

**RESOLUTION 1724**

**A RESOLUTION APPROVING AN AGREEMENT NOT TO EXCEED \$50,000 FOR THE SERVICES OF SITE PREPARATION TO BARNHART'S CUSTOM SERVICES, LLC.**

**WHEREAS**, The property was purchased in 1989 by Croell Redi-mix, a cement company operated on a four-acre parcel at 325 East Green Street and while planning for a plant expansion at that site, the city proposed a land swap.; and

**WHEREAS**, Instead of having this industrial use expand its operations in this transitional area that exist between a celebrated historic downtown with 14 buildings on the National Historic Register, and a well-established neighborhood known for its mature tree line and eclectic housing; the city pursued a land swap that exchanged 12 acres of industrial park property for the aforementioned 4 acre site; and

**WHEREAS**, the swap is nearing to conclusion, in the meantime we can consider site preparation services to make the site more enticing to potential developers; and

**WHEREAS**, Barnhart's Custom Services, LLC. is a local business with experience in removing concrete, excavation, and site clean-up.

**WHEREAS**, Barnhart's Custom Services, LLC. has provided hourly prices for services that are not to exceed \$50,000.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of West Branch, that Authorize the City Administrator to enter into said agreement not to exceed \$50,000 with Barnhart's Custom Services, LLC for the services of site preparation for the site previously known as the Croell Redi-mix property.

\* \* \* \* \*

**Passed and approved this 25<sup>th</sup> day of June, 2018.**

  
\_\_\_\_\_  
Roger Laughlin, Mayor

ATTEST:

  
\_\_\_\_\_  
Redmond Jones II, City Administrator / City Clerk

## CONSTRUCTION AGREEMENT

THIS AGREEMENT, made and entered this 25 day of June, 2018, by and between the City of West Branch, Iowa, 110 N. Poplar, West Branch, Iowa 52358, hereinafter referred to as "CITY;" and Barnhart's Custom Services, LLC, 412 E. Main Street, West Branch, Iowa 52358, hereinafter referred to as the "CONTRACTOR."

WHEREAS, the City has entered into an agreement to acquire the former Croell site at 325 E. Green Street; and

WHEREAS, the City Council has heretofore deemed it necessary and desirable to remove debris and buildings and crush the existing concrete into gravel for possible sale in order to "clean-up" the site for future redevelopment (the "Services"); and

WHEREAS, the CONTRACTOR has submitted a proposal to perform the Services; and

WHEREAS, the CONTRACTOR is qualified and capable of providing the Services according to the schedule listed below; and

WHEREAS, it is now necessary and appropriate to memorialize the agreement between the CITY and the CONTRACTOR as follows:

NOW, THEREFORE, THE CITY AND THE CONTRACTOR, FOR CONSIDERATION HEREINAFTER SET FORTH, DO MUTUALLY AGREE TO THE TERMS AND CONDITIONS SET FORTH BELOW.

I. SCOPE OF SERVICES.

The CONTRACTOR shall perform in a timely and satisfactory manner, the Services set forth in **Exhibit "A."**

II. TIME OF COMPLETION.

The CONTRACTOR shall complete the Services in an expeditious manner.

III. GENERAL TERMS AND PROVISIONS.

A. The CONTRACTOR shall not commit any of the following employment

practices in connection with or while rendering services hereunder and does hereby expressly agree to prohibit the following practices from being committed by any subcontractors engaged by the CONTRACTOR in connection with the Project. Upon request, the CONTRACTOR shall provide CITY with a copy of the relevant provisions of any agreement entered into by the CONTRACTOR and a subcontractor in connection with the Project to confirm to the satisfaction of CITY that the requirements under this Subparagraph III(A) have been met.

1. To discharge or refuse to hire any individual because of their race, color, religion, sex, national origin, disability, age, marital status, sexual orientation or gender identity.

2. To discriminate against any individual in terms, conditions or privileges of employment because of their race, color, religion, sex, national origin, disability, age, marital status, sexual orientation or gender identity.

B. CITY may terminate this Agreement, with or without cause, upon 7 days written notice thereof. In the event that CITY does so terminate this Agreement, the CONTRACTOR shall be paid for all work and services performed up to the time of said termination upon submission to CITY of a final billing statement and review and approval thereof by the City Council at the next regularly scheduled meeting; provided, however, that any such sum shall not be greater than the total amount to be paid for services rendered hereunder as set forth in Article IV below; and further provided that, in the event ArenaCo terminates this Agreement with cause, CITY may, in its sole discretion, elect to withhold payment of an amount sufficient to engage a third party to properly complete the Services in accordance with the terms of this Agreement.

C. This Agreement shall not be assigned or in any manner transferred by the CONTRACTOR, without the express written consent of CITY.

D. It is hereby expressly acknowledged and agreed by both parties hereto that the engagement of the CONTRACTOR by CITY in connection with the Project shall be as an independent contractor and shall be exclusive; provided, however, that the Contractor may retain the services of subcontractors for the purpose of performing its obligations and responsibilities under this Agreement so long as CITY has first obtained the written approval of same from CITY; and further provided that, should the CONTRACTOR so engage subcontractors under the terms of this Subparagraph III(E), the CONTRACTOR shall be solely responsible for compensating any such subcontractors.

E. CITY shall make all criteria, design and construction standards, and information regarding the CITY's requirements for the Project available to the CONTRACTOR upon reasonable request by the CONTRACTOR therefor. CITY shall furnish reasonable assistance to the CONTRACTOR in the use of said information and documentation at the request of CONTRACTOR.

F. It is further agreed that neither party to this Agreement shall perform contrary to any federal or state law, rule or regulation, or the Coralville City Code of Ordinances.

G. CONTRACTOR shall provide and maintain insurance throughout said Project in the following minimum amounts:

1. Workman's Compensation and occupational disease insurance in accordance with the laws of the State of Iowa covering all employees who perform any of the obligations under this Agreement
2. Commercial liability and property damage liability insurance covering all operations under the Agreement, limits for bodily injury or death not less than one million dollars (\$1,000,000.00) for one person and two million dollars (\$2,000,000.00) for each accident; for property damage not less than one million dollars (\$1,000,000.00) for each accident and two million dollars (\$2,000,000.00) aggregate during such policy period. Said insurance shall name CITY as an Additional Insured under the policy.
3. Automobile liability insurance on all self-propelled vehicles used in connection with the Agreement, whether its own, non-owned or hired; public liability limits of not less than five hundred thousand dollars (\$500,000.00) for one person and one million dollars (\$1,000,000.00) for each accident; property damage limit of two hundred fifty thousand dollars (\$250,000.00) for each accident or a combined single limit of one million dollars (\$1,000,000.00).

Upon request by CITY, the CONTRACTOR shall submit a certificate of insurance evidencing the coverage listed above. All coverage shall not be cancellable without thirty (30) days written notice to CITY.

#### IV. COMPENSATION FOR SERVICES.

CITY shall compensate the CONTRACTOR for the Services rendered under this Agreement for a total fee not to exceed \$50,000.00. CONTRACTOR expressly agrees that it will not be paid for any Services performed if the value of the Services exceeds \$50,000.00. In the event that the crushed materials can be sold prior to final completion of the Services, the CITY will receive a credit in the amount of sale price against the price for the Services. Said total fee shall be paid by CITY on a monthly basis (if applicable) to the CONTRACTOR upon (a) receipt by CITY from the CONTRACTOR of a billing statement or invoice therefor, and (b) review and approval thereof by the City Council at its next regularly meeting.

All crushed materials shall be stored on site and shall become the property of the CITY after payment of the Services has been rendered to CONTRACTOR.

V. INDEMNIFICATION.

A. The CONTRACTOR agrees to fully indemnify, defend, save and hold the CITY, its officers, representatives, agents, contractors, subcontractors and employees, harmless from any and all liability (including reimbursement of reasonable legal fees and costs) arising directly or indirectly from the acts, errors or omissions of the CONTRACTOR, its officers, representatives, agents, contractors, subcontractors or employees in connection with the provision of Services under this Agreement.

VI. SURVIVAL.

All express representations or indemnifications made in or given in this Agreement shall survive the completion of the construction services to be rendered by the CONTRACTOR hereunder or the termination of this Agreement for any reason.

VII. CONTROLLING LAW.

This Agreement is to be governed by the laws of the State of Iowa. The parties hereto agree that any action, suit or proceeding based upon any matter, claim or controversy arising under this Agreement shall be brought solely in the state courts located in Johnson County, Iowa or the federal courts located in Linn County, Iowa. The parties hereto hereby irrevocably waive objection to the venue of the above-mentioned courts, including any claim that such action, suit or proceeding has been brought in an inconvenient forum. Both parties hereto expressly acknowledge and agree that nothing contained in this Agreement shall be construed to require the parties to submit to mandatory arbitration or mediation in the event of a breach or dispute hereunder.

VIII. HEADINGS.

The headings of sections of this Agreement are for convenient reference only and shall not be deemed to limit, construe, affect, modify or alter the meaning of such sections.

IX. SEVERABILITY.

If any section, subsection, term or provision of this Agreement (inclusive of Exhibits) or the application thereof is in conflict with any other section, subsection, term or provision of this Agreement (inclusive of Exhibits) or the application thereof, the section, subsection, term or provision placing the more stringent duty, obligation, responsibility or requirement on the CONTRACTOR shall control. If any section, subsection, term or provision of this Agreement or the application thereof to the CONTRACTOR, CITY or a particular circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of same to the CONTRACTOR, CITY or particular circumstances other than that for which it was held invalid or unenforceable, shall not be affected thereby and each remaining section, subsection, term or provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

X. AUTHORITY.

The persons signing this Agreement warrant and represent that they have the authority to sign as, or on behalf of, the party for whom they are signing.

XI. FINAL AGREEMENT.

Both the CONTRACTOR and CITY hereby expressly acknowledge and agree that this Agreement is intended to set forth the entire agreement between the parties regarding the construction services to be rendered by the CONTRACTOR to CITY in connection with the Services rendered, that there are no other considerations or monies contingent upon or resulting from the execution of this Agreement, and that no other monies or considerations have been solicited. No waiver, change, modification or amendment of this Agreement shall be binding upon either party hereto unless in writing and signed by both the CONTRACTOR and CITY. The waiver by either party hereto of a breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of that provision or of any other provision or condition in this Agreement.

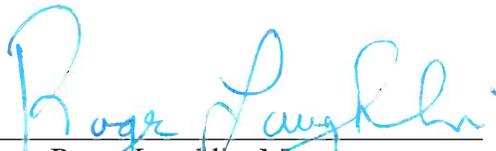
**ACCEPTED & AGREED:**

**CONTRACTOR:**

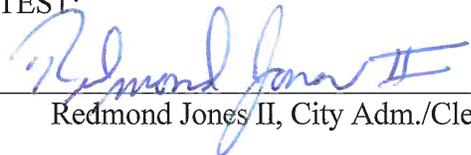
**Barnhart's Custom Services, LLC**

By:   
Bruce Barnhart Owner  
Print name and title

**CITY:**

By:   
Roger Laughlin, Mayor

**ATTEST:**

  
Redmond Jones II, City Adm./Clerk

**EXHIBIT "A"**

**PLANS & SPECIFICATIONS OF THE SERVICES**



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## Barnhart's Custom Services, L.L.C.

PO Box 36

West Branch Iowa 52358

Office: 319-643-7230

Cell: 319-631-1101

May 30, 2018

Mayor Laughlin

West Branch City Council

RE: Croell Site

I met with Mayor Laughlin and Public Works Director Matt Goodale on May 21, 2018 to discuss options and come up with a possible plan to clean up the Croell Redi-Mix site.

As I stated to the Council at the meeting later that evening, the difficulty with bidding a site like this is there are so many unknowns and concrete structures that have been covered up or more concrete just put on top of them. This has been a railroad and industrial area for well over 100 years. In addition to what is visible on the surface I know there is a row of concrete silos, probably around six on the south end of the property, that have their bases still in place. There is probably a concrete rail dump adjacent to them that is covered up. In the middle of the property there was an old grain elevator complex that burned down that had a pit, building foundations, ramps, retaining walls, and at least two exterior grain bins associated with it. There may also be a rail dump pit. This has all been covered up with concrete washout and fill and a concrete cap poured on the top. On the north end of the property, where the current rock bins are, there used to be retaining walls and the concrete trucks would actually load on the lower level where the railroad tracks were. There was also a pit and leg for elevating the rock to the cement plant. This has all been filled with either concrete, concrete washout, or rubble and then had more concrete poured on top of it to build the space for the Croell concrete plant.

In our discussion that day, we thought the most logical way forward would be to consider breaking the project up into multiple phases. The first phase would be remove, process, and stockpile the concrete for possible crushing and recycling. The second would be to either crush the concrete and have it available for City projects or sell it to contractors, and third would be to grade the site. Grading could also be done second and the crushing done last.

At the time of our meeting we did not know what kind of quantities there would be or if it would be cost effective to bring in a concrete crusher. After measuring the visible concrete and looking at old photographs which tell me where the coal silos and grain bins were and how many, I have an estimate of approximately 6,800 tons of concrete. In addition to that, I would estimate that there could possibly be a minimum of another 2,000 tons that is buried or poured over.

I have made contact with Bushman Excavating which does concrete recycling. They have a \$14,000.00 minimum. This would include \$4,000.00 for mobilization and 1,000 tons of crushing at \$10.00/ton. Anything over 1,000 tons would be at \$10.00/ton. This would assume that the concrete is in a pile and has been processed and sorted for crushing. By crushing the material that would save a minimum of 630 dump truck loads of concrete being hauled somewhere for disposal.

To begin this process I would propose doing the concrete removal and clean up on a per hour basis, with a "not to exceed" number. We have the proper equipment to do a job such as this consisting of multiple excavators with thumbs, but more importantly the attachments to go with the excavators to break up and process the concrete, which include a hydraulic breaker/hammer and a hydraulic concrete pulverizer; an off-road haul truck to haul the concrete to a common stockpile area; and a bulldozer to grade the site.

The rates for the equipment on a per hour basis would be:

- PC290 Excavator with thumb - \$195.00/hour
- PC290 Excavator with hydraulic concrete pulverizer - \$350.00/hour
- PC200 Excavator with thumb - \$155.00/hour
- PC200 Excavator with hydraulic breaker - \$225.00/hour
- John Deere 250D Off Road Truck - \$150.00/hour
- John Deere 850J Dozer - \$155.00/hour
- Labor - \$55.00/hour (for cutting or torching steel, if needed)

These machines would not all be used at the same time, but the advantage to having multiple excavators on site is not having to switch buckets and attachments. We can go from exposing concrete, breaking and pulverizing, and loading by just having operators switch machines and not switching buckets and attachments on and off.

This is our first year for having the concrete pulverizer and used it in conjunction with our hydraulic breaker to break up and process the foundations of an old fertilizer plant for Cedar County Coop. We also worked with Chris Jones Trucking on a project at the University of Iowa to demolish Seashore Hall and used the same combination of equipment to break up and process that building's foundation and retaining walls. An advantage of the concrete pulverizer is it can break the concrete off any rebar or metal and the metal can be recycled. This recycled metal can be sold for additional income and also keeps the recycled concrete free of metal contamination, which makes the recycled aggregate more valuable.

The approach I would recommend is starting with the areas with the most unknowns and the hardest to remove concrete, which would consist of the area around the concrete rock bins, concrete plant, area over the old grain elevator, and the old coal silo bases. Then depending on how much money was spent we could keep going on the driveway and flat work areas. That way if funds do not allow the entire concrete removal portion to be completed we

have finished the most difficult and unknown portions and the remaining flat work would be easier to remove and to estimate those costs.

I did not include the two existing buildings in the beginning work because before they can be demolished they would first have to be inspected for asbestos, and if any is found, abated. The abatement contractor has to file a 10 day notice with the Iowa DNR before abatement can start and then the demo contractor has to file an additional 10 day notice with the Iowa DNR before demolition can begin. I did include the floor and foundation of both buildings in the concrete quantity estimates for the whole project stated above.

I would be happy to discuss possible options with the Council and/or City staff.

Sincerely,



Bruce Barnhart

BB/lh

THE ABOVE PROPOSAL AS STATED NOT TO EXCEED \$50,000.00 FOR CONCRETE REMOVAL, BREAKING, PROCESSING, STOCKPILING, AND PREPARATION FOR FUTURE RECYCLING.

ACCEPTED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2018 BY:

CITY OF WEST BRANCH

BARNHART'S CUSTOM SERVICES

\_\_\_\_\_  
ROGER LAUGHLIN, MAYOR

\_\_\_\_\_  
BRUCE BARNHART

\_\_\_\_\_  
REDMOND JONES, CITY ADMINISTRATOR