

AGENDA

CITY OF NEWTON



July 7, 2020

AGENDA
CITY OF NEWTON
NEWTON CITY COUNCIL - REGULAR MEETING

July 7, 2020
7:00 p.m.

- | | |
|------|--|
| Page | 1. <u>Call to Order – Mayor Eddie Haupt</u> |
| 3 | 2. <u>Opening – Council Member Jody Dixon</u> |
| 3 | 3. <u>Approval of Minutes from the June 16, 2020, Regular Meeting and the May 27, 2020 Special Meeting</u> |
| 9 | 4. <u>Consideration of Consent Agenda Items</u> |
| 10 | A. Sewer Adjustments |
| 10 | B. Consideration of Assistant City Manager Sean Hovis for Re-Appointment as Board Member to the Western Piedmont Regional Transit Authority Board of Directors, and Planning Director Randy Williams as Alternate Member |
| | 5. <u>Comments from the Public: (PERSONS WANTING TO MAKE A PUBLIC COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING)</u> |
| | 6. <u>Presentation</u> |
| | A. DNDA Presentation – Leslie Yount |
| 11 | 7. <u>Public Hearings</u> |
| 17 | A. Plan Amendment 2020-01 – Timber Creek Acres to Amend the Previously Approved Planned Development, 2360 W NC 10 Hwy |
| 17 | B. Community Development Block Grant Neighborhood Revitalization Scattered-Site Housing Project |
| | 8. <u>Old Business</u> |
| 34 | A. Consideration of Lease Agreement for Municipal Owned Property Located at 116 West A Street and Adjoining Tract – D9 Brewing Company |
| | 9. <u>New Business</u> |
| 49 | A. Consideration of Stormwater Planning and Administration Agreement with the Western Piedmont Council of Governments |
| 56 | B. Consideration of Award of Bid and Intent to Reimburse – Sewer Jet Truck |
| 58 | C. Consideration of Award of Contract and Intent to Reimburse for the Purchase of Fire Truck |
| | 10. <u>City Manager’s Report</u> |
| | 11. <u>Questions and Comments From Mayor and Council</u> |
| | A. Reports from Appointed Representatives on Outside Boards – Council Member Ed Sain |
| | 12. <u>Adjournment</u> |

**MINUTES
REGULAR MEETING OF THE NEWTON CITY COUNCIL**

June 16, 2020 – 7:00 p.m.

The regular meeting of the Newton City Council was held at 7 p.m. Tuesday, June 16, 2020 at Newton City Hall.

PRESENT: Mayor Eddie Haupt, Mayor Pro Tem John Stiver and Council Members Jerry Hodge, Anne Wepner, Jody Dixon, Beverly Danner and Ed Sain

STAFF: City Manager Todd Clark, Assistant City Manager Sean Hovis, City Clerk Amy S. Falowski, City Attorney John Cilley, City Department Heads and members of the management team

ITEM 1: CALL TO ORDER

Mayor Eddie Haupt welcomed everyone and called the meeting to order.

ITEM 2: OPENING Invocation and Pledge of Allegiance

Mayor Pro Tem John Stiver provided the opening and Pledge of Allegiance.

ITEM 3: APPROVAL OF MINUTES

Upon motion duly made by Council Member Jody Dixon, seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Minutes from the June 2, 2020 Regular Meeting be – APPROVED

ITEM 4: CONSIDERATION OF CONSENT AGENDA ITEMS

Council Member Ed Sain requested that Item 4C be moved to New Business. City Manager Todd Clark stated that it would be moved to New Business Item 7C.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Jody Dixon, it was unanimously RESOLVED:

That the Consent Agenda, with Item 4C being moved to New Business, Item 7C be – APPROVED

- A. Tax Releases
- B. Consideration of Request to Ratify a Moratorium on Utility Collections
- ~~C. Consideration of Resolution to Write Off Uncollectible Accounts and the Related Budget Ordinance Amendment~~
- D. Consideration of Board/Committee Membership Appointment

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 5: COMMENTS FROM THE PUBLIC: PEOPLE WHO WISH TO COMMENT ON NON-AGENDA ITEMS ARE ASKED TO SIGN IN WITH THE CITY CLERK PRIOR TO THE MEETING.

Mayor Eddie Haupt asked if anyone present would like to make comment concerning non-agenda items. No one appeared.

ITEM 6: Public Hearing

A. Community Development Block Grant Neighborhood Revitalization Scattered-Site Housing Project

Mayor Haupt opened the Public Hearing.

Planning Director Randy Williams stated that Federal Community Development Block Grant funds are distributed across the county for many diversified uses. One such use is the rehabilitation of houses for low- and moderate-income families in a concentrated area of scattered sites across the city. Mr. Williams stated that staff is working with the Western Piedmont Council of Governments on this program and they will be administering this effort to the benefit of Newton citizens and housing needs. Mr. Williams introduced Laurie Powell, administrator for the project for the City of Newton.

Ms. Powell stated that this is the city's first Public Hearing in order to receive citizen input in the development Community Development Block Grant (CDBG) applications for the upcoming year.

Ms. Powell stated that applications are to be submitted to the North Carolina Department of Commerce, Rural Economic Development Division (REDD). Programs are designed to provide grants to local units of governments for housing, housing related activities, and public facilities that support housing activities for low-to-moderate-income persons, job creation or the elimination of slum and blight conditions. Ms. Powell stated that North Carolina received approximately \$10.0 million in CDBG funds which is made available for the 2020 NC Neighborhood Revitalization Program with a maximum grant amount of \$750,000 per grantee with some restrictions for specific activities to be completed during a 30 month grant period.

Some of the categories that are eligible to apply for are the following:

- Infrastructure and public improvements that support existing housing in the designated area (streets, sidewalks/pedestrian ways, curbs and gutters, parks, playgrounds, greenways, water and sewer lines, flood and drainage improvements, and trees). At least two (2) needs in the area must be identified with housing as one need and must benefit 100% LMI persons or meet the slum and blight national objective up to \$750,000 maximum grant.
- Housing Rehabilitation which consists of clearance/remediation, relocation, substantial rehabilitation, reconstruction, replacement housing and emergency repairs. 100% LMI persons and up to \$750,000 maximum grant.
- Public Facilities that are open to the general public that provides services that provided by the government or owned and operated by a nonprofit. Funds can be spent on shelters for victims of domestic violence or homeless/homeless families, traditional facilities/housing for the homeless/homeless families, senior and community/neighborhood/recreational center. Benefit must be limited clientele or 51% of low and moderate-income and up to \$750,000 maximum grant.
- Single Family Homeownership Development for infrastructure support such as public infrastructure, removal of hazardous material, land acquisition (vacant with a 100% LMI persons benefit, historic vacant building acquisition or rehabilitation for a profit or non-profit developer with a maximum grant of \$250,000 with 51% LMI persons benefit.
- Multi-Family Rental Housing Development for rehabilitation, disposition, acquisition, demolition, clearance, historic vacant building acquisition and historic vacant rehabilitation for profit and non-profit developer with a maximum grant of \$250,000.
- Water and Sewer Connections to existing housing with a 100% LMI persons benefit.

If the City would like to pursue an application for a specific category, a 2nd public hearing will need to be held before the July 27, 2020 deadline application submission date. The application process is competitive and a local match is not required but could strengthen the application.

Ms. Powell stated that if the City would like to pursue an application for Scattered Site Housing Rehabilitation category, a second public hearing will need to be held before the July 27, 2020 deadline application submission date. The application process is competitive and a local match is not required but could strengthen the application.

Mayor Haupt stated that this public hearing is being held to allow people to ask questions and potentially be included if they meet requirements, and asked if there was anyone present that would like to speak. No one appeared.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That the Public Hearing be – CLOSED

Upon motion duly made by Council Member Jerry Hodge, seconded by Council Member Beverly Danner, it was unanimously RESOLVED:

That the City Pursue this Grant and Hold its Second Required Public Hearing at the Next City Council meeting on July 7, 2020.

ITEM 7: New Business

A. Consideration of Budget Ordinance Amendment to Recognize Revenue and Authorize Expenditure – Sanitation Truck Repairs

Public Works and Utilities Director Dusty Wentz stated that on May 22, 2020, the City of Newton received an insurance claim check from Glatfelter Claims Management Inc. in reference to repair damage to a vehicle in the sanitation department. Glatfelter has compensated the City of Newton \$4,250.09 to repair this damaged vehicle.

Mr. Wentz explained that this Budget Amendment is to recognize \$4,250.09 revenue from Glatfelter Claims Management Inc., and to authorize expenditure using the insurance claims revenue to repair the damage to the vehicle. Total requested amount is \$4,250.09.

Mr. Wentz requested that City Council adopt the attached Budget Ordinance Amendment and authorize the City of Newton Public Works & Utilities Department to repair damaged vehicle.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That the Budget Ordinance Amendment be – ADOPTED

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

B. Consideration to Adopt a Budget Ordinance to Amend Capital Project Fund and to Amend Revenues and Expenditures for FY 2019-2020 – West A Street

Finance Director Vickie Thomas stated that the City of Newton periodically establishes capital project ordinances for endeavors that involve infrastructure/construction activities. In most cases, the duration of an infrastructure/construction project will extend from one fiscal year into another. Ms. Thomas explained that the adoption of a capital project ordinance allows the governmental entity to appropriate funds for the life of the project without the governing board having to reallocate funding on a fiscal year basis.

Ms. Thomas stated that the West A Street Capital Project was approved and appropriated within the operating budget as part of the Fiscal Year 2019-2020 budget. The City includes the planned expenditures in the operating budget for transparency purposes, but then removes them from the operating budget at the beginning of the fiscal year since they are already authorized in a project ordinance.

Ms. Thomas stated that the West A Street Capital Project Ordinance that was approved in 2017 was planned for a bikeway and pedestrian improvement streetscape project. It has recently been revised to include only the sewer portion of the project. As a result, the capital project ordinance needs to be amended.

Ms. Thomas requested that City Council adopt the attached Budget Ordinance to amend the Capital Project Funds for the West A Street Project and to amend revenues and expenditures for Fiscal Year 2019-2020.

Upon motion duly made by Council Member Ed Sain, seconded by Council Member Jody Dixon, it was unanimously RESOLVED:

That the Budget Ordinance Amendment be – ADOPTED

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

C. Consideration to Amend Revenues and Expenditures for FY 2019-2020 – Health Fund

Finance Director Vickie Thomas stated that the City of Newton anticipates the need for additional funds associated with the Health Insurance Fund. The City of Newton has experienced higher than normal health insurance claims for the Fiscal Year 2019 -2020. These claims have created a need for an additional \$286,000 appropriation within the City's Health Insurance Fund.

Ms. Thomas requested that City Council adopt the budget ordinance to recognize the appropriation from fund balance and to authorize the expenditure appropriation within the City's Health Insurance Fund.

Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Anne Wepner, it was unanimously RESOLVED:

That the Budget Ordinance Amendment be – ADOPTED

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

Item 4C. Consideration of Resolution to Write off Uncollectible Accounts and the Related Budget Ordinance Amendment

City Manager Todd Clark explained that although the City has established and implemented procedures to collect payment for services and miscellaneous billings and to actively pursue delinquent accounts, there are occasions where amounts are not collected.

Mr. Clark stated that staff has identified those accounts meeting one or more of the following criteria:

- 1) **Expired statute of limitations:** Debt has exceeded three years or other applicable statutory limitation.
- 2) **Bankruptcy:** Account has been discharged through bankruptcy court.
- 3) **Deceased:** Debtor is deceased with no estate.
- 4) **Unjustifiable Cost:** Amount of debt is less than \$50; therefore, it is not eligible for the North Carolina Debt Set-Off Program.

Mr. Clark stated that after the debt has been removed from the accounts receivable subsidiary ledger and the financial records of the City, the debt is no longer recognized as collectible for financial reporting purposes; however, the legal obligation to pay the debt will still remain.

Council Member Ed Sain mentioned that there is \$4,000 owed by Honey's with no recourse. Mayor Pro Tem John Stiver stated that these debts hurt the people and businesses that do pay. Council Member Ed Sain asked if it is

encouraged that new customers give two social security numbers. City Manager Todd Clark and Finance Director Vickie Thomas stated that the deposit policy could be reexamined.

Upon motion duly made by Mayor Pro Tem John Stiver, seconded by Council Member Jody Dixon, with Mayor Pro Tem John Stiver, and Council members Jody Dixon, Jerry Hodge, and Anne Wepner voting in favor of, and Council Members Ed Sain and Beverly Danner voting in opposition of, it was unanimously RESOLVED:

That the Write off of Uncollectible Utility and Miscellaneous Billing Accounts be –
APPROVED

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

ITEM 8: City Manager's Report

Meetings & Events

- July 7 – City Council Meeting

Other

- Update on Utility Balances
- Update on Streetscape
- Census Update
- DNDA Business Recovery Grant
- Fire Truck Purchase
- Water Treatment Plant Filter Rehab Project
- City Lake Retaining Wall Update

Planning Director Randy Williams gave an update on the Streetscape Project.

ITEM 9: Questions and Comments from Mayor and Council

Mayor Haupt asked if there were any questions or comments from City Council.

Council Member Jerry Hodge gave reports concerning the Western Piedmont Council of Governments Policy Board, and the Transit Authority.

ITEM 10: Adjournment

Upon motion duly made by Council Member Jody Dixon, seconded by Council Member Ed Sain, it was unanimously RESOLVED:

That the Meeting be – ADJOURNED

Eddie Haupt, Mayor

Amy S. Falowski, City Clerk



**MINUTES
SPECIAL MEETING OF THE NEWTON CITY COUNCIL**

May 27, 2020 – 7:00 p.m.

The special meeting of the Newton City Council was held at 7 p.m. Wednesday, May 27, 2020 at Newton City Hall.

PRESENT: Mayor Eddie Haupt, Mayor Pro Tem John Stiver and Council Members Jerry Hodge, Anne Wepner, Jody Dixon, Beverly Danner and Ed Sain

STAFF: City Manager Todd Clark, Assistant City Manager Sean Hovis, City Clerk Amy S. Falowski, City Attorney John Cilley, City Department Heads and members of the management team

ITEM 1: CALL TO ORDER

Mayor Eddie Haupt welcomed everyone and called the meeting to order.

ITEM 2: Lease of Municipal Owned Property Located at 116 West A Street and Adjoining Tract

City Manager Todd Clark stated that this special meeting is being held so that City Council can discuss the possible lease of city owned property located at 116 West A Street, formerly the Fire Headquarters building and the adjoining tract, with D9 Brewing Company out of Cornelius.

City Attorney John Cilley stated that in order to consider a lease of city owned property an ad would need to run 30 Days prior to that discussion.

After some discussion Mayor Pro Tem John Stiver made a motion to move forward with the ad to consider the lease of the property, the motion was seconded by Council Member Jerry Hodge and it was unanimously RESOLVED:

That the Ad be Published 30 Days Prior to the July 7, 2020 Regular City Council Meeting to Consider the Lease of Municipal Owned Property Located at 116 West A Street and the Adjoining Tract with D9 Brewing Company

(Ordinances, Resolutions and Proclamations are hereby referenced and on file in the Office of the City Clerk)

Upon motion duly made by Council Member Ed Sain, seconded by Beverly Danner, it was unanimously RESOLVED:

That Rent Begin at \$800 Per Month for Six Months then Increase to \$1,200 Per Month with a 10% Escalator Every Two Years

ITEM 3: Adjournment

Upon motion duly made by Council Member Ed Sain, seconded by Mayor Pro Tem John Stiver, it was unanimously RESOLVED:

That the Meeting be – ADJOURNED

Eddie Haupt, Mayor

Amy S. Falowski, City Clerk



CITY OF NEWTON

Sewer Adjustments

TO: E. Todd Clark, City Manager **DATE:** 6/26/2020
RE: Sewer Adjustments – 07/07/2020
FROM: Vickie Thomas, Finance Director

The following sewer adjustment is recommended for approval. The adjustment is recommended as a result of a water leak at the service address or a pool fill up.

Account Number	Name	Service Address	Adjustment Period	Amount of Adjustment
13000520-025	RUSSELL WILFONG	315 S ASHE AVE	APR- MAY	37.90

Backup documentation to support each adjustment is on file in the Finance Department.
Should you have questions or require further clarification, please notify.

CITY OF NEWTON REQUEST FOR COUNCIL ACTION

DATE: June 30, 2020

TO: Mayor and City Council

FROM: Sean Hovis, Assistant City Manager

CONSIDERATION OF: Re-Appointments to the Western Piedmont Regional Transit Authority Board of Directors

Mayor and Members of City Council, I would like to recommend Assistant City Manager Sean Hovis for Re-Appointment as Board Member to the Western Piedmont Regional Transit Authority Board of Directors, and Planning Director Randy Williams as Alternate Member for the City of Newton.

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

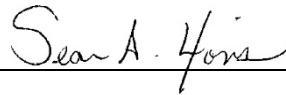
DATE: June 30, 2020

TO: E. Todd Clark, City Manager

FROM: Alex Fulbright, Assistant Planning Director

CONSIDERATION OF: Plan Amendment 2020-01 as filed by Timber Creek Acres, LLC.

Approved for Council Consideration



Applicant: Timber Creek Acres, LLC.
Address: 2360 W NC 10 Hwy
Parcel ID#: 3629-07-67-8955
Zoning: PD-SC-C, Planned Development Shopping Center - Community
Land Area: 1.89 acres
Purpose: The applicant requests approval of a plan amendment to accommodate a veterinary facility for Startown Veterinary Hospital to be constructed on an out-parcel of the Startown Crossing Shopping Center.

Review:

Staff received a development plan from Timber Creek Acres, LLC. to construct a medical facility on a 2 acre outparcel in front of the Startown Crossing Shopping Center. The project will front on W NC 10 Hwy and the only driveway will be off of the shopping center's existing driveway access from W NC 10 Hwy.

While researching the compliance with Zoning requirements, it was determined that the subject property is currently zoned as PD-SC-C (Planned Development Shopping Center - Community). This zoning designation was established in 2002 when the City Council approved a development plan for the entire Startown Crossing Shopping Center which included the out-parcel in question. The Zoning Ordinance specifies that any **substantial change** in an approved preliminary plan **shall be considered by Council**. This is not a rezoning, this is only an amendment to the previously approved plan.

The proposed use is a permitted use in the zoning district. The original approved plan indicated that the area where the veterinary hospital is now proposed would be used for stormwater management. The stormwater was accommodated elsewhere within the shopping center. The approved plan requires a sidewalk along the frontage of W NC 10 Hwy and a 15 foot landscaped buffer along the property line. This is not shown on the plan submitted. In addition to the requirements on the original approved plan, the development would still have to comply with the zoning, erosion control, and stormwater ordinance as it relates to the development of the site and that the plan amendment would approve the location of the building, parking and driveway on the site; as well as the appearance of the building.

Public Notices:

The notices for this case have been performed as follows:

Newspaper: published on June 25 and July 2, 2020.

Posted on-site: posted June 12, 2020

Mailed notices: sent notice to the owner of the site, owners of adjacent property, and the owners of property within 100 feet of the property adjacent to the subject site. 20 letters were sent on June 26, 2020

Recommendation action:

It is the Planning Commission's recommendation that the attached plan be approved on the condition that the plan complies with the conditions established when the original plan was approved in 2002, which are as follows:

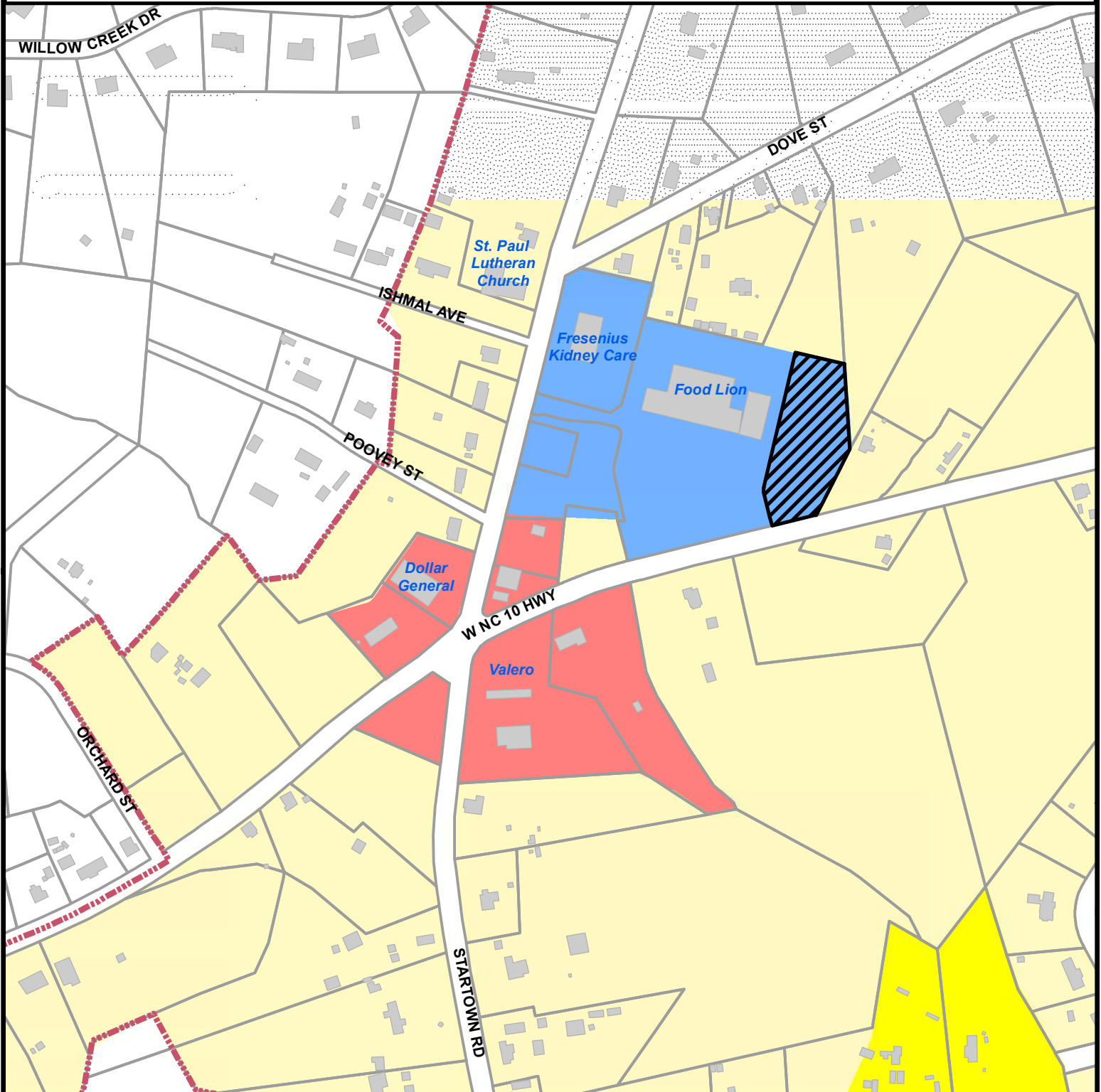
1. That a 15' buffer and screening be established along the north side and east side of the parcel.
2. That sidewalks be constructed along the frontage along NC 10 Hwy.








Plan Modification #2020-01

Timber Creek Acres LLC

2360 W NC 10 Hwy



-  Subject Site
-  Single Family Residential (R-20)
-  Single Family and Manufactured Home Residential (R-20A)
-  Highway Business (B-2)
-  Planned Development Shopping Center Community (PD-SC-C)



Plat with Planning Commission Recommendations

Approved by City Council August 21, 2002

All added elements in RED.

OLA	43,408
PARKING REQUIRED	217
PARKING PROVIDED	217
PARKING RATIO	6:0

Screening to be established within one year of completion of the Food Lion

Screening along rear to include a typical type to be determined by the developer

5' buffer and screening

15' buffer and screening

Side walk to be constructed along the entire length of NC Hwy 10. To be Coordinated with NCDOT.

Side walks to be constructed along the entire length of Startown Rd. To be coordinated with NCDOT.

All access driveways comply with NCDOT recommendations for turn lanes and signage. They are subordinate to the access of utility/NCDOT driveway permits. Also, if Access to have sidewalks from pad footage connecting to the sidewalk system of the shopping center.



PRELIMINARY SITE PLAN

FOOD LION

ROM ASSOCIATES PA

1100 S. CLAYTON ST. SUITE 1000 W. RALEIGH, NC 27603

PH: 919.876.1100 FAX: 919.876.1101

DATE: 08/21/02

SCALE: 1"=60'-0"

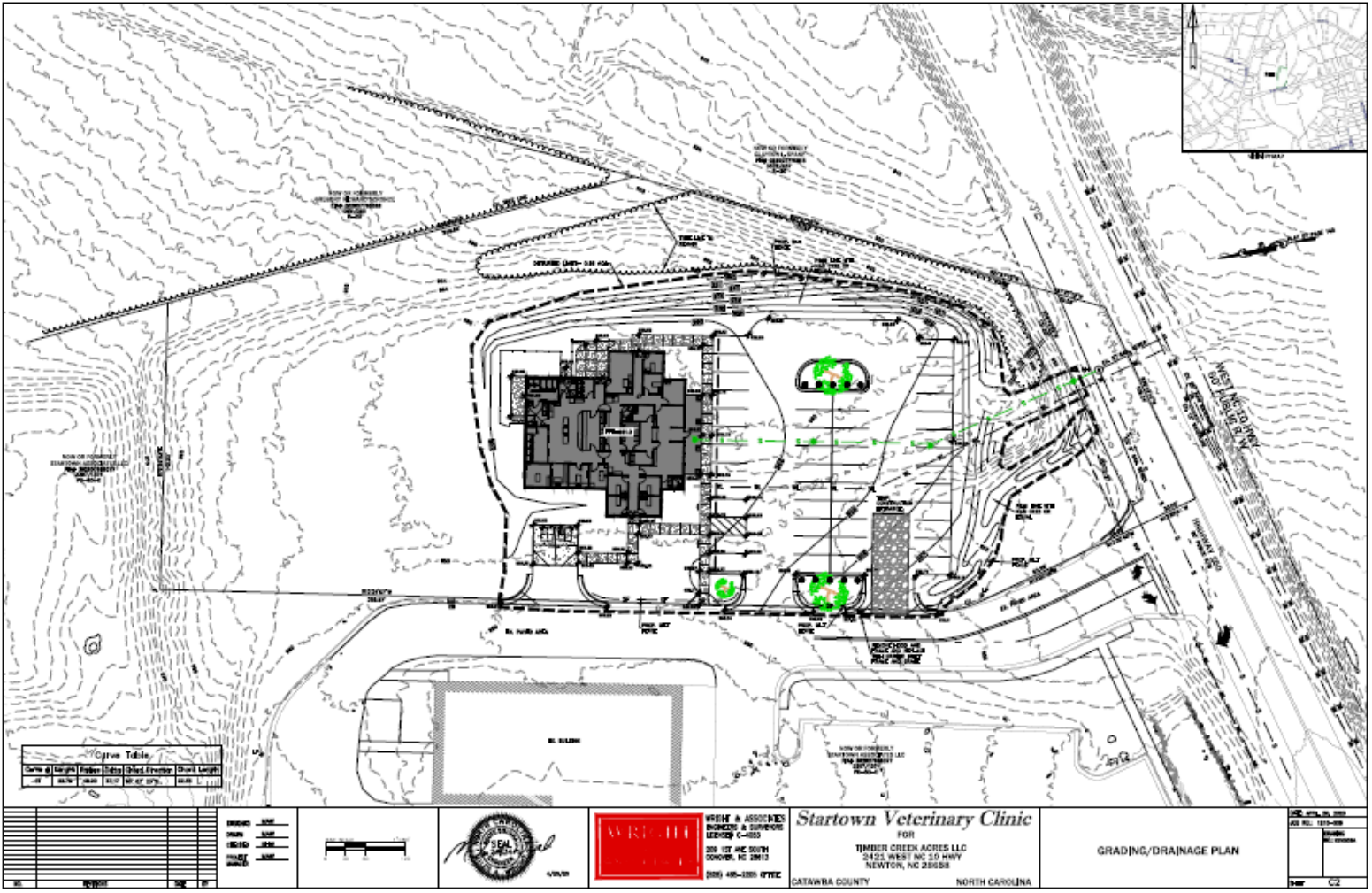
C-1

THIS PLAN IS PRELIMINARY AND SUBJECT TO THE APPROVAL OF THE PLANNING COMMISSION AND CITY COUNCIL. THE DEVELOPER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES.

ALL DIMENSIONS AND SPECIFICATIONS SHOWN ON THIS PLAN SHALL BE AS SHOWN UNLESS OTHERWISE SPECIFIED.

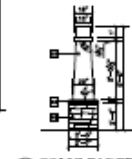
NOT TO BE USED FOR CONSTRUCTION WITHOUT THE APPROVAL OF THE ENGINEER.

PRELIMINARY SITE PLAN 1"=60'-0"





1 FRONT ELEVATION
AS/UP = 1/4"



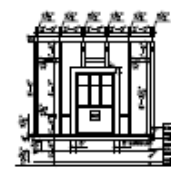
2 COLUMN DETAIL
AS/UP = 1/4"



3 LOGO DETAIL
AS/UP = 1/4"



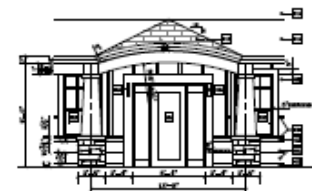
4 LEFT SIDE ELEVATION
AS/UP = 1/4"



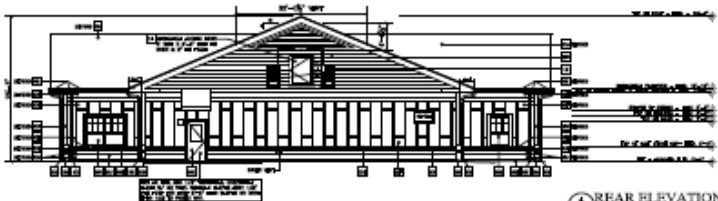
5 BOARD & BATTEN DETAIL
AS/UP = 1/4"



6 RIGHT SIDE ELEVATION
AS/UP = 1/4"



7 ENTRY DETAIL
AS/UP = 1/4"



8 REAR ELEVATION
AS/UP = 1/4"



9 GABLE DETAIL
AS/UP = 1/4"

- 1. CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE 2018 INTERNATIONAL RESIDENTIAL CODE BOOK (IRC) AND THE 2018 INTERNATIONAL ENERGY CONSERVATION CODE (IECC).
- 2. ALL MATERIALS SHALL BE NEW UNLESS OTHERWISE NOTED.
- 3. FINISHES SHALL BE AS SHOWN OR AS NOTED.
- 4. ALL DIMENSIONS SHALL BE IN FEET AND INCHES UNLESS OTHERWISE NOTED.
- 5. ALL DIMENSIONS SHALL BE TO FACE UNLESS OTHERWISE NOTED.
- 6. ALL DIMENSIONS SHALL BE TO CENTER UNLESS OTHERWISE NOTED.
- 7. ALL DIMENSIONS SHALL BE TO THE OUTSIDE UNLESS OTHERWISE NOTED.
- 8. ALL DIMENSIONS SHALL BE TO THE INSIDE UNLESS OTHERWISE NOTED.
- 9. ALL DIMENSIONS SHALL BE TO THE CENTERLINE UNLESS OTHERWISE NOTED.
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- 36. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE HILL UNLESS OTHERWISE NOTED.
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- 51. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE POLAR UNLESS OTHERWISE NOTED.
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- 53. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE TROPIC UNLESS OTHERWISE NOTED.
- 54. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE ARCTIC UNLESS OTHERWISE NOTED.
- 55. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE ANTARCTIC UNLESS OTHERWISE NOTED.
- 56. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE EQUINOX UNLESS OTHERWISE NOTED.
- 57. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE SOLSTICE UNLESS OTHERWISE NOTED.
- 58. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE EQUATORIAL UNLESS OTHERWISE NOTED.
- 59. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE POLAR UNLESS OTHERWISE NOTED.
- 60. ALL DIMENSIONS SHALL BE TO THE CENTERLINE OF THE EQUATOR UNLESS OTHERWISE NOTED.

CAMPBELL
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NEW BUILDING FOR
STARTOWN VETERINARY
HOSPITAL
NEWTON, NC 28655

PROJECT NO: 64119
DATE: 04.20.2020
SHEET: A3.1

CITY OF NEWTON REQUEST FOR COUNCIL ACTION

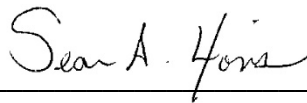
DATE: June 30, 2020

TO: E. Todd Clark, City Manager

FROM: R. S. Williams, AICP, Planning Director

CONSIDERATION OF: Public Hearing for CDBG Scattered Site Housing Rehabilitation

Approved for Council Consideration



Request:

Federal Community Development Block Grant funds are distributed across the county for many diversified uses. One such use is the rehabilitation of houses for low- and moderate-income families in scattered sites across the city. Staff and the Western Piedmont COG are working together on this program. WPCOG staff will be administering this effort to the benefit of Newton citizens and housing needs. This will include the identification and rehabilitation of three to seven homes in the city.

Background:

Programs are designed to provide grants to local units of governments for housing, housing related activities, and public facilities that support housing activities for low-to-moderate-income persons, job creation or the elimination of slum and blight conditions. North Carolina received approximately \$10.0 million in CDBG funds which is made available for the 2020 NC Neighborhood Revitalization Program with a maximum grant amount of \$750,000 per grantee with some restrictions for specific activities to be completed during a 30-month grant period.

The City is pursuing an application for Scattered Site Housing Rehabilitation category and this is the second required public hearing prior to the application submission deadline date. The application process is competitive and a local match is not required but could strengthen the application.

Recommendation:

This is the second required public hearing and is held to allow people to ask questions and potentially be included if they meet requirements. It is recommended that the City pursue this grant and submission of the application by the WPCOG Staff.



Community & Economic Development

Memorandum

June 29, 2020

To: Randy Williams, Planning Director

From: Laurie Powell, Community Development Administrator

Re: 2nd Public Hearing for CDBG Neighborhood Revitalization Project applications

The City of Newton is holding a Second Public Hearing in order to receive citizen input in the development and submission of a NC Neighborhood Revitalization Scattered Site Housing Project with Community Development Block Grant (CDBG-NR) funds. CDBG-NR funds will be requested for \$750,000 to be used for the rehabilitation of fifteen (15) 100% low to moderate income, owner occupied homes scattered throughout the Newton City limits. Applications will be submitted to the North Carolina Department of Commerce, Rural Economic Development Division by July 27th. The City most likely will not find if they are funded until later this fall.

Five (5) homes have been selected at this time and the other ten (10) homes will be selected at later date due to Covid-19. The City will continue to take applications for this grant program. Once the other ten (10) have been selected, a waiting list will be started.

Recommendation

It is recommended that the City Council at its regular meeting on July 7, 2020:

- a) Conduct a second public hearing in consideration of submitting a 2020 Scattered Site CDBG application along with approving all the corresponding documents to the Division of Community Assistance. Two (2) originals of the documents below will need to be signed by the Mayor. There will be other documents for the application that need to be signed but not adopted.

The corresponding documents are the following:

1. Authorizing Resolution
2. Citizen Participation Plan
3. By-Laws of the Scattered Site Housing Selection Committee
4. Federal Requirements and Certification
5. State CDBG Program Regulations
6. Residential Anti-Displacement and Relocation Assistance Plan

(Note: related documents are attached)

RESIDENTIAL ANTI-DISPLACEMENT AND RELOCATION ASSISTANCE PLAN CITY OF NEWTON

This Residential Anti-displacement and Relocation Assistance Plan is prepared by City of Newton in accordance with the Housing and Community Development Act of 1974, as amended; and HUD regulations at 24 CFR 42.325 and is applicable to our CDBG₁ projects.

Minimize Displacement

Consistent with the goals and objectives of activities assisted under the Act, City of Newton will take the following steps to minimize the direct and indirect displacement of persons from their homes:

- ❑ Coordinate code enforcement with rehabilitation and housing assistance programs.
- ❑ Evaluate housing codes and rehabilitation standards in reinvestment areas to prevent undue financial burden on established owners and tenants.
- ❑ Stage rehabilitation of apartment units to allow tenants to remain in the building/complex during and after the rehabilitation, working with empty units first.
- ❑ Arrange for facilities to house persons who must be relocated temporarily during rehabilitation.
- ❑ Adopt policies to identify and mitigate displacement resulting from intensive public investment in neighborhoods.
- ❑ Adopt policies which provide reasonable protections for tenants faced with conversion to a condominium or cooperative.
- ❑ Adopt tax assessment policies, such as deferred tax payment plans, to reduce impact of increasing property tax assessments on lower income owner-occupants or tenants in revitalizing areas.
- ❑ Establish counseling centers to provide homeowners and tenants with information on assistance available to help them remain in their neighborhood in the face of revitalization pressures.
- ❑ Where feasible, give priority to rehabilitation of housing, as opposed to demolition, to avoid displacement.
- ❑ If feasible, demolish or convert only dwelling units that are not occupied or vacant occupiable dwelling units (especially those units which are “lower-income dwelling units” (as defined in 24 CFR 42.305).
- ❑ Target only those properties deemed essential to the need or success of the project.

A. Relocation Assistance to Displaced Persons

City of Newton will provide relocation assistance for lower-income tenants who, in connection with an activity assisted under the CDBG Program[s], move permanently or move personal property from real property as a direct result of the demolition of any dwelling unit or the conversion of a lower-income dwelling unit in accordance with the requirements of 24 CFR 42.350. A displaced person who is not a lower-income tenant, will be provided relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and implementing regulations at 49 CFR Part 24.

B. One-for-One Replacement of Lower-Income Dwelling Units

City of Newton will replace all occupied and vacant occupiable lower-income dwelling units demolished or converted to a use other than lower-income housing in connection with a project assisted with funds provided under the CDBG Program[s] in accordance with 24 CFR 42.375. Before entering into a contract committing City of Newton to provide funds for a project that will directly result in demolition or conversion of lower-income dwelling units, City of Newton will make public by placing an ad in the Observer News Enterprise and submit to State CDBG Program(s) North Carolina Department of Environment and Natural Resources (NC DEQ) the following information in writing:

1. A description of the proposed assisted project;
2. The address, number of bedrooms, and location on a map of lower-income dwelling units that will be demolished or converted to a use other than as lower-income dwelling units as a result of an assisted project;
3. A time schedule for the commencement and completion of the demolition or conversion;
4. To the extent known, the address, number of lower-income dwelling units by size (number of bedrooms) and location on a map of the replacement lower-income housing that has been or will be provided. *NOTE: See also 24 CFR 42.375(d).*
5. The source of funding and a time schedule for the provision of the replacement dwelling units;
6. The basis for concluding that each replacement dwelling unit will remain a lower-income dwelling unit for at least 10 years from the date of initial occupancy; and
7. Information demonstrating that any proposed replacement of lower-income dwelling units with smaller dwelling units (e.g., a 2-bedroom unit with two 1-bedroom units), or any proposed replacement of efficiency or single-room occupancy (SRO) units with units of a different size, is appropriate and consistent with the housing needs and priorities identified in the HUD-approved Consolidated Plan and 24 CFR 42.375(b).

To the extent that the specific location of the replacement dwelling units and other data in items 4 through 7 are not available at the time of the general submission, City of Newton will identify the general location of such dwelling units on a map and complete the disclosure and submission requirements as soon as the specific data is available.

C. Replacement not Required Based on Unit Availability

Under 24 CFR 42.375(d), City of Newton may submit a request to the State (NC Dept. of Commerce) for a determination that the one-for-one replacement requirement does not apply based on objective data that there is an adequate supply of vacant lower-income dwelling units in standard condition available on a non-discriminatory basis within the area.

D. Contacts

Laurie Powell, Project Administrator (828-485-4249) is responsible for tracking the replacement of lower income dwelling units and ensuring that they are provided within the required period. Laurie Powell, Project Administrator (828-485-4249) is responsible for providing relocation payments and other relocation assistance to any lower-income person displaced by the demolition of any dwelling unit or the conversion of lower-income dwelling units to another use.

Adopted this 7th day of July, 2020.

Mayor

ATTEST:

Clerk

STATE CDBG PROGRAM REGULATIONS

Citizen Participation

If funded, the grantee will have documentation on file of compliance with citizen participation requirements in the application process 4 NCAC 19L. 1002 (b): publisher's affidavits of notices and minutes signed by the town or county clerk of the two required public hearings.

Project Administration

- The grantee is responsible for CDBG oversight. If funded, the grantee will supervise the implementation of the project as follows:
- The local government manager reviews and signs off on all project reports.
- The project administrator or local government staff will present and give at least quarterly written status reports to the elected board. A signed copy of the quarterly report must be submitted to the grant representative for review.
- At least two persons from the local government listed on the signatory cards will review and sign off on invoices and requests for payment.
- Maintain all project files at the local government offices and make them available to citizens during regular business hours.

Audits/Compliance

CDBG grantees expending \$25,000 or more in a fiscal year are required to have funds audited for the CDBG program. CDBG funds can be used to pay for the CDBG portion of the audit provided the grantee has expended \$500,000 or more in the fiscal year in total federal awards (CDBG and other federal funds). If the grantee has expended less than \$500,000 in total federal awards, the grantee may budget local funds in the administrative line item in the CDBG application to pay for the CDBG portion of the audit and claim the local administrative funds as local commitment.

Housing

- ❑ **Substantial Rehabilitation:** Any rehabilitation cost above \$44,000 per unit or \$42 per square foot which would include the Lead Based Paint cost and any other additional funds is considered substantial rehabilitation and requires the prior approval of REDD.
- ❑ **Manufactured Homes Policy:** Manufactured homes rehabilitated with CDBG funds must be converted into real property (per G.S. 105-273 paragraph 13) that is owned and occupied by the homeowner prior to any rehabilitation.

The CDBG assistance must be secured by a Note and Deed of Trust at the time of rehabilitation. The maximum amount that may be spent rehabilitating a manufactured home is \$20,000. No CDBG funds may be spent to rehabilitate any manufactured home built prior to 1978.

In addition, the grantee will adhere to the following:

1. Adopt a financial design for rehabilitation that meets the minimum REDD criteria. The financial design must be submitted to REDD for review.

2. Prior to rehabilitating a house with a pit privy/outhouse or no wastewater disposal system, if public sewer is unavailable, contact the local health department for a determination whether the property can be permitted for an on-site wastewater system. If not, the family should be relocated.
3. Clear titles as required in the application.
4. Have houses inspected by a **North Carolina licensed home inspector**. Attach the summary from each inspection to the NC Neighborhood application.
5. Work with the State Health Hazard Control Unit and local government departments to comply with federal and state lead-based paint requirements. In addition, ensure rehabilitation design will address lead-based paint hazards.
6. Voluntary withdrawal from the program, document with evidence on file.
7. Establish and implement a home maintenance program to instruct occupants of rehabilitated houses, including (1) maintenance of any on-site wastewater systems and/or wells or (2) maintenance of newly installed indoor plumbing.
8. Install water saving devices in houses with on-site septic tanks. If facets need to be replaced install a water saving device. See Bulletin 02-5, Low Flow Plumbing Fixtures
9. If undertaking voluntary clearance, document with evidence on file that property owners are aware of and agree to voluntary clearance.
10. If undertaking rehabilitation, acquisition and/or clearance of dwellings, comply with state notification, certification and disposal requirements for asbestos.
11. If acquiring property with a dwelling, maintain a plan for residential reuse of the residential property.
12. If undertaking temporary or permanent relocation, budget adequate funds based on the costs of housing in the area.
13. If abandoning outhouses or septic tanks, budget adequate funds to cover related costs in accordance with state and local health department regulations.
14. Establish a written recipient referral procedure to address non-CDBG needs (i.e. social services, credit counseling, employment etc.)
15. Low and moderate beneficiaries may not be charged for tap fees or assessments for water or sewer improvements.
16. All items rehabilitated, if required under the building code, must be permitted and inspected.
17. Procurement and bid request for rehabilitation should include a section that describes the estimated man hours expended on the project. It should include both administration and labor.

Housing

When using CDBG funds for housing activities, if funded, grantee will adhere to the following: Comply with the new Lead-Based Paint regulations 24 CFR Part 35, the Lead-Based Paint Poisoning Prevention Act and the “Lead-Based Paint Hazard Reduction Guidelines for North Carolina Small Cities Community Development Block Grant Recipients” published by Rural Economic Development Division.

Program Income

If the local government makes a loan to the developer, a plan for reuse of program income will be developed and subject to REDD approval.

Legally Binding Commitment (LBC)

The local government will develop and execute a LBC with the non-profit or for-profit developer subject to REDD requirements.

The applicant hereby assures and certifies that by his/her signature, its duly authorized official has read and understands the State CDBG Program Standards and, if funded, will adhere to all standards applicable to the funded project.

Name of Chief Elected Official	<u>Eddie Haupt</u>
Title	<u>Mayor</u>
Signature	_____
Date	<u>July 7, 2020</u>

FEDERAL REQUIREMENTS AND CERTIFICATIONS

The applicant hereby assures and certifies that:

- a) It will comply with all applicable federal and state laws, regulations, rules and Executive Orders.
- b) It possesses legal authority to apply for the grant, and to execute the proposed program.
- c) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the filing of the application, including all understandings and assurances contained therein, and directing and authorizing the identified as the official representative of the applicant to act about the application and to provide such additional information as may be required.
- d) It is following a detailed, written citizen participation plan which will provide opportunities for citizen participation, hearings, and access to information with respect to its community development program that are comparable to those required of grantees under Section 104(a) of the Act and in accordance with Rule .1002 of the North Carolina Community Development Block Grant Administrative Rules.
- e) Its chief elected official or other officer of the applicant if assistance is approved by Rural Economic Development Division:
 - 1) Consents to assume the status of the “responsible Federal Official” as that term is used in Section 102 of the National Environmental Policy Act (NEPA), Section 104(f) of Title 1 of the Housing and Community Development Act of 1974, as amended, and other provisions of Federal law, as specified in 24 CFR 58.5 which further the purposes of NEPA.
 - 2) Is authorized and consents on behalf of the applicant and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.
 - 3) Consents to review and comment on all Environmental Impact Statements prepared for Federal projects which may have an impact on the applicant’s/recipient’s community development program.
 - 4) Consents to perform all coordination functions required under 24 CFR Part 58 and 40 CFR Parts 1500-1508.
- f) The **NC Neighborhood Program** has been developed to give maximum feasible priority to activities which will benefit low and moderate-income families or aid in the prevention or elimination of slums and blight. The requirement for this certification will not preclude Commerce from approving an application where the applicant certifies, and Commerce determines, that all or part of the **NC Neighborhood Program** activities are designed to meet other community development needs having urgency as specifically explained in the application in accordance with Section .0800 of 4 NCAC 19L of the North Carolina Administrative Code.
- g) Its program will be conducted and administered in conformity with Public Law 88-352 and Public Law 90-284, and that it will affirmatively further fair housing.
- h) It will comply with all provisions of 4 NCAC 19L of the North Carolina Administrative Code, entitled North Carolina Community Development Block Grant Program.

- i) It will give Commerce, HUD and the Comptroller General through any authorized representative access to and the right to examine all records, books, papers or documents related to the grant.
- j) It will establish safeguards to prohibit employees from using positions for a purpose that is or gives the appearance of being motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- k) It will follow a residential anti-displacement and relocation assistance plan that is in accordance with the provisions of Section 104(d) and all other provisions of the Act.
- l) It will not attempt to recover any capital costs of public improvements assisted in whole or part under Section 106 of the Act or with amounts resulting from a guarantee under Section 108 of the Act by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged to assessment made as a condition of obtaining access to such public improvements, unless (i) funds received under Section 106 are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under this title; or (ii) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the grantee certifies to the Secretary or such State, as the case may be, that it lacks sufficient funds received under Section 106 to comply with requirements of clause (i).
- m) It has or will develop a plan that identifies community development and housing needs, including the needs of low and moderate-income persons, and the activities to be undertaken to meet such needs.
- n) Its notification, inspection, testing and abatement procedures concerning lead-based paint will comply with 24 CFR Part 35.
- o) When issuing statements, press releases, request for proposals, bid solicitation and other documents describing the above-mentioned program such as the environmental review, public hearings, fair housing notices, etc., it shall clearly state:
 - 1) The percentage of the total cost of the project which will be financed with CDBG money, and
 - 2) the dollar amount of CDBG funds for the project.
- p)
 - 1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - 2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

- 3) The undersigned shall require that the language of this certification be included in the award documents for all sub awards at all tiers (including subcontracts, sub grants, and contracts under grant, loans, and cooperative agreements) and that all sub recipients shall certify and disclose accordingly.
- q) It has adopted and will enforce a policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in nonviolent civil rights demonstrations and has adopted and is enforcing a policy of enforcing applicable state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstration within its jurisdiction in accordance with Section 519 of Public Law 101-144, (the 1990 HUD Appropriations Act).
- r) All project areas are either not in a floodplain, or if the project area is in a floodplain, the applicant participates in the flood insurance program. All properties assisted in the project will be covered for flood insurance prior to beginning construction, and all public facilities will be constructed to comply with applicable floodplain regulations.

CERTIFICATION OF ABILITY

The City of Newton hereby certifies its ability to meet Federal Performance and Procurement Requirements with Certification as further expanded in the preceding attachments.

Name of Chief Elected

Official

Eddie Haupt

Title

Mayor

Signature

Date

July 7, 2020

**BY-LAWS
OF
CITY OF NEWTON
COMMUNITY DEVELOPMENT BLOCK GRANT
NC NEIGHBORHOOD REVITALIZATION
SCATTERED SITE HOUSING SELECTION COMMITTEE**

ARTICLE I: NAME AND PURPOSE

Section 1. Name: The name of this Committee is the City of Newton NC Neighborhood Revitalization Community Development Block Grant (CDBG-NR) Scattered Site Housing Selection Committee.

Section 2. Purpose: The primary objective of the City of Newton CDBG-NR Scattered Site Housing Selection Committee is to improve the housing conditions of low-and moderate-income households with incomes at or below 80% of the area median income. All programs developed using CDBG-NR funds, including SSH, will promote the goals of the North Carolina Consolidated Plan.

ARTICLE II: MEMBERS

Section 1. Number and Composition: This Committee shall consist of the City’s SSH Project Administrator, Rehabilitation Specialist, the City’s Planning Director, City Code Enforcement Office, City Council Member (also Citizen) and one other citizen.

Section 2. Addition of Members: Additional members may be added from time to time as needed.

ARTICLE III: MEETINGS

Section 1. Meetings: The CDBG-NR Scattered Site Selection Committee shall meet as often as necessary. The Project Administrator and Rehabilitation Specialist will be responsible for the schedule and the conduct of all meetings.

Section 2. Responsibilities: The City of Newton CDBG Site Selection Committee shall assist the Project Administrator in the publicity of this program, shall recommend homeowners for assistance, and shall make the final recommendation to the City Manager or his designee on the homes to be rehabilitated.

Adopted this 7th day of July, 2020.

Eddie Haupt
Mayor, City of Newton

Amy Falowski
City Clerk to the Council

CITY OF NEWTON CITIZEN PARTICIPATION PLAN

This plan describes how the City of Newton will involve citizens in the planning, implementation, assessment and close out of the Community Development Block Grant (CDBG) program. The funds must be used for projects which benefit low and moderate-income persons and aids in the elimination and prevention of slums and blight. The program is intended to assist governments in understanding neighborhood improvement programs. The regulations give ultimate responsibility for the design and implementation of the program to local elected officials and require that citizens be given an opportunity to serve in a key advisory role to these elected officials.

SCOPE OF CITIZEN PARTICIPATION

Citizens will be involved in all stages of the CDBG program, including program implementation, assessment of performance, design of changes and close out in the Citizen Participation Plan. There will be three (3) general mechanisms for their involvement:

1. To serve as an advisory committee to the project;
2. To attend or hold public hearings or community meetings; and
3. To provide individual citizen efforts in the form of comments, complaints or inquiries submitted directly to the Program Administrators or designated City official.

PROGRAM IMPLEMENTATION

Citizen participation in program implementation will occur primarily through consultation with the City of Newton. The city will be asked to review and comment on specific guidelines for approved projects. They will also meet to review any program amendments, budget revisions and program modifications. All such changes will be discussed with the city and their comments considered prior to taking action. If program amendments require approval from the North Carolina Department of Commerce, a public hearing shall be held specifically on the amendment. Citizens may also be involved in implementation of projects specifically requiring citizen participation, such as self-help projects. Their roles will be defined as the project develops. Technical assistance will be available as needed.

PROGRAM ASSESSMENT

Program assessment activities by citizens will occur in a variety of ways. A performance hearing will be held thirty to sixty (30 to 60) days prior to the start of planning for the next program year. The Program Amendment will be asked to provide citizen commentary for the Grantee Performance Report.

As a part of the orientation to the program offered at the public hearing, citizens will be invited to submit comments on all aspects of program performance through the program year. Comments should be submitted in writing to Randy Williams, Planning Director. He will respond in writing within ten (10) days. If the response is unsatisfactory, the complainant should write directly to mayor. He shall respond within ten (10) days.

If the citizen is still dissatisfied, he/she should write to the NC Department of Commerce, Rural Economic Development Division/State CDBG Program, 4346 Mail Service Center, Raleigh, NC 27699-4346, Attention: Citizen Participation Matter. Program staff will also be available during normal business hours to respond to any citizen inquiries or complaints at 919-814-4663

The Citizen Participation Plan will be subject to annual review and proposed revision, to occur in the period between the performance hearing and the public hearing on the subsequent year's application.

TECHNICAL ASSISTANCE

Technical Assistance will be provided to citizen organizations and groups of low/moderate income persons or target area residents upon request to City of Newton. Such assistance will support citizen efforts to develop proposals, define policy and organize for the implementation of the program. It is expected that such assistance will be provided directly to the city in response to their request. Assistance could be provided in the form of local presentations, informational handouts, research of a specific issue or other short-term efforts.

PUBLIC INFORMATION

The City of Newton will also undertake public information efforts to promote citizen participation. These efforts will include the following:

1. Public Notice of all Public Hearings will be published in the non-legal section of the local Newspaper, Observer News Enterprise at least ten (10) days before the scheduled hearing. These notices will indicate the date, time, location and topics to be considered. These notices will also be made available in the form of press releases, as a public service announcement to local radio stations and will be provided to churches within the target area of distribution.
2. Orientation Information will be provided at the first public hearing. The Program Administrator(s) will make a presentation which covers: (a) the total amount of CDBG funds available and the competitive basis for award; (b) the range of eligible activities; (c) the planning process and the schedule of meetings and hearings; (d) the role of citizens in the program and (e) a summary of other program requirements, such as the environmental policies, fair housing provisions and contracting procedures.
3. A Public File containing program documentation will be available for review at the Newton City Hall during normal business hours. Included will be copies of the Application, Environmental Review Record, the Citizen Participation Plan and the Annual Performance Report. Other program documents are also available for citizen review on request at the Newton City Hall consistent with applicable State and local laws regarding personal privacy and obligations of confidentiality.
4. Public Hearings an interpreter will be provided for all non-English speaking individuals and/or deaf individuals.

ADOPTED, this the 7th day of July, 2020.

Eddie Haupt,
Mayor, City of Newton

Amy Falowski
Clerk, City of Newton

RESOLUTION FOR THE CITY OF NEWTON

APPLICATION FOR COMMUNITY DEVELOPMENT BLOCK GRANT FUNDING
FOR THE 2020 SCATTERED SITE CDBG NEIGHBORHOOD REVITALIZATION
PROJECT

WHEREAS, Newton’s City Council has previously indicated its desire to assist in community development efforts for housing within the City; and,

WHEREAS, Newton’s City Council has held two public hearings concerning the proposed application for Community Development Block Grant funding to benefit low and moderate income households; and,

WHEREAS, Newton’s City Council wishes the City of Newton to pursue a formal application for Community Development Block Grant funding to benefit 15 owner occupied households; and,

WHEREAS, the Newton’s City Council certifies it will meet all federal regulatory and statutory requirements of the State of North Carolina Community Development Block Grant Program,

NOW, THEREFORE BE IT RESOLVED, by the Newton City Council that the City of Newton is authorized to submit a formal application to the North Carolina Department of Commerce for approval of a Community Development Block Grant to benefit low and moderate income owner occupied households located in the City.

Adopted this the 7th day of July, 2020, in Newton, North Carolina.

Mayor Eddie Haupt

Amy Falowski, City Clerk

**CITY OF NEWTON
REQUEST FOR COUNCIL ACTION**

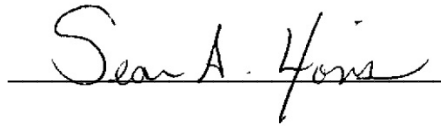
DATE: July 1, 2020

TO: Mayor and City Council

FROM: Todd Clark, City Manager

CONSIDERATION OF: Lease Agreement For Municipal Owned Property Located at 116 West "A" Street and Adjoining Tract

Approved for Council Consideration



Background:

The City Council held a Special Meeting on May 27, 2020, to consider the possible leasing of the former Fire Department Headquarters station and parking area behind said headquarters building on West "A" Street in Newton. The proposed tenant for the former Fire Headquarters is District 9 Brewing Company.

After a lengthy discussion concerning the possibility of entering a long-term lease with District 9 Brewing Company, and the terms thereof, Council determined that it would like to enter into such agreement with the proposed tenant provided that the City of Newton and District 9 Brewing Company could agree to mutually acceptable terms for a long-term rental agreement of less than ten (10) years as required by North Carolina General Statute 160A-272. The Council reached a consensus as to specific terms the City would require of the Tenant, including but not limited to, the length of the lease, the rental amount for the building and adjoining parking area, the requirement of general liability insurance with specific amounts of coverage required for property damage, bodily injury, personal injury or death, and general maintenance, upgrades and repair of the interior of the building. The tenant would also be responsible for the payment of all utilities associated with the use of the building. Council then instructed the City Manager to negotiate the terms of a possible lease with District 9 Brewing Company within parameters as set by Council.

At the June 2, 2020, regularly scheduled City Council meeting, Council directed the City Clerk to publish the Notice of Intent to lease the subject property at least thirty (30) days prior to authorizing the execution of said lease as required by North Carolina General Statute 160A-272(a)(1). The City Attorney drafted the Notice of Intent incorporating the information that was required by statute, and the City Clerk caused said Notice to be published in both the Observer-News-Enterprise and the Hickory Daily Record within the time frame required.

The City Attorney, with input from the City Manager, Assistant City Manager and Planning Director, drafted a proposed Lease Agreement incorporating the terms as discussed by the City Council at its Special Meeting on May 27, 2020. The terms of the Lease include, but are not limited to, a schedule of total rental payments for the first five (5) years of the Lease, usage requirements and limitations for the location, maintenance and upgrades of the building, insurance requirements including indemnification of the City should there be an injury to either an employee or patron at the site, requirements as to specific insurance coverage amounts, and provisions for allowing the Lessee to exercise two (2) year options to extend the Lease for an additional four (4) years at specific rental rates as contained in the Lease

Agreement. The maximum time limit that the Lessee may lease the structure under this specific Lease Agreement is nine (9) years.

Action Suggested:

The recommendation of the City Manager is for City Council to consider the terms of the Lease as presented with a determination by City Council that the subject property will not be needed by the City for the term of the Lease as required in North Carolina General Statute 160A-272(a) and that Council approve the Lease Agreement with District 9 Brewing Company with an authorization for the Mayor to execute said Lease Agreement on behalf of the City.

NORTH CAROLINA

CATAWBA COUNTY

LEASE AGREEMENT

THIS LEASE AGREEMENT, made and entered into this _____ day of _____, 2020, by and between **CITY OF NEWTON**, a North Carolina Municipal Corporation, having a mailing address of P.O. Box 550, Newton, NC 28658; hereinafter referred to as “Lessor;” and **D9 BREWING COMPANY**, having a mailing address of 9815 Sam Furr Road, Suite J #313, Huntersville, NC 28078; hereinafter referred to as “Lessee;”

WITNESSETH:

That subject to the terms and conditions hereinafter set out, said Lessor does hereby let and lease unto said Lessee, and said Lessee does hereby accept as tenant of Lessor those certain tracts or parcels of land as shown on attached Exhibit “A” herein and incorporated by reference into this Lease Agreement, located at 116 West A Street, Newton, County of Catawba, State of North Carolina.

The terms and conditions of this Lease are as follows:

- 1) The term of this lease shall be for a period of Five (5) years beginning on the 15th day of July, 2020, and ending on the 14th day of July, 2025, unless terminated under the other provisions of this lease prior to the 14th day of July, 2025.
- 2) As rental for said premises, Lessee shall pay to Lessor, at the address noted below, and without notice or demand therefor, the following schedule of rents, payable monthly in advance on the 15th day of each calendar month. The first monthly rental payment will be due on the 15th day of July, 2020.

RENTAL SCHEDULE

Months 1-6:	\$800.00 monthly
Months 7-12:	\$1,200.00 monthly
Year 2:	\$1,200.00 monthly
Year 3:	\$1,320.00 monthly
Year 4:	\$1,320.00 monthly
Year 5:	\$1,452.00 monthly

Rental payments shall be made to CITY OF NEWTON, P.O. Box 550, Newton, NC 28658. A late fee in the amount of ten (10%) of each monthly payment shall accrue as to any payment not received by the 25th of each month. If Lessee shall fail to make any payment of rent when due and if such default shall continue for thirty (30) days after the Lessor shall have given written notice to the Lessee specifying such default and demanding that same be cured, an "event of default" shall have occurred.

- 3) Lessee shall use and occupy the premises for the purpose of operating a craft brewery including brewing room, cold room, retail store, tap room and warehouse space, and in connection thereto, shall comply with all laws, ordinances, orders, or regulations of any lawful authority having jurisdiction over the premises and the use thereof. Lessee shall neither use nor occupy the demised premises or any part thereof for any unlawful or other hazardous business purpose nor operate or conduct its business in a manner constituting a nuisance of any kind.
- 4) It is agreed that during the term of this lease the Lessor shall be responsible for all ad valorem taxes and other assessments due to Catawba County or to the City of Newton which are levied on the land and building covered by this lease agreement, but that the Lessee will be responsible for the payment of all ad valorem taxes, if any, levied by Catawba County or the City of Newton on any personal property placed in the said building or on any fixtures, machinery, appliances, or equipment installed in the said building which the Lessee shall have the right to remove.
- 5) It is agreed that during the term of this lease the Lessor shall be responsible for keeping the outside walls, windows, and roof of the building herewith leased in proper and substantial repair and shall be responsible for the exterior and structural element of the premises. Lessor shall indemnify, hold harmless, and defend Lessee for claims relating to any bodily injury or damage to property of the Lessee related to any failure of the structure that Lessor is responsible for the maintenance of pursuant to the terms of this Lease Agreement. Lessee shall not take any action, nor cause any action to be taken, during any renovations, modifications or repairs to the building

that would in any way cause any structural damage or otherwise compromise the structural integrity of the building at any time during the term of the Lease. Lessor shall also be responsible for maintenance of the mechanical and electrical equipment servicing the premises. Lessee shall be obligated to maintain a maintenance/service agreement on the HVAC (“HVAC Service Agreement”) to cover routine maintenance and servicing but Lessor shall make repairs and maintain the HVAC for matters not covered by the HVAC Service Agreement. It is agreed during the term of this lease the Lessee shall be responsible for the ordinary and normal day to day maintenance of the interior of the building herewith leased and shall maintain the premises in as good a state of repair as the same shall be in at the commencement of the term, wear and tear arising from reasonable use of the same and damage by the elements excepted. The Lessee shall be responsible for the upkeep of the grounds surrounding the building herewith leased. It is specifically understood and agreed that the Lessee will keep the premises herewith leased in a good clean, neat and orderly manner so as to meet and comply with all requirements set forth by fire insurance or Fire Department inspectors.

- 6) It is agreed that during the term of this lease that Lessee shall be responsible for payment of any and all utility services used in the said building, including but not limited to gas, oil, electricity, water, sewer, telephone, garbage removal, snow and ice removal, security system maintenance, cable TV, facsimile, and internet charges and that the Lessor shall not be responsible for any such payments for any such services used in connection with the premises. Lessee shall further utilize the City of Newton’s commercial garbage services at the prevailing rates as from time to time may be established by the City of Newton for commercial garbage services during the term of this lease agreement. All applications in connection with necessary utility services on the demised premises shall be in the name of the Lessee only. Lessor shall have available at the premises adequate utilities required for Lessee’s permitted use. Lessee shall be responsible for the payment of all fees and deposits for utilities as required by the City of Newton for establishment of such utility services as provided to the Lessee by the City of Newton.
- 7) Lessor represents and warrants to Lessee that the premises comply with all environmental laws and shall indemnify, hold harmless, and defend Lessee for claims relating to hazardous materials and violation of environmental laws other than those caused by the Lessee. Lessor, at its sole cost and expense, will test for any asbestos or asbestos creating materials from the premises and provide said results to Lessee herein. Should any non-friable asbestos be located in the demised premises that must be removed as a result of renovations to the structure by the Lessee, Lessor shall incur the costs of such asbestos abatement. Renovations that require abatement of said non-friable asbestos must be completed within six (6) months of the execution of this

Lease Agreement. Lessee shall provide Lessor with detailed documentation of all expenses related to the abatement located within the defined area of renovation, and upon the presentment of such documentation to the Lessor, Lessor shall reimburse Lessee for the cost of the abatement of the non-friable asbestos in said area of defined renovation.

- 8) Lessor represents and warrants to Lessee that the subject property which the building is located and the premises comply with applicable zoning, parking and land use codes and regulation with the understanding that Lessee will establish within six (6) months of the execution of this lease a retail tap room within the premises to comply with the zoning classification of the subject property that requires a retail use therein, failure of which would constitute an “event of default.” Lessor further represents and warrants to Lessee that there are no exclusives, restrictions or prohibitions that have been established that limit or conflict with Lessee’s permitted use.

- 9) At all times during the Lease term, Lessee shall maintain a policy of commercial general liability insurance, an alcohol liability policy, an auto liability policy, workers compensation, employer’s liability policy, and excess umbrella liability insurance from an insurance carrier approved by Lessor. Lessee shall name Lessor and any mortgage holder (if any) as additional insureds and loss payees under such policies. The amount of such insurance required for each category of coverage shall be as follows:
 - (A) Commercial General Liability coverage in the amount of One Million Dollars (\$1,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000.00) in aggregate coverage.

 - (B) Automobile Liability coverage in the amount of One Million Dollars (\$1,000,000.00).

 - (C) Liquor Liability coverage in the amount of One Million Dollars (\$1,000,000.00) for each occurrence and Two Million Dollars (\$2,000,000.00) in aggregate coverage.

 - (D) Umbrella Excess Liability coverage in the amount of One Million Dollars (\$1,000,000.00) and One Million Dollars (\$1,000,000.00) in aggregate coverage.

(E) Workers Compensation and Employees Liability coverage in the amount of One Million Dollars (\$1,000,000.00).

The liability insurance obtained by Lessee under this Section shall, in addition to all other coverage, insure Lessor against Lessee's performance of all indemnifications of Lessor provided under this Agreement to the extent that the matters giving rise to such indemnity result from the negligence of Lessee. The amount and coverage of such insurance shall not, however, limit Lessee's liability nor relieve Lessee of any other obligations under this Agreement.

At all times during the Lease term, Lessee shall maintain insurance covering loss of or damage to the Premises in an amount not less than One Million Five Hundred Thousand Dollars (\$1,500,000.00) value on the improvements on the premises (hereinafter referred to as the "Property Insurance"). Such property insurance shall contain an inflation guard endorsement and shall provide protection against all perils included in the classification of fire, extended coverage, vandalism, malicious mischief, special extended perils (all risks), sprinkler leakage and other perils which Lessor deems reasonably necessary. Lessor shall be the loss payee under each of the foregoing policies of insurance for all leasehold improvements associated with the real property herein. Lessee shall also maintain property and casualty insurance on all trade fixtures, equipment, furniture, furnishings, and other personal property contained within the Premises belonging to the Lessee.

Prior to the commencement date of this Agreement, Lessee shall deliver to Lessor a copy of any policy of insurance which Lessee is required to maintain hereunder and Certificates of Insurance naming the Lessor as an additional insured, without reservation, with said coverage to be primary.

At least thirty (30) days prior to the expiration of any such policy, Lessee shall deliver to Lessor a renewal of such policy. Any insurance which Lessee is required to maintain under this Agreement shall include a provision which requires the insurance carrier to give Lessor not less than thirty days' written notice prior to any cancellation of any such policy or modification of any such coverage. Lessee shall maintain all insurance required under this Agreement with companies reasonably acceptable to Lessor and shall maintain such specific coverages under such policies as Lessor shall reasonably require. Lessee shall not do or permit anything to be done on or within the Premises which invalidates any such insurance policies.

Lessee shall pay all premiums for the insurance policies required to be maintained by Lessee hereinabove (hereinafter referred to as the "Insurance Premiums"). Said

Insurance Premiums shall be paid directly to the insurer providing such coverage, and Lessee shall furnish Lessor with written evidence of the payment of all such premiums expeditiously after payment of any such insurance premiums.

- 10) Lessee shall be in exclusive control and possession of the demised premises, and Lessor shall not be liable for any injury or damages to any property or to any person on or about the demised premises nor for any injury or damage to any property of Lessee. Lessee shall defend, indemnify and hold harmless the Lessor from and against any claims, damages, or expenses (including reasonable attorney's fees), whether due to damage to the premises, claims for injuries to persons or property, or administrative or criminal action by governmental authority.
- 11) If the Leased Premises are wholly or partially destroyed by fire or other casualty, rental shall abate in proportion to the loss of use thereof, and Lessee shall, at its own expense, promptly restore the Leased Premises to substantially the same condition as existed before damage or destruction, whereupon full rental shall resume. Should Lessee elect not to repair or replace the Leased Premises, then Lessee shall provide written notice to Lessor of its intent to terminate this Lease Agreement. Upon such termination, Lessee shall diligently repair the Leased Premises to its original condition prior to the execution of this Lease. After the Leased Premises are repaired, Lessee and Lessor shall not have any responsibility to each other under the terms of the Lease Agreement.
- 12) Lessee may, from time to time during the term of the lease, make interior, nonstructural alterations without the need of prior Lessor approval, and any repairs, replacements, and/or additions that may be made during the period or term of this lease by the Lessee shall be considered, upon termination of this lease, as leasehold improvements and shall not be removed at the end of the term, but any store fixtures, equipment, machinery, and appliances installed for the use and convenience of the Lessee may be removed, provided that the damage or disfigurement to the premises shall be repaired by the Lessee.
- 13) It is expressly understood and agreed that Lessee may alter the exterior of the demised premises only with the prior, written consent of the Lessor. Lessee may install signage on the exterior of the demised premises so long as said signage is in full compliance with City of Newton sign regulations and ordinances related thereto.

- 14) It is agreed that this lease may not be assigned nor may the premises, now the subject of this lease, be sublet by the Lessee without the written consent and permission of the Lessor herein. Assignment of the lease as provided for herein, or the giving of permission for the same, shall in no way relieve the Lessee from its obligations hereunder.
- 15) It is expressly understood and agreed that if any monthly installments of rent as herein called for shall remain overdue and unpaid for ten (10) days, Lessor, at its option, after providing Lessee thirty (30) days' notice of said default, and Lessee's subsequent failure to cure said default within said thirty (30) day period, may declare this Lease terminated and cancelled and take possession of said premises, and require the Lessee to remove its property from the premises and restore the premises to their former condition. It is further understood and agreed that should any other non-monetary violation remain in non-compliance with the terms of this Lease Agreement for more than ten (10) days, Lessor, at its option, after providing Lessee sixty (60) days' notice of said violation and Lessee's subsequent failure to cure said violation within sixty (60) days, may declare this Lease terminated and cancelled and take possession of said premises and require the Lessee to remove its property from the premises and restore the premises to their former condition.
- 16) If Lessee shall pay the rent and perform and observe all the other covenants and conditions to be performed and observed by it hereunder, Lessee shall at all times, during the term hereof, have the peaceable and quiet enjoyment of the premises, without interference from Lessor or any person lawfully claiming through Lessor. However, Lessee specifically agrees that Lessor, upon 24-hour prior notice to Lessee to do so, may enter the demised premises to conduct any and all inspections as deemed necessary by Lessor.
- 17) In addition to the remedies provided for by law and any other remedies provided for herein, if the Lessee is dispossessed by summary proceedings, or if default shall be made in the payment of the rent due hereunder, or any part thereof, or if there be a failure in the performance of any of the covenants and agreements herein contained, or if the premises, now the subject of this lease, or any part thereof, shall become vacant during the said term, the Lessor may re-enter and resume possession of the same, either by force or otherwise, without being liable to prosecution therefor, and may, at its option, re-let the said premises as the agent of the Lessee but in the name of the Lessor and receive the rent therefor, applying the same first to the payment of expenses to which it may be put in the re-entering and re-letting and then to the

payment of the rent due by these presents, the remainder, if any, to be paid over to the Lessee, who shall be liable for any deficiency, the execution of a new lease for the said premises being permitted without terminating the liability or obligation of the Lessee hereunder. The Lessee hereby expressly waives the service of any notice of intention to re-enter or of the instituting of legal proceedings to that end.

- 18) It is expressly agreed that if at any time during the term of this lease that should the Lessee be adjudged bankrupt or insolvent by any Federal or State court of competent jurisdiction, Lessor may, at its option, declare the lease terminated and cancelled and take possession of said premises.
- 19) This lease and all rights of Lessee hereunder are and shall be subject and subordinate to any mortgage (including a consolidated mortgage) or deed of trust constituting a first lien on the leased property, or any part thereof, whether such mortgage or deed of trust has heretofore been, or may hereafter be, placed upon the leased property to secure an indebtedness to any bank, trust company, or other institutional lender, private or public, and to any renewal, modification, consolidation, replacement, or extension of any such mortgage or deed of trust. Lessor will cause any such mortgage or deed of trust to contain provisions requiring the holder of the indebtedness secured by such mortgage or deed of trust to mail to Lessee by registered mail a copy of each notice of breach of covenant, default, or foreclosure given by the holder or the trustee under such mortgage or deed of trust to Lessor. This subordination shall be self-operative and no further instrument of subordination shall be required. The Lessee shall, nevertheless, execute and deliver, from time to time, all instruments and certificates affirming and confirming such subordination that Lessor may reasonably request.
- 20) It is expressly understood and agreed that Lessor waives any statutory or contractual lien that it may possess against Lessee's property with the exception of any lien Lessor may have by operation of law or otherwise effected by affirmative action by Lessor so exercised as to any monetary or performance default by Lessee as provided for in said Lease Agreement herein.
- 21) If the whole of the Premises, or such portion thereof as will render the Premises totally unusable for the purpose for which it was leased, shall be taken by any legally constituted authority for any public use or purpose in any eminent domain proceeding, condemnation action or other governmental regulation or action, the lease term shall terminate as of the date when possession thereof or other governmental action becomes effective.

22) It is expressly understood and agreed that should any event resulting from a “Force Majeure” as hereinafter defined should occur, said event under this Lease Agreement will not be considered an “Event of Default.” “Force Majeure” shall mean any act, event or condition materially and adversely affecting the ability of a party to perform or comply with any material obligation, duty or agreement required under this Agreement, if such act, event, or condition is beyond the reasonable control of the non-performing party or its agents relying thereon, is not the result of the willful or negligent action, inaction or fault of the party relying thereon, and the nonperforming party has been unable to avoid or overcome the act, event or condition by the exercise of due diligence, including, without limitation: (i) an act of God, epidemic, landslide, lightning, earthquake, fire, explosion, storm, flood or similar occurrence; (ii) an act of public enemy, war, blockage, insurrection, riot, general unrest or restraint of government and people, civil disturbance or disobedience, sabotage, act of terrorism or similar occurrence; (iii) a strike, work slowdown or similar industrial or labor action; (iv) an order or judgment (including without limitation a temporary restraining order, temporary injunction, preliminary injunction, permanent injunction, or cease and desist order) or other act of any federal, state, county or local court, administrative agency or governmental office or body which prevents a party’s obligations as contemplated by this Agreement; or (v) adoption or change (including a change in interpretation, enforcement or permit requirement) of any international, federal, state or local law or regulation after the Effective Date of this Agreement, preventing performance of or compliance with the obligations hereunder.

23) Provided that this lease is in full force and effect and Lessee has fully performed all of the terms and conditions herein, Lessee shall have the right to extend the term of this lease for two (2) successive periods of two (2) years each (the “Extended Terms”) beginning on July 15, 2025, as follows:

First extended term: July 15, 2025 to July 14, 2027

Second extended term: July 15, 2027 to July 14, 2029

The monthly rental amounts will be as follows:

July 15, 2025 to July 14, 2026: \$1,452.00 per month

July 15, 2026 to July 14, 2027: \$1,597.20 per month

July 15, 2027 to July 14, 2028: \$1,597.20 per month

July 15, 2028 to July 14, 2029: \$1,756.92 per month

Lessee shall notify Lessor in writing at least six (6) months prior to the expiration of any term of the lease then in effect of its intention to extend same in order to exercise its option to extend said lease. Each extended term, with the exception of the adjusted rental amounts, shall be upon the same terms, covenants and conditions as provided in this lease for the initial term. Lessee may not extend this lease beyond the second extended term.

- 24) All notices provided for in this Lease Agreement shall be in writing and shall be deemed to have been given when sent by registered or certified mail addressed to Lessor at:

City of Newton
P.O. Box 550
Newton, NC 28658

And to Lessee at:

D9 Brewing Company
9815 Sam Furr Road
Suite J #313
Huntersville, NC 28078

- 25) This Lease Agreement shall be construed and enforced in accordance with the laws of the State of North Carolina. Each party hereto irrevocably submits to the exclusive jurisdiction of the General Court of Justice, Superior Court Division, Catawba County, NC, for the purposes of any action arising out of or based on this Lease Agreement.
- 26) This Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.
- 27) This Lease contains the complete agreement of the parties regarding the terms and conditions of the Lease of the premises, and there are no oral or written conditions, terms, warranties, understandings or other agreements pertaining thereto which have not been incorporated herein.
- 28) This Lease Agreement may be modified only by written instrument duly executed by both parties or their respective successors in interest.
- 29) Any failure by either the Lessor or the Lessee to enforce any right arising hereunder shall not be deemed a waiver of such right or any other rights hereunder.

30) If any provision of this Lease shall be declared invalid or unenforceable, the remainder of the Lease shall continue in full force and effect.

LESSOR:

CITY OF NEWTON

BY: _____
Eddie Haupt, Mayor

(CORPORATE SEAL)

ATTEST:

Amy S. Falowski, City Clerk

LESSEE:

D9 BREWING COMPANY

BY: _____
Andrew Durstewitz, Chief Executive Officer

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

Vickie Thomas, Finance Director

Date: _____

STATE OF NORTH CAROLINA

COUNTY OF CATAWBA

I, _____, a Notary Public of the County and State aforesaid, certify that Amy S. Falowski personally appeared before me this day and acknowledged that she is the City Clerk of the City of Newton, and that, by authority duly given and as an act of said City, the foregoing document was signed in its name by its Mayor, sealed with its corporate seal, and attested by her as its Clerk.

Witness my hand and notarial seal this the _____ day of _____, 2020.

Notary Public

Printed Name of Notary Public

My commission expires: _____

STATE OF NORTH CAROLINA

COUNTY OF

I, _____, a Notary Public of the County and State aforesaid, certify that Andrew Durstewitz personally appeared before me this day and acknowledged that he is the Chief Executive Officer of D9 Brewing Company and that by authority duly given and as the act of such entity, he signed the foregoing instrument in its name on its behalf as its act and deed.

Witness my hand and notarial seal this the _____ day of _____, 2020.

Notary Public

Printed Name of Notary Public

My commission expires: _____

EXHIBIT "A"

TRACT ONE:

BEGINNING at a stake on the North side of Third Street in the Town of Newton, T. M. Warlick's corner; and runs North $17-1/4^\circ$ East 118-4/5 feet to a stone; thence North $71-1/2^\circ$ West 70 feet to a stone; thence South $17-1/2^\circ$ East 118-4/5 feet to a stone; thence South 72° East 70 feet to the **BEGINNING** at T.M. Warlick's corner; this being nearly one half (1/2) of the lot purchased by the grantors herein from R. P. Michael. See deed in Book 150 at Page 574, Catawba County Registry.

TRACT TWO:

BEGINNING at an iron at the back of the sidewalk on the south side of West 1st Street, the northwest corner of Floyd W. Stedman, et al, and running thence with Stedman, South $18^\circ 10'$ West 113.63 feet to an iron, corner of Stedman and the City of Newton; thence with the City, North $72^\circ 04' 10''$ West 38.37 feet to an iron; thence with the City, North $71^\circ 50'$ West 56.23 feet to an iron, corner of James A. Matson; thence with Matson, North $18^\circ 10'$ East 113.63 feet to an iron at the back of the curb on West 1st Street, corner of Matson; thence with the sidewalk, South $71^\circ 50' 10''$ East 94.6 feet to the point of **BEGINNING**, containing 10,739.38 square feet, according to a plat and survey made by Catawba Land Surveyors dated October 11, 1984, entitled "Survey for City of Newton, NC," and being the lands described in deeds recorded in Book 1065, Page 990, and Book 1067, Page 567, Catawba County Registry.

CITY OF NEWTON

REQUEST FOR COUNCIL ACTION

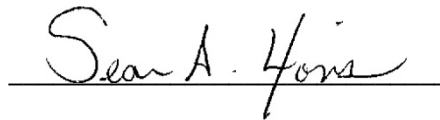
DATE: June 30, 2020

TO: E. Todd Clark, City Manager

FROM: R. S. Williams, AICP, Planning Director

CONSIDERATION OF: Stormwater Planning & Administration Agreement between City of Newton and the Western Piedmont Council of Governments

Approved for Council Consideration



Sean A. Yons

Request:

In 2019, the City of Newton approved the state mandated Stormwater Management Plan, whose purpose is “to establish and define the means by which the City of Newton will comply with its National Pollutant Discharge Elimination System (NPDES) Municipal Separate Storm Sewer System (MS4) Permit and the applicable provisions of the Clean Water Act to meet the federal standard of reducing pollutants in stormwater runoff to the maximum extent practicable.” This agreement will employ the WPCOG to provide technical assistance and services to implement the provisions required by the plan.

Background:

In March 2019, the City of Newton, along with other cities in the region, were audited by the NCDEQ and received a Notice of Violation, as well as the other cities. Newton acknowledged those violations and, as part of the compliance measures developed a Stormwater Management Plan. In the past, stormwater management has been conducted by both Planning and Public Works departments. Even with the minimal measures outlined in the plan, the NCDEQ requirements were extensive and made it necessary for expanded oversight and training. In light of those requirements and that the WPCOG has a capable and professional staff, it was determined the best approach was to hire WPCOG to administer the program for the City.

Recommendation:

Staff recommends approval of this agreement between the City of Newton and the Western Piedmont Council of Governments to administer the City’s Stormwater Management Plan from July 1, 2020 to June 30, 2021 in the amount of \$32,396.00 including public education and outreach, public involvement, illicit discharge detection and elimination, construction site stormwater runoff control, post construction stormwater management and pollution prevention.

AGREEMENT BETWEEN THE
WESTERN PIEDMONT COUNCIL OF GOVERNMENTS AND
THE CITY OF NEWTON
FOR ASSISTANCE IN SUPPORTING THE WESTERN PIEDMONT
STORMWATER PLANNING AND ADMINISTRATION
JULY 1, 2020 – JUNE 30, 2021

This AGREEMENT, to be effective on the 1st day of July, 2020, by and between the Western Piedmont Council of Governments (hereinafter referred to as the "Planning Agency") and the City of Newton, North Carolina (hereinafter referred to as the "Local Government");

WITNESSETH THAT:

WHEREAS, the Local Government is required to provide adequate staffing and funding to support the NPDES Phase II six minimum measures, including Stormwater Public Education and Outreach, Public Involvement and Participation, Illicit Discharge Detection and Elimination, Construction Site Stormwater Runoff Control, Post-Construction Storm Water Management in New Development and Redevelopment, and Pollution Prevention/Good Housekeeping for Municipal Operations. ("Stormwater Partnership" hereinafter) ; and

WHEREAS, the Planning Agency is empowered to provide technical assistance to local governments by the North Carolina General Statutes and by resolution passed by the Planning Agency on April 17, 1972; and

WHEREAS, the Local Government has requested the Planning Agency to provide such technical assistance to support the NPDES Phase II six minimum measures through a Stormwater Partnership and;

WHEREAS, the Planning Agency desires to cooperate with the Local Government in providing technical assistance and services and that the proposed assistance and services are carried out in an efficient and professional manner.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **Scope of Services.** The Planning Agency will provide technical assistance to the Western Piedmont Stormwater Partnership. Technical assistance shall consist of the services described in EXHIBIT A, which is incorporated more fully by reference herein.
2. **Personnel.** The Planning Agency will furnish the necessary trained personnel to the Local Government.
3. **Office/Equipment.** The Planning Agency will provide office space, miscellaneous office supplies, office equipment, software, and hardware necessary to perform the work described in this contract.

4. **Compensation.** The Local Government will pay the Planning Agency a regional Stormwater Partnership fee for services provided as part of the Agreement as outlined in Exhibit A. The City of Newton's calculated Stormwater Partnership fee for the period beginning July 1, 2020 and ending June 30, 2021 is not to exceed **\$32,396** (thirty-two thousand three hundred and ninety-six dollars). These fees will be billed in twelve equal monthly payments of **\$2,697.42** (two thousand six hundred and ninety-seven dollars and forty-two cents).

5. **Non-salary Expenses.** (a) The Planning Agency personnel's local travel mileage will be considered to be a part of the Scope of Work as outlined in Exhibit A.

(b) The Stormwater Partnership will pay for personnel's travel expenses related to attendance of conferences, conventions, and seminars if the events are related to the development of the Stormwater Partnership's program. Travel expenses shall include registration fees, hotel expenses, meals, and mileage. The Stormwater Partnership will pay for hotel, meals, and mileage costs at the prevailing local government rate.

6. **Termination/Modifications.** The Local Government may terminate the Contract by giving the Planning Agency a thirty-day written notice. Furthermore, if there is a need to amend the proposal outlined in Attachment A, either party may do so with the written consent of the other.

7. **Time of Performance.** The Planning Agency shall ensure that all services required herein shall be completed during the period beginning July 1, 2020 and ending June 30, 2021.

8. **Interest of Members, Officers, or Employees of the Planning Agency, Members of the Local Government, or Other Public Officials.** No member, officer, or employee of the Planning Agency or its agents; no member of the governing body of the locality in which the program is situated; and no other public official of such locality or localities who exercises any functions or responsibilities with respect to the program during his tenure or for one year thereafter, shall have any financial interest, either direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the program assisted under this Agreement. Immediate family members of said members, officers, employees, and officials are similarly barred from having any financial interest in the program. The Planning Agency shall incorporate or cause to be incorporated in all such contracts or subcontracts, a provision prohibiting such interest pursuant to the purpose of this section.

9. **Nondiscrimination Clause.** No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination with any program or activity funded in

whole or in part with funds available under the Housing and Community Development Act of 1974, Section 109.

10. **Age Discrimination Act of 1975, as amended.** No qualified person shall on the basis of age be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

11. **Section 504, Rehabilitation Act of 1973, as amended.** No qualified handicapped person shall, on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from federal financial assistance.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above written.

LOCAL GOVERNMENT:
CITY OF NEWTON

PLANNING AGENCY:
WESTERN PIEDMONT COUNCIL OF
GOVERNMENTS

By: _____
City Manager

By: _____
Executive Director

Attest: _____

Planning Agency:

By: _____
City Clerk

By: _____
Chairman

Preaudit statement:

This instrument has been preaudited in the manner prescribed by the Local Government Budget and Fiscal Control Act.

By: _____
Local Government Finance Officer

EXHIBIT A

THE CITY OF NEWTON WESTERN PIEDMONT STORMWATER PARTNERSHIP JULY 1, 2020 – JUNE 30, 2021

PROGRAM OVERVIEW

The following work program is presented as descriptive of the work called for in the agreements concerning stormwater program assistance activities by the Western Piedmont Council of Governments for local governments in the Stormwater Partnership.

1. The Western Piedmont Council of Governments staff will work with the Local Government's Staff to adapt the work plan and priorities as needed to satisfactorily implement requirements in NPDES Phase II Permits and management plans.
 - Public Education and Outreach on Storm Water Impacts – The Planning Agency will fulfill the education and outreach component of the permit by developing workshops; arranging speakers; development of school partnerships and projects; preparing outreach materials; and presenting to various groups and at events, and other Education Outreach activities as required by the NPDES Phase II Permit and outlined in the Local Government's Stormwater Management Plan.
 - Public Involvement and Participation – The Planning Agency will manage planning and implementation of public events for stormwater information to the general public as well as coordination of volunteer programs for stormwater programs or stream cleanups, and other Public Involvement and Participation activities as required by the NPDES Phase II Permit and outlined in the Local Government's Stormwater Management Plan.
 - Illicit Discharge Detection and Elimination – The Planning Agency will conduct active investigation and enforcement of the Local Governments illicit discharge within the Local Governments jurisdiction and other Illicit Discharge Detection and Elimination activities as required by the NPDES Phase II Permit and outlined in the Local Government's Stormwater Management Plan.
 - Construction Site Stormwater Runoff Control – North Carolina Division of Environmental Quality is responsible for the Local Government's Construction Site Stormwater Runoff Control Program. Follow-up by the Planning Agency will occur.
 - Post-Construction Storm Water Management in New Development and Redevelopment – The Planning Agency will manage the permitting process, annual reports, inspections, and files associated with Post Construction as required by the NPDES Phase II Permit

and outlined in the Local Government's Stormwater Management Plan.

- Pollution Prevention/Good Housekeeping for Municipal Operations – The Planning Agency will conduct education to Local Government employees and inspection of Local Government facilities for Pollution Prevention/Good Housekeeping activities as required by the NPDES Phase II Permit and outlined in the Local Government's Stormwater Management Plan.

**CITY OF NEWTON
REQUEST FOR COUNCIL ACTION**

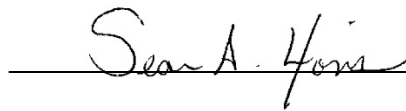
DATE: June 30, 2020

TO: Todd Clark, City Manager

FROM: Dusty Wentz, PWU Director

CONSIDERATION OF: Award of Bid to for Replacement of Sewer Cleaning Jet Truck and Intent for Reimbursement of FY 2020-2021 Borrowed Funds.

Approved for Council Consideration



Background:

The water sewer operations department has a specialized piece of equipment that is used for cleaning and flushing sewer mains in the sewer system. This piece of equipment is known as a jet truck. This jet truck responds to sewer backups, overflows because of backups, and cleaning that is mandated by the North Carolina Department of Quality (NCDEQ). This jet truck is able to reach small, tight areas and responds quickly as required by NCDEQ. The jet truck is a 1999 International.

The hydraulic water pump is the pump used to flush the gravity line with water at a high pressure. It was replaced in 2007 and again in 2014.

The week of June 15, 2020 the sewer cleaning jet truck hydraulic water pump quit working. Staff repaired the hydraulic water pump three times last fiscal year. If this pump breaks down one more time, staff will have to sideline this unit until the pump and hydraulic system is replaced. That total cost will be around \$26,400. The repairs to the pump do not extend the life of the truck chassis. In the fiscal year 2020-2021 budget, Newton City Council approved \$154,500 to replace this truck. The budgeted amount is to be financed.

NC Sheriffs' Association's Heavy Equipment Procurement Program currently has this unit listed. The purchasing cost of a jet truck is \$148,349.17. Tag title cost of \$2,006.00. Total cost to replace the sewer cleaning jet truck is \$150,355.17. Delivery time could be up to 160 days, dependent on supply disruptions.

Staff wishes to purchase a new sewer cleaning jet truck and necessary equipment with the intent to reimburse now, so that we are not forced to spend \$26,400 then replace the truck in a few months. Having this truck out of service to repair or replace can risk issues with sewer overflows that could lead to NCDEQ fines. Total cost of reimbursement will be \$150,355.17.

Action Suggested:

Staff requests the City Council to adopt the attached "Intent to Reimburse" resolution and to authorize the Public Works and Utilities Department to purchase a sewer cleaning jet truck.

Resolution
A Resolution Declaring Official Intent
to Reimburse Expenditures

WHEREAS, the City of Newton desires to incur certain capital expenditures prior to the issuance of debt; and

WHEREAS, the City of Newton intends to reimburse such expenditures from the proceeds of debt to be issued; and

WHEREAS, this is made pursuant to the requirements of the United States Treasury Regulations Section 1.150-2 and is intended to constitute a Declaration of Official Intent to Reimburse under such Treasury Regulations Section; and

WHEREAS, the undersigned is authorized to declare the official intent of the City of Newton, North Carolina with respect to the matters contained herein.

NOW, THEREFORE, BE IT RESOLVED The City's Fiscal Year 2021 Budget reflects \$154,500 for the purchase of a sewer cleaning jet truck which will replace the 1999 International jet truck.

The cost is estimated to be \$150,360.

The City of Newton intends to finance the cost of the Project with the proceeds of debt to be issued, the interest on which is to be excluded from gross income for Federal income tax purposes,

The maximum principal amount of the Borrowing to be incurred by the City of Newton to finance the Project noted above is \$150,360.

The City of Newton hereby declares its official intent to reimburse itself with the proceeds of the Borrowing for any of the Expenditures incurred by it prior to the issuance of the Borrowing.

Adopted this 7th of July, 2020

Amy S. Falowski, City Clerk



Eddie Haupt, Mayor

**CITY OF NEWTON
REQUEST FOR COUNCIL ACTION**

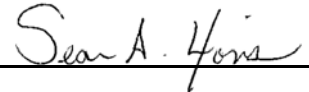
DATE: June 30, 2020

TO: E. Todd Clark, City Manager

FROM: Kevin Yoder, Fire Chief

CONSIDERATION OF: Award of Bid for the purchase of one (1) Custom Fire Engine and Intent for Reimbursement

Approved for Council Consideration



Background:

1. The purchase of a Fire Engine is included in the FY 2020-2021 budget and Capital Improvement Plan.
2. The City has received a bid through a national purchasing cooperative referred to as HGAC (Houston Galveston Area Council).
3. This purchasing cooperative is used by numerous municipalities in North Carolina and complies with all current bidding and purchasing laws and guidelines.
4. Although this bidding process is conducted through the cooperative, the apparatus will be manufactured by a vendor used by the City of Newton previously. This manufacturer has constructed most of the current fire apparatus currently in use by the Fire Department. The manufacturer/vendor is the Sutphen Corporation.
5. The staff has evaluated the specifications and pricing from HGAC and the Sutphen Corporation.
6. The bid amount is \$628,442.37.
7. The construction of the apparatus will take approximately 15 – 17 months following the signing of the contract. Therefore, delivery would be December 2021 – February of 2022.
8. There will be additional purchases of fire equipment to equip this vehicle for service. The equipment will be purchased later in the fiscal year prior to delivery of the apparatus. The equipment for this apparatus is expected to be within the total budget for this project of \$746,750.00.

Action Suggested:

The Staff recommendation is to award the bid for construction of the custom fire engine of \$628,442.87 to the Sutphen Corporation through the Houston Galveston Area Council, and to adopt the Intent to Reimburse Resolution.



CONTRACT PRICING WORKSHEET
For MOTOR VEHICLES Only

Contract No.:

FS12-19

Date Prepared:

06/05/20

*This Worksheet is prepared by Contractor and given to End User. If a PO is issued, both documents **MUST** be faxed to H-GAC @ 713-993-4548. Therefore please type or print legibly.*

Buying Agency:	City of Newton Fire Dept.	Contractor:	Sutphen Corporation
Contact Person:	Deputy Chief Brian Whitener	Prepared By:	Jerry Stevens
Phone:	828-695-4314	Phone:	800-895-2802
Fax:		Fax:	
Email:	bwhitener@newtonnc.gov	Email:	j.stevens.sr@stevensfire.com

Product Code:	FS19IIC04	Description:	Sutphen Fully Customized Pumper, 4 Door Full Tilt Aluminum Cab, Extruded Aluminum Body, Single Axle, 1250 GPM Mid-Mounted Pump
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A. Product Item Base Unit Price Per Contractor's H-GAC Contract: \$391,299.68

B. Published Options - Itemize below - Attach additional sheet(s) if necessary - Include Option Code in description if applicable.

Note: Published Options are options which were submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
		Performance Bond	\$ 2,495.79
		SEE ATTACHED	
		Subtotal From Additional Sheet(s):	\$ 206,567.96
		Subtotal B:	\$ 209,063.75

C. Unpublished Options - Itemize below / attach additional sheet(s) if necessary.

Note: Unpublished options are items which were not submitted and priced in Contractor's bid.)

Description	Cost	Description	Cost
		SEE ATTACHED	
		Subtotal From Additional Sheet(s):	\$ 26,078.94
		Subtotal C:	\$ 26,078.94

Check: Total cost of Unpublished Options (C) cannot exceed 25% of the total of the Base Unit Price plus Published Options (A+B).	For this transaction the percentage is:	4%
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D. Total Cost Before Any Applicable Trade-In / Other Allowances / Discounts (A+B+C)

Quantity Ordered:	1	X Subtotal of A + B + C:	626,442.37	=	Subtotal D:	\$ 626,442.37
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E. H-GAC Order Processing Charge (Amount Per Current Policy)	Subtotal E:	\$ 2,000.00
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F. Trade-Ins / Other Allowances / Special Discounts / Freight / Installation

Description	Cost	Description	Cost
		Subtotal F:	\$ -

Delivery Date:	15 - 17 months	59 G. Total Purchase Price (D+E+F):	\$ 628,442.37
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CORPORATION

PROPOSAL

DATE: 06/09/2020

TO THE: City of Newton Fire Department
119 S Brady Ave
Newton
North Carolina, 28658

GENTLEMEN/LADIES:

We hereby propose and agree to furnish the following fire fighting apparatus upon your acceptance of this proposal: **One Sutphen Heavy Duty Custom Pumper on a Sutphen Monarch cab and chassis per your attached specifications for the sum of: Six Hundred Twenty Eight Thousand Four Hundred Forty Two Dollars and Thirty Seven Cents. \$628,442.37**

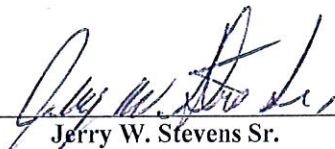
Please see pre-pay discounts offered but not required.

The proposed apparatus will be manufactured completely in accordance to the following proposal and delivered no later than (13-15) Months after approval of contract and signed by all parties, subject to delays from all causes beyond our control. Unless accepted within 45 days from date, the right is reserved to withdraw this proposition.

Pre-construction meeting will be held at the Sutphen Facility in Columbus Ohio.

Respectfully submitted,

SUTPHEN CORPORATION
7000 Columbus-Marysville Rd.
Amlin, Ohio 43002-0158



Jerry W. Stevens Sr.

By Sales Representative
North Carolina



**FAMILY OWNED
SINCE 1890**

**Prepayment Discount Options
For The
City of Newton NC**

Current Bid Price **\$628,442.37**

Option 1 25%	For a prepayment in the amount of \$157,110.59 the discount would be \$1,963.88 for a total selling price of \$626,478.49
Option 2 50%	For a prepayment in the amount of \$314,221.19 the discount would be \$3,927.76 for a total selling price of \$624,514.61
Option 3 75%	For a prepayment in the amount of \$471,331.78 the discount would be \$5,891.65 for a total selling price of \$622,550.72
Option 4 100%	For a full prepayment, we offer a discount of \$7,855.53 for a final selling price of \$620,586.84

NOTE: For any option above, the prepayment would be due within 30
days of contract signing in order to receive the discounts listed.
Any remaining balance would be due at the time of delivery.

Sutphen Corporation
PO Box 158 • Amlin, OH 43002-0158
6450 Eiterman Road • Dublin, OH 43016-8711
Tel 614 889-1005 • Toll Free 800 848-5860 • Fax 614 889-0874
www.sutphen.com • Sutphen@sutphencorp.com



Purchase Agreement
For
Sutphen Fire Apparatus

THIS AGREEMENT made and entered into this day of _____, 2020
, by and between Sutphen Corporation of Amlin, Ohio, herein called "SUTPHEN" and the
City of Newton, of North Carolina, hereinafter called "PURCHASER".

WITNESSETH:

1. **PURCHASE:** Purchaser hereby agrees to buy and Sutphen agrees to sell and furnish to Purchaser the apparatus and equipment according to the Sutphen proposal attached hereto and made a part of, and to complete the same as hereinafter provided.
2. **PAYMENT:** Purchaser agrees to pay for said apparatus upon completion and acceptance of the Sutphen Monarch Pumper the total purchase: Sum of: Six Hundred Twenty Eight Thousand Four Hundred Forty Two Dollars and Thirty Seven Cents. \$628,442.37
3. **Pick-up** The apparatus being purchased hereunder shall be Picked up by designated Firemen from the City of Newton. Designated Drivers will be by Chief Yoder . Upon Final Inspection and approval by the customer the apparatus will then be driven to City of Newton Fire Department. Completion of the apparatus will be within approximately (13-15)months after all contracts have been signed and approved.
4. **SUTPHEN WARRANTIES:** Sutphen warrants the apparatus purchased hereunder as set forth in the warranty included with bid proposal.
5. **TESTING SHORTAGES:** The apparatus shall be tested per NFPA #1901 at Sutphen's plant site in Amlin, Ohio. Purchaser agrees that the apparatus and equipment being purchased hereunder will not be driven or used in any manner until it is paid for in full, provided, however, that if there are any minor shortages, purchaser may withhold a sum equivalent to the retail purchase price of any equipment shortages at the time of delivery and may use the apparatus and equipment during this period.



6. DEFAULT: In the case of any default in payment hereunder or in the payment on any notes, negotiable paper, obligations or other instruments issued by Purchaser, Sutphen may take full possession of the apparatus and equipment or of the piece or pieces upon which default has been made and any payments that have been made theretofore shall be applied as rent in full for the use of the apparatus and equipment up to the date of taking possession by Sutphen.

7. PURCHASER WARRANTIES: With the signing of this agreement, Purchaser warrants that it has the full power and legal authority to enter into this agreement and guarantees that funds for its purchase are available or in the process of collection.

8. ACCEPTANCE: This agreement shall not be binding until it is signed and approved by an officer of the Sutphen Corporation.

9. TAXES, ECT.: The purchase price provided for herein does not include any Federal, State, or Local tax, duties, imposts, revenues, excise or other taxes which may hereafter be imposed by governmental authority or otherwise and which are made applicable to the apparatus or equipment covered by this agreement. If any such taxes are subsequently imposed and become applicable, the purchase price herein shall be increased by the amount of such taxes and such sum shall be immediately paid by the purchaser to Sutphen. To the extent applicable, the prices and deliveries set forth herein are subject to the Defense Production Act.

10. INSURANCE: Sutphen shall provide insurance insuring the apparatus and equipment against loss by fire, theft, or collision and insuring against property damage and personal injury while at the factory.

11. GENERAL: This agreement and the Sutphen proposal provided herein take precedence over all previous negotiations, oral or written, and no representations or warranties are applicable except as specifically contained in this agreement or in the Sutphen proposal attached hereto. No alteration, modification, amendment or change of this agreement shall be binding unless executed in writing by the parties. No waiver of any of the provisions of this agreement shall be deemed a waiver of any other provision, whether similar, nor shall any waiver constitute a continuing waiver. This agreement shall be governed and controlled as to interpretation, enforcement, validity, construction, effect, and in all other respects by the laws, statutes, and decisions of the State of Ohio. Exclusive jurisdiction and venue for any litigation at all related to this Agreement, directly or indirectly, based upon contract, tort, or other theory of law, shall lie in the Union County Court of Common Pleas, Marysville, Ohio. The parties hereto consent and submit to the general jurisdiction of this court. All the terms and provisions of this agreement shall be binding upon and inure to the benefit of and be enforceable by Sutphen,

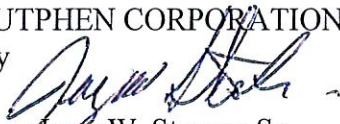


Purchaser, their successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed and attested by its duly authorized representatives, effective as of the date below when accepted at Sutphen offices.

SUTPHEN CORPORATION

By


Jerry W. Stevens Sr.
North Carolina Dealer

THE: City of Newton Fire Department Purchaser

BY _____ X.

TITLE _____ X.

DATE _____ X.

Accepted at Office
SUTPHEN CORPORATION BY.

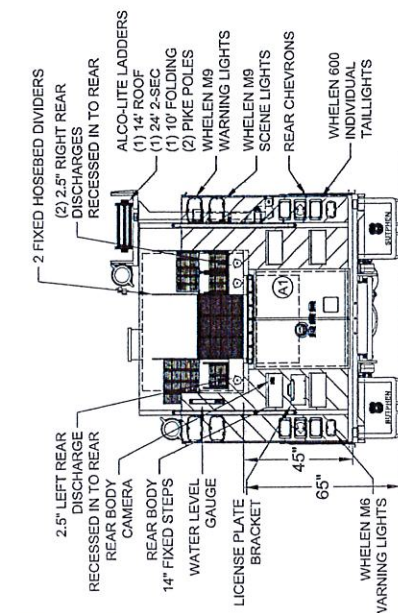
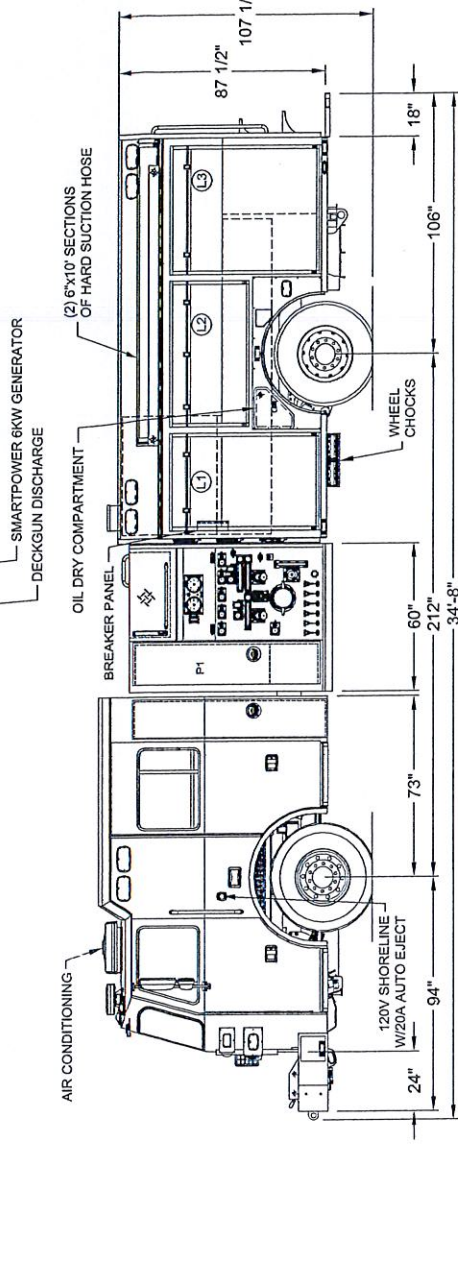
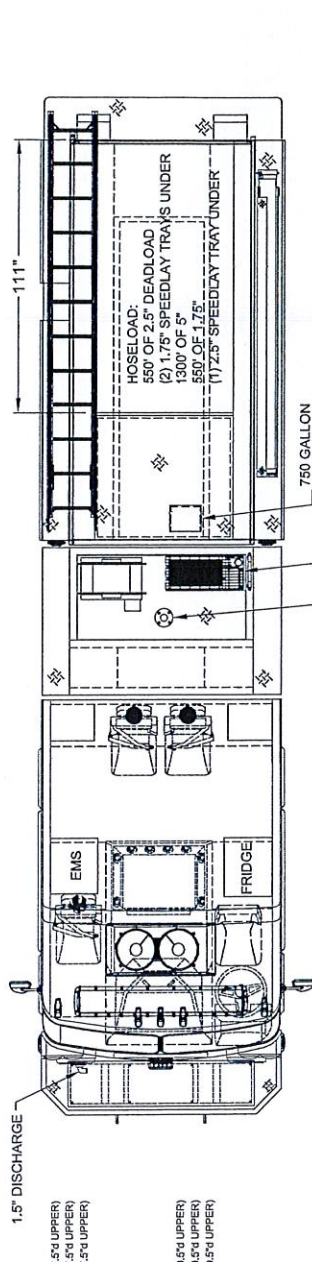
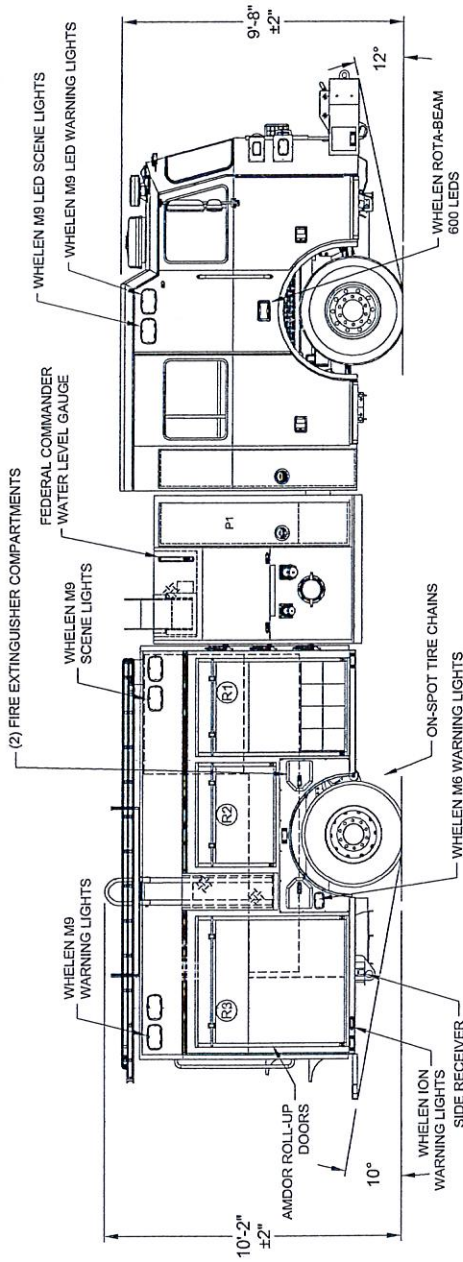
7000 Columbus-Maryville Road
Amlin, Ohio 42002 TITLE.

By _____.

Title _____.

Date _____.

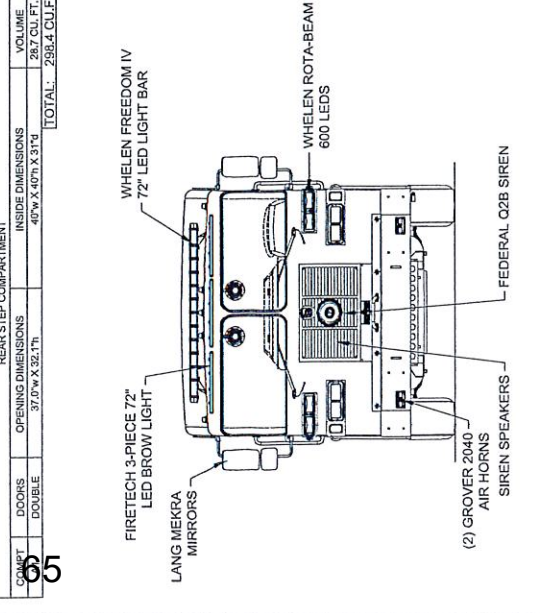
SUTPHEN




COMP	DOORS	OPENING DIMENSIONS	INSIDE DIMENSIONS	VOLUME
L1	ROLL-UP	37.5" W X 55.4" H	43.1" W X 66" H X 27.3" D	36.8 CU. FT. (26" X 17.5" UPPER)
L2	ROLL-UP	57.5" W X 26.2" H	61.5" W X 36.8" H X 27.3" D	26.7 CU. FT. (26" X 17.5" UPPER)
L3	ROLL-UP	59.5" W X 55.4" H	53.5" W X 66" H X 27.3" D	47.8 CU. FT. (26" X 17.5" UPPER)
P1	HINGED	14.25" W X 76.5" H	16.25" W X 76.5" H X TRANSVERSE	46.8 CU. FT. (26" X 17.5" UPPER)

COMP	DOORS	OPENING DIMENSIONS	INSIDE DIMENSIONS	VOLUME
R1	ROLL-UP	37.5" W X 55.4" H	43.1" W X 66" H X 27.3" D	39.9 CU. FT. (26" X 19.5" UPPER)
R2	ROLL-UP	57.5" W X 26.2" H	44.2" W X 36.8" H X 27.3" D	20.5 CU. FT. (26" X 19.5" UPPER)
R3	ROLL-UP	59.5" W X 55.4" H	53.5" W X 66" H X 27.3" D	49.4 CU. FT. (26" X 19.5" UPPER)

COMP	DOORS	OPENING DIMENSIONS	INSIDE DIMENSIONS	VOLUME
DOUBLE	DOUBLE	37.0" W X 32.1" H	40" W X 40" H X 31" D	28.7 CU. FT.
TOTAL:				298.4 CU. FT.





CITY OF NEWTON FIRE DEPARTMENT
NEWTON, NC

JOB NO.: CITY OF NEWTON, NC (2019 PA-13, LOW HOUSED).DWG

REV.	DESCRIPTION	BY	DATE	DATE	DATE
D	UPDATED DRAWING TO SHOW RECESSED REAR DISCHARGES	JDH	05/29/20	J-HOWELL	05/29/20
C	UPDATED DRAWING PER CUSTOMER CHANGES	JDH	05/20/20	JDH	04/07/20
B	UPDATED DRAWING PER CUSTOMER CHANGES	JDH	12/03/19	JDH	06/03/20
E	UPDATED DRAWING PER CUSTOMER CHANGES	JDH	06/03/20	JDH	06/03/20

CUSTOMER APPROVAL

NAME: _____

TITLE: _____

DATE: _____

DIMENSIONS SHOWN ON THIS DRAWING ARE APPROXIMATE AND ARE SUBJECT TO MINOR DEVIATIONS DURING CONSTRUCTION. IN THE EVENT OF A DISCREPANCY BETWEEN THE SUTPHEN SPECIFICATIONS AND DRAWING, THE SUTPHEN SPECIFICATIONS SHALL PREVAIL. DRAWING IS FOR REFERENCE ONLY. SOME ITEMS PROPOSED MAY NOT BE SHOWN OR NOTED.