

Agenda: Newton City Council

City Council Meeting

Council Chambers, 101 W 4th St S. or via Zoom
(<https://us02web.zoom.us/j/83564044015>), Join zoom via
phone: (call 312-626-6799 & enter ID # 83564044015),
Mediacom Channels: 12/85/121.12, Website Streaming:
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Meetings.

September 07, 2021 6:00 p.m.
Newton, Iowa 50208

You can participate in the meeting or you can comment on an agenda item by joining the Zoom meeting and raising your hand to be recognized (must remain on mute until recognized/via phone dial *9 (star 9), this will notify City staff that you have “raised your hand” for public comment), submitting via email to cityofnewton@newtongov.org before 5:00 PM the day of the meeting or, during the meeting, you can call 641-792-2787, extension 2007.

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|------------------------------|--|
| Pledge | Pledge of Allegiance |
| Call to Order | 1. Roll Call |
| Presentation | 2. Newton Salvation Army – Captain Janelle Cleaveland, Corps Officer |
| Citizen Participation | 3. This is the time of the meeting that a citizen may address the Council on matters that are included in the consent agenda or a matter that is not on the regular agenda. After being recognized by the Mayor, each person will be given three (3) minutes to speak. Comments and/or questions must be related to City policies or the provision of City services and shall not include derogatory statements or comments about any individual. Except in cases of legal emergency, the City Council cannot take formal action at the meeting, but may ask the City staff to research the matter or have the matter placed on a subsequent agenda. |
| Consent Agenda | <div>4. August 16, 2021 Regular City Council Meeting Minutes</div> <div>5. Approve Liquor Licenses for the following: Okoboji Grill, Renewal, 1425 W 19th St S, LC0033422, Class C Liquor License, Special Class A Beer Permit, Catering, Sunday Sales, Outdoor Service; Kwik Star #1001, Renewal, 1910 1st Ave E, BC0030784, Class C Beer Permit, Class B Wine Permit Sunday Sales; Git-n-Go #45, Renewal, 1708 S 8th Ave E, BC0030584, Class C Beer Permit, Class B Wine Permit, Sunday Sales</div> <div>6. Approve 2021-2022 Cigarette/Tobacco/Nicotine/Vapor License for: Raceway 80 (New Business), 4300 S 22nd Ave E.</div> <div>7. Resolution Appointing members to 2021 Comprehensive Plan Steering Committee. (No Council Report)</div> <div>8. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 21-06). (Council Report 21-228)</div> <div>9. Resolution awarding contract for the 2021 City of Newton Parks Tree & Stump Removal Project. (Council Report 21-229)</div> <div>10. Resolution accepting completion of the Demolition 2021-02 Project. (Council Report 21-230)</div> |

11. Resolution approving temporary access easement N2021-01 at 811 E 12th St Pl N. (Council Report 21-231)
12. Resolution approving updated Professional Services Agreement for the City's engineering and GIS needs. (Council Report 21-232)
13. Resolution authorizing signing Settlement Agreement and releasing of retainage for the 2017 UV disinfection project. (Council Report 21-233)
14. Resolution authorizing payment for the repair of Salt and sand storage building. (Council Report 21-234)
15. Resolution awarding the purchase of battery powered extrication equipment. (Council Report 21-235)
16. Resolution setting a public hearing and inviting proposals for the sale of property at 900 South 5th Avenue East, 1106 South 5th Avenue East, and 200 East 8th Street North in Newton. (Council Report 21-236)
17. Resolution Approving Promissory Notes & Construction Contracts for Lots 10 & 11, Cardinal Ridge Subdivision Plat 1 in Newton from Ground Breaker Homes, LLC of Clive, Iowa. (Council Report 21-237)
18. Approve Bills

Public Hearing

19. Public Hearing on a Resolution awarding contract for the Former Manufactured Gas Plant Site 2021 Remediation Project. (Council Report 21-238)
 - The City of Newton operated a manufactured gas plant near W 3rd St N and N 6th Ave W from 1911 to 1948, at which location the gas plant's relief holder and gasometer remain underground on the site to this day.
 - Following numerous rounds of testing on site and reports to the Iowa DNR since 1991, remediation of both remaining underground structures remain to be completed by December 31, 2022.
 - City staff and the project engineer recommend awarding contract for the Former Manufactured Gas Plant Site 2021 Remediation Project to Arrowhead Contracting of Indianola, Iowa in the amount of \$679,880.
20. Resolution awarding contract for the Former Manufactured Gas Plant Site 2021 Remediation Project. (Council Report 21-238)
21. Public Hearing on a Resolution accepting purchase agreement for property at 702 East 4th Street North and 416 North 7th Avenue East in Newton. (Council Report 21-239)
 - The City acquired the subject properties through the Newton D&D program. The two lots, when combined, are an adequate size for redevelopment of a larger, more modern home.
 - Progress Industries proposes to purchase the property for \$5,000 and proceed with the construction of a high-quality home on the combined lots.
22. Resolution accepting purchase agreement for property at 702 East 4th Street North and 416 North 7th Avenue East in Newton. (Council Report 21-239)
23. Public Hearing on a Resolution Approving Development Agreement with Van Maanen Electric, Inc., Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement. (Council Report 21-240)

- Van Maanen Electric, Inc. has constructed a new headquarters building at 500 Iowa Speedway Drive and seeks assistance from the City in the form of a tax rebate.
- The development agreement establishes a \$4.5 million minimum assessment with a 5 year tax rebate schedule. Total maximum rebate amount over the five years is \$600,000.

24. Resolution Approving Development Agreement with Van Maanen Electric, Inc., Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement. (Council Report 21-240)

25. Public Hearing on a Resolution approving the International Church Minor Subdivision, located in the Northeast ¼ of the Southwest ¼ of Section 35 all in Township 80 North, Range 19 West of the 5th P.M., in the City of Newton, Jasper County, Iowa. (Council Report 21-241)

- The International Church Minor Subdivision is a 2-lot subdivision of 1510 South 8th Avenue East.
- The primary purpose of the subdivision is to split the property into two lots so the owner has the flexibility to sell off the existing single-family home on the property. Planning and Zoning Commission recommended approval of the International Church Minor Subdivision.

26. Resolution approving the International Church Minor Subdivision, City of Newton, Jasper County, Iowa. (Council Report 21-241)

Resolutions

27. Resolution accepting a grant from the Jasper Community Foundation and awarding the purchase of thermal imaging equipment. (Council Report 21-242)

- The Fire Department was working on a project to replace a worn out thermal imaging camera. Significant changes in technology have created thermal imaging devices that can communicate with one another and allow for quickly finding other cameras in the system providing quick access to rescue downed firefighters.
- The Jasper Community Foundation awarded a grant to the Fire Department for the purchase of this equipment.

Staff Report

28. 9/11 20th Anniversary Presentation - Jarrod Wellik, Fire Chief

Mayor/Council Comments

29.

Adjourn

The City of Newton is pleased to provide reasonable accommodations, in compliance with the Americans with Disabilities Act, for those individuals or groups who require assistance to be able to participate in the public meeting. Should special accommodations be required, please contact the City Clerk's Office at least 48 hours in advance of the meeting, at 641-792-2787 to arrange for accommodations to be provided.

REGULAR CITY COUNCIL MEETING MINUTES
AUGUST 16, 2021, 6:00 P.M.
CITY COUNCIL CHAMBERS

The City Council of Newton, Iowa met in regular session at 6:00 P.M. on the above date in the Council Chambers at 101 West 4th Street South and via an electronic meeting (pursuant to Iowa Code section 21.8) because a meeting in person is impossible or impractical due to concerns for the health and safety of council members, staff, and the public due to COVID-19. Mayor Hansen presided. Present Council Members: Hallam, Stonner, George, Ervin, Trotter, Mullan. Absent: None.

Mayor Hansen asked everyone present to join in saying the Pledge of Allegiance.

Dawn Bleeker, Owner of Capitol II Theater presented on their year in review and the many activities they have been doing including sponsored free movies, Halloween teen night, Ladies night out, and popcorn to go.

There was no citizen participation.

Moved by Trotter, seconded by Mullan to approve consent agenda items 4-16.

4. July 27, 2021 Special City Council Workshop Minutes
5. August 2, 2021 Regular City Council Meeting Minutes
6. Resolution appointing Miranda Caldwell to the Newton Park Board for a term expiring on December 31, 2023. Resolution 2021-209 adopted.
7. Resolution appointing Mike Sell to serve on the Historic Preservation Commission for an unexpired term ending December 31, 2022. Resolution 2021-210 adopted.
8. Resolution Fixing the Amounts to be assessed against individual private properties for the abatement of nuisance violations (Schedule No. 21-06). Resolution 2021-211 adopted.
9. Resolution accepting completion of the City of Newton 2021 Fence Installation Project. Resolution 2021-212 adopted.
10. Resolution approving an agreement for remediation oversight services with Terracon Consultants for the Former Manufactured Gas Plant Site 2021 Remediation Project. Resolution 2021-213 adopted.
11. Resolution accepting completion of the City of Newton Westwood Golf Course Clubhouse Roof Repairs Project. Resolution 2021-214 adopted.
12. Resolution accepting completion of the City of Newton Woodland Park & Union Cemetery Roof Repairs Project. Resolution 2021-215 adopted.
13. Resolution awarding contract for the 2021 Streetscape Light Pole Refinishing Project. Resolution 2021-216 adopted.
14. Resolution approving a new, revised agreement between the City of Newton and Project AWAKE. Resolution 2021-217 adopted.
15. Resolution Setting a Date of Meeting at which it is proposed to approve a Development Agreement with Van Maanen Electric, Inc., Including Annual Appropriation Tax Increment Payments. Resolution 2021-218 adopted.
16. Approve Bills

AYES: Six. NAYS: None. Consent agenda items approved.

Mayor Hansen stated that this is the time and place for a Public Hearing on a Resolution awarding contract for the HMA Resurfacing Project 2021. There were no written comments. Moved by Mullan, seconded by Hallam, to close the public hearing. AYES: Six. NAYS: None. The public hearing was closed. Moved by Stonner, seconded by George to adopt the Resolution. AYES: Six. NAYS: None. Resolution 2021-219 adopted.

Mayor Hansen stated that this is the time and place for a Public Hearing on a Resolution to Approve Urban Renewal Plan Amendment for the Southwest Newton Economic Development Area. There were no written comments. Moved by Ervin, seconded by Trotter, to close the public hearing. AYES: Six. NAYS: None. The public hearing was closed. Moved by Hallam, seconded by George to adopt the resolutions. AYES: Six. NAYS: None. Resolution 2021-220 adopted.

Mayor Hansen stated that this is the time and place for a Public Hearing on a Resolution to Approve Urban Renewal Plan Amendment for the East-Mart Economic Development Area. There were no written comments. Moved by Mullan, seconded by George, to close the public hearing. AYES: Six. NAYS: None. The public hearing was closed. Moved by Trotter, seconded by Ervin to adopt the resolutions. AYES: Six. NAYS: None. Resolution 2021-221 adopted.

Mayor Hansen stated that this is the time and place for a Public Hearing on a Resolution approving amendment to the City-Wide Urban Revitalization Plan. There were no written comments. Moved by Trotter, seconded by Mullan, to close the public hearing. AYES: Six. NAYS: None. The public hearing was closed. Moved by Stonner, seconded by George to adopt the resolutions. AYES: Six. NAYS: None. Resolution 2021-222 adopted.

Moved by Trotter, seconded by Ervin to approve a Resolution approving the granting of D&D 2.0 Grant Funds for the rehabilitation of a historic home at 500 1st Avenue West. AYES: Six. NAYS: None. Resolution 2021-223 adopted.

Moved by Hallam, seconded by Ervin to approve a Resolution creating Civil Engineering Tech Trainee classification in City of Newton pay Matrix. AYES: Six. NAYS: None. Resolution 2021-224 adopted.

Jody Rhone, Public Works Director, presented on a Snow Removal Policy Update which includes additional advertising, notifications that the snow ordinance is in effect, and towing after 24 hours. Rhone also indicated that he is still working with FEMA regarding reimbursement for costs associated with Derecho.

During Mayor/Council comments Mayor Hansen indicated that the last coffee with the Mayor was successful and he received some interesting comments and questions. George received positive feedback from citizens on the drivability of 1st Ave with the new streetlights. Mullan commented on the state trees along the interstate that are dead. Hallam attended the Cops in Neighborhoods meeting at Woodland Park. He encouraged everyone to attend a meeting as they are very beneficial.

Moved by Trotter, seconded by Mullan to adjourn the meeting at 6:47 P.M. Motion unanimously carried by voice vote.

Michael L. Hansen, Mayor

Katrina Davis, City Clerk

RESOLUTION NO. 2021 – _____

RESOLUTION IN APPOINTING MEMBERS TO 2021 COMPREHENSIVE PLAN STEERING COMMITTEE

WHEREAS, *Newton's Future: A Comprehensive Plan* was adopted in 2012; and

WHEREAS, after nearly 10 years, it is appropriate to engage the community in a full comprehensive planning process which will result in a new plan for the community; and

WHEREAS, a Comprehensive Plan Steering Committee, consisting of citizens of various backgrounds and experiences, will assist City Staff and the planning consultant in synthesizing community input and guiding the development of a new comprehensive plan;

NOW THEREFORE, BE IT RESOLVED by the City of Newton City Council that the 2021 Comprehensive Plan Steering Committee, as shown in Attachment A, be appointed and that the Comprehensive Plan Steering Committee shall dissolve upon completion and adoption of a new comprehensive plan.

PASSED this _____ day of September 2021.

APPROVED this _____ day of September 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Attachment A.

Name

Bruce Showalter
Tanya Michener
Erin Yeager
Tom Messinger
Stephanie Moran
Wesley Triplett
Rob Kahn
Robbie Robinson
Noreen Otto
Casey Illingworth
Brett Lundberg
Rod Jenkins
Katelyn Kolsrud

City of Newton Council Report

**Item:**

Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 21-06).

Report Number: 21-228

Date:

September 7, 2021

Summary:

The City of Newton abated some nuisances, such as tall grass/weeds and/or trash. These costs remain unpaid by the property owner(s) and should be assessed to the property taxes.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

Cost Recovery: \$13,155.41

Background:

At their last meeting, City Council approved a Schedule of Assessment for the Expenses of Nuisance Abatement. The total amount for cost recovery is \$13,155.41. The attached schedule lists owner, parcel number, address, amount to be assessed, date work was completed, property legal description, and property valuation.

With the approval of this resolution, the costs expended by the City for the abatement of nuisances will be placed on the taxes as a special assessment for each property.

Recommendation:

Staff recommends approval of the resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 21-06).

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION NO. 2021 – _____

**RESOLUTION LEVYING ASSESSMENTS FOR COSTS OF
NUISANCE ABATEMENT AND PROVIDING FOR THE
PAYMENT THEREOF (SCHEDULE 21-06)**

WHEREAS, pursuant to its powers and duties as set out in Chapter 364, Code of Iowa, the City of Newton, after the property owner's failure upon being given notice and opportunity to cure, has performed the required action to abate the public nuisance and now seeks, as provided in 364.12, Code of Iowa, to assess the costs of such action against each of the properties set out on the attached Schedule No. 21-06 for collection in the same manner as the property tax.

NOW, THEREFORE, BE IT RESOLVED, that the attached Schedule No. 21-06, is hereby approved and adopted with the amounts shown thereon assessed and levied against each property for the collection in the same manner as a property tax.

BE IT FURTHER RESOLVED, that said assessments shall be payable in 1 annual installment and shall bear interest at the rate of 3.88 percent per annum, from the date of the acceptance of this assessment schedule; the one installment of each assessment with interest on the whole assessment from date of acceptance of this schedule by the Council shall become due and payable on October 7, 2021, and shall be paid at the same time and in the same manner as the semiannual payment of ordinary taxes. Said assessment shall be payable at the office of the County Treasurer of Jasper County, Iowa, in full and without interest within thirty days after first date of publication of the Notice to Property Owners of filing the schedule of assessments.

BE IT FURTHER RESOLVED, that the Clerk be and is hereby directed to certify said schedule to the County Treasurer of Jasper County, Iowa and to publish notice of said certification once each week for two consecutive weeks in the Newton Daily News, a newspaper printed wholly in the English language, published in Newton, Iowa, and of general circulation in Newton, Iowa, the first publication of said notice to be made within fifteen days from the date of the filing of said schedule with the County Treasurer, the City shall send by regular mail to all property owners whose property is subject to assessment a copy of said notice, said mailing to be on or before the date of the second publication of the notice all as provided and directed by Code Section 384.60, Code of Iowa.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Schedule 21-06: Assessment for the Expenses for Nuisance Abatement

Deed/Contract Holder	Parcel Number	Property Address	City	Net Assessed Property Value	Abatement Fee	Admin. Fee	Total Amount Assessed	Legal	Date Abated
Amber Hull	827409015	818 N 9th Ave E	Newton	\$39,280	\$229.00	\$75.00	\$304.00	EDMUNDSON'S ADD E 1/2 LOT 5 BLK 11	6/1/2021
Farrell Properties Inc	834206019	732 1st Ave E	Newton	\$103,290	\$285.58	\$75.00	\$360.58	LEE'S SD LOT 3	5/26/2021
RC Homes LLC	1303102009	211 S 15 Ave W	Newton	\$63,200	\$120.00	\$75.00	\$195.00	GUTHRIE'S SD S 1/2 LOT 3 & E 94' OF W 3/4 OF N 1/2 LOT 3 BLK B	6/8/2021
RC Homes LLC	834162015	323 W 2nd St S	Newton	\$126,910	\$185.05	\$75.00	\$260.05	ORIGINAL PLAT LOT 13 OUTLOT 16	6/9/2021
Brenda Winchell	827153007	109 N 13th Ave W	Newton	\$74,790	\$70.00	\$75.00	\$145.00	HAMMER & BOYD'S SD LOT D	6/9/2021
RC Homes LLC	827477009	901 N 6th Ave E	Newton	\$53,570	\$60.00	\$100.00	\$160.00	LONG'S SD LOT 21	6/4/2021
Farrell Properties Inc	827428004	806 E 9th St N	Newton	\$46,660	\$60.00	\$75.00	\$135.00	EDMUNDSON'S ADD LOT 8 BLK 17	6/15/2021
Ronda Roush	827452003	728 E 6th St N	Newton	\$75,120	\$60.00	\$60.00	\$120.00	CLARK'S SD LOT 7	6/15/2021
RC Homes LLC	1303102009	211 S 15 Ave W	Newton	\$63,200	\$60.00	\$75.00	\$135.00	GUTHRIE'S SD S 1/2 LOT 3 & E 94' OF W 3/4 OF N 1/2 LOT 3 BLK B	6/19/2021
Harold Livengood	833453002	1100 Woodland Drive	Newton	\$211,260	\$60.00	\$75.00	\$135.00	ELM PARK AMENDED PLAT LOT 4 SECTION G EX E 20'	6/22/2021
Kevin Powell	826351015	709 E 12th St Pl N	Newton	\$88,960	\$60.00	\$100.00	\$160.00	EMERSON HOUGH PLACE LOT 3 BLK A	6/28/2021
Joleen Inman	827413006	802 E 8th St N	Newton	\$94,910	\$60.00	\$75.00	\$135.00	EDMUNDSON'S ADD LOT 7 BLK 18	6/21/2021
Amber Hull	827409015	818 N 9th Ave E	Newton	\$39,280	\$60.00	\$75.00	\$135.00	EDMUNDSON'S ADD E 1/2 LOT 5 BLK 11	6/30/2021
Terri McGinnis	835254010	306 E 20th St S	Newton	\$89,230	\$305.00	\$75.00	\$380.00	AURORA HEIGHTS SD LOT 27 BLK F	6/30/2021
Durritzgus 2003 Rev Trust	835151008	1337 1st Ave E	Newton	\$283,250	\$60.00	\$100.00	\$160.00	TRACT 100' X 200' IN NE COR OF LOT H SW NW	6/28/2021
Lindsay Maxwell Galankis	827153007	109 N 13th Ave W	Newton	\$74,790	\$70.00	\$75.00	\$145.00	HAMMER & BOYD'S SD LOT D	6/9/2021
RC Homes LLC	1303202009	1400 E 6th St S	Newton	\$23,830	\$459.25	\$75.00	\$534.25	LISTER'S ACRES LOT 22	6/18/2021
RC Homes LLC	1303202010	1404 E 6th St S	Newton	\$26,080	\$459.25	\$75.00	\$534.25	LISTER'S ACRES LOTS 27 & 30	6/18/2021
RC Homes LLC	1303202011	1500 E 6th St S	Newton	\$23,830	\$459.25	\$75.00	\$534.25	LISTER'S ACRES LOT 35	6/18/2021
Jeff Farrell	833209004	210 W 9th St N	Newton	\$105,720	\$318.40	\$75.00	\$393.40	EXLINE'S ADD N 64' LOTS 7-8 BLK 1	6/23/2021
Terri McGinnis	835254010	306 E 20th St S	Newton	\$89,230	\$1,286.00	\$75.00	\$1,361.00	AURORA HEIGHTS SD LOT 27 BLK F	6/17/2021
RC Homes LLC	1303102009	211 S 15 Ave W	Newton	\$63,200	\$588.00	\$75.00	\$663.00	GUTHRIE'S SD S 1/2 LOT 3 & E 94' OF W 3/4 OF N 1/2 LOT 3 BLK B	6/24/2021
Jamie Stephen & Lisa Coontz	827153013	1207 1st St N	Newton	\$14,790	\$80.00	\$75.00	\$155.00	MYER'S SD LOT 4 VIN #24858	6/28/2021
RC Homes LLC	1303202009	1400 E 6th St S	Newton	\$23,830	\$1,127.15	\$75.00	\$1,202.15	LISTER'S ACRES LOT 22	6/30/2021
RC Homes LLC	1303202010	1404 E 6th St S	Newton	\$26,080	\$1,127.15	\$75.00	\$1,202.15	LISTER'S ACRES LOTS 27 & 30	6/30/2021
RC Homes LLC	1303202011	1500 E 6th St S	Newton	\$23,830	\$1,127.15	\$75.00	\$1,202.15	LISTER'S ACRES LOT 35	6/30/2021
RC Homes LLC	827477009	901 N 6th Ave E	Newton	\$53,570	\$60.00	\$75.00	\$135.00	LONG'S SD LOT 21	7/13/2021
Blaise Land Holdings 19 LLC	834162015	323 W 2nd St S	Newton	\$126,910	\$60.00	\$75.00	\$135.00	ORIGINAL PLAT LOT 13 OUTLOT 16	7/13/2021
Sherry Stoner	833283010	623 S 4th Ave W	Newton	\$100,850	\$590.15	\$75.00	\$665.15	WEST NEWTON LOT G BLK D	7/8/2021
Brian Callison	826302004	900 E 12th St N	Newton	\$59,170	\$309.82	\$75.00	\$384.82	EMERSON HOUGH PLACE NO. 2 LOT 17 SD OF LOT 13 BLK	7/12/2021
Curtis Thorson	827403001	1030 E 7th St N	Newton	\$67,340	\$914.21	\$75.00	\$989.21	EDMUNDSON'S ADD LOT C BLK 5	7/13/2021
Total							\$13,155.41		

City of Newton Council Report

**Item:**

Resolution awarding contract for the 2021 City of Newton Parks Tree & Stump Removal Project.

Report Number: 21-229

Summary:

Award of contract to complete the removal of 24 trees at 7 city sites.

Date:

September 7, 2021

Lead Department/Division:

Community Services

Financial Impact:

\$19,449.84 from 2021 bond funds.

Recommendation:

Approve

Background:

Dead and dying trees in 7 city sites: Maytag Park, Westwood Golf Course, Callison Park, Sunset Park, Aurora Park, City Right-of-Way, and Union Cemetery create a danger to park and cemetery visitors. These trees also create an unsightly appearance. The removal of the trees, including stumps, would require more time and additional equipment that the City does not possess.

Parks Operations marked the trees needing removed and community services prepared plan and specifications for the proposed 2021 City of Newton Parks Tree & Stump Removal. Twelve bids were received and opened on August 14, 2020.

The apparent low bidder is Arborpro Tree Service of Fort Dodge, Iowa. City staff's cost estimate for this project was \$48,000.00. The project completion date is April 1, 2022. 2021 general fund bonds will be used to pay for this project.

Recommendation:

City Staff recommends that Council award the project to Arborpro Tree Service of Fort Dodge, Iowa in the amount of \$19,449.84.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION 2021- _____

**RESOLUTION AWARDING CONTRACT
FOR THE 2021 CITY OF NEWTON PARKS
TREE & STUMP REMOVAL PROJECT**

WHEREAS, dead and dying trees at 7 city sites: Maytag Park, Westwood Golf Course, Callison Park, Sunset Park, Aurora Park, City Right-of-Way, and Union Cemetery create a danger to park and cemetery visitors; and

WHEREAS, these trees also create an unsightly appearance; and

WHEREAS, city staff has neither the time nor equipment to complete the work; and

WHEREAS, the City of Newton Community Services Division prepared plans and specifications for the 2021 City of Newton Parks Tree & Stump Removal Project, and put said project out to bid; and

WHEREAS, City staff recommends that the City of Newton award a contract to Arborpro Tree Service for the 2021 City of Newton Parks Tree & Stump Removal Project based on the low responsive, responsible bid received in the amount of \$19,449.84.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the bid of Arborpro Tree Service of Fort Dodge, Iowa, in the amount of Nineteen Thousand Four Hundred Forty-Nine Dollars and Eighty-Four Cents (\$19,449.84) for the 2021 City of Newton Parks Tree & Stump Removal Project, all as described in the plans and specifications, is hereby accepted, the same being the lowest, responsive bid received for said project.

BE IT FURTHER RESOLVED, by the City Council of the City of Newton, Iowa, that the Contract and Bond executed by Arborpro Tree Service of Fort Dodge, Iowa for the 2021 City of Newton Parks Tree & Stump Removal Project as described by the plans and specifications filed in the office of the City Clerk, said contract to be signed by the Mayor and City Clerk on behalf of the City, be and the same are hereby approved. The City shall utilize 2021 bond funds to pay for this tree removal project.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution accepting completion of the Demolition 2021-02 Project.

Report Number: 21-230

Date:

September 7, 2021

Summary:

Final Acceptance of the project to complete abatement & demolition work at 209 N 13th Ave W, 909 E 7th St N, and 1015 E 9th St N.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

Council previously approved a contract for \$43,700.00; and this action would accept the project and authorize payment of the retainage amount of \$2,435.00.

Background:

Curb appeal continues to be a focus of the City per the recommendations of the adopted comprehensive plan, Newton's Future. Abating dangerous buildings within the City is one way to improve the aesthetics of Newton neighborhoods.

The City acquired 209 N 13th Ave W, 909 E 7th St N, and 1015 E 9th St N with the intent to demolish the structures on these properties through the Dangerous and Dilapidated Program. The Community Services Department prepared plans and specifications for the Demolition 2021-02 Project, and City Council passed a resolution on July 6, 2021 awarding a contract to Lanphier Excavating of Reasnor, Iowa in the amount of \$43,700.00.

The Community Services Director has signed the Statement of Completion Form stating that the project has been substantially completed in general compliance with the terms, conditions and stipulations of said contract. The final contract amount, based on actual measured quantities of work and the issuance of one change order, is \$48,700.00.

Recommendation:

City staff recommends accepting the completion of the Demolition 2021-02 Project, and authorizing the retainage amount of \$2,435.00 to be paid to the contractor no sooner than 30 days after approval of this resolution should no claims be on file.

Matt Muckler
City Administrator

RESOLUTION 2021- _____

**RESOLUTION ACCEPTING COMPLETION
OF THE DEMOLITION 2021-02 PROJECT**

WHEREAS, the City of Newton acquired 209 N 13th Ave W, 909 E 7th St N, and 1015 E 9th St N with the intent to demolish the structures on these properties through the Dangerous and Dilapidated Program; and

WHEREAS, the City of Newton Community Services Department prepared abatement and demolition plans and specifications for the Demolition 2021-02 Project, and sealed bids were received and opened for said project by the City on June 28, 2021; and

WHEREAS, the City Council of the City of Newton awarded a contract to Lanphier Excavating of Newton, Iowa in the amount of \$43,700.00 on July 6, 2021 for the Demolition 2021-02 Project; and

WHEREAS, Lanphier Excavating has completed their work, and the Community Services Director has signed the Statement of Completion Form stating that the project has been substantially completed in general compliance with the terms, conditions and stipulations of said contract.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa that the City of Newton hereby accepts completion of the project, and authorizes the Community Services Director to execute payment of the retainer in the amount of \$2,435.00 to Lanphier Excavating no sooner than 30 days after approval of this resolution, should no claims be on file, with said payment being made using Dangerous and Dilapidated Building Program funds.

.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item:

Resolution approving temporary access easement N2021-01 at 811 E 12th St PI N.

Summary:

Approve temporary access easement to allow for abatement and demolition work at adjacent property.

Financial Impact:

\$0.



Report Number: 21-231

Date:

September 7, 2021

Lead Department:

Community Services

Recommendation:

Approve

Background:

Community Services, Community Development, and the Police Department have been coordinating efforts for nuisance abatement and court-approved clean-up work at 900 E 12th St N. To gain access to the back yard of this property, permission was needed to access said lot across the property at 811 E 12th St PI N.

Community Services staff prepared a temporary access easement document providing access across 811 E 12th St PI N, presented it to the owners of said property, and secured their signatures on the easement. Approval of this temporary easement, which will not be recorded, will allow for the City and its contractors to cross the private property at 811 E 12th St PI N to access 900 E 12th St N. The City's direct cost of this easement is \$0, with the indirect cost being that needed to restore any damaged lawn following the completion of the clean-up work at 900 E 12th St N.

Recommendation:

City staff recommends approving this resolution authorizing the Mayor to sign the easement.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light blue horizontal line.

Matt Muckler
City Administrator

RESOLUTION NO. 2021 – _____

**RESOLUTION APPROVING TEMPORARY ACCESS
EASEMENT N2021-01 AT 811 E 12TH ST PL N**

WHEREAS, Community Services, Community Development, and the Police Department have been coordinating efforts for nuisance abatement and court-approved clean-up work at 900 E 12th St N; and

WHEREAS, to gain access to the back yard of this property, permission was needed to access said lot across the property at 811 E 12th St PI N; and

WHEREAS, Community Services staff prepared a temporary access easement document providing access across 811 E 12th St PI N, presented it to the owners of said property, and secured their signatures on the no-cost easement; and

WHEREAS, approval of this temporary easement, which will not be recorded, will allow for the City and its contractors to cross the private property at 811 E 12th St PI N to access 900 E 12th St N.

NOW, THEREFORE, BE IT RESOLVED, that temporary access easement N2021-01 at 811 E 12th St PI N, is hereby accepted; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newton, Iowa, that temporary access easement N2021-01 at 811 E 12th St PI N be signed by the Mayor on behalf of the City.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Prepared By:
City of Newton Community Services
403 W 4th St N – Suite 501
Newton, Iowa 50208
641-792-6622

Project: Nuisance Abatement
Easement No. N2021-01

REAL ESTATE EASEMENT

KNOW ALL PERSONS BY THESE PRESENTS:

That we, the undersigned, (hereinafter called "Property Owner") in consideration of the sum of Zero Dollars (\$0.00) to be paid by the City of Newton, Iowa upon final approval and acceptance of this Easement by the Newton City Council, do hereby convey unto the CITY OF NEWTON, IOWA, a municipal corporation, (hereinafter called "City") an EASEMENT on, under, over, through and across the following described real estate, subject to the terms and conditions specified herein:

TEMPORARY ACCESS EASEMENT

1. GRANT OF EASEMENT. A temporary easement is hereby granted on, under, over, through and across the following described property:

The north 30.0 feet and the west 20.0 feet of Lot 4, Block J, Emerson Hough Place No. 2 Newton, Iowa, hereinafter called temporary easement property.

2. TERM OF EASEMENT. The rights granted herein shall be possessed and enjoyed by city, its successors and assigns, from and after the execution of this easement agreement to and including the day of final completion of the nuisance abatement work and/or demolition work on the adjacent property.

3. PURPOSE OF EASEMENT. This grant of easement shall be for purposes including but not limited to aiding access to adjacent properties for demolition, site clean-up, mowing, or other nuisance abatement work.

4. ERECTION OF STRUCTURES PROHIBITED. Property Owner shall not erect any structure on, under, over, through, across or within the temporary easement property during the term of the easement without obtaining the prior written consent of the Community Services Director.

5. REPRESENTATION OF OWNERSHIP. Property Owner does hereby covenant with the City that Property Owner holds title to said temporary easement property in fee simple; that Property Owner has good and lawful authority to convey the same; and said Property Owner covenants to warrant and defend the said temporary easement property against, and to defend and hold City harmless from, any and all claims of all third parties whomsoever.

6. RESTORATION OF LAND. City shall restore the temporary easement property to substantially the same condition it was in prior to City's entry.

GENERAL PROVISIONS

A. APPROVAL BY CITY COUNCIL. The easement(s) granted herein shall not be binding until final approval and acceptance by the Newton City Council by RESOLUTION, whereupon the Mayor and Clerk shall be authorized to show such approval and acceptance by execution of said easement.

B. DOWER RIGHTS. Each of the undersigned hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests granted and conveyed hereby.

C. RULES OF CONSTRUCTION. Words and phrases herein including acknowledgment hereof shall be construed as in the singular or plural number, and as masculine or feminine gender, according to the context.

-2-

Signed this _____ day of _____, 20_____.

INDIVIDUAL FEE TITLE PROPERTY OWNERS

Property Owner DATE

Property Owner DATE

Address

Address

STATE OF IOWA :
:ss
JASPER COUNTY:

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared _____ and _____, (husband and wife), to me known to be the identical persons named in and who executed the foregoing instrument, and acknowledged that they executed the same as their voluntary act and deed.

Notary Public in and for the State of Iowa
(Typed Name)_____
My Commission Expires:_____

ACCEPTANCE, APPROVAL AND EXECUTION BY CITY

CITY OF NEWTON

Dated:_____

By:_____
Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

STATE OF IOWA :
:ss
JASPER COUNTY:

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Michael L. Hansen to me personally known, who being by me duly sworn, did say that he is the Mayor of said corporation; that the seal affixed thereto is the seal of said corporation; that said instrument was signed and sealed on behalf of said corporation by authority of the City Council; and that the said Michael L. Hansen as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by it and by him voluntarily executed.

(Printed Name)_____
Notary Public in and for the State of Iowa
My Commission Expires:_____

City of Newton Council Report

Item: Resolution approving updated Professional Services Agreement for the City's engineering and GIS needs.

Summary: Approval of an updated agreement for contracted engineering and GIS services.

Financial Impact: Estimated \$30,000 annually \$10,000 WPC, \$10,000 RUT, \$5,000 SWU and \$5,000 from other departments operating budgets.



Report Number: 21-232

Date: September 7, 2021

Lead Department: Public Works

Recommendation: Approve

Background:

In August of 2017 City Council approved a Professional Services agreement with Bolton/Menk Engineering to provide engineering services and no longer have a licensed engineer on staff. There was a level of uncertainty with outsourcing this service, as it was the first time the city did not have a licensed engineer on staff in decades.

The City of Newton has now worked with Bolton/Menk for 4 years to provide Professional Engineer services. Contracting for professional engineering services with Bolton/Menk has worked better than expected. The level of response, variety of expertise in specialized fields, in addition to cost savings has made complete organizational and financial sense.

In addition to the engineering services Bolton/Menk was also selected to provide GIS services and be the host provider of the City of Newton's GIS system. This again has worked out better than expected. The only change or addition to the updated professional services agreement is adding the GIS services to the Basic services section of the professional services agreement. Bolton/Menk is not proposing any new fees or rate increases to this agreement. The GIS costs not exceed the annual GIS expenses allocated in the operating budgets.

Recommendation:

Council approves updated professional services agreement for engineering and GIS services with Bolton & Menk of Des Moines, Iowa.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light blue horizontal line.

Matt Muckler
City Administrator

RESOLUTION NO. 2021-_____

**RESOLUTION APPROVING UPDATED PROFESSIONAL SERVICES
AGREEMENT FOR THE CITY'S ENGINEERING AND GIS NEEDS.**

WHEREAS, the City of Newton has been using Bolton/Menk for Engineering services for the past four years; and

WHEREAS, the City of Newton has been using Bolton/Menk for GIS services for the past two years; and

WHEREAS, City staff has been completely satisfied with the all the professional services Bolton/Menk has provided; and

WHEREAS, Bolton/Menk has updated their Professional Services Agreement to include GIS services to the basic services section of the agreement; and

WHEREAS, City staff recommends that Council approve entering into an updated professional services agreement to also include GIS services with Bolton & Menk of Des Moines, Iowa for an amount not to exceed the annual operating budgeted amounts.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the recommendation to enter into an updated agreement for professional services for engineering and GIS with Bolton & Menk of Des Moines, Iowa in an amount not to exceed the annual operating budget is hereby accepted.

BE IT FURTHER RESOLVED, by the City Council of the City of Newton, Iowa, that said professional services agreement to be signed by the Mayor and City Clerk on behalf of the City, is hereby approved. The estimated annual cost of \$30,000 for the GIS services included in this agreement shall be paid from operating budgets, estimated at \$10,000 from Road Use Tax (RUT), \$10,000 from Water Pollution Control (WPC), \$5,000 from Stormwater Utility (SWU), \$5,000 from various other departments for GIS needs.

PASSED this _____ day of September 2021.

APPROVED this _____ day of September 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

AGREEMENT FOR PROFESSIONAL SERVICES

GENERAL ENGINEERING SERVICES

CITY OF NEWTON, IOWA

This Agreement, made this 7th day of September 2021, by and between City of Newton, 101 West 4th Street South, Newton, Iowa 50208, hereinafter referred to as CLIENT, and BOLTON & MENK, INC., 430 E Grand Avenue, Suite 101, Des Moines, IA 50309, hereinafter referred to as CONSULTANT.

WITNESS, whereas the CLIENT requires professional General Engineering Services in conjunction with various City projects and whereas the CONSULTANT agrees to furnish the various professional services required by the CLIENT.

NOW, THEREFORE, in consideration of the mutual covenants and promises between the parties hereto, it is agreed:

SECTION I - CONSULTANT'S SERVICES

- A. The CONSULTANT agrees to perform General Engineering Services requested by the CLIENT as described in Section III-A of this Agreement.
- B. Upon mutual agreement of the parties hereto, Additional Project Engineering Services may be authorized by separate work order as outlined in Section III – B of this Agreement.

SECTION II - THE CLIENT'S RESPONSIBILITIES

- A. The CLIENT shall promptly compensate the CONSULTANT in accordance with Section III of this Agreement.
- B. The CLIENT shall place any and all previously acquired information in its custody at the disposal of the CONSULTANT for its use. Such information shall include but shall not be limited boundary surveys, topographic surveys, preliminary sketch plan layouts, building plans, soil surveys, drainage reports, abstracts, deed descriptions, tile maps and layouts, aerial photos, utility agreements, environmental reviews, and zoning limitations. The CONSULTANT may rely upon the accuracy and sufficiency of all such information in performing services unless otherwise instructed, in writing, by CLIENT.
- C. The CLIENT will guarantee access to and make all provisions for entry upon both public and private portions of the project and pertinent adjoining properties.
- D. The CLIENT will give prompt notice to the CONSULTANT whenever the CLIENT observes or otherwise becomes aware of any defect in the proposed project.

- E. The CLIENT shall designate a liaison person to act as the CLIENT'S representative with respect to services to be rendered under this Agreement. Said representative shall have the authority to transmit instructions, receive instructions, receive information, interpret and define the CLIENT'S policies with respect to the project and CONSULTANT'S services.

Brian Laube, Community Services Director Jody Rhone, Public Works Director
City of Newton 403 W 4 th Street N, Suite 501 Newton, IA 50208 Phone: (641) 792-6622

- F. The CLIENT shall provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for completion of the consultant services described in this agreement.
- G. The CLIENT will obtain any and all regulatory permits required for the proper and legal execution of the project.
- H. The CLIENT will hire, when requested by the CONSULTANT, an independent test company to perform laboratory and material testing services, and soil investigation that can be justified for the proper design and construction of the project. The CONSULTANT shall assist the CLIENT in selecting a testing company. Payment for testing services shall be made directly to the testing company by the CLIENT and is not part of this Agreement.

SECTION III - COMPENSATION FOR SERVICES

- A. **Basic Services.** CONSULTANT proposes to serve the City of Newton on an hourly basis. Therefore, to assist the City in handling day-to-day general engineering items not associated with a particular project it is proposed to perform these tasks at reduced rate of \$85/hour for the Consultant City Engineer and other professional engineers for non-project related services up to 40 hours per month, including two public meetings per month. As this applies to non-project related items, the savings is generally related to expenditures from the general fund budget of the CLIENT. For work requested in excess of 40 hours per month, standard hourly billing rates shall apply.

CONSULTANT will continue provide GIS services in accordance with Professional Service Agreement #A13118495, dated April 1st, 2019. Therefore, to assist the CLIENT in handling day-to-day general GIS items not associated with a particular project it is proposed to perform these tasks at an hourly rate for non-project related services up to the annual budget as directed by the CLIENT.

- B. **Project Engineering Services.** When requested by the Client, Bolton & Menk will develop, by Work Order, a scope of services and estimate of hours to complete each project. This information will be the basis for developing a fee for projects.

Billings are based on hours spent at rates in effect for the individuals performing the work. The hourly rates for Principals, Senior Associates, Associates and members of the staff vary according to skill and experience. These rates shall apply for projects for the period through December 31, 2021 and may be adjusted annually thereafter to account for changed labor costs, inflation or changed overhead conditions.

Hourly rates include labor, general business and other normal and customary expenses associated with operating a professional business. Unless otherwise agreed, the above rates include vehicle and personal expenses, mileage, telephone, survey stakes and routine expendable supplies; and no separate charges will be made for these activities and materials. Expenses beyond the agreed scope of services and non-routine expenses, such as large quantities of prints, extra report copies, out-sourced graphics and photographic reproductions, document recording fees, outside professional and technical assistance and other items of this general nature, will be invoiced separately, upon client approval. Rates and charges do not include sales tax, if applicable.

The CLIENT will compensate the CONSULTANT in accordance with the attached schedule of fees effective through December 31, 2021 for the time spent in performance of Agreement services.

IV - GENERAL

- A. **Standard of Care.** Professional services provided under this Agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the Consultant's profession currently practicing under similar conditions. No warranty, express or implied, is made.
- B. **Change in Project Scope.** In the event the CLIENT changes or is required to change the scope of the project from that described in Section I and/or the applicable addendum, and such changes require Additional Services by the CONSULTANT, the CONSULTANT shall be entitled to additional compensation at the applicable hourly rates. The CONSULTANT shall give notice to the CLIENT of any Additional Services, prior to furnishing such additional services. The CLIENT may request an estimate of additional cost from the CONSULTANT, and upon receipt of the request, the CONSULTANT shall furnish such, prior to authorization of the changed scope of work.
- C. **Limitation of Liability.** CONSULTANT shall indemnify, defend, and hold harmless CLIENT and its officials, agents and employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CONSULTANT'S employees, agents, or subconsultants. In no event shall CLIENT be liable to CONSULTANT for consequential, incidental, indirect, special, or punitive damages.

CLIENT shall indemnify, defend, and hold harmless CONSULTANT and its employees from any loss, claim, liability, and expense (including reasonable attorneys' fees and expenses of litigation) arising from, or based in the whole, or in any part, on any negligent act or omission by CLIENT'S employees, agents, or consultants. In no event shall CONSULTANT be liable to CLIENT for consequential, incidental, indirect, special, or punitive damages.

Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the CLIENT or the CONSULTANT. The CONSULTANT'S

services under this Agreement are being performed solely for the CLIENT'S benefit, and no other entity shall have any claim against the CONSULTANT because of this Agreement or the performance or nonperformance of services provided hereunder. The CLIENT agrees to include a provision in all contracts with contractors and other entities involved in this project to carry out the intent of the paragraph.

- D. **Insurance.** The CONSULTANT agrees to maintain, at the CONSULTANT'S expense, statutory worker's compensation coverage.

The CONSULTANT also agrees to maintain, at CONSULTANT'S expense, general liability insurance coverage insuring CONSULTANT against claims for bodily injury, death or property damage arising out of CONSULTANT'S general business activities (including automobile use). The liability insurance policy shall provide coverage for each occurrence in the minimum amount of \$1,000,000.

During the period of design and construction of the project, the CONSULTANT also agrees to maintain, at CONSULTANT'S expense, Professional Liability Insurance coverage insuring CONSULTANT against damages for legal liability arising from an error, omission or negligent act in the performance of professional services required by this agreement, providing that such coverage is reasonably available at commercially affordable premiums. For purposes of this agreement, "reasonably available" and "commercially affordable" shall mean that more than half of the design professionals practicing in this state in CONSULTANT'S discipline are able to obtain coverage. The professional liability insurance policy shall provide coverage for each occurrence in the amount of \$1,000,000 and annual aggregate of \$1,000,000 on a claims-made basis.

Upon request of CLIENT, CONSULTANT shall provide CLIENT with certificates of insurance, showing evidence of required coverages.

- E. **Opinions or Estimates of Construction Cost.** Where provided by the CONSULTANT as part of Exhibit I or otherwise, opinions or estimates of construction cost will generally be based upon public construction cost information. Since the CONSULTANT has no control over the cost of labor, materials, competitive bidding process, weather conditions and other factors affecting the cost of construction, all cost estimates are opinions for general information of the CLIENT and the CONSULTANT does not warrant or guarantee the accuracy of construction cost opinions or estimates. The CLIENT acknowledges that costs for project financing should be based upon contracted construction costs with appropriate contingencies.
- F. **Construction Services.** It is agreed that the CONSULTANT and its representatives shall not be responsible for the means, methods, techniques, schedules or procedures of construction selected by the contractor or the safety precautions or programs incident to the work of the contractor.
- G. **Use of Electronic/Digital Data.** Because of the potential instability of electronic/digital data and susceptibility to unauthorized changes, copies of documents that may be relied upon by CLIENT are limited to the printed copies (also known as hard copies) that are signed or sealed by CONSULTANT. Except for electronic/digital data which is specifically identified as a project deliverable by this AGREEMENT or except as otherwise explicitly provided in this AGREEMENT, all electronic/digital data developed by the CONSULTANT as part of the PROJECT is acknowledged to be an internal working document for the CONSULTANT'S purposes solely and any such information provided to the CLIENT shall be on an "AS IS" basis strictly for the convenience of the CLIENT without any warranties of any kind. As such, the

CLIENT is advised and acknowledges that use of such information may require substantial modification and independent verification by the CLIENT (or its designees). Provision of electronic/digital data, whether required by this Agreement or provided as a convenience to the Client, does not include any license of software or other systems necessary to read, use or reproduce the information. It is the responsibility of the CLIENT to verify compatibility with its system and long-term stability of media. CLIENT shall indemnify and hold harmless CONSULTANT and its Subconsultants from all claims, damages, losses, and expenses, including attorneys' fees arising out of or resulting from third party use or any adaptation or distribution of electronic/digital data provided under this AGREEMENT, unless such third party use and adaptation or distribution is explicitly authorized by this AGREEMENT.

- H. **Reuse of Documents.** Drawings and Specifications and all other documents (including electronic and digital versions of any documents) prepared or furnished by CONSULTANT pursuant to this AGREEMENT are instruments of service in respect to the Project and CONSULTANT shall retain an ownership interest therein. Upon payment of all fees owed to the CONSULTANT, the CLIENT shall acquire an ownership interest in all identified deliverables, including Plans and Specifications, for any reasonable use relative to the Project and the general operations of the CLIENT. CLIENT may make and disseminate copies for information and reference in connection with the use and maintenance of the Project by the CLIENT. However, such documents are not intended or represented to be suitable for reuse by CLIENT or others on extensions of the Project or on any other project and any reuse other than that specifically intended by this AGREEMENT will be at CLIENT'S sole risk and without liability or legal exposure to CONSULTANT.
- I. **Confidentiality.** CONSULTANT agrees to keep confidential and not to disclose to any person or entity, other than CONSULTANT'S employees and subconsultants any information obtained from CLIENT not previously in the public domain or not otherwise previously known to or generated by CONSULTANT. These provisions shall not apply to information in whatever form that comes into the public domain through no fault of CONSULTANT; or is furnished to CONSULTANT by a third party who is under no obligation to keep such information confidential; or is information for which the CONSULTANT is required to provide by law or authority with proper jurisdiction; or is information upon which the CONSULTANT must rely for defense of any claim or legal action.
- J. **Period of Agreement.** This Agreement will remain in effect for a period of two years or such other explicitly identified completion period, after which time the Agreement may be extended upon mutual agreement of both parties.
- K. **Payments.** If CLIENT fails to make any payment due CONSULTANT for services and expenses within thirty days after date of the CONSULTANT'S invoice, a service charge of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less, may be charged on any unpaid balance. In addition after giving seven days' written notice to CLIENT, CONSULTANT may, without waiving any claim or right against the CLIENT and without incurring liability whatsoever to the CLIENT, suspend services and withhold project deliverables due under this Agreement until CONSULTANT has been paid in full all amounts due for services, expenses and charges.
- L. **Termination.** This Agreement may be terminated by either party for any reason or for convenience by either party upon thirty (30) days written notice.

In the event of termination, the CLIENT shall be obligated to the CONSULTANT for payment of amounts due and owing including payment for services performed or furnished to the date and time of termination, computed in accordance with Section III of this Agreement.

- M. **Contingent Fee.** The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT to solicit or secure this Contract, and that it has not paid or agreed to pay any company or person, other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or any other consideration, contingent upon or resulting from award or making of this Agreement.
- N. **Non-Discrimination.** The provisions of any applicable law or ordinance relating to civil rights and discrimination shall be considered part of this Agreement as if fully set forth herein.

The CONSULTANT is an Equal Opportunity Employer and it is the policy of the CONSULTANT that all employees, persons seeking employment, subcontractors, subconsultants and vendors are treated without regard to their race, religion, sex, color, national origin, disability, age, sexual orientation, marital status, public assistance status or any other characteristic protected by federal, state or local law.

- O. **Controlling Law.** This Agreement is to be governed by the law of the State of Iowa.
- P. **Dispute Resolution.** CLIENT and CONSULTANT agree to negotiate all disputes between them in good faith for a period of 30 days from the date of notice of dispute prior to proceeding to formal dispute resolution or exercising their rights under law. Any claims or disputes unresolved after good faith negotiations shall first be submitted to mediation, using a mutually acceptable Neutral Third Party and mutually agreeable mediation process. If the mediation is unsuccessful in resolving the dispute, the parties may mutually agree to submit to another method of dispute resolution or submit the dispute to a court of competent jurisdiction.
- Q. **Survival.** All obligations, representations and provisions made in or given in Section IV of this Agreement will survive the completion of all services of the CONSULTANT under this Agreement or the termination of this Agreement for any reason.
- R. **Severability.** Any provision or part of the Agreement held to be void or unenforceable under any law or regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon CLIENT and CONSULTANT, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

SECTION V - SIGNATURES

THIS INSTRUMENT embodies the whole agreement of the parties, there being no promises, terms, conditions or obligation referring to the subject matter other than contained herein. This Agreement may only be amended, supplemented, modified or canceled by a duly executed written instrument signed by both parties.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their behalf.

CLIENT: City of Newton, Iowa

CONSULTANT: Bolton & Menk, Inc.

Michael Hanson, Mayor



Charles N. Kahlsdorf P.E., PMP
Project Manager

Attest: Katrina Davis, City Clerk

31 AUG 2021

Date

Date

City of Newton Council Report

Item: Resolution authorizing signing Settlement Agreement and releasing of retainage for the 2017 UV disinfection project.

Summary: Signing settlement agreement and paying retainage funds to Trojan Technologies.

Financial Impact: Release of the retainage amount of \$39,901.93



Report Number: 21-233

Date: September 7, 2021

Lead Department/Division:
Public Works

Recommendation: Approve

Background:

On the regularly scheduled city council meeting of October 7th 2019 City Council accepted completion of the 2017 UV Disinfection Project, and authorized the retainage amount of \$39,901.93 to be paid to the contractor Calacci Construction no sooner than 30 days after approval of the resolution, should no claims be on file.

It was discovered there were several claims on file, therefor the retainage amount was not paid out to Calacci Construction. Since that time negotiations between Calacci Construction, subcontractors, suppliers, Westfield Insurance bonding agent and the City of Newton have been ongoing.

All parties involved have negotiated a Settlement Agreement. This Settlement Agreement authorizes the City of Newton to pay the retained amount directly to Trojan Technologies and releases the City of Newton of any and all future claims.

This Settlement Agreement is agreeable by both City of Newton Staff and Legal Counsel.

Recommendation:

Mayor sign Settlement Agreement, and authorize the Public Works Director to release retainage amount of \$39,901.93 to be paid directly to Trojan Technologies.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler
City Administrator

RESOLUTION 2021- _____

**RESOLUTION AUTHORIZING SIGNING SETTLEMENT AGREEMENT AND
RELEASING OF RETAINAGE FOR THE 2017 UV DISINFECTION PROJECT**

WHEREAS, at the October 7th, 2019 Newton City Council meeting, City Council accepted completion of the project, approved the final contract amount and authorized the Public Works Director to execute payment of the retainer in the amount of \$39,901.93 to Calacci Construction no sooner than 30 days after approval of this resolution, should no claims be on file; and

WHEREAS, it was discovered there were several claims on file, therefor the retainage amount was not paid out to Calacci; and

WHEREAS, negotiations between Calacci, the subcontractors, suppliers, Westfield Insurance and the City of Newton have been ongoing; and

WHEREAS, this Settlement Agreement and Release supersedes any and all other discussions and agreements; and

WHEREAS, this agreement has been approved by the City of Newton legal counsel; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa that the City of Newton hereby authorizes the Mayor to sign the Settlement Agreement and authorizes the Public Works Director to execute payment of the retainer in the amount of \$39,901.93 directly to Trojan Technologies.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

SETTLEMENT AGREEMENT
AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (this "Settlement Agreement") is made to be effective on August 12, 2021 and is entered into by and between the City of Newton, Iowa ("Newton"), and Calacci Construction Company ("Calacci"), (collectively "the Parties").

Recitals

The recitals, below, are true and correct and are material terms of this Settlement Agreement, and the Recitals are incorporated into and are part of the Settlement Agreement.

WHEREAS, on October 13, 2017, Newton, as owner, and Calacci, as contractor, entered into a construction contract ("the Contract") for the UV Disinfection Improvements ("the Project").

WHEREAS, Westfield Insurance Company ("Westfield") issued Performance and Payment bonds for the Project naming Calacci as Principal and Newton as Obligatee.

WHEREAS, the Newton currently holds retention in the amount of \$39,901.93 (the "Contract Balance").

WHEREAS, Calacci's obligations to subcontractors and suppliers exceed the remaining Contract Balance. In order to complete close out of the Contract and avoid a protracted lawsuit, and the Parties wish to reduce the terms of their agreement and compromise to writing herein.

NOW, THEREFORE, for mutual consideration as described herein, the Parties hereto agree as follows:

1. **Mutual Release.** Except for the obligations and exceptions specifically stated in this Settlement Agreement, each Party (for itself and its respective officers, directors, owners,

officials, councils, boards, departments, shareholders, employees, agents, insurers, successors, and assigns) hereby releases, acquits, and forever discharges the other Party (and its respective officers, directors, owners, officials, councils, boards, departments, shareholders, employees, agents, insurers, successors, and assigns) from any and all manner of actions, suits, claims, counterclaims, demands, causes of action, debts, promises, damages, costs, and liquidated damages related to or arising out of the Project and/or the Contract, which are known or reasonably should have been known by the releasing Party as of the date of this Settlement Agreement, except Newton specifically retains all rights against Calacci under all warranties set forth in the Contract which may remain in force and effect, if any. Nothing in this Settlement Agreement is intended to revoke, modify, or release the Agreement of Indemnity, settlement agreement, and Promissory Note between Calacci, its indemnitors, and Westfield. These separate agreements shall continue in full force and effect.

2. **Payments by Calacci.** Calacci represents and warrants that **Exhibit A** includes all outstanding claims for all subcontractors, sub-subcontractors, materialmen, suppliers, and other service providers that performed work on the Project of which Calacci is aware (collectively "Subcontractors"). Calacci agrees it will make payments to all Subcontractors designated on **Exhibit A** that Calacci has promised to pay directly and are labeled as "Calacci to Pay" on **Exhibit A** (hereafter "Calacci to pay subcontractors"). Calacci must provide Newton with Final Lien Waivers and Releases of Claim for Jetco Inc. and Schaus-Vorhies Mfg. as proof of final payment. Calacci must provide both a Partial Lien Waiver and Release of Claim for Trojan Technologies ("Trojan") acknowledging receipt of the Calacci to Pay amount for Trojan and a Conditional Final Waiver and Release of Claim from Trojan evidencing the only remaining amount due Trojan on the Project is \$39,901.93, a sum equal

to the Contract Balance held by Newton. Calacci reserves the right to negotiate payment sums with subcontractors for amounts less than expressed on **Exhibit A** provided subcontractors provide the Lien Waivers and Release of Claims that comply with the requirements of this Settlement Agreement. Newton has no obligation to make any payments until the Lien Waivers and Release of Claims from Calacci to pay subcontractors have been delivered to Newton. The Parties acknowledge that Calacci may not have the financial ability to pay all "Calacci to pay subcontractors" in which case Westfield may pay "Calacci to pay subcontractors" pursuant to Westfield's obligations under the Payment bond. A Separate Agreement of Indemnity, settlement agreement, and Promissory Note exists between Calacci, its indemnitors and Westfield all of which shall continue in full force and effect.

3. **Payments by Newton.** Provided Calacci strictly and fully complies with all of the conditions precedent included in Paragraph 2 regarding its payment obligations and obtaining Lien Waivers and Release of Claims from all subcontractors in Exhibit A, Newton agrees to pay the Contract Balance of \$39,901.93 directly to Trojan as expressed on **Exhibit A** and as labeled as "Newton to Pay" on **Exhibit A** within 30 days after Calacci complies with all requirements described in Paragraph 2 of the Settlement Agreement ("Final Payment.") Calacci will provide any further payment instructions for this payment by Newton to Trojan as needed. This payment will constitute final payment to Trojan on the Project and fulfill the Final Conditional Waiver executed by Trojan. Calacci also agrees this payment of the Contract Balance of \$39,901.93 by Newton directly to Trojan shall also constitute Final Payment under the Contract to Calacci, including all subcontractors and all suppliers for the work under the Contract.

4. **Indemnification.** To the fullest extent permitted by law, Calacci shall

indemnify and hold harmless Newton, Newton's employees, elected officials and agents, or any of them from it against claims, damages, losses and expenses, including but not limited to attorneys' fees, costs, and expert fees, arising out of or resulting from any claims, demands, or causes of action related to the Project asserted by any person or entity Calacci may have contracted with, or any downstream contractor that performed work for the Project. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this paragraph. Calacci represents and warrants that no other persons or entities have made any claims to Calacci for payment except those described in Exhibit A, and Calacci will indemnify Newton pursuant to the first sentence of the paragraph whether or not the party is listed on **Exhibit A**.

5. **Warranties.** This Settlement Agreement does not affect Calacci's Contract warranty or manufacturer warranties for building materials or equipment supplied by Calacci or its subcontractors/suppliers which are incorporated into the Project, or any other warranties set forth in the Contract. The warranties stand on their own terms. Warranty claims shall be made pursuant to the terms of the Contract.

6. **Change Order Requests.** The parties agree that no additional or pending change orders or change proposal requests will be recognized, processed, or approved, and that no additional credits or deductions will be recognized or credited to either party.

7. **Closeout:** Calacci agrees it will cooperate with Newton and its employees or agents for any remaining closeout matters required by the Contract.

8. **Consent and Advice of Counsel.** The Parties each represent that they have been represented by independent legal counsel, or that they have had the opportunity to retain independent legal counsel, that they have read the terms of this Settlement Agreement and that

the terms of this Settlement Agreement have been completely read and explained to them by their attorney, or if they did not have an attorney, that those terms are fully understood, and voluntarily accepted by them. The Parties further affirmatively represent that they have voluntarily entered into this Settlement Agreement and that there are no representations made by any party or their attorneys, agents or other representatives which are not expressly set forth in this Settlement Agreement.

9. Miscellaneous Provisions.

a. Amendments and Alterations. Amendments and alterations to this Settlement Agreement shall be in writing and signed by both Calacci and Newton.

b. Entire Agreement. The foregoing constitutes the entire agreement between the Parties. All prior settlement discussions are superseded. No modification of any of the terms or conditions contained herein may be made except by subsequent written documents signed by both of the Parties

c. Severability. If one provision of this Settlement Agreement is held invalid, then the Parties agree that the remaining portions of the Settlement Agreement are valid and enforceable and the invalidity or unenforceability of one provision shall not affect any other provision of this Settlement Agreement.

d. Binding Effect. Assignment. This Settlement Agreement is binding upon and inures to the benefit of the Parties, and their successors and assigns.

e. Waiver. No waiver of any term or provision of this Settlement Agreement shall be effective unless set forth in any written documents signed by the party charged thereby and the waiver shall be limited to the circumstances or events specifically referred to in the written waiver or document. It shall not be deemed a

waiver of any other term or provision of this Settlement Agreement of the same circumstance or event upon any recurrence thereof.

f. Governing Law. This Settlement Agreement, and other documents taken hereunder, shall be governed by and construed in accordance with the laws of the State of Iowa. Any actions regarding any dispute or any other matter regarding or arising out of this Settlement Agreement shall be venued in the Iowa District Court for Jasper County. In the event of any dispute arising out of this Settlement Agreement, the prevailing party shall be entitled to recover its reasonable attorney fees and costs.

g. Authority. The persons signing this Settlement Agreement have the authority to bind Newton and Calacci, and this representation survives execution of this Settlement Agreement. Newton represents that all government approvals were obtained before signing the Settlement Agreement.

h. Ownership of Claims. The Parties represent and warrant that they are the sole owner of all claims released herein, that they have not assigned, transferred, or encumbered all or any part or interest in such claims, and that they possess full right, power and authority to sign this Agreement and thereby fully and effectively release and extinguish all such claims.

i. No Single Drafter. The Parties agree that there is no single drafter of this Settlement Agreement and the Settlement Documents. The Parties agree that they both participated in the drafting of the Settlement Agreement and Settlement Documents and they retained legal counsel to draft, review, and approve the Settlement Agreement and Settlement Documents. The Settlement Agreement and Settlement Documents shall be construed according to their plain language and shall not be interpreted for or

against either party.

j. Headings. The headings in this Settlement Agreement are for convenience purposes only and do constitute substantive terms of this Settlement Agreement.

IN WITNESS WHEREOF, this Settlement Agreement is entered into as of the date set forth above.

CITY OF NEWTON, IOWA

By: _____

Its: _____

Dated: _____

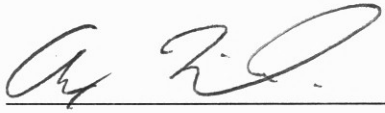
**CALACCI CONSTRUCTION
COMPANY**

By: _____

Its: _____

Dated: _____

WESTFIELD INSURANCE
COMPANY

By: 

Its: SR SURETY CLAIMS COUNSEL

Dated: 8/12/2021

EXHIBIT A

<u>Subcontractor</u>	<u>Total Amount Due</u>	<u>Calacci to Pay</u>	<u>Newton To Pay</u>
Jetco Inc.	\$5,655.50	\$5,655.50	-
Schaus-Vorhies Mfg.	\$22,518.00	\$22,518.99	-
Trojan Technologies	\$162,926.00	\$123,024.07	\$39,901.93

City of Newton Council Report

Item: Resolution authorizing payment for the repair of Salt and sand storage building.

Summary: Authorize payment for repairs completed to buildings from Derecho storm.

Financial Impact: \$13,730.39 paid with ICAP insurance funds.



Report Number: 21-234

Date: September 7, 2021

Lead Department: Public Works

Recommendation: Approve

Background

Public Works Operations has a salt and sand storage hoop building that was damaged in the Derecho storm of August 10, 2020. This damage was covered by ICAP insurance. ICAP did not require multiple quotes, but rather one quote from the original Builder of the building Freedom Buildings.

The City of Newton submitted the claim to ICAP for the repair and has already received the reimbursement funds.

The following quote was obtained:

<u>Equipment Dealer</u>	<u>Quote Price</u>
Freedom Buildings, Belle Plaine, Iowa	\$13,730.39

Recommendation

Approval of the resolution authorizing payment to Freedom Buildings in the amount of \$13,709.39 for the repair of the salt and sand storage building, utilizing ICAP insurance claims to pay for this repair.



Matt Muckler
City Administrator

RESOLUTION NO. 2021-_____

**RESOLUTION AUTHORIZING PAYMENT FOR THE REPAIR OF SALT
AND SAND STORAGE BUILDING.**

WHEREAS, Public Works Operations has a salt and sand storage hoop building that was damaged in the Derecho storm of August 10, 2020; and

WHEREAS, This damage was covered by ICAP insurance; and

WHEREAS, ICAP did not require multiple quotes, but rather one quote from the original Builder of the building, Freedom Buildings; and

WHEREAS, The City of Newton submitted the claim to ICAP for the repair and has already received the reimbursement funds; and

WHEREAS, The repairs have been completed; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, authorizes payment to Freedom Buildings of Belle Plaine, Iowa in the amount of \$13,730.39 for the repairs to the salt and sand storage building, utilizing ICAP Insurance reimbursement funds to pay for this repair.

PASSED this _____ day of _____, 2021.

APPROVED this _____ day of _____, 2021.

(SEAL)

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Estimate from Freedom Buildings Inc.

Date: 8/27/2020
Name: City of Newton
Address: 1700 N 4th Ave W
City, State, Zip: Newton, IA 50208
Phone: (641) 521-5375
Alt Phone: Mike
Fax:
Email: mikew@newtongov.org



Thank you for your interest we are pleased to submit the following estimate:

This job will be based on time and material

Recover 50x96 LBS. New pvc/belting, new endflap cables, new no-sew straps. One new 16' purlin. Reattach one plate back to wall with precast wall bracket. Replace all buffer boards on the sides. Two new winch mount brackets for precast wall. Tax exempt. Project will be done based on time and material.

Quantity	Description	Total Price
1	Cover-All LBS 50x96; 16' On/Center recover	\$5,279.52
1	PVC & Belting Package	\$478.80
1	16' Purlin	\$105.75
1	End Flap Cables Package	\$112.39
0	Tie-Down Package	\$0.00
0	Eave and End Package	\$0.00
1	Lumber, Steel, and Hardware Package	\$1,203.94
0	Door and Vent Package	\$0.00
0	Curtain and Cranks Package	\$0.00

Thank you for the opportunity,

Justin Adams
(319) 310-6437

Subtotal	\$7,180.39
Freight	\$500.00
Labor	\$4,800.00
Equipment	\$1,250.00
Total	\$13,730.39

Freedom Buildings Inc.
508 3rd Street
Belle Plaine, IA 52208
(319) 777-8093

www.freedombuildings.us

This bid includes tax unless otherwise specified.

Concrete not included in price to be customer supplied.

All grade work customer supplied prior to construction. Level site required.

Any underground obstructions can be additional charge.

Price subject to change.

This price is good for 30 days.

City of Newton Council Report

Item: Resolution awarding the purchase of battery powered extrication equipment.

Summary: Resolution to purchase battery powered extrication equipment including a cutter, spreader, ram, combination tool, batteries and charger.

Financial Impact: \$21,754 from the 2021 Bond Proceeds for Fire Department Other Capital Equipment.



Report Number: 21-235

Date: September 7, 2021

Lead Department:
Fire Department

Recommendation:
Approve

Background:

The Fire Department is purchasing a new set of battery powered extrication tools. The main advantages of battery operated tools are numerous. First, they do not require a corded connection to large hydraulic pump. Second, they can be deployed very quickly. No pump motor to start, no connections to be made. Simply attach battery and turn on the unit. Third, no ongoing maintenance of powered pumps for operation. Finally, they are very quiet. They can be operated without a noisy pump running close to the accident scene.

Project scope was prepared by the Fire Department and vendors came in to demonstrate the products they represented. The City of Newton received bids from two vendors:

<u>Company</u>	<u>Quote</u>
<i>Battery Powered Extrication Tools</i>	
Sandry Fire Supply	\$ 21,754
Reliant Fire Apparatus	\$ 32,775

RECOMMENDATION

City Staff recommends Council award the purchase of battery powered extrication equipment to the lowest responsible bidder, Sandry Fire Supply of DeWitt, Iowa in the amount of \$21,754. Funds from the 2021 Bond Proceeds for Fire Department Other Capital Equipment will be used to pay the \$21,754 project cost.

Matt Muckler
City Administrator

RESOLUTION NO. 2021-_____

**RESOLUTION AWARDING THE PURCHASE OF BATTERY POWERED
EXTRICATION EQUIPMENT**

WHEREAS, the Fire Department utilizes extrication equipment for the removal of patients from vehicle accidents; and

WHEREAS, significant changes in the battery powered extrication tool market have made them very dependable and cost efficient; and

WHEREAS, specifications were prepared and bids sought from two vendors; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the bids for battery powered extrication equipment be accepted from Sandry Fire Supply of DeWitt, Iowa for the purchase of battery powered extrication equipment in the amount of \$21,754;

BE IT FURTHER RESOLVED, the total purchase of twenty one thousand seven hundred fifty four dollars and zero cents (\$ 21,754) for the 2021 extrication tools equipment project, is hereby approved. The project cost will be paid from the 2021 Bond Proceeds for Fire Department Other Capital Equipment.

PASSED this _____ day of September 2021.

APPROVED this _____ day of September 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item: Resolution setting a public hearing and inviting proposals for the sale of property at 900 South 5th Avenue East, 1106 South 5th Avenue East, and 200 East 8th Street North in Newton

Summary: The City acquired these properties through the D&D program. In order to sell the property, City Council must first set a public hearing to consider proposals from the public.

Financial Impact: No cost.



Report Number: 21-236

Date: September 7, 2021

Lead Department: Community Development Department

Recommendation:
Approve

Summary: The City acquired 900 South 5th Avenue East, 1106 South 5th Avenue East, and 200 East 8th Street North through the D&D program. There has been expressed interest in these properties.

Iowa Code Chapter 364.7 requires cities to set public hearings before disposing of any property. Public notice would then be published in the *Newton Daily News* and all interested parties would be able to submit proposals.

The attached Resolution sets a public hearing for the regular Council meeting on October 4, 2021. Proposals will be accepted until 10:00 am on September 27, 2021.

Recommendation:

City Staff recommends approval.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light blue horizontal line.

Matt Muckler
City Administrator

RESOLUTION NO. 2021 – _____

RESOLUTION SETTING A PUBLIC HEARING AND INVITING PROPOSALS FOR THE SALE OF PROPERTY AT 900 SOUTH 5TH AVENUE EAST, 1106 SOUTH 5TH AVENUE EAST, AND 200 EAST 8TH STREET NORTH IN NEWTON

WHEREAS, the City of Newton owns property located at:
900 South 5th Avenue East, legally described as: LOT "C" IN LUSKS (A/K/A LUSK'S) SUBDIVISION, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF NEWTON, JASPER COUNTY, IOWA;

1106 South 5th Avenue East, legally described as: THE EAST HALF OF THE SOUTH 178 FEET OF LOT A OF BLOCK U IN JONES' SUBDIVISION OF THE CITY OF NEWTON, JASPER COUNTY, IOWA AS SAME APPEARS IN PLAT BOOK C AT PAGE 91 IN THE OFFICE OF THE RECORDER OF SAID COUNTY;

200 East 8th Street North, legally described as: LOT 7 IN LEE'S SUBDIVISION OF PART OF LOT 7 IN EAST ADDITION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA;

WHEREAS, said real estate is not needed for public purposes, and

WHEREAS, Iowa Code Chapter 364.7 requires cities to set and hold a public hearing before selling or disposing of real estate, and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa:

Section 1: That the Public Notice in substantially the following form shall be given that a Public Hearing be held at 6:00 pm on October 4, 2021, in the City Council Chambers of City Hall, 101 West 4th Street South, and/or via Zoom to consider the sale of the above noted property:

PUBLIC NOTICE

The City Council of Newton, Iowa will hold a Public Hearing at 6:00 p.m. on October 4, 2021, at City Hall, 101 West 4th Street South, and/or via Zoom to consider proposals for purchase of the property located at 900 South 5th Avenue East, 1106 South 5th Avenue East, and 200 East 8th Street North, Newton, IA. The properties are legally described as: LOT "C" IN LUSKS (A/K/A LUSK'S) SUBDIVISION, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF NEWTON, JASPER COUNTY, IOWA; THE EAST HALF OF THE SOUTH 178 FEET OF LOT A OF BLOCK U IN JONES' SUBDIVISION OF THE CITY OF NEWTON, JASPER COUNTY, IOWA AS SAME APPEARS IN PLAT BOOK C AT PAGE 91 IN THE OFFICE OF THE RECORDER OF SAID COUNTY; AND PART OF LOT 7 IN EAST ADDITION IN THE CITY OF NEWTON, JASPER COUNTY, IOWA. Proposals shall be submitted by 10:00 a.m., September 27, 2021, to the Newton Community Department; 403 West 4th Street North, Suite 501; Newton, Iowa 50208. Additional information about the property and the process for submitting a proposal is available at the Community Development Department, (641)-792-6622 x 2301. The City Council will consider all proposals received, but reserves the right to reject any or all proposals received or to accept any proposal it deems in the best public interest. At said Hearing, interested persons may be heard in support of or opposition to said sale or the price or terms of a proposed agreement.

Section 2: That following the Public Hearing, City Council may select the proposal to purchase the described property which is in the best interest of the City Newton and shall thereafter sell said property at the price and under such terms as it shall determine, subject to an Agreement for Purchase with the selected Purchaser.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item: Resolution Approving Promissory Note & Construction Contract for Lots 10 & 11, Cardinal Ridge Subdivision Plat 1 in Newton from Ground Breaker Homes, LLC of Clive, Iowa.



Summary: This action will approve the builder's Promissory Notes & Construction Contracts for the purchase and development of spec single family homes on Lots 10 & 11, Cardinal Ridge Subdivision Plat 1.

Financial Impact: A Cash Option payment of \$50,000 (\$25,000 per lot) is due to the builder at closing, which is refundable according to the terms of the contracts. When the new single family homes are constructed and sold, the City will receive \$25,000 for each lot (\$50,000 total).

Report Number: 21-237

Date: September 7, 2021

Lead Department:
Community Development

Recommendation:
Approval

Background:

The City owns a 4.25 acre parcel of land at 1200 South 6th Avenue West known as Cardinal Ridge Subdivision Plat 1. At its July 3, 2017 meeting, City Council approved the sale of this land to a developer, Ground Breaker Homes, LLC of Clive, Iowa. Ground Breaker Homes agreed to build the townhomes and manage the subdivision's Home Owners Association.

In the original Agreement, if a lot is designated as spec home construction by Ground Breaker at the time the lot is conveyed, the City shall pay to Ground Breaker a Cash Option of twenty-five thousand dollars (\$25,000.00) for each Single-Family Lot, and fifty-thousand dollars (\$50,000.00) for a Twin-Style Lot, which shall be refundable to the City if the New Residence on the Lot sells within six (6) months after issuance of a Certificate of Occupancy on the New Residence.

Ground Breaker Homes is exercising its option to purchase Lots 10 & 11 with separate Promissory Notes & Construction Contracts, attached as Exhibit "A" & "B" to the Resolution referenced below, and will construct spec single family homes on the lots.

Recommendation:

Staff recommends approval of the attached Resolution and Exhibits.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light blue horizontal line.

Matt Muckler
City Administrator

RESOLUTION NO. 2021 – _____

**RESOLUTION APPROVING PROMISSORY NOTES &
CONSTRUCTION CONTRACTS FOR LOTS 10 & 11, CARDINAL
RIDGE SUBDIVISION PLAT 1 IN NEWTON
FROM GROUND BREAKER HOMES, LLC OF CLIVE, IOWA**

WHEREAS, the City owns 4.25 acres of land at 1200 South 6th Avenue West and has developed the land into a townhome subdivision known as Cardinal Ridge Plat 1; and

WHEREAS, Council has approved the sale of the Cardinal Ridge land to Ground Breaker Homes, LLC of Clive, Iowa, for the purpose of developing it with townhomes (Resolution 17-148); and

WHEREAS, continued development of the Cardinal Ridge townhome Lots will result in substantial public benefit, the expansion of the tax base within the city, and would be consistent with the goals and objectives of the City; and

WHEREAS, the City has received Promissory Notes & Construction Contracts from Ground Breaker Homes, LLC, of Clive, Iowa, for the purchase of land and development of spec single family homes on Lots 10 & 11, Cardinal Ridge Subdivision Plat 1.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton:

That the Promissory Notes & Construction Contracts presented by Ground Breaker Homes, LLC of Clive, Iowa, attached as Exhibit "A" & "B" are hereby approved for the purchase of land and development of spec single family homes on Lot 10 & 11, Cardinal Ridge Subdivision Plat 1.

PASSED this 7th day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

PROMISSORY NOTE AND CONSTRUCTION CONTRACT
(SINGLE-FAMILY TOWNHOME LOT)

THIS PROMISSORY NOTE AND CONSTRUCTION CONTRACT (“Agreement”) is made as of the Effective Date (shown below), and is between the City of Newton, Iowa (the “City”) and Ground Breaker Homes, LLC (“Contractor”) upon the terms and conditions set forth below. The City and Contractor are referred to hereinafter collectively as the “Parties,” or if singular, a “Party.”

I. **Project Description.** The City owns the developed lot in the City of Newton, Iowa, locally known as 1411 Cardinal Ridge Drive (“Lot”) and legally described as follows:

Lot 11 of the AMENDED FINAL PLAT OF CARDINAL RIDGE SUBDIVISION PLAT 1 in the City of Newton, Jasper County, Iowa as appears in plat recorded in Plat Cabinet A, Page 681, in the office of the Recorder of said County.

The City will sell and convey the Lot to Contractor by Quit Claim Deed within ten (10) days of the date of this Agreement, or final platting of subdivision which includes the Lot, whichever occurs first, and, as consideration for the conveyance, Contractor shall pay to the City the sum of **Twenty-five Thousand Dollars and 00/100ths (\$25,000.00)** without interest (the “Loan”), with such Loan payable pursuant to the terms set forth herein. Contractor also agrees to construct and market for sale a new residence (“New Residence”) on the Lot according to the terms of this Agreement. The Parties acknowledge that they will enter into separate agreements (“Agreements”) such as this Agreement for each lot and new residence that is part of the Cardinal Ridge Project (“Cardinal Ridge Project”).

II. **Building Plans.** Contractor has provided the plans, specifications and drawings (collectively “Plans”) of the New Residence to be constructed on the Lot which are attached hereto and incorporated herein by this reference. Any changes to the Plans, excluding field decisions not substantially and materially altering the Plans, require the prior written consent of the City, which consent shall not be unreasonably withheld. A copy of the Plans are attached hereto.

III. **Commencement of Work; Cost of Infrastructure.** Unless otherwise agreed by Contractor, the work to be performed by Contractor to construct the New Residence shall commence only upon all requisite infrastructure, including but not limited to, water, utilities, gas, electric, and/or water retention infrastructure (“Prerequisite Infrastructure”). Additionally, the cost and expense of each item of Prerequisite Infrastructure together with construction and/or installation of required public improvements, which shall include, but is not limited to all roadways, street lighting, and signage shall solely be the responsibility of the City.

IV. **Contractor’s Obligations.**

1. ***Obligations Specific to the New Residence and Lot:*** In addition to construction of the New Residence, Contractor’s responsibilities specifically include, but are not limited to, obtaining all required building permits (at no cost to Contractor); creation of, but not construction or installation related to any City-required easements; securing Contractor’s financing; periodically, including upon final sale of the

New Residence and upon request by the City, obtaining all waivers of liens for any subcontractors, suppliers and laborers; and marketing and closing the eventual sale of the New Residence.

2. ***Other Contractor Obligations:*** Contractor's other obligations regarding the Cardinal Ridge Project, all of which are expressly conditioned upon the City's full and timely performance under all Agreements entered into between the Parties, are as follows:

- a. Contractor will, in its sole discretion, entertain bids from local subcontractors, but will award bids to the most qualified subcontractors, as solely determined by Contractor.
- b. Contractor will endeavor, weather permitting, to commence construction on a minimum of three residences ("Residences") under three Agreements in 2017.
- c. Contractor shall, weather permitting, have a minimum of three Residences, inclusive of spec residences and custom/build-to-order residences, under construction at any given time, provided that "under construction" shall include Residences that have been completed but not yet sold.
- d. Contractor will complete all spec construction Residences within one hundred eighty (180) days following issuance of the building permit, subject to inclement weather, and/or other Acts of God.

V. **Payment and Security to the City.** Upon closing the sale of the completed New Residence to the third-party purchaser, Contractor shall pay the Loan to the City from the net proceeds of that sale, which shall constitute Contractor's full performance and satisfaction of this Agreement. The obligation of Contractor to pay the Loan as set forth herein shall have been secured by a mortgage ("Mortgage") on the Lot as prepared by the City, and approved as to form by Contractor. Upon receipt of payment as set forth in this Section V, the City shall satisfy and release the Mortgage securing payment of the Loan, of record. Also, the City and its lender(s) shall subordinate any and all interests and other rights in or against the Lot in favor of Contractor's lender financing the construction loan for Contractor's construction of the New Residence on the Lot.

VI. **Obligations of the City:**

1. Pursuant to City Resolution No(s). 2017-210 ("City Resolutions"), the City shall waive all building permit fees, inspection fees, and other like fees for the New Residence, and Contractor's obligations under this Agreement are expressly conditioned upon the waiver contemplated by this section.

2. Upon request, the City and its lender(s) shall subordinate its Mortgage, interest, and other rights on the Lot to Contractor's construction loan financing in an amount not to exceed two hundred eighty-one thousand four hundred twenty-seven dollars and no/100 (\$ 281,427), which is eighty percent (80%) of the Scheduled Price (as defined below).

3. Pursuant to the City Resolutions, for any Spec Home Construction, as designated below, the City shall reimburse Contractor's construction loan financing interest charges for the first twelve (12) months beginning with the issuance of the City's building permit for the New Residence up to a maximum

of **Ten Thousand Dollars and 00/100ths (\$10,000.00)** (“Interest Reimbursement”). The Interest Reimbursement shall be paid to Contractor in two installments, with the first installment due within thirty (30) days after the certificate of occupancy is issued, and the second installment due on the closing date of the New Residence to the third-party purchaser, or twelve (12) months after the building permit is issued, whichever occurs first. The City agrees to pay the Interest Reimbursement irrespective as to whether the New Residence is purchased by a third party or pursuant to the Buy Back provisions of Section VI (4), below.

4. The Parties hereby acknowledge that pursuant to the City Resolutions, the eventual purchaser of the New Residence will qualify for the City’s \$10,000.00 cash incentive.

5. Regarding the Cardinal Ridge Project, as consideration for entering into this Agreement, Contractor shall have the option to purchase from the City up to nine (9) single-family townhome lots at \$25,000 a unit/lot and four (4) twin-style home lots at \$30,000 per lot (\$15,000 per unit/door), with terms of purchase to be identical to the terms of this Agreement provided, however, that the Contractor is not in breach of this Agreement or any City building or zoning ordinances.

VII. Buy Back for Lots Designated for Spec Home Construction. As part of the consideration for entering into this Agreement, the following terms shall apply to New Residences which constitute spec homes built upon the Lot.

1. Upon execution of this Agreement, Contractor shall notify the City as to whether the construction of the New Residence on the Lot will be a custom construction (“Custom Construction”) or spec home construction (“Spec Home Construction”). In the event the Lot is designated as Spec Home Construction by Contractor, then at closing on the Lot, the City shall pay to the Contractor the sum of twenty-five thousand dollars (\$25,000.00), as a cash option (“Cash Option”), which shall be refundable only as set forth herein.

2. In the event Contractor has designated the New Residence as Spec Home Construction and has not received an acceptable offer or closed on the sale of the New Residence within six (6) months after the issuance of the City’s certificate of occupancy for the New Residence, Contractor, at its sole discretion shall have the option to provide written notice to the City, granting the City an option to purchase the New Residence from Contractor at the price of \$281,427, which is eighty percent (80%) of the predetermined/scheduled price (“Scheduled Price”) of the New Residence and Lot as determined by Contractor pursuant to an independent appraisal of the Lot and New Residence approved by and provided to the City (the “Buy Back”). At closing of the Buy Back transaction, in addition to any other required adjustments, the City shall be given a credit equal to the Cash Option. The City shall not receive a credit for the Loan. The Buy Back shall not be conditioned upon the occurrence of any event which is not expressly set forth in this Agreement. The City shall complete and close the Buy Back within sixty (60) days after notice to by Contractor to the City of the option to purchase. Upon completion of the City’s Buy Back, all sums owed to the City by Contractor, including the payment set forth in Section V, shall be deemed fully paid and satisfied, and the City shall record a release and satisfaction of the Mortgage securing payment for the Loan. Nothing herein requires the City to exercise its option to Buy Back.

3. The City’s option to purchase the home on these terms is waived if not exercised as provided

herein. In the event the City waives, or is deemed to have waived its option to purchase as set forth herein, the Cash Option shall become non-refundable and the sole property of Contractor.

4. In the event the New Residence Spec Home Construction is sold to a third-party purchaser as contemplated by this Agreement, and provided that the City has not waived its option to purchase, then in addition to its other obligations set forth herein, Contractor shall pay the Cash Option amount to the City from the net proceeds of that sale. In the event the third-party purchase occurs subsequent to the City waiving its option to purchase as determined by subsection 2, above, then the Cash Option shall become non-refundable and the sole property of Contractor.

5. In all events, and notwithstanding any provision to the contrary, the Cash Option shall be deemed non-refundable and thereafter the sole property of Contractor, if Contractor is lawfully in possession of the Cash Option in accordance with the terms of this Agreement six (6) months and thirty (30) days after issuance of the certificate of occupancy for the particular New Residence Spec Home Construction.

6. Contractor agrees that it will undertake construction of no more than three Spec Home Constructions at any given time. The Parties acknowledge and agree that a memorandum of this option may be filed with the county recorder if requested by the City.

VIII. Insurance and Risk Management. Contractor shall maintain, throughout the Project, workers' compensation coverage at the level required by Iowa law; commercial general liability insurance and automobile insurance, each at a limit of not less than One Million Dollars (\$1,000,000); and Builders Risk Insurance covering the Lot and Contractor's construction of the New Residence to protect Contractor, and shall name the City as an additional insured on such policies upon request of the City. Contractor shall provide Certificates of Insurance to the City upon request.

IX. Default and Termination. In the event either Party fails to comply with the terms of this Agreement, the non-defaulting Party may, after providing twenty (20) days' written notice to the defaulting Party during which the default is not cured, demand that all sums due to the non-defaulting Party shall be immediately due and payable and all work by Contractor on the New Residence shall cease. In the event Contractor is the defaulting Party, the City will obtain an outside, independent appraisal of the value of the Lot and the completed work on and to the New Residence ("Appraisal") and pay eighty percent (80%) of the valuation revealed by the Appraisal to Contractor upon the City's ultimate sale of the property, or upon twelve (12) months after the date of appraisal, whichever first occurs, and such sum shall be deemed full payment of all sums due Contractor. In the event the cost of completing the work on the New Residence exceeds the value shown in the appraisal, no sums shall be due to the Contractor. Upon payment to Contractor of sums owed pursuant to this Section, if any, all sums due either Party shall be deemed fully paid and satisfied and the City shall satisfy and release the Mortgage securing payment of the Loan, of record. In the event any terms or conditions of this Section IX conflict with the any terms of the Mortgage executed between the Parties, then terms of the Mortgage shall be controlling.

X. Access to Property. The City and Newton Housing Development Corporation are permitted periodic access to the Lot and all construction for the purposes of inspection, evaluation of progress, assistance with marketing and presentation in potential home shows; provided, however, a

representative of Contractor shall be present at the Lot at all times during which the City desires to exercise its rights to access.

XI. **Notice.** All notices or other communications required or permitted to be given pursuant hereto shall be in writing and deemed given when personally delivered or deposited in the United States mail, postage prepaid, sent certified or registered, addressed as follows:

(a) If to the City: City of Newton
101 W 4th Street S
Newton, IA 50208

(b) If to Contractor: Ground Breaker Homes, LLC
12119 Stratford Dr., Suite B
Clive, IA 50325

or to such other address or person as hereafter designated in writing by the applicable Party in the manner provided in this paragraph for giving of notice.

XI. **Waiver.** Except as provided herein, no extensions of time, nor the failure on the part of either Party to exercise any of its rights hereunder, shall operate to release, discharge, modify, change or affect the other Parties' obligations hereunder, unless in writing and signed by the Party waiving such provisions. All rights and remedies provided herein or which either Party might otherwise have, at law or in equity, shall be distinct, separate and cumulative and may be exercised concurrently, independently or successfully in any order whatsoever, and as often as the occasion therefore arises. The representations and warranties contained herein shall survive closing between the Parties. Words and phrases contained herein shall be construed as in the singular or plural, as masculine, feminine or neuter gender according to the context. The captions and headings of this Agreement are for convenience only and are not to be used to interpret or define the provisions hereof. Time is of the essence in this Agreement.

XII. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties hereto pertaining to the subject matters hereof, and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions and understandings of the Parties in connection with the subject matters of this Agreement.

XIII. **Severability.** If any provision of this Agreement shall be deemed illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision (or any remaining part of any provision) of this Agreement, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision (or part thereof) had never been contained in this Agreement, but only to the extent of its invalidity, illegality, or unenforceability.

XIV. **Governing Law.** The language of all parts of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against either Party. This Agreement is made and entered into and shall be subject to, governed by, and interpreted in accordance with the laws of the State of Iowa. The Parties agree that this Agreement is to be fully performed in the State of Iowa, County of Jasper, and as such each Party agrees that this Agreement shall be enforceable in the state and/or federal

courts of the State of Iowa and hereby consent to the exercise of such court's jurisdiction over the persons thereof.

XV. **Amendment.** No amendment to this Agreement shall be binding, unless in writing and signed by both parties.

XVI. **Counterparts and Facsimile Signatures.** This Agreement may be executed in several counterparts with the same effect as if all Parties signed the same document. Each counterpart shall be deemed to be an original and all counterparts together shall constitute a single, binding, and complete agreement.

Effective Date:_____.

City of Newton:

Ground Breaker Homes, LLC:

By: Michael L. Hanson

Title: Mayor



By: Steve Bruere, its Manager

PROMISSORY NOTE AND CONSTRUCTION CONTRACT
(SINGLE-FAMILY TOWNHOME LOT)

THIS PROMISSORY NOTE AND CONSTRUCTION CONTRACT (“Agreement”) is made as of the Effective Date (shown below), and is between the City of Newton, Iowa (the “City”) and Ground Breaker Homes, LLC (“Contractor”) upon the terms and conditions set forth below. The City and Contractor are referred to hereinafter collectively as the “Parties,” or if singular, a “Party.”

I. **Project Description.** The City owns the developed lot in the City of Newton, Iowa, locally known as 1431 Cardinal Ridge Drive (“Lot”) and legally described as follows:

Lot 10 of the AMENDED FINAL PLAT OF CARDINAL RIDGE SUBDIVISION PLAT 1 in the City of Newton, Jasper County, Iowa as appears in plat recorded in Plat Cabinet A, Page 681, in the office of the Recorder of said County.

The City will sell and convey the Lot to Contractor by Quit Claim Deed within ten (10) days of the date of this Agreement, or final platting of subdivision which includes the Lot, whichever occurs first, and, as consideration for the conveyance, Contractor shall pay to the City the sum of **Twenty-five Thousand Dollars and 00/100ths (\$25,000.00)** without interest (the “Loan”), with such Loan payable pursuant to the terms set forth herein. Contractor also agrees to construct and market for sale a new residence (“New Residence”) on the Lot according to the terms of this Agreement. The Parties acknowledge that they will enter into separate agreements (“Agreements”) such as this Agreement for each lot and new residence that is part of the Cardinal Ridge Project (“Cardinal Ridge Project”).

II. **Building Plans.** Contractor has provided the plans, specifications and drawings (collectively “Plans”) of the New Residence to be constructed on the Lot which are attached hereto and incorporated herein by this reference. Any changes to the Plans, excluding field decisions not substantially and materially altering the Plans, require the prior written consent of the City, which consent shall not be unreasonably withheld. A copy of the Plans are attached hereto.

III. **Commencement of Work; Cost of Infrastructure.** Unless otherwise agreed by Contractor, the work to be performed by Contractor to construct the New Residence shall commence only upon all requisite infrastructure, including but not limited to, water, utilities, gas, electric, and/or water retention infrastructure (“Prerequisite Infrastructure”). Additionally, the cost and expense of each item of Prerequisite Infrastructure together with construction and/or installation of required public improvements, which shall include, but is not limited to all roadways, street lighting, and signage shall solely be the responsibility of the City.

IV. **Contractor’s Obligations.**

1. ***Obligations Specific to the New Residence and Lot:*** In addition to construction of the New Residence, Contractor’s responsibilities specifically include, but are not limited to, obtaining all required building permits (at no cost to Contractor); creation of, but not construction or installation related to any City-required easements; securing Contractor’s financing; periodically, including upon final sale of the

New Residence and upon request by the City, obtaining all waivers of liens for any subcontractors, suppliers and laborers; and marketing and closing the eventual sale of the New Residence.

2. ***Other Contractor Obligations:*** Contractor's other obligations regarding the Cardinal Ridge Project, all of which are expressly conditioned upon the City's full and timely performance under all Agreements entered into between the Parties, are as follows:

- a. Contractor will, in its sole discretion, entertain bids from local subcontractors, but will award bids to the most qualified subcontractors, as solely determined by Contractor.
- b. Contractor will endeavor, weather permitting, to commence construction on a minimum of three residences ("Residences") under three Agreements in 2017.
- c. Contractor shall, weather permitting, have a minimum of three Residences, inclusive of spec residences and custom/build-to-order residences, under construction at any given time, provided that "under construction" shall include Residences that have been completed but not yet sold.
- d. Contractor will complete all spec construction Residences within one hundred eighty (180) days following issuance of the building permit, subject to inclement weather, and/or other Acts of God.

V. **Payment and Security to the City.** Upon closing the sale of the completed New Residence to the third-party purchaser, Contractor shall pay the Loan to the City from the net proceeds of that sale, which shall constitute Contractor's full performance and satisfaction of this Agreement. The obligation of Contractor to pay the Loan as set forth herein shall have been secured by a mortgage ("Mortgage") on the Lot as prepared by the City, and approved as to form by Contractor. Upon receipt of payment as set forth in this Section V, the City shall satisfy and release the Mortgage securing payment of the Loan, of record. Also, the City and its lender(s) shall subordinate any and all interests and other rights in or against the Lot in favor of Contractor's lender financing the construction loan for Contractor's construction of the New Residence on the Lot.

VI. **Obligations of the City:**

1. Pursuant to City Resolution No(s). 2017-210 ("City Resolutions"), the City shall waive all building permit fees, inspection fees, and other like fees for the New Residence, and Contractor's obligations under this Agreement are expressly conditioned upon the waiver contemplated by this section.

2. Upon request, the City and its lender(s) shall subordinate its Mortgage, interest, and other rights on the Lot to Contractor's construction loan financing in an amount not to exceed two hundred ninety-two thousand seven hundred eighty-nine dollars and no/100 (\$ 292,789), which is eighty percent (80%) of the Scheduled Price (as defined below).

3. Pursuant to the City Resolutions, for any Spec Home Construction, as designated below, the City shall reimburse Contractor's construction loan financing interest charges for the first twelve (12) months beginning with the issuance of the City's building permit for the New Residence up to a maximum

of **Ten Thousand Dollars and 00/100ths (\$10,000.00)** (“Interest Reimbursement”). The Interest Reimbursement shall be paid to Contractor in two installments, with the first installment due within thirty (30) days after the certificate of occupancy is issued, and the second installment due on the closing date of the New Residence to the third-party purchaser, or twelve (12) months after the building permit is issued, whichever occurs first. The City agrees to pay the Interest Reimbursement irrespective as to whether the New Residence is purchased by a third party or pursuant to the Buy Back provisions of Section VI (4), below.

4. The Parties hereby acknowledge that pursuant to the City Resolutions, the eventual purchaser of the New Residence will qualify for the City’s \$10,000.00 cash incentive.

5. Regarding the Cardinal Ridge Project, as consideration for entering into this Agreement, Contractor shall have the option to purchase from the City up to nine (9) single-family townhome lots at \$25,000 a unit/lot and four (4) twin-style home lots at \$30,000 per lot (\$15,000 per unit/door), with terms of purchase to be identical to the terms of this Agreement provided, however, that the Contractor is not in breach of this Agreement or any City building or zoning ordinances.

VII. Buy Back for Lots Designated for Spec Home Construction. As part of the consideration for entering into this Agreement, the following terms shall apply to New Residences which constitute spec homes built upon the Lot.

1. Upon execution of this Agreement, Contractor shall notify the City as to whether the construction of the New Residence on the Lot will be a custom construction (“Custom Construction”) or spec home construction (“Spec Home Construction”). In the event the Lot is designated as Spec Home Construction by Contractor, then at closing on the Lot, the City shall pay to the Contractor the sum of twenty-five thousand dollars (\$25,000.00), as a cash option (“Cash Option”), which shall be refundable only as set forth herein.

2. In the event Contractor has designated the New Residence as Spec Home Construction and has not received an acceptable offer or closed on the sale of the New Residence within six (6) months after the issuance of the City’s certificate of occupancy for the New Residence, Contractor, at its sole discretion shall have the option to provide written notice to the City, granting the City an option to purchase the New Residence from Contractor at the price of \$292,789, which is eighty percent (80%) of the predetermined/scheduled price (“Scheduled Price”) of the New Residence and Lot as determined by Contractor pursuant to an independent appraisal of the Lot and New Residence approved by and provided to the City (the “Buy Back”). At closing of the Buy Back transaction, in addition to any other required adjustments, the City shall be given a credit equal to the Cash Option. The City shall not receive a credit for the Loan. The Buy Back shall not be conditioned upon the occurrence of any event which is not expressly set forth in this Agreement. The City shall complete and close the Buy Back within sixty (60) days after notice to by Contractor to the City of the option to purchase. Upon completion of the City’s Buy Back, all sums owed to the City by Contractor, including the payment set forth in Section V, shall be deemed fully paid and satisfied, and the City shall record a release and satisfaction of the Mortgage securing payment for the Loan. Nothing herein requires the City to exercise its option to Buy Back.

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herein. In the event the City waives, or is deemed to have waived its option to purchase as set forth herein, the Cash Option shall become non-refundable and the sole property of Contractor.

4. In the event the New Residence Spec Home Construction is sold to a third-party purchaser as contemplated by this Agreement, and provided that the City has not waived its option to purchase, then in addition to its other obligations set forth herein, Contractor shall pay the Cash Option amount to the City from the net proceeds of that sale. In the event the third-party purchase occurs subsequent to the City waiving its option to purchase as determined by subsection 2, above, then the Cash Option shall become non-refundable and the sole property of Contractor.

5. In all events, and notwithstanding any provision to the contrary, the Cash Option shall be deemed non-refundable and thereafter the sole property of Contractor, if Contractor is lawfully in possession of the Cash Option in accordance with the terms of this Agreement six (6) months and thirty (30) days after issuance of the certificate of occupancy for the particular New Residence Spec Home Construction.

6. Contractor agrees that it will undertake construction of no more than three Spec Home Constructions at any given time. The Parties acknowledge and agree that a memorandum of this option may be filed with the county recorder if requested by the City.

VIII. Insurance and Risk Management. Contractor shall maintain, throughout the Project, workers' compensation coverage at the level required by Iowa law; commercial general liability insurance and automobile insurance, each at a limit of not less than One Million Dollars (\$1,000,000); and Builders Risk Insurance covering the Lot and Contractor's construction of the New Residence to protect Contractor, and shall name the City as an additional insured on such policies upon request of the City. Contractor shall provide Certificates of Insurance to the City upon request.

IX. Default and Termination. In the event either Party fails to comply with the terms of this Agreement, the non-defaulting Party may, after providing twenty (20) days' written notice to the defaulting Party during which the default is not cured, demand that all sums due to the non-defaulting Party shall be immediately due and payable and all work by Contractor on the New Residence shall cease. In the event Contractor is the defaulting Party, the City will obtain an outside, independent appraisal of the value of the Lot and the completed work on and to the New Residence ("Appraisal") and pay eighty percent (80%) of the valuation revealed by the Appraisal to Contractor upon the City's ultimate sale of the property, or upon twelve (12) months after the date of appraisal, whichever first occurs, and such sum shall be deemed full payment of all sums due Contractor. In the event the cost of completing the work on the New Residence exceeds the value shown in the appraisal, no sums shall be due to the Contractor. Upon payment to Contractor of sums owed pursuant to this Section, if any, all sums due either Party shall be deemed fully paid and satisfied and the City shall satisfy and release the Mortgage securing payment of the Loan, of record. In the event any terms or conditions of this Section IX conflict with the any terms of the Mortgage executed between the Parties, then terms of the Mortgage shall be controlling.

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representative of Contractor shall be present at the Lot at all times during which the City desires to exercise its rights to access.

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Newton, IA 50208

(b) If to Contractor: Ground Breaker Homes, LLC
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Clive, IA 50325

or to such other address or person as hereafter designated in writing by the applicable Party in the manner provided in this paragraph for giving of notice.

XI. **Waiver.** Except as provided herein, no extensions of time, nor the failure on the part of either Party to exercise any of its rights hereunder, shall operate to release, discharge, modify, change or affect the other Parties' obligations hereunder, unless in writing and signed by the Party waiving such provisions. All rights and remedies provided herein or which either Party might otherwise have, at law or in equity, shall be distinct, separate and cumulative and may be exercised concurrently, independently or successfully in any order whatsoever, and as often as the occasion therefore arises. The representations and warranties contained herein shall survive closing between the Parties. Words and phrases contained herein shall be construed as in the singular or plural, as masculine, feminine or neuter gender according to the context. The captions and headings of this Agreement are for convenience only and are not to be used to interpret or define the provisions hereof. Time is of the essence in this Agreement.

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XIV. **Governing Law.** The language of all parts of this Agreement shall be construed as a whole, according to its fair meaning, and not strictly for or against either Party. This Agreement is made and entered into and shall be subject to, governed by, and interpreted in accordance with the laws of the State of Iowa. The Parties agree that this Agreement is to be fully performed in the State of Iowa, County of Jasper, and as such each Party agrees that this Agreement shall be enforceable in the state and/or federal

courts of the State of Iowa and hereby consent to the exercise of such court's jurisdiction over the persons thereof.

XV. **Amendment.** No amendment to this Agreement shall be binding, unless in writing and signed by both parties.

XVI. **Counterparts and Facsimile Signatures.** This Agreement may be executed in several counterparts with the same effect as if all Parties signed the same document. Each counterpart shall be deemed to be an original and all counterparts together shall constitute a single, binding, and complete agreement.

Effective Date:_____.

City of Newton:

Ground Breaker Homes, LLC:

By: Michael L. Hanson

Title: Mayor



By: Steve Bruere, its Manager

City of Newton Disbursements 9-8-21

Vendor	Department	Description	Amount
Acco Unlimited Corp	Maytag Pool	Supplies	\$ 1,712.00
Acushnet Company	Golf	Merchandise	\$ 580.51
AESSEAL Midwest Inc	Water Pollution Control	Supplies	\$ 1,276.18
Airgas USA LLC	Fire	Supplies	\$ 341.55
Airport Lighting Company	Airport	Supplies	\$ 173.16
Alliant Energy/IPL	Traffic Control/WPC	Utilities	\$ 1,700.42
Alpha Media LLC	Golf	Service	\$ 600.00
Amazon Capital Services	All	Supplies	\$ 2,406.22
Ambassador Steel	Street/Storm Water	Supplies	\$ 1,650.00
American Business Phones	Police	Utilities	\$ 50.00
American Marketing and Publishing	Library	Service	\$ 282.50
Ascheman, Philip	Police	Service	\$ 330.00
Axon Enterprise Inc	Police	Equipment	\$ 4,968.32
Baker & Taylor	Library	Supplies	\$ 3,407.05
Baker & Taylor Entertainment	Library	Supplies	\$ 133.26
Bernal, Lisa	Maytag Pool	Reimbursement	\$ 49.00
Bibliotheca LLC	Library	Technology	\$ 2,762.70
Black Hills Energy	Water Pollution Control	Utilities	\$ 836.90
Blackstone Publishing	Library	Supplies	\$ 292.36
Boland Recreation	Parks	Supplies	\$ 3,250.00
Bolton & Menk Inc	Planning & Zoning	Service	\$ 800.00
Bound Tree Medical LLC	Fire	Supplies	\$ 627.19
Brick Gentry P.C.	All	Service	\$ 12,535.00
C. H. McGuiness Co Inc	Water Pollution Control	Service	\$ 3,098.34
Caldwell Brierly & Chalupa PLLC	Economic Dev/Housing Demo	Service	\$ 4,566.22
Capital One	All	Supplies	\$ 228.69
Cappy's Tire & Auto Service	Golf	Service	\$ 95.98
Cengage Learning	Library	Supplies	\$ 23.20
Center Point Large Print	Library	Supplies	\$ 26.57
Central Iowa Distributing Inc	Water Pollution Control	Supplies	\$ 693.00
CHI Health Company Care	Fire	Service	\$ 150.00
Cintas	All	Service	\$ 666.91
Civicplus	Administration	Service	\$ 1,914.42
Construction Materials Inc	Storm Water/Street	Supplies	\$ 1,680.00
Costanza, Shirley	Private Incentives	Incentive	\$ 10,000.00
Country Living	Library	Subscription	\$ 12.00
Cupples, Billy	Parks	Reimbursement	\$ 125.00
Danko Emergency Equipment	Fire	Supplies	\$ 277.74
Dannen, Shannon	D&D Program	Service	\$ 1,150.00
Darrell's Electric	City Center	Service	\$ 75.00
Dell Marketing L.P.	Police	Supplies	\$ 1,104.00
Demco Inc	Library	Supplies	\$ 1,517.59
Des Moines Stamp Mfg	Admin/Landfill	Supplies	\$ 65.80

Diamond Products Co	Water Pollution Control	Supplies	\$ 65.55
Digium Cloud Services LLC	Library	Utilities	\$ 407.19
DMACC - Ankeny Campus	CS/CD/PW	Rent	\$ 1,895.75
Dodd Trash Hauling & Recycling	Solid Waste	Service	\$ 61,033.05
Doors Inc	Library	Maintenance	\$ 280.00
Dow Jones	Library	Subscription	\$ 119.94
Eckert, Bernard	Police	Training	\$ 60.61
EZ Lease	Water Pollution Control	Service	\$ 102.00
Fastenal	Water Pollution Control	Supplies	\$ 60.15
FBG Service Corporation	Library	Service	\$ 1,644.00
Financial Forms & Supplies	Admin/Executive/Finance	Supplies	\$ 169.14
Fire Engineering	Fire	Service	\$ 79.90
Forbes	Library	Subscription	\$ 44.95
Forbes Office Solutions	All	Supplies	\$ 822.28
Fox Engineering	Water Pollution Control	Service	\$ 34,380.00
Freedom Buildings Inc	Tort Liability	Supplies	\$ 17,209.19
Friends of the Newton Parks	Parks	Reimbursement	\$ 310.00
Galls LLC	Fire/Police	Supplies	\$ 401.53
Gralnek-Dunitz	Water Pollution Control	Supplies	\$ 29.86
Gregg Young Auto Center	Fire/Police	Service	\$ 4,466.24
Gullett, Matt	Police	Reimbursement	\$ 4.59
Hach Co	Water Pollution Control	Supplies	\$ 224.21
Hamilton Glass	Library/Parks	Service	\$ 147.92
Hawkins Water Treatment	Water Pollution Control	Supplies	\$ 1,489.50
Hewitt Service Center	City Garage	Supplies	\$ 150.00
Hills, Dakota & Kaylie	Private Incentives	Incentive	\$ 10,000.00
HLW Engineering Group	Landfill	Service	\$ 586.25
Home Depot Pro	Street	Supplies	\$ 127.12
Hornung's	Golf	Merchandise	\$ 148.15
Housby Heavy Equipment LLC	City Garage	Supplies	\$ 201.22
Huffaker Garage Doors LLC	Landfill	Service	\$ 125.00
Hy-Vee - Johnston	Police	Service	\$ 1,925.00
Image Trend Inc	Fire	Service	\$ 632.00
IMWCA	All	Insurance	\$ 28,893.07
Interstate All Battery Center	Fire	Supplies	\$ 82.10
Iowa Dept of Natural Resources	Landfill	Service	\$ 19,471.55
Iowa Division of Labor Service	Airport/City Center	Service	\$ 80.00
Iowa Emergency Vehicle Installs	Police	Service	\$ 3,619.69
Iowa Employment Conference	Administration	Service	\$ 289.00
Iowa League of Cities	Administration	Training	\$ 160.00
Iowa One Call	Engineering/WPC	Service	\$ 307.80
Isolved Benefit Services	Finance	Service	\$ 98.03
Jasper County Recorder	Planning & Zoning	Service	\$ 12.00
Jasper County Treasurer	D&D Program	Tax	\$ 14,468.00
Johnson Aviation	Airport	Service	\$ 3,075.60
Johnston Public Library	Library	Supplies	\$ 17.00
Keystone Labs	Water Pollution Control	Service	\$ 3,289.19

Kinetic Edge Physical Therapy	Parks/Street/WPC	Service	\$ 188.00
Kirkwood Community College	Water Pollution Control	Training	\$ 495.00
Lanphier Excavating LLC	Commercial D&D	Service	\$ 25,709.37
Lawson Products Inc	City Garage/WPC	Supplies	\$ 303.07
Lewis, Jean	Fire	Reimbursement	\$ 66.52
Logan Contractors Supply	Storm Water/Street	Supplies	\$ 1,861.92
Lyman, Rick	D&D Program/Parks/Police	Service	\$ 4,153.41
Magnum Automotive	Police	Service	\$ 887.73
Mahaska Bottling Co	Golf	Concessions	\$ 1,133.70
Manatts - D.M.	Storm Water/Street	Supplies	\$ 16,830.33
Marsden Bldg Maintenance	City Center	Service	\$ 53.85
Martin Marietta Materials	All	Supplies	\$ 3,838.57
Martin's Flag Company	Fire	Supplies	\$ 766.23
McDonald, Roger	Community Beautification	Service	\$ 1,350.00
McFarland Clinic	Fire	Service	\$ 345.50
MercyOne DSM Medical Ctr-Financial Ops	Fire	Supplies	\$ 313.50
MG Laundry Corporation	City Center/Fire	Service	\$ 113.20
Midwest Lawn Services	Library	Service	\$ 900.00
Midwest Tape	Library	Supplies	\$ 9.99
MTI Distributing Inc	Golf/Parks	Supplies	\$ 623.83
Municipal Supply Inc	Water Pollution Control	Supplies	\$ 82.65
Murphy Tractor & Equipment	City Garage/Landfill	Equipment	\$ 409,028.20
NAPA Auto Parts	All	Supplies	\$ 1,788.79
National Band & Tag	Police	Supplies	\$ 504.32
National Tactical Offcs	Police	Training	\$ 1,028.00
News Printing Company	All	Service	\$ 370.88
O'Reilly Auto Parts	All	Supplies	\$ 350.13
Pella Engraving Company	Fire	Supplies	\$ 53.23
Penworthy Company	Library	Supplies	\$ 153.60
Pitney Bowes	All	Service	\$ 173.82
Popenhagen, Nathan	Police	Reimbursement	\$ 18.61
Portner, Brad	Parks	Service	\$ 1,805.00
Preferred Pest Control Inc	Fire/Library	Service	\$ 650.00
Quill Corporation	All	Supplies	\$ 367.25
Ray, Randy	Housing Demo/Parks/SSMID	Service	\$ 4,330.00
Reserve Account-Pitney Bowes	Finance	Supplies	\$ 3,000.00
Riggs Printing Inc	Community Marketing	Supplies	\$ 212.50
Safe Restraints Inc	Police	Equipment	\$ 3,230.24
SchoolLife	Library	Supplies	\$ 154.61
Sign Pro	Cardinal Ridge TIF/Police	Service	\$ 9,255.50
Smith Quality Rental	Water Pollution Control	Supplies	\$ 16.30
Spahn & Rose Lumber Co	Storm Water/Street	Supplies	\$ 826.46
Sprayer Specialties Inc	Golf/Parks/Street	Supplies	\$ 137.31
Springer Professional Home Services	Golf	Service	\$ 42.00
State Hygienic Laboratories	Water Pollution Control	Service	\$ 600.50
Store for Homes Furniture	Fire	Merchandise	\$ 1,480.00
Strategic Insights Inc	Public Works Administration	License	\$ 1,125.00

Terracon Consultants Inc	North Central TIF	Service	\$ 860.00
The Paper Corporation	All	Supplies	\$ 1,059.16
Theisen's	All	Supplies	\$ 933.19
Theisen's Marshalltown	Landfill	Clothing	\$ 94.99
TK Elevator	City Center	Service	\$ 198.65
Town & Country Wholesale Co	Golf/Maytag Pool	Concessions	\$ 1,445.14
True Value Hardware	All	Supplies	\$ 699.01
Turfwerks	Golf	Supplies	\$ 169.39
Two Rivers Cooperative	Airport/Golf	Supplies	\$ 1,836.72
Unique Management Services	Library	Service	\$ 50.00
UnityPoint Clinic-Occupational	Street/WPC	Service	\$ 84.00
Unplugged Wireless Communications LLC	City Garage	Supplies	\$ 138.90
USABlueBook	Water Pollution Control	Supplies	\$ 64.95
Van Wall Equipment	Parks/WPC	Supplies	\$ 194.29
Volk, Ryan	Fire	Reimbursement	\$ 281.29
Warnick & Reeves Mechanical	City Center/Library/Street	Service	\$ 3,978.06
Washer Systems of Iowa Inc	City Garage	Supplies	\$ 1,230.88
Water Department	All	Utilities	\$ 399.90
Willis, Treaver	Fire	Reimbursement	\$ 278.62
Windstream	City Center	Utilities	\$ 38.69
Witmer Public Safety Group	Fire	Supplies	\$ 206.36
Zoll	Fire	Supplies	\$ 933.17

Total **\$ 797,344.08**

Pre-Authorized Payments

Alliant Energy	All	Utilities	\$ 4,689.74
AT & T Mobility	Landfill	Utilities	\$ 193.47
Black Hills Energy	All	Utilities	\$ 1,997.30
DISH Network	Airport	Utilities	\$ 137.05
Doll Distributing LLC	Golf	Concessions	\$ 1,926.64
EPC LLC (Reso 2019-022)	Housing Demolitions	Service	\$ 34,906.76
Glasshouse Incubator LLC (Reso 2021-155)	North Central TIF	Grant	\$ 1,088.24
Housby Heavy Equip (Reso 2021-079 &080)	Street	Equipment	\$ 202,993.00
Hy-Vee Inc	Golf	Concessions	\$ 196.32
Iowa Beverage Systems	Golf	Concessions	\$ 1,079.80
JDSO Inc	Golf	Concessions	\$ 126.00
Johnson Brothers of Iowa	Golf	Concessions	\$ 446.40
Lyman, Rick (Reso 2021-191)	Tort Liability	Service	\$ 415.00
Mediacom	Golf	Utilities	\$ 189.02
Mediacom	Administration	Utilities	\$ 296.90
United States Cellular	All	Utilities	\$ 353.66
Verizon Wireless	Fire/Police	Utilities	\$ 50.03
Vogel Traffic Solutions (Reso 2021-010)	Traffic Control	Service	\$ 21,736.78
Windstream	All	Utilities	\$ 1,391.58

Total **\$ 274,213.69**

ACH Payments from Great Southern Bank

Advantage Credit Union	All	Insurance	\$ 16,665.00
Bank Iowa	All	Insurance	\$ 6,600.00
Great Southern Bank	All	Insurance	\$ 330.00
MetLife Dental	All	Insurance	\$ 10,773.63
Mutual of Omaha	All	Insurance	\$ 4,278.55
Payroll 8-15-21	All	Payroll	\$ 448,235.51
Payroll 8-31-21	All	Payroll	\$ 460,796.93
State of Iowa	Park/Golf/Landfill	Sales Tax	\$ 2,800.00
Wellmark BC/BS	All	Insurance	\$ 177,787.42

Total **\$ 1,128,267.04**

City of Newton Council Report

Item:

Resolution awarding contract for the Former Manufactured Gas Plant Site 2021 Remediation Project.

Summary:

Award contract to Arrowhead Contracting of Indianola, Iowa for the Former Manufactured Gas Plant Site 2021 Remediation Project.

Financial Impact:

\$679,880.00 paid from existing 2019, 2020, and 2021 bond funds; and internal borrowing from the General Fund which will be reimbursed with FY-22 bond proceeds.



Report Number: 21-238

Date:

September 7, 2021

Lead Department:

Community Services

Recommendation:

Approve

Background:

The City of Newton operated a manufactured gas plant near W 3rd St N and N 6th Ave W from 1911 to 1948. The manufactured gas plant used a gasometer, which is a large (30,000 cubic foot) underground vault. A byproduct from the manufactured gas process was a coal tar material. Records indicate that a small percentage of this coal tar material was disposed on site. Portions of the gas plant building were removed in the 1950's. The relief holder and gasometer remain underground on the site to this day.

Following numerous rounds of testing on site and reports to the Iowa DNR since 1991, two main remediation projects remain to be completed in our efforts to comply with the DNR. Terracon Consultants, on behalf of the City, submitted a proposal to the DNR on December 31, 2019 to remediate both structures under one contract in a manner estimated to save the City of Newton several hundred thousand dollars in costs. The DNR approved this method and requested a revised work plan which Terracon submitted to the DNR on May 27, 2020. This plan requires the project's remediation and excavation activities to be completed by December 31, 2022.

Plans and specifications for the Former Manufactured Gas Plant Site 2021 Remediation Project have been prepared by Terracon Consultants of Des Moines and Community Services staff; and were placed out for bid. The following bids were received on August 30, 2021:

<u>Contractor</u>	<u>Bid Amount</u>
Arrowhead Contracting – Indianola, Iowa	\$ 679,880.00
J. Petticord – Bondurant, Iowa	\$ 710,360.00
Earth Services – Des Moines, Iowa	\$ 1,667,505.00

The engineer's cost estimate for the remediation work was \$520,000.00. A completion date of November 30th, 2021 is specified, with liquidated damages of \$250/day if the work is not completed on time.

Recommendation:

City staff recommends awarding contract for the Former Manufactured Gas Plant Site 2021 Remediation Project to Arrowhead Contracting of Indianola, Iowa.

A handwritten signature in black ink, appearing to read "Matt Muckler". The signature is fluid and cursive, with the first name "Matt" and last name "Muckler" clearly distinguishable.

Matt Muckler
City Administrator

RESOLUTION NO. 2021 – _____

**RESOLUTION AWARDDING CONTRACT FOR THE
FORMER MANUFACTURED GAS PLANT SITE 2021 REMEDIATION PROJECT**

WHEREAS, the City of Newton operated a manufactured gas plant near W 3rd St N and N 6th Ave W from 1911 to 1948, at which location the gas plant's relief holder and gasometer remain underground on the site to this day; and

WHEREAS, following numerous rounds of testing on site and reports to the Iowa DNR since 1991, two main remediation projects remain to be completed by December 31, 2022; and

WHEREAS, plans and specifications for the Former Manufactured Gas Plant Site 2021 Remediation Project were prepared by Terracon Consultants of Des Moines and Community Services staff; and

WHEREAS, bids were received and opened on August 30, 2021; and Terracon has recommended that the City of Newton award a contract to Arrowhead Contracting of Indianola, Iowa based on the low bid of \$679,880.00.

NOW, THEREFORE, BE IT RESOLVED, that the bid received from Arrowhead Contracting of Indianola, Iowa in the amount of Six Hundred Seventy-Nine Thousand, Eight Hundred Eighty Dollars and Zero Cents (\$679,880.00) for the Former Manufactured Gas Plant Site 2021 Remediation Project as described in the plans and specifications, is hereby accepted; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newton, Iowa, that the contract executed by Arrowhead Contracting of Indianola, Iowa for the Former Manufactured Gas Plant Site 2021 Remediation Project and as described by the plans and specifications, said contract to be signed by the Mayor and City Clerk on behalf of the City. The project will be paid for using existing 2019, 2020, and 2021 bond funds; and internal borrowing from the General Fund which will be reimbursed with FY-22 bond proceeds.

PASSED this _____ day of September, 2021.

APPROVED this ____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item: A resolution accepting purchase agreement for property at 702 East 4th Street North and 416 North 7th Avenue East in Newton

Summary: The City acquired the subject properties through the Newton D&D program. The two lots, when combined, are an adequate size for redevelopment of a larger, more modern home. Progress Industries proposes the construction of a high-quality home on the combined lots.

Financial Impact: Cost Recovery, \$5,000.00



Report Number: 2021-239

Date: September 7, 2021

Lead Department: Community Development Department

Recommendation: Approve

The City of Newton acquired the properties at 702 East 4th Street North and 416 North 7th Avenue East through the Newton D&D program. Together, the two lots provide sufficient space for a new, more modern style home. The property is located just north of the hospital.

The City has given the requisite Public Hearing notice for selling land, per earlier Council action. Public notice has been published in the *Newton Daily News*, inviting interested parties to submit proposals for the lot.

The City of Newton has received the following offer from P.I. Foundation:

- Purchase Price: \$5,000.
- Intends to construct a high-quality 5-bedroom, accessible home.
- See attached offer letter for additional details and home layout.

Funds received from the sale of D&D land return to the D&D program for use on other acquisitions and/or demolitions. A sale of the land would eliminate the City's maintenance responsibility and costs associated with that while allowing a community partner to proceed with the construction of a much needed home/living opportunity for the community.

Recommendation: Staff recommends approval of the offer received from P.I. Foundation.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written in a cursive style.

Matt Muckler
City Administrator

RESOLUTION NO. 2021 – _____

RESOLUTION ACCEPTING PURCHASE AGREEMENT FOR PROPERTY AT 702 EAST 4TH STREET NORTH AND 416 NORTH 7TH AVENUE EAST IN NEWTON

WHEREAS, The P.I. Foundation., has submitted a proposal to purchase, for \$5,000.00, certain property owned by the City of Newton, Iowa located at 702 East 4th Street North and 416 North 7th Avenue East, legally described as:

702 East 4th Street North, legally described as: LOT 9, BLOCK 1 OF LAMB AND KENNEDY'S ADDITION TO THE CITY OF NEWTON, JASPER COUNTY, IOWA EXCEPT THE EAST 12 FEET OF SAID LOT AS APPEARS IN PLAT BOOK B AT PAGE 301 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

416 North 7th Avenue East, legally described as: LOT TEN AND THE EAST TWELVE FEET OF LOT NINE IN BLOCK ONE IN LAMB & KENNEDY'S ADDITION TO NEWTON, JASPER COUNTY, IOWA AS SAME APPEARS IN PLAT BOOK "B", PAGE 301 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

WHEREAS, said real estate is not needed for public purposes, and

WHEREAS, Iowa Code Chapter 364.7 requires cities to set a public hearing before selling or disposing of real estate, and,

WHEREAS, the City has set such a hearing, given the required public notice, and held the public hearing; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa:

Section 1: That the attached Purchase Agreement for Property Located at 702 East 4th Street North and 416 North 7th Avenue East between the City and the purchasing party, The P.I. Foundation, be approved and accepted, subject to the restrictions in the Agreement.

Section 2: That the City shall prepare a deed, obtain the signatures of the Mayor and City Clerk who are each hereby authorized and directed to execute said deed on behalf of the City of Newton, Iowa, and to take all steps necessary to complete the transfer of title to the purchasing party per the terms of the Agreement to Purchase Real Estate.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

(Seal)

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



Supporting people to achieve
a fulfilling life
in their community.

**NEWTON CITY COUNCIL
PROPOSAL FOR ACQUISITION OF D & D PROPERTIES
SEPTEMBER 7, 2021**

Progress Industries provides Home and Community-Based Services (HCBS) 24 Hour residential daily living support to 40 people in 8 homes situated throughout the Newton community. The P.I. Foundation owns these homes that enable Progress Industries to deliver residential services in homes that are safe, accessible, and centrally located for greater access to community services. The P.I. Foundation takes pride in how well our homes are maintained.

The P.I. Foundation is working with **Kendall Moorman, Moorman Construction** to design and build a new accessible home in Newton. This new build will replace an existing P.I. Foundation-owned home in Newton where P.I. delivers 24-hour residential services to 5 adults with disabilities. **The P.I. Foundation is offering \$5000**, for the purchase of two connecting vacant lots, located at 702 E. 4th St. N. and 416 N. 7th Ave. E. in Newton, for this new construction. Attached you will find a conceptual house plan. This one-level, approximately 3000 sq. ft. accessible home will include 5 bedrooms, 2 full and 1/4 baths, combined laundry/storage and storm shelter, open kitchen and dining room concept, and double car garage.

In 2016, Kendall Moorman designed and constructed an accessible home for the P.I. Foundation. The lot for this house was also purchased through the City of Newton D & D program and has added to the neighborhood aesthetics.

Providing residential programs in P.I. Foundation-owned homes provides opportunities for those we serve to be an integral part of the community. We appreciate your consideration of our offer and partnership that will help further P.I.'s mission by supporting people to live independently within their community and support the goals of the City of Newton's D & D revitalization neighborhood program to improve Newton's streetscape, increase property values and living desirability.

A handwritten signature in blue ink, appearing to read 'SKH'.

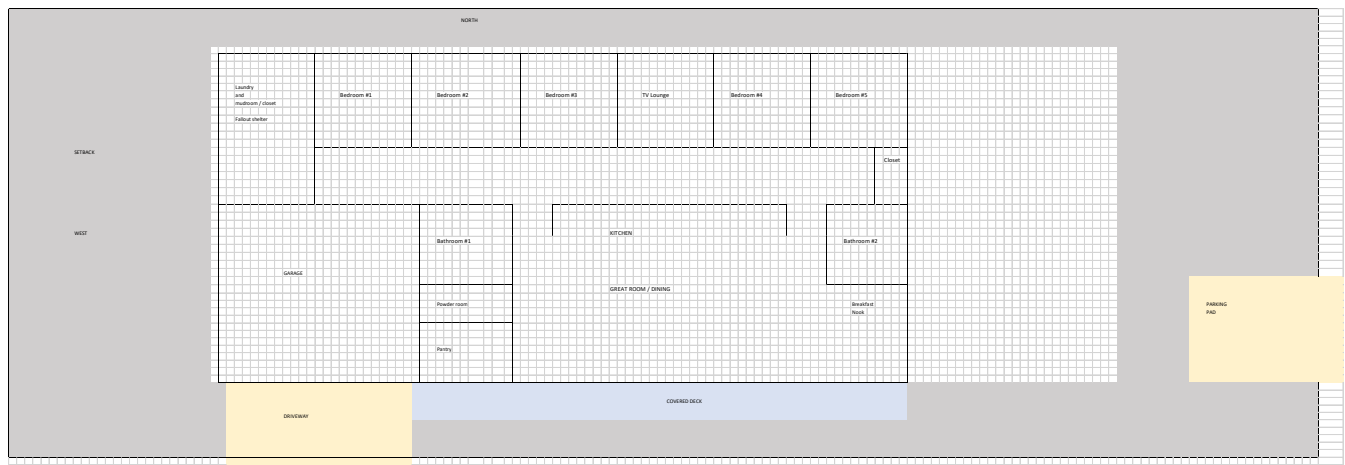
Sandy Ham
President and CEO
Progress Industries and P.I. Foundation
sandy.ham@progressindustries.org

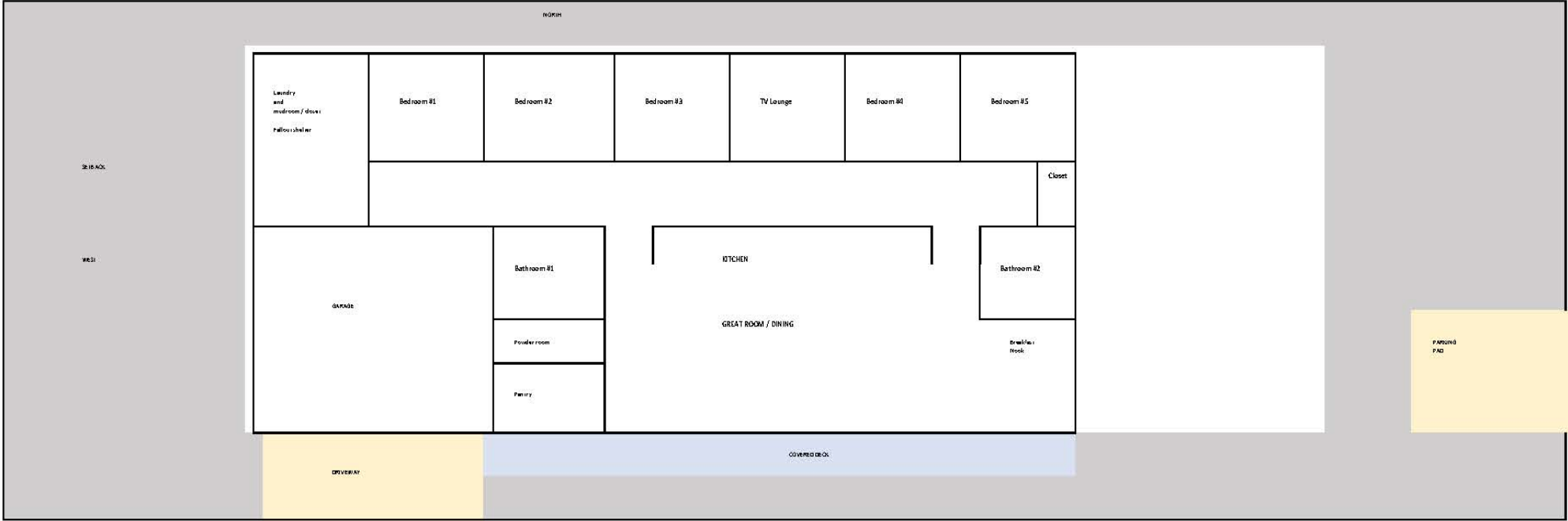
P.I. Foundation Home Built in 2016 by Kendall Moorman Construction

1217 N. 4TH AVE. E – NEWTON, IOWA



New Home Build Plan





PURCHASE AGREEMENT

This Purchase Agreement (hereinafter "Agreement") for sale of property owned by the City of Newton at **702 East 4th Street North and 416 North 7th Avenue East**, is made on or as of the _____ day of _____, 2021, by and between the City of Newton, Iowa (hereinafter "City"), and **The P.I. Foundation** (hereinafter "Buyer"), of Newton, Iowa and in consideration of the premises and the mutual obligations of the parties hereto, each of them does and hereby covenant and agree with the other as follows:

SECTION 1. PURCHASE PRICE. Subject to all the terms, covenants and conditions of this Agreement, the City will sell the Property to the Purchaser for, and the Purchaser will purchase the Property from the City and pay therefore, the amount of **Five Thousand** Dollars (\$5,000.00) (hereinafter "Purchase Price"). The cash payment representing the full Purchase Price shall be delivered to the City simultaneously with the delivery of the deed conveying the Property to the Purchaser.

SECTION 2. TAXES. The City will prorate to the Buyer the taxes incurred under City ownership until the time of closing. All regular taxes due and payable after closing shall be the responsibility of the Developer.

SECTION 3. SPECIAL ASSESSMENTS. The City shall pay all special assessments which are a lien on the date of acceptance of this offer. None are known at this time.

SECTION 4. DESCRIPTION OF PROPERTY. All that certain parcel of land (hereinafter "Property") described as follows:

702 East 4th Street North, legally described as: LOT 9, BLOCK 1 OF LAMB AND KENNEDY'S ADDITION TO THE CITY OF NEWTON, JASPER COUNTY, IOWA EXCEPT THE EAST 12 FEET OF SAID LOT AS APPEARS IN PLAT BOOK B AT PAGE 301 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

416 North 7th Avenue East, legally described as: LOT TEN AND THE EAST TWELVE FEET OF LOT NINE IN BLOCK ONE IN LAMB & KENNEDY'S ADDITION TO NEWTON, JASPER COUNTY, IOWA AS SAME APPEARS IN PLAT BOOK "B", PAGE 301 IN THE OFFICE OF THE RECORDER OF SAID COUNTY.

SECTION 5. CONVEYANCE OF PROPERTY.

a) Form of Deed. The City shall convey title to the Property to the Purchaser by Warranty Deed. Such conveyance and title shall be subject to all conditions, covenants and restrictions contained in this Agreement.

b) Time and Place for Closing and Delivery of Deed. The City shall deliver the Deed and possession of the Property to the Buyer no later than 60 days from the date of approval by the Newton City Council or on such other date as the parties hereto may mutually agree in writing (hereinafter "Closing Date"). Conveyance shall be made at the office of the City of Newton's legal counsel, Caldwell, Bierly, Chalupa PLLC, 211 1st Avenue West, Newton, Iowa 50208, at which time and place Buyer shall accept such conveyance and pay to the City the Purchase Price.

c.) Abstract of Title. The Seller shall provide an abstract(s) of Title to the Purchaser for property subject to this agreement. It will be the Seller's responsibility to have abstract(s) updated. The abstract(s) shall become the property of the Purchaser at the time of the delivery of the deed.

SECTION 6. IMPROVEMENTS. The Buyer shall be responsible for making improvements to the property as follows:

- a) Construction of a 5-bedroom home upon the two combined lots.

SECTION 7. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER. The Buyer shall not sell or otherwise transfer ownership of the Property without the specific written approval of the City, prior to when the construction of the improvements has been completed and the City has issued a Certificate of Completion.

SECTION 8. CERTIFICATE OF COMPLETION.

- a) Promptly after completion of the improvements in accordance with this Agreement, as relating solely to the obligations of the Buyer to timely construct certain improvements, the City will furnish the Buyer with a Certificate of Completion so certifying. Such certificate shall be a conclusive determination of satisfaction and termination of this Agreement.
- b) If the City shall refuse or fail to provide certification in accordance with this Section, the City shall, within thirty (30) days after written request by the Developer, provide the Developer with a written statement indicating with detail in what respects the Developer has failed to complete the improvements in accordance with this Agreement, or its otherwise in default, and what measures or acts will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such certification.

SECTION 9. REMEDIES. Except as otherwise provided in this Agreement, in the event of any default in or breach of this Agreement or any of its terms or conditions by either party, the party alleged to be in default or breach shall, upon written notice from the other, proceed immediately to cure or remedy such default or breach within sixty (60) days after receipt of such notice. In such case, if action is not taken or not diligently pursued, or the default or breach shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach.

In the event that the City does not tender conveyance or possession of the Property in the manner and condition, and by the date, provided in this Agreement, and any such failure shall not be cured within thirty (30) days after the date of written demand by the Purchaser, then this Agreement shall, at the option of the Purchaser, be terminated by written notice thereof to the City, and neither the City nor the Purchaser shall have any further rights against or liability to the other under this Agreement. All deposits, if any, shall be returned to the Purchaser.

SECTION 10. NOTICES AND DEMANDS. A notice, demand or other communication under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and:

a) In the case of the Buyer, is addressed or delivered personally to the Buyer at the address stated in preamble to this Agreement; and,

(b) In the case of the City, is addressed or delivered personally to the City Administrator, 101 West 4th Street South, Newton, IA 50208, or at such other address with respect to either party as that party may from time to time designate in writing and forward to the other as provided in this Section.

SECTION 11. LIMITATION ON WARRANTIES. The City makes no warranties with regard to the condition of the Property or the structure located thereon, including, without limitation, (i) environmental matters; (ii) geological conditions; (iii) drainage issues, conditions or problems; (iv) soil conditions; (v) the zoning or other land use restrictions; (vi) the availability of utilities to the property; (vii) usage of adjoining property; (viii) access to the property; (ix) the value of the property; (x) the presence of hazardous materials in or on the property; (xi) the existence or non-existence of underground storage tanks on the property; (xii) the potential for further development of the property; or (xiii) the merchantability of the property or fitness of the property for any particular purpose, unless otherwise provided herein. The Purchaser expressly acknowledges and agrees that the City, and their officials, officers, employees, or agents have not made any representations or warranties concerning the Property or Project of any kind, including but not limited to, the rental or resale value of the Property, the economic or market conditions affecting the Project, or that the Property is suitable for the Project. The Purchaser takes title the Property "AS IS."

SECTION 12. CITY COUNCIL APPROVAL. This Agreement is subject to the approval of the Newton City Council after notice to the public and a hearing on the terms of this Agreement as required by the laws of the State of Iowa.

SECTION 13. ANTI-MERGER PROVISION. The parties specifically agree that all representations, warranties, agreement, responsibilities, obligations and comments specified herein

shall survive the execution, delivery and recording of the deed required by Section 5(a) hereof, shall remain in full force and effective thereafter, and shall not be merged in or extinguished by such execution, delivery and recording of the deed.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, and the Purchaser has caused this Agreement to be duly executed in its name, on or as of the day first above written.

(SEAL)

CITY OF NEWTON, IOWA

By: _____
Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

PURCHASER:

By: _____

(Name Printed)

For P.I. Foundation

City of Newton Council Report



Item: Resolution Approving Development Agreement with Van Maanen Electric, Inc., Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

Summary: Holding a Public Hearing and acting on a development agreement for Van Maanen Electric which includes a minimum assessment agreement and tax rebate schedule.

Financial Impact: Tax rebate payments not to exceed \$600,000, total, over 5 years

Report Number: 21-240

Date: September 7, 2021

Lead Department:
Community Development

Recommendation:
Approval

Background:

Van Maanen Electric, Inc. has constructed a new headquarters building at 500 Iowa Speedway Drive and seeks assistance from the City in the form of a tax rebate. This resolution approves a development agreement with Van Maanen Electric, Inc. establishing a minimum assessment for the property at \$4.5 million and a tax rebate schedule as follows:

Payment Year	Annual Percentage
First through Third Payment Years	100%
Fourth Payment Year	50%
Fifth Payment Year	25%

Recommendation:

Staff recommends approval of the Resolution.

Matt Muckler
City Administrator

RESOLUTION 2021-_____

Resolution Approving Development Agreement with Van Maanen Electric, Inc.,
Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain
Tax Increment Revenues to the Payment of the Agreement

WHEREAS, the City of Newton, Iowa (the “City”), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the East-Mart Economic Development Area (the “Urban Renewal Area”); and

WHEREAS, this City Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa, which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal of and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, a certain development agreement (the “Agreement”) between the City and Van Maanen Electric, Inc. (the “Company”) has been prepared in connection with the construction by the Company of new corporate headquarters for use in its electrical contracting business operations in the Urban Renewal Area (the “Project”); and

WHEREAS, under the Agreement, the City would provide annual appropriation incremental property tax payments to the Company in a total amount not exceeding \$600,000; and

WHEREAS, this City Council, pursuant to Section 403.9 of the Code of Iowa, has published notice, has held a public hearing on the Agreement on September 7, 2021, and has otherwise complied with statutory requirements for the approval of the Agreement; and

WHEREAS, Chapter 15A of the Code of Iowa (“Chapter 15A”) declares that economic development is a public purpose for which a City may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a City Council must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that in determining whether funds should be spent, a City Council must consider any or all of a series of factors;

NOW, THEREFORE, It Is Resolved by the City Council of the City of Newton, Iowa, as follows:

Section 1. Pursuant to the factors listed in Chapter 15A, the City Council hereby finds that:

(a) The Project will add diversity and generate new opportunities for the Newton and Iowa economies;

(b) The Project will generate public gains and benefits, particularly in the creation of new jobs, which are warranted in comparison to the amount of the proposed financial incentives.

Section 2. The City Council further finds that a public purpose will reasonably be accomplished by entering into the Agreement and providing the incremental property tax payments and the forgivable loan to the Company.

Section 3. The Agreement is hereby approved and the Mayor and City Clerk are hereby authorized and directed to execute and deliver the Agreement on behalf of the City, in substantially the form and content in which the Agreement has been presented to this City Council, and such officers are also authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Agreement.

Section 4. All incremental property tax payments made to the Company by the City under the Agreement shall be subject to annual appropriation by the City Council, in the manner set out in the Agreement. As provided and required by Chapter 403 of the Code of Iowa, the City's obligations under the Agreement shall be payable solely from a subfund (the "Van Maanen Electric, Inc. Subfund") which is hereby established, into which shall be paid that portion of the income and proceeds of the Urban Renewal Tax Revenue Fund attributable to property taxes derived from the property as described as follows:

Certain real property situated in the City of Newton, Jasper County, State of Iowa bearing Jasper County Property Tax Parcel Identification Number 0836300009.

Section 5. The City hereby pledges to the payment of the Agreement the Van Maanen Electric, Inc. Subfund and the taxes referred to in Subsection 2 of Section 403.19 of the Code of Iowa to be paid into such Subfund, provided, however, that no payment will be made under the Agreement unless and until monies from the Van Maanen Electric, Inc. Subfund are appropriated for such purpose by the City Council.

Section 6. After its adoption, a copy of this resolution shall be filed in the office of the County Auditor of Jasper County to evidence the continuing pledging of the Van Maanen Electric, Inc. Subfund and the portion of taxes to be paid into such Subfund and, pursuant to the direction of Section 403.19 of the Code of Iowa, the County Auditor shall allocate the taxes in accordance therewith and in accordance with the tax allocation ordinance referred to in the preamble hereof.

Section 7. All resolutions or parts thereof in conflict herewith are hereby repealed.
Passed and approved September 7, 2021.

Mayor

Attest:

City Clerk

DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Newton, Iowa (the "City") and Van Maanen Electric, Inc. (the "Company") as of the ____ day of _____, 2021 (the "Commencement Date").

WHEREAS, the City has established the East-Mart Economic Development Area (the "Urban Renewal Area"), and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the Company owns certain real property which is situated in the Urban Renewal Area and is more specifically described on Exhibit A hereto (the "Property"); and

WHEREAS, the Company has constructed new corporate headquarters (the "Project") for use in its electrical contracting business operations on the Property; and

WHEREAS, the Company has requested that the City provide financial assistance in the form of incremental property tax payments to be used by the Company in paying the costs of undertaking the Project; and

WHEREAS, for purposes of calculating Incremental Property Tax Revenues (as herein defined) under this Agreement and Section 403.19 of the Code of Iowa, the base valuation (the "Base Valuation") of the Property is \$244,600; and

WHEREAS, Chapter 403 of the Code of Iowa authorizes cities to establish urban renewal areas and to undertake economic development projects; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

A. Company's Covenants

1. Project. The Company has constructed the Project on the Property.

The Company agrees to use the completed Project in its electrical contracting business operations throughout the Term (as hereinafter defined) of this Agreement (the "Business Operations Requirement").

Further, the Company agrees to maintain, preserve, and keep the Property, including but not limited to the Project, useful and in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

2. Business Operations Certifications. The Company agrees to submit documentation to the satisfaction of the City by no later than each October 15th during the Term,

as hereinafter defined, commencing October 15, 2021, demonstrating that the Business Operations Requirement is being met by the Company.

3. **Minimum Assessment Agreement.** The Company agrees to enter into an assessment agreement (the "Assessment Agreement"), pursuant to Section 403.6 of the Code of Iowa fixing the minimum assessed valuation of the Property, in contemplation of the improvements to be constructed thereon, at not less than Four Million Five Hundred Thousand Dollars (\$4,500,000) (the "Minimum Assessed Valuation") as of January 1, 2022 (the "First Valuation Date"). It is intended by the Company that the Minimum Assessed Valuation shall be established on the Jasper County property tax rolls as of the First Valuation Date regardless of the then-current degree of completion or incompleteness of the Project. The Assessment Agreement shall be in substantially the form attached hereto as Exhibit B and shall remain in effect throughout the Term (as hereinafter defined) of this Agreement.

4. **Property Taxes.** The Company agrees to make timely payment of all property taxes as they come due with respect to the Property with the completed Project thereon throughout the Term (as hereinafter defined) and to submit a receipt or cancelled check in evidence of each such payment.

5. **No Abatement; No Property Tax Exemption.** The Company agrees that it will not seek any tax exemption or abatement either presently or prospectively authorized under any State, federal or local law with respect to taxation of the Property throughout the Term (as hereinafter defined) including causing or allowing the property to be leased, sold, transferred to or otherwise used by an entity that is exempt from property taxes under the laws of the State of Iowa.

6. **Property Tax Payment Certification.** For purposes of this Agreement, "Annual Percentage" shall mean the annual percentage in effect from time to time as set forth in the following table:

Payment Year	Annual Percentage
First through Third Payment Years	100%
Fourth Payment Year	50%
Fifth Payment Year	25%

The Company agrees to certify to the City by no later than October 15 of each year, commencing October 15, 2021, an amount (the "Company's Estimate") equal to the estimated Incremental Property Tax Revenues anticipated to be paid in the fiscal year immediately following such certification with respect to the taxable valuation of the Property factored by the Annual Percentage. In submitting each such Company's Estimate, the Company will complete and submit the worksheet attached hereto as Exhibit C.

The City reserves the right to review and request revisions to each such Company's Estimate to ensure the accuracy of the figures submitted. For purposes of this Agreement, Incremental Property Tax Revenues are calculated by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with respect to taxation of the Property; (2)

subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the taxable valuation of the Property, as shown on the property tax rolls of Jasper County, above and beyond the Base Valuation; and (4) deducting any property tax credits which shall be available with respect to the incremental valuation of the Property.

Upon request, the City staff shall provide reasonable assistance to the Company in completing the worksheet required under this Section A.6.

7. Insurance.

(a) The Company, and any successor in interest to the Company, shall obtain and continuously maintain insurance on the Property and the completed Project and, from time to time at the request of the City, furnish proof to the City that the premiums for such insurance have been paid and the insurance is in effect. The insurance coverage described below is the minimum insurance coverage that the Company must obtain and continuously maintain, provided that the Company shall obtain the insurance described in clause (i) below prior to the commencement of construction of the Project (excluding excavation and footings):

- (i) Builder's risk insurance, written on the so-called "Builder's Risk—Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Project at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy.
- (ii) Comprehensive general liability insurance (including operations, contingent liability, completed operations when substantially completed and contractual liability insurance) together with an Owner's/Contractor's Policy naming the City, as an additional insured, with limits against bodily injury and property damage of not less than \$2,500,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used), written on an occurrence basis.
- (iii) Workers compensation insurance, with statutory coverage limited to employees of the Company.

(b) All insurance required in this Section shall be obtained and continuously maintained in responsible insurance companies selected by the Company or its successors that are authorized under the laws of the State of Iowa to assume the risks covered by such policies. Unless otherwise provided in this Section, each policy must contain a provision that the insurer will not cancel nor modify the policy without giving written notice to the insured at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Company, or its successors or assigns, must renew the existing policy or replace the policy with another policy conforming to the provisions of this Section. In lieu of separate policies, the Company or its successors or assigns, may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

(c) The Company, or its successors or assigns, agrees to notify the City promptly in the case of damage exceeding \$250,000 in amount, or destruction of the Project resulting from fire or other casualty. Furthermore, the Company agrees to apply the proceeds from any and all casualty claims against the insurance detailed in this Section to the restoration and improvement of the Property and/or the Project.

8. Indemnification. The Company agrees to indemnify, defend and hold harmless the City, its officers, employees and departments, from and against any and all losses, liabilities, penalties, fines, damages, and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or in connection with any of the following, except to the extent caused by the negligent acts or omissions of the City, its officers, employees and departments:

a) Any claim, demand, action, citation or legal proceeding arising out of or resulting from the construction of the Project.

b) Any claim, demand, action, citation or legal proceeding arising out of or related to occurrences that the Company is required to insure against under this Agreement in connection with the Project and/or the Property; and

c) Any claim, demand, action, citation or legal proceeding arising out of or resulting from an act or omission of the Company or any of its agents in its or their capacity as an employer of a person.

9. Default Provisions.

A. Events of Default. The following shall be "Events of Default" under this Agreement, and the term "Event of Default" shall mean, whenever it is used in this Agreement (unless otherwise provided), any one or more of the following events:

- I. Failure by the Company to maintain compliance with the Business Operations Requirement pursuant to the terms and conditions of this Agreement.
- II. Failure by the Company to fully and timely remit payment of property taxes when due and owing.
- III. Failure by the Company to enter into the Assessment Agreement.
- IV. Failure by the Company to maintain compliance with Sections A.2, A.5, A.6, A.7, and A.8 of this Agreement.
- V. Failure by the Company to observe or perform any other material covenant on its part, to be observed or performed hereunder.

B. Notice and Remedies. Whenever any Event of Default described in this Agreement occurs, the City shall provide written notice to the Company describing the cause of the default and the steps that must be taken by the Company in order to cure the default. The Company shall have thirty (30) days after receipt of the notice to cure the default or to provide

assurances satisfactory to City that the default will be cured as soon as reasonably possible. If the Company fails to cure the default or provide assurances, the City shall then have the right to:

- I. Pursue any action available to it, at law or in equity, in order to enforce the terms of this Agreement.
- II. Withhold the Payments provided for under Section B.1 below.

10. Legal and Administrative Costs. The Company hereby acknowledges that the City will cover the initial payment of legal fees and administrative costs (the “Actual Admin Costs”) incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the necessary amendment to the Urban Renewal Area. Furthermore, the Company agrees that the City shall withhold an amount (the “Admin Withholding Amount”) equal to the lesser of (1) \$8,000 or (2) the Actual Admin Costs from the initial Payments, as hereinafter set forth in order to recover some or all of the Actual Admin Costs.

B. City’s Obligations

1. Payments. In recognition of the Company’s obligations set out above, the City agrees to make five (5) annual economic development tax increment payments (the “Payments” and, individually each, a “Payment”) to the Company during the Term (as hereinafter defined) pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments to be made under this Agreement during the Term (as hereinafter defined) shall not exceed \$600,000 (the “Maximum Payment Total”). All Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City, but shall be made solely and only from Incremental Property Tax Revenues received by the City from the Jasper County Treasurer attributable to the taxable valuation of the Property.

Prior to funding any Payments hereunder, the City shall retain an amount equal to the Admin Withholding Amount from the Incremental Property Tax Revenues received with respect to the Property. Once such amount has been withheld, the Payments shall be funded as described herein.

Each Payment shall not exceed an amount which represents the then-current Annual Percentage factored against the Incremental Property Tax Revenues available to the City with respect to the Property during the twelve (12) months immediately preceding each Payment date.

Payments will be made on June 1 of each fiscal year following an affirmative appropriation decision as provided under section B.2 below, beginning on June 1, 2023 and continuing to, and including, June 1, 2027, or until such earlier date upon which total Payments equal to the Maximum Payment Total have been made.

2. Annual Appropriation. Each Payment shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term (as hereinafter defined) of this Agreement, beginning in calendar year 2021, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payment due in the following fiscal year, an amount (the “Appropriated Amount”) of Incremental Property

Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Company's Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payment scheduled to become due in the following fiscal year, and the Company will have no rights whatsoever to compel the City to make such Payment or to seek damages relative thereto or to compel the funding of such Payments in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payment shall not render this Agreement null and void, and the Company shall make the next succeeding submission of the Company's Estimate as called for in Section A.6 above, provided however that no Payment shall be made after June 1, 2027.

3. **Payment Amounts.** Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, 2023, the amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, 2021) provided, however, that no Payment shall exceed an amount which represents the Annual Percentage of Incremental Property Tax Revenues available to the City with respect to the Property during the twelve (12) months immediately preceding each Payment date.

4. **Certification of Payment Obligation.** In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section B.3 above, then the City Clerk will certify by December 1 of each such year to the Jasper County Auditor an amount equal to the most recently obligated Appropriated Amount.

C. **Administrative Provisions**

1. **Amendment and Assignment.** Neither party may cause this Agreement to be amended, assigned, assumed, sold or otherwise transferred without the prior written consent of the other party. However, the City hereby gives its permission that the Company's rights to receive the Payments hereunder may be assigned by the Company to a private lender, as security on a credit facility taken with respect to the Project, without further action on the part of the City.

2. **Successors.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. **Term.** The term (the "Term") of this Agreement shall commence on the Commencement Date and end on June 1, 2027 or on such earlier date upon which the aggregate sum of Payments made to the Company equals the Maximum Payment Total.

4. **Choice of Law.** This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

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

CITY OF NEWTON, IOWA

By: _____
Mayor

Attest:

City Clerk

VAN MAANEN ELECTRIC, INC.
By:  _____

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Certain real property situated in the City of Newton, Jasper County, State of Iowa bearing Jasper County Property Tax Parcel Identification Number 0836300009.

EXHIBIT B
MINIMUM ASSESSMENT AGREEMENT

**MINIMUM ASSESSMENT AGREEMENT
Recorder's Cover Sheet**

Preparer Information: (name, address and phone number)

Amy M. Bjork, Esq., Dorsey & Whitney LLP, 801 Grand Avenue, Suite 4100, Des Moines, IA 50309; Phone: 515-699-3285

Return Document To:

Erin Chambers, Community Development Director, City of Newton, Iowa, 403 W 4th St N, Suite 501, Newton, IA, 50208; Phone: 641-792-6622 Ext: 2301

City:

City of Newton, Iowa

Property Owner:

Van Maanen Electric, Inc.

Legal Description:

Book & Page Reference if applicable:

MINIMUM ASSESSMENT AGREEMENT

THIS AGREEMENT, dated as of the ____ day of _____, 2021, by and among the City of Newton, Iowa (the "City"), Van Maanen Electric, Inc. (the "Property Owner"), and the County Assessor of Jasper County (the "Assessor").

WITNESSETH

WHEREAS, the Property Owner owns the real property, the legal description of which is contained in Exhibit A attached hereto (the "Property"), which is located in the 1st Avenue East Urban Renewal Area in the City; and

WHEREAS, the Property Owner has constructed new corporate headquarters on the Property ("the Project") for use in its electrical contracting business operations; and

WHEREAS, a development agreement (the "Development Agreement"), dated _____, 2021, has been executed between the City and the Property Owner in connection with the Property Owner's investment in and business operations on the Property; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, the City and the Property Owner desire to establish a minimum taxable value for the Property and the improvements to be constructed thereon, which shall be effective as of January 1, 2022, and from then until this Agreement is terminated pursuant to the terms herein and which is intended to reflect the minimum market value of the land and improvements;

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Effective January 1, 2022, the minimum actual value which shall be assessed for the Property, taking into account the improvements to be constructed thereon, shall be Four Million Five Hundred Thousand Dollars (\$4,500,000) until termination of this Agreement.

2. The Property Owner hereby agrees that the assessed valuation (hereinafter referred to as the "Minimum Actual Value") set forth in Section 1 above shall become and remain effective as of January 1, 2022, and throughout the term of this Agreement, regardless of the actual degree of completion or incompleteness of the Project, even if construction of the Project is not commenced by such date. Furthermore, the Property Owner acknowledges that the City has changed its position in reliance on the timeliness of such increase in valuation as set forth in the Development Agreement.

3. The Property Owner agrees to pay when due, all taxes and assessments, general or special, and all other charges whatsoever levied upon or assessed or placed against the Property, subject to any limitations set forth in the Development Agreement. The Property Owner further agrees that until this Agreement is terminated they will not seek administrative or judicial review

of the applicability, enforceability, or constitutionality of this Agreement or the obligation to be taxed based upon the Minimum Actual Value or to raise any such argument by way of defense in any proceedings, including delinquent tax proceedings.

4. This Agreement, and the minimum assessed valuation established herein, shall be effective until such time as the City's obligations to make Payments (as defined in the Development Agreement) have been satisfied in-full.

5. Nothing herein shall be deemed to waive the Property Owner's rights under Section 403.6(19) Code of Iowa, (2021) or otherwise, to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value.

6. This Agreement shall be promptly recorded with the Jasper County Recorder, along with a copy of Iowa Code Section 403.6.

7. Neither the preamble nor provisions of this Agreement are intended to, nor shall they be construed as, modifying the terms of any other contract between the City and the Property Owner, including the Development Agreement.

[Remainder of page intentionally left blank.]

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

CITY OF NEWTON, IOWA

By: _____
Mayor

Attest:

City Clerk

VAN MAANEN ELECTRIC, INC.

By:  _____

STATE OF IOWA)
)
JASPER COUNTY) SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Michael Hansen and Katrina Davis, the Mayor and City Clerk, respectively, of Newton, Iowa, a municipal corporation of the State of Iowa, on behalf of the City.

Notary Public

STATE OF IOWA)
)
JASPER COUNTY) SS:

The foregoing instrument was acknowledged before me this 24th day of August, 2021 by Nathan Van Maanen the President of Van Maanen Electric, Inc., an Iowa corporation.





Notary Public

EXHIBIT A TO MINIMUM ASSESSMENT AGREEMENT

CERTIFICATION BY ASSESSOR

The undersigned Assessor, being legally responsible for the assessment of the above described property upon completion of improvements to be made on it, hereby certifies that the actual value assigned to such land and improvements upon completion, shall be not less than Four Million Five Hundred Thousand Dollars (\$4,500,000) until termination of the Agreement.

County Assessor for Jasper County,
State of Iowa

Subscribed and sworn to before me this ____ day of _____, 2021.

Notary Public

LIENHOLDER'S CONSENT, IF ANY

In consideration of one dollar and other valuable consideration, the receipt of which is hereby acknowledged, and notwithstanding anything in any loan or security agreement to the contrary, the undersigned ratifies, approves, consents to and confirms the Assessment Agreement entered into between the parties, and agrees to be bound by its terms. This provision shall be binding on the parties and their respective successors and assigns.

[NAME OF LIENHOLDER]

By: _____
Signature

Date: _____

STATE OF IOWA)
) SS:
COUNTY OF JASPER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by _____ the _____ of _____.

Notary Public

[Add additional pages for each Lienholder]

[If no Lienholders exist, this consent will not be completed]

EXHIBIT C

COMPANY'S ESTIMATE WORKSHEET

- (1) Date of Preparation: October ____, 20__.
- (2) Assessed Taxable Valuation of Property as of January 1, 20__:
\$_____.
- (3) Base Taxable Valuation of Property:
\$_____.
- (4) Incremental Taxable Valuation of Property (2 minus 3):
\$_____ (the "TIF Value").
- (5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):
\$_____ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).
\$_____ x \$_____/1000 = \$_____ (the "TIF Estimate")
- (7) TIF Estimate (\$_____ x Annual Percentage = Company's Estimate (\$_____).

Payment Year	Annual Percentage
First through Third Payment Years	100%
Fourth Payment Year	50%
Fifth Payment Year	25%

City of Newton Council Report

Item: Resolution approving the International Church Minor Subdivision, City of Newton, Jasper County, Iowa

Summary: The International Church Minor Subdivision is a 2-lot subdivision of 1510 South 8th Avenue East. The primary purpose of the subdivision is to split the property into two lots so the owner has the flexibility to sell the single-family residential property (to be "Lot 1").

Financial Impact: None.



Report Number: 21-241

Date: September 7, 2021

Lead Department: Community Development Department

Recommendation:
Approve

Background: The International Church Minor Subdivision is a minor plat which establishes clean lot lines for the religious facility and the single-family residential properties at 1510 South 8th Avenue East. This establishes clear legal descriptions and lot lines for the property involved in the subdivision and allows for the current owner to explore sale of the single-family residential property.

The subdivision contains two lots. "Lot 1" will be 0.71 acres for the single-family residence, and "Lot 2" will be 3.25 acres for the religious facility. The subdivision is located within the R-2: One- and Two-Family Residential zoning district. Minimum lot size within the zone is 8,000 square feet, and both of the lots exceed that minimum requirement.

A minor subdivision is required because the proposed action is not eligible for an administrative plat of survey, as the requirement for subdivision kicks in when the subject land has never been platted. Only a minor subdivision is required - rather than a preliminary and final plat process - as no infrastructure or new roads are proposed/needed. Access to each lot will remain unchanged from the existing frontages.

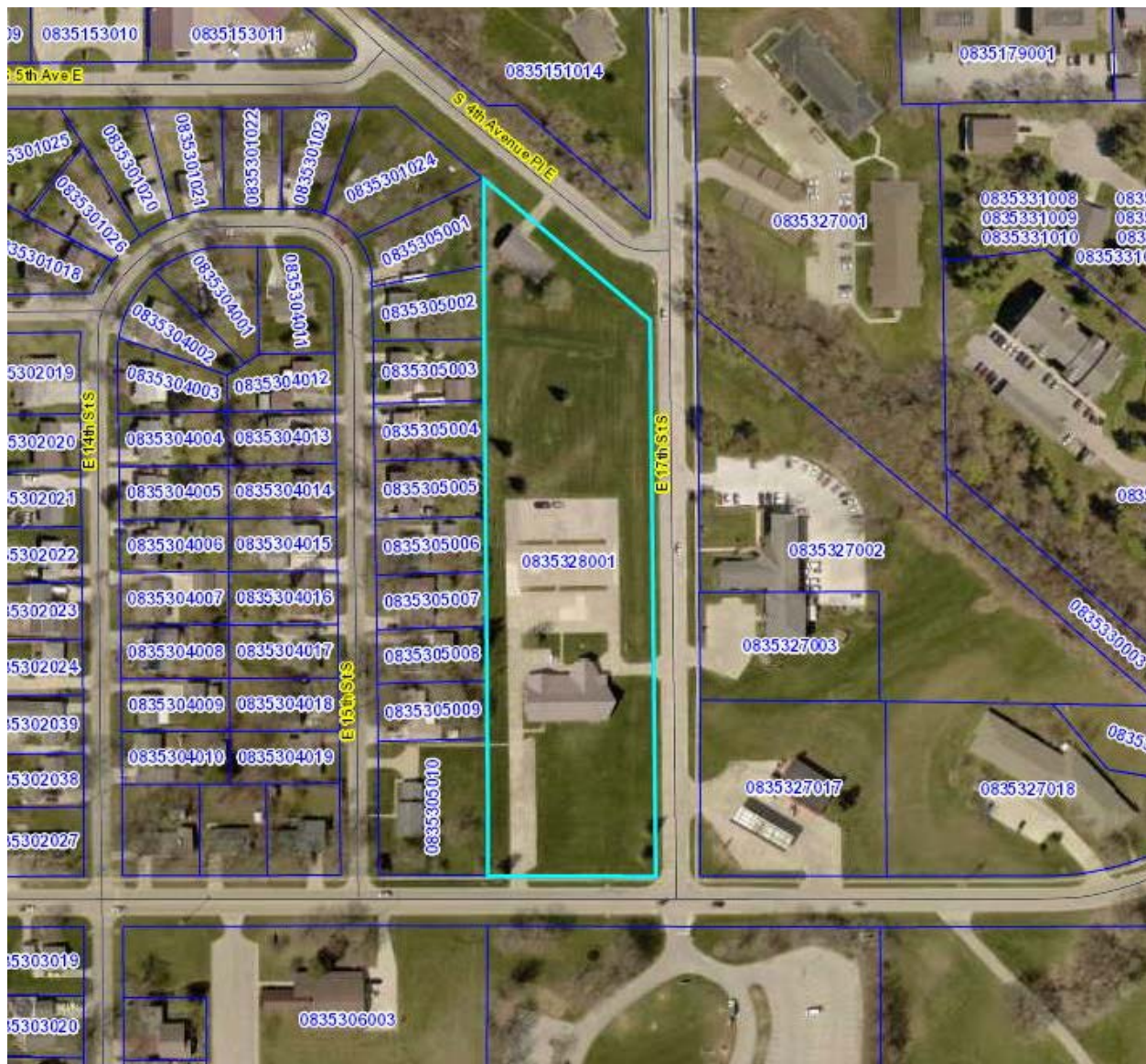
Planning and Zoning Review & Recommendation: The Planning and Zoning Commission reviewed the proposed minor subdivision at their regular meeting held on August 17, 2021. The commission unanimously voted to recommend approval.

Recommendation: City Staff recommends approval of the resolution.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light blue horizontal line.

Matt Muckler
City Administrator

Aerial Photograph of Land Included within the Minor Plat



RESOLUTION NO. 2021 – _____

**RESOLUTION APPROVING THE INTERNATIONAL CHURCH MINOR
SUBDIVISION LOCATED IN THE NORTHEAST $\frac{1}{4}$ OF THE SOUTHWEST
 $\frac{1}{4}$ OF SECTION 35 ALL IN TOWNSHIP 80 NORTH, RANGE 19 WEST OF
THE 5TH P.M., IN THE CITY OF NEWTON, JASPER COUNTY, IOWA**

WHEREAS, a minor subdivision (final plat), International Church Minor Subdivision, has been presented and said plat is certified by land surveyor Jeremy A. Harris of Clapsaddle-Garber Associates, Inc. of Marshalltown, Iowa, and the description of the land included in said plat being as follows:

COMMENCE AT A POINT THREE HUNDRED TWENTY-TWO AND THREE TENTHS FEET (322.3') NORTH AND FIVE AND TWENTY-FIVE HUNDREDTHS FEET (5.25') EAST OF THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER IN SECTION THIRTY-FIVE, TOWNSHIP EIGHTY NORTH, RANGE NINETEEN WEST OF THE 5TH P.M., JASPER COUNTY, IOWA, RUN THENCE EAST TWO HUNDRED TWELVE AND FIFTY-THREE HUNDREDTHS FEET (212.53'), THENCE NORTH TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE MINNEAPOLIS & ST. LOUIS RAILROAD, THENCE NORTHWESTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID RAILROAD TO A POINT FIVE AND TWENTY-FIVE HUNDREDTHS FEET (5.25') EAST OF THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THENCE SOUTH TO POINT OF BEGINNING. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

WHEREAS, said plat has heretofore been reviewed and unanimously recommended for approval by the Planning and Zoning Commission at their meeting on August 17, 2021, and said plat in all respects conforms to the laws, ordinances, and regulations covering the same;

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that the International Church Minor Subdivision is hereby approved and confirmed. The Mayor and City Clerk are hereby directed to certify the resolution herein made and affix the same to the plat for filing.

PASSED this _____ day of September, 2021.

APPROVED this _____ day of September, 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

INTERNATIONAL CHURCH MINOR SUBDIVISION



THIS SITE

OWNER

INTERNATIONAL CHURCH OF FOURSQUARE GOSPEL
1510 SOUTH 8TH AVENUE EAST
NEWTON, IOWA 50208

ZONING CLASSIFICATION

(R-2) ONE AND TWO FAMILY RESIDENTIAL
FRONT SETBACK = 25'
REAR SETBACK = 25'
SIDE SETBACK = 5'
MAXIMUM HEIGHT = 40'
COVERAGE = 40%

VICINITY MAP

Certificate of City Council

This minor plat of International Church Minor Subdivision was accepted and approved by the City of Newton City Council in resolution form said resolution being _____. The City Clerk further certifies that the same final plat hereto attached has been accepted, approved, and filed in accordance with the city ordinance of Newton, Iowa and the Code of Iowa.

Passed: _____ Approved _____
(Date) (Date)
Attest:

Certificate of Planning and Zoning Commission

This final plat of International Church Minor Subdivision was recommended for acceptance and approval by the Planning and Zoning Commission on ____ day of _____, 2021.

Dana Woody, Chairman

Jane Repp, Secretary

LEGAL DESCRIPTION

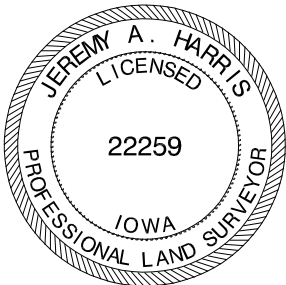
BOOK 578, PAGE 38
COMMENCE AT A POINT THREE HUNDRED TWENTY-TWO AND THREE TENTHS FEET (322.3') NORTH AND FIVE AND TWENTY-FIVE HUNDREDTHS FEET (5.25') EAST OF THE SOUTHWEST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER IN SECTION THIRTY-FIVE, TOWNSHIP EIGHTY NORTH, RANGE NINETEEN WEST OF THE 5TH P.M., JASPER COUNTY, IOWA, RUN THENCE EAST TWO HUNDRED TWELVE AND FIFTY-THREE HUNDREDTHS FEET (212.53'), THENCE NORTH TO THE SOUTHERLY RIGHT-OF-WAY LINE OF THE MINNEAPOLIS & ST. LOUIS RAILROAD, THENCE NORTHWESTERLY ALONG THE SOUTHERLY RIGHT-OF-WAY LINE OF SAID RAILROAD TO A POINT FIVE AND TWENTY-FIVE HUNDREDTHS FEET (5.25') EAST OF THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER, THENCE SOUTH TO POINT OF BEGINNING. SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

NOTE:
ALL BEARINGS ARE THE RESULT OF G.P.S. OBSERVATIONS.

LEGEND:

- ▲ GOVERNMENT CORNER MONUMENT FOUND
- △ GOVERNMENT CORNER MONUMENT SET 1/2" x 30" REBAR w/BLUE PLASTIC ID CAP #22259
- PARCEL OR LOT CORNER MONUMENT FOUND
- SET 1/2" x 30" REBAR w/BLUE PLASTIC ID CAP #22259
- () RECORDED AS

INTERNATIONAL CHURCH MINOR SUBDIVISION
JASPER SURVEY



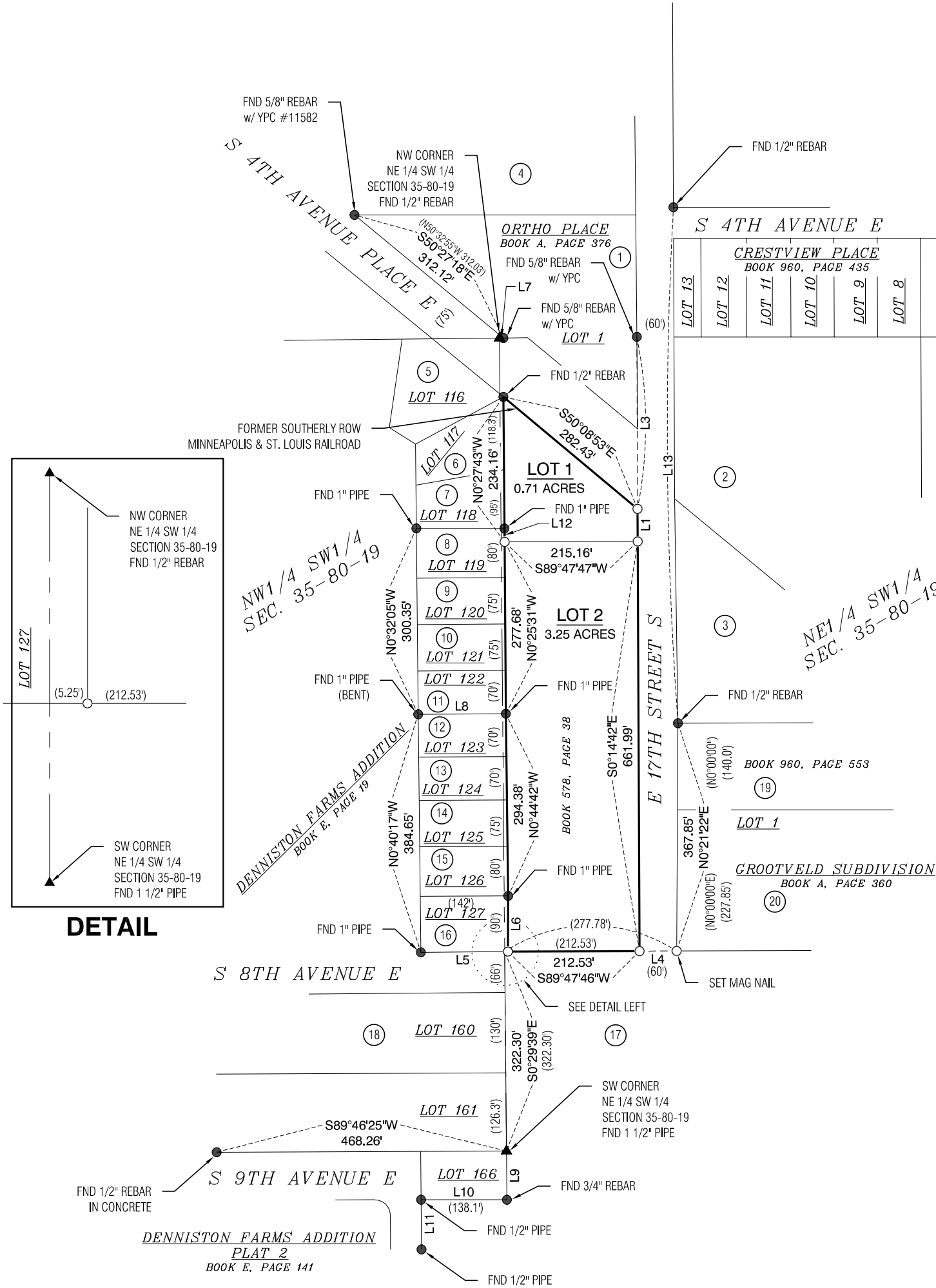
I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly Licensed Professional Land Surveyor under the laws of the State of Iowa.

JEREMY A. HARRIS, PLS date
Iowa License Number 22259
My License Renewal Date is December 31, 2021
Pages or sheets covered by this seal: _____
SHEETS 1 OF 3 , 2 OF 3 AND 3 OF 3



Clapsaddle-Garber Associates, Inc
16 East Main Street
Marshalltown, Iowa 50158
Ph 641-752-6701
www.cgaconsultants.com

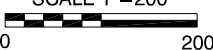
DRAWN CAQ	SHEET NO. 1 OF 3
DATE 7-19-2021	PROJECT NO. 79215.05



LINE DATA		
LINE NUMBER	BEARING	DISTANCE
L1	S0°14'42"E	52.40'
L3	N0°14'42"W	278.11'
L4	N89°47'46"E	60.00'
L5	S89°29'53"W	135.38'
L6	N0°16'22"E	89.95'
L7	S89°15'48"W	6.53'
L8	N89°38'34"E	141.74'
L9	S0°29'29"E	78.69'
L10	S89°58'07"W	138.55'
L11	S0°32'34"E	80.13'
L12	N0°25'38"W	21.73'
L13	N0°30'31"W	833.61'



SCALE 1"=200'





Clapsaddle-Garber Associates, Inc
16 East Main Street
Marshalltown, Iowa 50158
Ph 641-752-6701
www.cgaconsultants.com

DRAWN CAQ	SHEET NO. 2 OF 3
DATE 7-19-2021	PROJECT NO. 79215.05

PROPERTY OWNERS

- 1

CARNEY D & LAURA S LOUCKS
2986 N 18TH AVENUE W
NEWTON, IOWA 50208
- 2

WALNUT CREEK RESIDENTIAL COOPERATIVE
1900 HIGH STREET UNIT E114
DES MOINES, IOWA 50309-3330
- 3

KEYSTONE PROPERTIES LC
600 E 17TH STREET S
NEWTON, IOWA 50208
- 4

HY-VEE INC
5820 WESTOWN PARKWAY
WEST DES MOINES, IOWA 50266
- 5

GREGORY A & SHARON C CAIN
1500 S 6TH AVENUE E
NEWTON, IOWA 50208
- 6

JASON & AMY NEER
600 E 15TH STREET S
NEWTON, IOWA 50208
- 7

PRIORITY HOMES, LLC
1099 S 52ND AVENUE E
NEWTON, IOWA 50208
- 8

BRUCE YEAGER
604 E 15TH STREET S
NEWTON, IOWA 50208
- 9

DANNY K & ELLA L RICHARDSON
606 E 15TH STREET S
NEWTON, IOWA 50208
- 10

JON R & BRENDA R FLICKINGER
608 E 15TH STREET S
NEWTON, IOWA 50208
- 11

HAROLD & GRETCHEN KELLY
610 E 15TH STREET S
NEWTON, IOWA 50208
- 12

CARRIE P SODERBLOM
700 E 15TH STREET S
NEWTON, IOWA 50208
- 13

SHAD L JOLLEY
702 E 15TH STREET S
NEWTON, IOWA 50208
- 14

JACK DREW
704 E 15TH STREET S
NEWTON, IOWA 50208
- 15

INTERNATIONAL CHURCH OF THE FOURSQUARE
1510 S 8TH AVENUE E
NEWTON, IOWA 50208
- 16

INTERNATIONAL CHURCH OF THE FOURSQUARE
1510 S 8TH AVENUE E
NEWTON, IOWA 50208
- 17

YMCA OF NEWTON, IOWA INC
1701 S 8TH AVENUE E
NEWTON, IOWA 50208
- 18

HOLY TRINITY EVANGELICAL LUTHERAN CHURCH
1409 S 8TH AVENUE E
NEWTON, IOWA 50208
- 19

KEYSTONE PROPERTIES LC
600 E 17TH STREET S
NEWTON, IOWA 50208
- 20

GIT-N-GO CONVENIENCE STORE INC
2716 INDIANOLA AVENUE
DES MOINES, IOWA 50315-2399



Clapsaddle-Garber Associates, Inc
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DRAWN CAQ	SHEET NO. 3 OF 3
DATE 7-19-2021	PROJECT NO. 79215.05

City of Newton Council Report

Item: Resolution accepting a grant from the Jasper Community Foundation and awarding the purchase of thermal imaging equipment.

Summary: Resolution to accept a grant from the Jasper Community Foundation and to purchase four thermal imaging cameras with chargers.

Financial Impact: \$9,064 to be paid from accepted grant and \$936 to be paid from Fire Department budget.



Report Number: 21-242

Date: September 7, 2021

Lead Department:
Fire Department

Recommendation:
Approve

Background:

The Fire Department is requesting the acceptance of a grant from the Jasper Community Foundation in the amount of \$9,064 to be used for the purchase of a new thermal imaging system. The original plan was to replace a worn out thermal imaging camera (TIC) with a new one. While shopping and developing the plan, a new system of TIC's were evaluated by the department for functionality. This new system uses four smaller TIC's that each contain spatial location technology. This technology allows firefighters to pinpoint the location of the other TIC's operating on the system and could be used to rescue firefighters in the event of an emergency.

Only one vendor currently has the technology capable of meeting this specification. The City of Newton received bids from one vendors:

<u>Company</u>	<u>Quote</u>
<i>4 Unit Thermal Imaging Cameras with Locators</i> Sandry Fire Supply	\$ 10,000

RECOMMENDATION

City Staff recommends Council award the purchase of the four thermal imaging camera system to the lowest responsible bidder, Sandry Fire Supply of DeWitt, Iowa in the amount of \$10,000. Funds from the accepted Jasper Community Foundation grant will be used to pay \$9,064 of the project cost and the remaining \$936 will come from the Fire Department budget.

Matt Muckler
City Administrator

RESOLUTION NO. 2021-_____

**RESOLUTION ACCEPTING A GRANT FROM THE JASPER COMMUNITY
FOUNDATION AND AWARDING THE PURCHASE OF THERMAL IMAGING
EQUIPMENT**

WHEREAS, the Fire Department was working on a project to replace a worn out thermal imaging camera; and

WHEREAS, the Fire Department was recently awarded a grant from the Jasper Community Foundation for the purchase of this equipment; and

WHEREAS, significant changes in technology have created thermal imaging devices that can communicate with one another and allow for quickly finding other cameras in the system providing quick access to rescue downed firefighters; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the grant given by the Jasper Community Foundation in the amount of \$9,064 be accepted and the bid for a four unit thermal imaging system be accepted from Sandry Fire Supply of DeWitt, Iowa for the purchase of the equipment in the amount of \$10,000;

BE IT FURTHER RESOLVED, the total purchase of ten thousand dollars and zero cents (\$ 10,000) for the thermal imaging equipment project, is hereby approved. The project cost will be paid in the amount of \$9,064 from the accepted Jasper Community Foundation grant and \$936 from the Fire Department budget.

PASSED this _____ day of September 2021.

APPROVED this _____ day of September 2021.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk