




**BUSINESS OF THE CITY COUNCIL
BONDURANT, IOWA
AGENDA STATEMENT**

Item No. 6q
For Meeting of 3/23/2020

ITEM TITLE: Resolution accepting a perpetual sanitary sewer easement from Polk County Conservation Board, Polk County, Iowa

CONTACT PERSON: Marketa Oliver, City Administrator

SUMMARY EXPLANATION: The attached resolution is related to the acquisition of rights-of-way and easements that are necessary for the public infrastructure improvements related to the NW Trunk Sewer Project. The resolution authorizes the City Administrator to take actions necessary to close on the rights-of-way/easement acquisitions.

<input checked="" type="checkbox"/> Resolution _____ Ordinance _____ Contract _____ Other (Specify) _____
Funding Source _____
APPROVED FOR SUBMITTAL _____  City Administrator

RECOMMENDATION: Approve resolution on a roll call vote.

CITY OF BONDURANT
RESOLUTION NO. 200323-83

A RESOLUTION APPROVING A PERPETUAL SANITARY SEWER EASEMENT FROM POLK COUNTY
CONSERVATION BOARD, POLK COUNTY, IOWA

WHEREAS, the Polk County Conservation Board maintains the Chichaqua Valley Trail system, part of which runs through northeastern Polk County pursuant to §350.4, Iowa Code (2017); AND

WHEREAS, the City of Bondurant, Iowa requests Polk County and the Polk County Conservation Board give the City of Bondurant a Public Utility Easement (PUE) on Board-managed land known as the Chichaqua Valley Trail near NE 64th St in Bondurant, Iowa, to be conveyed by a permanent public utility easement to the City of Bondurant, Iowa for the purpose of building a sanitary sewer; AND

WHEREAS, the locally known descriptions where the contemplated easement will be located are as follows:

AREA

A strip 30.00 feet in width lying 15.00 feet on each side of the following described line:
Commencing at the North 1/4 corner of Section 36, Township 80 North, Range 23 West of the 5th P.M., Polk County, Iowa; thence South 00°14'46" West along the East line of the Northwest 1/4 of said Section 36, 1701.41 feet to the South right-of-way line of the former Chicago Great Western Railway; thence South 72°41'55" West along said South right-of-way line, 73.79 feet to the point of beginning; thence North 38°18'25" West, 106.54 feet to the North right-of-way line of said former Chicago Great Western Railway. The sidelines of said strip to be shortened or lengthened to terminate at the North and South right-of-way lines of the former Chicago Great Western Railway.

Containing 3195 square feet, more or less.

WHEREAS, the temporary construction easement shall be for a period of 12 months from the date of construction at which time the temporary construction easement will cease and terminate,

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Bondurant, Iowa, that the Perpetual Sanitary Sewer Easement from Polk County Conservation Board is hereby approved as presented.

Passed and adopted this 23rd day of March, 2020,

Curt Sullivan, Mayor

ATTEST: I, Shelby Hagan, City Clerk of Bondurant, hereby certify that at a meeting of the City Council held on the above date, among other proceedings the above was adopted.

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

Shelby Hagan, City Clerk

Council Action	Ayes	Nays	Abstain	Absent
Cox				
Peffer				
Enos				
McKenzie				
Elrod				

NF



Doc ID: 034798730007 Type: GEN
Kind: EASEMENT
Recorded: 02/05/2020 at 09:29:26 AM
Fee Amt: \$0.00 Page 1 of 7
Revenue Tax: \$0.00
Polk County Iowa
JULIE M. HAGGERTY RECORDER
File# 2019-00067237

BK 17689 PG 274-280

RETURN TO:

**AFTER RECORDING RETURN
TO BECKY DEWEY,
AUDITOR'S OFFICE**

Prepared By: Travis J. Paul, Veenstra & Kimm, Inc., 3000 Westown Parkway, West Des Moines, IA 50266 (515) 225-8000
Return To: Veenstra & Kimm, Inc., 3000 Westown Parkway, West Des Moines, IA 50266 (515) 225-8000

Easement No. 2

PERPETUAL SANITARY SEWER EASEMENT

KNOW ALL MEN BY THESE PRESENT:

That we, the undersigned, Polk County Conservation Board, Polk County, Iowa, (hereinafter referred to as "Grantor(s)"), in consideration of \$1.00 in hand paid by the CITY OF BONDURANT, IOWA, the receipt of which is hereby acknowledged do hereby sell, grant and convey unto the City of Bondurant, Iowa, a municipal corporation, in the County of Polk, State of Iowa, an easement under, through and across the following described real estate:

100.00 foot strip of Former Chicago Great Western Railroad Company right-of-way located in the North 1/2 of Section 36, Township 80 North, Range 23 West of the 5th P.M., Polk County, Iowa.

Perpetual Easement (See Exhibit E-2)

A strip 30.00 feet in width lying 15.00 feet on each side of the following described line:

Commencing at the North 1/4 corner of Section 36, Township 80 North, Range 23 West of the 5th P.M., Polk County, Iowa; thence South 00°14'46" West along the East line of the Northwest 1/4 of said Section 36, 1701.41 feet to the South right-of-way line of the former Chicago Great Western Railway; thence South 72°41'55" West along said South right-of-way line, 73.79 feet to the point of beginning; thence North 38°18'25" West, 106.54 feet to the North right-of-way line of said former Chicago Great Western Railway. The sidelines of said strip to be shortened or lengthened to terminate at the North and South right-of-way lines of the former Chicago Great Western Railway.

Containing 3195 square feet, more or less.

Temporary Easement (See Exhibit E-2)

A strip 100.00 feet in width lying 50.00 feet on each side of the following described line:

Commencing at the North 1/4 corner of Section 36, Township 80 North, Range 23 West of the 5th P.M., Polk County, Iowa; thence South 00°14'46" West along the East line of the Northwest 1/4 of said Section 36, 1701.41 feet to the South right-of-way line of the former Chicago Great Western Railway; thence South 72°41'55" West along said South right-of-way line, 73.79 feet to the point of beginning; thence North 38°18'25" West, 106.54 feet to the North right-of-way line of said former Chicago Great Western Railway, EXCEPTING THEREFROM above described perpetual easement. The sidelines of said strip to be shortened or lengthened to terminate at the North and South right-of-way lines of the former Chicago Great Western Railway.

Containing 7454 square feet, more or less.

That said easement is granted unto the City of Bondurant, Iowa, for the purpose of the construction, installation and maintenance of the following described public improvement:

Sanitary Sewer

In connection herewith it is specifically agreed that by this easement, the City of Bondurant shall have the right to enter upon said premises as shall be necessary to construct, reconstruct, inspect, repair, operate and maintain and service any and all of said improvements and all appurtenances thereto, together with the right to use and operate said improvements as it deems necessary.

The temporary construction easement shall be for a period of 12 months from the date of construction at which time the temporary construction easement will cease and terminate.

The said municipal corporation shall restore said described land to a satisfactory condition after construction and/or maintenance in substantially the same condition as prior to entry.

It is further agreed that no permanent building shall be built or placed upon the above described easement, and that if such improvements are built or constructed, in violation of this easement, the City of Bondurant shall in no way be responsible for any damages thereto resulting from the construction, reconstruction, maintenance or repair of the aforesaid improvements.

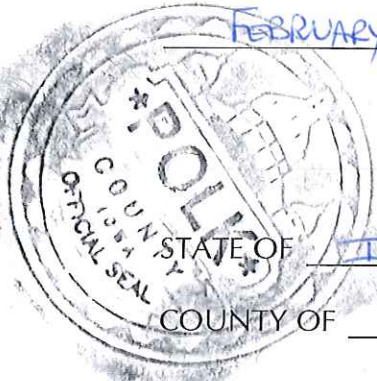
That the grantors do hereby covenant with the said grantee, and successors in interest, that said grantors hold the fee title to the easement area subject to the reversionary provisions under the Rails-To-Trails-Act and under the provisions of the Rails-To-Trails-Act in the event the easement area reverts to any railroad company as provided for by law (including, but not limited to, 16 USC Section 1247(d)) this easement shall be subject to such reversionary interest granted to the railroad company as provided by law.

Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Easement.

Words phrases herein including acknowledgment hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

IN WITNESS WHEREOF WE have hereunto affixed our hands this 4TH day of FEBRUARY, 2020.

[Signature]
Polk County, Iowa - Matt McCoy



STATE OF IOWA)
) ss.
COUNTY OF POLK)

On the 4TH day of FEBRUARY, 2020, before me, a Notary Public in and for said State, personally appeared MATT MCCOY (signatory name/s), to me personally known, and, who, being by me duly sworn, did say that they are the chairperson of the County Board of Supervisors, of the County of POLK, Iowa; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its Board of Supervisors, as contained in (Ordinance No. — passed) of (the Resolution adopted) by the Board of Supervisors on the 4TH day of FEBRUARY, 2020, and that MATT MCCOY (signatory names) acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.



Rebecca Dewey
Notary Public in and for the State of IOWA
My commission expires FEB. 1, 2023

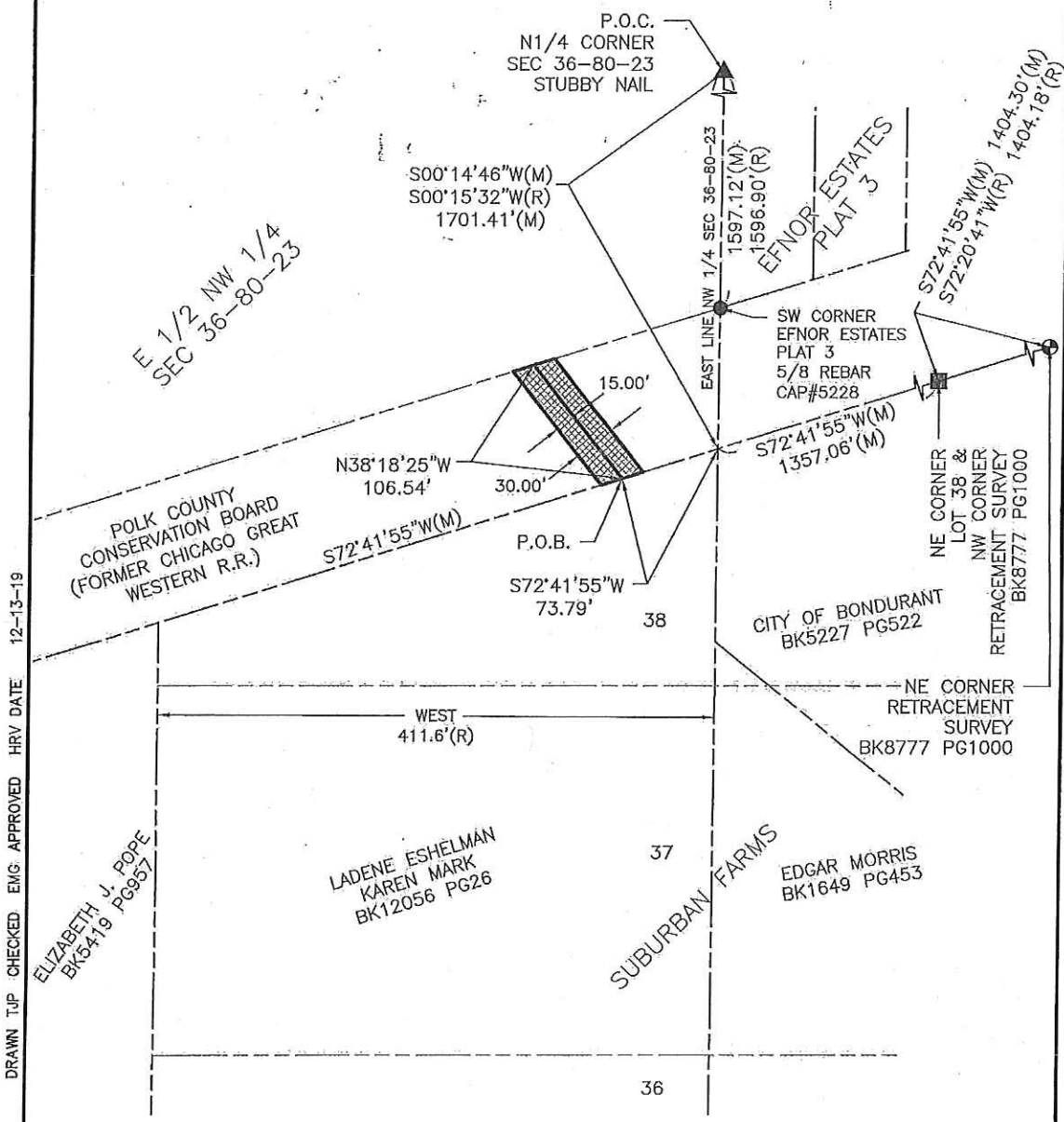
PREPARED BY: VEENSTRA & KIMM, INC. - 3000 WESTOWN PARKWAY - WEST DES MOINES, IOWA 50266-1320 - (515) 225-8000
 RETURN TO: VEENSTRA & KIMM, INC. - 3000 WESTOWN PARKWAY - WEST DES MOINES, IOWA 50266-1320 - (515) 225-8000

OWNER:
 POLK COUNTY
 CONSERVATION BOARD
 BOOK 14098 PAGE 347

EASEMENT DRAWING

FOR SANITARY SEWER
 BEING CONVEYED TO THE
 CITY OF BONDURANT, IA

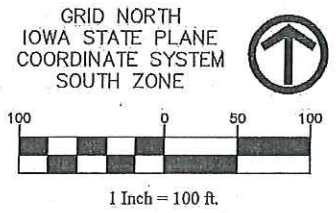
PARCEL NO.:
 231/00001-002-751



DRAWN TJP CHECKED EMG APPROVED HRV DATE 12-13-19

LEGEND

- ▲ SECTION CORNER MONUMENT FOUND (AS NOTED)
- PROPERTY MONUMENT FOUND (AS NOTED)
- 5/8" REBAR W/YELLOW CAP#9806
- ⊕ CUT "X"
- (M) "AS MEASURED" DISTANCE OR BEARING
- (R) "AS RECORDED" DISTANCE OR BEARING
- ▨ PERPETUAL EASEMENT 3195 SQUARE FEET



	NORTHWEST TRUNK SEWER VEENSTRA & KIMM, INC. 3000 WESTOWN PARKWAY WEST DES MOINES, IOWA 50266-1320 515-225-8000
	EXHIBIT E-2
Rev/By	SHEET 1 OF 2

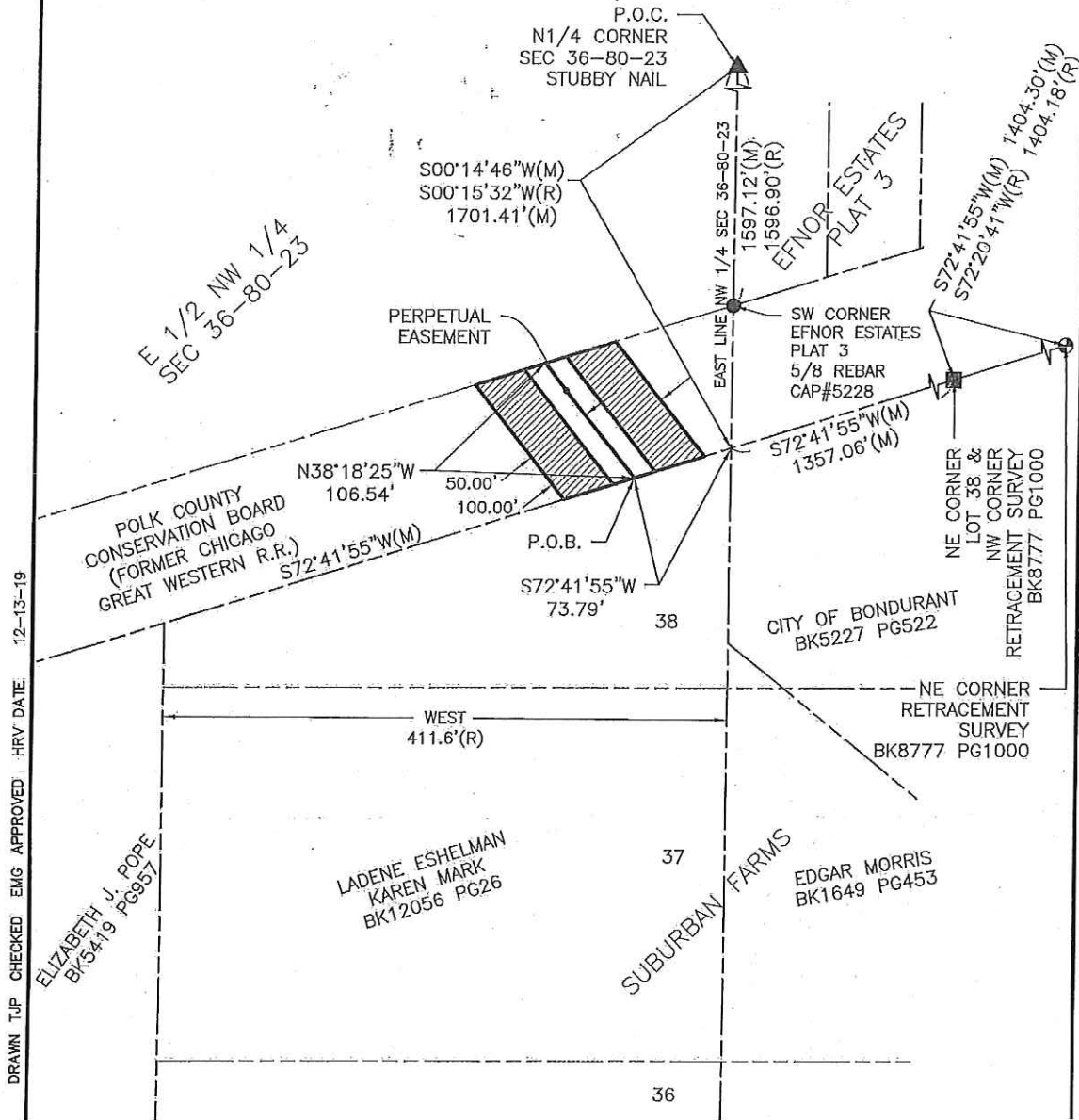
OWNER:
 POLK COUNTY
 CONSERVATION BOARD

 BOOK 14098 PAGE 347

EASEMENT DRAWING

FOR TEMPORARY CONSTRUCTION
 BEING CONVEYED TO THE
 CITY OF BONDURANT, IA

PARCEL NO.:
 231/00001-002-751

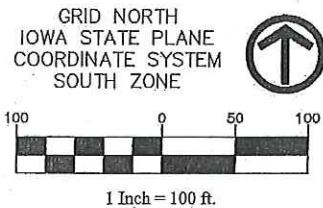


DRAWN TJP CHECKED EMG APPROVED HRV DATE 12-13-19

ELIZABETH J. POPE
 BK5419 PG937

LEGEND

- ▲ SECTION CORNER MONUMENT FOUND (AS NOTED)
- PROPERTY MONUMENT FOUND (AS NOTED)
- 5/8" REBAR W/YELLOW CAP#9806
- ⊕ CUT "X"
- (M) "AS MEASURED" DISTANCE OR BEARING
- (R) "AS RECORDED" DISTANCE OR BEARING
- ▨ TEMPORARY EASEMENT 7454 SQUARE FEET



NORTHWEST TRUNK SEWER

42847

	VEENSTRA & KIMM, INC. 3000 WESTOWN PARKWAY WEST DES MOINES, IOWA 50266-1320 515-225-8000
	EXHIBIT E-2
	SHEET 2 OF 2
Rev/By	

RESOLUTION

Moved by Hockensmith Seconded by VanOrst

That the following resolution be adopted;

WHEREAS, the Polk County Conservation Board maintains the Chichaqua Valley Trail system, part of which runs through northeastern Polk County pursuant to §350.4, Iowa Code (2017); and,

WHEREAS, the City of Bondurant, Iowa requests Polk County and the Polk County Conservation Board give the City of Bondurant a Public Utility Easement (PUE) on Board-managed land known as the Chichaqua Valley Trail near NE 64th St in Bondurant, Iowa, to be conveyed by a permanent public utility easement to the City of Bondurant, Iowa for the purpose of building a sanitary sewer; and.

WHEREAS, the locally known descriptions where the contemplated easement will be located are as follows:

AREA

A strip 30.00 feet in width lying 15.00 feet on each side of the following described line: Commencing at the North 1/4 corner of Section 36, Township 80 North, Range 23 West of the 5th P.M., Polk County, Iowa; thence South 00°14'46" West along the East line of the Northwest 1/4 of said Section 36, 1701.41 feet to the South right-of-way line of the former Chicago Great Western Railway; thence South 72°41'55" West along said South right-of-way line, 73.79 feet to the point of beginning; thence North 38°18'25" West, 106.54 feet to the North right-of-way line of said former Chicago Great Western Railway. The sidelines of said strip to be shortened or lengthened to terminate at the North and South right-of-way lines of the former Chicago Great Western Railway.

Containing 3195 square feet, more or less.

WHEREAS, a public hearing was held February 4, 2020 at the regularly scheduled meeting of the Polk County Board of Supervisors concerning the proposed easement conveyance on the described property; and

NOW, THEREFORE BE IT RESOLVED that the Polk County Board of Supervisors conveys by permanent Public Utility Easement of the Polk County property described on the easement document attached hereto and conveys by easement the above described Polk County property; and the Chairperson is authorized to execute any and all instruments, as attached, related to the public utility easement for the purpose of constructing a sanitary sewer on/under land known as the Chichaqua Valley Trail; and

BE IT FURTHER RESOLVED that the Chairperson of the Polk County Board of Supervisors authorizes the Polk County Conservation Board to record, as necessary, all necessary documents.

POLK COUNTY BOARD OF SUPERVISORS

Maed Maed
Chairperson

RECOMMENDED FOR APPROVAL:

#6

Richard Leopold

Richard Leopold, Director
Polk County Conservation Board

APPROVED AS TO FORM

Daniel Flaherty
Daniel Flaherty
Assistant Polk County Attorney

ROLL CALL
FOR ALLOWANCE

Steve Van Oort	Yea	Nay
Robert Brownell	Yea	Nay
Tom Hockensmith	Yea	Nay
Angela Connolly	Yea	Nay
Matt McCoy	Yea	Nay

FEB - 4 2020

Matt McCoy
ALLOWED BY VOTE
CHAIRPERSON

Yea	<u>5</u>	Nay	<u>0</u>
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Above tabulation made by BD