

## council memo

March 21, 2019

**TO:** Lon Pluckhahn, City Manager, Mayor, and City Council

**CC:**

**FROM:** Michael D. Barkalow, P. E. & L.S.I., City Engineer

**RE:** City Council Meeting

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**Regular Agenda:**

**E.1 Resolution No. \_\_\_\_ approving a Memorandum of Agreement with Rookwood Estates, LLC regarding the Robinwood Lane improvements in Rookwood Estates 1<sup>st</sup> and 2<sup>nd</sup> Addition.**

At the February 21, 2019 meeting City Council directed staff to negotiate a MOA with Rookwood Estates, LLC to fill in a proposed paving gap on Robinwood Lane and complete the public improvements with the Rookwood Estates 1<sup>st</sup> and 2<sup>nd</sup> Additions.

It is in the best interest for the City to not leave the 60' gap on Robinwood Lane for the purposes of City services including but not limited to Fire, Police, garbage, snow removal, as well as the overall network of streets. The developer is proposing to make these improvements as a part of their subdivision improvements at an estimated cost of \$20,240.00.

Due to recent changes in the court findings the City may not be able to recover all of these funds due to the fact that a special assessment is limited to 25% of the value of the property. Each parcel is valued at a little over \$25,500 each which would limit the assessment to \$6375 each. Staff will continue to look at ways to recover all these costs if possible. Even without recovering any of the costs staff feels this is a necessary expense as outlined above.

Staff recommends approval of the Memorandum of Agreement with Rookwood Estates, LLC regarding the Robinwood Lane improvements in Rookwood Estates 1<sup>st</sup> and 2<sup>nd</sup> Addition.

**E.2 Motion to approve the Project Calendar regarding the 2019 Sidewalk Assessment Project as follows:**

- a. **Motion to retain the City Engineer as Project Engineer regarding the 2019 Sidewalk Assessment Project.**
- b. **Res. No. \_\_ approving the preliminary resolution pursuant to Chapter 384.42 of the Code of Iowa regarding the 2019 Sidewalk Assessment Project.**
- c. **Res. No. \_\_ approving the proposed resolution of necessity and setting public hearing regarding the 2019 Sidewalk Assessment Project.**

The 2019 Sidewalk Assessment Project budget is \$58,918.00.

The Sidewalk Assessment Committee recommended the following areas:

- 25th Avenue (South Side) from 1565 25th Avenue to Indian Creek Road.
- Grand Avenue (North Side) from 985 Creekbend Drive to 150 Grand Avenue

- 33rd Avenue (South Side) from 3295 6th Street to 3290 7th Street
- South 12th Street (East Side) from E Avenue to F Avenue
- 22nd Street (West Side) from 840 22nd Street to 9th Avenue

Total preliminary estimate is \$58,918.00.

Staff recommends approving Sidewalk Advisory Committees recommendations for the 2019 Sidewalk Assessment Project location.

On March 5, 2019 City Council discussed the locations with staff.

Staff is preparing construction plans and is ready to proceed with the established state process for assessment.

Staff recommends approving the Preliminary Project Calendar for the 2019 Sidewalk Assessment Project.

### **E.3 Public Hearing regarding the 2019 Sanitary Sewer Maintenance Project.**

See the next item for additional information.

### **E.4 Resolution No. \_\_\_\_ accepting bids and awarding contract to Rathje Construction Co. regarding the 2019 Sanitary Sewer Maintenance Project in the amount of \$137,745.00.**

The current Budget/Capital Improvement Program includes a total of \$300,000 for the Sanitary Sewer Replacement Program. This is comprised of both sanitary manholes and sanitary lateral line repairs.

The 2019 Sanitary Sewer Maintenance Project will include the removal and replacement of nine manholes, installation of one new manhole, 2 sanitary sewer spot repairs, and associated work. This work is to provide better access and maintenance to the existing sanitary sewer network. The locations are determined in conjunction with the Public Service Department based on needs.

The manholes are located:

1. Marion Water Department (8<sup>th</sup> Avenue)
2. 6<sup>th</sup> Avenue and 1<sup>st</sup> Street
3. 6<sup>th</sup> Avenue between 3<sup>rd</sup> Street and 1<sup>st</sup> Street
4. 1<sup>st</sup> Street between 5<sup>th</sup> Avenue and 6<sup>th</sup> Avenue
5. 12<sup>th</sup> Avenue and 12<sup>th</sup> Street
6. 13<sup>th</sup> Avenue and 13<sup>th</sup> Street
7. 9<sup>th</sup> Street between 15<sup>th</sup> Avenue and 16<sup>th</sup> Avenue
8. 8<sup>th</sup> Avenue between 22<sup>nd</sup> Street and 25<sup>th</sup> Street
9. 10<sup>th</sup> Street and 3<sup>rd</sup> Avenue
10. 17<sup>th</sup> Street and 11<sup>th</sup> Avenue

The engineer's preliminary construction estimate is \$183,735.00. The remaining funds will be used for the 2019 Sanitary Sewer Sliplining Project.

On March 12, 2019 the City of Marion received six (6) sealed bids with a low bid from Rathje Construction Company in the amount of \$137,745.00. [75% of estimate]

A copy of the bid tabulation is included in the Council Packet.

Work shall begin no later than July 22, 2019 and be completed within 40 working days.

Liquidated damages in the amount of \$300.00 per day will be assessed for each calendar day in excess of these schedules.

Staff recommends accepting bids and awarding contract to Rathje Construction Company regarding the 2019 Sanitary Sewer Maintenance Project in the amount of \$137,745.00.

**E.5 Motion to approve Project Calendar regarding the 2019 Pedestrian Beacon Project, as follows:**

- a. Motion to retain the City Engineer as Project Engineer regarding the 2019 Pedestrian Beacon Project.**
- b. Resolution No. \_\_\_\_ approving Resolution of Necessity regarding the 2019 Pedestrian Beacon Project.**
- c. Resolution No. \_\_\_\_ ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 Pedestrian Beacon Project.**
- d. Resolution No. \_\_\_\_ approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 Pedestrian Beacon Project.**

The current Budget/Capital Improvement Program includes \$220,500 in Fiscal Year 2019 for the Annual Traffic Signal Program.

Recent development of the Grant Wood Trail has created a need for safe mid-block street crossings. Recently at the Federal level, a Patent Issue that halted the use of Rectangular Rapid Flashing Beacons in previous years has been settled, and the Federal Highway Administration (FHWA) has issued a new interim approval of these devices.

Staff has prepared construction plans to provide Pedestrian crossings and beacons at three new locations as follows:

- 1) Grant Wood Trail crossing at 31<sup>st</sup> Street
- 2) Grant Wood Trail crossing at 35<sup>th</sup> Street
- 3) Grant Wood Trail crossing at 44<sup>th</sup> Street

The engineer's preliminary construction estimate for the 2019 Pedestrian Beacon Project is \$90,700.00.

Sealed bids will be received on April 9, 2019 for proposed Council consideration of award on April 18, 2019.

Work shall begin no later than July 8, 2019 and be completed within 30 working days.

Liquidated damages in the amount of \$300 per day will be assessed for each working day in excess of these schedules.

Staff recommends approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 Pedestrian Beacon Project.

**E.6 Resolution No. \_\_\_\_ approving a Memorandum of Agreement with Squaw Creek Crossing, Inc. regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project.**

A copy of the MOA is in the Council Packet.

On July 6, 2017 City Council approved Resolution No. 26182 a Memorandum of Agreement with Water Rock, LLC., in conjunction with the subdivision proceedings for 13 & 151 First Addition in the City of Marion, Linn County, Iowa.

The City applied for Traffic Safety Improvement Program. [TSIP] The City was awarded a grant of \$500,000.00 for the intersection of Highway 13 and Hennessey Parkway.

The City agrees to pay up to \$500,000.00 of participating items. Participating items are as determined by the Iowa Department of Transportation [IDOT] for eligible expenses. The Owner shall pay for the costs of participating items in excess of \$500,000.00 and all items that are considered nonparticipating items per the IDOT.

The City will pay advance project costs of the project and will requested reimbursements from the Owner. The City will invoice the Owner after project final acceptance by City Council and the Owner has 30 calendar days to pay their agreed portion of construction costs upon receipt of invoice.

Staff recommends approving the Memorandum of Agreement regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project (Squaw Creek Crossing, Inc.)

**E.7 Motion to approve Project Calendar regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project, as follows:**

- a. Motion to retain the City Engineer as Project Engineer regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project.**
- b. Resolution No. \_\_\_\_ approving Resolution of Necessity regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project.**
- c. Resolution No. \_\_\_\_ ordering preparation of detailed plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project.**
- d. Resolution No. \_\_\_\_ approving and adopting final plans, specifications, notice of hearing and letting, notice to bidders, form of contract, and estimate of cost regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project.**

A Memorandum of Agreement with Squaw Creek Crossing, Inc. regarding the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project, details the funding sources and disbursements for this project.

Recent development of the Squaw Creek Crossing subdivision has created a need for a Traffic Signal and Turn Lane Improvements at Highway 13 and Hennessey Parkway.

The Developer's engineer (Shive Hattery) has prepared construction plans to provide the above described improvements.

The engineer's preliminary construction estimate for the 2019 Highway 13 and Hennessey Parkway Traffic Signal and Turn Lane Improvements Project is \$588,000.00.

Sealed bids will be received on April 30, 2019 for proposed Council consideration of award on May 7, 2019.

Work shall begin no later than July 8, 2019 and be completed within 50 working days.

Liquidated damages in the amount of \$1,000 per day will be assessed for each working day in excess of these schedules.

**TABULATION OF BIDS**



Bidder	Rathje Construction	Eastern IA Excavating	Cannolly Construction, Inc.	Dave Schmitt Construction Company, Inc.	Pirc Tobin Construction, Inc.	BG Brecke, Inc.
Address	P.O. Box 408	121 Nixon St SE P.O. Box 189	18409 N Cascade Road	250 50th Ave SW	PO Box 160	4140 F Ave NW
City	Marion, IA 52302	Cascade, IA 52033	Peosta, IA 52068	Cedar Rapids, IA 52404	Alburnett, IA 52202	Cedar Rapids, IA 52405
Bid Surety	YES	YES	YES	YES	YES	YES
Addendum Ackn	NA	NA	NA	NA	NA	NA

**PROJECT: 2019 Sanitary Sewer Maintenance Project**

**LOCATION: Marion, Iowa**

**BID DATE: 3/12/19 ; 10:00 AM**

ITEM	DESCRIPTION	EST. Quant	UNIT	ENGINEER'S ESTIMATE		Rathje Construction		Eastern IA Excavating		Cannolly Construction, Inc.		Dave Schmitt Construction Company, Inc.		Pirc Tobin Construction, Inc.		BG Brecke, Inc.		AVERAGES	
				UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE	UNIT PRICE	TOTAL PRICE
1	Clearing and Grubbing by Lump Sum	1	LS	\$3,000.00	\$3,000.00	\$2,400.00	\$2,400.00	\$950.00	\$950.00	\$1,472.00	\$1,472.00	\$3,100.00	\$3,100.00	\$500.00	\$500.00	\$800.00	\$800.00	\$1,584.40	\$1,584.40
2	Topsoil, Off-site	58	CY	\$30.00	\$1,740.00	\$50.00	\$2,900.00	\$64.75	\$3,755.50	\$30.35	\$1,760.30	\$83.50	\$4,843.00	\$33.50	\$1,943.00	\$25.00	\$1,450.00	\$45.72	\$2,651.76
3	Replacement of Unsuitable Backfill Material (Contingency Item)	80	CY	\$50.00	\$4,000.00	\$50.00	\$4,000.00	\$70.00	\$5,600.00	\$12.75	\$1,020.00	\$36.50	\$2,920.00	\$41.00	\$3,280.00	\$25.00	\$2,000.00	\$33.85	\$2,708.00
4	Sanitary Sewer Gravity Main, Trenched, 6" SDR 23.5 PVC	15	LF	\$95.00	\$1,425.00	\$65.00	\$975.00	\$175.00	\$2,625.00	\$195.00	\$2,925.00	\$54.75	\$821.25	\$32.50	\$487.50	\$55.00	\$825.00	\$97.95	\$1,469.25
5	Sanitary Sewer Gravity Main, Trenched, 8" Truss	45	LF	\$100.00	\$4,500.00	\$75.00	\$3,375.00	\$205.00	\$9,225.00	\$199.00	\$8,955.00	\$55.50	\$2,497.50	\$32.50	\$1,462.50	\$60.00	\$2,700.00	\$106.90	\$4,810.50
6	Sanitary Sewer Gravity Main, Trenched, 10" Truss	20	LF	\$150.00	\$3,000.00	\$85.00	\$1,700.00	\$300.00	\$6,000.00	\$219.00	\$4,380.00	\$66.50	\$1,330.00	\$37.00	\$740.00	\$65.00	\$1,300.00	\$134.10	\$2,682.00
7	Sanitary Sewer Gravity Main, Trenched, 12" Truss	10	LF	\$155.00	\$1,550.00	\$95.00	\$950.00	\$320.00	\$3,200.00	\$258.00	\$2,580.00	\$93.75	\$937.50	\$40.50	\$405.00	\$70.00	\$700.00	\$153.35	\$1,533.50
8	Sanitary Sewer Gravity Main, Trenched, 18" RCP	30	LF	\$180.00	\$5,400.00	\$150.00	\$4,500.00	\$400.00	\$12,000.00	\$266.00	\$7,980.00	\$110.00	\$3,300.00	\$87.00	\$2,610.00	\$90.00	\$2,700.00	\$185.20	\$5,556.00
9	Removal of Sanitary Sewer, 6"	15	LF	\$20.00	\$300.00	\$10.00	\$150.00	\$55.00	\$825.00	\$87.65	\$1,314.75	\$40.25	\$603.75	\$8.70	\$130.50	\$10.00	\$150.00	\$38.58	\$578.70
10	Removal of Sanitary Sewer, 8"	45	LF	\$22.00	\$990.00	\$10.00	\$450.00	\$60.00	\$2,700.00	\$87.65	\$3,944.25	\$45.00	\$2,025.00	\$8.70	\$391.50	\$15.00	\$675.00	\$40.53	\$1,823.85
11	Removal of Sanitary Sewer, 10"	20	LF	\$24.00	\$480.00	\$10.00	\$200.00	\$75.00	\$1,500.00	\$87.65	\$1,753.00	\$46.00	\$920.00	\$8.70	\$174.00	\$20.00	\$400.00	\$43.73	\$874.60
12	Removal of Sanitary Sewer, 12"	10	LF	\$26.00	\$260.00	\$10.00	\$100.00	\$95.00	\$950.00	\$110.00	\$1,100.00	\$48.00	\$480.00	\$17.50	\$175.00	\$25.00	\$250.00	\$52.60	\$526.00
13	Removal of Sanitary Sewer, 18"	30	LF	\$28.00	\$840.00	\$10.00	\$300.00	\$105.00	\$3,150.00	\$110.00	\$3,300.00	\$48.00	\$1,440.00	\$17.50	\$525.00	\$40.00	\$1,200.00	\$54.60	\$1,638.00
14	Spot Repairs by Pipe Replacement, 8"	2	EA	\$2,500.00	\$5,000.00	\$2,750.00	\$5,500.00	\$3,250.00	\$6,500.00	\$7,950.00	\$15,900.00	\$7,870.00	\$15,740.00	\$2,300.00	\$4,600.00	\$14,000.00	\$28,000.00	\$4,364.00	\$8,728.00
15	Manhole, Sanitary, 48" (SW-301)	9	EA	\$9,000.00	\$81,000.00	\$7,300.00	\$65,700.00	\$4,250.00	\$38,250.00	\$6,610.00	\$59,490.00	\$6,780.00	\$61,020.00	\$8,400.00	\$75,600.00	\$8,000.00	\$72,000.00	\$4,988.00	\$44,892.00
16	Manhole, Sanitary, 48" (SW-303)	1	EA	\$9,000.00	\$9,000.00	\$8,000.00	\$8,000.00	\$5,250.00	\$5,250.00	\$8,710.00	\$8,710.00	\$9,100.00	\$9,100.00	\$8,400.00	\$8,400.00	\$8,000.00	\$8,000.00	\$6,212.00	\$6,212.00
17	Remove Sanitary Manhole	9	EA	\$2,000.00	\$18,000.00	\$250.00	\$2,250.00	\$855.00	\$7,695.00	\$1,210.00	\$10,890.00	\$807.00	\$7,263.00	\$850.00	\$7,650.00	\$1,500.00	\$13,500.00	\$624.40	\$5,619.60
18	Removal of Sidewalk	10	SY	\$30.00	\$300.00	\$10.00	\$100.00	\$40.00	\$400.00	\$44.00	\$440.00	\$39.50	\$395.00	\$25.00	\$250.00	\$10.00	\$100.00	\$26.70	\$267.00
19	PCC Sidewalk, 4"	10	SY	\$200.00	\$2,000.00	\$90.00	\$900.00	\$100.00	\$1,000.00	\$85.00	\$850.00	\$176.00	\$1,760.00	\$58.50	\$585.00	\$50.00	\$500.00	\$90.20	\$902.00
20	Full Depth Patches, PCC	180	SY	\$120.00	\$21,600.00	\$125.00	\$22,500.00	\$155.00	\$27,900.00	\$92.00	\$16,560.00	\$191.50	\$34,470.00	\$200.00	\$36,000.00	\$185.00	\$33,300.00	\$112.70	\$20,286.00
21	Temporary Traffic Control	1	LS	\$1,500.00	\$1,500.00	\$2,370.00	\$2,370.00	\$2,800.00	\$2,800.00	\$3,000.00	\$3,000.00	\$2,370.00	\$2,370.00	\$4,800.00	\$4,800.00	\$2,965.00	\$2,965.00	\$2,108.00	\$2,108.00
22	Seeding, Fertilizing, and Mulching for Hydraulic Seeding	0.1	AC	\$20,000.00	\$2,000.00	\$15,000.00	\$1,500.00	\$8,500.00	\$850.00	\$8,400.00	\$840.00	\$20,000.00	\$2,000.00	\$4,000.00	\$400.00	\$6,250.00	\$625.00	\$10,380.00	\$1,038.00
23	Mobilization	1	LS	\$15,000.00	\$15,000.00	\$6,500.00	\$6,500.00	\$15,000.00	\$15,000.00	\$14,250.00	\$14,250.00	\$19,093.00	\$19,093.00	\$29,500.00	\$29,500.00	\$8,000.00	\$8,000.00	\$10,968.60	\$10,968.60
24	Concrete Washout	1	LS	\$500.00	\$700.00	\$250.00	\$250.00	\$750.00	\$750.00	\$2,485.00	\$2,485.00	\$550.00	\$550.00	\$2,500.00	\$2,500.00	\$1,100.00	\$1,100.00	\$807.00	\$807.00
25	Remove and Reinstall Sign	1	EA	\$150.00	\$150.00	\$175.00	\$175.00	\$185.00	\$185.00	\$545.00	\$545.00	\$450.00	\$450.00	\$55.50	\$55.50	\$200.00	\$200.00	\$271.00	\$271.00
<b>ENGINEER'S ESTIMATE</b>					<b>\$183,735.00</b>	<b>75%</b>	<b>\$137,745.00</b>	<b>87%</b>	<b>\$159,060.50</b>	<b>96%</b>	<b>\$176,444.30</b>	<b>98%</b>	<b>\$179,429.00</b>	<b>100%</b>	<b>\$183,164.50</b>	<b>100%</b>	<b>\$183,440.00</b>		<b>\$163,169.70</b>

# 3.E.6

## MEMORANDUM OF AGREEMENT

In this Memorandum of Agreement (the "Agreement"), the **City of Marion, Linn County, Iowa** will be known as the "**City**"; and **Squaw Creek Crossing, Inc.**, will be known as the "**Owner**".

WHEREAS, Section 31.4.3 of the Municipal Code of the City of Marion, Linn County, Iowa requires the developer of new subdivisions located within the City to construct, or give satisfactory assurance to the City that it will construct certain improvements;

WHEREAS, the City and Water Rock, LLC ("Water Rock") are parties to that certain Memorandum of Agreement dated July 6, 2017 (the "Memorandum"), which Memorandum was executed in conjunction with the subdivision proceedings for 13 & 151 First Addition in the City of Marion, Linn County, Iowa;

WHEREAS, Section 1(a) of the Memorandum contains an acknowledgement by Water Rock that Water Rock may be required to pay for a portion of certain traffic signal improvements to be located at Highway 13 and Hennessey Parkway (the "Traffic Signal Improvements");

WHEREAS, the City applied for Traffic Safety Improvement Program ("TSIP") and the Iowa Department of Transportation awarded the City a grant of \$500,000.00 for the purpose of constructing the Traffic Signal Improvement; and

WHEREAS, the Owner is the equitable titleholder of the property subject to the Memorandum and desires to assume the responsibility, if any, of Water Rock under Section 1(a) of the Memorandum.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. The Owner agrees to be bound by the terms of the MOA between the City and Water Rock that was approved on July 6, 2017 by Resolution 26182, recorded in the Linn County Recorder's Office at Book 9884, Page 215, except as modified by the additional provisions below.
2. The Owner agrees to supply the City with engineered plans that match the TSIP application and all requirements of the Agreement for Traffic Safety Improvement Program Funding for Project No. CS-TSF-4775(633)—85-57 and Agreement 2019-TS-003. The Agreement for TSIP becomes a part of this document as a reference. The plans shall comply with all comments received from the IDOT and the City during the review of the engineered plans. The Owner hereby disclaims any warranties, express or implied, with respect to the engineered plans.
3. The City agrees to pay up to \$500,000.00 of participating items. Participating items are as determined by the Iowa Department of Transportation [IDOT] for eligible expenses. The Owner shall pay for the costs of participating items in excess of \$500,000.00 and all items that are considered nonparticipating items per the IDOT.
4. The City agrees to provide bidding [including TSB requirements], construction inspection and administration of the construction of the project and will retain ownership of all public improvements. The City will pay advance project costs of the project and will request reimbursements as outlined below.

5. The Owner agrees to reimburse the City all items considered non-participating as part of the IDOT grant requirements including but not limited to;
  - a. the application request for grant
  - b. engineering design
  - c. acquiring all permanent and temporary easements
  - d. improvements on private property
  - e. change orders that are above the \$500,000 and/or are not considered participating items.
6. If the IDOT determines that the plans do not meet the TSIP application and other requirements of this Agreement the Owner will pay all costs necessary to modify the plans to bring them into compliance with the TSIP application and other requirements of this Agreement.
7. The Owner agrees to pay the City all items under item 4 after the project is accepted by the City of Marion City Council. The City will provide a detailed breakdown of the costs being paid for by the IDOT and the Owner with an invoice. The Owner has 30 calendar days to pay their agreed portion of construction costs of the project as outlined above.
8. That if the Owner fails to perform any requirements of this Agreement, the City may at its election take action consistent with security provided by the Owner and/or undertake to perform the requirements. The Owner agrees to pay the City for all the costs associated with the City performing the requirement, including administrative costs equal to 10% of the actual costs of performing the requirement and any loss in the grant funding.
9. That this Agreement shall be binding upon the parties hereto and their heirs, successors and assigns, and the sale by the Owner of all or any part of the premises in said subdivision shall transfer obligations of the Owner to the successor in interest.
10. Should any ambiguities arise in the construction of this agreement, it is agreed that it shall be construed to favor public over private interests.

[SIGNATURES ON FOLLOWING PAGE]

The undersigned have caused this Agreement to be signed as of the date set forth below.

Signed this \_\_\_\_ day of \_\_\_\_\_, 2019

**CITY OF MARION:**

\_\_\_\_\_  
Nicolas AbouAssaly, Mayor

ATTEST:

I, Rachel Bolender, City Clerk of the City of Marion, Iowa hereby certify that at a meeting of the City Council of said City, held on the above date, among other proceedings the above was adopted.

\_\_\_\_\_  
Rachel Bolender, City Clerk

**OWNER:**

SQUAW CREEK CROSSING, INC.

  
\_\_\_\_\_  
Mike Esker, President