

RESOLUTION NO. 21-03

**A RESOLUTION AUTHORIZING THE MAYOR TO SECURE A LOAN FROM A
LOCAL FINANCIAL INSTITUTION
TO FUND THE CITY'S ACQUISITION OF CERTAIN PROPERTY
FROM THE ANTHONY F. GRIFFITH ESTATE**

WHEREAS, the City of Newton ("City") is a municipality organized under the laws of the State of Illinois; and

WHEREAS, pursuant to Section 65 ILCS 5/8-1-3.1 of the Illinois Municipal Code, the corporate authorities of a municipality may borrow from any bank or other financial institution provided such money shall be repaid within 10 years from the time the money is borrowed; and

WHEREAS, in furtherance of the economic development goals of the City, the City Council, on January 5, 2021, approved a motion to authorize an agreement to purchase four (4) tracts (parcels), totaling approximately 62 acres, from the estate of Anthony F. Griffith (the "Property") for \$500,000 plus applicable closing cost contingent on financing (the Purchas Agreement of the Property attached hereto as Exhibit A), for the corporate purposes of marketing such land for private development that would create jobs, increase the tax base and otherwise enhance the long-term economic vitality of the City; and

WHEREAS, the City has determined that it has approximately \$80,000 (eighty thousand) dollars available from the City's Capital Development Fund to apply to such property acquisition costs; and

WHEREAS, the City has determined that the balance of the cost to acquire the Property will need to come from debt financing, to be secured by a mortgage on the Property, payable from funds deposited into the Capital Development Fund from time to time or from tax increment revenues from either TIF Redevelopment Project Area No. 1 (TIF 1) if expanded to include the Property or a new TIF Redevelopment Project Area (TIF 2) being established that would include the Property and said TIF 2 being contiguous to TIF 1.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of the City of Newton, Jasper County, Illinois, as follows:

SECTION 1: That the foregoing recitals are incorporated as though fully set forth herein.

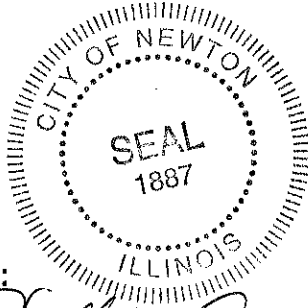
SECTION 2: The Mayor is hereby authorized to secure a loan in the principal amount not to exceed \$420,000 with repayment terms consistent with current market rates and terms and not to exceed an amortization period of 10 years. The promissory note or other debt instrument, but not a bond, to evidence the indebtedness incurred by the borrowing shall be brought forth to the Mayor and City Council for approval by ordinance.


PASSED, approved and adopted on a roll call vote on this 2nd day of March 2021

AYES: Robert Reisner, Marlene Harris, Gayle Glumac, Mark Bolander

NAYS: Eric Blake, David Brown

ABSENT: Larry Brooks




Mark Bolander, Mayor

ATTEST:

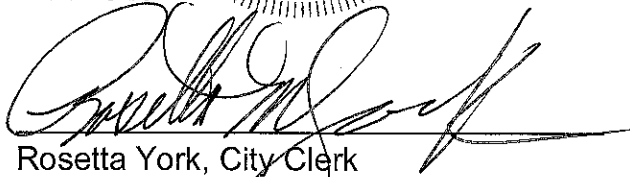

Rosetta York, City Clerk

EXHIBIT A

Description of Property to be Acquired from the Anthony F. Griffith Estate

(attached)

EXHIBIT A

AGREEMENT TO PURCHASE

Buyer, City of Newton, of 108 N Van Buren Street, Newton, Illinois 62448, Phone: 618-783-8451 agrees to purchase at a price of Five Hundred Thousand Dollars (\$500,000.00) (hereinafter referred to as the "Purchase Price") on the terms set forth, the following real estate legally described as:

Tract 1: A part of the Northeast Quarter (NE ¼) of the Northwest Quarter (NW ¼) of Section Two (2), Township Six (6) North, Range Nine (9) East of the Third Principal Meridian, Jasper County, Illinois, described as follows: Beginning at the Northwest Corner (NW/c) of the East Half (E ½) of the Northwest Fractional Quarter (NW/f ¼) of said Section Two (2), thence South 391.5 feet, thence East 954.3 feet, thence North 386.0 feet, thence West 939.0 feet to the Point of Beginning, containing 8.4 acres, more or less,

Parcel Identification Number: 90-12-02-100-010;

Tract 2: The Southeast Quarter (SE ¼) of the Southwest Quarter (SW ¼) of Section Thirty-five (35), Township Seven (7) North, Range Nine (9) East of the Third Principal Meridian, Jasper County, Illinois; LESS AND EXCEPT a tract of land described as follows: Commencing at the Northeast Corner (NE/c) of said described premises and running thence West to the Northwest Corner (NW/c) thereof, thence South 590 feet, thence East 818 feet, thence North 578 feet, thence East to the East boundary of said Southwest Quarter (SW ¼), thence North 12 feet to the Place of Beginning, containing 12 acres, more or less, in said exception; FURTHER LESS AND EXCEPT a tract of land described as follows: Commencing at the Northeast Corner (NE/c) of the Southwest Quarter (SW ¼) of said Section Thirty-five (35), thence South (assumed bearing) along the East line of said Southwest Quarter (SW ¼) a distance of 1355.38 feet to the Point of Beginning, thence West a distance of 193 feet, thence South to a point 193 feet West of the Southeast Corner (SE/c) of the Southeast Quarter (SE ¼) of the Southwest Quarter (SW ¼) of said Section Thirty-five (35), thence East 193 feet, thence North to the Point of Beginning; AND FURTHER LESS AND EXCEPT PINs: 90-07-35-300-010; 90-07-35-300-011; 90-07-35-300-012; 90-07-35-300-013; 90-07-35-300-014; 90-07-35-300-015; 90-07-35-300-016; 90-07-35-300-017; 90-07-35-300-018; 90-07-35-300-008 & 90-07-35-300-029 (Exception legal descriptions will be described in greater detail after title work has been completed),

Parcel Identification Number: 90-07-35-300-028;

Tract 3: The West Half (W ½) of the Southwest Quarter (SW ¼) of Section Thirty-five (35), Township Seven (7) North, Range Nine (9) East of the Third Principal Meridian, Jasper County, Illinois; LESS AND EXCEPT the Bella Vista Estates Subdivision as shown on Plat of Survey recorded March 15, 1999 as Document No. 837 as Slide 124 in the Jasper County Clerk's Office; FURTHER LESS AND EXCEPT the Bella Vista Estates Out Lots A-K; AND FURTHER LESS AND EXCEPT the tract known as the "Dome House". (Exception legal descriptions will be described in greater detail after title work and survey

have been completed. An aerial is attached hereto as "Exhibit A" to show the property being sold as Tract 3.)

Parcel Identification Number: 90-07-35-300-052 Pt; and

Tract 4: A part of the Northwest Quarter (NW ¼) of the Northwest Quarter (NW ¼) of Section Two (2), Township Six (6) North, Range Nine (9) East of the Third Principal Meridian, Jasper County, Illinois, described as follows: Beginning at the Northwest Corner (NW/c) of said Section Two (2), thence East on the Section line 20 chains, thence South 11.31 chains to the Northeast Corner (NE/c) of a 10 acre tract deeded to John Reis, thence West 20 chains to the Northwest Corner (NW/c) of a tract deed to O.S. Scott, thence North 11.39 ½ chains to the Point of Beginning, containing 22.7 acres, more or less, EXCEPT 481 feet of even width off the South end thereof; ALSO EXCEPTING that part conveyed to the People of the State of Illinois, Department of Transportation, in Warranty Deed recorded June 10, 2010 in Book 230 at page 337,

Parcel Identification Number: 90-12-02-100-037;

commonly known as: East Lake Shore Drive, Newton, Illinois 62448 being approximately sixty-two (62) acres (hereinafter referred to as the "Real Estate"). The parties hereto acknowledge the Seller shall obtain a survey for the Real Estate and the legal descriptions herein may be altered. Lot size or acreage is not warranted, and shall not affect the purchase price. The survey will approximately depict the property as set forth in Exhibit A.

Seller, Estate of Anthony F. Griffith, of 13841 East Lake Jasper South, Newton, Illinois 62448, Phone: 217-690-5805, agrees to sell the Real Estate at the price and terms set forth and convey to Buyer on the following terms and conditions:

1. **PAYMENT.** Buyer has paid Ten Thousand Dollars (\$10,000.00) as earnest money deposited with Personal Service Realty, Inc., for the mutual benefit of the parties, to be applied on the Purchase Price, and agree to pay the balance, plus or minus any pro-rations, at closing. Buyer agrees to comply with the Good Funds Law and if required, wire their funds to the closing agent. Buyer agrees to pay any wire fees associated therewith.

2. **ALLOCATION OF PURCHASE PRICE.** Due to the multiple ownership of the Real Estate there must be an allocation of the Purchase Price. The allocation of the purchase price is as follows:

A. The purchase price for Tract 1 is Sixty-seven Thousand Seven Hundred Forty-one Dollars and 97/100 Cents (\$67,741.97);

B. The purchase price for Tract 2 is One Hundred Eighty-five Thousand One Hundred Sixty-one Dollars and 37/100 (\$185,161.37);

C. The purchase price for Tract 3 is Sixty-five Thousand Five Hundred Sixty-four Dollars and 32/100 Cent (\$65,564.32); and

D. The purchase price for Tract 4 is One Hundred Eighty-one Thousand Five Hundred Thirty-two Dollars and 34/100 Cents (\$181,532.34).

3. THIS AGREEMENT IS CONTIGENT ON THE FOLLOWING:

A. Buyer's obligation to purchase is contingent upon Buyer obtaining financing acceptable to Buyer, or having funds available to Buyer in a manner acceptable to Buyer. The determination as to acceptable financing or funds available in a manner acceptable to the Buyer will be in the sole discretion of Buyer; and, Buyer's determination thereof whether reasonable or unreasonable is final and binding on the parties to this agreement and Seller will have no ability to challenge Buyer's determination in any manner, legal or equitable. Buyer's determination of financing shall be made no later than fifteen (15) days prior to the closing date and Buyer must notify Seller of said determination within said timeframe or this contingency shall terminate and Buyer shall be obligated to consummate the transaction.

4. **FARM TENANT.** Buyer and Seller acknowledge that PB Finley is the existing farm tenant and that Buyer is purchasing the Real Estate subject to the existing farm tenancy. Buyer further acknowledges that to terminate the farm tenant lease, written notice must be given to farm tenant by Buyer as required by law. Seller shall receive the landlord's share of the crop income for the 2020 crop year.

5. **CLOSING.** This transaction shall be closed within ninety (90) days from the date of this Agreement at Allied Capital Title or on such other date and location as mutually agreed by the parties in writing. Any fees charged by the closing agent for conducting the closing shall be paid one-half by Buyer and one-half by Seller. In the event the closing agent is requested to handle the loan closing for the Buyer's lender, any additional charges for processing the loan closing shall be paid by the Buyer in addition to the standard closing fees charged.

6. **CLOSING COSTS.** The cost of preparation of this Agreement shall be paid by Seller. Seller shall pay for the cost of preparation of the deed and transfer declaration. Buyer shall pay for recording the deed.

7. **POSSESSION.** Seller shall deliver possession on date of closing.

8. **TAXES.** Seller shall pay the 2019 real estate taxes, due and payable in 2020, prior to or at time of closing. Seller shall give Buyer a credit for the 2020 real estate taxes, due and payable in 2021, at closing based upon latest available information. Buyer shall then pay the 2020 real estate taxes when they come due and shall pay real estate taxes for all subsequent years.

9. **TITLE EVIDENCE.** Upon acceptance of this Agreement, Seller shall, at its expense within a reasonable period of time prior to closing, furnish to Buyer title evidence in the form of a

Commitment for Owners Title Insurance. Seller shall, at Seller's expense, provide Buyer a title search and title insurance policy in the amount of the Purchase Price, dated after the date of this Agreement, containing the standard American Land Title Association provisions, and containing exceptions normally accepted by lenders doing business in the county where the Real Estate is located. Seller and Buyer agree to each pay their respective fees for CPLs issued by the closing agent, if any.

10. **TITLE CONDITIONS:**

A. The title may be subject to:

- (1) all taxes and special assessments payable after date of closing, if any;
- (2) zoning laws and ordinances of which there are no violations, if any;
- (3) restrictions, conditions and covenants of record, if any;
- (4) private, public and utility easements of record, if any;
- (5) roads, and rights of way of record, if any;
- (6) drainage ditches, feeders, laterals and underground tiles, if any;
- (7) existing leases and tenancies, if any;
- (8) existing oil and gas leases and mineral conveyances, if any;
- (8) party walls and related agreements, if any; and
- (9) encroachments, openly existing.

B. If title has defects which cannot be removed by date of closing, Seller may postpone closing for up to thirty (30) days for purposes of clearing such defects or securing title insurance to insure over such defects.

C. If the title has defects which constitute interests, encumbrances or liens of ascertainable amounts which may be removed by the payment of money at closing then either party, upon giving written notice to the other of his intention, may clear the same by using funds from closing.

D. If the title has defects which cannot be cleared under paragraphs B or C, then Buyer may at its election terminate this Agreement and any earnest deposit shall be returned to Buyer, or Buyer may elect to take the Real Estate subject to the defects. Buyer's election must be in writing and directed to Seller or Seller's agent.

11. **ENVIRONMENTAL.** SELLER WARRANTS and REPRESENTS that she has no knowledge of any present or prior use of, or activity on the Real Estate which resulted in the disposal or placement of hazardous substances on the Real Estate. SELLER further warrants and represents that she has no knowledge of any pollutant or contaminant to the environment being in, on, or about the Real Estate. The term "hazardous substances", "pollutant", or "contaminant" have the same meaning as defined in the Comprehensive Environmental Response, Compensation and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C., 9601-9675. This warranty shall survive the closing.

12. **ENVIRONMENTAL DISCLOSURE.** SELLER warrants: (1) that the Real Estate does not contain a facility which is subject to reporting under Section 312 of the Federal Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C. 11022; and (2) that the Real Estate has no underground storage tanks which require notification under the Solid Waste Disposal Act, 42 U.S.C. 6991 et. seq.
13. **CONVEYANCE.** At closing Seller shall convey the Real Estate by Executor's Deed, pursuant to 765 ILCS 5/8.
14. **TRANSFER TAXES.** Seller further agree to pay at closing any real estate transfer tax and to provide a completed State of Illinois Department of Revenue Real Estate Transfer Declaration (PTAX-203).
15. **ACKNOWLEDGMENT.** Buyer and Seller acknowledge that the Real Estate is vacant land with no improvements.
16. **AS IS.** Buyer agrees that it is buying the Real Estate AS IS without warranty or representation of any kind, express or implied, unless it is expressly stated in a writing signed by the Seller.
17. **WARRANTIES.** Seller warrants that prior to the execution of this Agreement neither Seller nor her agent have received any notice from any city, village or other governmental authority of a dwelling code violation which existed in the dwelling structure within 10 years of this date.
18. **DEFAULT.** Should Buyer fail to close, Seller may elect to retain Buyer's earnest money; or in the event either party brings an action for specific performance of this Agreement or for damages resulting from the other party's default, the prevailing party's reasonable attorneys' fees and costs of suit may be assessed as damages against the defaulting party in any judgment rendered.
19. **NOTICES.** Notices required by this Agreement shall be in writing and may be served by personal delivery, or by mailing the same certified mail, return receipt requested, telegram, commercial express mail or electronic facsimile, to the addresses stated above. Notice shall be deemed to have been served on the date of mailing, or transmission.
20. **DISCLOSURE.** Buyer and Seller agree to make all disclosures and perform all acts necessary to comply with applicable federal and state laws, and to satisfy the requirements, if any, of the mortgage lender and settlement agent.
21. **TIME.** Time is of the essence of this Agreement. The terms are binding upon the respective parties, their executors, administrators, successors and assigns. Waiver by the Seller of any breach upon the part of the Buyer shall not constitute the waiver of any subsequent breach.

22. **GENDER.** Where appropriate singular denotes plural and masculine denotes feminine and neuter gender.

23. **COUNTERPARTS AND SIGNATURES.** This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The parties hereto agree to accept facsimile or electronic mail signatures and the receipt of such executed counterparts shall be binding upon the parties and shall be construed as originals.

In witness thereof, the parties have signed this Agreement with an effective date of January 5, 2021.

SELLER:

ESTATE OF ANTHONY F. GRIFFITH

By: *Diana Nuxoll*
Diana Nuxoll, Executor of the Estate
of Anthony F. Griffith

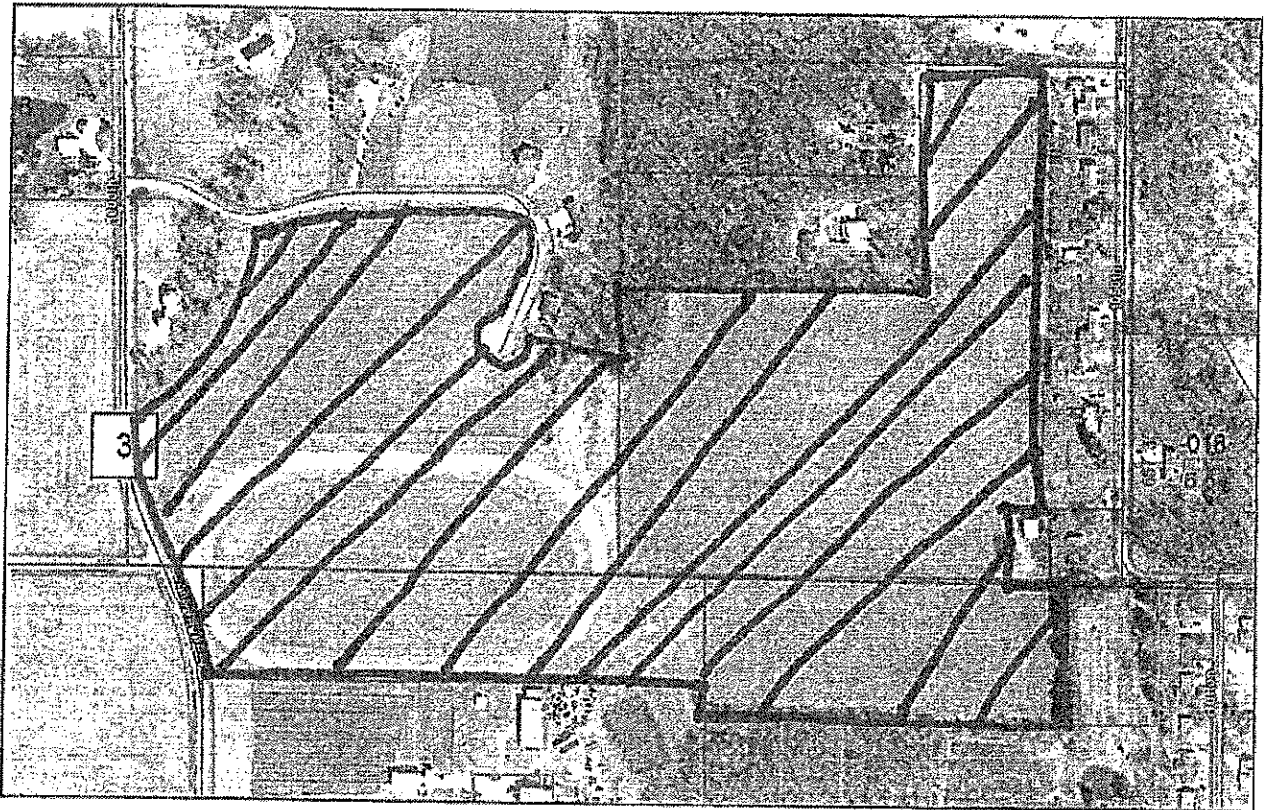
BUYER:

CITY OF NEWTON

By: *Mark Bolander*
Mark Bolander, its Mayor

This instrument prepared by:
Aaron K. Leonard of
Taylor Law Offices, P.C.
Attorneys for Seller
100 West 6th Street
P.O. Box 502
Flora, Illinois 62839
(618) 662-6022

EXHIBIT A
PROPOSED SURVEY AREA



November 24, 2020

