Subject: Consider Resolution No. 82-19 allowing the use of a golf cart on certain City streets in conjunction with the Hildreth Street Reconstruction Project

Recommendation: Approve Resolution No. 82-19 approving the agreement to allow the operation of a golf cart during the Hildreth Street Reconstruction Project

Background Summary:

At the May 15th planning session, we discussed the need for a disabled individual to use a golf cart during the period of time when they will not have access to their property due to the Hildreth Street reconstruction project. Since that meeting, there have been conversations with the homeowner, Brad Sloter, and Bob Ingram.

The Federal Americans with Disabilities Act (ADA) prohibits discriminating against those who have disabilities that substantially limit major life activities. Major life activities include walking, sitting, reading, seeing, and communicating.

We discussed this situation at the May 28th planning session and concluded this was a reasonable accommodation based on Brad Sloter's conversations with another attorney who has experience with the ADA law. We have also consulted with Bob Ingram regarding the City's exposure and insurance coverage. Brad has prepared an agreement for the use of a golf cart during that time local traffic is prevented from using Hildreth Street. A copy of the agreement is attached for your information.

The agreement includes an indemnification clause for the City's protection. As we discussed at the last Planning Session, Bob Ingram has checked with EMC, and EMC will provide coverage for the golf cart.

I recommend approval of Resolution No. 82-19.
AGREEMENT APPROVING OPERATION OF GOLF CART
DURING HILDERETH STREET RECONSTRUCTION PROJECT

RECITALS OF FACT

Peter R. Shandrowsky, a single person (Owner), is the record titleholder of real property located at 1107 Hildreth Street, Charles City, Iowa.

The City of Charles City (the City), through its contractor, will be constructing improvements on Hildreth Street, which reconstruction will result in the temporary closure of portions of Hildreth Street. The temporary closure of Hildreth Street will deny the Owner vehicular access to the Hildreth Street public right of way from the Owner’s property during the reconstruction project.

During reconstruction, the Owner will be temporarily storing his vehicle off of the property located at 1107 Hildreth Street onto a local side street.

The Owner has requested that the City accommodate him during the Hildreth Street reconstruction project by providing him with use of a golf cart for transportation to and from his vehicle.

The Charles City Code of Ordinances provides that the City may, upon the approval of the City Council, allow the operation of golf carts by persons possessing a valid driver’s license, and subject to such requirements set forth in Iowa Code §321.247.

The City has agreed to grant an accommodation to the Owner by providing the Owner with, and allowing the Owner use of, a golf cart within City right-of-way for a limited time period and within a specified location upon the terms and conditions set forth herein.

NOW THEREFORE IT IS AGREED by the undersigned parties as follows:

1. The City shall provide the Owner with use of a golf cart on or before the date on which Hildreth Street between 8th Street and 9th Street is temporarily closed from public use.
2. The Owner shall be authorized to operate the golf cart only from the time period beginning with the closure of Hildreth Street between 8th Street and 9th Street and ending upon re-opening of such portion of Hildreth Street to the public.
3. The Owner shall be authorized to operate the golf cart only upon City-owned right of way within a three hundred foot radius of 1107 Hildreth Street, and the golf cart shall be operated for the sole purpose of transporting the Owner to and from 1107 Hildreth Street and the location of the Owner’s vehicle.
4. The Owner shall be responsible for purchasing fuel for the operation of the golf cart for providing any necessary maintenance during the time period that the golf cart is in the possession of the Owner.
5. The Owner shall at all times operate the golf cart in compliance with the Charles City Code of Ordinances, Iowa Code §321.247, and all relevant rules and regulations.
6. The Owner’s authority to operate the golf cart is exclusive to the Owner. The Owner may not otherwise assign or transfer his rights or obligations under this Agreement.
7. The Owner shall not park or leave the golf cart unattended within City right of way after 8:00 p.m. The Owner shall store the golf cart in the garage located at 1107 Hildreth Street when the golf cart is not in operation or is not parked within City right of way.
8. The Owner, on behalf of the Owner, his personal representatives, assigns, heirs, and next of kin, hereby releases, discharges, and covenants not to sue the City, its affiliated administrators, directors, agents, officers, and employees, from all liability, claims, demands, losses, injuries, damage to property, or other damages arising out of, resulting from, or connected with the Owner’s use and operation of the golf cart.

9. The Owner, to the fullest extent permitted by law, shall indemnify, hold harmless, protect and defend the City from and against any and all liabilities, claims, damages, losses, demands, lawsuits, costs, and expenses, including (but not limited to) attorney fees, arising out of, resulting from, or connected with the Owner’s use and operation of the golf cart. Should any such claim, demand, or lawsuit arise or be asserted in any way whatsoever related thereto, whether arising under the laws of the United States, any state, or under any theory of law or equity, the Owner will indemnify, hold harmless and defend the City from any and all costs, expenses, or liability including but not limited to the cost of any settlement or judgment made or rendered against the City.

10. The City’s obligations herein, and the Owner’s authority to operate the golf cart as set forth above, are contingent upon (a) approval of this Agreement by the Charles City City Council, and (b) the Owner providing credible assurance that the Owner’s use of the golf cart is required because of a physical impairment.

11. If the parties have any disagreement regarding the interpretation of this Agreement or contend that the other party is not fulfilling its obligations under the terms of this Agreement such controversy shall be submitted to the Magistrate Court of Floyd County for resolution.

12. This Agreement shall be effective upon approval of the Charles City City Council and execution by each of the parties. This Agreement may be executed in counterparts, each of which shall be deemed an original. Signatures which have been photocopied, sent by facsimile, or scanned and sent by electronic delivery shall have the same force and effect as original signatures.

Executed this __________ day of ______________, 2019

CITY OF CHARLES CITY, IOWA

Dean Andrews, Mayor

OWNER

__________________________
Peter R. Shandrowsky

Attest:

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Trudy O’Donnell, City Clerk
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RESOLUTION NO. 82-19

RESOLUTION APPROVING AGREEMENT FOR USE OF A GOLF CART BY PETER SANDROWSKY DURING HILDERETH STREET RECONSTRUCTION PROJECT, CHARLES CITY, IOWA

WHEREAS, a request has been received by resident Peter Sandrowsky who lives at 1107 Hildreth Street for use of a golf cart during the street project currently in progress on Hildreth Street, and

WHEREAS, he has a physical impairment that precludes him from walking a distance and

WHEREAS, he will need to park his personal vehicle on a side street due to the street construction being done on Hildreth Street for an extended length of time, and

WHEREAS, this agreement will reasonably accommodate him for the duration of this street project to allow him access to his personal vehicle. It also spells out requirements from the homeowner, such as providing assurance that the golf cart use is required because of a physical impairment,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Charles City, Iowa, meeting in regular session on the 3rd day of June, 2019, that the agreement with Peter Sandrowsky for use of a golf cart during the street construction is hereby approved.

COUNCIL MEMBER moved the adoption of the foregoing Resolution;

COUNCIL MEMBER seconded the motion to adopt, and on roll call the voting was as follows:

AYES:

NAYS:

Passed and approved this 3rd day of March, 2019.

________________________________________
Dean Andrews, Mayor

Attest:

________________________________________
Trudy O’Donnell, City Clerk