



**OFFICE OF AUDITOR OF STATE**  
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**NEWS RELEASE**

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FOR RELEASE \_\_\_\_\_ February 2, 2007

Auditor of State David A. Vaudt today released a report on a special investigation of the City of Sandyville. The report covers the period July 1, 1999 through April 28, 2006. The special investigation was requested by the County Attorney as a result of concerns raised by the Mayor and a City Council Member.

Vaudt reported the procedures identified approximately \$20,837.00 of taxes not levied and \$5,609.13 of State warrants not deposited because the City Clerk's duties were not properly performed by Erin Tjarks, the City Clerk from July 2001 until February 2006. Some of the State warrants had been held by Ms. Tjarks and were recovered from her home. Other State warrants were not mailed to the City because the former Clerk had not filed required reports.

The City has also held fundraisers and collected donations for the construction of a new City Hall/Community Center facility. Vaudt reported it was not possible to determine if all related proceeds and donations were properly deposited or if all disbursements were appropriate because adequate records were not maintained.

Vaudt also reported City funds are held in a checking account in the name of the Sandyville City Hall Fund which is currently maintained by Jenny Phillips, the City Clerk before Ms. Tjarks and Ms. Tjarks' mother-in-law. According to City officials, Ms. Phillips has refused to submit financial records and the check book for the fund at their request. As a result, Vaudt recommended City officials work with legal counsel to take the steps necessary to move the Sandyville City Hall Fund checking account to the control of the current City Clerk and/or another City official.

The report also includes recommendations to strengthen the City's internal control and overall operations.

A copy of the report has been filed with the Warren County Attorney's Office. The report is available in the Office of Auditor of State and on the Auditor of State's web site at <http://auditor.iowa.gov/specials/specials.htm>.

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**REPORT ON SPECIAL INVESTIGATION  
OF THE  
CITY OF SANDYVILLE  
FOR THE PERIOD  
JULY 1, 1999 THROUGH APRIL 28, 2006**

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To the Honorable Mayor and  
Members of the City Council:

At the request of the Warren County Attorney, we conducted a special investigation of the City of Sandyville. We have applied certain tests and procedures to selected financial transactions of the City of Sandyville for the period July 1, 1999 through April 28, 2006. Based on discussions with City officials and representatives of the Warren County Sheriff's Office and a review of relevant information, we performed the following procedures:

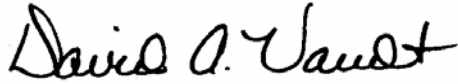
- (1) Evaluated internal controls to determine whether adequate policies and procedures were in place and operating effectively.
- (2) Examined City records seized by representatives of the Warren County Sheriff's Office while serving a search warrant.
- (3) Examined bank statements for the City's checking and savings accounts to identify any unusual activity. We also examined copies of certain canceled checks, deposit slips and related documents for propriety.
- (4) Scanned all disbursements and examined selected transactions to determine if they were properly approved, were for appropriate purposes and were supported by adequate documentation.
- (5) Obtained invoices or other supporting documentation from selected vendors to determine if payments were for appropriate purposes.
- (6) Examined deposits to the City's bank accounts to determine the source, purpose and propriety of each deposit.
- (7) Confirmed payments to the City by the State of Iowa and Warren County to determine whether they were properly deposited to the City's accounts.
- (8) Reviewed activity in the previous City Clerks' personal bank accounts.
- (9) Examined bank statements for the Sandyville City Hall Fund, which has not been under the control of the Council, for any unusual activity.

These procedures identified approximately \$20,837.00 of taxes not levied and \$5,609.13 of State warrants not deposited because the City Clerk's duties were not properly performed. The City has also held fundraisers and collected donations for the construction of a new City Hall/Community Center facility. We are unable to determine if all related proceeds and donations were properly deposited or if all disbursements were appropriate because adequate records were not maintained. Several internal control weakness and items of non-compliance were also identified. Our detailed findings and recommendations are presented in the Investigative Summary and **Findings A** through **H** of this report.

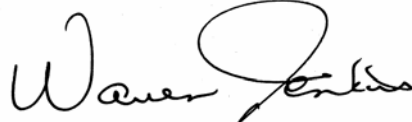
The procedures described above do not constitute an audit of financial statements conducted in accordance with U.S. generally accepted auditing standards. Had we performed additional procedures, or had we performed an audit of financial statements of the City of Sandyville, other matters might have come to our attention that would have been reported to you.

Copies of this report have been filed with the Warren County Sheriff's Office and the Warren County Attorney's Office.

We would like to acknowledge the assistance and many courtesies extended to us by the officials and personnel of the City of Sandyville, the Warren County Attorney's Office and the Warren County Sheriff's Office during the course of our investigation.



DAVID A. VAUDT, CPA  
Auditor of State



WARREN G. JENKINS, CPA  
Chief Deputy Auditor of State

January 4, 2007

City of Sandyville

Investigative Summary

**Background Information**

The City of Sandyville is located in Warren County and has a population of 75. Candy Dittmer served as City Clerk for 27 years until her retirement on June 30, 1999. According to the members of the Council we spoke with, the City’s accounting records were properly maintained through Ms. Dittmer’s tenure. The Council was provided financial information at the Council meetings and appropriate reports were filed in a timely manner.

Ms. Dittmer’s replacement, Jenny Phillips, was the City Clerk until June 30, 2001. In July 2001, Erin Tjarks was hired as the City Clerk. Ms. Tjarks is Ms. Phillips’ daughter-in-law. She remained the City Clerk until February 2006, at which time her duties were undertaken by a Council member until a replacement was identified. During the period Ms. Phillips and Ms. Tjarks were City Clerks, reports were not provided to the Council and other City Clerk duties were not performed in a timely manner. While the Council did not take formal action to terminate Ms. Tjarks’ employment, she no longer performs the City Clerk’s duties. **Table 1** lists the recent City Clerks and their employment dates.

**Table 1**

<b>City Clerk</b>	<b>Dates of Service</b>
Candy Dittmer	27 years ended 06/30/99
Jenny Phillips	07/01/99 – 06/30/01
Erin Tjarks	07/01/01 – 02/06
Misty Boucher **	02/06 – 06/30/06
Karla Martindale	07/01/06 – present

\*\* - Council member who temporarily filled in as City Clerk.

The City Clerk’s job duties and responsibilities include:

- 1) Receipts – collection, posting to the accounting records and preparing deposits,
- 2) Disbursements – check preparation, distribution and posting to the accounting records,
- 3) Payroll – check preparation, distribution and posting to the accounting records,
- 4) Bank accounts – reconciliation of monthly bank statements to accounting records,
- 5) Reporting – preparation of Council minutes and financial reports.

The City’s primary revenue sources are taxes from Warren County and the State of Iowa. The City also collects a fee for rental of the City Hall/Community Center. All collections are to be deposited in the City’s checking accounts. All City disbursements are to be made by checks prepared by the City Clerk. All disbursements are to be approved by the Council. Disbursements for the City’s general operations are made from an account held in the name of “City of Sandyville General Fund” and disbursements for street maintenance are made from the “City of Sandyville Street Fund.”

The Council meets periodically in a building in Sandyville that serves as both City Hall and a Community Center. The building (hereinafter referred to as City Hall) was built in 2004 with funds generated by donations and fundraisers. The funds generated by donations and fundraisers are to be deposited to an account held in the name of "Sandyville City Hall Fund." Payments for the construction of the building, finishing of the interior and purchases of furnishings, rock for the parking area and heating fuel were made from the account. The Sandyville City Hall Fund account is maintained by Jenny Phillips, a former City Clerk.

On February 9, 2006, the Mayor and a Council member met with a representative of the Warren County Sheriff's Office to voice concerns regarding City finances. According to the City officials, a controversy exists over control of the funds in the Sandyville City Hall Fund account, how funds were previously spent from the account and how they will be spent in the future. The officials also stated payments from the Sandyville City Hall Fund account were not approved by the Council.

During the meeting with the Sheriff's Office, the Mayor stated Chuck Phillips and Shane Oakley informed the Council at the February 8, 2006 Council meeting they had formed a new committee and the City of Sandyville had no rights to the records concerning the "Sandyville Betterment Committee". They indicated they would now raise money for the upkeep of the building. Minutes for the February 2006 meeting were not provided to the Council for review and approval. As a result, they were not available for our review. Shane Oakley is the son of former City Clerk Jenny Phillips and was on the City Council until December 2005. Chuck Phillips is the husband of Olivia Phillips, who was on the Council until December 2005, and is the father of Jenny Phillips.

The City officials voiced concern the account was still maintained by Jenny Phillips, and their requests for information about the account were unsatisfied. The City officials provided the Sheriff's Office representative a copy of a letter sent to Ms. Phillips. The letter was signed by the Mayor and dated January 24, 2006. It requested "all financial records, minutes and historical records containing information in regards to the Fundraising events, Donations to the City, Financial statements, check books, receipts and past records regarding City Council Meetings." According to the Mayor, during a subsequent conversation with Ms. Phillips, she stated she wasn't going to provide any records to the Mayor and she controls the building. According to the City officials, a letter was also sent to Ms. Tjarks requesting the City's financial information.

In addition, the City officials reported certain financial information was not provided to them by former City Clerks, Ms. Phillips and Ms. Tjarks. City officials also stated financial reports to the Council, periodic financial reports to the State of Iowa and budget documents were not prepared or were not properly submitted. A limited number of documents were subsequently provided by Ms. Tjarks. However, the information was not complete and the records were in disarray.

As a result of the meeting between City officials and the Warren County Sheriff's Office, the Warren County Attorney contacted the Office of Auditor of State to request an investigation. As a result of that request and using records obtained by the Warren County Sheriff's Office, we performed the procedures detailed in the Auditor of State's Report for the period July 1, 1999 through April 28, 2006.

### **Detailed Findings**

These procedures identified approximately \$20,837.00 of taxes not levied and \$5,609.13 of State warrants not deposited for the period July 1, 1999 through April 28, 2006. In addition, warrants issued to the City by the State of Iowa were not deposited in a timely manner and became outdated. While some of the warrants can be replaced, not all can be because certain reports were not filed by Ms. Tjarks. We are unable to determine if all



collections for donations and fundraiser proceeds were properly deposited or if amounts disbursed were appropriate because adequate records were not maintained.

### **Sandyville City Hall Fund**

As previously stated, the City maintains an account held in the name of the "Sandyville City Hall Fund". The account has been kept separate from the accounts used for the City's general and street operations. The account at Midwest Heritage Bank was opened on February 24, 2000. According to City officials we spoke with, the City raised funds for over ten years to build a new City Hall. According to available minutes of Council meetings, several annual fundraisers were held from 2000 through 2005, including chili suppers, hog roasts and raffles. However, it appears funds were collected prior to 2000. The deposit used to open the account at Midwest Heritage Bank resulted from closing a similar account at another financial institution. Information from that account was not available for our review.

According to City officials, amounts deposited to the account are composed of donations and proceeds from fundraisers held for the purpose of constructing a new City Hall which was built in 2004. However, we are unable to determine if all donations and proceeds have been properly deposited to the account because adequate receipt documentation was not maintained.

According to the October 1990 Council minutes, the Council established a "committee to address restoring the Community Hall." The 3 member committee included Ms. Phillips, a Council member and another citizen. According to City officials we spoke with, the committee was referred to as the "Sandyville Betterment Committee." However, 2 of the members subsequently left the committee, leaving Ms. Phillips as the sole member. According to the citizen who was an original member, the purpose of the committee was to raise funds for a new City Hall.

As documented on the account's signature card, prior to April 29, 2003, Clyde Ball, former Mayor, and Ms. Phillips were the authorized check signers on the account maintained by the committee. However, on April 29, 2003, Mr. Ball was removed as an authorized signer and Olevia Phillips, Jenny Phillips' mother, was added to the authorized signers on the Sandyville City Hall Fund account. They continue to be the only authorized signers on the account. **Appendix 1** includes a copy of the authorized signature card received from Midwest Heritage Bank. The document was submitted to the bank by Jenny Phillips to make the change in the authorized account signers.

According to City officials we spoke with, they have made several requests of Ms. Phillips for financial information related to the account. They have also attempted to bring the account under the control of the current City Clerk, but have been met with resistance.

We have reviewed bank statements obtained through a subpoena for the Sandyville City Hall Fund account for the period February 24, 2000 through April 28, 2006. When possible, we determined the source of the deposits to the account. We also reviewed copies of each check issued from the account. The account had a balance of \$6,233.90 as of April 28, 2006. When the account was opened in February 2000, the balance was \$2,421.83 and was at a high of \$47,610.81 on December 31, 2003, prior to the construction of the new City Hall.

The deposits to the account totaled \$49,043.07 and, according to City officials we spoke with, were a result of individual contributions as well as proceeds from fundraisers such as chili suppers. According to the City officials, fundraisers were held to raise funds for the City Hall/Community Center building. According to the officials, it would have been the expectation of those participating in the fundraisers that proceeds were to be provided to the City for the new City Hall. As previously stated, the fundraisers were discussed and approved at Council meetings. However, there are no records to support the collections

from the fundraisers or any donations received by the City. Therefore, it is not possible to determine if all funds collected for the building were deposited in City accounts.

The deposits include \$30,000 deposited on August 6, 2003. The deposit was composed of a check from the estate of Frank D. Lillie. The Last Will and Testament of Frank D. Lillie (a/k/a David Frank Lillie) filed with the Warren County Clerk of District Court states (Item III, letter P) "I hereby make the following specific cash bequests: \$30,000 to the City of Sandyville, Iowa [emphasis added] to be used for the construction and operation of a community center."

Based on our review of the sources of the deposits made to the account, it appears the funds in the Sandyville City Hall Fund are public funds collected for a City purpose. As a result, the funds should be held by the City in accordance with the *Code of Iowa*. Section 384.20 of the *Code* states, in part, "A city shall keep accounts which show an accurate and detailed statement of all public funds collected, received, or expended for any city purpose, by any city officer, employee, or other person, and which show the receipt, use, and disposition of all city property."

Because a majority of the funds deposited to the account was provided by the estate of Mr. Lillie and Mr. Lillie's Last Will and Testament clearly state funds were provided to the *City of Sandyville* (emphasis added) for the specific purpose of constructing and operating a community center, City officials have a fiduciary responsibility for the funds provided. As a result, the use of the funds provided by Mr. Lillie's estate should be approved by the Council and recorded in Council meeting minutes.

By reviewing copies of checks issued from the Sandyville City Hall fund account, we determined almost all checks were signed by Jenny Phillips. We identified a couple of checks signed by Olevia Phillips. According to City officials we spoke with, the disbursements were made without Council approval. The disbursements made from the account are summarized by vendor in **Table 2**.

<b>Vendor</b>	<b>Description</b>	<b>Amount</b>
Cleary Building	Building	\$ 17,228.00
Country Propane	Central air & furnace	6,231.84
Cambron & Thacker Construction	Concrete	5,872.30
Menards Retail Services	Credit card payments	3,958.66
Damon Moffett	Sewer system	3,000.00
Warren Co. Oil	Tank rent and fuel	1,703.12
Burkhead Electric	Electrical services	1,700.00
Hyde Insulation Co.	Insulation	1,092.00
Marion Co. Rural Water	Water	775.00
Weeks Trucking	Rock and transportation	631.13
Wayne Weeks	Rock	210.51
Warren County Treasurer	Well & septic tank	160.86
Olevia Phillips	Tables and chairs	132.00
Bank fee	Box of checks	13.75
Total		\$ 42,709.17

As illustrated by the **Table**, a significant portion of the disbursements from the account were related to the new City Hall which was constructed during the spring of 2004. According to City officials we spoke with, Ms. Phillips entered into an agreement with a contractor to build the facility. We reviewed a copy of a contract with Cleary Building identifying the City of Sandyville as the purchaser. The last page of the contract contains Ms. Phillips' signature as the purchaser. A copy of the contract is included in **Appendix 2**. Neither the contract nor the subsequent payment to the vendor was approved by the Council. The facility constructed is a 56' x 30' metal building. According to the Warren County Assessor's website, the building is owned by the City of Sandyville.

Some of the disbursements from the account appear to be related to the completion of the interior of the new facility. The disbursements include payments on a Menard's credit card issued in Ms. Phillips' husband's name. Because sufficient documentation is not available for all disbursements from the Sandyville City Hall Fund account for the Menard's credit card, we cannot determine if the payments were only for items used in the construction of the new City Hall. These disbursements also were not approved by Council.

In addition to the checks issued from the Sandyville City Hall Fund account, a \$100.00 cash withdrawal was made on August 26, 2002. During an interview with a representative of the Warren County Sheriff's Office, Ms. Phillips stated she had purchased chairs for the new City Hall for \$99.00 and the check should indicate this. However, the new City Hall was not built until 2004 and this was a cash withdrawal, not a purchase by check. A copy of the cash withdrawal slip signed by Ms. Phillips is included in **Appendix 3**. In addition, as illustrated by **Table 2**, a \$132.00 check was issued to Olevia Phillips on June 8, 2004 for the purchase of chairs for the new City Hall.

According to City officials we spoke with, controversy also exists regarding which parties are responsible for the maintenance, upkeep and granting authority for the use of the new facility. As documented by minutes of Council meetings, the Council has periodically discussed items such as insurance for the building. In addition to public funds from the Sandyville City Hall Fund account being used to construct and furnish the building, ownership of the facility is recorded by the Warren County Assessor in the name of the City of Sandyville. As a result, City officials should ensure the provision of proper maintenance, insurance coverage and all other responsibilities of ownership.

Because public funds are currently held in the Sandyville City Hall Fund account which is maintained by someone outside of City government, City officials should work with legal counsel to take the steps necessary to move the Sandyville City Hall Fund account to the control of the current City Clerk and/or another City official. In addition, procedures should be implemented to ensure the Council or a designated individual are taking the appropriate steps to maintain the City Hall.

## **Financial Reporting**

Local Financial Reporting - Using documents submitted to or subpoenaed by the Warren County Sheriff's Office and the Warren County Attorney's Office, we identified a number of unopened bills and City checks that were never sent to vendors. We also determined the records submitted were incomplete. In addition, we found a number of unopened bank statements for the City's accounts. There is no evidence the bank statements were reconciled or City financial reports were prepared. According to the Mayor, who previously served on the Council, the City Clerk had not reported the City's financial position to the Council since 2004. During the time when warrants were not being deposited, records were not being maintained and budgets were not being submitted, the Council did not take action or address the problem at Council meetings.

County Financial Reporting - Because a budget was not submitted to Warren County for the fiscal years ended June 30, 2004, 2005 and 2006, the County did not levy any property tax for the City. As a result, the City did not receive any property tax from the County. Using the levy rate from the most recent certified budget submitted by the City, a representative of the Warren County Treasurer's Office estimated the City would have been eligible to receive approximately \$20,837.00 for fiscal years 2004, 2005 and 2006. The estimates are summarized in **Table 3** by fiscal year. The City is not able to recover these funds.

**Table 3**

<b>Fiscal Year</b>	<b>Amount</b>
2004	\$ 6,986.00
2005	6,956.00
2006	6,895.00
Total	<u>\$20,837.00</u>

State Financial Reporting - Cities are required to submit an annual budget to the State of Iowa, Department of Management. During the 2005 legislative session, several changes were made to Chapter 384 of the *Code of Iowa* affecting city budgets. Section 384.16(7) of the *Code* now states, in part, "A city that does not submit a budget in compliance with this section shall have all state funds withheld." For fiscal years beginning with 2005, any City failing to submit a budget to the Department of Management will not receive any State funds.

The City of Sandyville did not submit a budget for the fiscal year ended June 30, 2005. As a result, the City will not receive City Street funding from the State for that year. In addition, the City of Sandyville did not submit a budget for the fiscal year ended June 30, 2004. However, according to a representative of the Department of Management we spoke with, the City may receive State funding for that fiscal year since the new legislation had not yet been implemented.

The City submitted a budget for the fiscal year ended June 30, 2006. However, it was not certified to the County Auditor prior to the deadline that would have allowed the County to levy property tax for the City.

**State of Iowa Warrants**

During our review of City records obtained by the Warren County Sheriff's Office, we found several warrants issued by the State of Iowa to the City of Sandyville that had not been deposited. Some of the warrants were found in their original sealed envelopes. To determine if all State warrants were deposited to the City's accounts, we obtained a listing of all warrants issued by the State of Iowa to the City of Sandyville.

We identified 17 payments made to the City from the State of Iowa's Street Construction Fund that were not deposited to the City's bank accounts. Warrants issued by the State of Iowa become outdated at the end of the 6<sup>th</sup> month after their issuance. The undeposited warrants total \$5,609.13 and are listed in **Exhibit A**. As illustrated by the **Exhibit**, 6 of the outdated warrants were replaced. The replacements were generated at the request of a representative of the State Treasurer's Office. However, the replacement warrants also became outdated because they were not redeemed in a timely manner.

Of the outdated warrants and their replacements, the City will not be able to obtain a replacement for the 4 warrants originally issued during the fiscal year ended June 30, 2005 because the City did not submit an annual budget to the State for the fiscal year. The warrants that cannot be replaced total \$986.82.

Outdated warrants originally issued to the City during the fiscal year ended June 30, 2004 can be replaced because the new legislation had not yet been implemented for that time period. In addition, outdated warrants originally issued to the City for the fiscal year ended June 30, 2006 will be replaced because, although it was not submitted in a timely manner, a budget was subsequently submitted for that fiscal year. City officials are working with the Treasurer of State to replace the remaining warrants.

**Summary of Uncollected Funds**

**Table 4** summarizes the estimated amount of taxes not levied and State warrants not deposited for the period July 1, 2003 through June 30, 2006. The current Clerk is working with the Treasurer of State’s Office in an attempt to recover \$4,622.31 still available from the State of Iowa. As previously stated, the City will not be able to recover any property tax not levied for the City and a portion of the funds from the State. As illustrated by the **Table**, the City will not be able to recover \$21,823.82.

Description	Amount	
Total Uncollected/Undeposited Funds:		
Property tax	\$ 20,837.00	
State	5,609.13	26,446.13
Less: Unrecoverable funds		
Unlevied property taxes, <b>Table 3</b>	20,837.00	
From the State of Iowa, <b>Exh. A</b>	986.82	21,823.82
Recoverable Funds*		<u>\$ 4,622.31</u>

\* Replacements requested from the State of Iowa

**Minutes**

In accordance with section 372.13(5) of the *Code of Iowa*, minutes should be maintained for at least 5 years. The minutes for July 2005 through September 2005, November 2005 and February 2006 through April 2006 could not be located.

In addition, the City Clerk should provide a listing of individual bills to be approved by the Council at each meeting. The listing should be maintained with the minutes. Listings of approved payments were either not available or were never submitted. In addition, the Council did not require or receive monthly financial reports from the City Clerk.

**Payments to the Mayor and Council Members**

The Mayor receives an annual salary of \$280 and the City Council Members are paid \$20 for each City Council meeting attended. The Mayor and Council Members are paid in December and June each year. Most of the available minutes documented Council members in attendance, but we identified instances in which the meeting attendance

records did not support the payments made. For calendar years 2003 and 2004, we identified 3 instances where the payments to Council Members could not be supported by documented attendance.

All minutes for calendar year 2005 were not available. As a result, the salary payments to the Council Members in June 2005 could not be verified. In addition, 6 checks written in December 2005 to the Mayor and Council Members for attendance at meetings from July through December 2005 were found in the records seized from Ms. Tjarks' residence. According to the Mayor, Ms. Tjarks requested the Mayor and Council Members endorse the checks and return them to her. The Mayor stated he did not know why she asked them to do this. According to the Mayor, the checks were never returned. A Council member we spoke with stated the Council and Mayor donated their salary payments to the City because the City's funds were low. The checks were endorsed and given to the former City Clerk. According to bank records, the checks were not redeemed. During an interview with a representative of the Warren County Sheriff's Office, the former City Clerk stated the payments were donations to the City for the new City Hall.

**Annual Financial Reports**

The City did not submit an Annual Financial Report (AFR) to the State of Iowa for the fiscal years ended June 30, 2002 and 2003. AFRs include the City's cash balance at June 30 each year in addition to the amount of funds collected and disbursed by various categories. We compared the cash balance reported on the City's AFRs to the amount reported on their bank statements for June 30 of each year for which an AFR was submitted. The fiscal year 2002 AFR was found in the records seized by the Warren County Sheriff's Office. The AFR was never submitted to the State. The cash balance on the AFR was \$32,805.00 while the bank balance was \$28,574.40, resulting in a difference of \$4,230.60. The AFR was signed by Erin Tjarks. The fiscal year 2004 and 2005 AFRs were not completed by Ms. Tjarks, but were completed in June 2006 by the current City Clerk.

Our comparisons are summarized in **Table 5**.

**Table 5**

<b>Fiscal Year</b>	<b>City Clerk</b>	<b>Ending Cash Balance per AFR</b>	<b>Cash Balance per Bank Statements</b>	<b>Difference</b>
1999	Jenny Oakley	\$17,443.00	16,872.71	570.29
2000	Jenny Oakley	21,022.00	20,333.67	688.33
2001	Erin Tjarks	24,456.00	23,923.11	532.89
2002	Erin Tjarks	Not submitted	28,574.40	Not submitted
2003	Erin Tjarks	Not submitted	35,536.38	Not submitted
2004	Karla Martindale ##	33,498.00	33,497.98	.02 (rounding)
2005	Karla Martindale ##	30,032.00	30,032.24	.24 (rounding)

Note: Cash balances do not include the City Hall Fund.  
 ## - Erin Tjarks was City Clerk at this time. Karla Martindale submitted the 2004 and 2005 AFRs in June 2006.

## **Recommended Control Procedures**

As part of our investigation, we reviewed the procedures used by the City of Sandyville to process receipts and disbursements. An important aspect of internal control is to establish procedures that provide accountability for assets susceptible to loss from errors or irregularities. These procedures provide the actions of one individual will act as a check on those of another and provide a level of assurance errors or irregularities will be noted within a reasonable time during the course of normal operations. Based on our findings and observations detailed below, the following recommendations are made to strengthen the City's internal controls

- (A) Segregation of Duties – One important aspect of internal control is the segregation of duties among employees to prevent an individual from handling duties which are incompatible. The City Clerk has control over each of the following areas:
- (1) Cash – preparation of bank account reconciliations, recording cash transactions and custody.
  - (2) Receipts – collecting, depositing and posting.
  - (3) Disbursements – check preparation, check signing, distribution and posting.
  - (4) Financial reporting – preparation and distribution.

Recommendation – We realize segregation of duties is difficult with a limited number of staff. However, the City should review its control procedures to obtain the maximum internal control possible under the circumstances utilizing currently available personnel. The duties within each function listed above should be segregated between the City Clerk, Mayor and City Council Members. In addition, the City Council should review financial records, reconciliations and supporting documentation on a periodic basis. Evidence of review of reconciliations should be indicated by initials of the independent reviewer and the date of the review.

- (B) Financial Accounting Records – Very limited financial records were maintained by the City since July 1, 1999. The following conditions were identified:
- (1) Receipts and disbursements were not posted.
  - (2) Disbursements were not supported by invoices or other appropriate documentation.
  - (3) Pre-numbered receipts were not issued for City Hall rental fees.
  - (4) Most disbursements were not approved or documented in the minutes of City Council meetings.
  - (5) Monthly bank account reconciliations could not be located.

Recommendation – The City should establish formal accounting records to properly account for the City's receipts and disbursements. Disbursements should be approved by the Council prior to payment and documented in the minutes. All payments should be supported by invoices or other supporting documentation.

All checks should be prepared and signed by the City Clerk and reviewed and countersigned by the Mayor or a Council Member. The review should include comparing invoices and supporting documentation to the check.

The City should use pre-numbered receipts for all collections. In addition, monthly bank to book reconciliations should be prepared.

- (C) Council Minutes - Section 21.3 of the *Code of Iowa* states, in part, “Each governmental body shall keep minutes of all its meetings showing the date, time and place, the members present, and the action taken at each meeting. The minutes shall show the results of each vote taken and information sufficient to indicate the vote of each member present. The vote of each member present shall be made public at the open session. The minutes shall be public records open to public inspection.” The following were identified:

- The minutes available did not always contain an accurate and detailed listing of individual bills to be approved for payment.
- The minutes were short and not very informative. The minutes did not provide an adequate summary of actions taken during the meeting and discussions held.
- Monthly financial reports were not submitted to the City Council.
- The minutes were not always properly retained or signed by the City Clerk or Mayor to authenticate the record as required by section 380.7(3) of the *Code of Iowa*. Minutes were not available for meetings held during July 2005 through September 2005, November 2005 and February 2006 through April 2006.

Recommendation – Adequate minutes of meetings should be prepared and provided to the Council for its review and approval during the subsequent meeting. The Council should ensure the minutes:

- include an adequate description of all actions taken and discussions held at the meetings, including a detailed listing of all individual bills approved,
- include monthly financial reports and
- the minutes are signed and maintained in a secure location.

- (D) City Hall Fund – Section 384.20 of the *Code of Iowa* states, in part, “A city shall keep accounts which show an accurate and detailed statement of all public funds collected, received or expended for any city purpose, by any city officer, employee, or other person, and which show the receipt, use, and disposition of all city property.”

The City’s Sandyville City Hall Fund account holds public funds generated by donations or fundraising efforts for the purpose of constructing a new City Hall. Over half of the total amount deposited to the account was composted of a single check from an estate that specified the bequest was to the City of Sandyville. Based on our review of the sources of the deposits made to the account, the funds in the Sandyville City Hall Fund account are public funds collected for a City purpose.

The account is not held or currently administered by a City official. In addition, transactions and the resulting balances have not been reported to the Council and disbursements from the account are not reviewed or approved by Council. The individual currently administering the account entered into a contract to construct a new City Hall building. Payment for the contract was made from the account.

Recommendation – Because public funds are held in the Sandyville City Hall Fund account which is currently maintained by someone outside of City government, City officials should work with legal counsel to take the steps necessary to move the



Sandyville City Hall Fund account to the control of the current City Clerk and/or another City official and to remove the names of non-city employees from the authorized check signers. In addition, procedures should be implemented to ensure the Council or a designated individual are taking the appropriate steps to maintain the City Hall.

- (E) Submission of Certified Budgets – The City did not submit a certified budget to the State of Iowa, Department of Management for the fiscal years ended June 30, 2004 and 2005. In addition, the City did not certify the budget to the Warren County Auditor for the fiscal years ended June 30, 2004, 2005 and 2006 by the deadline required. Submission of a certified budget in a timely manner is required to receive State funding and to levy local property taxes. Because the City did not submit budgets to the State and County, it will not receive \$21,823.82.

<b>Fiscal Year</b>	<b>Property Tax *</b>	<b>Street Construction from the State</b>	<b>Total</b>
2004	\$ 6,986.00	-	6,986.00
2005	6,956.00	986.82	7,942.82
2006	6,895.00	-	6,895.00
<b>Total</b>	<b>\$ 20,837.00</b>	<b>986.82</b>	<b>21,823.82</b>

\* Estimated by Warren County Treasurer’s Office

In addition, we identified several warrants issued to the City by the State of Iowa that were not deposited. The warrants totaled \$5,609.13. The City has obtained replacement warrants for \$4,622.31 of the undeposited amount. The remaining \$986.82 has been included in the table above.

Recommendation – The Council should establish a procedure to ensure the budget is submitted to the State and the County in a timely manner for each fiscal year in order to receive State funds and local property tax. The Council should also establish procedures to ensure all collections are deposited in a timely manner.

- (F) Salary Payments to the Mayor and Council Members – The Mayor receives an annual salary of \$280 and the City Council Members are paid \$20 for each City Council meeting attended. Most of the available minutes documented Council members in attendance, but we identified instances in which the meeting attendance records did not support the payments made. For calendar years 2003 and 2004, we identified 3 instances where the payments to Council Members could not be supported.

Since not all minutes for calendar year 2005 were available, the payments to the Council Members in June 2005 could not be verified.

Recommendation - The minutes should indicate members in attendance to support the salary payments made to Council Members. The Council should implement procedures to ensure checks written are properly distributed in a timely manner and checks are not held for later distribution.

- (G) Bank Errors – During our review of the City’s bank statements, we identified 2 checks paid from the City’s accounts in error by the bank. The 2 checks were not prepared by the City and should have been drawn on accounts of other bank customers. The first check was written from a personal account for an individual

with a St. Louis, MO address and the second check was written from a business account in the name of Nollau Nurseries, Inc. in Smithton, IL. These appear to be bank errors that were not identified by the City Clerk. The checks are summarized in the following table.

<b>Check Date</b>	<b>Payor</b>	<b>Amount</b>	<b>Date Posted to City's Account</b>
02/17/01	Individual in St. Louis	\$ 25.00	02/21/01
11/08/01	Nollau Nurseries, Inc	100.00	11/23/01

Recommendation - Bank statements for all City accounts should be reconciled in a timely manner and reviewed by an independent person. Any errors noticed should be brought to the attention of the bank and resolved as soon as possible.

- (H) Iowa Public Employees' Retirement System (IPERS) – As posted on IPERS' website, IPERS coverage is “mandatory for permanent full and part-time employees, regardless of the amount of wages or compensation they receive, unless they are specifically excluded from coverage by law or allowed to elect out of IPERS coverage.” We confirmed with an IPERS' representative a City Clerk cannot be excluded from coverage. Required contributions to IPERS have not been made since April 2002 for Clerks employed by the City.

Recommendation – The Council should consult with IPERS officials to determine if any action is necessary to comply with IPERS regulations. In addition, the Council should implement procedures to ensure required deductions are made from employee pay.

## **Exhibits**

Special Investigation of the  
City of Sandyville

Outdated Warrants  
For the period of July 1, 1999 through April 28, 2006

Original Warrant				1st Replacement Warrant					
Date Issued	Fiscal Year	Warrant #	Amount	Date Outdated	Date Issued	Warrant #	Amount	Date Outdated	
10/16/03	2004	03111493	\$ 440.85	04/30/04	05/19/04	04356723	\$ 440.85	11/30/2004	
11/13/03	2004	03222677	402.53	05/31/04	08/16/04	61115175	402.53	2/28/2005	
10/14/04	2005	61211923	351.27	04/30/05	05/13/05	61541269	351.27	11/30/2005 ^	
11/10/04	2005	61253681	297.09	05/31/05	06/23/05	61605169	297.09	12/31/2005 ^	
12/16/04	2005	61308829	334.28	06/30/05	^				
07/29/05	2005	61660179	4.18	1/31/2006	^				
08/11/05	2006	61685216	352.74	02/28/06					
09/15/05	2006	81209710	367.92	03/31/06					
10/13/05	2006	61782489	388.14	04/30/06					
11/09/05	2006	61830105	335.99	05/31/06					
12/15/05	2006	61889463	311.85	06/30/06					
01/11/06	2006	61949883	303.69	07/31/06					
02/16/06	2006	62011747	371.59	08/31/06					
03/16/06	2006	62059709	431.66	09/30/06					
04/13/06	2006	81312190	309.59	10/31/06					
05/11/06	2006	62156582	303.25	11/30/06					
06/15/06	2006	62210485	302.51	12/31/06					
		<b>Total</b>	<u>\$ 5,609.13</u>						

^ - Because the City did not submit its budget for fiscal year 2005, the City will not be able to recover the amount of these outdated warrants. Warrants total \$986.82.

Note - Warrants from the State of Iowa continued to be mailed to Erin Tjarks' residence through June 2006.

<b>2nd Replacement Warrant</b>			
<b>Date Issued</b>	<b>Warrant #</b>	<b>Amount</b>	<b>Date Outdated</b>
01/12/05	61346354	\$ 440.85	07/31/05
03/14/05	61445235	402.53	09/30/05


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City of Sandyville

Staff

These procedures were performed by:

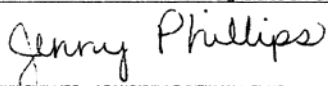
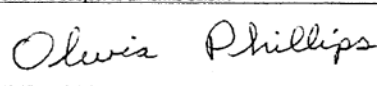
Annette K. Campbell, CPA, Director  
Marc D. Johnson, Staff Auditor

  
Tamera S. Kusian, CPA  
Deputy Auditor of State

## **Appendices**

Report on Special Investigation of  
City of Sandyville

Copy of Authorized Check Signers on City Hall Fund

<b>Midwest Heritage Bank, FSB</b>		Account Purpose: Non Consumer	
Account Holder Name(s): SANDYVILLE CITY HALL FUND		ACCOUNT TYPE MONEY MARKET ACCOUNT	ACCOUNT NUMBER
Reporting SSN/TIN:		Date Opened 10-09-01	Verified By CHEXSYSTEMS
Mailing Address:	INDIANOLA, IA 50125	Date Revised	Opened By MARK
Street Location:	INDIANOLA, IA 50125		
Telephone Number:	Work #:		
Number of Signatures Required: 1	CIF Number:		
BUSINESS TYPE: Unincorporated Association			
Signatures of Authorized Individuals. This Agreement is subject to all terms below.			
 x JENNY PHILLIPS, of SANDYVILLE CITY HALL FUND		 x OLEVIA J PHILLIPS, Agent of SANDYVILLE CITY HALL FUND	
(Signatures and printed names of each account signer)			

The authorized Agent(s) signing above agree(s), that the Account Holder's Account(s) will be governed by the terms set forth in the Deposit Account Agreement and Disclosure, the Time Certificate of Deposit or Confirmation of Time Deposit Agreement (if applicable), the Rate and Fee Schedule, the Funds Availability Policy Disclosure, the Electronic Funds Transfer Agreement and Disclosure, (if applicable), and acknowledge receipt of our privacy policy (if applicable), as amended by the Financial Institution from time to time. The authorized Agent(s) also acknowledge that they have received at least one copy of these deposit account documents. The Authorized Signer(s) understand(s) accounts opened after 3:00 PM are dated effective the next business day.

TIN/BACKUP WITHHOLDING Reporting TIN: 42-1358982

Important: Under penalties of perjury, I certify that the number shown above is the Organization's correct taxpayer identification number, I am a U.S. person (including a U.S. resident alien), and that (check appropriate box):

- The Organization is not subject to backup withholding, because the Organization is exempt from backup withholding, or because the Organization has not been notified by the IRS that the Organization is subject to backup withholding as a result of failure to report all interest or dividends, or because the IRS has notified the Organization that the Organization is no longer subject to backup withholding.
- The Organization is subject to backup withholding.

Signature of Authorized Individual: *Jenny Phillips* Date: *4/29/03*

The following information may be used to further identify individual(s) for telephone instructions, large transactions, or if a signature varies. MMN=Mother's Maiden Name

Name: JENNY PHILLIPS	SSN: [REDACTED]
Street: [REDACTED]	
Mailing: [REDACTED]	
Phone: (H): [REDACTED] (W): [REDACTED]	
Job:	
DOB:	
ID:	MMN:
Name: OLEVIA J PHILLIPS	SSN: [REDACTED]
Street: [REDACTED]	
Mailing: [REDACTED]	
Phone: (H): [REDACTED] (W): [REDACTED]	
Job:	
DOB:	
ID:	MMN:

*\* please change signers on account  
delete Clyde Ball ASAP*



Report on Special Investigation of  
City of Sandyville

Copy of Contract with Contractor for New City Hall



P.O. BOX 930220  
VERONA, WI 53593-0220  
(608) 845-9700 / 800-373-5550  
FAX: (608) 845-7070

www.clearybuilding.com

Purchaser Sandyville City Hall  
Address Town St Hwy 92  
City Sandyville State IA Zip 50001  
email \_\_\_\_\_  
Home Phone (Area Code) \_\_\_\_\_ Work \_\_\_\_\_ Cell \_\_\_\_\_

CLEARY/OWNER CONTRACT - ERECTED

JOB # \_\_\_\_\_

Building Location \_\_\_\_\_  
Tenant \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_  
County \_\_\_\_\_

**THIS BUILDING DESIGNED FOR AGRICULTURAL USE ONLY**

Protector Laminate Building Model   
Energy Miser Building Model   
Other Building Model: \_\_\_\_\_  
Building Specifications:  
Width: 30 Length: 56 Eave Height: 9  
Type of Truss: Energy Miser  
Intended Use of Building: Suburban  
Color of: Roof White Trim White  
Sides Blue Gables Blue  
Accents N/A Slide Doors N/A  
Wainscoting N/A Soffit white  
Cupola: Sides \_\_\_\_\_ Roof \_\_\_\_\_ Vane Type \_\_\_\_\_  
Dutch Door: Flat Color \_\_\_\_\_ X-Buck Color \_\_\_\_\_ (will not match steel)  
Location of 100' Mark on Site: set by sales  
Bottom Elevation of:  
Slide Doors N/A Overhead Frame Outs N/A  
Windows N/A Walk Doors 100x4  
See Form C100 Which Becomes A Part of This Contract  
Additional Specifications: \_\_\_\_\_

1- 3'0x6'8 physio steel entry door.  
1- double entry door. (2 doors) with 9-lite windows. 6'0x6'8  
58 LF Profile ridge vent. 12" vented overhang on entire building excluding the eave of the porch.  
56 LF 6' below eave porch on building.  
OSB Barrier between porch and building  
White steel ceiling in the porch.  
ceiling in building with 4 mil vapor barrier

TERMS OF PAYMENT: (1) If Contract Amount is \$25,000.00 or less, the terms of payment shall be as provided in the column to the right. (2) If Contract Amount is over \$25,000.00, the terms of payment shall be pursuant to the Authorization to Pay form which is a part of this Contract or if the Authorization to Pay form is not executed, then the terms of payment shall be as provided in the column to the right.

If the Purchaser fails to make a payment when due, Purchaser agrees to pay Cleary, upon demand, a delinquency charge equal to the lesser of three-quarter percent (.75%), or the highest rate allowed by law, of the delinquent amount per fifteen (15) days, from the date the delinquent amount is due, until the date it is paid.

Tentative Date to Start Erection March 2001 Seller Desoto / Benson

Contract Amount: \$ 17088  
Downpayment at Date of Contract (20%): \$ 3417  
Due Upon Material Delivery (40%): \$ 6834  
Trusses in Place (20%): \$ \_\_\_\_\_  
Other Payment \$ \_\_\_\_\_  
Other Payment \$ \_\_\_\_\_  
Balance Due Upon Completion: \$ 6837

Form # C-050 Page 1 of 4 Rev 6/03

Report on Special Investigation of  
City of Sandyville

Copy of Contract with Contractor for New City Hall

1. This contract may be assigned by Seller to Cleary Building Corp. Upon such assignment all references to obligations and rights of "Seller" in this contract shall apply to Cleary Building Corp. and all checks or drafts for the Contract Amount MUST BE PAYABLE TO CLEARY BUILDING CORP.

2. Purchaser represents and warrants that Purchaser is (Check One)  fee owner of the Construction Site; or \_\_\_\_\_ land contract vendee or purchaser under contract of sale; or \_\_\_\_\_ lessee of the Construction Site and that the fee owner has consented to the construction contemplated by this Agreement.

3. At Seller's option this contract shall be subject to price increase if construction is commenced after the Tentative Start Date or more than one hundred and twenty (120) days after date of this contract. Purchaser will receive written notification of such increase before material is delivered and agrees to pay the increased amount upon completion of construction.

4. Purchaser shall provide access to construction site for delivery of materials and construction of this contract by Seller. Seller shall not be responsible for damage to property of Purchaser if incurred while Seller accesses site.

5. Contract Amount is based on level construction site. If extra materials and/or labor are required because of a sloping construction site, Purchaser will pay for the same upon request of Seller. The price of such materials will be Seller's usual and customary price. If because of buried objects (concrete, rocks, etc.) or because extra hole depth is required beyond 5 feet 6 inches Seller is unable to proceed with normal digging procedures, then the extra expense resulting from such condition(s) will be the obligation of the Purchaser and shall be paid to Seller upon request. Seller shall not be responsible for any damage to buildings occasioned by soil conditions including water table conditions, nor for the inability of the building site to bear the weight of the building.

6. Purchaser shall hold Seller harmless from any and all claims and expenses incurred in defending against claims arising from digging into or through any unmarked, underground utilities. It is the Purchaser's responsibility to mark all such utilities prior to the commencement of digging.

7. Any alterations or changes from the above Specifications involving extra costs will be effective only upon written change orders signed by Purchaser and accepted in writing by Seller and will be an extra charge in addition to the Contract Amount. Seller shall not be in default of this contract or be liable to Purchaser for any damages that Purchaser may incur as a result of delay(s) in Seller's performance of this contract which delay(s) are occasioned by strikes, riots, insurrection, acts of God, unavailability or late delivery of materials or other delays beyond Seller's control or any other cause which Seller could not have reasonably foreseen or avoided. It is understood that this Agreement and any documents which are attached hereto or referenced herein constitute the entire agreement between the parties and all other agreements, representation, promises, inducements, statements and understandings, prior to and contemporaneous with this Agreement, written or oral, are superseded by this Agreement.

8. Purchaser shall timely obtain at Purchaser's cost all necessary and required permits and licenses for the construction contemplated by this Agreement.

9. Seller provides builder's risk insurance coverage on the building until construction is completed and Seller accordingly will repair or reconstruct any damage to or loss of the building resulting from insured perils during construction. For purposes of this paragraph only, ownership of the building passes to the Purchaser upon completion. Each party hereto waives any rights of subrogation their respective insurers might have as against the other party to the extent permissible and only if such waiver does not adversely affect insurance coverage.

10. Any and all materials delivered to the Construction Site but not used in actual construction remain the property of the Seller with the exception of such material deemed by Seller as scrap.

11. Any use of the building by Purchaser represents acceptance and approval by Purchaser.

12. The obligations of Seller are subject to availability of materials from Cleary Building Corp., Verona, Wisconsin. This contract and similar work hereunder are predicated on non-union labor. In the event of the unavailability to Seller of qualified non-union labor to construct the building contemplated by this Agreement, the Contract Amount shall be increased to the extent the union labor costs exceed the non-union labor costs anticipated by Seller.

13. In the event of a default by Purchaser, Purchaser shall be responsible and pay Seller upon demand all of the costs incurred by Seller in collecting the sums due hereunder, including attorney's fees and disbursements.

14. It shall be the responsibility of the Purchaser to determine the location of the building to be constructed pursuant to this Agreement and Purchaser shall be responsible to determine that the location of the building is in compliance with the applicable setback requirements.

15. Purchaser understands that if Purchaser desires to have plywood (OSB) sheathing on the building, that the roof must be covered by shingles and/or the side wall covered with siding. This material will be installed by a contractor selected by Purchaser and Seller's only responsibility regarding the sides and/or roof will be to install the plywood (OSB) sheathing. Purchaser acknowledges that Seller is not responsible for any warping, shrinking, separation or any other damages to the plywood (OSB) sheathing which results from not having the plywood (OSB) sheathing protected from rain and other damaging weather conditions.

16. Inadequate attic ventilation can, under certain conditions, result in excess moisture to collect in the attic space. This moisture may result in a reduction in R-value of attic insulation, premature rusting and deterioration of roofing and water staining or rotting of wood members located in the attic space. The Cleary representative has explained the necessity of proper attic ventilation, and has presented his recommendations along with associated cost, to include this ventilation as part of the Cleary contract. Proper attic ventilation includes overhangs on both side walls and at the building ridge. If the purchaser of this building has chosen not to include attic ventilation, as proposed, as part of the Cleary contract, they will hereby release Cleary Building Corp. from any and all liability associated with any damage or loss of performance resulting from moisture and/or heat accumulation in the attic space.

Report on Special Investigation of  
City of Sandyville

Copy of Contract with Contractor for New City Hall

17. IF PURCHASER MAKES ALL PAYMENTS WHEN DUE, SELLER AND THE MANUFACTURER OF CERTAIN OF THE MATERIAL BEING SUPPLIED BY SELLER WILL PROVIDE PURCHASER WITH SPECIFIC WARRANTIES. SELLER MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED, OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE GOODS COVERED BY THIS CONTRACT. IN NO EVENT SHALL SELLER BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING FROM ANY ALLEGED OR ACTUAL DEFECTS IN ANY GOODS SUPPLIED PURSUANT TO THIS CONTRACT OR FROM ANY ALLEGED OR ACTUAL FAILURE OF PERFORMANCE OR NEGLIGENCE OF SELLER.

18. PURCHASER UNDERSTANDS AND ACKNOWLEDGES THAT NEITHER REPRESENTATIVE NOR CLEARY BUILDING CORP. IS A GENERAL CONTRACTOR AND NEITHER THE REPRESENTATIVE NOR CLEARY BUILDING CORP. IS RESPONSIBLE FOR ANYTHING OTHER THAN THE CONSTRUCTION OF THE BUILDING AND THAT PURCHASER OR OTHERS THAT PURCHASER HIRES ARE RESPONSIBLE FOR ALL OTHER FACETS OF THE CONSTRUCTION. PURCHASER ALSO ACKNOWLEDGES THAT PURCHASER ACCEPTS RESPONSIBILITY FOR DETERMINING THAT THE PURCHASER'S USE OF THE BUILDING IS CONSISTENT WITH THE APPLICABLE ZONING.

19. UNLESS OTHERWISE PROHIBITED BY APPLICABLE LAW, THE PURCHASER AND SELLER WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM ARISING OUT OF OR IN ANY WAY RELATING TO THIS CONTRACT OR THE ACTIONS OF PURCHASER, SELLER OR ASSIGNEE OF SELLER REGARDLESS OF WHETHER SUCH CLAIM OR COUNTERCLAIM IS BASED ON CONTRACT, TORT OR ANOTHER THEORY OF LAW OR EQUITY AND AGREE AND CONSENT THAT ANY SUCH ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM SHALL BE DECIDED BY TRIAL TO THE COURT WITHOUT A JURY. PURCHASER ACKNOWLEDGES AND UNDERSTANDS THAT THIS WAIVER AND CONSENT CONSTITUTES A MATERIAL INDUCEMENT TO SELLER TO ENTER INTO THE TRANSACTION WITH THE PURCHASER.

This Contract is signed and dated this 19 day of JANUARY, 2001.

REMARKS:

SELLER TO PILE SCRAP FOR PURCHASER USE OR DISPOSAL

SELLER: [Signature]

ADDITIONAL LANGUAGE IS CONTAINED ON PAGE 3 OF 4.

PURCHASER: + Jenny Phillips

CONSENT TO CONSTRUCTION IF OWNER IS OTHER THAN PURCHASER:

TENTATIVE DATE TO START ERECTION: March 2001

Fee Owner

Assignment

This contract is assigned by Seller to Cleary Building Corp. and accepted by Cleary Building Corp. this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_. (Office Use Only)  
CLEARY BUILDING CORP.

By (Office Use Only): \_\_\_\_\_

Seller: \_\_\_\_\_

Report on Special Investigation of  
City of Sandyville

Copy of Cash Withdrawal Slip Signed by Ms. Phillips

DATE 8/24/02 MIDWEST HERITAGE BANK, FSB  
BY [Signature] CHARITON, IOWA 50049 \$ 100.00  
WE DEBIT YOUR ACCOUNT FOR One hundred  
ACCOUNT NO. [REDACTED] APPROVED [Signature: Jenny Phillips] MISC. DEBIT  
DO NOT SIGN TO MAKE THIS CHECK VALID IN YOUR CHECK BOOK  
AUG 24 2002  
042 100000100000