



**BUSINESS OF THE CITY COUNCIL  
AGENDA STATEMENT**

Item No. 17  
For Meeting of 5.5.2016

**ITEM TITLES:** Consideration of the resolution approving the an addendum to the Development Agreement with Farms of Holland LLC dated 7/16/2015

**CONTACT PERSONS:** Wade R. Wagoner, AICP LEED GA, Planning and Economic Development Director  
Jim Dougherty, City Attorney

**SUMMARY EXPLANATION**

The City of Norwalk has been working with the Farms of Holland on a Development Agreement Addendum.

If requested by Council at the meeting, staff is ready with a power point presentation that outlines staff decision making process.

Attached is a development agreement addendum reviewed by both the Holland Family attorney, Bob Stuyvesant, and City Attorney, Jim Daugherty.

**Benefits of New Development Agreement and park redesign.**

- Eliminates expensive excess soils export costs.
- Improves the park and creates a trail head/parking lot
- Improves value of Commercial pad sites for seller and for future tax revenues
- Expedites commercial development in Norwalk

Resolution  Ordinance  Contract  Other (Specify) \_\_\_\_\_

Funding Source: TIF

  
 APPROVED FOR SUBMITTAL \_\_\_\_\_ Planning & Economic Development Director  
[Jim Dougherty](#) City Attorney

**STAFF RECOMMENDATION:** Approve resolution on a roll call vote.

RESOLUTION NO. \_\_\_\_\_

**Approving the Development Agreement Addendum with Farms of Holland LLC**

**WHEREAS**, City will acquire additional ground to accommodate redesign of the park, including a trail head/parking; and

**WHEREAS**, the new design of the park "balances" excess soils through a private/public partnership that eliminates the need for the costly soils export; and

**WHEREAS**, pad sites are improved, adding value to both the City and the seller; and

**WHEREAS**, because the costly export has been eliminated, city agrees as to include as a part of the contract (the cheapest time to do it) a provision to spread and compact the excess soils (a provision that was already contemplated for the road); and

**WHEREAS**, seller agrees to not reasonable reject the excess soils if they are compactable;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORWLAK, IOWA**, that the attached development agreement with Farms of Holland, attached hereto and made a part hereof, is approved.

Passed and approved this 5<sup>th</sup> day of May, 2016.

\_\_\_\_\_  
Tom Phillips, Mayor

ATTEST:

\_\_\_\_\_  
Jodi Eddleman, City Clerk

<u>ROLL CALL VOTE:</u>	<u>Aye</u>	<u>Nay</u>
Riva	___	___
Isley	___	___
Kuhl	___	___
Livingston	___	___
Lester	___	___

# AMENDED DEVELOPMENT AGREEMENT

THIS AMENDMENT is made and entered into on the day of May, 2016, by and between the City of Norwalk, Iowa (hereinafter referred to as Norwalk) and Farms of Holland LLC (“FOH”):

## RECITALS

WHEREAS, on or about July 16, 2015 Farms of Holland LLC and Norwalk entered into a Development Agreement involving, in part, the City constructing a regional storm water detention facility (“Facility”) upon ground to be donated by FOH; and

WHEREAS, at the time of entering into the Development Agreement, only preliminary plans for the Facility had been created. Additional analysis and planning relating to the Facility has now been completed. As a result of the additional analysis and planning, Norwalk and FOH find it necessary and mutually beneficial to enter into this Amended Agreement.;

NOW, THEREFORE, the parties hereto agree the Development Agreement as follows:

1. FOH agrees to donate to the City additional property, as described in Exhibit “A” attached hereto. The property shall be conveyed to the City via Warranty Deed. FOH shall provide the City with an Abstract of Title for the property being conveyed showing good and marketable title in the property, free of all liens or other encumbrances to the satisfaction of the City. The conveyance shall occur in conjunction with and within 45 days of the execution of this Agreement by the parties.
2. The additional property donated by FOH is needed by the City for the purpose of providing access to and parking for the Facility. The City intends to construct access and parking in a future phase of the Facility, the timing of which is not yet determined. Upon construction, the Owner of Outlot U in Farms of Holland Plat 2, an Official Plat, now included in and forming a part of the City of Norwalk, Warren County, Iowa shall be provided a non-exclusive Ingress/Egress easement over the Southern 120 feet of the access area providing access for automobile traffic from Colonial Parkway to the property. The easement shall be perpetual in nature and shall run with the land. The City reserves the right to place reasonable restriction on the easement area regarding commercial vehicle weights and uses. The future owner of Outlot U and the City will work out the details of joint responsibility, based on traffic loading, and for any additional modification, maintenance or expenses caused as a result of the use by both parties. It is understood that if the City is the first to develop the trail head. The entrance will, for the full length of the 120’ easement in addition to the ingress/egress in the r-o-w, be constructed to accommodate commercial truck traffic.
3. Paragraph 8 of the Development Agreement is hereby amended to state;

Prior to delivering the soils, the City will conduct on-site sampling and testing of the soils excavated from the Property during construction, with a frequency to be determined by the geotechnical engineer. The on-site sampling will be provided by a geotechnical engineer hired by the City. Such excavated soils will be observed and tested using the Standard Proctor Test (ASTM D698). The geotechnical engineer shall designate the excavated soils as containing structural properties or non-structural properties. This designation shall be evaluated with the Standard Proctor Test results along with the professional opinion of the geotechnical engineer. The City and owner of property shall mutually agree to the designation. Soils tested with a minimum dry density of 100 pounds per cubic foot (pcf) will be placed in areas designated for structural fill. Soils tested with a dry density less than 100 pcf will be placed in areas designated for non-structural fill. FOH reserves the right to reject soils tested with a dry density of less than 95 pcf. The results of the Standard Proctor as defined shall not be used as the sole designation. The geotechnical engineer shall evaluate all soil properties to formulate the designation. Upon delivery of such excavated soils, the City shall spread and compact the soils to the limits as specified in the Facility grading plan. The compaction of these soils shall be done per the recommendations of the geotechnical engineer based on the properties intended use. A Construction Manager hired by the City will be utilized to direct the placement of soil based on the information gathered by the geotechnical engineer.

The excess soils with the highest structural properties shall be directed to be placed and compacted by the Construction Manager in the following order of priority; the base for the new Turnberry Road to be constructed, the property owned by K F and H and City State Bank, Outlets U and V and new FOH City Park. The Construction Manager will make final determination on placement of soil if there is a difference of opinions.

Once the excess soils are delivered to adjacent properties, placed and compacted by the City, the owner of the property shall be responsible for ownership of all the delivered soils and use and regulations related thereto and shall hold the City harmless therefore. (ie erosion control, DNR regulations, requirements for additional geotechnical exploration for specific use, etc.)

The parties understand the risk associated with use of any such soils, structural or non-structural, delivered to the specified parcels by the City. Such risks may include but not be limited to settlement of fill areas over existing compressive soils and construction of movement sensitive structures, foundations, floor slabs and pavement over un-stabilized expansive soils.

4. The City, with FOH cooperation, shall obtain separate easements from the owners of adjacent properties, for no further consideration, for the placement of soils on adjacent properties.
5. All other terms of the Development Agreement described above shall remain in full force and affect.

The City and FOH have caused this Agreement to be signed, and the City's seal to be affixed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

**CITY:**  
CITY OF NORWALK, IOWA

By: \_\_\_\_\_  
\_\_\_\_\_, Mayor

Attest:

\_\_\_\_\_  
\_\_\_\_\_, City Clerk  
(Seal)

**FOH:**  
Farms of Holland LLC

By: \_\_\_\_\_  
James B Holland, Member/Manager

**OWNER:**  
FARMS OF HOLLAND, LLC

**EXHIBIT "A"**

FOR PROPOSED ACQUISITION  
FOR THE CITY OF NORWALK, IA

**PARCEL ID:**  
64177024000

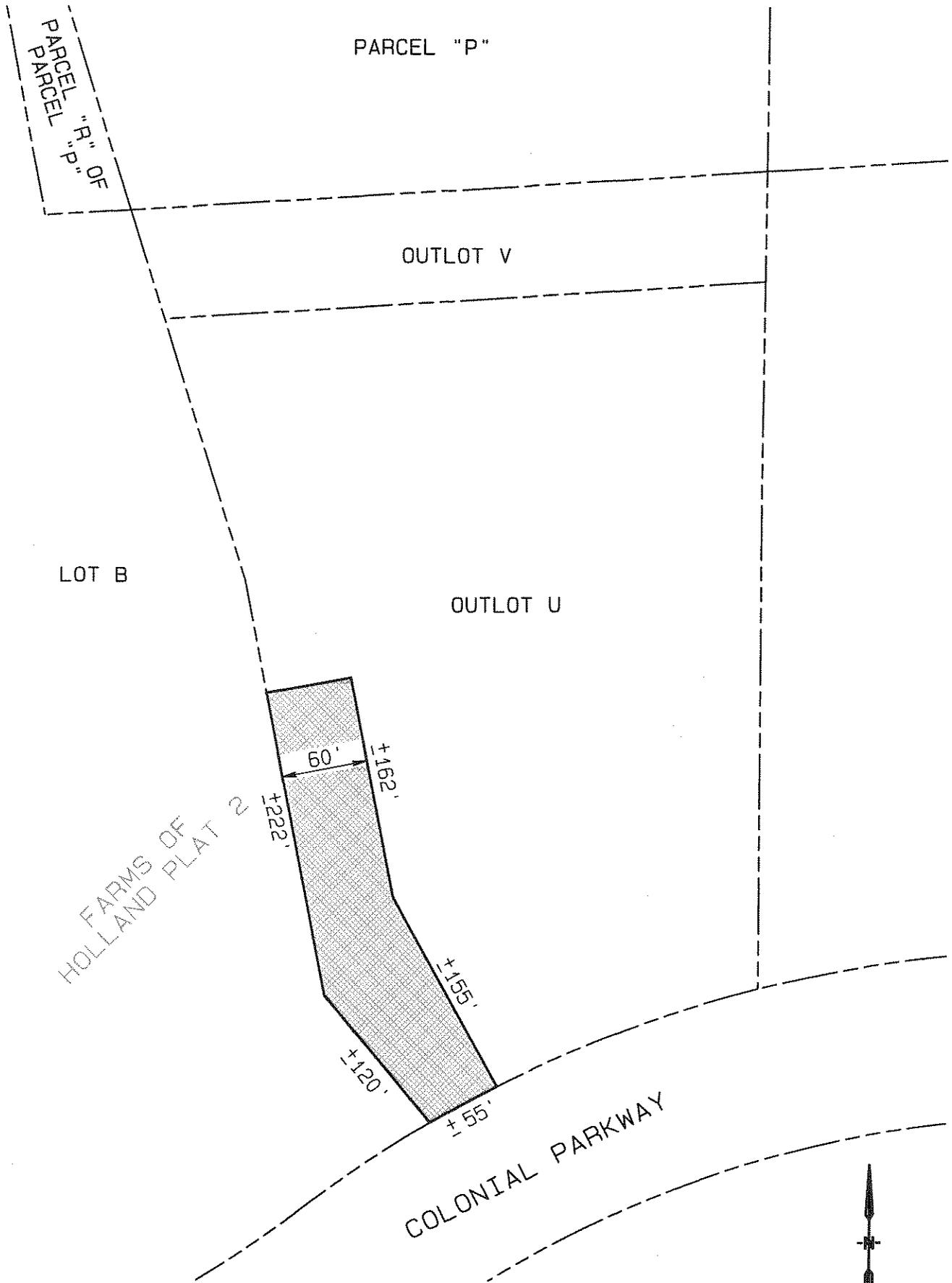
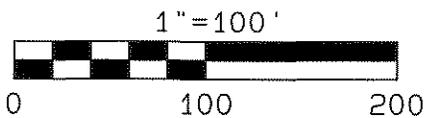


EXHIBIT AREA  
21,171 SQUARE FEET  
OR 0.49 ACRES



SCALE	1"=100'
DRAWN	TJP
CHECKED	BJM
APPROVED	AJB
DATE	04-22-15
A.C.	



EXHIBIT "A" IN  
OUTLOT U, FARMS OF  
HOLLAND PLAT 2

DWG. NO.

EX-1  
1 OF 1

**VEENSTRA & KIMM, INC.** 3000 Westown Parkway • West Des Moines, Iowa 50266-1320  
515-225-8000 • 515-225-7848 (FAX) • 800-241-8000 (WATS)

PROJECT 1427B