



**IMU BOARD OF TRUSTEES OF THE ELECTRIC,
WATER AND COMMUNICATIONS UTILITIES**

May 23, 2022

5:30 PM

City Hall Council Chambers

Agenda

- 1. Call to Order**
- 2. Roll Call**
- 3. Public Comment**
- 4. Consent Agenda:**
 - A. Approval of Claims
 - B. Approval of Minutes of the prior board meeting.
- 5. Electric Utility Informational Items**
- 6. Water Utility Action Items**
 - A. Authorization for Warren Water District to serve a customer within their territory upon proper notice to IMU since the customer is within 2 miles of the IMU territory, located at 16001 Hwy 92.
- 7. Water Utility Informational Items**
- 8. Communications Utility Action Items**
 - A. Consideration of the approval of a Mutual Non-Disclosure agreement between NewCom Technologies Inc and Indianola Municipal Utilities whereas the parties have an interest in participating in discussions where information shared with the other may be considered proprietary and confidential.
 - B. Consideration of the approval of a Technical Services Agreement with NewCom Technologies Inc for the performance of professional consulting services.
 - C. Consideration of the approval of a Request for Services - RS No 1 "Network Extensions: NOFA Grants 43351 and 43353" in the amount of \$44,489 for the engineering design, bid package prep and construction review of phases 1, 2 and 3 of the North Project and the County Connection phase of the South Project.
- 9. Communications Utility Informational Items**
- 10. Combined Electric, Water and Communications Informational Items**
- 11. Adjourn**

MEMORANDUM

To: IMU Board of Trustees of the Electric, Water and Communications Utilities
From:
Date: May 23, 2022
Subject: Approval of Claims

Recommendation: Simple motion is in order.

Attachments: 1. 052422 Elation Claims List

AP Check Preview

Date Range: All Dates

Indianola Municipal Utilities

Wednesday, May 18, 2022

10:58:25 AM

Vendor	Due Date	Notes	Terms	Bill Total	Discount	Interest	Amount Due	Payment	Invoice Number	Bill Number
Account To Be Paid From 0000-10120-999										
ACCO UNLIMITED CORP. - VEND-2810										
5/10/2022	ACCO liquid chlorinating	Open Terms	1,432.35	0.00	0.00	1,432.35	1,432.35	0221864-IN	BL-8343	
						1,432.35	1,432.35			
BALDWIN POLE & PILING - VEND-99462										
5/5/2022	Wood Poles	Open Terms	6,666.10	0.00	0.00	6,666.10	6,666.10	5665	BL-8315	
						6,666.10	6,666.10			
Bionomics, Inc - VEND-1312										
6/3/2022	Country club substation breaker parts disposal	Net 30	2,127.00	0.00	15.00	2,127.00	2,127.00	22337	BL-8314	
						2,127.00	2,127.00			
Border States Industries Inc - VEND-1070										
6/1/2022	Green Hand Holes	Net 30	812.78	0.00	15.00	812.78	812.78	924132544	BL-8318	
6/1/2022	Arrestor Connector	Net 30	197.42	0.00	15.00	197.42	197.42	924132543	BL-8319	
6/2/2022	Loadbreak Cutouts	Net 30	984.19	0.00	15.00	984.19	984.19	924140930	BL-8320	
6/15/2022	Pole Hardware - Square Washers	Net 30	110.95	0.00	15.00	110.95	110.95	924215162	BL-8336	
						2,105.34	2,105.34			
Cappel's Ace Hardware - VEND-1204										
6/5/2022	Gojo scrub wipes	Net 30	17.99	0.00	15.00	17.99	17.99	002689	BL-8342	
						17.99	17.99			
Casual Rags - VEND-1006										
6/9/2022	Years of service apparel	Net 30	367.36	0.00	15.00	367.36	367.36	154782	BL-8273	
						367.36	367.36			
CCP INDUSTRIES INC. - VEND-8925										
5/5/2022	Shop towels	Open Terms	202.03	0.00	0.00	202.03	202.03	IN03013600	BL-8338	
						202.03	202.03			
Cedar Falls Utilities - VEND-1045 - BL-8330										
6/4/2022	0422 Bandwidth & 5g	Net 30	6,780.00	0.00	15.00	6,780.00	6,780.00	0422 Bandwidth & 5g	BL-8330	
						6,780.00	6,780.00			
CHEMTREAT INC - VEND-8300										
4/1/2022	Polymer	Open Terms	6,861.27	0.00	0.00	6,861.27	6,861.27	CIN010312120	BL-8304	

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Indianola Municipal Utilities

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							6,861.27	6,861.27		
Cintas Corporation - VEND-1007										
5/29/2022	First aid supplies	Net 30	35.65	0.00	15.00	35.65	35.65	8405662154	BL-8312	
							35.65	35.65		
City Of Indianola - VEND-1008 - BL-8341										
6/11/2022	Square streetscape project - pay app	Net 30	50,354.75	0.00	15.00	50,354.75	50,354.75	2855	BL-8341	
							50,354.75	50,354.75		
City Of Pella - VEND-1311										
6/3/2022	Newcom technologies invoice 47170-50%	Net 30	7,620.00	0.00	15.00	7,620.00	7,620.00	6435	BL-8297	
							7,620.00	7,620.00		
D.A. DAVIDSON & CO. - VEND-100578										
5/14/2022	Filing of annual continuing disclosure	Open Terms	1,000.00	0.00	0.00	1,000.00	1,000.00	22 264 CDC0 MM	BL-8307	
							1,000.00	1,000.00		
DICKINSON LAW - VEND-101709										
5/7/2022	Legal services	Open Terms	552.00	0.00	0.00	552.00	552.00	1138043	BL-8272	
							552.00	552.00		
Ditch Witch - VEND-1115										
6/15/2022	Underground cable locator	Net 30	7,322.77	0.00	15.00	7,322.77	7,322.77	027644	BL-8339	
							7,322.77	7,322.77		
Dust Pros Janitorial - VEND-1011										
6/1/2022	Cleaning supplies - WA	Net 30	196.50	0.00	15.00	196.50	196.50	2535	BL-8267	
6/14/2022	0522 Cleaning - Fiber	Net 30	856.00	0.00	15.00	856.00	856.00	2542	BL-8299	
6/14/2022	Cleaning supplies - Fiber	Net 30	32.90	0.00	15.00	32.90	32.90	2543	BL-8300	
6/14/2022	Cleaning supplies - Util svcs	Net 30	52.43	0.00	15.00	52.43	52.43	2545	BL-8322	
6/14/2022	0522 Cleaning - Util svcs	Net 30	749.00	0.00	15.00	749.00	749.00	2544	BL-8323	
							1,886.83	1,886.83		
Electronic Engineering - VEND-1313										
6/5/2022	2 Way radio parts for new Ram	Net 30	135.05	0.00	15.00	135.05	135.05	120013428-1	BL-8337	
							135.05	135.05		
GRAYMONT WESTERN LIME INC - VEND-101387										
5/3/2022	High calcium quicklime	Open Terms	5,127.56	0.00	0.00	5,127.56	5,127.56	171310	BL-8305	

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Indianola Municipal Utilities

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							5,127.56	5,127.56		
HACH COMPANY - VEND-20810										
5/19/2022	PH tester	Open Terms	339.76	0.00	0.00	339.76	339.76	12690311	BL-8344	
5/19/2022	Sulfuric acid	Open Terms	105.98	0.00	0.00	105.98	105.98	12581490	BL-8345	
5/19/2022	Sulfuric acid	Open Terms	284.75	0.00	0.00	284.75	284.75	12566098	BL-8346	
5/19/2022	Bromcresol green methyl	Open Terms	21.35	0.00	0.00	21.35	21.35	12563235	BL-8347	
5/19/2022	Chlorine and phenolphthalein	Open Terms	1,371.90	0.00	0.00	1,371.90	1,371.90	12552543	BL-8348	
							2,123.74	2,123.74		
Hearst Television Inc - VEND-1131										
5/30/2022	KCCI	Net 30	5,719.85	0.00	15.00	5,719.85	5,719.85	439297	BL-8296	
							5,719.85	5,719.85		
IMU - VEND-8629										
4/2/2022	Utilities - Fiber	Open Terms	1,006.62	0.00	0.00	1,006.62	1,006.62	10188787	BL-8301	
5/2/2022	Utilities - Fiber	Open Terms	1,112.63	0.00	0.00	1,112.63	1,112.63	10197729	BL-8302	
							2,119.25	2,119.25		
Independent Advocate - VEND-1136										
6/5/2022	Digital advertising	Net 30	200.00	0.00	15.00	200.00	200.00	1072	BL-8298	
							200.00	200.00		
Innovative Systems - VEND-1048										
6/3/2022	0522 Utility bills, postage and IMU flyer	Net 30	6,033.59	0.00	15.00	6,033.59	6,033.59	INV - 03071	BL-8268	
							6,033.59	6,033.59		
Internal Revenue Service - VEND-1307										
6/12/2022	941 Income tax payable	Net 30	23,925.66	0.00	15.00	23,925.66	23,925.66		BL-8325	
							23,925.66	23,925.66		
Iowa Department Of Human Services - VEND-1310										
6/12/2022	Garnishment payable	Net 30	1,040.99	0.00	15.00	1,040.99	1,040.99		BL-8326	
							1,040.99	1,040.99		
Iowa Dept Of Revenue - VEND-1117										
5/30/2022	April 2022 Use Tax	Net 30	2,268.18	0.00	15.00	2,268.18	2,268.18	April 2022 Use Tax	BL-8306	
6/8/2022	Sales Tax Billed 5-1-22	Net 30	44,218.59	0.00	15.00	44,218.59	44,218.59	Sales Tax Billed 5-1-22	BL-8303	
6/12/2022	IA income tax payable	Net 30	4,156.07	0.00	15.00	4,156.07	4,156.07		BL-8327	

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							50,642.84	50,642.84		
Iowa One Call - VEND-1015										
5/27/2022	Locates	Net 30	286.20	0.00	15.00	286.20	286.20	240433	BL-8289	
							286.20	286.20		
LINDE INC - VEND-6415										
5/11/2022	Carbon dioxide	Open Terms	2,887.11	0.00	0.00	2,887.11	2,887.11	10308727	BL-8309	
							2,887.11	2,887.11		
Mid American Energy Co - VEND-1018										
5/20/2022	Gas - 110 S B	Net 30	264.23	0.00	15.00	264.23	264.23	524984313	BL-8277	
5/20/2022	Gas - 909 E Hillcrest	Net 30	14.72	0.00	15.00	14.72	14.72	524979450	BL-8286	
							278.95	278.95		
Midwest Alarm Services - VEND-1116										
6/7/2022	Fire alarm monitoring	Net 30	458.38	0.00	15.00	458.38	458.38	381032	BL-8329	
							458.38	458.38		
Mission Square - VEND-1303										
6/12/2022	051322 Contributions	Net 30	5,401.28	0.00	15.00	5,401.28	5,401.28		BL-8328	
							5,401.28	5,401.28		
MUNICIPAL ENERGY AGENCY OF NEBRASKA - VEND-35805										
6/16/2022	Purchased power - Apr 22	Net 30	646,561.32	0.00	15.00	646,561.32	646,561.32	303054	BL-8340	
							646,561.32	646,561.32		
National Cable Television Cooperative, Inc. - VEND-1095										
5/29/2022	0422 Cable	Net 30	50,241.52	0.00	15.00	50,241.52	50,241.52	22040886	BL-8264	
							50,241.52	50,241.52		
Nolasoft Development - VEND-1021										
6/12/2022	Website update	Net 30	840.00	0.00	15.00	840.00	840.00	9031	BL-8287	
							840.00	840.00		
Norwalk Ready Mix Concrete, Inc. - VEND-1119										
5/27/2022	M-4 Limestone	Net 30	1,036.75	0.00	15.00	1,036.75	1,036.75	301377	BL-8265	
6/11/2022	Line shop concrete	Net 30	2,406.73	0.00	15.00	2,406.73	2,406.73	302666	BL-8313	
							3,443.48	3,443.48		
Power & Tel - VEND-1037										

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	5/28/2022	MICRO BATTERY BACKUP - UPS	Net 30	1,936.47	0.00	15.00	1,936.47	1,936.47	7478770-00	BL-8293
							1,936.47	1,936.47		
RESCO - VEND-47234										
	5/5/2022	Cleviss Thimble	Open Terms	141.24	0.00	0.00	141.24	141.24	859101-00	BL-8316
							141.24	141.24		
SKARSHAUG TESTING LABORATORY INC - VEND-50410										
	4/27/2022	High voltage PPE testing	Open Terms	989.60	0.00	0.00	989.60	989.60	259450	BL-8311
	5/12/2022	Fiberglass stick repair	Open Terms	81.20	0.00	0.00	81.20	81.20	259821	BL-8324
							1,070.80	1,070.80		
STATE HYGIENIC LABORATORY - VEND-23245										
	5/1/2022	Testing	Open Terms	202.50	0.00	0.00	202.50	202.50	231626	BL-8308
							202.50	202.50		
SUMMIT DRILLING LLC - VEND-103054										
	5/13/2022	Laser wash project and N 4th feeder extension	Open Terms	6,200.00	0.00	0.00	6,200.00	6,200.00	1860	BL-8310
							6,200.00	6,200.00		
Teklink - VEND-1262										
	6/13/2022	Conduit bury	Net 30	5,759.00	0.00	15.00	5,759.00	5,759.00	WE 5/14/22	BL-8331
							5,759.00	5,759.00		
Terry-Durin Co - VEND-1038										
	5/28/2022	Hand Holes	Net 30	856.00	0.00	15.00	856.00	856.00	107168-00	BL-8317
	5/29/2022	COUPLING PUSH-FIT 1 1/2"	Net 30	500.76	0.00	15.00	500.76	500.76	107318-00	BL-8292
							1,356.76	1,356.76		
TrueNorth Companies LC - VEND-1100										
	5/30/2022	April safety meeting	Net 30	75.00	0.00	15.00	75.00	75.00	130877	BL-8274
							75.00	75.00		
ULINE - VEND-1251										
	5/21/2022	Yellow plastic tags w/wire	Net 30	59.78	0.00	15.00	59.78	59.78	147968191	BL-8290
	5/21/2022	Marsh paint marker - black	Net 30	54.03	0.00	15.00	54.03	54.03	147968190	BL-8291
							113.81	113.81		
UMB BANK N.A. - VEND-103242										
	5/10/2022	2017C Paying agent fees	Open Terms	250.00	0.00	0.00	250.00	250.00	919354	BL-8275

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							250.00	250.00		
UPHDM Occupational Medicine - VEND-1101										
5/29/2022	Employee testing	Net 30	54.75	0.00	15.00	54.75	54.75	126487	BL-8276	
							54.75	54.75		
VERIZON WIRELESS - VEND-3535										
5/1/2022	0422 Hot spots	Open Terms	405.45	0.00	0.00	405.45	405.45	9905366284	BL-8269	
							405.45	405.45		
Warren County Engineer - VEND-1102										
6/2/2022	0422 Fuel Distribution	Net 30	4,001.21	0.00	15.00	4,001.21	4,001.21	0422 Fuel Distribution	BL-8270	
							4,001.21	4,001.21		
Waste Management - VEND-1086										
5/27/2022	2 Yard dumpster	Net 30	102.76	0.00	15.00	102.76	102.76	6906678-0516-0	BL-8266	
6/30/2022	4 Yard dumpster	Net 30	64.59	0.00	15.00	64.59	64.59	6906680-0516-6	BL-8294	
							167.35	167.35		
WESCO - VEND-60220										
5/4/2022	Pole Eye Plate	Open Terms	117.49	0.00	0.00	117.49	117.49	162370	BL-8321	
5/10/2022	Locate Flags	Open Terms	889.17	0.00	0.00	889.17	889.17	170285	BL-8335	
							1,006.66	1,006.66		
Wiegert Disposal Inc - VEND-1081										
5/31/2022	0422 Dumpster Service	Net 30	110.00	0.00	15.00	110.00	110.00	0422 Dumpster Service	BL-8288	
							110.00	110.00		
Wisconsin Independent Network, LLC - VEND-1067										
5/31/2022	Ethernet	Net 30	12,625.99	0.00	15.00	12,625.99	12,625.99	WIN015404	BL-8295	
							12,625.99	12,625.99		
WISI USA Inc. - VEND-1125										
5/29/2022	Annual support and maintenance renewal	Net 30	3,009.96	0.00	15.00	3,009.96	3,009.96	U3072	BL-8332	
							3,009.96	3,009.96		
YMCA Of Greater Des Moines - VEND-1169										
5/31/2022	0522 Employee Wellness	Net 30	342.80	0.00	15.00	342.80	342.80	0522 Employee Wellness	BL-8271	

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							342.80	342.80		
			Check Count: 54			Totals:	\$941,627.96	\$941,627.96		

MEMORANDUM

To: IMU Board of Trustees of the Electric, Water and Communications Utilities

From:

Date: May 23, 2022

Subject: Approval of Minutes of the prior board meeting.

Recommendation: Simple motion is in order.

Attachments: 1. 05092022 BOT Minutes



**IMU BOARD OF TRUSTEES
OF THE ELECTRIC, WATER
AND COMMUNICATIONS UTILITIES**

May 9, 2022

5:30 PM

City Hall Council

Chambers

Minutes

Call to Order

The Indianola Municipal Utilities Board of Trustees met in regular session at 5:30 p.m. on April 25, 2022, in the City Hall Council Chambers. Chairperson Lori Smith called the meeting to order and on roll call the following members were present: Deb White, Lori Smith, Mike Rozga, and Adam Voigts. Absent: Lesley Forbush.

Public Comment

No public comments were offered.

Consent Agenda:

The Trustees directed staff to have the funds in the financial report broken down with any variances noted. Voigts moved to approve the consent agenda and Rozga seconded it. Question was called for and on voice vote the Chairperson declared the motion carried unanimously. The consent agenda was as follows:

- Approval of Claims
- Approval of the March financial report.
- Approval of Minutes of the prior board meeting.

Electric Utility Action Items

Finance/HR Director Chris Longer explained Fund 625 was established for economic development reasons and is not required to be a separate fund. This resolution will move the funds back to Fund 630. White moved to approve Resolution 2022-029 dissolving Fund 625 and returning the remaining amount to Fund 630. Voigts seconded it. On roll call, the vote was AYES: White, Smith, Rozga, Voigts. NAYS: None. ABSENT: Forbush. Whereas the Chairperson declared the motion carried unanimously.

Electric Utility Informational Items

General Manager Chris Des Planques and MEAN representatives Shannon Coleman and Tim Cerveney reviewed the MEAN Integrated Resource Plan. Highlighted items were current contracts and the limitations those impose; capacity, energy and portfolios; and comments on Mid-American Energy's portfolio.

Anita Christensen, Bill Howard, and Al Farris, of the Indianola Sustainability Committee, provided comments to the Plan, noting they would like the plan to include more use of renewable resources.

Des Planques informed the Trustees that an opinion piece in the Indianola Independent Advocate had some comments about perceived deficiencies in the Plan. MEAN will submit a rebuttal about some misrepresentations.

Mike Metcalf, Electric Superintendent, stated digger trucks now have a 4-year lead time. They may look at rebuilding the current truck instead of purchasing a new one. The Department is on stand-by for generation this week due to high forecasted temperatures. With diesel prices currently high, staff would like to move \$70,000 in the FY22 budget for fuel to FY23, as prices may decrease. Trustees agreed this amendment should be made.

Water Utility Action Items

White moved to approve authorization for Warren Water District to serve a customer within their territory upon proper notice to IMU since the customer is within 2 miles of the IMU territory, located at 12753 140th Avenue. Voigts seconded it. Question was called for and on voice vote the Chairperson declared the motion carried unanimously.

Water Utility Informational Items

Lou Elbert, Water Superintendent, stated they have received parts for filters and are working on right-of-way repairs due to water main breaks over the winter.

Communications Utility Informational Items

Telecommunications Superintendent Kurt Ripperger stated the lead time for installations is 3-4 weeks due to short staffing. He also led a discussion on federal subsidization for broadband users.

Combined Electric, Water and Communications Action Items

Voigts moved to approve an engagement letter with Dickinson, Mackaman, Tyler and Hagen PC for legal services and White seconded it. Question was called for and on voice vote the Chairperson declared the motion carried unanimously. Des Planques explained that on-going legal issues will be transferred to the new firm. Representatives of the firm will be at the next board meeting.

Combined Electric, Water and Communications Informational Items

Des Planques will attend MEAN committee meetings next week where the Integrated Resource Plan will be discussed and approved. He also provided an update on the solar project.

Adjourn

The meeting was adjourned at 6:52 PM on a motion by White and seconded by Rozga. Question was called for and on voice vote the Chairperson declared the motion carried unanimously.

Lori Smith, Chairperson

ATTEST:

Jackie Raffety, City Clerk

MEMORANDUM

To: IMU Board of Trustees of the Electric, Water and Communications Utilities

From:

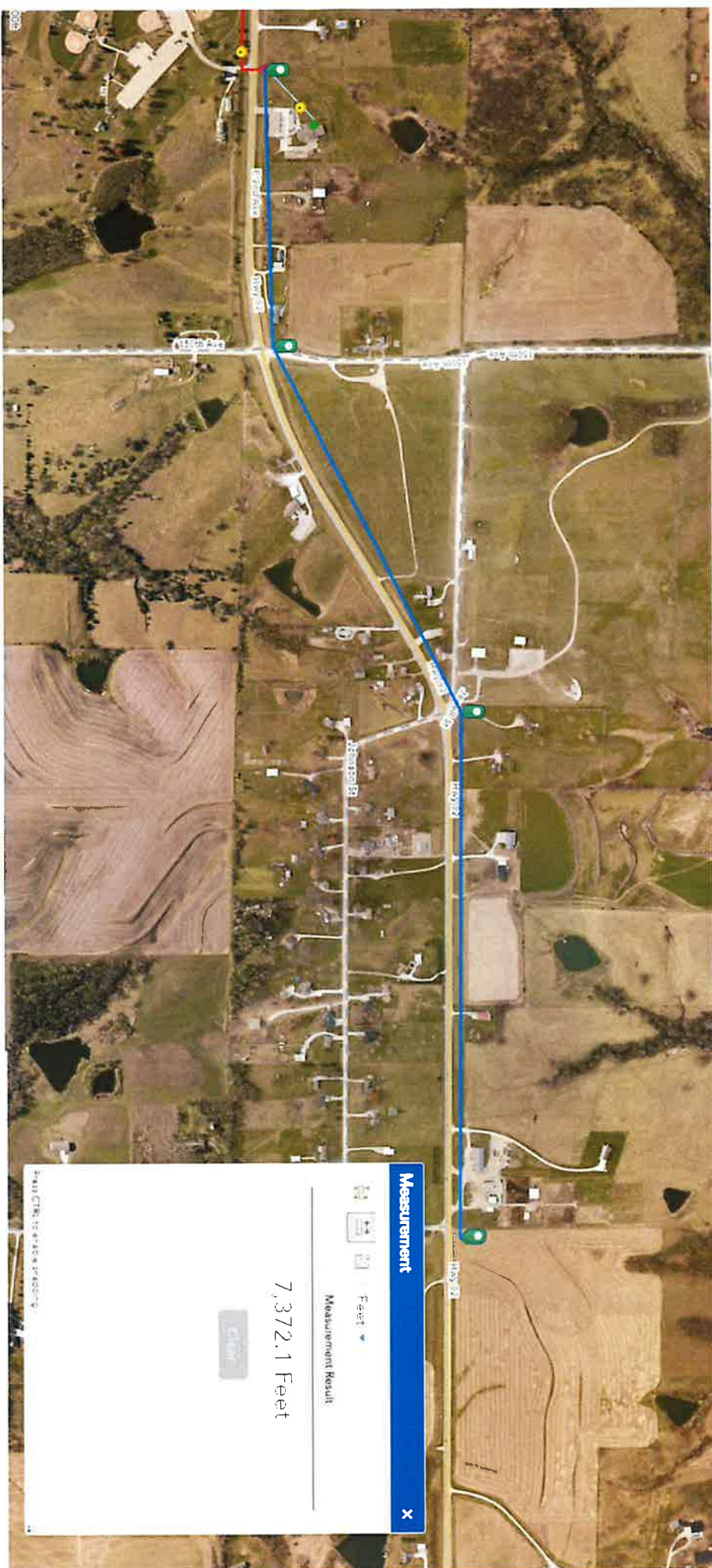
Date: May 23, 2022

Subject: Authorization for Warren Water District to serve a customer within their territory upon proper notice to IMU since the customer is within 2 miles of the IMU territory, located at 16001 Hwy 92.

Recommendation: Under state regulations for water service territories, Warren Water District (WWD) is required to provide notice to IMU when a customer has requested service from WWD when the location is within 2 miles of the IMU service territory. A resident at 16001 Hwy 92 has requested service from WWD and WWD has provided notification to IMU as the property is within 2 miles of the IMU water district. To serve this customer outside of the IMU district, IMU would have to construct a 1.4 mile extension to the property. Superintendent Lou Elbert is recommending the Board of Trustees acknowledge the notification from WWD to serve the property as it is within WWD service territory and WWD already has a water main at this location.

A simple motion approving the notification from WWD to service this property outside of the IMU water service territory is in order.

Attachments: 1. WWD Request





MEMORANDUM

To: IMU Board of Trustees of the Electric, Water and Communications Utilities

From:

Date: May 23, 2022

Subject: Consideration of the approval of a Mutual Non-Disclosure agreement between NewCom Technologies Inc and Indianola Municipal Utilities whereas the parties have an interest in participating in discussions where information shared with the other may be considered proprietary and confidential.

Recommendation: Simple motion is in order.

Attachments: 1. Mutual Non Disclosure Agreement - IMU 20220523

**TECHNICAL SERVICES AGREEMENT
MUTUAL NON-DISCLOSURE AGREEMENT**

Between

Indianola Municipal Utilities("Owner")

And

NewCom Technologies, Inc. ("Consultant")

THIS AGREEMENT is entered into and made effective as of, May 23, 2022, by and between Indianola Municipal Utilities, an Iowa municipal utility, as defined in the Iowa Code ("Owner") and NewCom Technologies, Inc, a corporation organized under the laws of the State of Iowa ("Consultant"). The "Owner" and "Consultant" shall be referred to singularly as a "Party" and collectively referred to as "Parties."

WHEREAS the "Parties" have an interest in participating in discussions wherein either Party might share information with the other that the disclosing Party considers to be proprietary and confidential to itself ("Confidential Information"); and

WHEREAS the Parties agree that Confidential Information of a Party might include, but not be limited to that Party's: (1) business plans, methods, and practices; (2) personnel, customers, and suppliers; (3) inventions, processes, methods, products, patent applications, and other proprietary rights; or (4) specifications, drawings, sketches, models, samples, tools, computer programs, technical information, or other related information;

NOW, THEREFORE, the Parties agree as follows:

1. Either Party may disclose Confidential Information to the other Party in confidence provided that the disclosing Party identifies such information as proprietary and confidential either by marking it, in the case of written materials, or, in the case of information that is disclosed orally, by notifying the other Party of the proprietary and confidential nature of the information, such notification to be done by e-mail or written correspondence.
2. Subject to the Iowa Open Records Law, when informed of the proprietary and confidential nature of Confidential Information that has been disclosed by the other Party, the receiving Party ("Recipient") shall, for a period of two (2) years from the date of disclosure, refrain from disclosing such Confidential Information to any contractor or other third party without prior, written approval from the disclosing Party and shall protect such Confidential Information from inadvertent disclosure to a third party using the same care and diligence that the Recipient uses to protect its own proprietary and confidential information, but in no case less than reasonable care. The Recipient shall ensure that each of its employees, officers, directors, or agents who has access to Confidential Information disclosed under this Agreement is informed of its proprietary and confidential nature and is required to abide by the terms of this Agreement. The Recipient of Confidential Information disclosed under this Agreement shall promptly notify the disclosing Party of any disclosure of such Confidential Information in violation of this Agreement or of any subpoena or other legal process requiring production or disclosure of said Confidential Information. Notwithstanding the foregoing, where a public records request has been made pursuant to Chapter 22 of the Iowa Code, the Parties agree that the procedures identified in paragraph 6 below shall be followed and this paragraph 2 will not apply.
3. All Confidential Information disclosed under this Agreement shall be and remain the property of the disclosing Party and nothing contained in this Agreement shall be construed as granting or conferring any rights to such Confidential Information on the other Party. Subject to the Iowa Open Records Law, the Recipient shall honor any request from the disclosing Party to promptly return or destroy all copies of

MUTUAL NON-DISCLOSURE AGREEMENT

Confidential Information disclosed under this Agreement and all notes related to such Confidential Information.

4. The terms of this Agreement shall not be construed to limit either Party's right to develop independently or acquire products without use of the other Party's Confidential Information. The disclosing party acknowledges that the Recipient may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information. Nothing in this Agreement will prohibit the Recipient from developing or having developed for it products, concepts, systems or techniques that are similar to or compete with the products, concepts, systems or techniques contemplated by or embodied in the Confidential Information provided that the Recipient does not violate any of its obligations under this Agreement in connection with such development.

5. Notwithstanding the above, the Parties agree that information shall not be deemed Confidential Information and the Recipient shall have no obligation to hold in confidence such information, where such information:

- (a) Is already known to the Recipient, having been disclosed to the Recipient by a third party without such third party having an obligation of confidentiality to the disclosing Party; or
- (b) Is or becomes publicly known through no wrongful act of the Recipient, its employees, officers, directors, or agents; or
- (c) Is independently developed by the Recipient without reference to any Confidential Information disclosed hereunder; or
- (d) Is approved for release (and only to the extent so approved) by the disclosing Party; or
- (e) Is disclosed pursuant to the lawful requirement of a court or governmental agency or where required by operation of law.

6. The Parties recognize that Owner is a public entity governed by Iowa Code Chapter 22 – "Open Records", and that Owner may receive requests from third parties made pursuant to and in accordance with Chapter 22 to disclose Confidential Information in its possession. Owner shall notify Consultant of any request it receives for Consultant's records covered by this Agreement. If Consultant consents to the release of such record or records, they shall be released. If Consultant does not consent to release, Owner may, upon advice of counsel continue to refuse release. If, however, Owner is advised by counsel to release a record it shall give Consultant notice of intent to release. In that notification, Consultant will be given not more than 15 calendar days within which to file suit in the Iowa District Court for Marion County seeking the entry of a declaratory order and/or injunction to protect and keep confidential said information. Absent such action by Consultant, the requested information will be released for public examination.

7. Nothing in this Agreement shall be construed to constitute an agency, partnership, joint venture, or other similar relationship between the Parties.

8. The Parties recognize that Owner is a public entity governed by Iowa Code Chapter 21 – "Open Meetings", and that Owner may discuss this Agreement or any aspect of its relationship with Consultant in accordance with Chapter 21.

9. This Agreement contains the entire agreement between the Parties and in no way creates an obligation for either Party to disclose information to the other Party or to enter into any other agreement.

10. This Agreement shall remain in effect for a period of five (5) years from the Effective Date unless otherwise terminated by either Party giving notice to the other of its desire to terminate this Agreement. The requirement to protect Confidential Information disclosed under this Agreement shall survive termination of this Agreement.

MUTUAL NON-DISCLOSURE AGREEMENT

IN WITNESS WHEREOF:

Owner

Consultant

By:

By:

By:

By:

(Printed Name)

James S. Petro

(Printed Name)

Title:

Title:

Owner/Engineer

Date:

Date:

May 23, 2022

MEMORANDUM

To: IMU Board of Trustees of the Electric, Water and Communications Utilities

From:

Date: May 23, 2022

Subject: Consideration of the approval of a Technical Services Agreement with NewCom Technologies Inc for the performance of professional consulting services.

Recommendation: Simple motion is in order.

Attachments: 1. Technical Services Agreement - IMU and NewCom 5 Yr 20220523

TECHNICAL SERVICES AGREEMENT

TECHNICAL SERVICES AGREEMENT

Between

Indianola Municipal Utilities ("Owner")

And

NewCom Technologies, Inc. ("Consultant")

THIS AGREEMENT, for the performance of professional consulting services is executed and made effective as of May 23, 2022, by and between the **Indianola Municipal Utilities**, an Iowa Municipal Utility, as defined in the Iowa Code ("Owner") and **NewCom Technologies, Inc.**, a corporation organized under the laws of the State of Iowa ("Consultant").

IN CONSIDERATION of the covenants hereinafter set forth, Owner and Consultant mutually agree as follows:

ARTICLE 1 - SCOPE OF WORK

1.1 Description of Work; Request(s) for Services

Consultant shall perform professional consulting services ("Services") in connection with Owner's facilities ("Facilities") in accordance with the written Request for Services ("RS") No.1, issued by Owner and agreed to by Consultant. RS No.1, titled "**NETWORK EXTENSIONS: NOFA GRANTS 433551 and 433533**" and future RS' shall make specific reference to this Agreement and shall be subject to Consultant's written acceptance. Consultant shall accept or decline a RS as promptly as practicable under the circumstances. The terms and conditions of this Technical Services Agreement shall cover all RS', unless RS specifically states otherwise. Sample RS form is outlined in Exhibit A.

1.2 Consultant's Responsibilities

Consultant shall, subject to the terms and conditions of this Agreement:

- 1.2.1 Furnish the services of all necessary Professional Engineers, Consultants, designers, drafters, and other personnel necessary for the performance of the Services.
- 1.2.2 If procurement services are requested, furnish the services of all buyers, inspectors, expeditors, and other personnel necessary to procure all materials, supplies, and equipment and place all contracts requested to be procured by Consultant on behalf of Owner; and perform all work in accordance with scope of services as defined in RS.
- 1.2.3 If construction observation services are requested, furnish the services of personnel as necessary to observe periodically the work of the construction contractors as independent contractors; and to perform all work in accordance with scope of services as defined in RS.
- 1.2.4 Appoint one or more individuals who shall be authorized to act on behalf of Consultant and with whom Owner may consult at all reasonable times, and whose instructions, requests, and decisions will be binding upon Consultant as to all matters pertaining to this

TECHNICAL SERVICES AGREEMENT

Agreement and the performance of the parties hereunder. Owner shall have the right to approve the assignment of personnel and will not unreasonably withhold such approval.

1.3 Owner's Responsibilities

Owner shall, subject to the terms and conditions of this Agreement:

- 1.3.1 Obtain all permits and licenses required to be taken out in the name of Owner, which are necessary for the performance of the Services;
- 1.3.2 Provide Consultant with access to all information (or deliverables) reasonably necessary for the completion of the Services, as requested by Consultant.
- 1.3.3 Provide Consultant with any available information evidencing that the site is clean and free of above ground and underground obstructions, fissures, faults and other similarly hidden features, which will interfere with the completion of the Services;
- 1.3.4 Advise Consultant of the existence of all known hazardous materials and undertake the abatement and disposal of all hazardous materials, including, but not limited to, asbestos, polychlorinated biphenyls (PCBs) and radioactive material and other toxic substances, encountered by Consultant in the performance of the Services.
- 1.3.5 Appoint an individual, designated as Owner Project Leader, who shall be authorized to act on behalf of Owner, with whom Consultant may consult at all reasonable times, and whose instructions, requests, and decisions will be binding upon Owner as to all matters pertaining to this Agreement and the performance of the parties hereunder

1.4 Changes

It is the desire of the parties to keep changes in the scope of services at a minimum. The parties recognize, however, that such changes may become necessary and agree that they shall be handled in accordance with this Article. Owner may initiate a change by advising Consultant in writing of the change believed to be necessary. As soon thereafter as practicable, Consultant shall prepare and forward to Owner a cost estimate of the change that shall include the adjustment to Consultant's compensation, schedule of payments, project schedule, and completion date applicable thereto. Consultant shall be reimbursed for the costs incurred to prepare such estimate, if requested by Owner. Owner shall advise Consultant in writing of its approval or disapproval of the change. If Owner approves the change, Consultant shall perform the Services as changed. Consultant may initiate changes by advising Owner in writing that in Consultant's opinion a change is necessary. If Owner agrees, it shall advise Consultant and, thereafter, the change shall be handled as if initiated by Owner. Owner shall not be responsible for payment of changes that have not been approved prior to performing work.

ARTICLE 2 - COMPENSATION AND TERMS OF PAYMENT

2.1 General

Owner shall pay and Consultant shall accept in full consideration for the Services the Compensation described in each RS.

TECHNICAL SERVICES AGREEMENT

Unless otherwise noted in an RS, the Services shall be performed on a fixed unit price basis, which may be further divided by separate tasks within the per foot price to accommodate progress invoicing.

If Owner requests additional work that Consultant considers to be out of the original scope, it is the Consultant's responsibility to immediately advise Owner that it is considered out of scope and request a change order to increase the fixed price accordingly. If Owner's Project Leader agrees that the work is out of scope, a change order will be issued. If the parties cannot agree that the additional work is out of scope, then the parties agree to meet and confer and Consultant shall not be required to perform the additional work until an agreement is reached concerning the issue. Additional work must be approved in writing by Owner's Project Leader or via change order prior to performance of any work. Owner will not pay for work done without prior agreement, and approval.

2.2 Monthly Billing

On the Monday one week prior to Owner's approval meeting, Consultant will submit an invoice for the service period that ended the day before (Sunday). The amount shown on such invoice shall be remitted within thirty (30) days after receipt of the invoice.

Each invoice shall document in reasonable detail a description of the Services that were performed, and the dates of, and locations at which the Services were performed.

2.3 Disputes

After given a written notice and 10 business days opportunity to cure to Owner, Consultant may, at its option, stop work or terminate the Agreement in the event there is an unpaid balance due for more than 30 days. This remedy is in addition to any other available remedies.

In the event that Owner disputes any invoice item, Owner shall give Consultant written notice of such disputed item within ten (10) days after receipt of such invoice and shall pay to Consultant the undisputed portion of the invoice according to the provisions hereof. Owner reserves the right to withhold payment of any disputed fees pending resolution of the disputed fee. Any later paid disputed fee will not carry interest or penalty. If Owner fails to pay any invoiced amounts when due, (except for disputed fees) interest will accrue on each unpaid amount at the rate of five (5) percent per annum, or the maximum amount allowed by law if less, from the date due until paid according to the provisions of this Agreement. Interest shall not be charged on any disputed invoice item that is finally resolved in Owner's favor. Payment of interest shall not excuse or cure any default or delay in payment of amounts due. The parties agree to make reasonable efforts to resolve any fee disputes informally and, if need be, through non-binding mediation before initiating any litigation regarding disputed fees.

ARTICLE 3 - WARRANTY

3.1 Consultant's Services

The standard of care for all professional engineering and related services performed or furnished by Consultant under this Agreement will be the care and skill ordinarily used by members of the subject profession practicing under similar circumstances at the same time and

TECHNICAL SERVICES AGREEMENT

in the same locality. If, during the one year period following completion of the Services under a particular RS, it is shown there is an error in the Services caused solely by Consultant's failure to meet such standards and Owner has notified Consultant in writing of any such error within that period, Consultant shall re-perform, at no additional cost to Owner such Services as may be necessary to remedy such error.

3.2 Third-Party Items

Consultant shall, for the protection of Owner, use reasonable efforts to obtain guarantees from all vendors and subcontractors from whom Consultant procures equipment, materials, or services for the project with respect to such equipment, materials, and services. Owner shall determine the terms of any such required guarantees. Such guarantees shall be made available to Owner to the full extent of the terms thereof. Consultant's liability, with respect to such equipment and materials obtained from vendors or services obtained from subcontractors, shall be limited to using reasonable efforts to obtain guarantees from such vendors or subcontractors and rendering all reasonable assistance to Owner for the purpose of enforcing the same on a cost reimbursable basis.

3.3 Reliance on Data

Consultant shall have no liability for defects in the Services attributable to Consultant's reasonable reliance upon or use of data, design criteria, drawings, specifications, or other information furnished by Owner or third parties retained by Owner.

ARTICLE 4 – INDEMNIFICATION

4.1 Consultant hereby agrees to indemnify, defend, and hold harmless the Owner, and its officers, agents and employees from and against any and all suits and claims of liability of every name and nature, including, but not limited to, reasonable attorney's fees and costs arising out of or directly relating to any act, omission, or negligence of Consultant, its sub-consultants and its and their agents or employees in the performance of the work covered by this Agreement and/or failure to comply with terms and conditions of this Agreement. The foregoing provisions shall not be deemed to be released, waived or modified in any respect by reason of any surety or insurance provided by Consultant under this Agreement. Nothing in this paragraph shall apply to indemnification for claims arising from professional services, which is addressed below in 4.2.

4.2 To the fullest extent permitted by law, Consultant agrees to indemnify and hold Owner, and its officers, agents and employees harmless from and against any and all suits and claims of liability of every name and nature, including, but not limited to, reasonable attorney's fees and costs arising out of or directly relating to defending any action, arising out of the Consultant's negligent performance of professional services. Nothing in this section shall apply to indemnification for claims arising from non-professional services which are addressed in article 4.1.

4.3 If a suit, action, arbitration or other legal proceeding is instituted in connection with any controversy arising out of this Agreement or to interpret or enforce any rights under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all attorney fees, costs, expert witness fees and litigation expenses incurred by the prevailing party, including those incurred on appeal.

TECHNICAL SERVICES AGREEMENT

ARTICLE 5 – INSURANCE

5.1 Commitment

During the performance of the Services, Consultant shall maintain insurance policies as follows:

- 5.1.1 Workers' Compensation and/or all other social insurance in accordance with the statutory requirements of the state, province, or country having jurisdiction over Consultant's employees who are engaged in the Services, with Employer's Liability, with a limit of Five Hundred Thousand Dollars (\$500,000) each accident. The Consultant shall waive rights of subrogation against Owner regarding payment of damages of insurance by an insurance company. Inclusion of this waiver shall be shown on the insurance certificates provided.
- 5.1.2 Automobile Liability insurance including owned, non-owned, or hired vehicles, with a combined single limit of One Million Dollars (\$2,000,000 aggregate) each occurrence for bodily injury and property damage liability. Consultant agrees to name Owner as Additional Insured on such policies.
- 5.1.3 General liability coverage, written on an occurrence form, including products-Completed operations, personal injury and contractual liability with limits of \$2,000,000 each occurrence/\$4,000,000 aggregate shall be provided. Consultant agrees to name Owner as Additional Insured on such policies
- 5.1.4 Professional Liability insurance with limits of \$1,000,000 in the aggregate covering Consultant against all sums which Consultant may become legally obligated to pay on account of any professional liability arising out of the performance of this Agreement.
- 5.1.5 The Consultant shall provide an umbrella liability policy with a \$2 million Limit of Liability.

5.2 Certificates

Consultant agrees to provide Owner with certificates of insurance, from an insurance company rated A- or better by A.M. Best Company, evidencing the above described coverage prior to the start of Services, and annually thereafter, if required by Owner.

5.3 Project Contractors

Consultant shall require all sub-tier contractors to provide insurance certificates evidencing their required coverage.

ARTICLE 6 - COMPLETION AND ACCEPTANCE

6.1 Scheduled Completion

Consultant shall commence the Services at the time stated in the applicable RS and shall use all reasonable efforts to prosecute the Services continuously and with due diligence. Consultant shall complete the Services in accordance with the project timeline or dates stated or incorporated by reference in the applicable RS.

TECHNICAL SERVICES AGREEMENT

6.2 Acceptance

When Consultant deems it has completed the Services under a particular RS, it shall so notify Owner in writing. Within thirty (30) working days thereafter, Owner shall advise Consultant in writing of any deficiencies in the Services for which Consultant is responsible under this Agreement. As soon as any such deficiencies are corrected (or as soon as the thirty working day period for such notice has expired, if Owner does not advise Consultant of any such defects within the period), Owner shall accept the Services under that RS in writing or they shall be deemed accepted.

ARTICLE 7 - TERMINATION AND CANCELLATION

7.1 Term

This Agreement shall remain in effect for five (5) years initially commencing on May 23, 2022, unless sooner terminated as allowed herein. The parties may extend the term of this Agreement by mutual agreement signed by both parties.

7.2 Termination by Owner

Should Consultant become insolvent or bankrupt, or commit a breach of this Agreement, and thereafter fail to commence proceedings in good faith to remedy such breach within ten days after receipt of written demand by Owner, Owner may terminate this Agreement. Upon any such termination, Consultant shall be compensated for value of services satisfactorily rendered and reasonable expenses to date of termination.

7.3 Termination by Consultant

Should Owner become insolvent or bankrupt, or commit a breach or default of any of the covenants or obligations hereunder, and thereafter (a) fail to remedy the same within ten days after written notice thereof from Consultant if the breach constitutes a failure to pay money or (b) fail to commence proceedings to remedy the same within ten days after written notice thereof from Consultant and thereafter fail to proceed diligently in remedying the same if the breach is other than to pay money, then Consultant may terminate this Agreement. Should Consultant so terminate this Agreement, Consultant shall be paid for all reasonable costs incurred and compensation earned for Services satisfactorily performed to the date of termination.

7.4 Cancellation for Convenience

Owner reserves the right to cancel, for convenience, the Services under any RS upon notice in writing to Consultant. Should the Services be so canceled by Owner, Consultant shall be paid all compensation earned for Services satisfactorily performed to the date of cancellation.

ARTICLE 8 - GENERAL PROVISIONS

8.1 Independent Contractor

Consultant shall be an independent contractor with respect to the Services to be performed hereunder, except that any contracts and purchase orders for materials, equipment, supplies, and

TECHNICAL SERVICES AGREEMENT

related services pursuant to Sections 1.2.2 will be issued by Consultant as agent for Owner. Except as hereinabove noted, neither Consultant nor its subcontractors or vendors, nor the employees of either, shall be deemed the servants, or employees, of Owner.

8.2 Safety and Environmental Regulations

Consultant shall make every reasonable effort to perform the Services in a manner to comply with all applicable safety legislation and with applicable environmental laws, rules, and regulations in force at the time of development of designs. Consultant shall also be responsible for the safety of its own employees at all times during the performance of any RS. Consultant shall not, however, have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures of construction or the safety precautions and programs in connection with the construction work performed by Owner's construction contractors. Consultant shall not be responsible for the adequacy or completeness of any construction contractor's safety programs, procedures, or precautions, and Consultant shall not have the authority to stop work. For any Services performed by Consultant on or around the premises of Owner, Consultant, its subcontractors and its employees shall comply with all: (a) Owner site and safety rules; (b) any applicable policies, rules, procedures and directives pertaining to facility security, industrial safety, work authorization, equipment control, emergency plans, and other facility administrative controls and (c) federal, state and local laws and regulations relating to safety. During the course of work, the Consultant and its subcontractors shall immediately notify Owner in writing of any injury to its employees.

8.3 Force Majeure

Any delays in or failure of performance by Owner or Consultant, other than payment of money, shall not constitute default hereunder if, and to the extent, such delays or failures of performance are caused by occurrences or circumstances reasonably beyond the control of Owner or Consultant, as the case may be, including, but not limited to: acts of God or the public enemy; expropriation or confiscation of facilities; compliance with any order or request of any governmental authority; act of war, rebellion, or sabotage or damage resulting there from; fires, floods, explosions, accidents; riots or strikes or other concerted acts of workmen, whether direct or indirect; or any other causes, whether or not of the same class or kind as those specifically above named, which are not within the control of Owner or Consultant respectively. In any instance of Force Majeure, the time of performance shall be extended by a period of time equal to the period of delay and its consequences.

8.4 Rights to Intellectual Work Product

8.4.1 All right, title and interest, including all rights under federal and state copyright and intellectual property laws, in the Instruments of Service (and the electronic methods of reproducing such documents) and the Architectural Works of the project as defined by the federal Architectural Works Copyright Protection Act are hereby conveyed, assigned and transferred by Consultant to Owner. Owner shall retain legal title to such Instruments of Service, whether or not the Project for which they are made is completed, provided that Consultant has been paid for all compensation due under this Agreement for the services completed by Consultant. Consultant represents and warrants that the Instruments of Service do not infringe any copyrights, trade secrets or other similar property rights of any third-party. Consultant further agrees to defend, indemnify and hold harmless Owner from and against any liabilities, damages, claims, costs or expenses

TECHNICAL SERVICES AGREEMENT

as a result of the alleged infringement of third parties' rights in the Instruments of Service. Consultant agrees, upon request of Owner, to join in the execution of any additional documentation that may be deemed necessary by Owner to vest in it all rights and privileges of a copyright holder. Owner agrees not to reuse, or allow others to use, or convey to any third party, the Instruments of Service in their entirety for another project without written permission of Consultant. Consultant, however, shall retain its rights to all standard elements contained within the Instruments of Service, including standard details, specifications, or other design materials generated and authored by Consultant for its repeated, regular and ongoing use in plans, specifications, reports or other instruments of service for its clients.

8.4.2 Any files delivered in electronic medium may not work on systems and software different from those with which they were originally produced. The medium for delivery of electronic document shall be agreed upon during the performance of service. Thereafter, Consultant makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings and the electronic files, the sealed original drawings will govern.

8.5 Confidentiality

Parties agree that the services and this Agreement are subject to the separately executed Mutual Non-Disclosure Agreement (NDA), the terms of which are hereby incorporated by reference. A copy of the NDA is attached.

8.6 Audit and Maintenance of Records

Owner shall have the right to audit and inspect Consultant's records and accounts covering direct costs hereunder at all reasonable times during the performance of the Services and for a period of one year after the acceptance thereof; provided, however, that the purpose of any such audit shall be only for verification of such costs. Consultant shall not be required to keep records of or provide access to those of its costs expressed as fixed rates, a lump sum, or of costs, which are expressed in terms of percentages of other costs.

8.7 Assignment

Neither Party may assign its interests in this Agreement at any time without the non-assigning Party's written consent. No assignment of this Agreement shall be valid until this Agreement shall have been assumed by the assignee. When duly assigned in accordance with the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the assignee.

8.8 Subcontracts

Prior to beginning any work under this Agreement, Consultant shall notify Owner, in writing, of the identity of the subcontractor(s) that Consultant intends to designate to perform the Services. Owner reserves the right and sole discretion to: (a) reject any designated subcontractor without any liability to Consultant or its subcontractor(s); and (b) pre-approve Consultant's subcontractor(s) designated hereunder. If Owner exercises its rights under this Section, Consultant shall make all reasonable efforts to designate other qualified subcontractors. In no

TECHNICAL SERVICES AGREEMENT

case shall Owner's approval of any subcontract relieve Consultant of any of its obligations under this Agreement. Notwithstanding the above, Consultant may have portions of the Services performed by its related and affiliated entities or their employees, in which event Consultant shall be responsible for such Services and Owner shall look solely to Consultant as if the Services were performed by Consultant. Subcontractors who will be provided confidential information shall also be required to sign the NDA, which is attached to this Agreement.

8.9 Notices

All notices pertaining to this Agreement shall be in writing and shall be sufficient when sent by registered mail, or by U.S. mail, or electronically via e-mail, or facsimile (with oral confirmation) to:

Owner: Indianola Municipal Utilities
210 W 2nd Ave
Indianola, IA 50125
515-961-9444
Attention: Kurt Ripperger – Communications
Superintendent

Consultant: NewCom Technologies, Inc.
6000 Grand Ave.
Des Moines, IA 50312
800-626-6234
Attention: Jim Petro, Owner/Engineer

8.10 Entire Agreement

This Agreement, the Mutual Non-Disclosure Agreement, Request for Service (RS) No. 1 and subsequent RS constitute the entire agreement between the parties hereto and supersedes any oral or written representations, understandings, proposals, or communications heretofore entered into by or on account of the parties and may not be changed, modified, or amended except in writing signed by the parties hereto. In the event of any conflict between this contract document and any of the exhibits hereto, the terms and provisions of this contract document shall control. In the event of any conflict among the exhibits, the exhibit of the latest date shall control.

8.11 Interpretation

8.11.1 This Agreement shall be governed by and interpreted in accordance with the laws of Iowa. Any claim or dispute which may arise out of this Agreement shall be heard in a court of competent jurisdiction in Marion County, Iowa, unless otherwise agreed by the parties.

8.11.2 Headings and titles of Articles, Sections, paragraphs, and other sub-parts of this Agreement are for convenience of reference only and shall not be considered in interpreting the text of this Agreement.

TECHNICAL SERVICES AGREEMENT

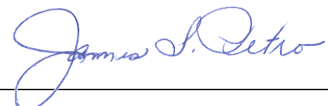
- 8.11.3 In the event any portion or all of this Agreement is held legally unenforceable, such unenforceability shall not prevent enforcement of any other provision of the Agreement. In the event all of this Agreement is held to be void, the parties agree to negotiate in good faith to reach an equitable agreement that shall affect the intent of the parties as originally set forth in this Agreement.
- 8.11.4 In the event Owner uses a purchase order form to administer this Agreement, the use of such form shall be for convenience purposes only and any typed provision in conflict with the terms of this Agreement and all pre-printed terms and conditions contained in or on such forms shall be deemed stricken and null and void.
- 8.11.5 The provisions of this Agreement are intended for the sole benefit of Owner and Consultant, and subcontractors, vendors and others to the extent expressly provided in this Agreement. The parties agree there are no third-party beneficiaries to this Agreement other than those subcontractors, vendors and others expressly contemplated, and then only to the extent contemplated, by the terms herein.
- 8.11.6 Waiver by any party of strict performance of any provision of this Agreement shall not be a waiver, or prejudice the party's right to require strict performance of the same provision in the future, or any other provision.
- 8.11.7 This Agreement may be executed in any number of counterparts, and all counterparts taken together shall be deemed to constitute one and the same instrument and shall be effective when Owner and Consultant have each signed a copy thereof (whether the same or different copies). Facsimile or other mechanically reproduced signatures are intended by the parties to have the same effect as handwritten signatures for all purposes under this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this contract document as of the date and year first above written.

Owner

Consultant

By: _____

By:  _____

By: _____
(Printed Name)

By: James S. Petro
(Printed Name)

Title: _____

Title: Owner/Engineer

Date: _____

Date: May 23, 2022

TECHNICAL SERVICES AGREEMENT

TECHNICAL SERVICES AGREEMENT

EXHIBIT A

REQUEST FOR SERVICES

RS NO. ##

“ADD TITLE”

BETWEEN

INDIANOLA MUNICIPAL UTILITIES ("OWNER")

AND

NEWCOM TECHNOLOGIES, INC. ("CONSULTANT")

Pursuant to the terms and conditions of the Technical Services Agreement executed and made effective as of the 23 Day of May by and between Indianola Municipal Utilities ("Owner") and NewCom Technologies ("Consultant"), Owner hereby requests Consultant to perform the following Services:

Scope of Services: project scope...

- A. **Additional Owner Responsibilities.** Owner responsibilities...
- B. **Commencement and Completion of Services.** Description of project timeline...
- C. **Compensation.** Compensation for the Services ...

TECHNICAL SERVICES AGREEMENT

This Agreement, the Mutual Non-Disclosure Agreement by the parties, Owner's Request for Qualifications, Consultant's response to the Request for Qualifications, the Technical Services Agreement and subsequent RS constitute the entire agreement between the parties. Terms and conditions contained in purchase orders, work orders, or other documents issued by Owner with respect to the Services shall be of no force and effect.

IN WITNESS WHEREOF, the parties have executed this Request for Services on the date(s) indicated below.

Owner

Consultant

By: _____

By: _____

By: _____
(Printed Name)

By: _____
(Printed Name)

Title: _____

Title: _____

Date: _____

Date: _____

MEMORANDUM

To: IMU Board of Trustees of the Electric, Water and Communications Utilities

From:

Date: May 23, 2022

Subject: Consideration of the approval of a Request for Services - RS No 1 "Network Extensions: NOFA Grants 43351 and 43353" in the amount of \$44,489 for the engineering design, bid package prep and construction review of phases 1, 2 and 3 of the North Project and the County Connection phase of the South Project.

Recommendation: Simple motion is in order.

Attachments: 1. RS No 1 - IMU NOFA FY 2022-23 Projects w Exhibits 20220523

TECHNICAL SERVICES AGREEMENT

EXHIBIT A

REQUEST FOR SERVICES

RS NO. 1

“NETWORK EXTENSIONS: NOFA GRANTS 433551 and 433533”

Between

Indianola Municipal Utilities ("Owner")

And

NewCom Technologies, Inc. ("Consultant")

Pursuant to the terms and conditions of the Technical Services Agreement executed and made effective as of the 23rd Day of May 2022, by and between Indianola Municipal Utilities ("Owner") and NewCom Technologies ("Consultant"), Owner hereby requests Consultant to perform the following Services:

Scope of Services: Consultant shall provide Services related to the design and procurement of the necessary infrastructure to construct a fiber distribution network connecting back to Indianola Municipal Utilities Central Office located in Indianola, Iowa.

The high-level design routes and project phases were provided to NewCom on 4/22/2022. See Exhibit 1: North Projects and Exhibit 2: South Projects. The combined North and South projects represent approximately 12 miles of distribution network fiber connecting Indianola Municipal Utilities Central Office and ‘z’ locations. This RS No.1 covers those phases which will be constructed in FY 2022 and 2023. The FY 2022 and 2023 phases consist of approximately 5 miles of overbuild and new build construction.

General work elements are listed below and amended by Consultant after review with Owner:

1. Design of the fiber optic distribution network and integrated equipment by an Iowa licensed professional engineer.
2. ISP architectures for access, routing, and transport function will be established and coordinated with Owner staff and consultants.
3. Surveying and mapping services for the fiber optic network in a Fiber Management System.
4. Application/acquisition of all DOT, and County permits. Extra cost if DNR/USACE required⁴
5. Preparation of public improvement and construction bid documents in accordance with the laws of the State of Iowa and as directed by Owner.
6. Preparation of public improvement and construction contract documents in accordance with the laws of the State of Iowa and as directed by Owner.
7. Review of public improvement and construction plans, shop drawings, and attending construction meetings.
8. Review of all pay requests from contracted service providers

REQUEST FOR SERVICES

RS NO. 1

9. Construction review services at end of projects to verify compliance with specifications.
10. On-site management of the fiber optic distribution network during construction.
11. Assisting Owner staff with financial/budgetary matters by providing information for grant applications, business plan projections, and legal matters relating to construction, operation, financing, and compliance.
12. Graphic illustrations supporting various analyses.
13. Attendance at design review meetings, City Council meetings, and related meetings as requested.
14. Finalize as-builts within the Fiber Management System.

- A. **Additional Owner Responsibilities.** As provided in the Agreement, Owner shall provide Consultant with information reasonably necessary to complete the Services.
- B. **Commencement and Completion of Services.** Consultant shall commence the Services upon notice to proceed from Owner, which notice shall be given by Owner on or after May 9, 2022. Consultant shall complete the Services of Fiber Network Design with selection of vendors and contractors within 5 months of notice to proceed. Construction Oversight Services startup will be largely dependent of equipment deliveries and may be subject to supply chain issues. The project's construction oversight and acceptance will take place during the construction period.
- C. **Compensation.** Compensation for the Services described above shall be on a per item rate based on actual construction running line and as estimated as follows:

Fiber Network Design Engineering Services	Unit of Measure	Est. # of Units	Unit Price
Fiber Network Design - North Projects: Phase 1, 3¹	Per Foot	2,640	\$.59
Fiber Network Design – North Project: Phase 2 and South Project: County Connection¹	Per Foot	23,760	\$.89

Includes:

- Survey - route design, service point locations and categorization of site
- GIS posting
- Network design using OSPInsight an Esri based Fiber Management System
- Consult and cooperate with Owner and Owner's legal counsel regarding public improvement contract letting procedures.
- Permit application / acquisitions (all entities)
- Preparation of construction documents, plans, BOMs.
- PE management and approval of fiber network design
- Meetings with Owner

¹Extended price based on estimated construction running line footage of 26,400 or 5 miles. Permit fees are pass through.

Construction Review²	Not To Exceed	\$ 3,900.00
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Includes:

REQUEST FOR SERVICES
RS NO. 1

- Upon construction completion, personnel will review construction compliance with plans and specifications
- Meetings with Owner and contractors

²Assumes that work activity will be completed within 2 months of construction start.

Consulting Services – Bid Package Prep and Letting	Per Bid Package	1	\$5,725.00
Includes:			
– Consult and cooperate with Owner and Owner’s legal counsel regarding public improvement contract letting procedures. – An Iowa licensed professional engineer will prepare and review public improvement and construction plans, specifications, and contract documents. – An Iowa licensed professional engineer will be responsible for documents necessary for bid letting and award of public improvement and construction contract. – Preparation of public improvement and Construction documents, plans, BOMs and cost projections – Public improvement and Construction plans and specifications development and Bid letting, pay request reviews and final contract closeout. – PE management and approval of fiber network design – Meetings with Owner			
Permit Application Fees – Pass Through Costs ^{3, 4}	Estimated Fees		\$150.00
³ Permit application fees will be based on actual costs			
⁴ Does not include USACE Permit(s) engineering cost and fees			

Summary of Costs

Items	Unit	Cost
Engineering with Permit Fees:		
<i>Includes field engineering, route design, fiber engineering, construction review, bid letting and review and final as-builts in FSM</i>	IMU NOFA Projects	\$40,489.00
Contingent USACE Permit Engineering:	For County Connection	\$4,000.00
Total Engineering and Consulting Services		\$44,489.00

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"Billable Hours" should only occur if there is a major change in project scope, as approved by Owner. Materials, such as requests for multiple copies of documents will be billable.

Time & Materials Cost for Calendar Year 2022:

Discipline	Rate/Hour
Principal Consultant	\$225.00
Project Management	\$125.00
GIS Analyst	\$105.00
Field Surveyor	\$115.00
Network Designer	\$96.00
Field Inspector	\$96.00
Clerical	\$49.00
Vehicle Mileage	Current IRS Reimbursement

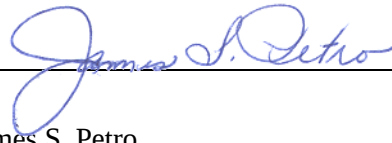
This Agreement, the Mutual Non-Disclosure Agreement by the parties, Owner's Request for Qualifications, Consultant's response to the Request for Qualifications, the Technical Services Agreement and subsequent RS constitute the entire agreement between the parties. Terms and conditions contained in purchase orders, work orders, or other documents issued by Owner with respect to the Services shall be of no force and effect.

IN WITNESS WHEREOF, the parties have executed this Request for Services on the date(s) indicated below.

Owner

Consultant

By: _____

By:  _____

By: _____
(Printed Name)

By: James S. Petro
(Printed Name)

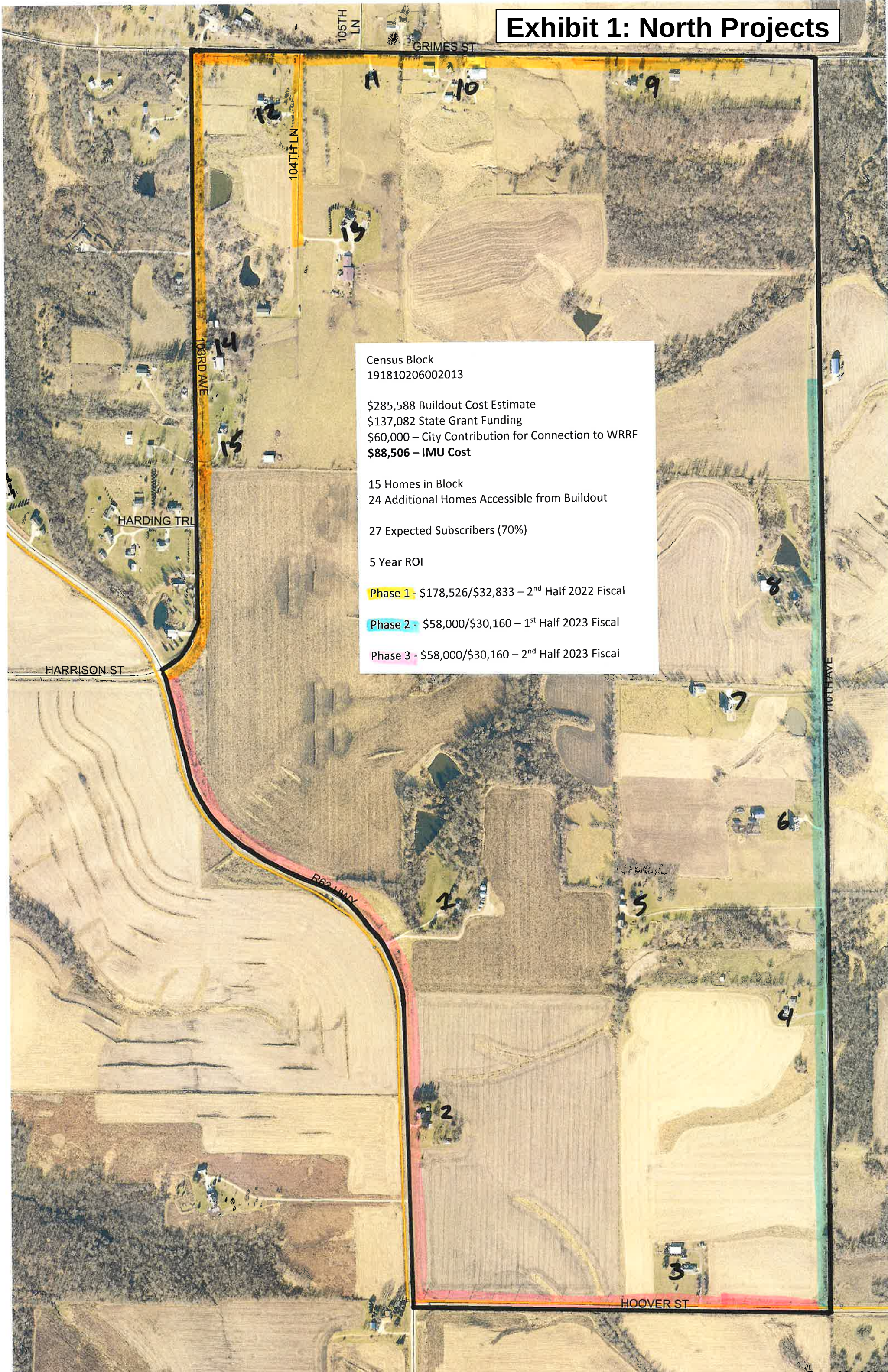
Title: _____

Title: Owner/Engineer

Date: _____

Date: 5-23-2022

Exhibit 1: North Projects



Census Block
191810206002013

\$285,588 Buildout Cost Estimate
\$137,082 State Grant Funding
\$60,000 – City Contribution for Connection to WRRF
\$88,506 – IMU Cost

15 Homes in Block
24 Additional Homes Accessible from Buildout

27 Expected Subscribers (70%)

5 Year ROI

Phase 1 - \$178,526/\$32,833 – 2nd Half 2022 Fiscal

Phase 2 - \$58,000/\$30,160 – 1st Half 2023 Fiscal

Phase 3 - \$58,000/\$30,160 – 2nd Half 2023 Fiscal

Exhibit 2: South Projects

Census Blocks
191810211002013
191810211002012
191810211004031

\$795,042 Buildout Cost Estimate
\$477,024 State Grant Funding
\$150,000 – County Contribution for Connection to
Roads Facility and Conservation Offices
\$168,018 – IMU Cost

78 Homes in Blocks
37 Additional Homes Accessible from Buildout

81 Expected Subscribers (70%)

5 Year ROI

County Connection - \$283,400/\$49,360 – Fiscal 2023

Phase 1 - \$127,910/\$51,164 – Fiscal 2024

Phase 2 - \$127,910/\$51,164 – Fiscal 2024/2025

Phase 3 - \$127,910/\$51,164 – Fiscal 2025

Phase 4 - \$127,910/\$51,164 – Fiscal 2025/2026

