

City of West Branch

~ A Heritage for Success ~

110 N. Poplar St. • P.O. Box 218 • West Branch, Iowa 52358
Ph. 319-643-5888 • Fax 319-643-2305 • www.westbranchiowa.org • wbcity@Lcom.net

SPECIAL CITY COUNCIL MEETING AGENDA

Monday, March 31, 2014 • 7:00 p.m.

City Council Chambers, 110 North Poplar Street

Action may be taken on any agenda item.

1. Call to order
2. Roll call
3. Welcome
4. Approve Agenda/Consent Agenda/Move to action.
 - a. Approve minutes from the March 24, 2014 City Council Work Session.
 - b. Approve minutes from the March 24, 2014 City Council Meeting.
5. Communications/Open Forum
6. Public Hearing/Non-Consent Agenda
 - a. Resolution 1186, approving membership for the City of West Branch, IA in the Iowa Communities Assurance Pool (ICAP) and the Iowa Municipalities Workers Compensation Association (IMWCA), approving annual contributions to both ICAP and IMWCA, and directing the city administrator to send notice of cancellation to EMC Insurance Companies./Move to action.
 - b. Motion to adjourn to closed session to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where the disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation pursuant to Section 21.5(c) of the Code of Iowa.
 - c. Resolution 1187, approving Dorsey & Whitney LLP as the legal services provider with regard to the lawsuit captioned *Acciona Windpower North America, Inc. v. City of West Branch*, S.D. Iowa Case No. 14-cr-33-EJM and directing the city administrator to sign and return the letter of engagement to Dorsey & Whitney LLP./Move to action.
7. City Staff Reports
8. Comments from Mayor and Council Members
9. Adjournment

(The following is a synopsis of the minutes of the West Branch City Council meeting. The full text of the minutes is available for inspection at the City Clerk's office. The minutes are not approved until the next regularly scheduled City Council meeting.)

**West Branch, Iowa
Council Chambers**

City Council Work Session

**March 24, 2014
6:03 p.m.**

Mayor Worrell opened the West Branch City Council work session by welcoming the audience and the following City staff: City Administrator Matt Muckler, Deputy City Clerk Dawn Brandt, Administrative Assistant Shanelle Peden, Public Works Director Matt Goodale, Zoning Administrator Paul Stagg, Parks & Recreation Director Melissa Russell and City Attorney Kevin Olson. Council members: Jordan Ellyson, Colton Miller, Mary Beth Stevenson, Brian Pierce, and Tim Shields.

Pete Swisher, Superintendent, Herbert Hoover National Historic Site – National Park

Pete Swisher, Superintendent spoke to the Council about the partnerships, activities, agreements and MOU's between the City and the National Park. Swisher provided an update to the Council on the 2014 projects that the National Historic Site is working on: tree work/pruning/stump grinding and ash tree removal, sidewalk projects that are adjacent City sidewalks to the park, and stabilization funding for the Thompson farm. In 2015, the Herbert Hoover Historic Site will be celebrating their fifty year anniversary. The National Park Service will have their centennial celebration in 2016. Mayor Mark Worrell thanked Superintendent Swisher for presenting to the Council.

ADJOURNMENT

Motion to adjourn the meeting by Miller, second by Ellyson. Motion carried on a voice vote. City Council work session adjourned at 6:30 p.m.

Mark Worrell, Mayor

ATTEST: _____
Dawn Brandt, Deputy City Clerk

(The following is a synopsis of the minutes of the West Branch City Council meeting. The full text of the minutes is available for inspection at the City Clerk's office. The minutes are not approved until the next regularly scheduled City Council meeting.)

**West Branch, Iowa
Council Chambers**

City Council Meeting

**March 24, 2014
6:32 p.m.**

Mayor Worrell opened the West Branch City Council meeting by welcoming the audience and the following City staff: City Administrator Matt Muckler, Deputy City Clerk Dawn Brandt, Administrative Assistant Shanelle Peden, Fire Chief Kevin Stoolman, Police Chief Mike Horihan, Police Officer Alex Koch, Public Works Director Matt Goodale, Zoning Administrator Paul Stagg, Parks & Recreation Director Melissa Russell, and City Attorney Kevin Olson. Council members: Jordan Ellyson, Colton Miller, Mary Beth Stevenson, Brian Pierce, and Tim Shields.

APPROVE AGENDA/CONSENT AGENDA

- a) Approve minutes from the March 3, 2014 City Council Work Session #1.
- b) Approve minutes from the March 3, 2014 City Council Meeting.
- c) Approve minutes from the March 3, 2014 City Council Work Session #2.
- d) Approve claims.
- e) Approve destruction of records with Document Destruction & Recycling Services listed on Records Destruction Form per the Record Retention Manual for Iowa Cities.

Motion by Ellyson to approve the agenda/consent agenda, second by Stevenson. AYES: Ellyson, Stevenson, Pierce, Shields, Miller. Motion carried.

Date 3-24-14

City of West Branch
Claims Register Report

Agvantage FS	Streets - LP Gas	1,391.12
Alliant Energy	Various Depts. - Utilities	10,574.99
Amazon	Library - Supplies	73.83
Baker & Taylor Inc.	Library - Books	961.32
Barron Motor Supply	Fire/Streets - Supplies	310.88
BP Amoco	Fire/Police/Water - Fuel	1,651.07
Cedar County Recorder	Legal - Document Recording	22.00
Cedar Rapids Photo Copy	Library - Supplies/Service	55.89
Chief Supply Corporation	Police - Boots - Uniform	137.34
Community State Bank	Fire Dept. Expansion Loan payment	8,364.57
Culligan Water	Fire - Water Cond Rental	33.70
Deweys Jack & Jill	Library/Streets - Supplies	28.46
Econo Signs	Streets - Signs	228.46
EFTPS	Withholdings	5,533.79
EMSLRC	Fire - CPR Cards	21.00
ETS Corporation	Admin/Water/Sewer-Credit Card Fees	31.53
F&B Communications	Admin - Web Hosting	29.95
General Pest Control	Library - Pest Control	70.00
GreatAmerica Leasing	Admin - Copier Lease	252.06
HBK Engineering LLC	Park & Rec - Proj#A13-0839	9,062.50
HD Cline Company	Streets - Cable	56.50
Horihan, Mike	Police-Reimb For Uniform Pants	74.25
Int'L Inst Of Mun. Clerks	Admin-IIMC Training Conference	950.00
Intoximeters	Police - Supplies	227.00
Iowa Assn. Mun. Utilities	Water - Eiasso March - May/Membership	1,075.21
Iowa City Scheels	Police - Equipment & Ammo	259.97
Iowa League Of Cities	Admin - Workshop Webinar	35.00
J & M Displays	Comm & Cult -Fireworks Deposit	17,500.00
Joey Dean Wenndt	Police/Fire - Nims & Fire Training	225.00
Johnson County Refuse	Recycling - February 2014	3,705.00
Keltek	Fire - Service	408.28
Kevin Olson	Legal Services - March 2014	1,500.00
Liberty Communications	Various Depts. - Phone Service	1,095.81

Linn County R.E.C.	Streets - Utilities	120.00
Lynch's Excavating	Water/Streets -Service	1,158.40
Lynch's Plumbing	Sewer/Fire - Service City Office & Fire Dept.	3,201.26
Menards	Streets/Water - Supplies	187.30
Midwest Janitorial	Admin/Lib/Police/TH - Cleaning	926.56
Moore's Welding	Streets/Water - Service & Rack	391.55
Municipal Supply Inc.	Water - Supplies	1,024.60
Office Of Auditor Of State	Admin-Fy13 Annual Audit Fee	9,951.13
Overdrive	Library - EBooks	89.44
Payroll Expense	Payroll Expense 3-14-14	24,471.66
Pitney Bowes	Admin/Water/Sewer - Postage	500.00
Plato Electric	Water - Service Water Plant	40.00
Play It Again Sports	Park & Rec - Exercise Equipment	417.63
Plumbers Supply Co.	Water - Supplies	251.92
Qc Analytical Services	Sewer - Testing	584.00
Quality Engraved Signs	Admin - Notary Stamp	15.43
Quill Corp	Water/Admin/Library - Office Supplies	142.95
Ricklefs Excavating	Lift Station - Final Payment - Retainage	49,142.32
Russell, Melissa	Park & Rec – Reimb For Craft Supplies	158.56
Scott County Cons.	Park & Rec - Shelter Rental	50.00
Shanelle Peden	Admin/Cable - Reimb For Frames/Video	416.31
Sprint	Police - Phone Service	179.97
Stanard & Associates	Police - Training	69.00
Terence J Goerdt	Admin - Building Inspections	210.00
Treasurer State Of Iowa	Iowa Sales Tax ACH - Feb	2,326.49
Tyler Technologies	Admin- User Group Training/Annual Fees	3,918.38
UI State Hygienic Lab	Water - Testing	24.00
UPS	Sewer - Shipping	75.42
US Bank	Library - Copier Contract	70.42
US Cellular	Various Depts. - Phone Service	872.38
Veenstra & Kimm Inc.	P&Z/Streets/Sewer – Eng. For Projects	1,717.00
Wageworks	Flex - Hcfsa2013	69.54
Walmart	Library - Supplies	280.70
Welter Storage Equip	Streets - Shelving	95.00
WB Family Practice	Fire - Physicals	225.00
West Branch Repairs	Fire - Service	119.00
West Branch Times	Legal - Publications	773.57
Wex Bank	Police - Fuel	490.16
Zephyr Copies	Admin - Copies	31.11
	Grand Total	170,734.64

Fund Totals	
001 General Fund	78,271.07
022 Civic Center	1,170.31
031 Library	7,083.35
110 Road Use Tax	3,115.53
112 Trust And Agency	1,315.08
226 Go Debt Service	8,364.57
600 Water Fund	13,483.92
610 Sewer Fund	8,718.95
614 Lift Station	49,142.32
950 BC/BS Flex Benefit	69.54
Grand Total	170,734.64

COMMUNICATIONS/OPEN FORUM - NONE
PUBLIC HEARING/NON-CONSENT AGENDA

Mayor Mark Worrell – Recognition of West Branch Repairs

Mayor Mark Worrell recognized Kevin and Linda Stoolman of West Branch Repairs for their twenty five years of presence in the community and dedication to the City of West Branch.

West Branch American Legion Chauncey Butler Post 514 Commander Joanne Brookshear and First Vice Commander John Phillips - Certificate of Appreciation for Police Chief Mike Horihan and Police Officer Alex Koch.

Commander Joanne Brookshear and First Vice Commander John Phillips presented Police Chief Mike Horihan and Police Officer Alex Koch with certificates of appreciation for their efforts in providing the West Branch Community with outstanding public service benefitting our community, State and Nation.

Brian Mueller, Pipeline Supervisor with Enterprise Products – Pipeline Safety and the Pedersen Valley Park Project.

Enterprise Products Partners LP Land Representative Eric Alley informed the Council that the pipeline in Pedersen Valley Park is buried three feet down. The pipeline will need to be completely excavated around and be recoated to allow for a parking lot or street. Trees are not allowed in the pipeline easement area. They will provide the City with encroachment guidelines and assist with an emergency response plan for the area near the pipeline.

Randy Wehrman, Insurance Agent, Springdale Agency – Liability & Work Comp insurance renewal update.

Randy Wehrman presented the Council with the April 1, 2014 insurance renewal and gave an overview of the current coverage sections in the policy. He made a recommendation to increase deductibles on the property and auto portions of the policy and to reduce the premium. He explained the experience rating on the workers compensation policy and the three year experience period that applies to claims.

Third Reading of Ordinance 719, amending Title Chapter 17 “Council.”/Move to action.

Motion by Shields, second by Ellyson to approve third reading of Ordinance 719. AYES: Shields, Ellyson, Miller, Stevenson, Pierce. Motion carried.

ORDINANCE NO. 719
AN ORDINANCE AMENDING TITLE CHAPTER 17 “COUNCIL”

1. BE IT ENACTED by the City Council of West Branch, Iowa, that Chapter 17 “COUNCIL” of the Code of West Branch, Iowa is hereby amended by deleting Section 17.04.1 in its entirety and inserting in lieu thereof:

17.04.1 Regular Meetings. The regular meetings of the Council are on the first and third Mondays of each month in the Council Chambers at the City Office Building. The time of said meetings shall be 7:00 p.m. If such day falls on a holiday, the meeting is held at a mutually agreeable time, as determined by the Council.

2. This amendment to the ordinance shall be in full effect from and after its publication as by law provided.
3. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.
4. If any section, provision, or part of this ordinance shall be adjudged to be invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any part, section, or provision thereof not adjudged invalid or unconstitutional.

Passed and approved this 24th day of March, 2014.

First Reading:	February 18, 2014
Second Reading:	March 3, 2014
Third Reading:	March 24, 2014

Mark Worrell, Mayor

Attest:

Matt Muckler, City Administrator/Clerk

First Reading of Ordinance 722, amending Chapter 55 of the Code of Ordinances regarding applicability of rules and regulations for the dog park./Move to action.

City Attorney Kevin Olson said that ordinances are usually only applicable to corporate city limits. State code states that the City can apply the rules and regulations to city owned property outside of the corporate city limits. This ordinance makes that official. Motion by Ellyson, second by Stevenson to approve first reading of Ordinance 722. AYES: Ellyson, Stevenson, Pierce, Shields, Miller. Motion carried.

Resolution 1184, approving FCC Notification for Spectrum Manager Lease Ownership Disclosure Information and Spectrum Lease Agreement with Sensus USA Inc. & Sensus Spectrum, LLC./Move to action.

City Administrator Matt Muckler said this is a ten year agreement for the city automated meter reading equipment. Information is collected over specific frequencies and this agreement provides the city permission to do so from the FCC. Motion by Pierce, second by Ellyson to approve Resolution 1184. AYES: Pierce, Ellyson, Miller, Stevenson, Shields. Motion carried.

CITY STAFF REPORTS

Matt Goodale, Public Works Director- North Maple Street Project Update

Public Works Director Matt Goodale said that he is working on scheduling with LL Pelling to begin the project in mid-April for the asphalt overlay and curb and gutter. That work will take approximately one and half weeks. Public Works employees will install the sidewalk, and finish dirt work and grading.

Paul Stagg, Zoning Administrator – March 25, 2014 Planning & Zoning Commission Meeting

Zoning Administrator Paul Stagg notified the Council of the planning and zoning meeting scheduled for March 25, 2014. There will be a public hearing on amendments to the zoning code. Two ordinances will be discussed; Ordinance 720 adds definitions to the code, provides effective dates for variances, allows retaining walls to extend farther into the required setbacks and allows the Council to remand decisions back to the Zoning Board of Adjustments. Ordinance 721 approves a zoning classification change and updates the City zoning map for land being classified as public use.

Melissa Russell, Park & Recreation Director – Summer League and Grants Update

Parks & Recreation Director Melissa Russell said that the City will be taking over the school summer league program. 130 registrations have been taken with a fee of \$35 per child. The City will pay the school for the electricity use at the summer league fields which is approximately \$1,100.00. Muckler and Russell are working with E-Civis to complete two grants. One is for a baseball tomorrow grant that averages around \$40,000 for fields and maintenance. The other is a Vision Iowa cat grant for a potential recreation building that could cover up to 20% of the total project cost.

Brian Boelk, HBK Engineering – Park Planning Update

Brian Boelk said there were 400 responses from the public survey. The community is interested in the following features, a pool, trails, basketball court, community center and playground equipment. 74% responded yes to combining the Public Library and the community center facilities. 60% of the people responded they are in favor of using local option sales tax or a bond to finance the project. An open house design charette process for public input has been scheduled for April 24 at the City Office.

COMMENTS FROM MAYOR AND COUNCIL MEMBERS

Discussion of Ordinance 718, amending the Code of Ordinances of the City of West Branch by Creating and Incorporating a Storm Water Utility.

Council members had discussion and agreed that they prefer scenario one for the stormwater utility fee. Council member Mary Beth Stevenson asked staff to prepare a promotional plan with brochures to be distributed to the public for Council to review at the next meeting.

Motion to adjourn to closed session to discuss strategy with counsel in matters that are presently in litigation or where litigation is imminent where the disclosure would be likely to prejudice or disadvantage the position of the governmental body in that litigation pursuant to Section 21.5(c) of the Code of Iowa.

Motion by Miller to adjourn to closed session at 8:12 p.m. and second by Shields. AYES: Miller, Shields, Ellyson, Stevenson, Pierce. Motion carried.

Motion by Miller to adjourn from the closed session at 9:34 p.m. and second by Shields. AYES: Miller, Shields, Ellyson, Stevenson, Pierce. Motion carried.

ADJOURNMENT

Motion to adjourn meeting by Miller, second by Ellyson. AYES: Miller, Ellyson, Stevenson, Pierce, Shields. Motion carried. City Council meeting adjourned at 9:34 p.m.

Mark Worrell, Mayor

ATTEST: _____
Dawn Brandt, Deputy City Clerk

RESOLUTION NO. 1186

RESOLUTION APPROVING MEMBERSHIP FOR THE CITY OF WEST BRANCH, IA IN THE IOWA COMMUNITIES ASSURANCE POOL (ICAP) AND THE IOWA MUNICIPALITIES WORKER'S COMPENSATION ASSOCIATION (IMWCA), APPROVING ANNUAL CONTRIBUTIONS TO BOTH ICAP AND IMWCA, AND DIRECTING THE CITY ADMINISTRATOR TO SEND NOTICE OF CANCELLATION TO EMC INSURANCE COMPANIES.

WHEREAS, the City of West Branch, Iowa received insurance quotations from the Iowa Communities Assurance Pool ("ICAP") and the Iowa Municipalities Worker's Compensation Association (IMWCA); and

WHEREAS, after reviewing the quotations and comparing the quotation to that of EMC Insurance Companies ("EMC"), the City Council has decided to accept the quotations of ICAP and IMWCA, effective April 1, 2014.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Iowa, that the quotations of ICAP and IMWCA to provide insurance services for the City are hereby approved. The Mayor is hereby directed to execute any and all documentation implement insurance coverage with ICAP and IWMCA.

BE IT FURTHER RESOLVED, that the City Administrator is therefore directed to send a notice of cancellation to EMC.

Passed and approved this 31st day of March, 2014.

Mark Worrell, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

Iowa Communities Assurance Pool (ICAP)

The Iowa Communities Assurance Pool (ICAP) was established in 1986 as a group self-insurance program for Iowa public entities under Iowa Code section 670.7.

ICAP's primary goal is to provide for the joint and cooperative action of its members (relative to their financial and administrative resources) for two purposes: to provide risk management services and risk-sharing facilities to members and their employees and to protect each member of the pool against liability.

The Pool is governed by a Board of Directors and, per an administrative agreement entered into in 1986, is administered by American Risk Pooling Consultants, Inc. (ARPCO). Through an agreement with ARPCO, Bilbrey Insurance Services, Inc. (BISI) provides marketing, member services and first-line underwriting, while Public Entity Risk Services of Iowa (PERSI) is responsible for the Pool's claims and loss control.

The member-owned Pool is acclaimed for having the broadest coverage available to Iowa public entities and is endorsed by the Iowa League of Cities, the Iowa State Association of Counties and the Association of Iowa Fairs.

Since 1986, ICAP has expanded its capabilities to include property and casualty coverage; its rates, however, have remained unchanged.

ICAP is audited annually and, for 21 consecutive years, has earned Demotech, Inc. Ratings of AAA (the highest in its class) for financial stability.

To protect against the unexpected, ICAP is a participant in American Public Entity Excess Pool (APEEP) and is contractually safeguarded against any loss greater than \$350,000 for casualty and \$100,000 for property. This mutually beneficial relationship also guarantees a joint reinsurance arrangement in excess of \$32,500,000, which secures funds to the Pool in the unlikely event it becomes financially unstable.

The Pool, which is member-owned and operated, provides property and casualty coverage to 696 Iowa public entities, including 318 cities, 70 counties, 59 fair boards and 249 other public entities.

Each and every one of these members benefits from the comprehensive coverages and extensive services that ICAP affords.

ICAP is responsible, loyal and responsive to its membership and offers various opportunities for coverage, including: general liability, automobile physical damage, public officials' liability, police professionals' liability, property, inland marine, boiler and machinery. Since its inception, the Pool's original intentions of providing quality coverage, availability and stability in pricing have remained unchanged.

The Pool is headquartered in Iowa and administered by American Risk Pooling Consultants (ARPCO) in Southfield, Michigan.

Iowa Municipalities Worker's Compensation Association (IMWCA)

About Us

We're committed to providing a competitive workers' compensation program for cities and counties through administrative, loss control and technical services. As a self-insured risk pool, we were created for our members and controlled by our members.

Our History

The Iowa Municipalities Workers' Compensation Association (IMWCA) was formed in 1981 according to Chapter 28E of the Code of Iowa. The initial effort to organize was coordinated by the Iowa League of Cities in response to numerous cities having their coverage canceled by standard insurance carriers. IMWCA began offering coverage to cities July 1, 1981.

The program was restructured in 1987 to allow counties to join the association and in the 1990s, other 28E entities and political subdivisions were deemed eligible participants.

Administrative services continue to be provided by Iowa League of Cities staff members who pride themselves in offering unparalleled personal service and understand the unique challenges faced by local governments. Today the predominant number of cities, counties and other governmental organizations in Iowa choose IMWCA for coverage of more than 49,000 employees.

Q&A

Q: What sets IMWCA apart from a standard insurance company?

A: We are an association whose members have ownership and control of their own business. They join together not to make a profit, but to keep the cost of their workers' compensation coverage at stable and affordable levels. We help members accomplish this by pooling their premiums together to fund losses and by helping them to implement sound safety and loss control programs to contain costs.

Q: What happens to the money left over after all claims and expenses have been paid?

A: Any money not used to pay claims and expenses remains with us as surplus to fund future catastrophic claims. If a surplus substantially exceeds an actuarially sound figure, a distribution may be made to current members according to a formula that contemplates members' premium and claims experience of past years.

Q: Are there other advantages of membership?

A: Of course. We provide coverage exclusively to local governments. Our staff, employees of the Iowa League of Cities, are very familiar with government operations and understand the inherent risks of the jobs performed by city and county employees.

Our staff is also highly committed to providing unparalleled service to IMWCA members in all areas. We work with members to provide guidance on underwriting, loss control and claims issues, offer education and training opportunities throughout the year and publish a monthly [newsletter](#) to keep members updated.

Q: Are you affiliated with any other programs or associations?

A: The [Iowa League of Cities](#) (League) was instrumental in the foundation of IMWCA and has endorsed the program from its beginning. They also contract with our Board of Trustees to provide all administrative services for IMWCA.

The [Iowa State Association of Counties](#) (ISAC), an association serving Iowa's 99 counties, also endorses us.

Q: What else should I know?

A: First, we're governed by a nine-member [board of trustees](#) comprised of elected and appointed officials chosen from and elected by the membership.

We're audited annually by an independent auditor and assisted in rate-setting by a national actuarial firm. You can even view those [audited financials](#) on this Web site.

RESOLUTION NO. 1187

A RESOLUTION APPROVING DORSEY & WHITNEY LLP AS THE LEGAL SERVICES PROVIDER WITH REGARD TO THE LAWSUIT CAPTIONED *ACCIONA WINDPOWER NORTH AMERICA V. CITY OF WEST BRANCH, S.D. IOWA CASE NO. 14-CR-33-EJM* AND DIRECTING THE CITY ADMINISTRATOR TO SIGN AND RETURN THE LETTER OF ENGAGEMENT TO DORSEY & WHITNEY LLP.

WHEREAS, Acciona Windpower North America has filed a civil action, *ACCIONA WINDPOWER NORTH AMERICA V. CITY OF WEST BRANCH, S.D. IOWA CASE NO. 14-CR-33-EJM* (the "Lawsuit"), against the City of West Branch; and

WHEREAS, Dorsey & Whitney represents the City of West Branch on legal matters concerning municipal bonds and tax increment financing; and

WHEREAS, Dorsey & Whitney has proposed a letter of engagement to defend the City of West Branch; and

WHEREAS, it is now necessary for the City Council to approve Dorsey & Whitney as the legal services provider concerning this lawsuit.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of West Branch, Cedar County, Iowa, that the City Council approves Dorsey & Whitney LLP as the legal services provider with regard to the lawsuit and directs the city administrator to sign and return the letter of engagement to Dorsey & Whitney.

Passed and approved this 31st day of March, 2014.

Mark Worrell, Mayor

ATTEST:

Matt Muckler, City Administrator/Clerk

WILLIAM J. MILLER
Partner
(515) 699-3281
miller.william@dorsey.com

March 26, 2014

Matt Muckler
City Administrator
City of West Branch
PO Box 218 110 N. Poplar St.
West Branch, IA 52358

Re: *Acciona Windpower North America, Inc. v. City of West Branch*,
S.D. Iowa Case No. 14-cr-33-EJM

Dear Matt:

Thank you for asking Dorsey & Whitney LLP (the "Firm") to represent and advise the City of West Branch. Because clear and timely communication is important for serving clients well, we want to begin by stating mutual understandings about services and charges.

Services. We will provide legal services for the City of West Branch ("the City") with regard to the lawsuit captioned *Acciona Windpower North America, Inc. v. City of West Branch*, S.D. Iowa Case No. 14-cr-33-EJM. It is mutually understood that these services are solely for the benefit the City.

Fees, Disbursements and Billing. Our fees are ordinarily based primarily on our usual and customary hourly rates and minimum increments. My current hourly rate is \$325/hr. I will be assisted by my associate, Brian Melhus, and his current hourly rate is \$210/hr. Due to the nature of this matter, I expect I will also consult with Bob Josten or John Danos as needed. Bob's current hourly rate is \$505/hr, and John's currently hourly rate is \$350/hr.

Our hourly rates are subject to adjustment from time to time, usually in October. Our fees may also be affected by factors such as the amount involved in the representation, unusual time constraints, use of prior work product, and overall value of the services. Although on client request we may attempt to estimate the fees for an engagement, legal representations often involve variables that make it difficult or impossible to estimate fees accurately.

Disbursements for certain items, such as filing fees and travel expenses are usually advanced by us, then billed to clients. We sometimes ask providers, such as court reporters or expert witnesses, to submit certain substantial charges directly to clients. Our service charges for such items as facsimile service, photocopying, and computerized research are billed at our own estimated costs, direct and indirect.

We will submit monthly statements, describing services performed, and stating fees and other charges. Payment from the City will be due within 30 days.

Matt Muckler
March 26, 2014
Page 2

Completing Our Services. We intend and expect to complete our services to your satisfaction. However, we will withdraw from representation upon client request. We may also withdraw in the manner and for the reasons provided by judicial and professional rules, such as if our fees are not paid timely. At the conclusion of representation, a client may have on request a copy of any client files or papers to which the client is entitled, for which we may charge a reasonable fee for the cost of copying all documents and the cost of gathering and/or producing electronic documents.

File Retention and Destruction. The Firm's policy is to deliver to clients during or promptly following the completion of a particular matter all original documents and materials the client has provided to us, and all materials prepared as a part of the representation that are necessary for the client to have. We may charge a reasonable cost for photocopying file documents. Extra copies of documents or other duplicative materials are likely to be discarded when the file is closed. The Firm retains the remaining file for ten years, but does not provide additional notice of its destruction.

Please print and sign this letter, and return a signed copy to us by fax, email or mail, keeping an original for your file. Acceptance of our legal services entails acceptance of the terms of this letter.

We greatly appreciate the opportunity to be of service. If there are any questions about our services, or the fee and billing arrangements, please call me.

Very truly yours,

DORSEY & WHITNEY LLP

William J. Miller

WJM:br

The arrangements stated above are hereby agreed to.

THE CITY OF WEST BRANCH

By: _____
Matt Muckler
City Administrator for the City of West Branch

Dated: _____