



Newton City Council Agenda

January 6, 2025 - 6:00 PM

View the City Council Meeting:

In Person

City Hall - Council Chambers
101 W 4th St S, Newton, IA 50208

Television

Mediacom Channel
12/85/121.12

Online

newtongov.org/cablecast

Pledge

Pledge of Allegiance

Call to Order

1. Roll Call

Citizen Participation

2. This is the time of the meeting that a citizen may address the Council. After being recognized by the presiding officer, each person will be given three (3) minutes to speak. Elected officials will take comments into consideration; however, this time is not intended for a discussion or entering into a dialogue. Elected officials and City staff will not answer questions or debate a citizen during the *Citizen Participation* portion of the meeting

Consent Agenda

3. December 16, 2024 Regular City Council Meeting Minutes
4. December 16, 2024 Workshop Minutes
5. Resolution Appointing Ashton Bierman to the Library Board of Trustees for a Term Ending June 30, 2028
6. Resolution Appointing the Public Works Director and City Planner to serve on the Central Iowa Regional Transportation Planning Alliance Committees in 2025
7. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 24-18)
8. Resolution approving Newton Sanitary Landfill Comprehensive Plan Update IX and authorizing submittal to the Department of Natural Resources.
9. Resolution approving performance contract with Enchanted Entertainment LLC to provide DJ services for the Independence Day Celebration on July 4, 2025
10. Resolution awarding contract for the Public Works/ Community Development Wash Bay Project
11. Resolution approving Change Order #2 for the Westwood Clubhouse Phase #2 Interior Improvements Project
12. Resolution authorizing the submittal of the USDOT Standard Title VI/Non-Discrimination Assurances document and Iowa DOT Title VI Non-Discrimination Agreement.

13. Resolution for the City of Newton to take part in the Iowa Tourism Offices' Arrivalist Visitation Dashboard Co-op
14. Resolution Approving Payment of the Cost of Issuance Expenses for the 2024C Water Revenue Loan
15. Resolution approving a step increase for the Water Treatment Superintendent
16. Approve Bills

Public Hearing

17. Public Hearing on Amended Development Agreement with Hotel Maytag Investors, LLC
 - Hotel Maytag Investors requested consideration for an amendment to the development agreement with the City on the property at 105 North 2nd Avenue East due to the significant increase in taxable value over the amount anticipated by the minimum assessment agreement.
 - The proposed amendment provides for a sliding scale tax rebate on the actual property valuation, which is above and beyond the minimum assessment.
 - At the time of the original agreement, it was not anticipated that the property valuation would ever exceed the minimum assessment agreement amount of \$2.3 million.
18. Resolution Approving Amended Development Agreement with Hotel Maytag Investors, LLC, Authorizing Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

Resolution

19. Resolution Authorizing Second Amended Loan Agreement with Hatch Development Group, L.L.C.
 - The rehabilitation of Hotel Maytag was a significant restoration of the largest building on the Newton Downtown Square.
 - As part of the City's support to the project, the City entered into a loan agreement with Iowa Finance Authority and an agreement with Hatch Development to repay the City the loan payments due to Iowa Finance Authority.
 - The proposed amendment provides Hatch Development Group the ability to pause the reimbursement for the principal amount and reimburse the City for the Interest amounts in FY25, FY26 and FY27. This action would extend the agreement made for FY24.
20. Resolution amending the Parking Space Lease by and between The City of Newton, Iowa and Hotel Maytag Investors, LLC
 - By Resolution 2018-193, the Parking Space Lease between the City of Newton and Hotel Maytag Investors, LLC was approved. This agreement included use of spaces found in the Northeast Parking Lot (123 North 3rd Avenue East) and the Water Tower Parking Lot (215 South 2nd Avenue West).

- It is desirable to remove the Water Tower Parking Lot from the agreement. No Change is proposed to the agreement regarding use of the Northeast Parking Lot.

Mayor/Council Comments

21. Mayor and Council Comments

Adjourn

The City of Newton is pleased to provide reasonable accommodations, in compliance with the Americans with Disabilities Act, for those individuals or groups who require assistance to be able to participate in the public meeting. Should special accommodations be required, please contact the City Clerk's Office at least 48 hours in advance of the meeting, at 641-792-2787 to arrange for accommodations to be provided.

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NEWTON CITY COUNCIL MEETING MINUTES
DECEMBER 16, 2024, 6:00 PM

Pledge

Pledge of Allegiance

Mayor George asked everyone present to join in saying the Pledge of Allegiance.

Call to Order

1. Roll Call

The City Council of Newton, Iowa met in regular session at 6:00 P.M. on the above date in the Council Chambers at 101 West 4th Street South. Mayor George presided. Present Council Members: Mills (arrived at 6:39pm), Mullan, Hallam, Simbro, Ervin. Absent: Dalton.

Citizen Participation

2. This is the time of the meeting that a citizen may address the Council. After being recognized by the presiding officer, each person will be given three (3) minutes to speak. Elected officials will take comments into consideration; however, this time is not intended for a discussion or entering into a dialogue. Elected officials and City staff will not answer questions or debate a citizen during the *Citizen Participation* portion of the meeting

There was no citizen participation.

Consent Agenda

Moved by Hallam, seconded by Ervin to approve consent agenda items 3-20. AYES: Four. NAYS: None. Consent Agenda was adopted.

3. December 2, 2024 Regular City Council Meeting Minutes
4. December 2, 2024 Budget Workshop Minutes
5. Approve Liquor Licenses for the following: Fore Seasons, 600 N 2nd Ave W, Class C Retail Alcohol License for Special Event January 11, 2025, and 105 N 2nd Ave E, Class C Retail Alcohol License for Special Event February 1, 2025; Montana Mike's Steakhouse - LC0041393, 1400 W 18th St S, Class C Retail Alcohol License and Catering renewal; and Sombrero - LC0038865, 1130 1st Ave E, Class C Retail Alcohol License and Outdoor Service renewal
6. Resolution Reappointing Gary Johnson to Serve on the Civil Service Commission for a Term Ending December 31, 2028
Resolution 2024-411 adopted.
7. Resolution reappointing Dana VanGilder to serve on the Newton Planning & Zoning Commission for a term ending December 31, 2029
Resolution 2024-412 adopted.
8. Resolution re-appointing Carroll DePenning to serve on the Newton Building Trades Board for a term ending December 31, 2027
Resolution 2024-413 adopted.
9. Resolution reappointing Marilyn Terlouw and Rita Reinheimer to the Newton Downtown Grant Review Board and appointing Tiffany Thomas to fill an unexpired term
Resolution 2024-414 adopted.
10. Resolution appointing Wesley Ranard to serve on the Newton Historic Preservation Commission for a term ending December 31, 2027
Resolution 2024-415 adopted.
11. Resolution re-appointing Larry Hurto to serve on the Newton Historic Preservation Commission for a term ending December 31, 2027
Resolution 2024-416 adopted.
12. Resolution re-appointing Toni Peska to serve on the Newton Historic Preservation Commission for a term ending December 31, 2027
Resolution 2024-417 adopted.
13. Resolution re-appointing Rachelle Tipton and Collin Daniels to the Park Board for terms expiring on December 31, 2027
Resolution 2024-418 adopted.
14. Resolution re-appointing Rebecca Decker to serve on the Newton Building Trades Board for a term ending December 31, 2027
Resolution 2024-419 adopted.
15. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 24-17)

Resolution 2024-420 adopted.

16. Resolution fixing the amounts to be assessed against individual private properties for the abatement of nuisance violations (Schedule No. 24-18)

Resolution 2024-421 adopted.

17. Resolution approving performance agreements for the 2025 Summer Concert Series at the Maytag Bowl

Resolution 2024-422 adopted.

18. Resolution Setting a Date of Meeting at which it is Proposed to Approve an Amended Development Agreement with Hotel Maytag Investors, LLC, Including annual appropriation Tax Increment Payments

Resolution 2024-423 adopted.

19. Resolution setting a public hearing for the sale of City-owned property 1111 West 22nd Street South and Parcel Identification Number 0832477011

Resolution 2024-424 adopted.

20. Approve Bills

Public Hearing

21. Public Hearing on a Resolution Approving the Hy-Vee Minor Subdivision in the City of Newton, Jasper County, Iowa

Mayor George stated that this is the time and place for a Public Hearing on the above Resolution. There were no written comments. Moved by Mullan, seconded by Hallam to close the public hearing. AYES: Four. NAYS: None. The public hearing was closed.

22. Resolution Approving the Hy-Vee Minor Subdivision in the City of Newton, Jasper County, Iowa

Moved by Ervin, seconded by Hallam to adopt the Resolution. AYES: Four. NAYS: None. Resolution 2024-425 adopted.

Resolution

23. Resolution approving a contract with Iowa Inspections, LLC to conduct inspections for the Newton Rental Housing Inspection Program

Moved by Simbro, seconded by Ervin to adopt the Resolution. Fred Rhodes, 1099 S 52nd Ave E, and Carl Smith of Kellogg, spoke in opposition of the contract. They would like a list of contractors to choose from and call to complete the inspection. AYES: Four. NAYS: None. Resolution 2024-426 adopted.

24. Resolution authorizing the submission of a pre-application for federal Airport Improvement Program funding and certifying eligibility requirements

Moved by Hallam, seconded by Mullan to adopt the Resolution. AYES: Four. NAYS: None. Resolution 2024-427 adopted.

25. Resolution amending the parks shelter rental fee schedule

Moved by Mullan, seconded by Simbro to adopt the Resolution. AYES: Three. NAYS: Ervin. Resolution fails.

26. Resolution approving the granting of Downtown Improvement Grant funds for 111 W 2nd St. S. Chelsie Slycord

Moved by Hallam, seconded by Simbro to adopt the Resolution. AYES: Four. NAYS: None. Resolution 2024-428 adopted.

27. Resolution acknowledging developer name change, approving the interchanging of "Hotel" and "Short Term Rentals" within the Development Agreement, and initiating steps to formally amend the Agreement for Private Development with Christensen Development 1 LLC, and Jasper County

Moved by Ervin, seconded by Hallam to adopt the Resolution. AYES: Four. NAYS: None. Resolution 2024-429 adopted.

Staff Report

28. Animal Control Facility Location - Police Chief, Rob Burdess

The Chief provided information regarding 17 possible locations for the Animal Control Facility. Ten were immediately eliminated due to various issues including distance from residents and county regulations. There was consensus on getting more precise details on the Iowa Speedway Pump Station location.

Mayor/Council Comments

29. Mayor and Council Comments

Mayor George spoke about the Plant 1 Apartment Open House and the Iowa Department of Economic Development attending. She mentioned all of the Holiday

activities and to look at Newton for the Holidays. Mills spoke about all of the weather events the city has endured this year including the ice storm, the blizzard, the floods, and various thunderstorms. He applauds staff for planning ahead and keeping safety at top of mind. Simbro mentioned the exciting opening of Aldi and Mullan spoke about Ace Hardware now offering appliances and servicing.

Adjourn
Moved by Ervin, seconded by Simbro to adjourn the meeting at 7:03 P.M. Motion unanimously carried by voice vote.

Katrina Davis, City Clerk

Evelyn George, Mayor

NEWTON BUDGET WORKSHOP CITY COUNCIL MEETING MINUTES
DECEMBER 16, 2024, 7:08 PM

Call to Order

1. Roll Call
The City Council of Newton, Iowa met in special session at 7:08 P.M. on the above date in the Council Chambers at 101 West 4th Street South. Mayor George presided. Present Council Members: Mills, Mullan, Hallam, Simbro, Ervin. Absent: Dalton.

Presentation

2. Capital Improvement Projects - Candace Streeter, Sr Financial Analyst
3. Executive Team Presentations - Nicole Terry, Library Director/ Rob Burdess, Police Chief / Joe Grife, Public Works Director

The executives presented on the proposed changes to their budgets.

4. FY26 Partner Funding
Mayor and Council discussion ensued. Council will think about the numbers.
5. FY26 Budget - Lisa Frasier, Finance Officer
The City has received TIF values from the County Auditor. This is the first step in providing valuations.

Mayor/Council Comments

6. Mayor and Council Comments
There were no additional comments.

Adjourn

Moved by Mullan, seconded by Hallam to adjourn the meeting at 8:07 P.M. Motion unanimously carried by voice vote.

Katrina Davis, City Clerk

Evelyn George, Mayor

RESOLUTION NO. 2025- _____

RESOLUTION APPOINTING ASHTON BIERMAN TO THE LIBRARY BOARD OF TRUSTEES FOR A TERM ENDING JUNE 30, 2028

WHEREAS, members of the Newton Public Library Board of Trustees help set the direction for public library service in our community, lead and advocate for quality-of-life services, and plan for the future of the city’s library, and

WHEREAS, the Library Board of Trustees consists of 5 community members, fulfilling 6-year terms, dedicated to the success of the library, and

WHEREAS, Cookie Fuzell has vacated their role with their term ending as of June 30th, 2028 on the Library Board of Trustees, and

WHEREAS, Ashton Bierman has expressed an interest in serving on the Library Board of Trustees and is qualified to do so;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa: that Ashton Bierman is hereby appointed to the Library Board of Trustees for the vacated term ending June 30, 2028.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January, 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, Admin. Services Manager

City of Newton Council Report

**Item:**

Resolution Appointing the Public Works Director and City Planner to serve on the Central Iowa Regional Transportation Planning Alliance Committees in 2025

Summary:

Member governments are required to annually appoint or renew representatives to CIRTPA, the regional transportation planning organization.

Financial Impact:

None.

Report Number: 2025-002**Date:**

January 6, 2025

Lead Department:

Community Development

Recommendation:

Approve

Background:

The City of Newton is a member of the Central Iowa Regional Transportation Planning Alliance (CIRTPA), which carries out federally required transportation planning for the eight counties in central Iowa (Boone, Dallas, Jasper, Madison, Marion, rural Polk, Story, and Warren) and includes those county governments and designated cities located within those counties. Newton receives an allocation of approximately \$350,000 each year in federal Surface Transportation Program (STP) funds through CIRPTA.

Annually, CIRTPA requests that its member governments appoint representatives to the CIRTPA Technical and Policy Committees.

The proposal is to have Public Works Director Joe Grife serve as the City's 2025 primary representative to the Technical and Policy Committees, and to have City Planner Varsha Borde serve as the 2025 alternate representative to both committees.

Recommendation:

Staff recommends approval of the attached resolution

Matt Muckler, City Administrator

RESOLUTION 2025- _____

RESOLUTION APPOINTING THE PUBLIC WORKS DIRECTOR AND THE CITY PLANNER TO SERVE ON THE CENTRAL IOWA REGIONAL TRANSPORTATION PLANNING ALLIANCE COMMITTEES IN 2025

WHEREAS, the Central Iowa Regional Transportation Planning Alliance (CIRTPA) was formed in 1994 representing an eight-county area consisting of Boone, Dallas, Jasper, Madison, Marion, rural Polk, Story, and Warren Counties; and

WHEREAS, the City of Newton is a member of the CIRTPA, as organized under Iowa Code Chapter 28E; and

WHEREAS, CIRTPA annually requests that its member governments appoint representatives to the CIRTPA Technical and Policy Committees.

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that Public Works Director Joe Grife is designated as the 2025 representative to the CIRTPA Technical Committee, and that City Planner Varsha Borde is designated as the 2025 alternate representative to the CIRTPA Technical Committee.

NOW THEREFORE, BE IT FURTHER RESOLVED that Public Works Director Joe Grife is designated as the 2025 representative to the CIRTPA Policy Committee, and that City Planner Varsha Borde is designated as the 2025 alternate representative to the CIRTPA Policy Committee.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 24-18)

Summary:

The City of Newton abated some nuisances, such as tall grass/weeds and/or trash. These costs remain unpaid by the property owner(s) and should be assessed to the property taxes.

Financial Impact:

Cost Recovery: \$369.00

Report Number: 2025-001

Date:

January 6, 2025

Lead Department:

Police

Recommendation:

Approve

Background:

At their last meeting, City Council approved a Schedule of Assessment for the Expenses of Nuisance Abatement. The total amount for cost recovery is \$369.00.

The attached schedule lists owner, parcel number, address, amount to be assessed, date work was completed, property legal description, and property valuation.

With the approval of this resolution, the costs expended by the City for the abatement of nuisances will be placed on the taxes as a special assessment for each property.

Recommendation:

Staff recommends approval of the resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 24-18).

Matt Muckler, City Administrator

RESOLUTION NO. 2025 – _____

**RESOLUTION LEVYING ASSESSMENTS FOR COSTS OF
NUISANCE ABATEMENT AND PROVIDING FOR THE
PAYMENT THEREOF (SCHEDULE 24-18)**

WHEREAS, pursuant to its powers and duties as set out in Chapter 364, Code of Iowa, the City of Newton, after the property owner's failure upon being given notice and opportunity to cure, has performed the required action to abate the public nuisance and now seeks, as provided in 364.12, Code of Iowa, to assess the costs of such action against each of the properties set out on the attached Schedule No. 24-18 for collection in the same manner as the property tax.

NOW, THEREFORE, BE IT RESOLVED, that the attached Schedule No. 24-18, is hereby approved and adopted with the amounts shown thereon assessed and levied against each property for the collection in the same manner as a property tax.

BE IT FURTHER RESOLVED, that said assessments shall be payable in 1 annual installment and shall bear interest at the rate of 3.88 percent per annum, from the date of the acceptance of this assessment schedule; the one installment of each assessment with interest on the whole assessment from date of acceptance of this schedule by the Council shall become due and payable on January 15, 2025, and shall be paid at the same time and in the same manner as the semiannual payment of ordinary taxes. Said assessment shall be payable at the office of the County Treasurer of Jasper County, Iowa, in full and without interest within thirty days after first date of publication of the Notice to Property Owners of filing the schedule of assessments.

BE IT FURTHER RESOLVED, that the Clerk be and is hereby directed to certify said schedule to the County Treasurer of Jasper County, Iowa and to publish notice of said certification once each week for two consecutive weeks in the Newton Daily News, a newspaper printed wholly in the English language, published in Newton, Iowa, and of general circulation in Newton, Iowa, the first publication of said notice to be made within fifteen days from the date of the filing of said schedule with the County Treasurer, the City shall send by regular mail to all property owners whose property is subject to assessment a copy of said notice, said mailing to be on or before the date of the second publication of the notice all as provided and directed by Code Section 384.60, Code of Iowa.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January, 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

Schedule 24-18: Assessment for the Expenses for Nuisance Abatement

				Net Assessed Property Value	Abatement Fee	Admin. Fee	Total Amount Assessed	Legal	Date Abated
Deed/Contract Holder	Parcel Number	Property Address	City						
Robert Miller Jr	827302004	914 W 3rd St N	Newton	\$63,920	\$219.00	\$150.00	\$369.00	SANDERSON'S SD LOT 8	10/28/2024
						TOTAL:	\$369.00		

City of Newton Council Report

**Item:**

Resolution approving Newton Sanitary Landfill Comprehensive Plan Update IX and authorizing submittal to the Department of Natural Resources.

Summary:

Replace the existing 2019 Comprehensive Plan Update VIII as required by IDNR.

Financial Impact:

N/A

Report Number: 2025-003

Date:

January 6, 2025

Lead Department:

Public Works

Recommendation:

Approve

Background:

The Newton Sanitary Landfill must update the Comprehensive Plan every five (5) years. The Iowa Department of Natural Resources requires this document, which generally addresses progress and goals associated with reducing the amount of waste deposited in the landfill. This is the ninth (9) update of the Comprehensive Plan.

The subsequent Comprehensive Plan Update is to be submitted to the Iowa Department of Resources (IDNR) for review by February 1, 2025. To meet this deadline, the city must conduct public meetings, adopt the plan, and provide evidence of cooperation from member municipalities in a timely manner.

HLW Engineering was hired to assist the Newton Sanitary Landfill in preparing the appropriate documents necessary to complete the updates to the Comprehensive Plan.

Recommendation:

City staff recommends approval of the Newton Sanitary Landfill Comprehensive Plan VIII and authorizes HLW Engineering to submit the Comp Plan IX to the Iowa Department of Natural Resources on behalf of the City of Newton.

Matt Muckler, City Administrator

RESOLUTION NO. 2025-_____

**RESOLUTION APPROVING THE NEWTON SANITARY LANDFILL COMPREHENSIVE
PLAN UPDATE IX AND AUTHORIZING SUBMITTAL TO THE IOWA DEPARTMENT OF
NATURAL RESOURCES**

WHEREAS section 455B.302 Code of Iowa requires every city and county of this state to provide for the establishment and operation of a comprehensive solid waste reduction program consistent with the waste management hierarchy under section 455B.301A, and a sanitary disposal project for final disposal of solid waste by its residents; and

WHEREAS, section 455B.306(1) of the Code of Iowa requires that all cities and counties file with the director of the department of natural resources a comprehensive plan detailing the method by which the city or county will comply with the requirements of section 455B.302 to establish and implement a comprehensive solid waste reduction program for its resident; and

WHEREAS, a comprehensive plan, as described in section 455B.306 of the Code of Iowa has been prepared at the direction of and in participation with the City of Newton, Jasper County, Iowa, entitled Subsequent Part IX Solid Waste Management Comprehensive Plan, by HLW Engineering Group and dated December 2024; and

WHEREAS, the City Council has determined that the adoption and implementation of the proposed comprehensive plan is in the best interest of the Plan Area with respect to satisfying their statutory duties.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the City Council of Newton, that the proposed comprehensive plan is hereby adopted as the comprehensive solid waste reduction plan for the Plan Area.

AND BE IT FUTHER RESOLVED that the Plan Area shall implement and participate in the programs set forth in the comprehensive plan.

AND BE IT FUTHERED RESOLVED that the comprehensive plan shall be submitted to the Department of Natural Resources, on behalf of the City of Newton in satisfaction of section 455B.306(1) of the Code of Iowa.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January, 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution approving performance contract with Enchanted Entertainment LLC to provide DJ services for the Independence Day Celebration on July 4, 2025

Summary:

Approving DJ Contract for July 4, 2025 celebration

Financial Impact:

\$500.00

Report Number: 2024-1254**Date:**

January 6, 2025

Lead Department:

Community Development

Recommendation:

Approve

Background:

Each year, the City engages a DJ to enhance the festive atmosphere at Agnes Patterson Park for the July 4th celebration.

Enchanted Entertainment has agreed to provide that service on July 4, 2025 from 6:15 to 9:15 pm.

This resolution approves the performance contract with Enchanted Entertainment.

Recommendation:

Staff recommends approval.

Matt Muckler, City Administrator

RESOLUTION 2025- _____

RESOLUTION APPROVING PERFORMANCE CONTRACT WITH ENCHANTED ENTERTAINMENT LLC TO PROVIDE DJ SERVICES FOR THE INDEPENDENCE DAY CELEBRATION ON JULY 4, 2025

WHEREAS, the City of Newton plans an Independence Day Celebration at Agnes Patterson Park on July 4, 2025; and

WHEREAS, it is desirable to engage a DJ during the event to enhance the festive atmosphere; and

WHEREAS, Enchanted Entertainment LLC has agreed to provide DJ services at Agnes Patterson Park on July 4, 2025 from 6:15 pm to 9:15 pm;

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that this resolution is approved authorizing the Community Development Director to execute the said performance contract with Enchanted Entertainment LLC for July 4, 2025 DJ services.

PASSED this _____ day of January, 2025

APPROVED this _____ day of January, 2025

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk



Performance Contract

City of Newton Parks & Recreation, henceforth known as "Client," agrees to hire Enchanted Entertainment LLC, henceforth known as "Artist," to DJ for our Independence Day Celebration at Agnes Patterson Park on July 4th, 2025.

Furthermore, the two parties agree to the following:

Artist will play Music at Agnes Patterson Park on July 4th, 2025, from 6:15 pm to 9:15 pm.

Client will pay artist \$500.00 as compensation for this performance, payable via check the night of the performance. Please note on the line below to whom the check should be made out to: Enchanted Entertainment LLC and fill out / sign W-9 form and return with performance contract.

Setup for the performance will be the responsibility of Artist. The Artist will supply sound equipment, microphones, electrical cords and lights for this performance.

If Client cancels the performance with less than 48 hours to go until performance date excluding weather conditions, they will pay Artist the full amount contracted. If weather conditions require cancellation, the Client will make that call by 2:00pm the day of the performance and arrange a make-up concert date if the Artist schedule allows. If unable to make-up, Artist will receive no payment.

If Artist has to cancel the performance, they will receive no payment.

This contract is enforceable according to the laws and regulations of the state of Iowa.

Signed this date: 12/15/2024

Michael Larkins

Artist Name Printed

Michael Larkins

Artist Signature

Erin Chambers

City of Newton Community Development

Client Signature

City of Newton Council Report

**Item:**

Resolution awarding contract for the Public Works/ Community Development Wash Bay Project

Summary:

Award contract to Jensen Builders for the Public Works Community Development Wash Bay Project

Financial Impact:

\$724,200 from a combination of RUT and 2023 General Bond Funds

Report Number: 2024-1260**Date:**

January 6, 2025

Lead Department:

Public Works

Recommendation:

Approve

Background:

The current wash bay is constructed within an existing pole building with metal sheeting on the walls and ceiling. The constant use of water during washing operations and road salt from snow removal operations is deteriorating the building to the point it is rotting the structure. Additionally, the extra use with moving Parks operations to this location has expedited the rot and corrosion, and the size of the current wash bay does not fit all of the larger equipment. The Farnsworth Group prepared plans and specifications for a stand-alone 40'x60x19' wash bay and placed them out for bid.

The following submitted bids were received and opened on December 12, 2024:

Company	Total Bid + Add-Alternate
Jensen Builders, Inc. Fort Dodge, IA	\$724,200.00
Graphite Construction Grp., Des Moines, IA	\$770,400.00
Edge Commercial, Grimes, IA	\$779,500.00
Eick & Day Construction, Johnston, IA	\$815,000.00

The lowest responsive, responsible bidder is Jensen Builders, Inc., Fort Dodge, IA, with a base bid of \$753,000.00 and an add-alternate with a deduct of \$28,800.00 for insulated metal roof panels in lieu of traditional roof assembly. The engineer's construction cost estimate was \$750,838.00. This project has a completion date of August 1, 2025.

Recommendation:

Award the project to the lowest responsive, responsible bidder, Jensen Builders, Inc. of Fort Dodge, IA, utilizing \$724,100 from a combination of RUT and 2023 General Bond Funds.

Matt Muckler, City Administrator

RESOLUTION NO. 2025-_____

**RESOLUTION AWARDING CONTRACT FOR THE PUBLIC WORKS
COMMUNITY DEVELOPMENT WASH BAY PROJECT**

WHEREAS, the current wash bay is constructed within an existing pole building with metal sheeting on the walls and ceiling. The constant use of water during washing operations and road salt from snow removal operations is deteriorating the building to the point it is rotting the structure. Additionally, the extra use with moving Parks operations to this location has expedited the rot and corrosion, and the size of the current wash bay does not fit all of the larger equipment; and

WHEREAS, The Farnsworth Group prepared plans and specifications for a stand-alone 40'x60x19' wash bay and placed them out for bid; and

WHEREAS, sealed bids were received and opened on December 12, 2024; and

WHEREAS, City staff recommends that the City of Newton award a contract to Jensen Builders, Inc. of Fort Dodge, IA, for the Public Works Community Development Wash Bay Project based on the low responsive, responsible bid received in the amount of \$724,200.00.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the bid of Jensen Builders, Inc. of Fort Dodge, IA, in the amount Seven Hundred and Twenty-Four Thousand and Two Hundred Dollars and Zer Cents (\$724,200.00) for the Public Works Community Development Wash Bay Project as described in the plans and specifications, is hereby accepted with the cost to be paid from a combination of road use tax and 2023 general bond funds; and

BE IT FURTHER RESOLVED, by the City Council of the City of Newton, Iowa, that the Contract and Bond executed by Jensen Builders, Inc. of Fort Dodge, IA, for the Public Works Community Development Wash Bay Project as described by the plans and specifications filed in the office of the City Clerk, be signed by the Mayor and City Clerk on behalf of the City.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January, 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution approving Change Order #2 for the Westwood Clubhouse Phase #2 Interior Improvements Project

Summary:

Approval of change order #2 Ball Team, LLC for the Westwood Clubhouse Phase #2 Interior Improvements Project.

Financial Impact:

Council previously approved a contract for \$692,000.00 on October 26, 2024; this action would approve a change order for an additional \$7,074.00.

Report Number: 2024-1261**Date:**

January 6, 2025

Lead Department:

Community Development

Recommendation:

Approve

Background:

On September 13, 2022, Newton residents approved a park bond referendum, which included the construction of a new clubhouse at the Westwood Golf Course. This led to plans being prepared and bids received on August 17, 2023, for said clubhouse project. Due to the high bid prices received, the City Council rejected bids per Resolution 2023-245 on September 5, 2023. City staff reacted immediately by working on an alternate plan to construct a more affordable clubhouse, which satisfies the language of the bond referendum while still meeting the needs of the golf course.

On October 26, 2024, Council awarded Ball Team, LLC a contract for \$692,000.00 to construct footings and other exterior improvements. During construction, it was discovered that there was a scope gap between this project and the Morton Buildings project. Studs or furring strips are needed on the inside of the building to span between posts to install drywall. This work was not included in either project. Ball Team, LLC has proposed a change order to complete this work for \$7,074.00. Ball Team, LLC has also requested 4 additional days to be added to the project to complete this work.

After reviewing the change order and proposed costs, City staff recommends approval of change order #2 from Ball Team, LLC for a price increase of \$7,074.00.

Recommendation:

City staff recommends approving change order #2 from Ball Team, LLC.

Matt Muckler, City Administrator

RESOLUTION 2025- _____

**RESOLUTION APPROVING CHANGE ORDER #2 FOR THE
WESTWOOD CLUBHOUSE PHASE #2 INTERIOR
IMPROVEMENTS PROJECT**

WHEREAS, on September 13, 2022, Newton residents approved a park bond referendum, which included the construction of a new clubhouse at the Westwood Golf Course. This led to plans being prepared and bids received on August 17, 2023, for said clubhouse project. Due to the high bid prices received, the City Council rejected bids per Resolution 2023-245 on September 5, 2023. City staff reacted immediately by working on an alternate plan to construct a more affordable clubhouse, which satisfies the language of the bond referendum while still meeting the needs of the golf course; and

WHEREAS, on October 26, 2024, Council awarded Ball Team, LLC a contract for \$692,000.00 to construct footings and other exterior improvements. During construction, it was discovered that there was a scope gap between this project and the Morton Buildings project. Studs or furring strips are needed on the inside of the building to span between posts to install drywall. This work was not included in either project. Ball Team, LLC has proposed a change order to complete this work for \$7,074.00. Ball Team, LLC has also requested four additional days to be added to the project to complete this work; and

WHEREAS, after reviewing the change order and proposed costs, City staff recommends approval of change order #2 from Ball Team, LLC, for a total price increase of \$7,074.00.

NOW, THEREFORE, BE IT RESOLVED that change order #1 from Ball Team, LLC in the amount of Seven Thousand and Seventy-Four Dollars and Zero Cents (\$7,074.00), which will be paid from bond funds, is hereby approved.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January, 2025.

ATTEST:

Katrina Davis, City Clerk

Evelyn George, Mayor



10550 New York Ave, Suite 200
Urbandale, IA 50322
Main: 515.440.4544

Change Request #02

City of Newton
Community Development Department
Attn: Joe Grife, Public Works Director
303 W 4th Street North, Suite 501
Newton, IA 50208

Project: **Westwood Clubhouse - Phase 2**
Project No: **24-089**
Reference No: **N/A**

Date: **12/20/2024**

Description:

Exterior wall furring. Includes 2x4 horizontal sleepers attached to building posts @ 24" o.c. for drywall attachment. Sleepers/drywall to stop 6" above ceilings and/or to deck at exposed ceiling areas.

Time Extension: 4 Days

TOTAL: \$7,074

Submitted by:

Austin Horner, Ball Team

Date:

12/20/2024

Reviewed by:

Erik Pingel, ISG

Date:

Accepted by:

Joe Grife, City of Newton

Date:

City of Newton Council Report

**Item:**

Resolution authorizing the submittal of the USDOT Standard Title VI/Non-Discrimination Assurances document and Iowa DOT Title VI Non-Discrimination Agreement.

Summary:

To remain compliant with Federal law and be eligible for State and Federal funding, the respective Title VI/Non-Discrimination Assurances and Agreement documents must be resubmitted periodically to spell out the City's commitment to comply with all acts and regulations related to Civil Rights and discrimination.

Financial Impact:

Loss of future funding grants if not submitted.

Report Number: 2024-1263**Date:**

January 6, 2025

Lead Department:

Public Works

Recommendation:

Approve

Background:

On December 3, 2012, City Council approved Resolution 2012-139 authorizing the establishment of a Title VI Non-Discrimination Program, along with the submittal of the required United States Dept. of Transportation (USDOT) Standard Title VI/Non-Discrimination Assurances document and Iowa Dept. of Transportation (Iowa DOT) Title VI Non-Discrimination Agreement. Following this initial action, annual Title VI accomplishment reports have been prepared by the City's Title VI Coordinator, with this title currently being held by Public Works Department Civil Engineering Technician Brandon Schakel since October 2023. Council also took action on January 12, 2015, and approved Resolution 2015-003, which authorized the submittal of an updated USDOT Standard Title VI/Non-Discrimination Assurances document.

As part of a recent Title VI Compliance Review meeting conducted by the Iowa DOT, it was noted that the City of Newton's USDOT Standard Title VI/Non-Discrimination Assurances document and Iowa DOT Title VI Non-Discrimination Agreement need to be updated and resubmitted. The Public Works Department has prepared said documents with the assistance of the Iowa DOT, and needs City Council approval prior to their submittal.

Recommendation:

City Staff recommends approval of the Resolution authorizing the submittal of the USDOT Standard Title VI/Non-Discrimination Assurances document and Iowa DOT Title VI Non-Discrimination Agreement.

Matt Muckler, City Administrator

RESOLUTION 2025- _____

RESOLUTION AUTHORIZING THE SUBMITTAL OF THE USDOT STANDARD TITLE VI/NON-DISCRIMINATION ASSURANCES DOCUMENT AND IOWA DOT TITLE VI NON-DISCRIMINATION AGREEMENT.

WHEREAS, on December 3, 2012 City Council approved Resolution 2012-139 authorizing the establishment of a Title VI Non-Discrimination Program, along with the submittal of the required United States Dept. of Transportation (USDOT) Standard Title VI/Non-Discrimination Assurances document and Iowa Dept. of Transportation (Iowa DOT) Title VI Non-Discrimination Agreement; and

WHEREAS, subsequent council action on January 12, 2015 approved Resolution 2015-003, which authorized the submittal of an updated USDOT Standard Title VI/Non-Discrimination Assurances document; and

WHEREAS, as part of a recent Title VI Compliance Review meeting conducted by the Iowa DOT, it was noted that the City of Newton’s USDOT Standard Title VI/Non-Discrimination Assurances document and Iowa DOT Title VI Non-Discrimination Agreement need to be updated and resubmitted again; and

WHEREAS, to remain in compliance with Federal law and be eligible for State and Federal funding, the respective Title VI/Non-Discrimination Assurances and Agreement documents must be resubmitted periodically to spell out the City’s commitment to comply with all acts and regulations related to Civil Rights and discrimination; and

WHEREAS, the Public Works Department has prepared said documents with the assistance of the Iowa DOT, and needs City Council approval prior to their submittal.

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that the United States Dept. of Transportation (USDOT) Standard Title VI/Non-Discrimination Assurances document and Iowa Dept. of Transportation (Iowa DOT) Title VI Non-Discrimination Agreement both be signed by the Mayor and submitted to the Iowa DOT.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January, 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

The United States Department of Transportation (USDOT)

Standard Title VI/Non-Discrimination Assurances

DOT Order No. 1050.2A

The _____ (herein referred to as the “Recipient”), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the United States Department of Transportation (DOT), through the **Federal Highway Administration (FHWA)**, is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled *Nondiscrimination In Federally-Assisted Programs Of The Department Of Transportation—Effectuation Of Title VI Of The Civil Rights Act Of 1964*);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the “Acts” and “Regulations,” respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

*“No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity,” for which the Recipient receives Federal financial assistance from DOT, including the **FHWA**.*

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973) by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted **Federal Highway Program**:

1. The Recipient agrees that each “activity,” “facility,” or “program,” as defined in §§ 21.23 (b) and 21.23 (e) of 49 C.F.R. § 21 will be (with regard to an “activity”) facilitated, or will be (with regard to a “facility”) operated, or will be (with regard to a “program”) conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.

2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all **Federal Highway Programs** and, in adapted form, in all proposals for negotiated agreements regardless of funding source:

“The _____, in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award.”

3. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
4. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
5. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
6. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
7. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
8. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
9. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal

financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.

10. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, _____ also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the **FHWA** access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by the **FHWA**. You must keep records, reports, and submit the material for review upon request to **FHWA**, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

_____ gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the **Federal Highway Program**. This ASSURANCE is binding on **Iowa**, other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the **Federal Highway Program**. The person (s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, **Federal Highway Administration**, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor’s obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the **Federal Highway Administration** to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the **Federal Highway Administration**, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor’s noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the **Federal Highway Administration** may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the **Federal Highway Administration** may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the Department of Transportation as authorized by law and upon the condition that the _____ will accept title to the lands and maintain the project constructed thereon in accordance with laws of the state of Iowa, the Regulations for the Administration of **Federal Highway Program**, and the policies and procedures prescribed by the **Federal Highway Administration** of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the _____ all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto _____ and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the _____, its successors and assigns.

The _____, in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the _____ will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the _____ pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, _____ will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the _____ will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the _____ and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/ agreements entered into by _____ pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non-discrimination covenants, _____ will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, _____ will there upon revert to and vest in and become the absolute property of _____ and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the “contractor”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21;
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 -- 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).

Title VI Non-Discrimination Agreement
Iowa Department of Transportation
and
CITY of NEWTON, IOWA

Agency Information

Name and title of administrative head:

Name: Evelyn George Title: Mayor, City of Newton, Iowa

Address: 101 West 4th Street South

City: Newton State: IA ZIP Code: 50208 County: JASPER

Phone/FAX: 641-521-0329/na Email: evelyng@newtongov.org

Name and title of designated Title VI coordinator:

Name: Brandon Schakel Title: Title VI Coordinator/Public Works Engineer

Address: Public Works Department, 303 West 4th Street North, Suite 501

City: Newton State: IA ZIP Code: 50208 County: JASPER

Phone/FAX: 641-792-6622 {2318} Email: Brandons@newtongov.org

*If the Title VI coordinator changes, please contact the Iowa DOT Title VI specialist.

Title VI Program

I. Organization and staffing

Pursuant to 23 C.F.R. § 200, CITY of NEWTON, IOWA has appointed a Title VI coordinator identified above, who is responsible for implementing and monitoring the local public agency's (LPA's) Title VI program per this agreement, and is the representative for issues and actions pertaining to this agreement. The LPA will provide the Iowa Department of Transportation with a copy of the LPA's organizational chart that illustrates the level and placement of the Title VI coordinator.

The LPA will notify the Iowa DOT in writing of any changes to the LPA's organization chart, Title VI coordinator or Title VI coordinator contact information.

II. Assurances required

Pursuant to 49 C.F.R. § 21.7, every application for federal financial assistance or continuing federal financial assistance must provide a statement of assurance and give reasonable guarantee that the program is (or, in the case of a new program, will be) conducted in compliance with all requirements imposed by or pursuant to 49 C.F.R. § 21 (Nondiscrimination in Federally Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964). Fully executed standard DOT Assurances (including Appendices A, B and C) are attached to this agreement.

III. Implementation procedures

This agreement shall serve as the LPA's Title VI plan pursuant to 23 C.F.R. § 200 and 49 C.F.R. § 21. For the purpose of this agreement, "federal assistance" shall include all of the following.

- Grants and loans of federal funds.
- The grant or donation of federal property and/or interest in property.
- The detail of federal personnel.
- The sale and lease of, and permission to use (on other than a casual or transient basis), federal property or any interest in such property without consideration or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the LPA, or in recognition of the public interest to be served by such sale or lease to the LPA.
- Any federal agreement, arrangement or other contract that has as one of its purposes the provision of assistance.

The LPA shall:

1. Issue a policy statement, signed by the head of the LPA, which expresses its commitment to the nondiscrimination provisions of Title VI. The policy statement shall be circulated throughout the LPA's organization and to the public. Such information shall be published where appropriate in languages other than English.
2. Take affirmative action to correct any deficiencies found by the Iowa DOT, Federal Highway Administration or U.S. Department of Transportation (USDOT) within a reasonable time period, not to exceed 90 days, to implement Title VI compliance in accordance with this agreement. The head of the LPA shall be held responsible for implementing Title VI requirements.
3. Designate a Title VI coordinator who has a responsible position in the organization and easy access to the head of the LPA. The coordinator shall be responsible for implementing and monitoring Title VI activities and preparing required reports.
4. Develop and implement a public involvement plan that includes low-income and minority community outreach and ensures those persons who are limited-English proficient (LEP) can access services.
5. Process complaints of discrimination consistent with the provisions contained in this agreement. Investigations shall be conducted by civil rights personnel trained in discrimination complaint investigations. Identify each complainant by race, color, national origin or gender, the nature of the complaint, date the complaint was filed, date the investigation was completed, disposition, date of disposition, and other pertinent information. A copy of the complaint, together with a copy of the LPA's report of investigation, shall be forwarded to the Iowa DOT's civil rights coordinator within 60 days of the date the complaint was received by the LPA.
6. Collect statistical data (race, color, national origin, age, gender, disability, LEP and income of populations in service area) of participants in, and beneficiaries of, the programs and activities conducted by the LPA.
7. Conduct Title VI self-assessment of the LPA's program areas and activities, and of second-tier sub-recipients, contractor/consultant program areas and activities. Where applicable, revise policies, procedures and directives to include Title VI requirements. Ensure that programs, policies, and other activities do not have disproportionate adverse effects on minority and low-income populations.
8. Conduct training programs on Title VI and related statutes.
9. Prepare a yearly report of Title VI accomplishments and changes to the program covering the prior year, and identify goals and objectives for the coming year.
 - o **Annual work plan:** Outline Title VI monitoring and review activities planned for the coming year; and indicate a target date for completion.
 - o **Accomplishment report:** List major accomplishments made regarding Title VI activities. Include instances where Title VI issues were identified and discrimination was prevented. Indicate activities and efforts the Title VI coordinator and program area personnel have undertaken in monitoring Title VI. Include a description of the scope and conclusions of any special internal and external reviews conducted by the Title VI coordinator. List any major problem(s) identified and corrective action(s) taken. Include a summary and status report on any Title VI complaints filed with the LPA. Include a listing of complaints received against second-tier sub-recipients, if any, as well as a summary of complaints and actions taken.
10. Include Title VI compliant language in all contracts to second-tier sub-recipients.

IV. Discrimination complaint procedures – allegations of discrimination in federally assisted programs or activities

The LPA adopts the following discrimination complaint procedures for complaints relating to federally assisted transportation-related programs or activities.

1. **Filing a discrimination complaint:** Any person who believes that he or she, or any class of individuals, or in connection with any disadvantaged business enterprise, has been or is being subjected to discrimination prohibited by Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d; the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq.; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 701 et seq.; and the Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28, has the right to file a complaint.

Any individual wishing to file a discrimination complaint must be given the option to file the complaint with the LPA, or directly with the Iowa DOT, FHWA, USDOT and U.S. Department of Justice. Complaints may be filed with all agencies simultaneously.

No individual or agency shall refuse service, discharge or retaliate in any manner against any persons because that individual has filed a discrimination complaint, instituted any proceeding related to a discrimination complaint, testified, or is about to testify, in any proceeding or investigation related to a discrimination complaint, or has provided information or assisted in an investigation.

2. **Complaint filing time-frame:** A discrimination complaint must be filed within 180 calendar days of one of the following.
 - (a) The alleged act of discrimination.
 - (b) Date when the person(s) became aware of the alleged discrimination
 - (c) Date on which the conduct was discontinued, if there has been a continuing course of conduct.

The LPA or their designee may extend the time for filing or waive the time limit in the interest of justice, specifying in writing the reason for so doing.

3. **Contents of a complaint:** A discrimination complaint must be written. The document must contain the following information.
 - a) The complainant's name and address, or other means by which the complainant may be contacted.
 - b) Identification of individual(s) or organization(s) responsible for the alleged discrimination.
 - c) A description of the complainant's allegations, which must include enough detail to determine if the LPA has jurisdiction over the complaint and if the complaint was filed timely.
 - d) Specific prohibited bases of alleged discrimination (i.e., race, color, gender, etc.)
 - e) Apparent merit of the complaint.
 - f) The complainant's signature or signature of his/her authorized representative.

In the event that a person makes a verbal complaint of discrimination to an officer or employee of the LPA, the complainant shall be interviewed by the LPA's Title VI coordinator. If necessary, the Title VI coordinator will assist the complainant in reducing the complaint to writing and then submit the written version of the complaint to the person for signature.

4. **Complaints against the LPA:** Any complaints received against the LPA should immediately be forwarded to the Iowa DOT for investigation. The LPA shall not investigate any complaint in which it has been named in the complaint. The contact information for the Iowa DOT's Title VI program is:

Iowa Department of Transportation
Office of Employee Services – Civil Rights
800 Lincoln Way
Ames, Iowa 50010
515-239-1422
515-817-6502 (fax)
dot.civilrights@iowadot.us

5. **Notice of Receipt:** All complaints shall be referred to the LPA's Title VI coordinator for review and action. Within 10 days of receipt of the discrimination complaint, the coordinator shall issue an initial written Notice of Receipt that:
 - a) Acknowledges receipt of the discrimination complaint.
 - b) Advises the complainant of his/her right to seek representation by an attorney or other individual of his or her choice in the discrimination complaint process.
 - c) Contains a list of each issue raised in the discrimination complaint.
 - d) Advises the complainant of the timeframes for processing the discrimination complaint and providing a determination.
 - e) Advises the complainant of other avenues of redress of their complaint, including the Iowa DOT, FHWA, USDOT and USDOJ.
6. **Notification of the Iowa DOT of a complaint:** The LPA shall advise the Iowa DOT within 10 business days of receipt of the complaint. Generally, the following information will be included in every notification to the Iowa DOT.
 - a) Name, address and phone number of the complainant.
 - b) Name(s) and address(es) of alleged discriminating official(s).
 - c) Basis of complaint (i.e., race, color, national origin, gender).
 - d) Date of alleged discriminatory act(s).
 - e) Date of complaint received by the LPA.
 - f) A statement of the complaint.
 - g) Other agencies (state, local or federal) where the complaint has been filed.
 - h) An explanation of the actions the LPA has taken or proposed to resolve the issue identified in the complaint.
7. **Processing a complaint and time-frame:** The total time allowed for processing the discrimination complaint is 90 calendar days from the date the complaint was filed. There is no extension available at this level. This time-frame includes 60 calendar days at the LPA level and 30 days for review at the state level, if needed.

If the complainant elects to file a complaint with both the LPA and Iowa DOT, the complainant shall be informed that the LPA has 90 calendar days to process the discrimination complaint and the Iowa DOT shall not investigate the complaint until the 90 calendar-day period has expired.

Immediately after issuance of the Notice of Receipt to the complainant (step four), the LPA's Title VI coordinator shall either begin the fact-finding or investigation of the discrimination complaint, or arrange to have an investigation conducted.

Based on the information obtained during that investigation, the coordinator shall render a recommendation for action in a Report of Findings to the head of the LPA.

8. **Alternative dispute resolution/mediation process:** The complainant must be given an invitation to participate in mediation to resolve the complaint by informal means. The LPA's Title VI coordinator shall include an invitation to mediation with the Notice of Receipt, offering the opportunity to use the alternative dispute resolution/mediation process.

If the complaint selects mediation, it allows disputes to be resolved in a less adversarial manner. With mediation, a neutral party assists two opposing parties in a dispute come to an agreement to resolve their issue. The mediator does not function as a judge or arbiter, but simply helps the parties resolve the dispute themselves.

Upon receiving a request to mediate, the LPA's Title VI coordinator shall identify or designate a mediator who must be a neutral and impartial third party. The mediator must be a person acceptable to all parties and who will assist the parties in resolving their disputes.

If the complainant chooses to participate in mediation, she or he or the designee must respond in writing within 10 calendar days of the date of the invitation. This written acceptance must be dated and signed by the complainant and must also include the relief sought.

After mediation is arranged, a written confirmation identifying the date, time and location of the mediation conference shall be sent to both parties. If possible, the mediation process should be completed within 30 calendar days of receipt of the discrimination complaint. This will assist in keeping within the 90 calendar-day time-frame of the written Notice of Final Action if the mediation is not successful.

If resolution is reached under mediation, the agreement shall be in writing. A copy of the signed agreement shall be sent to the Iowa DOT's Title VI program coordinator. If an agreement is reached, but a party to it believes his/her agreement has been breached, the non-breaching party may file another complaint. If the parties do not reach resolution under mediation, the LPA's Title VI coordinator shall continue with the investigation.

9. **Notice of Final Action:** A written Notice of Final Action shall be provided to the complainant within 60 days of the date the discrimination complaint was filed. It shall contain:
- a) A statement regarding the disposition of each issue identified in the discrimination complaint and reason for the determination.
 - b) A copy of the mediation agreement, if the discrimination complaint was resolved by mediation.
 - c) A notice that the complainant has the right to file a complaint with the Iowa DOT, FHWA, USDOT or USDOJ within 30 calendar days after the Notice of Final Action, if she or he is dissatisfied with the final action on the discrimination complaint.

The LPA's Title VI coordinator shall provide the Iowa DOT's Title VI program coordinator with a copy of this decision, as well as a summary of findings upon completion of the investigation. Should deficiencies be noted in the implementation of these discrimination complaint procedures by the LPA, the Iowa DOT's Title VI program coordinator will work in conjunction with the LPA's Title VI coordinator to review the information and/or provide technical assistance in the discrimination complaint process, mediation process, and/or investigation.

10. **Corrective action:** If discrimination is found through the process of a complaint investigation, the respondent shall be requested to voluntarily comply with corrective action(s) or a conciliation agreement to correct the discrimination.
11. **Confidentiality:** LPA and Iowa DOT Title VI program coordinators are required to keep the following information confidential to the maximum extent possible, consistent with applicable law and fair determination of the discrimination complaint.
- a) The fact that the discrimination complaint has been filed.
 - b) The identity of the complainant(s).
 - c) The identity of individual respondents to the allegations.
 - d) The identity of any person(s) who furnished information relative to, or assisting in, a complaint investigation.
12. **Record keeping:** The LPA's Title VI coordinator shall maintain a log of complaints filed that alleged discrimination. The log must include:
- a) The name and address of the complainant.
 - b) Basis of discrimination complaint.
 - c) Description of complaint.
 - d) Date filed.
 - e) Disposition and date.
 - f) Any other pertinent information.

All records regarding discrimination complaints and actions taken on discrimination complaints must be maintained for a period of not less than three years from the final date of resolution of the complaint.

V. Sanctions

In the event the LPA fails or refuses to comply with the terms of this agreement, the Iowa DOT may take any or all of the following actions.

- a) Cancel, terminate or suspend this agreement in whole or in part.
- b) Refrain from extending any further assistance to the LPA under the program from which the failure or refusal occurred, until satisfactory assurance of future compliance has been received from the LPA.
- c) Take such other action that may be deemed appropriate under the circumstances, until compliance or remedial action has been accomplished by the LPA.
- d) Refer the case to the USDOJ for appropriate legal proceedings.

IOWA DEPARTMENT OF TRANSPORTATION

City of NEWTON, IOWA

Signature

Steven F Kerber, Affirmative Action Officer 2, Civil Rights

Printed Name and Title

Date

Signature

Evelyn George, Mayor, City of Newton, Iowa

Printed Name and Title

Date

Title VI Non-discrimination Policy Statement

The CITY of NEWTON, IOWA, hereinafter referred to as the LPA, hereby assures that no person shall on the grounds of race, color, national origin, gender, age or disability, as provided by Title VI of the Civil Rights Act of 1964, 42 U.S.C. §2000d, and the Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28, be excluded from participation in, be denied the benefits of or be otherwise subjected to discrimination under any program or activity receiving federal financial assistance. The LPA further assures every effort will be made to ensure nondiscrimination in all of its programs and activities, regardless of whether those programs and activities are federally funded.

It is the policy of the LPA to comply with Title VI of the Civil Rights Act of 1964; Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e; Age Discrimination Act of 1975, 42 U.S.C. §§ 6101-6107; Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. §§ 4601-4655; 1973 Federal Aid Highway Act, 23 U.S.C. § 324; Title IX of the Education Amendments of 1972, Pub. L. No. 92-318, 86 Stat. 235; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 701 *et seq*; Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28; Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 *et seq.*; Title VIII of the Civil Rights Act 1968, 42 U.S.C. §§ 3601-3631; Exec. Order No. 12898, 59 Fed. Reg. 7629 (1994) (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations); and Exec. Order No. 13166, 65 Fed. Reg. 50121 (2000) (Improving Access to Services for Persons with Limited English Proficiency).

The Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28, broadened the scope of Title VI coverage by expanding the definition of terms "programs or activities" to include all programs or activities of federal-aid recipients, subrecipients and contractors/consultants, regardless of whether such programs and activities are federally assisted.

Pursuant to the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112, 87 Stat. 355, the LPA hereby gives assurance that no qualified disabled person shall, solely by reason of disability, be excluded from participation in, be denied the benefits of or otherwise be subjected to discrimination, including discrimination in employment, under any program or activity that receives or benefits from this federal financial assistance.

The LPA also assures that every effort will be made to prevent discrimination through the impacts of its programs, policies and activities on minority and low-income populations. In addition, the LPA will take reasonable steps to provide meaningful access to services for persons with LEP. The LPA will, where necessary and appropriate, revise, update and incorporate nondiscrimination requirements into appropriate manuals, directives and regulations.

In the event the LPA distributes federal-aid funds to a second-tier subrecipient, the LPA will include Title VI language in all written agreements.

The LPA's Brandon Schakel, Title VI Coordinator/Public Works Eng, is responsible for initiating and monitoring Title VI activities, preparing reports and performing other responsibilities, as required by 23 C.F.R. § 200 and 49 C.F.R. § 21.

Signature

Evelyn George, Mayor, City of Newton, Iowa

Printed Name and Title

Date

City of Newton Council Report

**Item:**

Resolution for the City of Newton to take part in the Iowa Tourism Offices' Arrivalist Visitation Dashboard Co-op

Report Number:**Date:**

January 6, 2025

Lead Department:

Community Development

Recommendation:

Approve

Summary:

Arrivalist's State Visitation Dashboard features data segmented by city and county for insights on monthly visitation, origin markets, length of stay and more. The co-op program includes exclusive access to the State Visitation Dashboard with data from January 2021 through December 2025.

Financial Impact:

\$2,500 from Hotel/Motel Tax Fund (Community Marketing - Tourism Marketing)

Background:

The Iowa Arrivalist State Visitation Dashboard provides total Iowa travelers, state of origin, day of travel, length of stay, seasonality, where they travel in Iowa and more. Arrivalist data set includes travelers that have traveled at least 50 miles from home, spent a minimum of two hours in Iowa, spent up to 14 days in Iowa to be counted as a completed round trip, includes Adults 18+, U.S. visitors only, excludes commuters, devices include regular GPS pings and smartphone users only.

The State Tourism Office and Iowa Economic Development Authority (IEDA) are again offering a co-op program which includes exclusive access to the State Visitation Data. Participants will receive 24/7 access to the dashboard, as well as webinar training and a user guide. The data from Arrivalist will be valuable to the City of Newton to help with tourism planning and marketing. The City of Newton has taken part in the program since 2022, and is able to make informed decisions relating to marketing and advertising, as well as put together visitor profiles for Newton and Jasper County with the data provided from the co-op.

Recommendation:

Staff recommends entering into this agreement with the State Tourism Office and Iowa Economic Development Authority.

Matt Muckler, City Administrator

Travel Iowa Data Co-op Agreement

This Data Co-op Agreement (“Agreement”) is made as of the effective date in Article 2 between **City of Newton** located at 101 W 4th Street S, Newton, IA 50208 (“Partner”) and the **Iowa Economic Development Authority** (“IEDA”), located at 1963 Bell Avenue, Suite 200, Des Moines, IA 50315 (collectively “Parties,” individually “Party”).

Whereas, IEDA has an agreement with Arrivalist Co. (“Arrivalist”) data vendor to provide access to statewide and localized visitation data, and

Whereas, IEDA has agreed to allow Partner access to the data provided pursuant to the agreement with Arrivalist for tourism planning and marketing in the area served by Partner,

Therefore, the Parties agree as follows:

1. Obligations. Each party agrees to the following obligations:

a. IEDA Obligations

- i. Upon receipt of payment pursuant to Article 1(a)(iii), IEDA agrees to provide a unique login to Partner to access state dispersion data dashboards on the Tableau platform available to IEDA pursuant to its agreement with Arrivalist, subject to the terms and conditions of IEDA’s agreement with Arrivalist.
- ii. IEDA agrees to coordinate with Arrivalist to provide online and recorded training and guides to Partner.
- iii. IEDA will invoice Partner the following amount: \$2,500.00.

b. Partner Obligations

- i. Partner agrees to only use Arrivalist data accessed pursuant to this agreement for tourism planning and marketing in the area served by Partner.
- ii. Partner agrees not to share the login provided by IEDA outside of their organization or to create reports for other organizations.
- iii. Partner agrees not to publicly share data accessed pursuant to this agreement without written permission from IEDA.
- iv. Partner agrees to pay the amount specified in Article 1(a)(iii) within 30 days of receipt of the invoice.

2. **Term and Termination.**

- a. The effective date of this agreement shall be **January 15, 2025**, and the Agreement shall automatically terminate on **January 14, 2026**.
- b. This Contract may be terminated under any of the following circumstances:
 - i. Upon written mutual agreement of Partner and IEDA.
 - ii. As a result of the Partner’s breach of any provision of this Agreement.
 - iii. As a result of the termination or reduction of funding to the IEDA.

Partner’s access to data will be revoked on termination. IEDA will not refund any payment provided pursuant to this agreement.

3. **No Implied Agency.** Nothing in this Agreement shall be deemed to create any partnership, joint venture, joint enterprise, or agency relationship between or among the Parties, and no Party shall have the right to enter into contracts on behalf of, to legally bind, to incur debt on behalf of, or to otherwise incur any liability or obligation on behalf of, any other Party hereto, in the absence of a separate writing, executed by an authorized representative of such other Party. Each Party shall be solely responsible for its employees and contractors used to perform under the Agreement.
4. **No promotional or political activity.** All Parties recognize the IEDA is an agency of the State of Iowa and agree that the sponsored project will not be used to support or oppose political candidates, political initiatives, or commercial products without the express written consent of all Parties in each instance.
5. **Indemnification.** Partner agrees to indemnify and hold harmless the State of Iowa and IEDA, its or their officers, employees and agents, appointed and elected, and volunteers, from any and all costs, expenses, losses, claims, damages, liabilities, settlements and judgments, including reasonable value of the time spent by the Attorney General's Office, and the costs and expenses and reasonable attorneys' fees of other counsel retained to represent the State of Iowa or IEDA, related to or arising from its acts. Contractor's obligation for indemnification shall survive termination of this Contract.
6. **Force Majeure.** No Party shall be liable for damages resulting from any delay or default in performance of any obligation herein if the delay or default is due to conditions beyond their control, including without limitation Acts of God, government restriction, or any other cause beyond the reasonable control of the obligated Party.
7. **No Publicity.** Notwithstanding any specific deliverable herein, no Party shall issue a press release, hold a press conference, or otherwise refer to any other Party's involvement in this Agreement without the prior written consent of all Parties.
8. **Warranties.** Each Party hereby represents and warrants that: (a) it has full power and authority to enter into this Agreement and perform its obligations hereunder; (b) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its origin; (c) it has not entered into, and during the Term will not enter into, any agreement that would prevent it from complying with this Agreement; and (d) it will comply with all applicable laws and regulations in its performance of this Agreement.
9. **Additional Terms.** This Agreement represents the entire agreement between the Parties and replaces any prior agreement or proposed variation. Should there be any conflict between any forms or documents exchanged by the Parties, the terms and conditions of this Agreement shall govern. This Agreement shall be amended only by mutual written agreement executed by all Parties or their respective designees. The Parties agree that this Agreement will be governed by the Laws of the state of Iowa without regard to Iowa conflict of laws statutes/rules. If any portion of this Agreement shall be declared illegal, void or otherwise unenforceable, the remaining provisions will not be affected, but will remain in full force and effect. The parties agree that electronic and/or digital signatures are valid and enforceable.

10. **Notice.** For purposes of this Agreement, the following individuals shall serve as points of contact for both Partner and IEDA:

PARTNER

Evelyn George
Mayor
101 W 4th St. S
Newton, IA 50208
641.792.2787
evelyn@newtongov.org

IEDA

Amy Zeigler
State Tourism Manager
1963 Bell Avenue, Suite 200
Des Moines, IA 50315
515.348.6259
amy.zeigler@iowaeda.com

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date specified in Article 2.

FOR THE IOWA ECONOMIC DEVELOPMENT AUTHORITY:

BY: _____
Deborah V. Durham, Director Date

FOR PARTNER:

BY: _____
Signature Date

Name and Title

RESOLUTION NO. 2025- _____

RESOLUTION FOR THE CITY OF NEWTON TO TAKE PART IN THE IOWA TOURISM OFFICES’ ARRIVALIST VISITATION DASHBOARD CO-OP.

WHEREAS, the City’s Envision Newton 2042 Comprehensive Plan contains a vision statement that invites visitors, businesses and residents to experience Newton’s authentic, small-town charm and big city amenities, and

WHEREAS, the Community Marketing Manager has been tasked with promoting the Newton brand, attractions, economic development, and community as a whole, and

WHEREAS, the State Tourism Office and Iowa Economic Development Authority are offering a co-op program which includes exclusive access to the State’s Arrivalist Visitation Dashboard that provides traveler information that can be used for tourism planning and marketing in the area, and

WHEREAS, the City of Newton has taken part in the program since 2022 and used the data to make informed decisions about advertising and marketing campaigns,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the City of Newton hereby authorizes the City to enter into an agreement to participate in the co-op program for a fee of \$2,500 through December 2025.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January, 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Approving Payment of the Cost of Issuance Expenses for the 2024C Water Revenue Loan

Summary:

Approval to pay the Cost of Issuance of the 2024C Water Revenue Loan

Financial Impact:

\$52,819 from the Proceeds of the 2024C Water Revenue Loan

Report Number: 2024-1271**Date:**

January 6, 2025

Lead Department:

Administration

Recommendation:

Approve

Background:

The City of Newton closed on the 2024C Water Revenue Loan on December 18, 2024. The cost of issuance for these loans was \$52,819.00 as noted below:

Financial Services, DA Davidson: \$27,819.00

Parity Statement & Support, Ted Wiegand, CPA: \$ 2,000.00

Legal Services, Dorsey & Whitney: \$23,000

Recommendation:

Staff recommends approval of the resolution.

Matt Muckler, City Administrator

RESOLUTION NO. 2025 – _____

**RESOLUTION APPROVING PAYMENT OF THE COST OF
ISSUANCE EXPENSES FOR THE 2024C WATER REVENUE
LOAN**

WHEREAS, the City of Newton received funds for the 2024 Water Revenue Loan on December 18, 2024, and;

WHEREAS, included in the bond proceeds was \$52,819.00 for the cost of issuing these bonds, and:

WHEREAS, below is a breakdown of these costs:

- 1. Finance Services, DA Davidson: \$27,819.00
- 2. Parity Statement, Ted Wiegand: \$ 2,000.00
- 3. Legal Services, Dorsey & Whitney: \$23,000.00

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, authorizes the payment of \$52,819.00 in issuance costs as stated above from the 2024C Water Revenue Loan proceeds.

PASSED this 6th day of January 2025.

APPROVED this _____ day of January 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution approving a step increase for the Water Treatment Superintendent

Summary:

Changing Water Treatment Superintendent's salary from pay range 10, step 8 to range 10, step 9 for obtaining IDNR grade IV Water Treatment licensing

Financial Impact:

Increase of \$2,328.00 from the Water Fund

Report Number: 2024-1273

Date:

January 6, 2025

Lead Department:

Utilities

Recommendation:

Approve

Background:

Throughout the creation of the Utilities Department and placement of the former Newton Waterworks non-bargaining employees on the City of Newton pay matrix, in addition to negotiating a new Utilities Employee Union contract, it was identified that paying employees for their IDNR grade licensing was something the City of Newton would need to do, in order to hire and retain good employees.

May 15, 2023 the ERC and City Council approved a wage rate adjustment for the Utilities Department for non-bargaining employees. At the June 19, 2023 meetings the ERC and City Council approved a new wage scale for the Utilities Employees Union.

The wage scale for both union and non-bargaining employees is compensating employees, based on their job classification and IDNR grade certifications.

Newton Water Treatment is required by the IDNR to have an operator in charge with a IDNR grade IV license. The grade IV water treatment operator was vacated due to retirement, until recently, when the Water Treatment Superintendent obtained an IDNR grade IV license.

Recommendation:

Adjust salary for the Water Treatment Superintendent from a range 10 step 8, to a range 10 step 9 for obtaining an IDNR grade IV Water Treatment License

Matt Muckler, City Administrator

RESOLUTION APPROVING A STEP INCREASE FOR THE WATER TREATMENT SUPERINTENDENT

WHEREAS, Throughout the creation of the Utilities Department and placement of the former Newton Waterworks non-bargaining employees on the City of Newton pay matrix, in addition to negotiating a new Utilities Employee Union contract, it was identified that paying employees for their IDNR grade licensing was something the City of Newton would need to do, in order to hire and retain good employees; and

WHEREAS, May 15, 2023 the ERC and City Council approved a wage rate adjustment for the Utilities Department for non-bargaining employees. At the June 19, 2023 meetings the ERC and City Council approved a new wage scale for the Utilities Employees Union.

The wage scale for both union and non-bargaining employees is compensating employees, based on their job classification and IDNR grade certifications; and

WHEREAS, Newton Water Treatment is required by the IDNR to have an operator in charge with a IDNR grade IV license. The grade IV water treatment operator was vacated due to retirement, until recently, when the Water Treatment Superintendent obtained an IDNR grade IV license; and

WHEREAS, adjust salary for the Water Treatment Superintendent from a range 10 step 8, to a range 10 step 9 for obtaining a grade IV Water Treatment License.

Position	Current Compensation	Proposed Compensation	Reporting to:
Water Treatment Superintendent	Range 10 step 8	Range 10 step 9	Utilities Director

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the City of Newton hereby approves adjusting Water Treatment Superintendent’s salary as stated above, effective from date of obtaining an IDNR grade IV license.

PASSED this _____ day of January 2025.

APPROVED this _____ day of January 2025.

Evelyn George, Mayor

(SEAL)
ATTEST:

Katrina Davis, City Clerk

Vendor	Department	Description	Amount
Air Products and Chemicals Inc	Water Treatment Plant	Supplies	\$ 4,320.20
Airgas USA LLC	Fire	Supplies	\$ 232.75
Alliant Energy/IPL	All	Utilities	\$ 22,004.70
Amazon Capital Service	All	Supplies	\$ 2,819.46
Badger Meter	Water Revenue Bond	Supplies	\$ 35.52
Baker & Taylor	Library	Supplies	\$ 2,196.30
Baker & Taylor Entertainment	Library	Supplies	\$ 73.47
Bound Tree Medical LLC	Fire	Supplies	\$ 1,120.00
Brick Gentry P.C.	Legal Service	Service	\$ 32,897.50
Capital One	Library	Supplies	\$ 1,205.21
Carl's Window Service	Library	Service	\$ 90.00
Center Point Large Print	Library	Supplies	\$ 144.61
Chamber of Commerce	All	Service	\$ 400.00
Christmas Done Bright	Parks	Supplies	\$ 479.60
Cintas	All	Service	\$ 655.63
CLIA Laboratory Program	Fire	Supplies	\$ 248.00
Construction Materials Testing	Animal Control	Service	\$ 2,125.00
Continental Research	Water Treatment Plant	Supplies	\$ 601.17
D A Davidson & Co	Water Revenue Bond	Service	\$ 27,819.00
Demco Inc	Library	Supplies	\$ 431.43
Digium Cloud Service LLC	All	Service	\$ 456.67
DMACC - Ankeny Campus	All	Utilities	\$ 1,895.75
Dodd Trash	Garbage	Service	\$ 71,764.74
Fareway	Building	Supplies	\$ 43.75
FBG Service Corporation	Library	Service	\$ 1,644.00
Fitzgerald, Riley	Water	Refund	\$ 101.03
Forbes Office Solutions	Library	Supplies	\$ 414.91
Galls LLC	Police	Supplies	\$ 18.21
Global Industrial	Water Pollution Control	Supplies	\$ 6,283.05
Gralnek-Dunitz	Police	Service	\$ 625.01
Gregg Young Auto Center	Police	Service	\$ 498.04
Hach Co	Water Treatment Plant	Supplies	\$ 89.25
Hamilton Glass	Police	Supplies	\$ 14.57
Hamm Inc	Landfill	Supplies	\$ 1,386.37
Hawkins Water Treatment	Water Treatment Plant	Supplies	\$ 12,225.86
Hicklin Door Service	Water Distribution	Service	\$ 624.00
Hillyard / Des Moines	Fire	Supplies	\$ 558.02
HIRTA	Public Works Administration	Service	\$ 17,625.50
HR Green Inc	Storm Water	Service	\$ 7,815.85
Hy-Vee Accounting	Police	Supplies	\$ 2,904.50
I & S Group Inc	Golf Clubhouse	Service	\$ 7,773.15
Illinois Casualty Company	Golf	Insurance	\$ 1,037.00
IMWCA	Fire	Service	\$ 831.15
Iowa Firefighters Association	Fire	Supplies	\$ 504.00
Iowa One Call	Engineering	Service	\$ 225.10
Iowa Popcorn Company	Parks	Supplies	\$ 150.00
Iowa Prison Industries	Street	Supplies	\$ 2,038.60
Isolved Benefit Service	Finance	Service	\$ 133.13
Jasper Construction Service	Water Distribution	Supplies	\$ 222.12
JETCO Inc	Water Revenue Bond	Service	\$ 369.00

Johnson Aviation	Airport	Service	\$ 3,634.62
Johnson Fitness & Wellness	Administration	Service	\$ 664.80
Kinetic Edge Physical Therapy	All	Service	\$ 2,454.50
Kirkham Michael	Airport	Service	\$ 1,456.40
Klein, Rebecca	Library	Mileage	\$ 52.90
Klingspor Abrasives Inc	Street	Supplies	\$ 1,431.54
Legacy Emergency Vehicles	Fire	Service	\$ 131.60
Leibold Irrigation Inc	Golf	Service	\$ 833.54
Liberty Tire Service LLC	Landfill	Service	\$ 160.00
Library Furniture International	Library	Supply	\$ 11,360.00
Lyman, Rick	Police	Service	\$ 625.66
Magnum Automotive	Police	Service	\$ 134.14
Manatts - D.M.	Water Distribution	Supplies	\$ 953.28
Martin Marietta Materials	Street	Supplies	\$ 606.00
McCall Monument	Parks	Supplies	\$ 50.00
Medico Corp Life Ins	Fire	Reimbursement	\$ 52.58
Medico Corp Life Insurance Company	Fire	Reimbursement	\$ 98.70
Menards-Altoona	Parks	Supplies	\$ 1,727.32
MercyOne DSM Medical Ctr-Financial Ops	Fire	Supplies	\$ 1,486.18
Metering and Technology Solutions	Water Revenue Bond	Supplies	\$ 2,622.00
Michael, Chris	Non Department	Refund	\$ 8.90
Microbac Laboratories Inc	Water Distribution	Service	\$ 225.75
Miller, Jerred	Non Department	Refund	\$ 17.29
Mississippi Lime Company	Water Treatment Plant	Supplies	\$ 37,448.24
Moss, Landon	Police	Reimbursement	\$ 38.01
MTI Distributing Inc	Parks	Supplies	\$ 405.57
Municipal Pipe Tool Co	Water Pollution Control	Supplies	\$ 183.86
Municipal Supply Inc	Water Revenue Bond	Supplies	\$ 2,284.10
PowerPlan	Landfill	Supplies	\$ 2,737.68
NAPA Auto Parts	All	Supplies	\$ 1,592.89
National Recreation and Park Association	Parks	Membership	\$ 180.00
NTOA	Police	Service	\$ 779.00
News Printing Company	Police	Publication	\$ 100.15
Newton Clinic	Fire	Service	\$ 282.40
Newton Community School	Police	Supplies	\$ 19.00
Newton Development Corp	Hotel/Motel & TIF's	Service	\$ 19,250.00
Newton Housing Development Corporation	Fairmeadows N TIF	Service	\$ 10,000.00
Newton/Jasper RSVP	Local Option Tax	Service	\$ 2,500.00
Niemann Ace Hardware 650	Fire	Equipment	\$ 345.61
Per Mar Security Service	Water Pollution Control	Service	\$ 330.00
Phelps Uniform Specialists	All	Service	\$ 366.25
Pierce, Todd	Water Treatment Plant	Reimbursement	\$ 74.83
Pitney Bowes Inc	Utility Billing/Administration	Service	\$ 346.80
Pittman, Keith	Police	Reimbursement	\$ 53.36
PJ's Deli	Executive	Service	\$ 305.23
Preferred Pest Control Inc	Library	Service	\$ 382.20
Premier Office Equipment	Police	Service	\$ 319.16
Pye-Barker Fire & Safety LLC	Water Treatment Plant	Supplies	\$ 530.50
Quill Corporation	All	Supplies	\$ 245.71
RACOM Corporation	Police	Supplies	\$ 836.78
Ray, Randy	Police	Service	\$ 436.96
Redeemed Painting	Non Department	Refund	\$ 65.00
Reeves Heating & Cooling	City Center	Service	\$ 973.34
Regal Clean LLC	City Center	Service	\$ 3,048.39

Reliant Fire Apparatus Inc	Fire	Service	\$ 2,535.53
Riggs Printing Inc	Utility Billing	Supplies	\$ 873.00
Rozendaal Service LLC	Community Beautification	Service	\$ 880.00
Ryan's Tire & Auto	City Garage	Supplies	\$ 1,004.95
Secretary of State	Finance	Service	\$ 30.00
Security Equipment Inc	Fire	Service	\$ 463.25
SESAC	Parks	License	\$ 610.00
Sign Pro	Water Pollution Control	Supplies	\$ 275.00
Smith Quality Rental	Community Beautification	Supplies	\$ 60.03
Spahn & Rose Lumber Co	All	Supplies	\$ 3,037.81
Sponseller, Brad	Golf	Reimb	\$ 119.95
Springer Professional Home Service	Library	Service	\$ 58.30
State Hygienic Laboratories	Water Treatment Plant	Service	\$ 21.00
Stevenson, Barry	Non Department	Refund	\$ 16.42
Streichers	Police	Supplies	\$ 169.99
Summit Fire Protection	City Center	Service	\$ 435.00
Tatman, Anthony	Fire	Service	\$ 200.00
Terry, Nicole	Library	Supplies	\$ 59.98
The Iowan Magazine	Library	Supplies	\$ 24.00
The Northway Corporation	Water Revenue Bond	Service	\$ 194,585.00
Theisen's	All	Supplies	\$ 770.04
Unison Solutions Inc	Water Pollution Control	Supplies	\$ 595.00
United Way of Jasper County	RSVP	Service	\$ 7,500.00
Value Line Publishing	Library	Supplies	\$ 1,167.00
Van Maanen Electric Inc	Water Distribution	Service	\$ 973.12
Van Wall Equipment	Parks	Supplies	\$ 605.81
Vernon Co	Library	Supplies	\$ 227.18
Volk, Ryan	Fire	Reimbursement	\$ 21.22
Warnick Mechanical	Airport	Service	\$ 295.00
Waste Solutions of Iowa	Golf	Service	\$ 179.00
Wex Bank	Water Distribution	Supplies	\$ 931.94
Wiegand, Ted M	Water Revenue Bond	Service	\$ 2,000.00
Williams, Charvette	I&I Program	Reimbursement	\$ 1,000.00
Windstream Communications LLC	Utility Billing	Service	\$ 170.00
Xerox Corporation	Water Treatment Plant	Service	\$ 30.99
YMCA Community Center	Community Center	Service	\$ 9,000.00
Zoll	Fire	Supplies	\$ 1,569.48
Grand Totals:			\$ 589,915.59

Pre-Authorized Payments

AT & T	Police/Landfill	Utility	\$ 443.95
Black Hills Energy	All	Utility	\$ 6,191.47
Clements, Dusty	North Central TIF	RESO 2024-379	\$ 5,489.84
Dish	Airport	Utility	\$ 159.10
Mediacom	Admin	Utility	\$ 336.90
Pham, Tram	North Central TIF	RESO 2024-157	\$ 4,380.23
T-Mobile	Police	Utility	\$ 499.86
US Cellular	All	Utility	\$ 1,605.27
Windstream	All	Utility	\$ 927.45
Verizon	Disater Service	Utility	\$ 35.01
Total:			\$ 20,069.08

ACH Payments

Advantage Credit Union	All	Insurance	\$ 14,445.00
Bank Iowa	All	Insurance	\$ 3,645.00
Bank Of Oklahoma	Debt Service	Debt	\$ 594,561.34
Chase Bank	Debt Service	Debt	\$ 25,632.90
Great Southern Bank	Debt Service	Debt	\$ 25,231.00
Iowa Finance Authority	Debt Service	Debt	\$ 12,748.00
SRF IA Finance Authority	Debt Service	WPC	\$ 5,836.25
SRF - Water	Utility Billing	Water	\$ 5,730.00
Kabel	All	Insurance	\$ 50.00
GEMT	Fire	Fees	\$ 9,107.41
Self Funded Insurance	All	Insurance	\$ 127,362.97
Payroll 11-22-24	All	Payroll	\$ 505,070.61
Payroll 12-06-24	All	Payroll	\$ 503,908.27
Payroll 12-20-24	All	Payroll	\$ 489,748.40
Mutual of Omaha	All	Insurance	\$ 4,925.92
Great Southern Bank	Golf	Fees	\$ 933.56
Wellmark Dental	All	Insurance	\$ 12,647.48
State of Iowa	General	Sales Tax	\$ 4,636.86
Lambs Grove	Utility Billing	Fees	\$ 2,692.96
Wet Tax	Utility Billing	Tax	\$ 9,402.30
Returned ACH Fees	Utility Billing	Charges	\$ 1,111.95
GILA - Fees	Utility Billing	Fees	\$ 988.16
Returned Check Fees	Utility Billing	Fees	\$ 183.71
Total:			\$ 2,360,600.05

City of Newton Council Report

**Item:**

Public Hearing on Amended Development Agreement with Hotel Maytag Investors, LLC

Summary:

Amendment to the development agreement to provide sliding scale tax rebate on the difference between the current valuation of \$3.316 million and the minimum assessment amount of \$2.3 million.

Financial Impact:

Approximately \$150,000 additional rebate between FY25 and FY31 from the North Central TIF Fund. This is less than what was originally promised to the developer. It is also less than the 100% TIF rebate proposal that was previously presented to the Council. The original deal with the developer was that the developer would not be liable for any taxes above the base value of the project through FY32. The developer has made good on their pledge to pay taxes on the base value of the property, which was \$17,322 last year and over \$130,000 since the Developer has taken possession of the property.

Report Number: 2024-1210**Date:**

January 6, 2025

Lead Department:

Community Development

Recommendation:

Approve

Background:

Hotel Maytag Investors requested consideration for an amendment to their development agreement with the City on the property at 105 North 2nd Avenue East. The reason for the request is due to the significant increase in taxable value over the amount anticipated by the minimum assessment agreement. The minimum assessment agreement contemplated a \$2.3 million valuation, while the assessor now lists the property having an approximately \$3.316 million valuation. An amendment to the development agreement to be discussed during the public hearing is as follows (highlighted elements):

Year	Percent	Benefit Description
FY25	90%	Rebate on the difference between \$3,316,710 and \$2,300,000; plus abatement already in place
FY26	80%	Rebate on the difference between \$3,316,710 and \$2,300,000; plus abatement already in place
FY27	70%	Rebate on the difference between Assessed Value and \$2,300,000; plus abatement already in place
FY28	60%	Rebate on the difference between Assessed Value and \$2,300,000; plus abatement already in place
FY29	50%	Rebate on the difference between Assessed Value and \$2,300,000; plus abatement already in place
FY30	40%	Rebate on the difference between Assessed Value and \$2,300,000; plus abatement already in place
FY31	30%	Rebate on the difference between Assessed Value and \$2,300,000; plus abatement already in place

FY32	100%	Rebate, no abatement per current agreement
FY33	100%	Rebate, no abatement per current agreement
FY34	100%	Rebate, no abatement per current agreement

As a reminder, the current schedule (per the current development agreement), which intended that little to no taxes be paid during the period due to the assumption that the assessment did not change, is as follows:

Year	Percent	Benefit Description
FY22	100%	Property Tax Rebate, Development Agreement
FY23	100%	Urban Revitalization Plan
FY24	100%	Urban Revitalization Plan
FY25	100%	Urban Revitalization Plan
FY26	100%	Urban Revitalization Plan
FY27	100%	Urban Revitalization Plan
FY28	100%	Urban Revitalization Plan
FY29	100%	Urban Revitalization Plan
FY30	100%	Urban Revitalization Plan
FY31	100%	Urban Revitalization Plan
FY32	100%	Property Tax Rebate, Development Agreement
FY33	100%	Property Tax Rebate, Development Agreement
FY34	100%	Property Tax Rebate, Development Agreement

Recommendation:

Staff recommends approval noting the following:

- 1) The original intent of the development agreement did not contemplate a scenario where the actual valuation of the property exceeded the minimum assessment, as this was not the practice of the County Assessor's office at the time the agreement was established.
- 2) Hotel Maytag is a prominent building located on the City's square. The historic rehabilitation of the property marked a turning point in Newton's Downtown, acting as the catalyst for small rehabilitation projects and large ones (such as Gray Moon Public Market). Continued success of this property impacts success of Newton's Downtown, and the tax rebate will provide the necessary support as new management works to address critical deferred maintenance issues and decrease

the ongoing financial losses that the building has sustained since the project was completed.

3) In projects involving this amount of investment and complexity, it is routine that several amendments and changes are made to urban renewal areas and development agreements. For instance, the Council has already revised the FastPitch urban renewal area several times as the development group for that project continues to make a push to get that project funded. It is likely that more changes to the urban renewal area will be needed before a deal is completed. The Iowa Speedway Project is another example of a large-scale project that required several revisions to the original development agreement.

4) There is nothing in this amendment that would provide the developer any additional benefit than what was originally pledged to the developer. In fact, it is less. In order to deliver what was originally pledged, there would have to be a 100% abatement on the assessed value over the base value for FY25-FY31. Since that is not possible, City staff previously recommended that Council approve a TIF rebate proposal that would have provided 100% rebate between FY25-FY31. That proposal was not approved by Council. This current proposal in front of Council doesn't provide 100% rebate in any one of those years. Instead, it provides a sliding scale of rebates: 90% in FY25, 80% in FY26, 70% in FY27, 60% in FY28, 50% in FY29, 40% in FY30, and 30% in FY31. This current proposal appears to strike a happy medium between having the building owner take responsibility for the project and having the City provide the project with incentives that were previously pledged to the developer and are needed to address critical deferred maintenance issues.

A handwritten signature in black ink, appearing to read "Matt Muckler", written in a cursive style.

Matt Muckler, City Administrator

RESOLUTION 2025 - _____

Resolution Approving Amended Development Agreement with Hotel Maytag Investors, LLC, Authorizing Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

WHEREAS, the City of Newton, Iowa (the “City”), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the North Central Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, this Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa, which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal of and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, the City has previously entered into a certain development agreement, as amended from time to time (the “Agreement”), with Hotel Maytag Investors, LLC (the “Developer”) in connection with the redevelopment of the former Hotel Maytag building located at 105 North 2nd Avenue East in the Urban Renewal Area (the “Project”); and

WHEREAS, pursuant to the Agreement, the City has agreed to provide certain financial incentives to the Developer including certain property tax incentives in the form of annual appropriation incremental property tax payments (the “Payments”) in an amount not to exceed \$360,000 under the authority of Section 403.9(1) of the Code of Iowa; and

WHEREAS, the City and the Developer now propose to amend the Agreement in order to (1) increase the amount of the Payments to be made to the Developer to \$760,000; (2) adjust the time period during which the Payments will be made; and (3) make other related changes; and

WHEREAS, a certain Ninth Amendment to Agreement for Private Development (the “Ninth Amendment”) has been prepared to set forth the new understanding between the City and the Developer; and

WHEREAS, this City Council, pursuant to Section 403.9 of the Code of Iowa, has published notice, has held a public hearing on the Ninth Amendment on January 6, 2025, and has otherwise complied with statutory requirements for the approval of said Agreement; and

WHEREAS, Chapter 15A of the Code of Iowa (“Chapter 15A”) declares that economic development is a public purpose for which a City may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a City Council must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that in determining whether funds should be spent, a City Council must consider any or all of a series of factors;

NOW, THEREFORE, It Is Resolved by the City Council of the City of Newton, Iowa, as follows:

Section 1. Pursuant to the factors listed in Chapter 15A, the Council hereby reaffirms that:

(a) The Project will add diversity and generate new opportunities for the Newton and Iowa economies;

(b) The Project will generate public gains and benefits, particularly in the creation of new jobs and income, which are warranted in comparison to the amount of the Payments.

Section 2. The City Council further finds and reaffirms that a public purpose will reasonably be accomplished by the Payments to the Developer.

Section 3. The Ninth Amendment is hereby approved. The Mayor and the City Clerk are hereby authorized and directed to execute and deliver the Ninth Amendment on behalf of the City, in substantially the form and content in which the Ninth Amendment has been presented to this City Council. The Mayor and City Clerk are further authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Ninth Amendment. Upon execution by both parties, the Ninth Amendment shall be attached to the Agreement and recorded in the office of the Jasper County Recorder. Further, the Payments shall continue to be secured by the incremental property tax revenues derived from the real property as described in the Agreement.

Section 4. All resolutions or parts thereof in conflict herewith are hereby repealed.

Passed and approved on January 6, 2025.

Mayor

Attest:

City Clerk

NINTH AMENDMENT TO AGREEMENT FOR PRIVATE DEVELOPMENT

By and Between

THE CITY OF NEWTON, IOWA

and

HOTEL MAYTAG INVESTORS, LLC

Dated as of _____

NINTH AMENDMENT TO AGREEMENT FOR PRIVATE DEVELOPMENT

THIS NINTH AMENDMENT TO AGREEMENT FOR PRIVATE DEVELOPMENT (this “*Ninth Amendment*”) is made on or as of the ____ day of _____, 2025, by and between the **CITY OF NEWTON, IOWA**, a municipality (the “*City*”), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapter 403 of the Code of Iowa, 2023, as amended (hereinafter called “*Urban Renewal Act*”) and **HOTEL MAYTAG INVESTORS, LLC**, an Iowa limited liability company, 696 18th Street, Des Moines, Iowa 50314, (the “*Developer*”).

WITNESSETH:

WHEREAS, the City and the Developer are parties to that certain Agreement for Private Development dated October 2, 2017 respecting the “Hotel Maytag” located in Newton, Iowa (the “*Agreement*”) as amended by that certain First Amendment to Agreement for Private Development dated October 13, 2017; and further amended by that certain Second Amendment to Agreement for Private Development dated December 19, 2017; and further amended by that certain Third Amendment to Agreement for Private Redevelopment dated April 4, 2018; and further amended by that certain Fourth Amendment to Agreement for Private Development dated May 8, 2018; and further amended by that Certain Fifth Amendment to Agreement for Private Development dated January 7, 2019; and further amended by that certain Sixth Amendment to Agreement for Private Redevelopment dated May 7, 2019; and further amended by that certain Seventh Amendment to Agreement for Private Redevelopment dated April 21, 2020; and further amended by that certain Eighth Amendment to Agreement for Private Redevelopment dated December, 2020; and further amended by that certain Ninth Amendment to Agreement for Private Redevelopment dated _____, 2025.

WHEREAS, the Developer and the City desire to modify certain provisions in the Agreement.

WHEREAS, all capitalized terms set forth herein shall have the meaning ascribed to them in the Agreement.

NOW THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

AGREEMENTS

1. Section 1.1 is hereby amended as follows:
 - (a) The definition of “**Annual Percentage**” is hereby added to Section 1.1.

Annual Percentage means the annual percentage in effect from time to time as set forth in the following table:

Fiscal Year	Annual Percentage
2024-2025	90%
2025-2026	80%

2026-2027	70%
2027-2028	60%
2028-2029	50%
2029-2030	40%
2030-2031	30%
2031-2032	100%
2032-2033	100%
2033-2034	100%

(b) The definition of **Tax Increments Estimate** is hereby amended to read, as follows:

Tax Increments Estimate means an amount equal to the estimated amount of Tax Increments anticipated to be available with respect to the Property, with the completed Project thereon, in the fiscal year immediately following such certification factored by the Annual Percentage.

2. Section 3.2 shall now read as follows:

Section 3.2. Economic Development Real Estate Tax Rebate.

a. Payments. In recognition of the Developer's obligations set out above, the City agrees to consider the funding of up to eleven (11) economic development tax increment payments (the "Payments" and individually, each a "Payment") to the Developer during the Term of this Agreement, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments shall not exceed Seven Hundred Sixty Thousand Dollars (\$760,000) (the "Maximum Payment Total"), and all Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City but shall be made solely and only from the Annual Percentage of Tax Increments received by the City from the Jasper County Treasurer attributable to the taxable valuation of the Development Property.

This Agreement assumes that increased taxable valuation of the Development Property went on the Jasper County property tax rolls as of January 1, 2020. Accordingly, Payments will be made on June 1 in each of the fiscal years 2022 and 2025 through 2034, inclusive, or until such earlier date upon which total Payments equal to the Maximum Payment Total have been made.

b. Annual Appropriation. Each Payment shall be subject to annual appropriation by the City Council. The City Council has funded the Payment coming due on June 1, 2022. The City Council has taken action to appropriate Tax Increments to fund the Payments coming due on June 1, 2025 and June 1, 2026. Prior to December 1 of each year immediately preceding a fiscal year in which a Payment is due as set forth in Section 3.2(b) of this Agreement, beginning in the City's 2025-2026 fiscal year, the City Council of the City shall consider the question of obligating for appropriation to the funding of

the Payment due in the following fiscal year, an amount (the "Appropriated Amount") of Tax Increments to be collected in the following fiscal year equal to or less than the most recently submitted Tax Increments Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payment scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payments or to seek damages relative thereto or to compel the funding of such Payment in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payment shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Tax Increments Estimate as called for in Section A.4 above, provided however that no Payment shall be made after June 1, 2034.

c. Calculation of Tax Increments Estimate. Using the worksheet attached hereto as Exhibit H, the City shall annually calculate the Tax Increments Estimate and demonstrate such estimated amount to the Developer by no later than October 15 of each year commencing October 15, 2025.

d. Payment Amounts. Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, 2025, the amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, 2023, provided, however, that no Payment shall exceed an amount which represents the Tax Increments available to the City with respect to the Development Property during the twelve (12) months immediately preceding each Payment date.

e. Certification of Payment Obligation. In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section 3.2(B) above, then the City Clerk will certify by December 1 of each such year to the Jasper County Auditor an amount equal to the most recently obligated Appropriated Amount.

f. Conditions Precedent to Payments. The following items shall be conditions precedent to the City's funding of any Payments hereunder: (i) The Developer shall provide documentation to the City by May 15 of each year, commencing May 15, 2025 showing that all real property taxes have been fully and timely paid with respect to the Development Property in the twelve months immediately preceding the date of such demonstration and the amount of such taxes paid; and (ii) the Development Property shall be in operation as an apartment building and commercial facility in order to be eligible for any given rebate payment.

3. Exhibit H-Worksheet for Annual Calculation of Tax Increments Estimate shall now be in the form attached hereto.

4. No Effect. Except for the terms and conditions of the Agreement amended hereby all remaining terms and conditions remain in full force and effect.

5. Counterparts. This Ninth Amendment 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. If this Ninth Amendment is executed in counterparts, no signatory hereto shall be bound until each of the parties named below has duly executed or caused to be duly executed a counterpart of this Ninth Amendment.

SIGNATURE PAGE TO NINTH AMENDMENT TO AGREEMENT FOR
PRIVATE DEVELOPMENT

IN WITNESS WHEREOF, the City has caused this Ninth Amendment to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, and the Developer has caused this Ninth Amendment to be duly executed in its name and behalf by its Owner and its Secretary/Treasurer, on or as of the day first above written.

CITY OF NEWTON, IOWA

By: _____
Evelyn George, Mayor

ATTEST:

By: _____
Katrina Davis, City Clerk

DEVELOPER:

Hotel Maytag Investors, LLC

**By: Hotel Maytag Investors Managing
Member, LLC
Its: Managing Member**

**By: Hatch Development Group L.L.C.
Its: Manager**

By: _____
Name: Jack Hatch
Its: President

EXHIBIT H

Worksheet for Annual Calculation of Tax Increments Estimate

(1) Date of Preparation: October_____20__

(2) Assessed Valuation of Property as of January 1, 20__:

(3) Base Taxable Valuation of Property:

\$419,850.

(4) Incremental Taxable Valuation of Property (2 minus 3):

\$ _____ (the "TIF Value").

(5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):

\$ _____ per thousand of value.

(6) The TIF Value (4) factored by the Adjusted Levy Rate (5) factored by the Annual Percentage.

\$ _____ x \$ _____/1000 = \$ _____ x Annual Percentage* (____%) =
\$ _____ (the "TIF Estimate")

(7) Subtract anticipated property tax credits from the TIF Estimate (6 minus 7) =

\$ _____ (the "Tax Increments Estimate")

Fiscal Year	Annual Percentage
2024-2025	90%
2025-2026	80%
2026-2027	70%
2027-2028	60%
2028-2029	50%
2029-2030	40%
2030-2031	30%
2031-2032	100%
2032-2033	100%
2033-2034	100%

EXHIBIT 1

~~EIGHTH~~NINTH AMENDMENT TO AGREEMENT FOR PRIVATE DEVELOPMENT

By and Between

THE CITY OF NEWTON, IOWA

and

HOTEL MAYTAG INVESTORS, LLC

Dated as of _____

~~EIGHTH~~NINTH AMENDMENT TO AGREEMENT FOR PRIVATE DEVELOPMENT

THIS ~~EIGHTH~~NINTH AMENDMENT TO AGREEMENT FOR PRIVATE DEVELOPMENT (this "~~Eighth~~Ninth Amendment") is made on or as of the ____ day of _____, ~~2020~~2025, by and between the CITY OF NEWTON, IOWA, a municipality (the "City"), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapter 403 of the Code of Iowa, ~~2019~~2023, as amended (hereinafter called "*Urban Renewal Act*") and HOTEL MAYTAG INVESTORS, LLC, an Iowa limited liability company, 696 18th Street, Des Moines, Iowa 50314, (the "*Developer*").

WITNESSETH:

WHEREAS, the City and the Developer are parties to that certain Agreement for Private Development dated October 2, 2017 respecting the "Hotel Maytag" located in Newton, Iowa (the "*Agreement*") as amended by that certain First Amendment to Agreement for Private Development dated October 13, 2017; and further amended by that certain Second Amendment to Agreement for Private Development dated December 19, 2017; and further amended by that certain Third Amendment to Agreement for Private Redevelopment dated April 4, 2018; and further amended by that certain Fourth Amendment to Agreement for Private Development dated May 8, 2018; and further amended by that Certain Fifth Amendment to Agreement for Private Development dated January 7, 2019; and further amended by that certain Sixth Amendment to Agreement for Private Redevelopment dated May 7, 2019; and further amended by that certain Seventh Amendment to Agreement for Private Redevelopment dated _____, ~~20~~April 21, 2020; and further amended by that certain Eighth Amendment to Agreement for Private Redevelopment dated _____, ~~2020~~December, 2020; and further amended by that certain Ninth Amendment to Agreement for Private Redevelopment dated _____, 2025.

WHEREAS, the Developer and the City desire to modify certain provisions in the Agreement.

WHEREAS, all capitalized terms set forth herein shall have the meaning ascribed to them in the Agreement.

NOW THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

AGREEMENTS

~~1-1.~~ Section 1.1 is hereby amended as follows:

(a) ~~the~~ The definition of ~~City Minimum Increments~~"Annual Percentage" is hereby ~~deleted~~added to Section 1.1.

Annual Percentage means the annual percentage in effect from time to time as set forth in the following table:

<u>Fiscal Year</u>	<u>Annual Percentage</u>
--------------------	--------------------------

2024-2025	90%
2025-2026	80%
2026-2027	70%
2027-2028	60%
2028-2029	50%
2029-2030	40%
2030-2031	30%
2031-2032	100%
2032-2033	100%
2033-2034	100%

(b) ~~the~~ The definition of **Tax Increments Estimate** is hereby amended to ~~strike certain text~~read, as follows:

Tax Increments Estimate means an amount equal to the estimated amount of Tax Increments anticipated to be available with respect to the Property ~~(the "Property Tax Revenues")~~, with the completed Project thereon, in the fiscal year immediately following such certification ~~reduced by the scheduled City Minimum Increment for such fiscal year~~factored by the Annual Percentage.

~~2.2.~~ Section 3.2 shall now read as follows:

Section 3.2. Economic Development Real Estate Tax Rebate.

a. Payments. In recognition of the Developer's obligations set out above, the City agrees to consider the funding of up to ~~four~~eleven (~~4~~11) economic development tax increment payments (the "Payments" and individually, each a "Payment") to the Developer during the Term of this Agreement, pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments shall not exceed ~~Three~~Seven Hundred Sixty Thousand Dollars (~~\$360,000~~760,000) (the "Maximum Payment Total"), and all Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

The Payments shall not constitute general obligations of the City~~;~~ but shall be made solely and only from the Annual Percentage of Tax Increments received by the City from the Jasper County Treasurer attributable to the taxable valuation of the Development Property.

This Agreement assumes that increased taxable valuation of the Development Property went on the Jasper County property tax rolls as of January 1, 2020. Accordingly, Payments will be made on June 1 in each of the fiscal years 2022~~, 2032, 2033~~ and 2025 through 2034, inclusive, or until such earlier date upon which total Payments equal to the Maximum Payment Total have been made.

b. Annual Appropriation. Each Payment shall be subject to annual appropriation by the City Council. The City Council has funded the Payment coming due on June 1, 2022. The City Council has taken action to appropriate Tax Increments to fund the

~~Payment~~Payments coming due on June 1, ~~2022~~2025 and June 1, 2026. Prior to December 1 of each year immediately preceding a fiscal year in which a Payment is due as set forth in Section 3.2(b) of this Agreement, beginning in the City's ~~2030-2031~~2025-2026 fiscal year, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payment due in the following fiscal year, an amount (the "Appropriated Amount") of Tax Increments to be collected in the following fiscal year equal to or less than the most recently submitted Tax Increments Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payment scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payments or to seek damages relative thereto or to compel the funding of such Payment in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payment shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Tax Increments Estimate as called for in Section A.4 above, provided however that no Payment shall be made after June 1, 2034.

c. Calculation of Tax Increments Estimate. Using the worksheet attached hereto as Exhibit H, the City shall annually calculate the Tax Increments Estimate and demonstrate such estimated amount to the Developer by no later than October 15 of each year commencing October 15, ~~2030~~2025.

d. Payment Amounts. Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, ~~2032~~2025, the amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, ~~2030~~2023, provided, however, that no Payment shall exceed an amount which represents the Tax Increments available to the City with respect to the Development Property during the twelve (12) months immediately preceding each Payment date.

e. Certification of Payment Obligation. In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section 3.2(B) above, then the City Clerk will certify by December 1 of each such year to the Jasper County Auditor an amount equal to the most recently obligated Appropriated Amount.

f. Conditions Precedent to Payments. The following items shall be conditions precedent to the City's funding of any Payments hereunder: (i) The Developer shall provide documentation to the City by May 15 of each year, commencing May 15, ~~2032~~2025 showing that all real property taxes have been fully and timely paid with respect to the Development Property in the twelve months immediately preceding the date of such demonstration and the amount of such taxes paid; and (ii) the Development Property shall be in operation as an apartment building and commercial facility in order to be eligible for any given rebate payment.

~~3. Article IV Construction of Minimum Improvements is hereby amended to add the following subsection:~~

~~**Section 4.5. Property Tax Abatement.** The Company hereby agrees to submit timely application for property tax abatement by February 1, 2021 with respect to the actual valued added by the Minimum Improvements on the Development Property under the City's urban revitalization plan adopted pursuant to Chapter 404 of the Code of Iowa. It is anticipated that the property tax abatement contemplated herein shall be in effect during the period beginning July 1, 2022 and continuing to and including June 30, 2031.~~

~~4.3.~~ Exhibit ~~H-Worksheet~~H-Worksheet for Annual Calculation of Tax Increments Estimate shall now be in the form attached hereto.

~~5.4.~~ No Effect. Except for the terms and conditions of the Agreement amended hereby all remaining terms and conditions remain in full force and effect.

~~6.5.~~ Counterparts. This ~~Eighth~~Ninth Amendment 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. If this ~~Eighth~~Ninth Amendment is executed in counterparts, no signatory hereto shall be bound until each of the parties named below has duly executed or caused to be duly executed a counterpart of this ~~Eighth~~Ninth Amendment.

[SIGNATURES ON FOLLOWING PAGE]

SIGNATURE PAGE TO ~~EIGHTH~~NINTH AMENDMENT TO AGREEMENT FOR
PRIVATE DEVELOPMENT

IN WITNESS WHEREOF, the City has caused this ~~Eighth~~Ninth Amendment to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, and the Developer has caused this ~~Eighth~~Ninth Amendment to be duly executed in its name and behalf by its Owner and its Secretary/Treasurer, on or as of the day first above written.

CITY OF NEWTON, IOWA

By: _____
~~Michael L. Hansen~~Evelyn George,

Mayor

ATTEST:

By: _____
Katrina Davis, City Clerk

DEVELOPER:

Hotel Maytag Investors, LLC

By: Hotel Maytag Investors Managing
Member, LLC

Its: Managing Member

By: Hatch Development Group L.L.C.

Its: Manager

By: _____

Name: Jack Hatch
Its: President

EXHIBIT H

Worksheet for Annual Calculation of Tax Increments Estimate

(1) Date of Preparation: October _____ 20____

(2) Assessed Valuation of Property as of January 1, 20____:

(3) Base Taxable Valuation of Property:

\$419,850.

(4) Incremental Taxable Valuation of Property (2 minus 3):

\$ _____ (the "TIF Value").

(5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):

\$ _____ per thousand of value.

(6) The TIF Value (4) factored by the Adjusted Levy Rate (5) factored by the Annual Percentage.

\$ _____ ~~x~~ _____ x \$ _____ /1000 = \$ _____ x Annual Percentage*
(_____ %) = \$ _____ (the "TIF Estimate")

(7) Subtract anticipated property tax credits from the TIF Estimate (6 minus 7) =

\$ _____ (the "Tax Increments Estimate")

<u>Fiscal Year</u>	<u>Annual Percentage</u>
<u>2024-2025</u>	<u>90%</u>
<u>2025-2026</u>	<u>80%</u>
<u>2026-2027</u>	<u>70%</u>
<u>2027-2028</u>	<u>60%</u>
<u>2028-2029</u>	<u>50%</u>
<u>2029-2030</u>	<u>40%</u>
<u>2030-2031</u>	<u>30%</u>
<u>2031-2032</u>	<u>100%</u>
<u>2032-2033</u>	<u>100%</u>
<u>2033-2034</u>	<u>100%</u>

Summary report: Litera Compare for Word 11.6.0.100 Document comparison done on 12/11/2024 9:56:16 AM	
Style name: Default Style	
Intelligent Table Comparison: Active	
Original DMS: nd://4850-8847-2275/1/Eighth Amendment to Agreement for Private Development.docx	
Modified DMS: nd://4879-3341-5299/2/Ninth Amendment to Agreement for Private Development.docx	
Changes:	
<u>Add</u>	53
Delete	56
Move From	0
<u>Move To</u>	0
<u>Table Insert</u>	2
Table Delete	0
<u>Table moves to</u>	0
Table moves from	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	111

City of Newton Council Report

**Item:**

Resolution Authorizing Second Amended Loan Agreement with Hatch Development Group, L.L.C.

Summary:

An amendment to the previously approved loan agreement between the City of Newton and Hatch Development Group LLC resulting in the developer pausing principal loan payments to the City of Newton

Financial Impact:

Delay in principal payment on the Iowa Finance Authority Loan for 3 years, FY25 thru FY27

Report Number: 2024-1212

Date:

January 6, 2025

Lead Department:

Administration

Recommendation:

Approve

Background:

The rehabilitation of Hotel Maytag was a significant restoration of the largest building on the Newton Downtown Square. Hatch Development Group utilized numerous tax credits, grants, and loan programs to make the complicated financing of the project possible. Without the building's rehabilitation, the degree of downtown revitalization the City has experienced would be greatly diminished.

As part of the City's support to the project, the City entered into a loan agreement with Iowa Finance Authority. Subsequently, the City entered into an agreement with Hatch Development to repay the City the loan payments due to Iowa Finance Authority.

Generally speaking, the proposed amended agreement provides the Borrower (Hatch Development Group) the ability to pause the reimbursement for the principal amount of the loan payments and reimburse the City for the Interest amount of loan payments in FY25, FY26 and FY27. This action would extend the agreement made for FY24, which was only a one year agreement. No other changes to the agreement are proposed.

The proposed Amendment provides a solution to and protection for the City in dealing with a situation where the developer has been challenged to make the payments and extends the current agreement by 3 years. This matter will be presented to City Council in 3 years if the building does not cash flow or is not sold before that time.

Recommendation:

Staff recommends approval of the resolution.

Matt Muckler, City Administrator

RESOLUTION NO. 2025-_____

Resolution Authorizing Second Amended Loan Agreement with Hatch Development Group, L.L.C.

WHEREAS, Chapter 15A of the Code of Iowa (“Chapter 15A”) declares that economic development is a public purpose for which a city may provide grants, loans, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans or other financial assistance, a city council must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that, in determining whether funds should be spent, a city council must consider any or all of a series of factors; and

WHEREAS, the City of Newton, Iowa (“the City”) and Hatch Development Group, L.L.C. (the “Borrower”) previously entered into a loan agreement (the “Original Loan Agreement”) with respect to loan (the “Loan”) in the amount of \$450,000 from the City to the Borrower in connection with the development of workforce housing in the City; and

WHEREAS, the City and the Borrower entered into an amendment development agreement (the “First Amended Agreement”) in order to provide more flexibility to the Borrower with respect to repayment of the Loan; and

WHEREAS, the City and the Borrower now propose to update the provisions with respect to the Term of the First Amended Agreement; and

WHEREAS, a second amended loan agreement (the “Second Amended Loan Agreement”) has been prepared to set forth the updated understanding between the City and the Borrower;

NOW, THEREFORE, IT IS RESOLVED by the City Council of the City of Newton, Iowa, as follows:

Section 1. Pursuant to the factors listed in Chapter 15A, the City Council hereby finds and reaffirms that:

- (a) The Project will add diversity and generate new opportunities for the Newton and Iowa economies;
- (b) The Project will generate public gains and benefits, particularly in the creation of new jobs and workforce housing opportunities, which are warranted in comparison to the amount of the proposed Loan.

Section 2. The City Council further finds that a public purpose will reasonably be accomplished by funding the Loan to the Borrower.

Section 3. The Second Amended Loan Agreement is hereby approved. The City Administrator, with advice from bond counsel to the City, is hereby authorized and directed to prepare any additional documentation and to make such changes to the Second Amended Loan Agreement as are deemed necessary to carry out the purposes of this Resolution. The Mayor and the City Clerk are hereby authorized to execute the Second Amended Loan Agreement in substantially the form as has been presented to this City Council.

Section 4. All resolutions or parts thereof in conflict herewith, are hereby repealed, to the extent of such conflict.

Passed and Approved this January 6, 2025.

Mayor

Attest:

City Clerk

IOWA FINANCE AUTHORITY
WORKFORCE HOUSING
LOAN PROGRAM

SECOND AMENDED LOAN AGREEMENT

between

CITY OF NEWTON, IOWA

and

HATCH DEVELOPMENT GROUP, L.L.C.

Dated as of May 21, 2018
Amended as of November 17, 2023
Amended as of January 6, 2025

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This Table of Contents is not a part of this Second Amended Loan Agreement and is only for convenience of reference.

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EXHIBIT G	Automated Clearinghouse Transfer (ACH) Authorization for Loan Repayment

This SECOND AMENDED LOAN AGREEMENT is dated as of the _____ day of _____, 2018, between the CITY OF NEWTON, IOWA (the "City") and HATCH DEVELOPMENT GROUP, L.L.C. (the "Borrower").

WITNESSETH:

WHEREAS, the City and the Hotel Maytag Investors, LLC (the "Owner") are parties to that certain Agreement for Private Redevelopment dated October 2, 2017, as amended (the "Redevelopment Agreement") respecting the redevelopment of the project described in Exhibit A attached hereto (the "Project");

WHEREAS, the City is a party to that certain Loan Agreement with the Iowa Finance Authority ("Authority") dated _____ (the "IFA Loan") respecting the Workforce Housing Loan Program (the "Program") created by the Authority to provide a program of financial assistance in the form of low-interest loans to provide workforce housing in needed areas;

WHEREAS, the Borrower is a member of Hotel Maytag Investors Managing Member, LLC, which entity is a member of Borrower; and

WHEREAS, the Borrower desires to borrow monies from the City in order to assist the Owner in respect to financing a portion of the costs of the Project; and

WHEREAS, the City and the Borrower previously entered into that certain Loan Agreement, dated May 21, 2018 (the "Original Loan Agreement") with respect to a loan in the amount of \$450,000 to Borrower; and

WHEREAS, the City and the Borrower previously entered into that certain Amended Loan Agreement, dated November 17, 2023 (the "Amended Loan Agreement") which included provisions to provide more flexibility to Borrower with respect to repayment of the Loan (as defined herein); and

WHEREAS, City and the Borrower now propose to adjust the provisions of Section 5.10 of the Amended Loan Agreement governing the Term of the Agreement; and

WHEREAS, this second amended loan agreement (the "Agreement") has been prepared to set forth the understanding between the parties hereto, including the original terms of the Loan and the modifications contemplated herein;

NOW THEREFORE, in consideration of the mutual covenants hereinafter contained, the Borrower and the City hereby covenant and agree as follows:

ARTICLE I

AMOUNT AND TERMS OF THE LOAN

SECTION 1.01. The Loan.

The City agrees, upon the terms and conditions hereinafter set forth, to make a Loan to the Borrower in an amount not to exceed the Principal Amount shown in Exhibit A in order to finance a portion of the costs of the Project (the "Loan"). The obligation of the Borrower hereunder to repay the Loan shall be evidenced by a promissory note of the Borrower to the City, in the form attached as Exhibit B (the "Note"), which Note is by this reference incorporated herein as though set out in full.

SECTION 1.02. Making the Loan.

Upon fulfillment of the applicable conditions set forth in Article II, the City will make the Loan available to the Borrower. Disbursements of loan proceeds may be made by the City to the Borrower, upon the receipt and approval by the City, in its sole discretion, of a written payment request from the Borrower, in the form set out in Exhibit D attached. Loan disbursements shall be made via Automated Clearinghouse Transfer ("ACH"), as authorized and described on Exhibit F, attached.

SECTION 1.03. Loan Repayment Installments.

(a) Until the principal of and interest on the Note shall have been fully paid the Borrower shall pay directly to the City, as a repayment installment of the Loan, a sum equal to the principal (whether at maturity or upon acceleration) and interest due on the Note, as provided in the Note. Provided, however, that during the Pre-Cash Flow Period (as defined in Section 3.04 below), upon provision of written request from Borrower, such request to be submitted not less than 30-days prior to the extant principal installment date, the City will pay an amount (each a "Principal Advance") equal to the principal scheduled to become due on the Loan on such date. During the Pre-Cash Flow Period, Borrower shall remain responsible for interest installments on the Loan.

(b) At the conclusion of the Pre-Cash Flow Period, Borrower shall be responsible for all principal installments on the Loan without assistance from the City. To the extent that the Project is sold by Owner, Borrower agrees to remit full payment, within 15-days of closing such transaction, to the City in an amount equal to the aggregate sum of all Principal Advances made by the City on behalf of Borrower hereunder. To the extent that the Project remains unsold on December 1, 2038, Borrower shall pay to City, in addition to any principal of and/or interest on the Loan as may then be due and owing, an amount

equal to the aggregate sum of all Principal Advances made by the City on behalf of the Borrower hereunder. Amounts extended as Principal Advances shall not bear interest.

(c) In the event the Borrower should fail to make any of the payments required hereunder, beyond any applicable notice and cure periods, the item or installment so in default shall continue as an obligation of the Borrower until the amount in default shall have been fully paid, and such amount shall bear interest at the Default Rate (as defined in the Note).

SECTION 1.04. Prepayments.

The outstanding principal of the Loan may be prepaid at any time without penalty. Any prepayment shall be applied against the installments due under the Note, and, unless otherwise provided for in the Note, in inverse order of principal maturity with no abatement or reduction in the amount of installments otherwise required to be paid under the Note.

SECTION 1.05. Time and Place of Payments.

Each payment under this Agreement and the Note shall be made not later than the day when due in immediately available funds consisting of lawful money of the United States of America to the City via ACH, as authorized and described on Exhibit G, attached.

SECTION 1.06. Payment on Non-Business Days.

Whenever any payment to be made hereunder or under the Note shall be stated to be due on a Saturday, Sunday or a public holiday or the equivalent for banks generally under the laws of the State of Iowa (any other day being a "Business Day"), such payment may be made on the next succeeding Business Day together with interest in respect of such extension.

SECTION 1.07. Use of Loan.

Borrower shall cause the Owner to use the Loan proceeds for the construction of the Project, as set forth in Exhibit A.

ARTICLE II

CONDITIONS OF LENDING

SECTION 2.01. Conditions Precedent to the Loan.

The obligation and agreement of the City to make the Loan is subject to the following conditions precedent. The City shall have received on or before the date of the Loan the following, in form and substance satisfactory to the City:

- (a) The Note executed by the Borrower;
- (b) Evidence that the Borrower has complied with any and all Special Conditions set forth in Exhibit A required to be satisfied prior to Loan closing;
- (c) A legal opinion of counsel to the Borrower to the effect that: (i) the Borrower is duly organized and validly existing as a limited liability company with the limited liability company power to adopt and perform the resolution authorizing this Agreement and the Note; (ii) this Agreement and the Note have been duly authorized, executed and delivered by the Borrower and constitute valid and binding general obligations of Borrower, enforceable in accordance with their terms, subject to customary exceptions relating to bankruptcy and similar laws affecting creditors' rights and the exercise of judicial; and
- (d) Such other certificates, opinions, documents, and instruments which the City may reasonably request.

SECTION 2.02. Further Conditions Precedent to the Loan.

The obligation of the City to make the Loan shall be subject to the further conditions precedent that on the date of the Loan the following statements shall be true and the City shall have received a certificate signed by the Borrower, dated the date of the Loan, stating, among other things, that:

- (a) The representations and warranties contained in Section 3.01 of this Agreement, the covenants contained in Section 3.02 of this Agreement, and all representations and certifications contained in the Redevelopment Agreement are correct on and as of the date of the Loan as though made on and as of such date; and
- (b) No event has occurred and is continuing, or would result from the Loan,

which constitutes an Event of Default but for the requirement that notice be given or time elapse, or both.

SECTION 2.03. Condition Subsequent to the Loan.

The parties hereby agree that if the Owner has not drawn at least ten percent of the Project's approved development budget within six (6) months of the date hereof the City may, in its sole discretion, terminate this Agreement upon written notice to Borrower.

ARTICLE III

REPRESENTATIONS, COVENANTS AND WARRANTIES

SECTION 3.01. Representations and Warranties of the Borrower.

The Borrower represents and warrants as follows:

(a) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution, delivery and performance by the Borrower of this Agreement and the Note and other documents and agreements required to be delivered by the Borrower pursuant to this Agreement;

(b) This Agreement and the Note (which evidences the obligation of the Borrower hereunder) and other documents and agreements required by this Agreement when delivered hereunder are and will be legal, valid and binding obligations of the Borrower enforceable against the Borrower in accordance with their respective terms, subject to applicable bankruptcy, insolvency, fraudulent conveyance laws or other laws affecting the rights of creditors generally, and to general principles of equity;

(c) Neither the execution, delivery or performance of this Agreement or the Note, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction in any organizational document or any agreement or instrument to which the Borrower is now a party or by which the Borrower is bound, or constitutes a default under any of the foregoing, or results in the creation or imposition of any lien, charge or encumbrance whatsoever upon any of the property or assets of the Borrower under the terms of any instrument or agreement, other than as may be created or imposed to secure the Borrower's repayment of the Loan as provided in this Agreement;

(d) The obligation of the Borrower hereunder, as evidenced by the Note, when delivered hereunder is and will be a legal, valid and binding general obligation of the

Borrower under Iowa law.

(e) There is no litigation or proceeding pending or, to the knowledge of the Borrower, threatened against the Borrower affecting in any manner whatsoever the right of the Borrower to execute this Agreement or the other agreements required to be executed by the Borrower under this Agreement, or the ability of the Borrower to make the payments required hereunder and under the Note or to otherwise comply with Borrower's obligations contained herein or therein;

(f) The Borrower agrees that the City shall have no responsibility nor incur any expense for maintenance or preservation of the Project or for the payment of any taxes, assessments or other governmental charges assessed or levied with respect to the Project;

(g) The certifications and representations of the Owner and other information contained in the Redevelopment Agreement were true and correct as of the date made and are true and correct on the date hereof, except as information in the Redevelopment Agreement may have been amended with the written approval of the City;

(h) There has been no adverse change since the date of the Redevelopment Agreement in the financial condition, organization, operation, business prospects, fixed assets, or key personnel of the Owner;

(i) No portion of the Loan proceeds shall be used for any political activity or to further the election or defeat of any candidate for public office;

(j) No payment of any bonus or commission has been made by the Borrower or Owner for the purpose of obtaining approval of the Redevelopment Agreement, or has or will be made for the purpose of obtaining approval of Redevelopment Agreements for additional assistance, or any other approval or concurrence of the City required under this Agreement; and

(k) No officer, member, or employee of the City and no members of its board, and no other public official of the governing body of the locality or localities in which the Project is situated who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Project, has participated in any decisions relating to this Agreement which affect his or her personal interest or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested or has any personal or financial interest, direct or indirect, in this Agreement or the proceeds of the Loan.

SECTION 3.02. Covenants of the Borrower

The Borrower hereby covenants that during the term of the Loan, it shall:

- (a) Provide the City with the annual audited financial statements of the Borrower and the Owner no more than 210 days after fiscal year end; and
- (b) Provide City with semiannual Cash Flow Statements of the Borrower and the Owner in a form satisfactory to the City demonstrating the cash flow position of the Owner.
- (c) Inform the City of all changes in the Borrower's or the Owner's credit rating within ten business days of the Borrower becoming aware of such change.
- (d) Ensure that there will be no change to the managing member of the Owner without the prior written consent of the City.

SECTION 3.03. Further Covenants of the Borrower.

The Borrower hereby covenants that:

(a) Until the later of (a) the date that is five years after the date of this Agreement or (b) Borrower's repayment in full of the Loan, Borrower shall ensure that at least nine (9) of the rental units of the Project shall be leased only to tenants whose gross annual household income at the commencement of the lease is at or below one hundred forty percent (140%) of the statewide median income as published annually by HUD;

(b) Borrower shall cause the Owner to establish appropriate reporting and compliance measures to ensure compliance with this covenant. Borrower shall report to the City annually on July 1 of each year as to the Project, including the total number of units developed and the number of units that are leased to tenants whose gross annual household income at the commencement of the lease is at or below one hundred forty percent (140%) of the statewide median income as published annually by HUD; and

(c) Borrower shall ensure that Owner does not contract with any third-party owner, developer, or manager with respect to the Project unless such third-party owner, developer, or manager agrees in writing to be bound by the covenants of this section 3.03.

Section 3.04 Pre-Cash Flow Period Defined.

For purposes of this Agreement, Pre-Cash Flow Period shall mean the period of time beginning on the date of execution hereof and continuing until the Borrower first submits a Cash Flow Report demonstrating that the Owner's cash flow position with respect to the operations of the Project for the six-month period covered by such report is positive - with cash flow (not including any cash flow from borrowing) exceeding expenditures by at least 10%.

ARTICLE IV

EVENTS OF DEFAULT

SECTION 4.01. Events of Default.

Any of the following events shall constitute an "Event of Default" hereunder:

(a) Any representation or warranty made by the Borrower under or in connection with this Agreement shall prove to have been incorrect in any material respect when made; or

(b) The Borrower shall fail to pay any installment of principal of the Loan under this Agreement and the Note within thirty (30) days after it is due; or

(c) The Borrower shall fail to pay any installment of interest on the Loan under this Agreement and the Note within thirty (30) days after it is due; or

(d) The Borrower shall fail to perform or observe any other term, covenant, or agreement contained in this Agreement and any such failure shall remain unremedied for thirty (30) days after written notice thereof shall have been given to the Borrower by the City, or such longer period of time specified in such written notice as the City reasonably determines necessary to correct such default; or

(e) The Borrower shall (i) apply for or consent to the appointment of, or the taking of possession by, a receiver, custodian, trustee or liquidator of all or a substantial part of the Borrower's property, (ii) admit in writing the Borrower's inability, or be generally unable, to pay the Borrower's debts as they become due, (iii) make a general assignment for the benefit of the Borrower's creditors, (iv) commence a voluntary case under the Federal Bankruptcy Laws (as now or hereafter in effect), (v) file a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, (vi) acquiesce in writing to, or fail to controvert in a timely or appropriate manner, any petition filed against the Borrower in an involuntary case under such bankruptcy laws, or (vii) take any action for the purpose of effecting any of the foregoing;

(f) A case or other proceeding shall be commenced, without the application or consent of the Borrower, in any court of competent jurisdiction, seeking the liquidation, reorganization, dissolution, winding up, or composition or readjustment of debts, of the Borrower, the appointment of a trustee, receiver, custodian, liquidator or the like of the Borrower or of all or any substantial part of its assets, or any similar action with respect to the Borrower under any laws relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, and such case or proceeding (other

than an involuntary case under the Federal Bankruptcy Laws) shall continue undismissed, or unstayed and in effect, for a period of sixty (60) days, or in an involuntary case under the Federal Bankruptcy Laws (as now or hereinafter in effect) an order for relief against the Borrower shall be entered.

SECTION 4.02. Remedies of the City.

If any Event of Default referred to above has occurred, the City or its agent may:

(a) By notice to the Borrower declare the Loan, all interest thereon and all other amounts payable under the Note and this Agreement to be forthwith due and payable, whereupon the Loan, all such interest and all such amounts shall become and be forthwith due and payable, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower;

(b) Make no further Advances under this Agreement and the Note; and

(c) Take whatever action necessary to collect the payments and other amounts then due and thereafter to become due or to enforce performance and observance of any obligation, agreement or covenant of the Borrower under this Agreement.

No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. Upon the occurrence of an Event of Default and at any time thereafter, the City or its agent may, at its option, exercise any and all of the rights and remedies available to it.

SECTION 4.03 Notice and Opportunity to Cure

After the occurrence of any Event of Default, but prior to exercising the remedies provided in Section 4.02, the City or its agent shall give Borrower and Borrower's investment member simultaneous written notice of the Event of Default. Notice shall be delivered to Borrower and Borrower's investment member at the following addresses:

To Borrower:

Hatch Development Group, L.L.C.
Attn: Jack Hatch
333 East Grand Ave., Suite 101
Des Moines, IA 50309

To Owner's Investment Member:

WNC & Associates, Inc.
17782 Sky Park Circle
Irvine, CA 62614
Attn: Michael J. Gaber

If the Event of Default is a monetary default, Borrower shall have not less than ten (10) days after receipt of such notice (or such longer period of time as may be agreed to in this or a separate agreement) to cure the Event of Default. If the Event of Default is a non-monetary default, Borrower shall have not less than thirty (30) days after receipt of such notice to cure the Event of Default. However, if the Event of Default is a non-monetary default and such default is not reasonably capable of being cured within thirty (30) days, Borrower shall be deemed to have cured the Event of Default if Borrower takes corrective action to begin curing such Event of Default within the thirty (30) day period, and Borrower diligently, continually, and in good faith works to effect a cure as soon as practicable. The City agrees to accept any cure tendered by Borrower, Borrower's investment member, or any other affiliate or special member of Borrower. Compliance with the requirements of this Section 4.03 shall be a condition precedent to enforcing any remedies under this Agreement and the Note, including without limitation the remedies contained in Section 4.02.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. Waivers, Consents.

No waiver by the City of any default hereunder, nor consent to any departure by the Borrower from the provisions of this Agreement, shall in any event be effective unless the same shall be in writing and signed by the City and then such waiver or consent shall be effective only in the specific instance and for the specific purpose for which given, and shall not operate as a waiver or consent with respect to any other default or departure or the same default or departure on a future occasion.

SECTION 5.02. Notices, Etc.

All notices and other communications provided for hereunder shall be in writing and emailed, mailed or delivered to the persons and addresses set forth in Exhibit C hereto, or, as to each party, at such other address as shall be designated by such party in a written notice to the other parties. All such notices and communications shall, when emailed or mailed, be effective when emailed or deposited in the mail.

SECTION 5.03. No Waiver; Remedies.

No failure on the part of the City to exercise, and no delay in exercising, any right under this Agreement shall operate as a waiver thereof (including the forbearance from pursuing remedies relative to the Borrower's failure to remit scheduled payment by June 1, 2023); nor shall any single or partial exercise of any right under this Agreement preclude any other or further exercise thereof or the exercise of any other right. The remedies provided in this Agreement are cumulative and not exclusive of any remedies provided at equity or by law.

SECTION 5.04. Indemnity, Fees and Expenses.

(a) The Borrower will indemnify and save harmless the City and its officers and employees from and against any and all losses, by it or them while it or they are acting in good faith to carry out the transactions contemplated by this Agreement or to safeguard its or their interests or ascertain, determine or carry out its or their obligations under this Agreement, or any law or contract applicable to said transaction.

(b) The Borrower will upon demand pay to the City the amount of any and all reasonable expenses, including the reasonable fees and expenses of the City's attorneys and of any experts and agents, which the City may incur in connection with (i) the exercise or enforcement of any of the rights of the City hereunder or under the Note, (ii) the failure by the Borrower to perform or observe any of the provisions hereof, (iii) the collection of payments due under this Agreement and the Note, and (iv) any other reasonable expenses of the City related to the Project or this financing (including reasonable attorneys' fees) which are not otherwise expressly required to be paid by the Borrower under the terms of this Agreement.

(c) The Borrower agrees to pay all appraisal fees, survey fees, recording fees, license and permit fees, insurance premiums, taxes, charges, and assessments in connection with the Project.

It is the intention of the parties that the City shall not incur pecuniary liability by reason of (i) the terms of this Agreement, (ii) the undertakings required of the City hereunder, (iii) the performance of any act required of it by this Agreement, (iv) a failure on the part of the City to perform under the IFA Loan as a result of a default by the Borrower under this Agreement or (v) the performance of any act requested of it by the Borrower. Accordingly, if the City (including any person at any time employed by or serving as an officer or a member of the City, such persons hereinafter included in all references to the City in this Section) should incur any such pecuniary liability, then in such event the Borrower shall indemnify and hold harmless the City against all claims by or on behalf of any person, firm or corporation, arising out of the same, and all costs and

expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon. The Borrower releases the City from, agrees that the City shall not be liable for, and agrees to indemnify and hold the City harmless from, (i) any liability for any loss or damage to property or any injury to, or death of, any person that may be occasioned by any cause whatsoever pertaining to the Project, or (ii) any liabilities, losses or damages, or claims therefore, arising out of the failure, or claimed failure of the Borrower to comply with its covenants contained in this Agreement, including, in each such case, any attorneys' fees. The Borrower agrees to indemnify and hold the City harmless to the fullest extent permitted by law from any losses, costs, charges, expenses (including attorneys' fees), judgments and liabilities incurred by it or them, as the case may be, in connection with any action, suit or proceeding instituted or threatened in connection with the transaction contemplated by this Agreement. The obligation of the Borrower under this Section shall survive the termination of this Agreement.

SECTION 5.05. Binding Effect; Governing Law; Venue.

This Agreement shall be binding upon and inure to the benefit of the Borrower and the City and their respective successors and assigns, except that the Borrower shall not have the right to assign its rights hereunder or any interest herein without the prior written consent of the City. This Agreement shall be governed by, and construed in accordance with, the laws of the State of Iowa. Any action arising out of, or related to, this Agreement shall be filed and maintained in the Iowa District Court for Polk County.

SECTION 5.06. Assignments.

This Agreement may not be assigned by the Borrower without the prior written consent of the City.

SECTION 5.07. Counterparts.

This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be an original, and such counterparts shall together constitute one and the same instrument.

SECTION 5.08. Severability.

If any provision of this Agreement shall be held or deemed to be or shall, in fact, be illegal, inoperative or unenforceable, the same shall not affect any other provision or provisions herein contained or render the same invalid, inoperative, or unenforceable to any extent whatever.

SECTION 5.09. Amendments, Changes and Modifications.

Except as set forth in Section 5.10 below, this Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the authorized representatives of the parties hereto. The Executive Director of the City, or his designee, is the authorized representative of the City. The Authorized Representative of the Borrower is as specified in Exhibit A.

SECTION 5.10. Term of the Agreement.

This Agreement shall be in full force and effect from the date hereof and shall continue in effect until December 20, 2027 (the “Reversion Date”). To the extent that the City Council of the City takes action by duly authorized resolution prior to the Reversion Date extending the Reversion Date, then the Reversion Date in this Section shall be automatically amended to reflect such extension. To the extent that the City Council of the City fails to take such action by the Reversion Date, then this Agreement shall be amended such that the terms of the Original Loan Agreement shall govern, and it shall be as if the amendments contemplated herein had never been given effect. This Agreement shall remain in effect until the full payment of all principal of and interest on the Loan, unless sooner terminated by action of the parties as set forth herein.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN AGREEMENT.

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

CITY OF NEWTON, IOWA

By: _____
Name: Evelyn George
Title: Mayor

Attest:

By: _____
Name: Katrina Davis
Title: City Clerk

HATCH DEVELOPMENT GROUP, L.L.C.

By. _____
Name: Jack Hatch
Title: President

EXHIBIT A

LOAN DATA

Project Number: WF-18-001

Name of Borrower: Hatch Development Group, L.L.C.

Date of City's Approval of Redevelopment Agreement: [DATE OF CITY RESOLUTION]

Date of Loan Agreement: May 21, 2018

Date of Second Amended Loan Agreement: January 6, 2025

Interest Rate: 1.00%

Loan Term: expiring December 1, 2038

Principal Amount of Note and Loan: Lesser of \$450,000 or \$50,000 per unit

Authorized Representative of Borrower: Jack Hatch

Description of Project:

Adaptive reuse of the historic Hotel Maytag to include nine (9) workforce housing units.

EXHIBIT B

Loan No. WF-18-001
Dated: May 21, 2018
Fixed Interest Rate: 1.00%
Maturity Date: December 1, 2038
Principal Amount: \$450,000

PROMISSORY NOTE (Amended as of January 6, 2025)

FOR VALUE RECEIVED the undersigned, Hatch Development Group, L.L.C., an Iowa limited liability company, whose address is _____ (the "Borrower") unconditionally promises to pay to the order of the City of Newton (the "City"), or its assigns, at its principal place of business, located at _____, or at such other place as may be designated in writing from time to time by the holder of this Note, the principal sum of four hundred fifty thousand dollars and 00/100 Dollars (\$450,000), or so much thereof as has been advanced to the Borrower, together with interest to maturity at the rate of one percent (1.00%) per annum on the balance remaining from time to time unpaid; and, after either maturity or default, and beyond any applicable notice and cure periods set forth herein or in the Loan Agreement (described below) at the rate of ten percent (10%) per annum (the "Default Rate"); said principal and interest to be paid as follows:

Semi-annual payments of interest only on amounts outstanding under this Note, such interest payments due on December 1, 2019, and continuing on the first day of the months of June and December thereafter until such time as the last advance has been drawn down by the Borrower under this Note, (but in no event later than September 1, 2019), unless the City, in its sole discretion, agrees in writing to extend the deadline for drawing down the loan proceeds); and then

Equal semi-annual installments of principal and interest, based on an eighteen (18) year amortization, beginning the first day of the next succeeding June or December (as the case may be) after such final draw, and continuing on the first day of each succeeding June and December thereafter, with one final payment including all remaining principal and interest due December 1, 2038, each such payment to be applied first in payment of interest due on the unpaid principal and the remainder in reduction of the principal.

Interest on this Note shall be calculated on the basis of a 360-day year with twelve 30-day months

This Promissory Note is the Note referred to in, and is entitled to the benefits and subject to the provisions of, and is evidence of the obligation of the Borrower to make payments under the Second Amended Loan Agreement dated January 6, 2025 (the "Amended Loan Agreement"), between the Borrower and the City. The Second Amended Loan Agreement, among other things, contains provisions for acceleration of the maturity hereof upon the happening of certain stated Events of Default and also for prepayments on account of principal hereof prior to the maturity hereof upon the terms and conditions therein specified.

The Borrower hereby acknowledges and agrees to the enforceability of the provisions of Section 1.03 of the Second Amended Loan Agreement with respect to Principal Advances made by the City and the repayment thereof by Borrower. The Borrower shall have the right to prepay the debt evidenced by this Note without penalty and without the prior written approval of Lender.

If default be made in the payment of any sums due under this Note or (ii) Borrower is dissolved or there is a transfer of any ownership interest in the Borrower without first obtaining the written consent of the holder, then holder may, at its option, without further notice or demand, except as may otherwise be specifically provided for in the Second Amended Loan Agreement or by the Laws of the State of Iowa, declare the unpaid principal and accrued interest on this Note at once due and payable, foreclose all liens securing payment of this Note, pursue any and all other rights, remedies, and recourses available to holder under this Note, the Second Amended Loan Agreement or pursue any combination of the foregoing, all such remedies under this Note and under the Second Amended Loan Agreement being cumulative. Holder shall have the right, if holder so elects, to rescind any acceleration in payment of this Note for default, in which event this Note shall be construed, interpreted and enforced in the same manner as if holder had never elected to declare the unpaid principal balance and accrued interest of this Note at once due and payable.

Notwithstanding anything to the contrary contained in this Note or other documents evidencing this Loan (the "Loan Documents"), the following shall be permitted without the consent of the Lender and shall not constitute an event of default or result in any fee: (i) the transfer of any membership interest in the Borrower in accordance with the terms of Borrower's Amended and Restated Operating Agreement (the "Operating Agreement"), (ii) the removal and/or replacement of any managing member of the Borrower in accordance with the Operating Agreement, and/or (iii) an amendment of the Operating Agreement memorializing the transfers or removal described above.

The Borrower shall pay all costs of collection and the expense(s) of holder for

having to invoke such remedial action(s) as may be necessary to enforce the terms of this Note, including a reasonable attorney's fee, whether or not any action shall be instituted to collect or enforce this Note. **Time is of the essence of this Note.**

Failure to exercise any of the foregoing options upon the happening of one or more of the events of default provided in this Note or in the Second Amended Loan Agreement shall not constitute a waiver of the right to exercise the same or any other option at any subsequent time in respect to the same or any other event, and no single or partial exercise of any right or remedy shall preclude other or further exercise of the same or any other right or remedy. The holder of this Note shall have no duty to exercise any or all of the rights and remedies provided for, or contemplated in, this Note. The acceptance by holder of any payment under this Note that is less than payment in full of all amounts due and payable at the time of such payment shall not constitute a waiver of the right to exercise any of the foregoing options at that time or at any subsequent time, or nullify any prior exercise of any such option without the express written consent of the holder.

Borrower and any endorsers or guarantors of this Note, severally waive presentment and demand for payment, notice of intent to accelerate maturity, notice of acceleration of maturity, protest or notice of protest, and non-payment, bringing to suit and diligence in taking any action to collect any sums owing under this Note or in proceeding against any of the right and properties securing payment of this Note, and consent to any and all renewals, extensions or modifications which might be made by the holder hereof as to the time of payment of this Note from time to time, and further agree that the security for this Note or any portion hereof may from time to time be modified or released in whole or in part without affecting the liability of any party liable for the payment of this Note.

This Note is to be construed according to the laws of the State of Iowa.

Should any provision or term hereof be or become in violation of any law, rule or regulation, whether local, state or federal, such provision shall be deemed automatically amended to conform, to the extent possible without total waiver of such provision, to such law, and all other provisions hereof shall remain in full force and effect. As used herein, the terms Borrower and City shall be deemed to include their respective grantees, heirs, legal representative, successors and assigns, whether voluntary by action of the parties or involuntary by operation of law, and the term holder shall be deemed to include the City as well as any future holder or holders of this Note.

IMPORTANT: READ BEFORE SIGNING. THE TERMS OF THIS AGREEMENT SHOULD BE READ CAREFULLY BECAUSE ONLY THOSE TERMS IN WRITING ARE ENFORCEABLE. NO OTHER TERMS OR ORAL PROMISES NOT CONTAINED IN THIS WRITTEN CONTRACT MAY BE LEGALLY ENFORCED. YOU MAY CHANGE THE TERMS OF THIS AGREEMENT ONLY BY ANOTHER WRITTEN

AGREEMENT.

Signed as of the _____ day of _____, 2023, pursuant
to due authority.

HATCH DEVELOPMENT GROUP, L.L.C.

By. _____
Name: Jack Hatch
Title: President

EXHIBIT C

ADDRESSES FOR NOTICES AND DEMANDS

City: City of Newton, Iowa
101 West 4th Street
Newton, IA 50208
(641) 792-2787
Lisaf@newtongov.org

Borrower: Hatch Development Group, L.L.C.

EXHIBIT D

PAYMENT REQUEST FORM

Borrower Name and Address: Hatch Development Group, L.L.C.

Attn: Jack Hatch

For Property Address: _____

Pursuant to, and in accordance with, the provisions of the Amended Loan Agreement dated _____, 2018 (the "Agreement"), between the City of Newton (the "City"), and Hatch Development Group, L.L.C. (the "Borrower"), the Authority is hereby requested to pay to the Borrower the sum of \$ _____ which amount is to be used as set forth in Exhibit A hereto.

IT IS HEREBY CERTIFIED THAT:

- (a) None of the items for which disbursement is requested has formed the basis for any disbursement heretofore made under the Agreement;
- (b) The obligation with respect to which this disbursement is being requested has been properly incurred in accordance with the Agreement with respect to the Project (as defined in the Agreement) and is a proper charge under the Agreement;
- (c) The Borrower has no notice of, and is not otherwise aware of, any mechanics', materialmen's, laborers', suppliers', vendors' or other liens or rights in respect thereof which should, in accordance with the Agreement, be satisfied or discharged before this disbursement is made;
- (d) This disbursement does not include any amount which the Borrower is entitled to retain pursuant to any contract or agreement providing for the retention by the Borrower of a portion of the price paid thereunder;
- (e) No Event of Default is continuing under the Agreement; and
- (f) Attached hereto are, as applicable, copies of invoices, lien waivers, and other necessary documents in connection with this Payment Request Form,

**AUTHORIZED BORROWER
REPRESENTATIVE**

Date: _____

EXHIBIT E

CLOSING CERTIFICATE OF BORROWER

The undersigned, Hatch Development Group, L.L.C. (the "Borrower"), in connection with a loan to the Borrower in the amount of \$450,000 (the "Loan") by the City of Newton, Iowa (the "City") respecting funds secured by the City under the Authority's Workforce Housing Loan Program (the "Program") hereby certifies as follows:

1. All defined terms used herein shall have the respective meanings contained in the Second Amended Loan Agreement dated as of January 6, 2025 (the "Amended Loan Agreement"), between the Borrower and the Authority pursuant to which the Loan to the Borrower is to be made.

2. The Borrower is duly organized, legally existing and in good standing under the laws of the State of Iowa; is duly licensed or qualified in the State of Iowa and in all other states and jurisdictions wherein the nature of the business transacted by the Borrower or the nature of the property owned or leased by it makes such licensing or qualification necessary; and has full right, power and authority to conduct the business in which it is now engaged and to enter into the Loan Agreement, the Loan made pursuant thereto, and to execute such other documents and take such other action necessary for the consummation of the transactions contemplated thereby.

3. All of the proceeds of the Loan will be used for the purpose of financing a portion of the costs of the Project as set forth in Exhibit A to the Loan Agreement.

4. The execution and delivery by the Borrower of the Loan Agreement and the Borrower's Promissory Note described therein (the "Note" and, together with the Loan Agreement, the "Loan Documents") will not result in any breach of any of the terms, conditions, or provisions of, or constitute a default under, or result in the creation or imposition of any lien, charge or encumbrance upon any property or assets of the Borrower pursuant to any indenture, loan agreement, or other instrument to which the Borrower is a party or by which the Borrower may be bound, nor will such action result in any violation of the provisions of the partnership agreement of the Borrower.

5. The Borrower is not in default in the payment of the principal of or interest on any of its indebtedness for borrowed money, and to the best knowledge of the undersigned, is not in default under any instrument or agreement under and subject to which any indebtedness for borrowed money has been issued, and, to the best knowledge of the undersigned, no event has occurred and is continuing under the provisions of any such instrument or agreement which with the lapse of time or the giving of notice, or both, would constitute an event of default thereunder.

6. All financial statements of the Borrower heretofore presented to the City, if any, are correct and complete and fairly present the financial condition of the Borrower as of the dates indicated and the results of the operations of the Borrower for the periods specified. There has been no material change in the condition of the Borrower, financial or otherwise, from that set forth in the aforesaid financial statements since the dates thereof.

7. There are no actions, suits or proceedings pending or to the knowledge of the Borrower threatened against or affecting the Borrower at law or in equity or before any federal, state or local governmental authority or agency challenging the validity of any of the Loan Documents, seeking to enjoin the performance of the obligations of the Borrower thereunder or challenging the acquisition, construction, improving and equipping or operation of the Project, or which, if adversely determined, would result in any material adverse change in the business, properties or assets or in the condition, financial or otherwise, of the Borrower that have not been disclosed to the City.

8. No event has occurred and is continuing, or would result from the transaction contemplated by the Loan Documents, which constitutes an Event of Default under the Loan Agreement or which would constitute such an Event of Default but for the requirement that notice be given or time elapse or both.

9. The Borrower has satisfied all conditions precedent to the Loan as set forth in Section 2.01 of the Loan Agreement.

10. The undersigned, on behalf of the Borrower, have examined executed counterparts of the Loan Agreement and all other Loan Documents, and the Borrower agrees to pay all sums owing under the Note and the Loan Agreement in accordance with the provisions of the Note and the Loan Agreement.

11. The officer of Borrower, whose signatures appear below have on the date or dates of the execution of the Loan Documents, and are on the date hereof, the duly qualified officer of Borrower, and the signatures appearing below and on the Loan Documents are the genuine signature of such Manager.

The officer whose signature appear below have heretofore been empowered to act on behalf of the Borrower in the execution of the Loan Agreement and the Note or to execute any other instrument or take any other action necessary for the consummation of the transaction contemplated in the Loan Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto affixed his official

signature this _____ day of _____, 2018.

HATCH DEVELOPMENT GROUP, L.L.C.

By: _____

EXHIBIT F

HATCH DEVELOPMENT GROUP, L.L.C. Automated Clearinghouse (ACH) Transfer Authorization for Loan Proceeds Disbursement

It is understood that each loan disbursement credit will be made only upon receipt of the necessary disbursement request form and corresponding invoices.

To begin receiving your payments via EFT, please complete and return this form:

Borrower Name: _____

Borrower Address: _____

City: _____ State: _____ Zip: _____

Federal Identification Number: _____

Remittance Contact Name: _____

Remittance Contact's E-Mail address: _____

Phone number: _____ Fax number: _____

Bank Name: _____

Bank Address: _____

City: _____ State: _____ Zip: _____

Bank Routing Number (ABA#): _____

Account Number : _____ *Up to 17 digits only*

☐ Checking

☐ Savings

Check Account Type

Authorization

I hereby authorize the City of Newton, Iowa (the "City") to credit the bank account listed above for disbursement of loan proceeds pursuant to that certain Loan Agreement dated _____.

Authorized Signature: _____

Print Name: _____

Title: _____

Date: _____

Please return this form to:

City of Newton, Iowa
Attn: _____
101 West 4th Street
Newton, IA 50208

Exhibit G

City of Newtown, Iowa
Loan Agreement
Automated Clearinghouse (ACH) Transfer Authorization
for Loan Repayment

Borrower name: Hatch Development Group, L.L.C.

I hereby authorize and direct the City of Newton, Iowa (the "City") to debit the bank account designated below semi-annually to collect principal and interest amounts due as required by that certain Loan Agreement and Promissory Note dated _____. **There is no charge for an ACH transfer.**

Borrower's Bank Name: _____

Address: _____

City: _____ State: _____ Zip Code: _____

Bank Account Number: _____ Checking Savings (Circle one)

Local Bank Routing Number (ABA#) _____

Account Name: _____

Authorization

Borrower name: _____ Loan Number: _____

Federal Identification Number: _____

Address: _____ Email Address _____

City: _____ State: _____ Zip Code: _____

Phone: _____ FAX: _____

Authorized Signatory's Name: _____

Signature: _____ Date: _____

Title: _____

This authorization shall remain in full force and effect until the City of Newton, Iowa has received written notice of its termination or modification.

Please return this form to:

City of Newton, Iowa
Attn: _____
101 West 4th Street
Newton, IA 50208

City of Newton Council Report

**Item:**

Resolution amending the Parking Space Lease by and between The City of Newton, Iowa and Hotel Maytag Investors, LLC

Summary:

Amending the Parking Space Lease Agreement

Financial Impact:

None.

Report Number: 2024-840

Date:

January 6, 2025

Lead Department:

Community Development

Recommendation:

Approve

Background:

In 2018, the Newton City Council approved an agreement with Hotel Maytag Investors, LLC for the use of off-street City-owned parking spaces to support the residential use at Hotel Maytag. This agreement includes parking spaces found at the Northeast Parking Lot (123 North 3rd Avenue East) and the Water Tower Parking Lot (215 South 2nd Avenue West).

It is now desirable to remove the Water Tower Parking Lot from this agreement, as those parking spaces are not utilized by Hotel Maytag.

This resolution approves the amendment to the Parking Space Lease Agreement and directs the City Clerk to record the resolution and amended agreement.

Recommendation:

Staff recommends approval.

A handwritten signature in black ink, appearing to read "Matt Muckler".

Matt Muckler, City Administrator

Prepared by: City of Newton, 101 West 4th Street South, Newton, Iowa 50208
Tax Payer Information: City of Newton, 101 West 4th Street South, Newton, Iowa 50208
Return Document To: Katrina Davis, City Clerk, City of Newton, 101 West 4th Street South, Newton, Iowa 50208
Grantors: City of Newton, Iowa **Grantees:** Hotel Maytag Investors, LLC
Legal Description: LOT 8 IN BLOCK 28 OF THE ORIGINAL TOWN OF NEWTON, IN THE CITY OF
NEWTON, JASPER COUNTY, IOWA, CONTAINING 8,712 SQUARE FEET OR 0.20 ACRES, SUBJECT TO
EASEMENTS AND RESTRICTIONS OF RECORD IF ANY

RESOLUTION 2025- _____

**RESOLUTION AMENDING THE PARKING SPACE LEASE BY AND
BETWEEN THE CITY OF NEWTON, IOWA AND HOTEL MAYTAG
INVESTORS, LLC**

WHEREAS, By Resolution 2018-193, a parking space lease between the City of Newton, Iowa and Hotel Maytag Investors, LLC was approved on July 16, 2018; and

WHEREAS, said Parking Space Lease was recorded at the office of the Jasper County Recorder and is found at File 2018-00005277; and

WHEREAS, it is desirable to remove the “Water Tower Parking Lot”, legally described as, LOT 8 IN BLOCK 28 OF THE ORIGINAL TOWN OF NEWTON, IN THE CITY OF NEWTON, JASPER COUNTY, IOWA, CONTAINING 8,712 SQUARE FEET OR 0.20 ACRES, SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD IF ANY, from the Parking Space Lease

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that the amended Parking Space Lease, as found in “Exhibit 1” attached to this resolution, is hereby approved.

NOW THEREFORE, BE IT FURTHER RESOLVED that the City Clerk is hereby directed to record this resolution and “Exhibit 1” at the office of the Jasper County Recorder.

PASSED this _____ day of January, 2025.

APPROVED this _____ day of January 2025.

Evelyn George, Mayor

ATTEST:

Katrina Davis, City Clerk

EXHIBIT 1

AMENDED PARKING SPACE LEASE

By and Between

The City of Newton, Iowa

And

Hotel Maytag Investors, LLC

THIS **AMENDED** PARKING SPACE LEASE is entered into this _____ day of _____, 2025 by and between the City of Newton, Iowa, a municipality (the "City" or "Landlord"), and Hotel Maytag Investors, LLC, an Iowa limited liability company, its successors and assigns (the "Developer").

1. **PREMISES.** Subject to the terms set forth herein, Landlord grants to Developer an exclusive lease of certain parking spaces located in Newton, Iowa (the "Premises"): 16 parking spaces in the Northeast Parking Lot, located one block east of the Courthouse Square and two blocks north of 1st Avenue. ~~and 30 parking spaces in the Water Tower Parking Lot, located one block west of the Courthouse Square and two blocks south of 1st Avenue,~~ on the following conditions. A map of the Premises showing the exact location of the parking spaces is shown on Exhibit A attached hereto. Legal descriptions for the parking spaces subject to this Lease are set forth in Exhibit B attached hereto. The appurtenant service drives used to access those parking spaces, as depicted on Exhibit A and legally described in Exhibit B and "Non-Exclusive Access Easements", are not exclusive to the Developer and remain accessible to the City and the public.

2. **TERM.** This lease shall be for a term of fifty (50) years from the date this Lease is executed, unless terminated earlier as provided in this Lease.

3. **USE OF PREMISES.** Developer shall have the exclusive right to use and occupy the Premises, which are to be used by Developer for the sole purpose of providing parking spaces to the tenants renting apartment space at the building located on land legally described as:

Lots "A", "B" and Four in Block Fifteen in the City of Newton, Jasper County, Iowa, as shown in Plat Book B, at Page 214 in the office of the Recorder of said County

(the "Developer Property"), and for no other purpose. Developer agrees to use the Premises in such a manner as to not interfere with the rights of the City to utilize the surrounding areas, to comply with all applicable governmental laws, ordinances, and regulations in connection with its use of the Premises, including without limitation all environmental laws, to keep the Premises in a clean and sanitary condition, and to use all reasonable precaution to prevent waste, damage, or injury to the Premises.

4. **RENT.** The total annual Base Rent under this Lease shall be One Dollar (\$1.00).

5. **MAINTENANCE OF PREMISES.** Developer shall be responsible for all maintenance of the Premises. "Maintenance" shall include all insurance costs, all costs of labor, material and depreciation of machinery and equipment used in such maintenance, repair and replacement, snow removal costs, costs to stripe the parking spaces, signage costs to properly identify parking spaces for use by Developer, costs to police the Premises and remove parking violators, management costs, if any, and any other cost to maintain the Premises in their current condition.

6. **SUCCESSORS AND ASSIGNS.** This Agreement is binding upon, and inures to the benefit of, the parties and their respective successors in interest by way of merger, acquisition, or otherwise, and their permitted assigns. The terms of this Agreement shall run with the land and bind all future successors in interest or title and assigns who are owners and/or users of the Developer Property.

7. **DEVELOPER'S IMPROVEMENTS.** Developer shall have the right to place signage and make improvements or other alterations to the Premises at its own expense. Prior to commencing any such work, Developer shall first obtain the written consent of Landlord for the proposed work. Landlord may, as a condition to its consent, require that the work be done by Landlord's own employees and/or under Landlord's supervision, but at the expense of Developer, and that Developer give sufficient security that the Premises will be completed free and clear of liens and in a manner satisfactory to Landlord.

8. **CONDITION OF PREMISES.** Except as provided herein, Developer agrees that no promises, representations, statements, or warranties have been made on behalf of the Landlord to Developer respecting the condition of the Premises, or the making of any repairs to the Premises. By taking possession of the Premises, Developer acknowledges that the Premises were in good condition when possession was taken.

9. **PERSONAL PROPERTY AT RISK OF DEVELOPER.** All personal property located on the Premises shall be at the risk of Developer only. Landlord shall not be liable for any damage to any property of Developer or its agents, employees, tenants or invitees in the Premises caused by any reason whatsoever, including, without limitation, fire, theft, steam, electricity,

sewage, gas or odors, or from water, rain, or snow which may precipitate or flow onto the Premises.

10. **LANDLORD'S RIGHTS.** Upon thirty (30) days' notice to Developer, the Landlord shall have the right to:

A. Install and maintain directional and motor vehicle signs on the Premises.

B. To make, at its own expense, repairs, alterations, and improvements to the Premises and any adjacent real estate, land, street, or alley, provided, however, that during such operations it shall not suspend use of the Premises to do so, or it shall provide temporary relocation during the term of the repair or improvement project, of comparable space, for Developer's tenants to park. Comparable space shall include the same number of parking spaces and be within equal-distance from Developer Property as the Premises are from the Developer Property.

C. Take any and all reasonable measures, including inspections or the making of repairs, alterations, and improvements to the Premises, which Landlord deems necessary or desirable for the safety, protection, operation, or preservation of the Premises.

D. Approve all sources furnishing signs, painting, and/or lettering to the Premises, and approve all signs on the Premises prior to installation thereof.

11. **INSURANCE.** Developer shall not use or occupy the Premises or any part thereof in any manner which could invalidate any policies of insurance now or hereafter placed on the Premises or increase the risks covered by insurance on the Premises or necessitate additional insurance premiums or policies of insurance, even if such use may be in furtherance of Developer's business purposes.

12. **INDEMNITY.** Developer shall indemnify, hold harmless, and defend Landlord from and against, and Landlord shall not be liable to Developer on account of, any and all costs, expenses, liabilities, losses, damages, suits, actions, fines, penalties, demands, or claims of any kind, including reasonable attorney's fees, asserted by or on behalf of any person, entity, or governmental authority arising out of or in any way connected with either (a) a failure by Developer to perform any of the agreements, terms or conditions of this Lease required to be performed by Developer; (b) a failure by Developer to comply with any laws, statutes, ordinances, regulations, or orders of any governmental authority; or (c) any accident, death, or personal injury, or damage to, or loss or theft of property which shall occur on or about the Premises, except as the same may be the result of the negligence of Landlord, its employees, or agents.

13. **LIABILITY INSURANCE.** Developer agrees to procure and maintain continuously during the entire term of this Lease, a policy or policies of commercial general liability insurance from a company or companies acceptable to Landlord, at Developer's own cost and expense, insuring Landlord and Developer from all claims, demands or actions; such policy or policies shall on addition to insuring Developer protect and name the Landlord and Landlord's managing agent as additional insured and shall provide coverage in a combined single limit per occurrence of at least \$1,000,000 for claims, demands or actions for bodily injury, death or property damage.

14. **DEFAULT OR BREACH.** Each of the following events shall constitute a default or a breach of this Lease by Developer:

A. If Developer fails to pay Landlord any rent or other payments when due hereunder;

B. If Developer vacates or abandons the Premises;

C. If Developer files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or voluntarily takes advantage of any such act by answer or otherwise, or makes an assignment for the benefit of creditors;

D. If involuntary proceedings under any bankruptcy or insolvency act shall be instituted against Developer, or if a receiver or trustee shall be appointed of all or subsequently all of the property of the Developer, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within thirty (30) days after the institution or appointment; or

E. If Developer fails to perform or comply with any other term or condition of this Lease, and if such nonperformance shall continue for a period of ten (10) days after notice thereof by Landlord to Developer, time being of the essence.

15. **EFFECT OF DEFAULT.** In the event of any default or breach hereunder, in addition to any other right or remedy available to Landlord, either at law or in equity, Landlord may retake the Premises and may terminate this Lease by giving written notice of termination to Developer. On termination, Landlord may recover from Developer all damages proximately resulting from the breach.

16. **COMPLIANCE WITH ADA.** Developer shall be responsible for all costs of complying with the American with Disabilities Act Amendments Act (ADAAA) and all similar laws and regulations affecting the Premises.

17. **MISCELLANEOUS.**

A. Amendment in Writing. This Lease contains the entire agreement between the parties and may be amended only by subsequent written agreement.

B. Waiver - None. The failure of Landlord to insist upon strict performance of any of the terms, conditions and agreements of this Lease shall not be deemed a waiver of any of its rights or remedies hereunder and shall not be deemed a waiver of any subsequent breach or default of such terms, conditions, and agreements.

C. Applicable Law. This Lease shall be governed by and constructed in accordance with the laws of the State of Iowa.

IN WITNESS WHEREOF, the parties hereto have executed this Lease the day and year first above written.

LANDLORD

CITY OF NEWTON

By: _____

Evelyn George, Mayor

ATTEST:

By: _____

Katrina Davis, City Clerk

DEVELOPER

HOTEL MAYTAG INVESTORS, LLC

By Its Managing Members

By: _____

Name: _____

Its: _____

By: _____

Name: _____

Its: _____

EXHIBIT A
Map of Premises

NORTHEAST PARKING LOT (outlined in red)



~~WATER TOWER PARKING LOT (outlined in red)~~

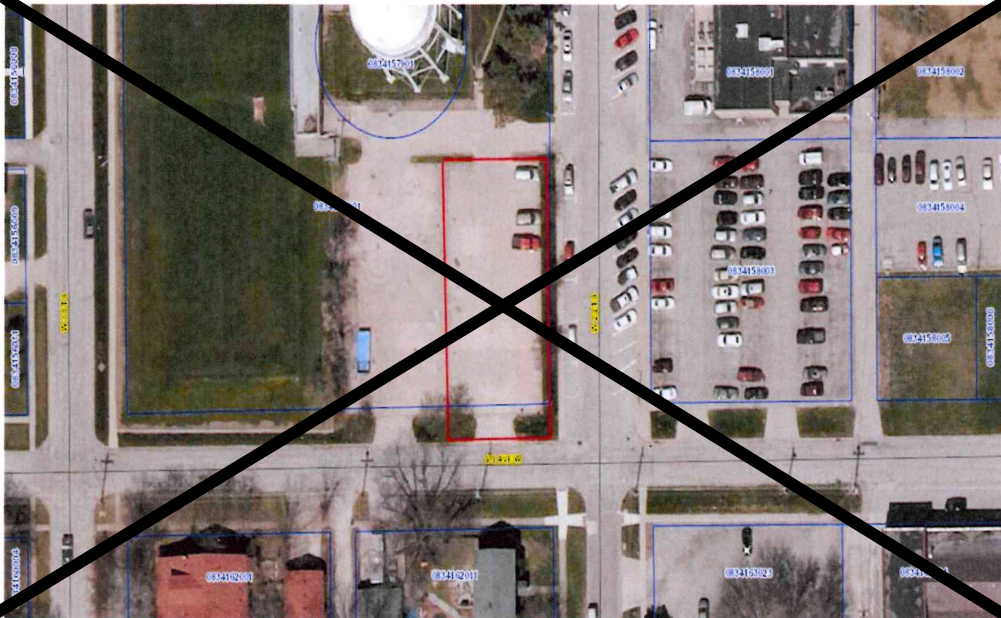


EXHIBIT B

LEGAL DESCRIPTIONS

FOR NORTHEAST PARKING LOT LOCATED IN THE SOUTHWEST CORNER OF THE
INTERSECTION OF N 3RD AVENUE E & E 2ND STREET N, NEWTON, JASPER COUNTY, IOWA

PROPERTY DESCRIPTION

THE EAST 60.00 FEET OF LOTS 1 AND 2 IN BLOCK 10 OF THE ORIGINAL TOWN OF
NEWTON, IN THE CITY OF NEWTON, JASPER COUNTY, IOWA CONTAINING 7,920 SQUARE
FEET OR 0.18 ACRES.

SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.

FOR WATER TOWER PARKING LOT LOCATED IN THE NORTHWEST CORNER OF THE
INTERSECTION OF S 3RD AVE W & W 2ND STREET S, NEWTON, JASPER COUNTY, IOWA

PROPERTY DESCRIPTION

LOT 8 IN BLOCK 28 OF THE ORIGINAL TOWN OF NEWTON, IN THE CITY OF NEWTON,
JASPER COUNTY, IOWA, CONTAINING 8,712 SQUARE FEET OR 0.20 ACRES.

SUBJECT TO EASEMENTS AND RESTRICTIONS OF RECORD, IF ANY.