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In the

Supreme Court of Iowa

SUPREME COURT NO. 25-0556
JEFFERSON COUNTY NO. EQEQ004660

FS, INC., PLAINTIFF-APPELLANT
VS.
JEFFERSON COUNTY CONSERVATION BOARD, DEFENDANT-APPELLEE

Application for Further Review of Court of Appeals Decision dated May 27, 2026

APPLICATION FOR FURTHER REVIEW

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QUESTIONS PRESENTED FOR REVIEW

I. The question of whether a plaintiff suffered damages is separate and distinct from the question of the amount of damages. Did the Court of Appeals err in determining that Four Seasons did not suffer *any* damages based on speculative aspects of the *amount* of damages?

II. Every breach of contract gives the injured party a right to damages. Does a finding that a contract was breached therefore necessitate a finding that at least some damage was caused by that breach?

III. The Board's deemed admission establishes that it accepted Four Seasons' bid—which, under Iowa law, was an offer. A conditional acceptance, however, is not an acceptance but a rejection and counteroffer. Did the District Court err by treating the Board's admitted acceptance as conditional, and thus finding no contract was formed?

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STATEMENT SUPPORTING FURTHER REVIEW

Further review is warranted because the Court of Appeals' analysis conflicts with Iowa's framework for addressing the damages element of a breach-of-contract claim. Iowa law requires courts to distinguish "between proof of the fact that damages have been sustained and proof of the amount of those damages." *Orkin Exterminating Co. v. Burnett*, 160 N.W.2d 427, 430 (Iowa 1968). With regard to breach-of-contract claims, "'[e]very breach of contract gives the injured party a right to damages against the party in breach.'" *UE Local 893 v. State*, 997 N.W.2d 1, 11 (Iowa 2023) (quoting Restatement (Second) of Conts. § 346 cmt. a, at 110 (Am. L. Inst. 1981)). Thus, when a contract is breached, the *existence* of damages is proven as a matter of law.

In determining the threshold question of whether any damages have been suffered, the Court of Appeals diverged from these principles by analyzing only speculative aspects of the *amount* of Four Seasons' lost profits rather than whether there was uncertainty that Four Seasons suffered damages at all. And the Court of Appeals determined that no damages existed even assuming a breach. Uncorrected, the proliferation of these errors would allow meritorious breach-of-contract claims to fail on liability where only the amount rather than the existence of damages is uncertain.

By resolving this appeal on damages, the Court of Appeals avoided addressing the effect of the Board's admission that it accepted Four Seasons' bid. Four Seasons has relied on this admission and Iowa Rule of Civil Procedure 1.511 at every stage of this litigation—from summary judgment, to trial, and on appeal—yet its reliance remains unvindicated.

If the Board's admitted acceptance is given its true effect under our Rules, contract formation would be established. However, the District Court ruled that no contract was formed because it allowed the Board to contradict its conclusively established acceptance and argue that its acceptance was not a real acceptance because it was "conditional". This ruling conflicts with Iowa caselaw and our Rules of Civil Procedure. *See Pflepsen v. Univ. of Osteopathic Med., Coll. of Podiatric Med.*, 519 N.W.2d 390, 392 (Iowa 1994); *In re Eickman Estate*, 291 N.W.2d 308, 312 (Iowa 1980); *Allied Gas & Chemical Co. v. Federated Mutual Insurance Co.*, 332 N.W.2d 877, 879 (Iowa 1983); Iowa R. Civ. P. 1.511.

Four Seasons prays that this Court grant further review pursuant to Iowa Rule of Appellate Procedure 6.1103(1)(b)(1) to correct the damages analysis applied by the Court of Appeals and decide the deemed admission issue because both are important issues that commonly arise in civil litigation and because the Court of Appeals Decision on damages and the District Court Ruling on admissions conflict with Iowa precedent on how these issues should be addressed.

BRIEF IN SUPPORT OF REQUEST FOR FURTHER REVIEW

For the following reasons, Four Seasons requests further review of the Court of Appeals Decision affirming the District Court's Ruling.

I. Introduction

This appeal arises from a district court ruling denying the breach-of-contract claim made by FS, Inc. ("Four Seasons") against the Jefferson County Conservation Board ("the Board"). D0068, Ruling (3/9/2025). Four Seasons is a construction contractor and the Board is a governmental entity. D0072, Tr. Trial at 34:21–35:3; 94:21–95:22 (2/18/2025). The controversy involved the Board's decision to award the contract for the Prairie Ridge Campground Project ("the Project") to another bidder after the Board had accepted Four Seasons' bid. D0056, Plaintiff's Exhibit 2, Plaintiff's Requests for Admissions at Requests 5, 7, and 30.

In the District Court, Four Seasons focused on the effect of the Board's deemed admissions under the Iowa Rules of Civil Procedure. Four Seasons served requests for admissions on the Board and the Board did not provide timely responses. *See* D0019, Notice of Serving Discovery Requests (5/8/2024). Thus, each request is deemed admitted and is conclusively established. One admission states that "[a]t the February 28, 2024 Board meeting, the Board accepted Four Seasons' bid." D0056 at Requests 5.

Because a bid is an offer, an acceptance of a bid creates a contract. *See Horsfield Constr. v. Dubuque Cnty.*, 653 N.W.2d 563, 568–69 (Iowa 2002). And because the Board failed in its obligation to allow Four Seasons to complete the Project, the Board breached. Four Seasons moved for summary judgment on the liability portion of its breach-of-contract claim and was denied. D0022, M. for Partial S.J. (6/17/2024); D0033, Order on Competing Motions for S.J. at 10 (8/13/2024). Four Seasons again argued at trial that the Board's admissions conclusively established contract formation. D0072 at 18:2–24:3. However, the District Court again declined to give the Board's admission this effect and determined that the Board's acceptance was only conditional and, therefore, no contract was formed. D0068 at 6.

While mainly discussing contract formation issue, the District Court's Ruling spent two sentences opining that Four Seasons had not proven damages. D0068 at 8. The District Court's damages analysis is as follows: "Additionally, evidence related to Plaintiff's alleged damages was woefully inadequate. Even if a contract had been formed, Plaintiff had a duty to mitigate, and the Court would be speculating what Plaintiff's actual losses were." D0068 at 8.

Four Seasons appealed both the District Court's application of the rules of civil procedure and its damages analysis. In its Decision, the Court of Appeals declined to reach the admission issue and affirmed the District Court's Ruling on the basis

that Four Seasons did not prove the damages element of its breach-of-contract claim. *FS, Inc. v. Jefferson Cty. Conservation Bd.*, No. 25-0556, 2026 LX 286328, at *9–10 (Ct. App. May 27, 2026) (hereinafter "Decision").

Notably, while affirming the District Court's Ruling, the Court of Appeals did not mention the District Court's error of shifting the Board's burden of proving failure to mitigate damages—which it neither pled nor proved—onto Four Seasons. Instead, the Court of Appeals focused on speculative aspects of Four Seasons' bid. Decision at *8–9. Because the damages holding is the sole basis of the affirmance, this brief addresses it first and afterwards discusses the deemed-admissions issue.

While the Court of Appeals' Decision presents a more polished analysis than the District Court's cursory declaration of "woeful inadequacy", both courts made the same legal error: each focused on the speculative aspects of the amount of damages rather than on whether undue speculation was required to acknowledge that the Board's breach caused Four Seasons to lose profits.

II. Scope and Standard of Review

Because Four Seasons' breach-of-contract claim was tried at law, review is for correction of errors at law. *Van Sloun v. Agans Bros.*, 778 N.W.2d 174, 179 (Iowa 2010). This Court is not bound by the district court's application of legal principles or its resulting legal conclusions. *See NevadaCare, Inc. v. Dep't of Hum. Servs.*, 783 N.W.2d 459, 465 (Iowa 2010). Whether the existence of damages may be

denied on reasoning pertaining only to their amount—and beyond that, whether the existence of some damages as a matter of law can be denied when a contract is breached—are questions of law to be reviewed de novo.

III. Four Seasons suffered damages.

The Court of Appeals erred in holding that Four Seasons suffered no damages. First, the court conflated uncertainty about the amount of Four Seasons' damages with uncertainty about their existence. Second, because the court assumed a breach, Iowa law required a finding that Four Seasons suffered at least some damage. Third, Four Seasons' unrebutted evidence supplied a reasonable basis to support its requested damages.

A. The Court of Appeals conflated the *existence* of damages with their *amount*.

1. The *existence* of damages question was decided on *amount* reasoning.

Iowa law distinguishes between whether any damages have been sustained and whether the amount of damages has been proven. *See Orkin Exterminating Co. v. Burnett*, 160 N.W.2d 427, 430 (Iowa 1968). Recovery is denied where the existence of any damages is speculative and uncertain. *Id.* If the existence of damages is shown, the analysis refocuses on the amount of damages—and recovery is allowed where "there is proof of a reasonable basis from which the amount can be inferred or approximated." *Id.*; *see also Olson v. Nieman's, Ltd.*, 579 N.W.2d 299, 309 (Iowa 1998).

While reciting this framework, the Court of Appeals conflated the two inquiries: it resolved the *existence* question with reasoning applicable to the *amount* inquiry. That the Decision pertained to the existence prong is clear from its holding—"Four Seasons cannot establish the last element of a breach-of-contract claim"—referring to the fifth *Molo Oil* element, "that [Four Seasons] has suffered damages as a result of the breach." Decision at *8–10; *see Molo Oil Co. v. River City Ford Truck Sales, Inc.*, 578 N.W.2d 222, 224 (Iowa 1998).

In reaching this holding, the Decision analyzed only uncertainty in the amount of Four Seasons' lost profits. The Decision faulted Four Seasons for providing no "evidence of the ascertainable costs" such as "the cost of materials or the cost of equipment." Decision at *9. Although this cost evidence was implicit in Four Seasons' bid, it bears on the amount of lost profits—not their existence.

The Decision next observed that Four Seasons' minimum expected profit margin of twelve-percent "was not definitive" because profit margins on Four Seasons' projects commonly range from five to twenty-five percent. *Id.* To the extent the range of Four Seasons' profit margins across all its construction projects is relevant beyond providing context to the twelve-percent margin it incorporated into its bid for the Project, every margin within that range would have yielded *some* profit.

The Decision added that Four Seasons' president "never explained how or why he reached his twelve-percent estimation." *Id.* But, again, this rationale only highlights uncertainty in the amount of damages and does not address the binary question of whether or not damages were sustained. And its remaining observations—that the president was "just speculating as to the potential profits it hoped to make", that "[c]onstruction work has several variables that impact a project's overall profitability", and that "his estimate leaves too much to question"— address the amount rather than the occurrence of a loss. *See id.*

The Decision's vocabulary emphasizes this point. Each operative sentence of its analysis evaluates an "estimate": "the president's twelve-percent estimate is entirely speculative"; "even the estimate was not definitive"; "his estimate leaves too much to question." *Id.* Because an estimate is an approximation of a quantity, discussion of speculative aspects of an estimate belongs to the *amount* rather than the *existence* inquiry. The Decision's conclusion also confirms this confusion: "the damages estimate presented by Four Seasons is *overly speculative and cannot be recovered*." (emphasis added). *Id.* at *10. This language comes from the portion of the damages analytical framework pertaining to the amount—not the existence—of damages. *See Orkin Exterminating Co.*, 160 N.W.2d at 430.

Yet from these amount-directed criticisms, the Decision drew an existence-directed conclusion: Four Seasons "cannot establish the last element of a breach-

of-contract claim." Decision at *10. Five observations about the magnitude of a loss became a holding that Four Seasons suffered no loss at all. Thus, the Court of Appeals Decision collapsed the distinction between the amount and existence of damages that Iowa law commands and wrongly decided no damages existed.

2. The evidence proved the existence of Four Seasons' damages.

Although the Decision begins its analysis by quoting *Olson*'s existence standard, reciting a standard is not necessarily the same as applying it. Having quoted the existence rule, the Decision never asks the existence question. Nowhere does it identify any possibility that Four Seasons suffered no loss. It does not suggest the Project would have been unprofitable. It does not question that a profit margin was built into the bid—to the contrary, it acknowledges the president's testimony that "the anticipated profit was built into each line item" and that he anticipated "twelve-percent profit on this project at minimum or more." Decision at *9. And it does not dispute that the Project went forward without Four Seasons. *Id.* at *2.

Nor can the Decision's cost-evidence rationale support a plausible existence ruling. The theory would have to be that the Project might have cost Four Seasons more than the contract price and, therefore, that Four Seasons might have lost money performing it. But that theory is foreclosed by the structure of the bid itself. Because the price of each line item was built from Four Seasons' expected costs

plus the profit margin it set, the bid could only have been unprofitable if those embedded costs were themselves wrong—and no evidence suggests they were. The Board offered no evidence that Four Seasons' costs would have differed from those embedded in its bid. The absence of a more specific breakdown of costs therefore leaves open only the question of amount: how much profit would Four Seasons have made?

The testimony the Decision cited as a defect actually establishes the existence of damage. The Decision faulted the twelve-percent figure as "not definitive" because the president testified that Four Seasons' projects *generally* yield margins between five and twenty-five percent. That general range was not Four Seasons' profit margin for this Project—which was twelve percent. But even taken on the Decision's own terms, the range proves the existence of lost profits because every point within it is a profit: even at the low end of five percent, Four Seasons would have lost roughly $40,000. Testimony establishing a profit under every possible margin cannot render the existence of some loss overly speculative.

The Decision, thus, relied on evidence proving the element to support its conclusion that the element was unproven. And the opposite conclusion is close to self-evident: a for-profit contractor denied the project it bid on and won has lost something.

B. A breach of a contract establishes some damages as a matter of law.

The Decision is also incompatible with the law of contract damages. Less than three years ago, this Court quoted the Restatement (Second) of Contracts for the proposition that "'[e]very breach of contract gives the injured party a right to damages against the party in breach.'" *UE Local 893 v. State*, 997 N.W.2d 1, 11 (Iowa 2023) (quoting Restatement (Second) of Conts. § 346 cmt. a, at 110 (Am. L. Inst. 1981)).

And the Restatement further states that, "[i]f the breach caused no loss or if the amount of the loss is not proved …, a small sum fixed without regard to the amount of the loss will be awarded as nominal damages." Restatement (Second) of Conts. § 346(2). Thus, under Iowa law, at least *some* damages are presumed to exist where a contract is breached, even if the *amount* of the loss is not proven. Therefore, the determination that Four Seasons did not prove the damages element of its breach-of-contract claim conflicts with Iowa caselaw.

The Board may answer that *Molo Oil* makes damages an element of the claim, so that a failure of damages defeats the claim entirely. But that reads the element at a level of generality which its specific language does not support. *Molo Oil*'s fifth element asks whether the plaintiff "has suffered damages as a result of the breach"—the fact of damage, not its measure. 578 N.W.2d at 224. Section 346 supplies that fact as a matter of law: because every breach causes at least nominal

injury, the existence element is satisfied upon breach, and the reasonable-basis standard then governs the amount. Read this way, *Molo Oil*, *Olson*, and § 346 provide a cohesive analytical map for navigating the liminal space between liability and damages in breach-of-contract claims.

This Court's decision in *Horsfield Construction, Inc. v. Dubuque County*, 653 N.W.2d 563 (Iowa 2002), reinforces that point. *Horsfield* is similar to this case—a governmental entity rescinded its acceptance of a contractor's bid. After holding that the acceptance formed a binding contract and that the entity breached, this Court reversed the district court's liability ruling and remanded the case to proceed with the damages phase. *Id.* at 573–74. The Decision below cannot be reconciled with that approach because it denied the claim at liability rather than finding liability and then determining what amount of damages were proven.

The context of a trial bifurcated between liability and damages—as in *Horsfield*—highlights the importance of analyzing damages correctly. The analysis applied by the Court of Appeals would undermine the intended efficiency of bifurcation as the plaintiff would be required to show detailed proof of its damages just to survive the existence of damages element to establish liability. The correct approach, as taken by this Court in *Horsfield*, is to find liability upon proof of breach and the associated conclusion of some damages.

Other jurisdictions also recognize that a breach entitles the injured party to at least some damages even when proof of actual loss is not satisfactory. *See e.g. Avis Rent A Car Sys. v. Heilman*, 876 So. 2d 1111, 1120 (Ala. 2003) ("This is so, because '"an unexcused failure to perform a contract is a *legal wrong*. Action will lie for the breach although it causes no injury. … The party *whose legal right has been invaded by such breach* is entitled to at least nominal damages, for the law recognizes that every injury imports damages."'" (citing partial concurrence and partial dissent which quoted 11 Williston on Contracts § 1339A, at 206, 208 (3d ed. 1968)) (emphasis added by *Avis* court); *see also Hydrite Chem. Co. v. Calumet Lubricants Co.*, 47 F.3d 887, 891 (7th Cir. 1995) ("Proof of liability is complete when the breach of contract is shown. At that point the plaintiff is entitled to nominal damages, even if he cannot show any injury from the breach.") (citations omitted); *Olympia Hotels Corp. v. Johnson Wax Dev. Corp.*, 908 F.2d 1363, 1372 (7th Cir. 1990) ("The victim of a breach of contract is always entitled to nominal damages if he proves a breach but no damages.") (citations omitted).

The Court of Appeals' holding cannot be squared with any of this authority: a breach necessitates a finding of some damage. The resulting conflict—between the Decision below and the Restatement provision quoted in *UE Local 893*—should be resolved in favor of the rule this Court has already adopted. Even crediting the Decision's view that Four Seasons' proof of amount was too uncertain, the most

that would follow is an award reduced to nominal damages—not a judgment for the Board. A breach establishes liability and a failure to prove the damages amount does not relieve the breaching party from that consequence.

C. Four Seasons' unrebutted evidence proved its damages.

Beyond proving that it suffered some amount of damages, Four Seasons presented adequate evidence at trial to prove its lost profits. The amount of damages need not be proven with precision; recovery is allowed where "there is proof of a reasonable basis from which the amount can be inferred or approximated," and "some speculation is acceptable." *Olson*, 579 N.W.2d at 309. The Decision faulted Four Seasons' proof on two grounds—that it offered "no evidence of the ascertainable costs" and that its president "never explained how or why he reached his twelve-percent estimation." Decision at *9.

But far from offering "no evidence of the ascertainable costs," Four Seasons' president explained how the bid was constructed from those costs. He testified that each line item number included estimated costs for materials, equipment, fuel, labor, and overhead—with the twelve-percent margin added on top. D0072 at 36:7–37:2. He then walked through the calculation for the first line item in detail. D0072 at 42:1–44:9. The Decision's premise that the record contained "no evidence of the ascertainable costs" is therefore mistaken. The costs were in

evidence—embedded, line by line, in the very bid the Decision examined. *See* D0055, Plaintiff's Exhibit 1, Plaintiff's Bid Submission.

When Four Seasons began walking through the line items, counsel for the Board interrupted to say he did not require it: "I'm not going to object to anything in there. … I'm not objecting to the presentation, but I don't contest anything in there." D0072 at 43:5–8. Thus, the Board stated that it did not contest the line item amounts.

Beyond the Board's acquiescence, Iowa law supports the principle that a breaching party should not evade the consequences of their wrongdoing because the amount of damage they caused cannot be determined. *See Natkin & Co. v. R. F. Ball Constr. Co.*, 123 N.W.2d 415, 423 (Iowa 1963) ("'While the difficulty of proving the amount of damages from the breach of a contract is no reason why recovery should be denied altogether, and *a defendant who has voluntarily breached a contract cannot demand proof of plaintiff's damages therefrom with great particularity or exactness*…'" (quoting 25 C. J. S. 832, Damages, section 162) (emphasis added)); *Olson*, 579 N.W.2d at 309 ("'[W]hile it may be hard to ascertain . . . a loss with preciseness and certainty, the wronged party should not be penalized because of that difficulty.'") (quoting *Bangert v. Osceola County*, 456 N.W.2d 183, 190 (Iowa 1990)).

The Decision's second premise—that the president "never explained how or why he reached his twelve-percent estimation"—is likewise contradicted by the record. The president described the factors Four Seasons considers when determining a profit margin: the company's workload, how aggressively it needs to bid to win work, and what the business requires to operate. D0072 at 43:25–44:6. And he explained why twelve percent fit this Project in particular: it was an undeveloped site that made the work more efficient and the margin more achievable than on a typical project. D0072 at 44:20–45:4; 53:1–13. The Decision's contrary finding of undue speculation cannot be reconciled with this testimony.

On cross-examination, the Board asked Four Seasons' president nothing about costs, margin, or methodology. D0072 at 57:13–63:2. The Board presented no damages evidence of its own. The president's account of how the bid was built and why the margin was set thus stands uncontradicted. Unrebutted testimony from the person who prepared the bid is a reasonable basis from which the amount of lost profits can be approximated.

Four Seasons' president testified to a "twelve-percent profit on this project at minimum or more", and that the company's margins can run as high as twenty-five percent. Decision at *8. But Four Seasons only sought the conservative end of its own proof. Seeking damages for the minimum amount of its expected lost profits

accentuates the reasonableness of its proof rather than injecting undue speculation into the inquiry.

This Court tolerates far thinner proof. In *Wachtel v. National Alfalfa Journal Co.*, the plaintiff's damages turned on the outcome of a cancelled newspaper subscription contest, yet this Court held the uncertainty did not, "as a matter of law," confine her to nominal damages. 176 N.W. 801, 805 (Iowa 1921). Four Seasons' proof—a fixed contract price, a margin built into every line item, and the unrebutted testimony of the person who built it—is materially more definite than the proof held sufficient in *Wachtel*.

The Court of Appeals' own recent decision underscores the point. In *Boyle Built Enterprises, LLC v. Benson*, the court affirmed an award of lost profits supported by the owner's testimony as to anticipated revenues and costs on work that was never performed. No. 25-0021, 2026 LX 117170, at *9–10 (Ct. App. Apr. 1, 2026). The Decision below distinguished *Boyle Built* as turning on different facts. Decision at *8 n.1. But the distinction cuts the wrong way: if owner testimony estimating revenues and costs on never-performed work supplies a reasonable basis there, then a fixed contract price with a margin embedded in every line item, explained and unrebutted, supplies one here.

If the Court of Appeals is correct that these two cases can be distinguished, it would likely be based on the specificity of the calculation of lost profits by the

owner in *Boyle Built*. But ultimately, while Four Seasons had good reasons for choosing twelve percent as its profit margin, it wouldn't matter if the profit margin incorporated into the bid had no supporting rationale whatsoever. The fact is that Four Seasons chose to increase its bid from its pure costs to provide a twelve percent profit. And that is the profit it stood to make—whatever the reasoning behind its incorporation into the bid. Four Seasons did not need to reverse-engineer that figure from cost data to "solve for x"; it set "x" at twelve percent and added it to its costs.

Finally, the District Court's burden shifting of the duty to mitigate cannot supply an alternative ground for affirmance. Failure to mitigate is an affirmative defense, and the burden to plead and prove it rests on the defendant. *See Hunter v. Bd. of Trs. of Broadlawns Med. Ctr.*, 481 N.W.2d 510, 517 (Iowa 1992). The Board never pleaded failure to mitigate and offered no evidence that Four Seasons failed to mitigate anything. The District Court's suggestion that Four Seasons bore that burden was wrong, and the Court of Appeals affirmed the Ruling without addressing the error. Either way, the point goes only to the amount, not existence, of Four Seasons' loss.

Four Seasons proved that it suffered lost profits and supplied a reasonable basis to approximate them.

IV. The Board's admissions prove their liability for breach-of-contract.

The Court of Appeals affirmed solely on damages and did not reach the issue of the Board's deemed admissions. That issue is dispositive of liability and entitles Four Seasons to judgment on its claim.

A. The Board's conclusively established admissions may not be contradicted.

A matter admitted under Iowa Rule of Civil Procedure 1.510 "is conclusively established in the pending action unless the court on motion permits withdrawal or amendment of the admission." Iowa R. Civ. P. 1.511. The conclusive effect is not discretionary; an unwithdrawn admission binds the party and the court alike. *See Pflepsen v. Univ. of Osteopathic Med., Coll. of Podiatric Med.*, 519 N.W.2d 390, 392 (Iowa 1994).

The Board failed to respond to Four Seasons' requests for admission, the requests were deemed admitted, and the Board never moved to withdraw or amend them. The thirty admissions were therefore conclusively established, and no evidence could properly be received to contradict them. Those admissions establish liability. The Board admitted that it "accepted Four Seasons' bid." D0056 at Requests 5. It admitted that Four Seasons' bid "addressed all material terms" of the Project, that "[n]o further material terms . . . remained to be negotiated," and that the Board "assented to the material terms . . . as contained in Four Seasons' bid." D0056 at Requests 28–30. And it admitted that it thereafter "failed to offer Four

Seasons a contract" and "refused to execute a contract" for the Project. D0056 at Requests 7, 14. Acceptance, assent to all material terms, and refusal to perform were thus conclusively established before trial began.

B. The District Court erred by considering evidence contrary to the admissions.

Despite the admissions' conclusive effect, the District Court allowed the Board to contradict them and found that the Board's acceptance was merely "conditioned on approval by an engineer." Decision at *6. Rule 1.511 forecloses this course for once a matter is conclusively established, it is not open to contrary proof. *See Pflepsen*, 519 N.W.2d at 392.

A trial court may not acknowledge an admission's truth and then permit the admitting party to contest that same fact. By doing so, the District Court deprived the admissions of the conclusive effect the Rule guarantees—an error which, if condoned and continued, would frustrate every litigant who relies on the Rules to narrow the issues to be proved at trial.

C. On the admitted facts, the Board is liable for breach-of-contract.

The admitted facts compel the legal conclusion the District Court avoided. Under Iowa law, "[a] bid generally constitutes an offer," and "[o]nce a municipality accepts a valid bid, such acceptance results in a binding contract." *Horsfield Constr., Inc.*, 653 N.W.2d at 568–69. The Board accepted Four Seasons'

bid and assented to all of its material terms. D0056 at Requests 5, 28–30. This formed a binding contract.

The District Court's finding that the acceptance was "conditional" and established no contract rests on evidence that could not be considered. And it misunderstands the law of acceptance: a conditional acceptance is not an acceptance. An acceptance that adds or depends on a new condition is in law a rejection and counteroffer. *See Hayne v. Cook*, 109 N.W.2d 188, 193 (Iowa 1961). The Board could not simultaneously have accepted the bid and also given only a conditional acceptance that was no acceptance at all. The admission controls, and it establishes acceptance without condition.

Acceptance, assent to all material terms, and the Board's refusal to perform are all conclusively established. Every element of liability is settled on the record. Because a breach entitles Four Seasons to at least some damages as a matter of law, and because the record supplies a reasonable basis to approximate them—this case is ripe for entry of judgment for Four Seasons. The Court of Appeals' damages holding is what prevented this result and correcting it allows this Court to resolve the case in full.

V. Conclusion

Four Seasons respectfully requests that this Court grant further review because the Court of Appeals' damages analysis conflicts with the framework recognized by Iowa law and because the District Court's admissions ruling conflicts with Iowa caselaw and procedural rules conclusively establishing deemed admissions. These errors are the reason a meritorious claim was dismissed in its entirety.

Because Four Seasons proved its damages and because the Board's acceptance is conclusively established, Four Seasons asks this Court to enter judgment in its favor on liability and to award the lost profits it proved, $97,013.28, or, in the alternative, to remand for a determination of the damages amount under the correct standard.

Respectfully submitted,

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CERTIFICATE OF FILING AND SERVICE

The undersigned certifies a copy of this Brief was filed with the Clerk of the Iowa Supreme Court via EDMS and served upon counsel of record below by EDMS on the 16th day of June, 2026.

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CERTIFICATE OF COMPLIANCE

This application complies with the typeface requirements and type volume limitations of Iowa Rule of Appellate Procedure 6.1103(5) because it has been prepared in a proportionally spaced typeface using 14 point Times New Roman font and contains 5,133 words, excluding the parts of the brief exempted by Iowa Rule of Appellate Procedure 6.1103(5)(a).

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