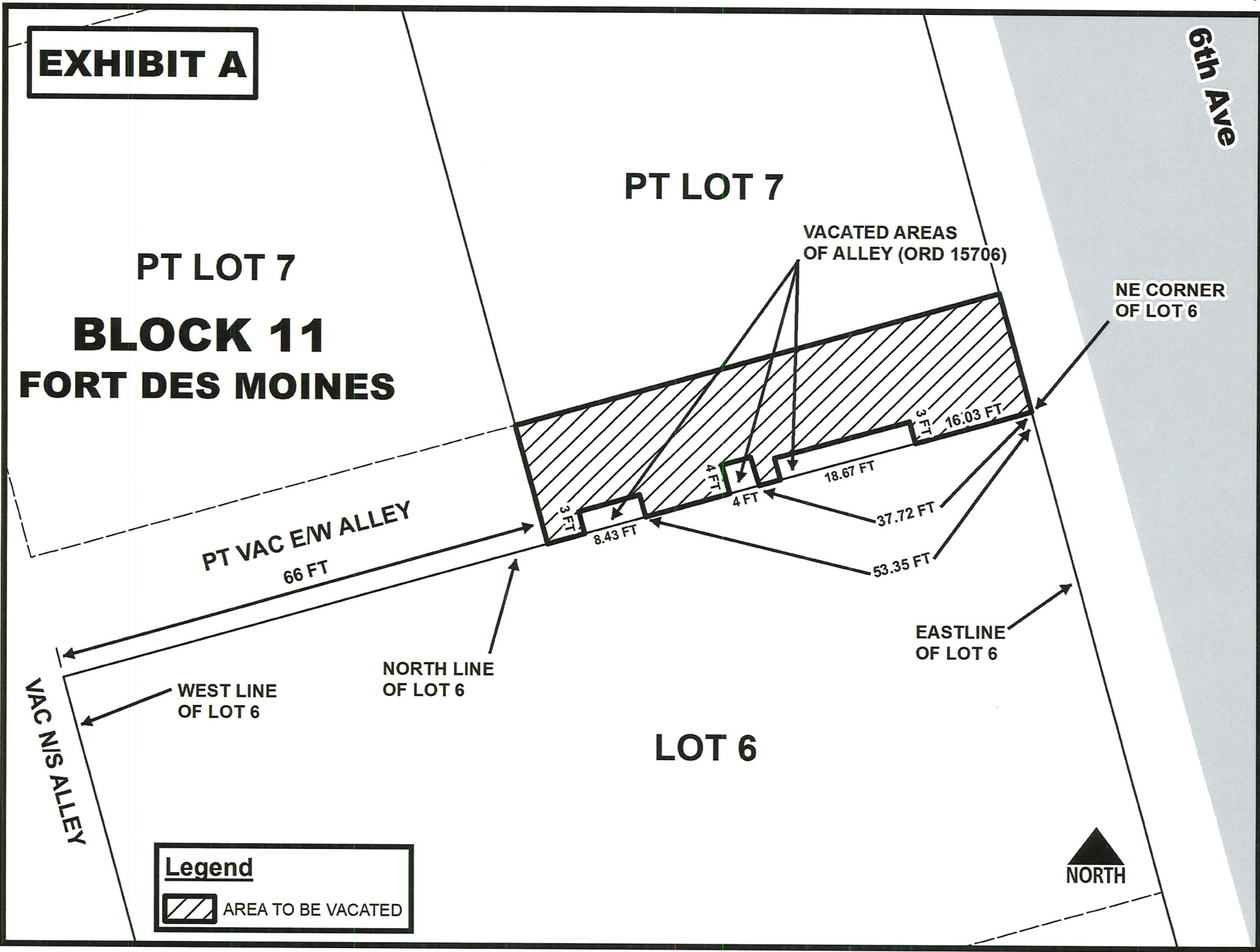
NORTH LINE  
OF LOT 6

LOT 6

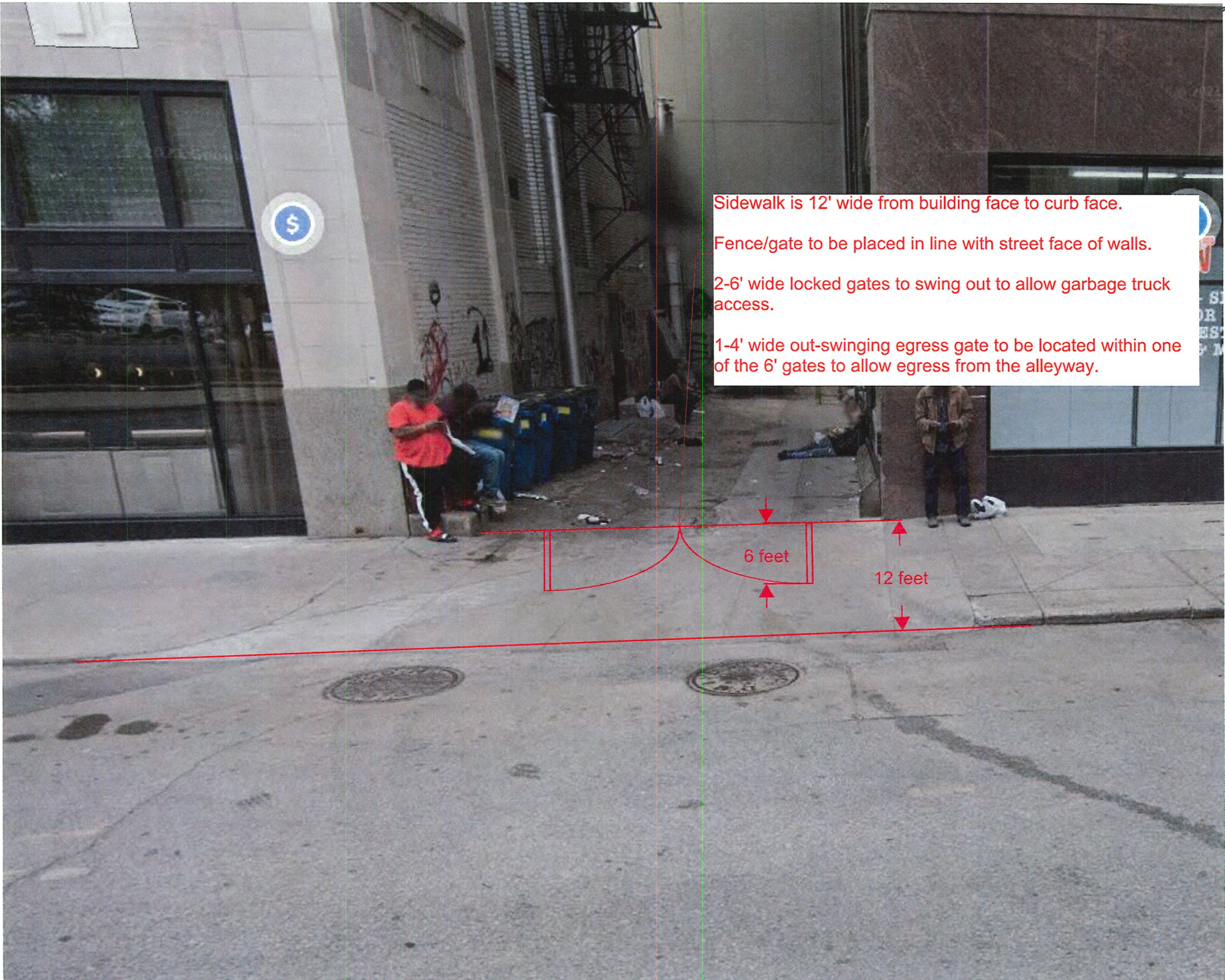
EASTLINE  
OF LOT 6

**Legend**

 AREA TO BE VACATED





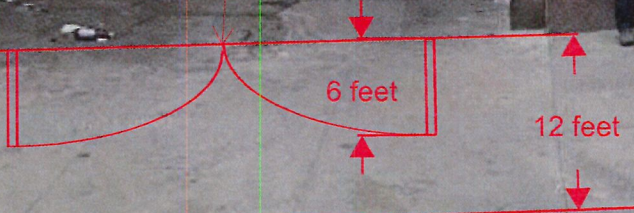


Sidewalk is 12' wide from building face to curb face.

Fence/gate to be placed in line with street face of walls.

2-6' wide locked gates to swing out to allow garbage truck access.

1-4' wide out-swinging egress gate to be located within one of the 6' gates to allow egress from the alleyway.



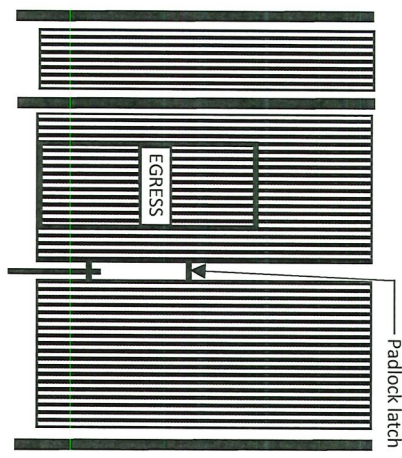


# AMERICAN FENCE COMPANY

Omaha Lincoln Des Moines Grand Island Stock Falls Rochester Sioux City Cedar Rapids  
 6300 NW Beaver Drive Johnston Iowa 50131 Phone: 515-265-6100 Fax 515-265-6108  
 American Fence Corporation - Kansas City

Date: 11/13/21 Phone: 515-452-9000 Fax: \_\_\_\_\_  
 Customer Name: Allen Conkabe  
 Billing Address: 407 W. Ave DSM 50309  
 Location of Job: Same  
 City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Call Phone: 712-640-1314 Contact E-Mail: allen.conkabe@afco.com  
 Invoice E-Mail: \_\_\_\_\_  
 Specifications: \_\_\_\_\_

- Double gate w/ built in single gate
- Expanded metal on gate (8' tall)
- Double deep rods
- Accessible panic bar on single swing



**Project Specific Notes**

No permit, survey, staking or field verification included.  
 No core drilling, rock drilling, sleeve(s) or blockage required or included.  
 No temporary fence included.  
 All staking and private utility locates must be complete prior to AFC commencing Work.  
 No shop drawings, engineered drawings, delegated design or engineering included.  
**Note:** Your project was estimated based on what we see. Objects below ground that interfere with your post installation will not be the responsibility of AFC such as your foundation, buried paving or pavers, rocks, old fence footings, etc. Any adjustments additional materials, trips and labor will be at an additional expense.

**NOTE: NOT RESPONSIBLE FOR SPINKERS SYSTEMS. ESTIMATE GOOD FOR 15 DAYS**  
 12 WEEK R

**Customer assumes full responsibility for the location of property pins, staking of the fence, and any inaccurately placed pins and/or stakes. Customer understands that AFC has staked the fence based on the proposal and/or in consideration of existing utilities that may not reflect the actual location of customer's property. Customer agrees to defend, hold harmless and indemnify American Fence Co. from and against all claims, liabilities and expenses for trespass and other damage or loss arising out of the location of said fence. Customer hereby assumes full responsibility for the damage to any marked and unmarked underground utility, telephone, T.V., cable or sprinkler system pipes. If the customer requests, agrees or allows American Fence Company to locate the fence within 18 inches of any buried utilities, the customer agrees to defend, hold harmless and indemnify American Fence Company and against all claims, liabilities and expenses as a result of damage to these utilities and related property. If the contract price is not paid within due, the customer agrees to allow American Fence Co. to trespass on to their property and remove the fence at the company's discretion. Furthermore, the customer agrees to indemnify and hold harmless the Company for any damage done to the property as a result of removal of the fence. All modifications shall be in writing and shall be attached to the original bid. This agreement and any subsequent modifications shall be contingent upon strikes, accidents, shortages or delays beyond the control of American Fence Co. Any time stated for installation is purely estimated. The customer agrees and accepts that AFC will not extend discounts or credits for any delays or be held responsible for interest charges on any payments made by customer. Any changes to the fence due to varying ground conditions are not the responsibility of American Fence Co. Customer to carry the, tornado and other necessary insurance. This proposal cannot be withdrawn by customer after acceptance of proposal. American Fence Co. has the right to reject any bid. All legal and related fees accrued in an effort to collect on this account for whatever reason will be the responsibility of the customer. By signing this proposal, the customer has completely reviewed and agreed with the prices, specifications and conditions as stated herein. Furthermore, the customer is authorizing American Fence Co. to complete the work. The customer is financially responsible for cancellation fees and costs of special order materials in the event the customer elects to cancel the contract. TERMS: 50% Down, Balance due on date of completion. A service and handling charge of 5% per month-65% per annum will apply to delinquent accounts past 10 days.**

Due to unprecedented steel price increases, contractor to pay for stock materials or provide for subsequent labor price increases after award of contract. AFC will provide storage.

Accounts not paid within thirty days will be charged fifteen percent (15%) per annum.

We agree to provide the work in accordance with the information stated here in the amount of:

Specification for Fencing	
Overall Length	Overall Height
Wire Gauge	10"
DIA	DIA Corner/End Post
DIA Line Post	DIA Top Rail
Walk Gates	Drive gates
Ø	1-1/4" Ø rods

- Notes and Exclusions:**
- 1) Unless otherwise noted, site installation is included for the installation of the fence.
  - 2) Unless otherwise noted, stock utility in concrete/utility for fence utility. No core drilling included.
  - 3) No permit, survey and/or staking included. Fence line to be staked by client.
  - 4) Unless otherwise noted, no remark, grading, grubbing and/or demolition included.
  - 5) Privacy utilities to be located by client. Fence line to be placed clear of utility.
  - 6) Unless otherwise noted, no electrical wire, string, grounding, conduit and/or conduits included.
  - 7) No bars, dies or compound operations included.
  - 8) All items not specifically mentioned in the proposal are excluded.
  - 9) Unless otherwise noted, no addenda were received.
  - 10) This proposaling be voided by AFC if not accepted within 30 days.
  - 11) AFC will not be subject to quoted damages.
  - 12) Even fence line must be concrete track accessible.
  - 13) Values of subtraction are not included.

Authorizer Signature: \_\_\_\_\_  
 Customer/Contractor Signature: \_\_\_\_\_

Date: 11/10/2021 Tax Included: \$1492.00  
 Date: \_\_\_\_\_