

Agenda: Newton City Council

City Council Meeting

Council Chambers, 101 W 4th St S., Newton, IA 50208
Mediacom Channels: 12/85/121.12, Website Livestream:
Newtongov.org / I want to “view” Livestream of City
Council Meetings (www.newtongov.org/cablecast).

September 06, 2022 6:00 p.m.

- | | |
|------------------------------|--|
| Pledge | Pledge of Allegiance |
| Call to Order | 1. Roll Call |
| Presentations | 2. Newton Salvation Army – Captain Tim North |
| Citizen Participation | 3. This is the time of the meeting that a citizen may address the Council on matters that are included in the consent agenda or a matter that is not on the regular agenda. After being recognized by the Mayor, each person will be given three (3) minutes to speak. Comments and/or questions must be related to City policies or the provision of City services and shall not include derogatory statements or comments about any individual. Except in cases of legal emergency, the City Council cannot take formal action at the meeting, but may ask the City staff to research the matter or have the matter placed on a subsequent agenda. |
| Consent Agenda | <div>4. August 15, 2022 Regular City Council Meeting Minutes</div> <div>5. Approve Liquor License for the following: <u>Okoboji Grill of Newton LLC</u>, 1425 W 19th St S., Class C Liquor License, Outdoor Service, Sunday Sales, Catering; <u>Montana Mike’s Steakhouse</u>, Wedding Event, DMACC-600 N 2nd Ave W, pending staff approval; <u>Kwik Star #1001</u>, 1910 1st Ave E, Class C Beer Permit, Class B Wine Permit, Sunday Sales.</div> <div>6. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 22-08). (Council Report 22-247)</div> <div>7. Resolution fixing the amounts to be assessed against individual private properties for the abatement of nuisance violations (Schedule No. 22-09). (Council Report 22-248)</div> <div>8. Resolution revising the funding source for the purchase of 10 golf cars approved earlier by Resolution 2021-261. (Council Report 22-249)</div> <div>9. Resolution Approving the Agreement between Brycer LLC. and the Fire Department for the Compliance Engine. (Council Report 22-250)</div> <div>10. Resolution approving Municipal Solid Waste Sanitary Landfill Local Government Dedicated Fund. (Council Report 22-251)</div> <div>11. Resolution awarding contract for the Newton Sanitary Landfill Pump Station #2 Electrical Cabinet Upgrade Project. (Council Report 22-252)</div> <div>12. Approve Bills</div> |

Resolution

13. Resolution approving the design and construction of a park project at 224 W. 3rd St. N. per an updated design concept and approving a funding contribution for this project from the city in an amount not to exceed \$150,000. (No Council Report)
 - A group of private citizens associated with Newton Main Street have been working over the last two years to raise funds and plan for a new City park at 224 W. 3rd St. N.
 - Representatives from the group presented an updated concept plan for the park at two recent Council Meetings and are now requesting approval to move forward with the project.
 - This resolution would approve a new park at this location and \$150,000 in City funding towards the development of this new City park.
14. Resolution approving the settlement agreement and release between the City of Newton, Iowa and Home Key, L.C. In The Matter of City Of Newton, Iowa V. Home Key L.C., CVCV122655. (No Council Report)
 - In February 2022, the City filed a Petition at Law against Home Key L.C. for lack of performance on cleared D&D properties.
 - A settlement agreement and release has been prepared to resolve the matter by deeding title of 1008 East 8th Street North back to the City of Newton and allowing the Defendant to sell 1012 and 1018 East 8th Street North.
15. Resolution approving the development and minimum assessment agreement between the city of Newton, Iowa and 427 North 3rd LLC. (No Council Report)
 - City Council authorized the filing of a petition for abandoned building for the property at 427 North 3rd Avenue East by Council Resolution 2020-305.
 - 427 North 3rd LLC has agreed to a development and minimum assessment agreement which will result in a rehabilitation of the single family home and a minimum assessment of \$190,000 for the property.
 - Upon execution of the agreement, the City would dismiss the abandoned building litigation, and 427 North 3rd LLC would proceed with the renovation of the home. Progress on the renovation would be monitored and benchmarks must be met.
16. Resolution amending contract with Teamsters Local 120. (Council Report 22-253)
 - The City of Newton and the Teamsters Local 120 wish to modify specifically ARTICLE – 18 UNIFORMS from the July 1, 2019 – June 30, 2024 contract.
 - Article 18 of the collective bargaining agreement between the City and the Union currently requires a clothing allowance on a receipt and reimbursement system. This practice takes a lot of staff time to process invoices and regulate to meet the IRS rules. The City and the Union, through mutual consideration, seek to convert to a

direct cash payment to employees, effective in 2022 and thereafter.

17. Resolution Authorizing Amendments to the City of Newton Employee Handbook Regarding Clothing Allowances. (Council Report 22-254)
 - Police, Fire, Public Works and Community Services currently provide a clothing allowance for various non-bargaining employees on a receipt and reimbursement system. This practice takes a lot of staff time to process invoices and regulate to meet the IRS rules. The City seeks to convert to a direct cash payment to employees, effective in 2022 and thereafter.
18. Resolution to Reorganize Staff in the Administration Department. (Council Report 22-255)
 - This resolution would approve eliminating the part-time Office Assistant position and adding a full time Administrative Assistant position in the Administration Department. This job classification would better align with the increased responsibilities expected from the position, allow for additional cross training, provide increased levels of support to the Finance area, and enhance the segregation of duties.
19. Resolution Authorizing the Newton Fire Department to Accept the 2021 Assistance to Firefighters Grant Award in the Amount of \$53,437.14.(Council Report 22-256)
 - The Assistance to Firefighters Grant (AFG) program is to award one-year grants directly to fire departments to enhance their abilities to respond to emergencies.
 - The program seeks to identify departments that lack resources necessary to protect the health and safety of the public and their firefighting personnel.
 - Federal Emergency Management Agency (FEMA) administers the Assistance to Firefighters Grant Program (AFG).

Staff Reports

20. Library Annual Report – Nicole Terry, Library Director

Mayor/Council Comments

- 21.

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.

REGULAR CITY COUNCIL MEETING MINUTES
AUGUST 15, 2022, 6:00 P.M.
CITY COUNCIL CHAMBERS

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 Pro Tem George presided. Present Council Members: Hallam, Dalton, George, Ervin, Trotter, Wade. Absent: None.

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

Nicole Terry, Library Director & Studio Melee updated council on the condition of the Library Roof which is in need of a full replacement.

Ethan Nasalroad, Johnson Aviation, gave council a recap of the airport on the Indy Race Weekend.

During citizen participation Jon Dunwell, 912 S 11th Ave W, spoke in support of the larger vision of a walk path from Legacy Plaza through Downtown including Harmony Park where people will have a full destination experience. Brady Archibald, 417 E 8th St S, spoke in favor of HF2130 allowing UTV/ATVs on roadways. He would like the City to allow for this in town.

Moved by Ervin, seconded by Hallam to approve consent agenda items 5-16.

5. August 1, 2022 Regular City Council Meeting Minutes
6. Approve Liquor License for the following: Ownership updates, Newton Post No. 111, The American Legion, 1101 W 4th St S.
7. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 22-07). Resolution 2022-231 adopted.
8. Resolution fixing the amounts to be assessed against individual private properties for the abatement of nuisance violations (Schedule No. 22-08). Resolution 2022-232 adopted.
9. Resolution approving the purchase of a sprayer for the Community Services Department. Resolution 2022-233 adopted.
10. Resolution awarding contract for the City of Newton 2022 Roofing Project No. 1. Resolution 2022-234 adopted.
11. Resolution directing sidewalk repairs at 1300 1st Ave E. Resolution 2022-235 adopted.
12. Resolution approving a telecommunications Licensing Agreement with Windstream Iowa Communications, LLC – 2801 Rusty Wallace Dr. Resolution 2022-236 adopted.
13. Resolution approving purchase of a Sewer Line Rapid Assessment Tool. Resolution 2022-237 adopted.
14. Resolution Approving a Funding Request of \$3,000 to the South Skunk Blues Society for the 2022 Bowlful of Blues. Resolution 2022-238 adopted.
15. Resolution approving the purchase of CivicClerk. Resolution 2022-239 adopted.
16. Approve Bills.

AYES: Six. NAYS: None. Consent Agenda was adopted.

Mayor Pro Tem George stated that this is the time and place for a Public Hearing on Resolution to Approve Urban Renewal Plan Amendment for the North Central Urban Renewal Area. There were no written comments. Moved by Trotter, seconded by Wade, to close the public hearing. AYES: Six. NAYS: None. The public hearing was closed. Moved by Dalton, seconded by Wade to adopt the Resolution. AYES: Six. NAYS: None. Resolution 2022-240 adopted.

Mayor Pro Tem George stated that this is the time and place for a Public Hearing on Resolution awarding contract for the 2022 Union Cemetery Paving Project. There were no written comments. Moved by Trotter, seconded by Hallam, to close the public hearing. AYES: Six. NAYS: None. The public hearing was closed. Moved by Ervin, seconded by Hallam to adopt the Resolution. AYES: Six. NAYS: None. Resolution 2022-241 adopted.

Moved by George, seconded by Dalton to adopt the Resolution to Approve Additional Quantities to the Contract for the Newton City Hall Parking Lot Reconstruction Project. AYES: Six. NAYS: None. Resolution 2022-242 adopted.

During the UTV/ATV discussion council reviewed options. Chief Burdess confirmed that under the current state law riders can drive from their residence directly to a secondary road in the county. Council inquired about various restrictions and enforcement issues. Ervin asked that the Traffic Safety Committee look at an Ordinance that would be the best manageable option if council would decide to allow it. Taking control of it to the best of our ability. George asked for information from other cities that are currently allowing them.

During Mayor/Council Comments Hallam reiterated how much fun he had with PGI all week and thanked Ervin for all the work he did to get them here. Dalton spoke in support of Harmony Park, stating she has received over 20-25 people in favor with very few opposed. George echoed that opinion.

Moved by Wade, seconded by Dalton to adjourn the meeting at 7.38 P.M. Motion unanimously carried by voice vote.

Michael L. Hansen, Mayor

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 22-08).

Report Number: 22-247**Date:**

September 6, 2022

Summary:

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

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

Cost Recovery: \$2,407.70

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 \$2,407.70. 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 22-08).

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light gray horizontal line.

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

**RESOLUTION LEVYING ASSESSMENTS FOR COSTS OF
NUISANCE ABATEMENT AND PROVIDING FOR THE
PAYMENT THEREOF (SCHEDULE 22-08)**

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. 22-08 for collection in the same manner as the property tax.

NOW, THEREFORE, BE IT RESOLVED, that the attached Schedule No. 22-08, 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 October 6, 2022, 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 September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Schedule 22-08: Assessment for the Expenses for Nuisance Abatement

Deed/Contract Holder	Parcel Number	Property Address	City	Net Assessed Property Value	Abatement Fee	Admin. Fee	Total Amount Assessed	Legal	Date Abated
Westward Tax Service	1303202004	619 S 13th Ave E	Newton	\$10,290	\$180.00	\$75.00	\$255.00	LISTER'S ACRES E 1/2 LOT 5 EX W 2' OF N 1/2 & E 2' OF S 1/2 OF W 1/2 LOT 5	6/29/2022
Kenneth Kirk	827476009	726 E 8th St N	Newton	\$43,840	\$602.70	\$75.00	\$677.70	NORTH EAST ADD LOT D OF LOT 3 & N 1/2 LOT E OF LOT 3	6/30/2022
Donald & Janelle Darrah	834277010	925 1st Ave E	Newton	\$68,260	\$90.00	\$75.00	\$165.00	ENGLE'S SD LOT 19	7/7/2022
Patrick Frantz	1304128025	1404 W 13th St S	Newton	\$181,950	\$90.00	\$90.00	\$180.00	ROBISON'S ADD LOT 21	7/7/2022
Erik Kolman	835401015	503 E 20th St S	Newton	\$94,820	\$170.00	\$75.00	\$245.00	AURORA HEIGHTS SD LOT 5 BLK B	7/8/2022
Jerome Morris	834162005	324 W 3rd St S	Newton	\$189,610	\$60.00	\$100.00	\$160.00	ORIGINAL PLAT LOT 6 OUTLOT 16	7/12/2022
Rogue 22 LLC	834160010	321 W 3rd St S	Newton	\$209,650	\$60.00	\$100.00	\$160.00	PARDOE'S SD OUTLOT 15 S 74.25' LOTS 7-8 BLK 1 EX N 3' OF W 35' OF S 74.25' LOT 7	7/12/2022
Farrell Properties Inc	834303022	611 W 2nd St S	Newton	\$92,170	\$60.00	\$100.00	\$160.00	STONE'S ADD LOT 21	7/12/2022
RC Homes LLC	1303202011	1500 E 6th St S	Newton	\$23,830	\$60.00	\$75.00	\$135.00	LISTER'S ACRES LOT 35	7/14/2022
RC Homes LLC	1303202010	1404 E 6th St S	Newton	\$26,080	\$60.00	\$75.00	\$135.00	LISTER'S ACRES LOTS 27 & 30	7/14/2022
RC Homes LLC	1303202009	1400 E 6th St S	Newton	\$23,830	\$60.00	\$75.00	\$135.00	LISTER'S ACRES LOT 22	7/14/2022
Total							\$2,407.70		

City of Newton Council Report



Item:

Resolution fixing the amounts to be assessed against individual private properties for the abatement of nuisance violations (Schedule No. 22-09).

Report Number: 22-248

Date:

September 6, 2022

Summary:

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

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

Cost Recovery: \$5,537.27

Background:

The City continues to work towards better curb appeal and improved aesthetics within the community. The City abated violations that remained non-compliant after the initial warning period.

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

Recommendation:

City Staff recommends approval of the Resolution fixing the amounts to be assessed against individual private properties for the abatement of nuisance violations.

A handwritten signature in black ink, appearing to read "Matt Muckler". The signature is stylized with a cursive-like flow.

Matt Muckler
City Administrator

RESOLUTION 2022- _____

**RESOLUTION FIXING THE AMOUNTS TO BE ASSESSED AGAINST INDIVIDUAL
PRIVATE PROPERTIES FOR THE ABATEMENT OF NUISANCE VIOLATIONS
(SCHEDULE NO. 22-09)**

WHEREAS, the City of Newton has abated nuisance violations at the addresses as found in Schedule No. 22-09: Assessment for the Expenses for Nuisance Abatement; and

WHEREAS, the City of Newton has maintained a report of the abatement costs for each individual property as found in Schedule 22-09: Assessment for the Expenses for Nuisance Abatement; and

WHEREAS, the expenses have been billed to the property owners and remain unpaid.

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that the Schedule 22-09: Assessment for the Expenses for Nuisance Abatement is approved.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that the City Clerk is hereby directed to prepare, sign, and file in the clerk's office the Schedule 22-09: Assessment for the Expenses for Nuisance Abatement.

PASSED this _____ day of September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Schedule 22-09: Assessment for the Expenses for Nuisance Abatement

Deed/Contract Holder	Parcel Number	Property Address	City	Net Assessed Property Value	Abatement Fee	Admin. Fee	Total Amount Assessed	Legal	Date Abated
CJF Properties	834303025	627 W 2nd St S	Newton	\$79,360	\$60.00	\$75.00	\$135.00	STONE'S ADD LOT 18	7/20/2022
Linda Rice	835402011	514 E 20th St S	Newton	\$118,780	\$60.00	\$100.00	\$160.00	AURORA HEIGHTS SD LOT 11 BLK E	7/20/2022
Shanti Investment Partners	834186006	402 E 2nd St S	Newton	\$110,340	\$270.00	\$75.00	\$345.00	ORIGINAL PLAT LOT 13 OUTLOT 19	7/15/2022
Lance Ross	827304014	831 1st St N	Newton	\$87,060	\$2,442.60	\$75.00	\$2,517.60	AINSWORTH & WHEELER'S SD, LOT 1 OF LOT U	7/20/2022
Tammy Lynn Smith	834404027	621 E 8th St S	Newton	\$38,800	\$372.48	\$75.00	\$447.48	LINCOLN PLACE ADD LOT 6 BLK 13	7/12/2022
Kent and Candace Degoey	827477012	509 E 9th St N	Newton	\$33,980	\$887.19	\$75.00	\$962.19	LONG'S SD LOT 18	7/14/2022
Justin Campbell	826452004	2007 N 5th Ave E	Newton	\$107,700	\$145.00	\$75.00	\$220.00	RODGER'S FARM ADD LOT 24	7/19/2022
Jonathan Kratoska	834352009	1006 W 3rd St S	Newton	\$89,740	\$60.00	\$75.00	\$135.00	NATION'S SD LOT 10	7/26/2022
RC Homes LLC	827477009	901 N 6th Ave E	Newton	\$56,980	\$60.00	\$100.00	\$160.00	LONG'S SD LOT 21	7/26/2022
Farrell Properties Inc	827326018	812 1st St N	Newton	\$93,920	\$60.00	\$100.00	\$160.00	NORTH ADD S 114.18' OF W 132' LOT 14	7/26/2022
Ruth Stewart	833102012	211 W 16TH ST N	Newton	\$101,570	\$60.00	\$100.00	\$160.00	HILLCREST PLACE LOT 9 BLK A	7/26/2022
Eugene Porter	835151017	1311 1st Ave E	Newton	\$13,940	\$60.00	\$75.00	\$135.00	E 50' X 52' LOT 6 OF LOT G SW NW	7/26/2022
Total							\$5,537.27		

City of Newton Council Report

**Item:**

Resolution revising the funding source for the purchase of 10 golf cars approved earlier by Resolution 2021-261.

Report Number: 22-249

Date:

September 6, 2022

Summary:

Council approved the purchase of 10 new golf cars using General Fund reserves, and the current plan is to utilize a portion of the Golf fund's balance to make the entire purchase instead.

Lead Department:

Community Services

Recommendation:

Approve

Financial Impact:

No change to the earlier approved total item cost of \$49,500 for the 10 new golf cars.

Background:

On October 4, 2021 City Council approved Resolution 2021-261 authorizing the purchase of 10 new Yamaha golf cars from Harris Golf Cars of Dubuque, Iowa at a total cost of \$49,500.

The new golf cars have finally been delivered, and the Golf fund's balance allows for the entire purchase to be made without using the earlier approved General fund reserves.

Recommendation:

City Staff recommends approval of the Resolution revising the funding source for the purchase of 10 golf cars approved earlier by Resolution 2021-261.

A handwritten signature in black ink, appearing to read "Matt Muckler", is written over a light gray, stylized outline of the same signature.

Matt Muckler
City Administrator

RESOLUTION 2022- _____

**RESOLUTION REVISING THE FUNDING SOURCE FOR THE PURCHASE OF 10
GOLF CARS APPROVED EARLIER BY RESOLUTION 2021-261**

WHEREAS, on October 4, 2021 City Council approved Resolution 2021-261 authorizing the purchase of 10 new Yamaha golf cars from Harris Golf Cars of Dubuque, Iowa at a total cost of \$49,500.00; and

WHEREAS, the new golf cars have finally been delivered, and the Golf fund's balance allows for the entire purchase to be made without using the earlier approved \$35,000.00 in General fund reserves; and

WHEREAS, City Staff recommends approval of the Resolution revising the funding source for the purchase of the 10 golf cars approved earlier by Resolution 2021-261 to being paid entirely from the Golf fund.

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that this resolution is approved revising the funding source as earlier approved by Resolution 2021-261 to now reflect the entire cost of \$49,500.00 to be paid from the Golf fund.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that a payment of \$49,500.00 to Harris Golf Cars of Dubuque, Iowa is approved, with said entire payment being made from the Golf fund.

PASSED this _____ day of September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item: Resolution Approving the Agreement Between Brycer LLC and the Fire Department for The Compliance Engine

Summary: Resolution to approve an agreement with Brycer LLC to utilize The Compliance Engine.

Financial Impact: No financial impact by approving the agreement.



Report Number: 22-250

Date: September 6, 2022

Lead Department:
Fire Department

Recommendation:
Approve

Background:

The Compliance Engine is a simple, internet-based tool for code officials to track and drive code compliance, reduce false alarm activity, and provide a safer community. It provides a secure cloud environment in which third party contractors that inspect, test, and maintain fire protections systems, submit their reports via Brycer's web portal direct to the Fire Department, facilitating a more efficient review, tracking, and follow-up process with occupants to correct deficiencies and maintain systems. In addition to the web-based technology, our services include a team to administer hard and soft copy notifications and perform follow up calls to help increase testing and maintenance activity in a given jurisdiction. The end result is a comprehensive and accurate aggregation of data around which buildings have what types of systems, when they were last tested, and if there are any open deficiencies that could jeopardize their successful deployment in the event of an incident. With The Compliance Engine, the AHJ (Authority Having Jurisdiction) will be better equipped to do more with less in their mission to drive 100% code compliance with fire and life safety laws.

Current Landscape:

- 40% of life safety systems go uninspected or maintained every year
- 32.5% of false alarms are due lack of maintenance and testing
- 29% of fire code official's time is spent administering 3rd Party ITM reports
- 95% of AHJs do not have the resources to enforce their adopted fire code
- Current Process is manual, paper based, reactionary, inefficient and expensive

The Compliance Engine Benefits:

- Drives 100% Compliance with fire & life safety code
- Electronically collects, organizes and tracks fire and life safety test results
- Offers API Services with RMS and software inspection companies
- Maximizes limited resources, saves time and streamlines communication
- Built to ensure a safer environment for firefighters, citizens and guests
- Saves AHJs money while strengthening life safety and offers cost recovery

Revenue Model:

- Free for Fire Department
- Zero charge to the building owners
- Fee paid by 3rd party contractors on per system, per premises, per annum basis
- Delivers Compliance resulting in new business and maintenance revenue for 3rd party contractors

This program is currently being used by the following Iowa fire departments:

Altoona Fire Department
Ankeny Fire Department
Burlington Fire Department
Cedar Rapids Fire Department
Clinton Fire Department
Coralville Water Department
Coralville Fire Department
Davenport Fire Department
Dubuque Fire Department
Hiawatha Fire Department

Indianola Fire Department
Iowa City Fire Department
Marion Fire & Rescue
Marshalltown Fire Department
Muscatine Fire Department
North Liberty Fire Department
Ottumwa Fire Department
Waterloo Fire Rescue
Waukee Fire Department

RECOMMENDATION

City Staff recommends Council approve the Agreement with Brycer LLC to start utilizing The Compliance Engine.



Matt Muckler
City Administrator

RESOLUTION NO. 2022-_____

**RESOLUTION APPROVING THE AGREEMENT BETWEEN BRYCER LLC.AND
THE FIRE DEPARTMENT FOR THE COMPLIANCE ENGINE**

WHEREAS, The Compliance Engine is a simple, internet-based tool for code officials to track and drive code compliance, reduce false alarm activity, and provide a safer community; and

WHEREAS, It provides a secure cloud environment in which third party contractors that inspect, test, and maintain fire protections systems, submit their reports via Brycer's web portal direct to the Fire Department, facilitating a more efficient review, tracking, and follow-up process with occupants to correct deficiencies and maintain systems; and

WHEREAS, Brycer's services include a team to administer hard and soft copy notifications and perform follow up calls to help increase testing and maintenance activity in a given jurisdiction; and

WHEREAS, there is no charge to the fire department or to building owners and the fees are paid by third party contractors responsible for inspection, service, and maintenance.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the agreement with Brycer LLC for The Compliance Engine is approved and directs the Fire Chief to execute the agreement with the same.

PASSED this 6th day of September 2022.

APPROVED this _____ day of September 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

BRYCER, LLC
4355 Weaver Parkway
Suite 230
Warrenville, IL 60555

July 27, 2022

Newton Fire Department
410 S 2nd Ave W
Newton, IA 50208

Re: “The Compliance Engine”

Dear Newton Fire Department:

We look forward to providing you with “The Compliance Engine” (the “Solution”). This proposal letter provides the basic terms by which Brycer, LLC (“Brycer”) will provide you, Newton Fire Department (“Client”), with the Solution. The use of the Solution and all matters between Brycer and Client will be subject to the standard “Terms and Conditions” attached to this proposal as Exhibit A. The basic terms are as follows:

1. **Term**: Brycer will provide Client with the Solution for three years, commencing July 1st, 2022 (the “Initial Term”). Thereafter, the Term shall automatically renew for successive three-year periods unless terminated by Brycer or Client in writing at least 90 days prior to the expiration of the then current Term (each, a “Renewal Term” and together with the Initial Term, the “Term”). Following the expiration or termination of the Term (as provided in the Terms and Conditions), Client shall stop using the Solution; provided, however, Brycer shall make available, and Client shall have the right to download, Client’s data from the Solution for a period of 60 days after the expiration or termination of the Term. Client shall have the right to terminate this agreement upon giving 90 days written notice to Brycer.

2. **Fees**: Client shall not pay any fees for use of the Solution. Brycer will collect all fees due and payable by third party inspectors in connection with activities relating to the Solution.

3. **Brycer Responsibilities**: During the Term, Brycer shall be responsible for the following in connection with Client’s use of the Solution:

- **Availability**. Brycer shall make the Solution available to Client as set forth on Exhibit B. The maintenance schedule and minimum service levels for the Solution are set forth on Exhibit B.
- **Service Level**. Brycer shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with Client and access the Solution.
- **Backup**. Brycer shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis. Upon request by Client (which can be no more than once a month) or made prior to or within 60 days after the effective date of termination of the Term, Brycer will make available to Client a complete and secure (i.e. encrypted and appropriately authenticated) download file of Client data in XML format including all schema and attachments in their native format. Brycer shall maintain appropriate administrative,

physical and technical safeguards for protection of the security, confidentiality and integrity of Client data. Brycer shall not (a) modify Client data or (b) disclose Client data except as required by law.

- **Retention of Information.** Brycer will maintain all information entered into the database by third party inspectors for at least five years from the time such information is entered into the database.
- **Notices.** Brycer will be responsible for generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections that are due; (b) notices that an inspection is past due; and (c) notices of completed inspection reports which contain one or more deficiencies.
- **Call Center** Phone calls by Brycer on behalf of the Client to the property for EACH life-safety system overdue for service based on dates automatically tracked within the TCE database. Brycer is not an agent of the Client and all scripts for the overdue calls will be approved by the Client.
- **Updates and Enhancements.** In the event Brycer releases any updates, corrections, or enhancements to the Solution during the Term, Brycer shall promptly provide such updates or corrections to Client free of any charge or fee.

4. **Client Responsibilities:** During the Term, Client shall be responsible for the following in connection with Client's use of the Solution:

- **Operating System.** Client shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution installed on the Client's equipment (the "Client Access Software") and for the installation of network connections to the Internet. In addition to any other Client Access Software requirements, Client must use version Edge, Firefox version 76, Chrome 60 or Safari (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.
- **Training.** Client shall allow Brycer at Client's facilities to train all applicable personnel of Client on the use of the Solution.
- **Information.** Client shall promptly provide Brycer with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within [**Newton Fire Department**] for Brycer's initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion.
- **Enforcement.** Client shall take all actions necessary to require (e.g. resolution, ordinance, fire policy, code amendment) the use of the Solution by third party inspection companies.
- **Reports.** Client will require all compliant and deficient test results to be submitted.

5. **Ownership of Data.** Client owns all the data provided by Client and received from third party contractors for Client. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Client's data.

Please acknowledge your acceptance of this proposal and our standard Terms and Conditions by counter-signing this proposal below. We look forward to a long-term and mutually beneficial relationship with you.

Brycer, LLC

By: _____
Its: _____

Acknowledged and Agreed to this
___ day of _____, 20___:

[Newton Fire Department]

By: _____
Its: _____

Exhibit A

Terms and Conditions

Any capitalized terms not defined in these Terms and Conditions shall have the meaning assigned to it in that certain Letter Agreement attached hereto by and between Brycer, LLC and Client (the "Agreement").

1. **Restrictions on Use.** Client shall not copy, distribute, create derivative works of or modify the Solution in any way. Client agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution for the benefit of Client; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution; (c) it shall not sell, resell, rent or lease the Solution; (d) it shall not use the Solution to store or transmit infringing or otherwise unlawful or tortious material, or to store or transmit material in violation of third party rights; (e) it shall not interfere with or disrupt the integrity or performance of the Solution or third-party data contained therein; (f) it shall not reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the Solution (g) it shall not permit anyone other than the Authorized Users to view or use the Solution and any screen shots of the Solution and (h) it shall not disclose the features of the Solution to anyone other than the Authorized Users. Client is responsible for all actions taken by the Authorized Users in connection with the Solution.
2. **Proprietary Rights.** All right, title and interest in and to the Solution, the features of the Solution and images of the Solution as well any and all derivative works or modifications thereof (the "Derivative Works"), and any accompanying documentation, manuals or other materials used or supplied under this Agreement or with respect to the Solution or Derivative Works (the "Documentation"), and any reproductions works made thereof, remain with Brycer. Client shall not remove any product identification or notices of such proprietary rights from the Solution. Client acknowledges and agrees that, except for the limited use rights established hereunder, Client has no right, title or interest in the Solution, the Derivative Works or the Documentation.
3. **Independent Contractor.** Nothing in the Agreement may be construed or interpreted as constituting either party hereto as the agent, principal, employee or joint venturer of the other. Each of Client and Brycer is an independent contractor. Neither may assume, either directly or indirectly, any liability of or for the other party. Neither party has the authority to bind or obligate the other party and neither party may represent that it has such authority.
4. **Reservation of Rights.** Brycer reserves the right, in its sole discretion and with prior notice to Client, to discontinue, add, adapt, or otherwise modify any design or specification of the Solution and/or Brycer's policies, procedures, and requirements specified or related hereto. All rights not expressly granted to Client are reserved to Brycer, including the right to provide all or any part of the Solution to other parties.
5. **Use of Logos.** During the term of this Agreement, Brycer shall have the right to use Client's logos for the purpose of providing the Solution to Client.
6. **Confidential Information.** Brycer and Client acknowledge and agree that in providing the Solution, Brycer and Client, as the case may be, may disclose to the other party certain confidential, proprietary trade secret information ("Confidential Information"). Confidential Information may include, but is not limited to, the Solution, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. Each party agrees that it will not, without the express prior written consent of the other party, disclose any Confidential Information or any part thereof to any third party. Notwithstanding the foregoing, the parties acknowledge that Client and Brycer shall be permitted to comply with any all federal and state laws concerning disclosure provided that any such required disclosure will not include any of Brycer's screen shots. The disclosing party shall provide prior written notice of any required disclosure of the nondisclosing party's Confidential Information to the nondisclosing party and shall disclose only the information that is required to be disclosed by law. In the event that Client requests from Brycer any reports or other information for purposes of complying with federal and state disclosure laws, Brycer shall provide such information within five business day following such request. Confidential Information excludes information: (a) that is or becomes generally available to the public through no fault of the receiving party; (b) that is rightfully received by the receiving party from a third party without limitation as to its use; or (c) that is independently developed by receiving party without use of any Confidential Information. At the termination of this Agreement, each party will return the other party all Confidential Information of the other party. Each party also agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with any Confidential Information of the other party or any firmware, circuit board or software provided therewith.
7. **Brycer Warranty.** Brycer represents and warrants to Client that Brycer has all rights necessary in and to any patent, copyright, trademark, service mark or other intellectual property right used in, or associated with, the Solution, and that Brycer is duly authorized to enter into this Agreement and provide the Solution to Client pursuant to this Agreement.
8. **Disclaimer.** All information entered into Brycer's database is produced by third party inspectors and their agents. **THEREFORE, BRYCER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION ENTERED INTO BRYCER'S DATABASE BY EITHER CLIENT OR THIRD PARTY INSPECTORS. EXCEPT AS SET FORTH IN SECTION 7, BRYCER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION OR ANY OTHER INFORMATION AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRYCER'S SOLE LIABILITY FOR BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7, AND CLIENT'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD RECIPIENT HARMLESS FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY.**
9. **LIMITATION ON DAMAGES.** BRYCER SHALL ONLY BE LIABLE TO CLIENT FOR DIRECT DAMAGES PURSUANT TO THE AGREEMENT. EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, IN NO EVENT SHALL BRYCER BE LIABLE FOR OR OBLIGATED IN ANY MANNER FOR SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS OR SYSTEM DOWNTIME. CLIENT ACKNOWLEDGES AND AGREES THAT IN NO CASE SHALL BRYCER 'S LIABILITY FOR ANY LOSS OF DATA OR DATA INTEGRITY EXCEED THE REPLACEMENT COST OF THE MEDIA ON WHICH THE DATA WAS STORED.
10. **Risks Inherent to Internet.** Client acknowledges that: (a) the Internet is a worldwide network of computers, (b) communication on the Internet may not be secure, (c) the Internet is beyond the control of Brycer, and (d) Brycer does not own, operate or manage the Internet. Client also acknowledges that there are inherent risks associated with using the Solution, including but not limited to the risk of breach of security, the risk of exposure to computer viruses and the risk of interception, distortion, or loss of communications. Client assumes these risks knowingly and voluntarily releases Brycer from all liability from all

such risks. Not in limitation of the foregoing, Client hereby assumes the risk, and Brycer shall have no responsibility or liability of any kind hereunder, for: (1) errors in the Solution resulting from misuse, negligence, revision, modification, or improper use of all or any part of the Solution by any entity other than Brycer or its authorized representatives; (2) any version of the Solution other than the then-current unmodified version provided to Client; (3) Client's failure to timely or correctly install any updates to the Client Access Software; (4) problems caused by connecting or failure to connect to the Internet; (5) failure to provide and maintain the technical and connectivity configurations for the use and operation of the Solution that meet Brycer's recommended requirements; (6) nonconformities resulting from or problems to or caused by non-Brycer products or services; or (7) data or data input, output, accuracy, and suitability, which shall be deemed under Client's exclusive control.

11. **Indemnity.** Brycer (the "Indemnifying Party") will defend and indemnify Client against any damages, losses, liabilities, causes of action, costs or expenses arising from Brycer's breach of this Agreement, gross negligence or intentional misconduct. Client will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable attorneys' fees) arising from Client's breach of this Agreement, gross negligence or intentional misconduct. Client acknowledges that Brycer does not create any of the data and information included in the Solution and is not responsible for and does not assess or make any suggestions or recommendations with respect to any such data or information. Client will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable attorneys' fees), claims, demands, suits or proceedings made or brought against Brycer by a third party in connection with Client's or an Authorized User's use of the Solution, or any action or inaction taken by a third party, including, but not limited to, third party inspectors, in connection with such third party providing services for Client or otherwise at Client's or an Authorized User's request or direction.
12. **Breach.** Brycer shall have the right to terminate or suspend this Agreement, and all of Client's rights hereunder, immediately upon delivering written notice to Client detailing Client's breach of any provision of this Agreement. If Client cures such breach within 5 days of receiving written notice thereof, Brycer shall restore the Solution and Client shall pay any fees or costs incurred by Brycer in connection with the restoration of the Solution.
13. **Illegal Payments.** Client acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or anything of value from any employee or agent of Brycer in connection with the Agreement.
14. **Beneficiaries.** There are no third party beneficiaries to the Agreement.
15. **Force Majeure.** Neither party shall be responsible for any failure to perform due to unforeseen, non-commercial circumstances beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, blackouts, accidents, or strikes. In the event of any such delay, any applicable period of time for action by said party may be deferred for a period of time equal to the time of such delay, except that a party's failure to make any payment when due hereunder shall not be so excused.
16. **Notices.** All notices required in the Agreement shall be effective: (a) if given personally, upon receipt; (b) if given by facsimile or electronic mail, when such notice is transmitted and confirmation of receipt obtained; (c) if mailed by certified mail, postage prepaid, to the last known address of each party, three business days after mailing; or (d) if delivered to a nationally recognized overnight courier service, one business day after delivery.
17. **JURISDICTION AND VENUE.** THE AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, AND ENFORCEABLE UNDER, THE LAWS OF THE STATE IN WHICH CLIENT EXISTS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND THAT ARE TO BE WHOLLY PERFORMED IN SUCH STATE WITHOUT REFERENCE TO THE CHOICE-OF-LAW PRINCIPLES OF SUCH STATE. THE PARTIES IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THE AGREEMENT SHALL BE LITIGATED ONLY IN COURTS LOCATED WITHIN THE STATE IN WHICH CLIENT EXISTS. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID STATE. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRANSFER OR CHANGE VENUE OF ANY SUCH ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THE AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.
18. **Attorneys' Fees.** The prevailing party in any proceeding in connection with the Agreement shall be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, reasonable attorneys' and paralegals' fees and costs incurred by such party in connection with any such proceeding.
19. **Entire Agreement.** The Agreement sets out the entire agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, oral or written.
20. **Amendment.** The Agreement may not be altered or modified, except by written amendment which expressly refers to the Agreement and which is duly executed by authorized representatives of both parties. The waiver or failure by either party to exercise or enforce any right provided for in the Agreement shall not be deemed a waiver of any further right under the Agreement. Any provision of the Agreement held to be invalid under applicable law shall not render the Agreement invalid as a whole, and in such an event, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law. The Agreement may be executed by facsimile and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
21. **Expiration.** The rights and obligations contained in these Terms and Conditions shall survive any expiration or termination of the Agreement.

Exhibit B

Maintenance Schedule and Minimum Service Levels

1. **Uptime and Maintenance.**

The Solution shall be available 24 hours per day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by Client at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide Client with advance notice of any unscheduled downtime.

2. **Response Time.**

Brycer shall respond to telephone calls from Client within two hours of the call and/or message and all emails from Client within two hours of the receipt of the email.

3. **Customer Support**

Customer support hours are 24/7/365. The number is 630-413-9511

Brycer will assign client a dedicated customer representative with direct access to their email and work number.

City of Newton Council Report

Item: Resolution approving Municipal Solid Waste Sanitary Landfill Local Government Dedicated Fund.

Summary: Pass by resolution a “Municipal Solid Waste Sanitary Landfill Local Government Dedicated Fund.”

Financial Impact: \$6,164,980.00 of dedicated funds to the landfill closure/post closure fund.



Report Number: 22-251

Date: September 6, 2022

Lead Department: Public Works

Recommendation: Approve

Background:

The purpose of this resolution is to approve the “Local Government Dedicated Fund” as the financial assurance mechanism for the City of Newton’s operation of the Newton Sanitary Landfill. Iowa Administrative Code 567, Chapter 113, Section 455B.306 of the Code of Iowa requires financial assurance instruments for all sanitary disposal projects.

The Newton Sanitary Landfill located at 3202 Highway 14-S, Newton, IA 50208, has permit #50-SDP-01-75P as issued by the Iowa Department of Natural Resources, to operate a sanitary disposal project located within the State of Iowa, and is required pursuant to IAC 567 Chapter 113 to maintain financial assurance for landfill closure and/or postclosure care. IAC 567 Chapter 113.14(6)“i” provides for the “Local Government Dedicated Fund” mechanism to be an acceptable financial assurance instrument, and the City of Newton now meets the requirements of said sub-rule.

In 2021 the Newton Sanitary Landfill transferred \$3,438,514 from the landfill fund balance to the dedicated Landfill Closure/Post Closure fund to fully fund the financial assurance of \$6,114,980. This amount plus 2022 required financial assurance deposit of \$50,000 makes the Landfill Closure/Post Closure Dedicated Fund of \$6,164,980.00 fully funded. This no longer requires the City of Newton to provide a local government financial test to secure these funds.

The IAC requires the local government to pass by resolution a “Municipal Solid Waste Sanitary Landfill Local Government Dedicated Fund.”

Recommendations:

The City of Newton adopts the “Local Government Dedicated Fund” as the financial assurance mechanism for operation of the Newton Sanitary Landfill.

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

Matt Muckler
City Administrator

RESOLUTION NO. 2022-_____

**RESOLUTION APPROVING MUNICIPAL SOLID WASTE SANITARY
LANDFILL LOCAL GOVERNMENT DEDICATED FUND**

WHEREAS, the purpose of this resolution is to approve the “Local Government Dedicated Fund” as the financial assurance mechanism for the City of Newton’s operation of the Newton Sanitary Landfill; and

WHEREAS, we hereby certify that this fund conforms in all respects with the requirements found in Iowa Administrative Code 567 Chapter 113; and

WHEREAS, Section 455B.306 of the Code of Iowa requires financial assurance instruments for all sanitary disposal projects; and

WHEREAS, the Newton Sanitary Landfill located at 3202 Highway 14-S, Newton, IA 50208, has permit #50-SDP-01-75P as issued by the Iowa Department of Natural Resources, to operate a sanitary disposal project located within the State of Iowa, and is required pursuant to IAC 567 Chapter 113 to maintain financial assurance for landfill closure and/or postclosure care in connection therewith; and

WHEREAS, IAC 567 Chapter 113.14(6)“i” provides for the “Local Government Dedicated Fund” mechanism to be an acceptable financial assurance instrument, and the City of Newton meets the requirements of said sub-rule.

NOW, THEREFORE, BE IT RESOLVED that the City of Newton adopts the “Local Government Dedicated Fund” as the financial assurance mechanism for operation of the Newton Sanitary Landfill; and

BE IT FURTHER RESOLVED, the City of Newton is to comply with the requirements of the “Local Government Dedicated Fund” as outlined in IAC 567 Chapter 113.14.

PASSED this _____day of September 2022.

APPROVED this _____ day of September 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



August 17, 2022

JODY RHONE
PUBLIC WORKS DIRECTOR
CITY OF NEWTON
403 WEST 4TH STREET NORTH, SUITE 501
NEWTON IA 50208

**Re: Newton Sanitary Landfill
Permit Number 50-SDP-01-75P
Approval of Financial Assurance Documents for Calendar Year 2022**

Dear Public Works Director:

This letter serves as notification by the Department of Natural Resources (DNR) that the City of Newton (the City) has, for calendar year 2022, adequately complied with the financial assurance requirements of Iowa Administrative Code [567] section 113.14 regarding the Newton Sanitary Landfill. The City's financial assurance documentation received here April 29, 2022, and as augmented by selected pages of the City's audit from the State Auditor's website, have been placed in the DNR's record files.

The projected deposit of \$50,000 to the City's Closure/Postclosure Dedicated Fund needs to have been made by July 30, 2022. That deposit amount is as stated in the "Formula for Projected Deposits" component of Section 7 of the City's annual Financial Assurance Report Form.

It appears that the Commission has made two significant changes in its financial assurance: [1] Instead of incremental annual 'Restricted Funds' deposits (last year, \$29,932 and \$4,879), plus a Local Government Financial Test, it looks like the Commission made a deposit of well over \$3,000,000, that resulted in a total "Dedicated Fund Balance" of \$6,114,980 (see the Audit page 34). This would mean that [2] the Commission has changed its financial assurance instruments from the combination of 'Restricted Funds' plus Local Government Financial Test to just the Dedicated Fund (Audit page 35).

This being the case, the Commission needs to pass a formal "MUNICIPAL SOLID WASTE SANITARY LANDFILL LOCAL GOVERNMENT DEDICATED FUND" resolution. Included with this letter is a Form for that resolution; please submit a copy of the completed resolution as soon as you can.

The City may withdraw money from the Closure/Postclosure Dedicated Funds without DNR approval for just closure, partial closure, or postclosure costs. Withdrawals for other than closure or postclosure costs must receive prior written approval from the DNR. If, however, the balances in the Closure/Postclosure Dedicated Funds exceed the current combined Cost Estimates for Closure/Postclosure, excess funds may be withdrawn for any City purpose. In that event, however, the Closure/Postclosure Dedicated Funds Balances cannot be reduced below the amount of the current combined Closure/Postclosure Cost Estimates.

As a reminder, compliance with rule 567-113.14 is to be submitted annually, by April 1st, confirming that all applicable financial assurance documents are updated as required.

Please feel free to contact me with any questions at (515) 240-6048 or bill.blum@dnr.iowa.gov.

Sincerely,

Bill Blum, program planner
Land Quality Bureau

Cc: Iowa DNR Field Office #5, Des Moines

Enclosure.

City of Newton Council Report

Item:

Resolution awarding contract for the Newton Sanitary Landfill Pump Station #2 Electrical Cabinet Upgrade Project



Report Number: 22-252

Summary:

Award of contract for the Newton Sanitary Landfill Pump Station #2 Electrical Cabinet Upgrade Project

Date:

September 6, 2022

Lead Department:
Public Works

Financial Impact:

\$36,325.00 from the Newton Sanitary Landfill Enterprise Fund

Recommendation:
Approve

Background:

The Newton Sanitary Landfill is tasked with maintaining closed cells in the 1945, 1975 and Area A at the landfill. Inspections, reporting, monitoring wells sampling, monitoring wells testing continue throughout the post closure period continue for up to 30 years or longer. Leachate is pumped to the Newton Water Pollution Control Plant for treatment.

Council passed a proposal to replace the current pump station #1 electrical control cabinet, wiring and controls on May 16, 2022. Currently, pump station #2 experienced the same problems as pump station #1. Pumps are replaced every 6-12 months dependent upon pump longevity. Staff is experiencing failures in the system due to system age and new style pumps are not compatible with the antiquated electrical control cabinet and old-style pumps are no longer available.

Staff worked with HLW Engineering to spec an upgraded electrical control cabinet that includes an upgraded panel, controls, pumps and includes an Omni-Beacon 2-channel Cellular Alarm Notification System with Strobe Light. The system utilizes a cellular service to notify staff of a system malfunction, per IDNR requirements. Staff requested proposals for electrical pump station improvements; the following bid price was requested and received:

Jetco – Altoona, IA

\$36,325.00

The low bidder is Jetco Company of Altoona, Iowa. The completion date for the project is expected to be Spring 2023 due to supply chain issues. The project will be paid for using Newton Sanitary Landfill Enterprise Funds.

Recommendation:

Award contract to Jetco Company of Altoona, Iowa in the amount of \$36,325.00.

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

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

**RESOLUTION AWARDING CONTRACT FOR THE NEWTON SANITARY LANDFILL
PUMP STATION #2 ELECTRICAL CABINET UPGRADE PROJECT**

WHEREAS, the Newton Sanitary Landfill is tasked with maintaining closed cells in the 1945, 1975 and Area A at the landfill; and

WHEREAS, the current pump station #2 electrical control cabinet, wiring and controls were installed in the early 1980's and are worn out and failing; and

WHEREAS, staff worked with HLW Engineering spec an upgraded electrical control system that includes an upgraded panel and pumps with Omni-Beacon 2-channel Cellular Alarm Notification System with Strobe Light; and

WHEREAS, City staff requested proposals for these improvements; and

WHEREAS, based on the proposal received on August 25, 2022; City staff recommends the City of Newton award a contract to Jetco, Inc. of Altoona, Iowa for the Pump Station #2 Electrical Cabinet Upgrade Project based on the low responsive, responsible base bid received in the amount of \$36,325.00.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that the Contract be awarded to Jetco Inc. of Altoona, Iowa in the amount of Thirty-Six Thousand, Three Hundred Twenty-Five dollars and Zero Cents (\$36,325.00) for the Pump Station #2 Electrical Cabinet Upgrade Project, as described in the plans and specifications.

PASSED this _____ day of September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

CONTRACT DATE September 7, 2022

CONTRACT

THIS CONTRACT, made and entered into at Newton, Iowa this _____ day of _____, by and between the City of Newton by its Mayor, upon order of its City Council hereinafter called the "Jurisdiction," and Jetco, Inc., hereinafter called the "Contractor."

WITNESSETH:

The Contractor hereby agrees to complete the work comprising the below referenced improvement as specified in the contract documents, which are officially on file with the Jurisdiction, in the office of the City of Newton Public Works Director. This contract includes all contract documents. The work under this contract shall be constructed in accordance with the 2022 Edition of the SUDAS Standard Specifications, the 2022 City of Newton Supplemental Specifications to said SUDAS Standard Specifications and as further modified by the supplemental specifications and special provisions included in said contract documents, and the Contract Attachment - Item 1: General, which is attached hereto. The Contractor further agrees to complete the work in strict accordance with said contract documents, and to guarantee the work as required by law, for the time required in said contract documents, after its acceptance by the Jurisdiction.

This contract is awarded and executed for completion of the work specified in the contract documents for the bid prices shown on the Contract Attachment - Item 2: Bid Items, Quantities, and Prices, which were proposed by the Contractor in its proposal submitted in accordance with the Notice to Bidders and Notice of Public Hearing for the following described improvements:

Newton Sanitary Landfill Pump Station #2 Electrical Cabinet Upgrade Project

This project includes removing existing wiring, cabinets and pumps and install conduit, wiring, receptacles, cabinet and Install Omni-Beacon 2-channel cellular alarm notification system with strobe light located at pump station #2 electrical cabinet at the Newton Sanitary Landfill, 3202 Hwy 14 South, Newton, Iowa. Contractor shall complete control panel design, submittals, O&Ms, complete system programming and testing, complete day on-site system start-up and operator training.

The Contractor agrees to perform said work for and in consideration of the Jurisdiction's payment of the bid amount of Thirty-Six Thousand Three Hundred Twenty-Five Dollars and Zero Cents (\$36,325.00). The Contractor hereby agrees to commence work under this contract on or before a date to be specified in a written notice to proceed by the Jurisdiction and be fully completed on or before November 18, 2022; dependent upon supply chain materials.

(CONT. CONTRACT)
Pump Station #2 Electrical Cabinet Upgrade Project

Project Name: Newton Sanitary Landfill

IN WITNESS WHEREOF, the Parties hereto have executed this instrument, in triplicate on the date first shown written.

JURISDICTION

CONTRACTOR

By _____

Jetco, Inc.

Contractor

(Seal)

ATTEST:

By _____

Signature

Title

Street Address

City, State, Zip Code

Telephone

CONTRACTOR PUBLIC REGISTRATION INFORMATION To Be Provided By:

1. All Contractors: The Contractor shall enter its Public Registration Number ____ - ____ issued by the Iowa Commissioner of Labor pursuant to Section 91C.5 of the Iowa Code.

(CONT. CONTRACT)
Pump Station #2 Electrical Cabinet Upgrade Project

Project Name: Newton Sanitary Landfill

NOTE: All signatures on this contract must be original signatures in ink; copies, facsimile, or electronic signatures will not be accepted.

CORPORATE ACKNOWLEDGMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known, who, being by me duly sworn, did say that they are the _____, and _____, respectively, of the corporation executing the foregoing instrument; that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation; that said instrument was signed (and sealed) on behalf of the corporation by authority of this Board of Directors; that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____, 20 ____

CONTRACT ATTACHMENT: ITEM 1 - GENERAL

none

CONTRACT ATTACHMENT: ITEM 2 - BID ITEMS AND QUANTITIES

This contract is awarded and executed for completion of the work specified in the contract documents for the bid prices tabulated below as proposed by the Contractor in its proposal submitted in accordance with notice to bidders and notice of public hearing. All quantities are subject to revision by the Jurisdiction. Quantity changes that amount to 20% or less of the amount bid shall not affect the unit bid price.

<u>NO.</u>	<u>BASE BID ITEMS</u>	<u>UNIT</u>	<u>UNIT PRICE</u>	<u>ITEM TOTAL</u>
1	Removal of Electrical, Wiring, Pumps, Cabinet	LS	<u>Lump Sum</u>	<u>Lump Sum</u>
2	Installation of Electrical, Wiring, Pumps, Cabinet	LS	<u>Lump Sum</u>	<u>Lump Sum</u>
3	Install Omni-Beacon 2-channel Cellular Alarm Notification System with Strobe Light	LS	<u>Lump Sum</u>	<u>Lump Sum</u>
			TOTAL BID PRICE:	<u>\$36,325.00</u>

SURETY BOND NO. _____

PERFORMANCE AND PAYMENT BOND

KNOW ALL BY THESE PRESENTS:

That we, _____, as Principal (hereinafter the "Contractor" or "Principal" and _____, as Surety are held and firmly bound unto the City of Newton, as Obligee (hereinafter referred to as "the Jurisdiction"), and to all persons who may be injured by any breach of any of the conditions of this Bond in the penal sum of _____ dollars and _____ cents (\$_____), lawful money of the United States, for the payment of which sum, well and truly to be made, we bind ourselves, our heirs, legal representatives and assigns, jointly or severally, firmly by these presents.

The conditions of the above obligations are such that whereas said Contractor entered into a contract with the Jurisdiction, bearing date the _____ day of _____, _____, hereinafter the "Contract") wherein said Contractor undertakes and agrees to construct the following described improvements:

City of Newton 2022 Streetscape Light Pole Refinishing Project

This project includes the preparation and painting of 64 existing streetscape light poles in the City of Newton Central Business District.

and to faithfully perform all the terms and requirements of said Contract within the time therein specified, in a good and workmanlike manner, and in accordance with the Contract Documents. Provided, however, that one year after the date of acceptance as complete of the work under the above referenced Contract, the maintenance portion of this Bond shall continue in force but the penal sum for maintenance shall be reduced to the sum of Twenty-Five Thousand Six Hundred Dollars and Zero Cents (\$25,600.00), which is the cost associated with those items shown on the proposal and in the Contract that require a maintenance bond period in excess of one year.

It is expressly understood and agreed by the Contractor and Surety in this bond that the following provisions are a part of this Bond and are binding upon said Contractor and Surety, to-wit:

1. **PERFORMANCE:** The Contractor shall well and faithfully observe, perform, fulfill, and abide by each and every covenant, condition, and part of said Contract and Contract Documents, by reference made a part hereof, for the above referenced improvements, and shall indemnify and save harmless the Jurisdiction from all outlay and expense incurred by the Jurisdiction by reason of the Contractor's default of failure to perform as required. The Contractor shall also be responsible for the default or failure to perform as required under the Contract and Contract Documents by all its subcontractors, suppliers, agents, or employees furnishing materials or providing labor in the performance of the Contract.
2. **PAYMENT:** The Contractor and the Surety on this Bond hereby agreed to pay all just claims submitted by persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the performance of the Contract on account of which this Bond is given, including but not limited to claims for all amounts due for labor, materials, lubricants, oil, gasoline,

(CON'T – PERFORMANCE AND PAYMENT BOND)

repairs on machinery, equipment, and tools, consumed or used by the Contractor or any subcontractor, wherein the same are not satisfied out of the portion of the contract price the Jurisdiction is required to retain until completion of the improvement, but the Contractor and Surety shall not be liable to said persons, firms, or corporations unless the claims of said claimants against said portion of the contract price shall have been established as provided by law. The Contractor and Surety hereby bind themselves to the obligations and conditions set forth in Chapter 573 of the Iowa Code, which by this reference is made a part hereof as though fully set out herein.

3. GENERAL: Every Surety on this Bond shall be deemed and held bound, any contract to the contrary notwithstanding, to the following provisions:
 - A. To consent without notice to any extension of time to the Contractor in which to perform the Contract;
 - B. To consent without notice to any change in the Contract or Contract Documents, which thereby increases the total contract price and the penal sum of this bond, provided that all such changes do not, in the aggregate, involve an increase of more than 20% of the total contract price, and that this bond shall then be released as to such excess increase; and
 - C. To consent without notice that this Bond shall remain in full force and effect until the Contract is completed, whether completed within the specified contract period, within an extension thereof, or within a period of time after the contract period has elapsed and the liquidated damage penalty is being charged against the Contractor.
 - D. That no provision of this Bond or of any other contract shall be valid that limits to less than five years after the acceptance of the work under the Contract the right to sue on this Bond.
 - E. That as used herein, the phrase "all outlay and expense" is not to be limited in any way, but shall include the actual and reasonable costs and expenses incurred by the Jurisdiction including interest, benefits, and overhead where applicable.

(CON'T – PERFORMANCE AND PAYMENT BOND)

Accordingly, "all outlay and expense" would include but not be limited to all contract or employee expense, all equipment usage or rental, materials, testing, outside experts, attorney's fees (including overhead expenses of the Jurisdiction's staff attorneys), and all costs and expenses of litigation as they are incurred by the Jurisdiction. It is intended the Contractor and Surety will defend and indemnify the Jurisdiction on all claims made against the Jurisdiction on account of Contractor's failure to perform as required in the Contract and Contract Documents, that all agreements and promises set forth in the Contract and Contract Documents, in approved change orders, and in this Bond will be fulfilled, and that the Jurisdiction will be fully indemnified so that it will be put into the position it would have been in had the Contract been performed in the first instance as required.

In the event the Jurisdiction incurs any "outlay and expense" in defending itself against any claim as to which the Contractor or Surety should have provided the defense, or in the enforcement of the promises given by the Contractor in the Contract, Contract Documents, or approved change orders, or in the enforcement of the promises given by the Contractor and Surety in this Bond, the Contractor and Surety agree that they will make the Jurisdiction whole for all such outlay and expense, provided that the Surety's obligation under this bond shall not exceed 125% of the penal sum of this bond.

In the event that any actions or proceedings are initiated regarding this Bond, the parties agree that the venue thereof shall be Jasper County, State of Iowa. If legal action is required by the Jurisdiction to enforce the provisions of this Bond or to collect the monetary obligation incurring to the benefit of the Jurisdiction, the Contractor and the Surety agree, jointly, and severally, to pay the Jurisdiction all outlay and expense incurred therefor by the Jurisdiction. All rights, powers, and remedies of the Jurisdiction hereunder shall be cumulative and not alternative and shall be in addition to all rights, powers, and remedies given to the Jurisdiction, by law. The Jurisdiction may proceed against surety for any amount guaranteed hereunder whether action is brought against the Contractor or whether Contractor is joined in any such action(s) or not.

NOW THEREFORE, the condition of this obligation is such that if said Principal shall faithfully perform all the promises of the principal, as set forth and provided in the Contract, in the Contract Documents, and in this Bond, then this obligation shall be null and void, otherwise it shall remain in full force and effect.

When a work, term, or phrase is used in this Bond, it shall be interpreted or construed first as defined in this Bond, the Contract, or the Contract Documents; second, if not defined in the Bond, Contract, or Contract Documents, it shall be interpreted or construed as defined in applicable provisions of the Iowa Code; third, if not defined in the Iowa Code, it shall be interpreted or construed according to its generally accepted meaning in the construction industry; and fourth, if it has no generally accepted meaning in the construction industry, it shall be interpreted or construed according to its common or customary usage.

Failure to specify or particularize shall not exclude terms or provisions not mentioned and shall not limit liability hereunder. The Contract and Contract Documents are hereby made a part of this Bond.

(CON'T – PERFORMANCE AND PAYMENT BOND)

Witness our hands, in triplicate, this _____ day of _____, _____.

PRINCIPAL:

Contractor

By: _____

Signature

Title

Printed Name of Agent

Company Name

Company Address

City, State, Zip Code

Company Telephone Number

SURETY:

Surety Company

By: _____

Signature Attorney-in-Fact Officer

Printed Name of Attorney-in-Fact Officer

Company Name

Company Address

City, State, Zip Code

Company Telephone Number

NOTE:

1. All signatures on this performance, payment, and maintenance bond must be original signatures in ink; copies, facsimile, or electronic signatures will not be accepted.
2. This bond must be sealed with the Surety's raised, embossing seal.
3. The Certificate or Power of Attorney accompanying this bond must be valid on its face and sealed with the Surety's raised, embossing seal.
4. The name and signature of the Surety's Attorney-in-Fact/Officer entered on this bond must be exactly as listed on the Certificate or Power of Attorney accompanying this bond.



Thursday, August 25, 2022
To: City of Newton
Re: Sanitary Landfill Pump Station #2
Attn: Mr. Mike Ward

Quote: 7147C

Per your request Jetco proposes to furnish the following equipment and services. All equipment provided will match equipment furnished with the Pump Station #1 Contract.

Item A: (1) Duplex Pump Station Control Panel

Enclosure: Nema 4 Outdoor Rated, Painted Steel with Inner Door.

Approximate Size: 60"H X 36"W X 16"

Electrical Service: 60A, 240V, 1-phase

Pumps: (2) 2HP, 240V, 3-phase, 8.7 full load amps

Containing the following:

- (1) 2-pole 60A Main Breaker
- (1) Power Distribution Block
- (2) 2-pole 30A Pump Breakers
- (4) 1-pole 15A Breakers, Controls, GFCI Receptacle, Exterior Light, Exhaust Fans
- (1) 1-phase 240V Surge Arrestor
- (2) Variable Frequency Drives: Properly sized for 1-phase to 3-phase conversion
- (1) Exhaust Fans, Filter Louvers and Thermostat
- (1) Pump Alternation Controller
- (2) Intrinsically Safe Barriers for float switch inputs
- 22mm Inner Door Mounted Pilot Devices
 - (2) Pump Hand-Off-Auto Switches
 - (2) Pump Run Indication Lights
 - (2) Pump Fail to Run Indication Lights
 - (2) Pump Elapsed Time Meters
 - (1) High Level Indication Light
 - (1) Alarm Acknowledge Pushbutton
- (1) Omni-Beacon 2-channel Cellular Alarm Notification System with Strobe Light
- Alarm Notification via voice call, text messages or emails
- (1) 1-year Omni-Site Service Contract for alarm notification services. City responsible for yearly charges of \$144/year after first year. Yearly service contract price subject to change without notice.
- (1) Exterior GFCI Receptacle with Weatherproof in-use cover
- (lot) Miscellaneous relays, power supplies, terminal blocks etc. for proper system operation.

Services Provided by Jetco:

- Complete Control Panel Design, submittals, O&Ms.
- Complete System Programming and Testing
- (1) Day On-Site System Start-up and Operator Training

Item B Wet Well Area:

- (3) Float Switches with SS Suspension Bracket

NOTE: Float to be installed free hanging for ease of maintenance



Item C: Complete Electrical Demo & Installation

- Removal off existing control panel, wooden equipment rack, pump receptacles.
- Installation of new aluminum equipment rack.
- Installation of new control panel on rack.
- Installation of new conduits and wire to wet well junction boxes listed under Item B.
- Installation of new wet well float switches and suspension bracket
- Installation of conduit/wire to existing 240V, 1-phase service.
- Relocation of flow meter transmitter at station with flow meter.
- Provide and Install area light and switch mounted on new equipment rack.(optional)
- Provide and Install (1) Stainless Steel Junction Box: Terminal strips for float cables and field wiring
- Provide and Install (1) Stainless Steel Pump Junction Box: Terminal strips for pump cables and field wiring.

Item D: Pumps & Installation

- (4) GRUNDFOS 25520-11 1.5NPT, 3X230V/2HP MULTI-STAGE SUBMERSIBLE PUMP
- (1) Lot Labor and Materials for Installation

Total Cost Item A, B, C & D: \$ 36,325.00

Lead Times:

Control Panel: 10-12 weeks

Pumps: 4-6 weeks

***NOTE: All manufacturers are having supply chain and delivery issues. Above lead times are estimated at time of proposal and may change at time of release to production

Excludes:

- Any equipment not specifically listed above.
- State or Local Sales Taxes, Project Bonding

Sincerely,

A handwritten signature in black ink, reading 'John M. Whitacre'.

John M. Whitacre, President

Vendor	Department	Description	Amount
Acushnet Company	Golf	Merchandise	\$ 1,683.14
AESSEAL Midwest Inc	Water Pollution Control	Supplies	\$ 2,339.61
Airgas USA LLC	Fire	Service	\$ 352.18
Alliant Energy/IPL	All	Utilities	\$ 4,428.92
Allied Oil & Supply Company	Landfill/Street	Supplies	\$ 404.50
Allmax Software Inc	Water Pollution Control	Service	\$ 1,690.00
Amazon Capital service	All	Supplies	\$ 5,819.40
Arrowhead Forensics	Police	Supplies	\$ 189.65
AWE Acquisitions Inc	Library	Supplies	\$ 3,277.00
Baker & Taylor	Library	Books	\$ 2,496.53
Baker & Taylor Entertainment	Library	DVDs	\$ 133.09
Baker Electric Inc	Traffic Control	Service	\$ 3,468.69
Baker Group	City Center	Service	\$ 614.50
Ballard, Phyllis	Fire	Reimbursement	\$ 80.00
Benson, Paige	Maytag Pool	Reimbursement	\$ 50.00
Black Clover Enterprises LLC	Golf	Merchandise	\$ 706.85
Black Hills Energy	Airport/WPC	Utility	\$ 1,639.29
Blackstone Publishing	Library	Books	\$ 93.41
Blue Valley Public Safety Inc	Disaster service	Service	\$ 810.00
Bob's Septic	Golf	Service	\$ 630.00
Bolton & Menk Inc	All	Service	\$ 25,962.50
Bound Tree Medical LLC	Fire	Supplies	\$ 1,579.80
Brick Gentry P.C.	D&D/Legal service/WPC	Service	\$ 12,464.88
Bryx Inc	Fire RESO 2022-186	Service	\$ 28,900.00
Callahan Municipal Consultants LLC	Executive	Service	\$ 983.00
Capital One	All	Supplies	\$ 659.22
Car and Driver	Library	Periodicals	\$ 14.97
Cardinal Trophies	Fire	Service	\$ 27.50
Carl's Window Service	Library	Service	\$ 90.00
CDW Government Inc	Administration/Fire	Supplies	\$ 399.24
Central Iowa Distributing Inc	Water Pollution Control	Supplies	\$ 295.00
Cintas	All	Supplies	\$ 1,251.23
Con-Struct Inc	Airport RESO 2021-134	Service	\$ 94,296.02
D & K Products	Cemetery/Golf/Parks	Supplies	\$ 2,559.70
Dannen, Shannon	D&D/Parks	Service	\$ 1,554.00
Dell Marketing L.P.	Police	Equipment	\$ 659.88
Demco Inc	Library	Supplies	\$ 108.22
Des Moines Stamp Mfg	Library	Supplies	\$ 81.00
DeVries, Anna	Maytag Pool	Reimbursement	\$ 50.00
Diamond Vogel Inc	Parks	Supplies	\$ 307.57
Digium Cloud service LLC	Library	Utilities	\$ 406.00
DMACC - Ankeny Campus	All	Rent	\$ 1,895.75
Dodd Trash Hauling & Recycling	Garbage/Solid Waste	Service	\$ 68,899.03
EBSCO Information service	Library	Subscription	\$ 3,102.00
Electric Pump	Water Pollution Control	Service	\$ 505.25
Fastenal	Water Pollution Control	Supplies	\$ 70.27
FBG Service Corporation	Library	Supplies	\$ 1,755.63
Forbes Office Solutions	All	Supplies	\$ 556.12
Force Science	Police	Training	\$ 990.00

FOX Strand	Water Pollution Control	Service	\$ 3,570.00
Fuller, Shawn	Water Pollution Control	Reimbursement	\$ 74.83
Galls LLC	Fire	Supplies	\$ 1,109.06
Gooden, Dana	Fire	Reimbursement	\$ 10.90
Grainger Inc	Water Pollution Control	Supplies	\$ 8.12
Gralnek-Dunitz	City Garage	Supplies	\$ 54.00
Gregg Young Auto Center	Police	Service	\$ 848.15
Hawkins Water Treatment	Water Pollution Control	Supplies	\$ 874.40
Home Depot Pro	Parks	Supplies	\$ 334.41
Hornung's	Golf	Merchandise	\$ 273.16
Hy-Vee Inc	Executive	Supplies	\$ 409.19
Image Trend Inc	Fire	Service	\$ 728.00
InfoSense Inc	WPC RESO 2022-237	Supplies	\$ 28,325.00
Iowa Inspections	Fire	Service	\$ 5,000.00
Iowa One Call	Engineering/WPC	Service	\$ 295.60
Iowa Prison Industries	Cemetery/Traffic Control	Service	\$ 1,783.80
Isolved Benefit service	Finance	Service	\$ 93.07
Jacobs Electric Motor	Fire	Service	\$ 188.00
Jeff Seals Construction	Public Works Building	Service	\$ 1,200.00
JETCO Inc	Water Pollution Control	Supplies	\$ 774.95
Johnson Aviation	Airport	Service	\$ 3,300.57
Key Cooperative	Airport	Fuel	\$ 211.15
Keystone Labs	Maytag Pool	Service	\$ 27.50
Kibbee, Chloe	Maytag Pool	Reimbursement	\$ 50.00
Kinetic Edge Physical Therapy	Parks/WPC	service	\$ 120.00
Klein, Rebecca	Library	Reimbursement	\$ 27.48
Krampe Welding & Fabrication	Fire	Service	\$ 1,563.45
Lands' End Business Outfitters	All	Clothing	\$ 210.66
Lavelly, Dillon	Police	Reimbursement	\$ 40.60
Lewis, Jean	Fire	Reimbursement	\$ 7.64
Logan Contractors Supply	Storm Water/Street	Supplies	\$ 4,544.89
Magnum Automotive	Fire/Police	Service	\$ 1,256.91
Mahaska Bottling Co	Golf	Concessions	\$ 917.35
Manatts - D.M.	Storm Water/Street	Supplies	\$ 13,853.48
Martin Marietta Materials	Storm Water/Street	Supplies	\$ 4,141.37
Mediacom	Golf	Utility	\$ 208.87
Menards-Altoona	Parks	Supplies	\$ 31.99
MercyOne DSM Medical Ctr-Financial Ops	Fire	Supplies	\$ 246.61
Meyer, Avery	Maytag Pool	Reimbursement	\$ 100.00
MG Laundry Corporation	City Center/Fire	Service	\$ 120.65
Mid-American Research Chemical	Water Pollution Control	Supplies	\$ 1,527.50
Midwest Automatic Fire	City Garage/Street	Service	\$ 385.80
MTI Distributing Inc	Golf	Supplies	\$ 1,591.85
Municipal Pipe Tool Co	Water Pollution Control	Supplies	\$ 506.93
Murphy Tractor & Equipment	City Garage	Supplies	\$ 116.68
NAPA Auto Parts	All	Supplies	\$ 5,023.03
National Band & Tag	Police	Supplies	\$ 566.67
News Printing Company	All	Publication	\$ 131.21
O'Halloran International	City Garage	Supplies	\$ 1,816.56
OverDrive Inc	Library	Books	\$ 3,609.60
Pella Engraving Company	Fire	Supplies	\$ 56.72
Per Mar Security service	Police	Service	\$ 8,401.25
Pitney Bowes	All	Service	\$ 173.82

POS Paper	Police	Supplies	\$ 128.20
Preferred Pest Control Inc	Fire/Library	Service	\$ 676.00
Premier Office Equipment	Executive/Police	service	\$ 332.66
Quill Corporation	All	Supplies	\$ 438.46
R J Thomas Mfg Co Inc	Parks	Supplies	\$ 2,287.00
Ray, Randy	SSMID District	Service	\$ 2,500.00
Regal Clean LLC	City Center	Supplies	\$ 2,825.68
Reliant Fire Apparatus Inc	Fire	Service	\$ 2,370.00
Reserve Account	Finance	Service	\$ 3,000.00
Rhino Industries Inc	Water Pollution Control	Supplies	\$ 1,058.75
Riemann, Joanne	Fire	Reimbursement	\$ 180.27
Riggs Printing Inc	Golf	Supplies	\$ 530.00
Sandry Fire Supply LLC	Fire	Supplies	\$ 3,330.00
Schakel, Brandon	Engineering	Reimbursement	\$ 270.00
Sign Pro	Street	Service	\$ 240.00
Smith Quality Rental	Airport/WPC	Rental	\$ 840.00
Spahn & Rose Lumber Co	All	Supplies	\$ 419.52
Storey Kenworthy Matt Parrott	Finance	Supplies	\$ 675.00
Strategic Insights Inc	Public Works Administration	Service	\$ 1,162.50
Studio Melee	Library	Consultation	\$ 1,850.00
Tennis Court Supply	Parks	Supplies	\$ 1,407.96
Terracon Consultants Inc	N Central TIF RESO 2021-213	Service	\$ 624.75
Terry, Nicole	Library	Supplies	\$ 45.00
Theisen's	All	Supplies	\$ 1,256.25
TK Concrete Inc	City Center	Service	\$ 259,253.81
TK Elevator	City Center RESO 2022-106	Service	\$ 205.17
Tomahawk Live Trap	Police	Equipment	\$ 559.65
Tompkins Industries Inc	Golf	Supplies	\$ 93.00
Tour edge	Golf	Merchandise	\$ 273.56
Town & Country Wholesale Co	Golf	Concessions	\$ 503.85
Townsend Crane Service	Water Pollution Control	Service	\$ 525.00
Tri-State Natural Food	Library	Books	\$ 20.00
True Value Hardware	All	Supplies	\$ 1,712.37
Two Rivers Cooperative	Airport/Golf	Fuel	\$ 2,367.96
ULINE	Fire	Supplies	\$ 139.94
Unison Solutions Inc	Water Pollution Control	Service	\$ 1,710.00
United Public Safety	Police	Service	\$ 4,418.96
UnityPoint Clinic-Occupational	Parks/WPC	service	\$ 168.00
Unplugged Wireless Communications LLC	Street	Supplies	\$ 85.90
USABlueBook	Water Pollution Control	Supplies	\$ 238.98
Variety Specialties	Police	Supplies	\$ 405.00
Walsh Door & Hardware	City Center	Service	\$ 694.55
Warnick & Reeves Mechanical	Airport/Library	Service	\$ 2,699.08
Water Department	All	Utility	\$ 2,253.99
Windstream	Airport/City Center	Utility	\$ 105.89
Witmer Public Safety Group	Fire	Supplies	\$ 248.72
Total			\$ 689,305.35

Pre-Authorized Payments

Beverage Distributors of Iowa	Golf	Concessions	\$ 307.34
Black Hills Energy	All	Utilities	\$ 994.74
Dish Network	Airport	Utilities	\$ 142.07
Doll Distributing	Golf	Concessions	\$ 1,701.68
Iowa Beverage Systems	Golf	Concessions	\$ 842.40
Johnson Brothers of Iowa	Golf	Concessions	\$ 970.20
Mediacom	Administration/Golf	Utilities	\$ 416.85
United States Cellular	All	Utilities	\$ 256.85
Verizon Wireless	Police/Disaster service	Utilities	\$ 50.03
Total			\$ 5,682.16

for 9-7-22 Bills

ACH Payments from Great Southern Bank

Advantage Credit Union	All	Insurance	\$ 14,645.00
Bank Iowa	All	Insurance	\$ 5,220.00
Great Southern Bank	All	Insurance	\$ 290.00
Kabel	All	Insurance	\$ 50.00
Mutual of Omaha	All	Insurance	\$ 4,958.89
Great Southern Bank	Golf	Fees	\$ 1,764.46
Met Life Dental	All	Insurance	\$ 10,486.20
State of Iowa	General	Sales Tax	\$ 6,713.72
Wellmark BC/BS	All	Insurance	\$ 179,140.19
Total:			\$ 223,268.46

RESOLUTION 2022- _____

**RESOLUTION APPROVING THE DESIGN AND CONSTRUCTION OF A PARK
PROJECT AT 224 W. 3RD ST. N. PER AN UPDATED DESIGN CONCEPT AND
APPROVING A FUNDING CONTRIBUTION FOR THIS PROJECT FROM THE CITY
IN AN AMOUNT NOT TO EXCEED \$150,000.**

WHEREAS, in late 2020 a group of private citizens associated with the Newton Main Street Economic Vitality Committee (the Committee) presented the idea of a downtown splash pad to City Council and the Newton Park Board; and

WHEREAS, construction of the Committee's proposed project, which would turn the vacant City-owned lot at 224 W 3rd St N into a City splash pad and park, would be funded mainly by private donations; and

WHEREAS, on April 19, 2021, City Council approved Resolution 2021-110, which supported the use of the City-owned lot at 224 W 3rd St N for the proposed downtown splash pad project; and

WHEREAS, approval of said resolution did not obligate the City to fund, operate, and/or allow construction of the project on the City-owned lot at 224 W 3rd St N or any other City-owned location; and

WHEREAS, to gain further traction with their fund raising efforts, the Committee shared a donor recognition plan with the Newton Park Board on November 17, 2021; and

WHEREAS, the Committee proposed five-level donor recognition plan; and

WHEREAS, the Park Board, at their November 17, 2021 meeting, voted 4-0 to support the said donor recognition plan prepared by the Committee; and

WHEREAS, City Council retained the right to approve the size, type, content, and placement of all proposed donor recognition plaques, boards, or other means of recognition should the project be constructed; and

WHEREAS, it was understood that the final approval of any project on this site would be submitted for City Council approval at a later date, but before construction began on the project; and

WHEREAS, on December 6, 2021, City Council approved Resolution 2021-310, which approved the donor recognition plan but did not obligate the City to fund, operate, and/or allow construction of the project on the City-owned lot at 224 W 3rd St N or any other City-owned location; and

WHEREAS, the Committee made presentations to the City Council at the June 20, 2022 and August 1, 2022 City Council Meetings on an updated concept prepared by Main Street Iowa design professionals that replaced the proposed splash pad at the park with a spray feature that included colored lights; and

WHEREAS, the updated design also incorporated public restrooms, tourist and shopping information, greenspace, seating, tables, and shade for gathering, eating and relaxing, interactive musical sculptures, and would serve as a small event-ready space for farmers' markets, food trucks, music and more; and

WHEREAS, the Committee has requested that the City Council approve a project at 224 W. 3rd St. N. per this new design concept.

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that the City will provide the land and a cash contribution towards the design and construction of the park space per the updated concept in an amount not to exceed a total of \$150,000.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that the City staff will proceed to the best of their ability to move forward a project in substantial conformance to the concept plan submitted to the City staff by the Committee.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that once a final concept plan for the project is submitted to the City staff by the Committee, that the City staff, with approval and direction of the City Council, will maintain full control over the final design, bidding and construction phases of the project.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that after the final concept plan is submitted to City staff by the Committee, that the City Council directs City staff to undergo a competitive process that meets all requirement under Iowa Code that results in a recommendation to the City Council on approving a contract with a design professional.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that after the City Council has approved a contract with a design professional that City staff is directed to work with the design professional to develop a final plan and specifications and complete a bidding process utilizing a portion of the \$150,000 being contributed to this project by the City.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that the City can move forward with construction after fundraising is completed and bids for the project have been received by the City that do not exceed the amount of funds that have been raised for the project and provided to the City by the Committee.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that the City Council has the sole authority and responsibility to name this new park.

NOW THEREFORE, BE IT FURTHER RESOLVED by the City Council of Newton, Iowa, that the City Council will ensure proper maintenance of the park, have sole oversight on its operation and scheduling, and commit to all future operational costs after it has been constructed, with the understanding that Newton Main Street volunteers may be available to assist with some ongoing maintenance tasks.

PASSED this _____ day of September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

RESOLUTION NO. 2022 – _____

**RESOLUTION APPROVING THE SETTLEMENT AGREEMENT AND
RELEASE BETWEEN THE CITY OF NEWTON, IOWA AND HOME KEY,
L.C. IN THE MATTER OF *CITY OF NEWTON, IOWA V. HOME KEY L.C.*,
*CVCV122655***

WHEREAS, in February 2022, the City of Newton filed a Petition at Law against the Defendant, Home Key, L.C. in the District Court of Jasper County, Iowa, captioned *City of Newton, Iowa v. Home Key, L.C. CVCV122655*;

WHEREAS, a Settlement Agreement and Release has been prepared and signed by the Manager and Registered Agent on behalf of Home Key L.C;

WHEREAS, City Council has reviewed the said Settlement Agreement and Release;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, the Settlement Agreement and Release between the City of Newton, Iowa and Home Key, L.C. in the matter of *City of Newton, Iowa v. Home Key L.C.* is here by approved and the Mayor is authorized to sign the agreement.

PASSED this _____ day of September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release ("Agreement") is made by and between the City of Newton, Iowa ("City") and Home Key, L.C. ("Defendant" or "Home Key"), collectively the "Parties."

Recitals

A. On or about February 7, 2022, the City filed a Petition at Law against the Defendant alleging breach of contract, specific performance and rescission and reversion of title claims in the District Court of Jasper County, Iowa, captioned *City of Newton, Iowa v. Home Key, L.C., CVCV122655* (the "Lawsuit").

B. The parties to this Agreement (collectively "Parties") now intend to resolve fully and completely all disputes, claims, issues, and differences between them including, but not limited to, all claims alleged in the Lawsuit, as well as all other claims, demands, or causes of action which arose prior to the date of this Agreement

Agreement

NOW THEREFORE, in consideration of the mutual promises and performances set forth herein, the sufficiency of which the Parties expressly acknowledge, the Parties hereby agree as follows:

1. **Non-Admission of Liability.** This Agreement shall not be construed as an admission by either party of any wrongdoing.

2. **Consideration.** As consideration for the City dismissing the Lawsuit, Home Key shall complete the following:

A. Deed of Title to 1008 East 8th Street North, Newton, Iowa. Within thirty (30) days of the date of this Agreement **once there is final approval by City Council**, Defendant shall deed to the City, via warranty deed for one dollar and additional consideration as provided herein, all its right, title, interest, estate, claim and demand in the following described real estate in Jasper County, Iowa:

Edmundson's Addition South 44' Lot 8 Block 4 in the City of Newton, Jasper County, Iowa.

and City will retain the abstract for said lot 1008 and update at a time of its own choosing.

B. Sale of 1012 and 1018 East 8th Street North, Newton, Iowa. Defendant shall be allowed to sell the following real estate in Jasper County, Iowa to Smart Drainage, L.C., for the amount of Seventy-five Hundred Dollars (\$7,500.00) per lot, for a total of Fifteen Thousand Dollars (\$15,000.00):

- i. 1012 East 8th Street North, Newton, Iowa: The North 44 feet of Lot 9, Block 4 of Edmundson's Addition to the City of Newton, Jasper County, Iowa; and
- ii. 1018 East 8th Street North, Newton, Iowa: Edmundson's Addition Lot 10 Block 4 in the City of Newton, Jasper County, Iowa.

The City will take any action necessary to remove the Special Warranty Deed restrictions that were originally placed on the above properties **and provide merchantable abstract of title**. Within ten (10) days of such restrictions being lifted, Defendant shall transfer title of such properties **at 1012 and 1018** to Smart Drainage, L.C.

Defendant agrees to pay all taxes owed by them as a result of or relating to the Consideration provided pursuant to this Agreement.

3. **Dismissal of Lawsuit.** The City agree to dismiss the Lawsuit with prejudice, with all parties to bear their own costs and attorneys' fees immediately upon completion of the Consideration requirements set forth in Section 2.

4. **Stay of Discovery.** The Parties agree to stay deadlines for responses to all outstanding discovery requests pending acceptance of this Agreement.

5. **Release of All Claims.** In consideration of the promises and performances set forth herein, the Parties, on behalf of themselves, their successors and assigns hereby releases and forever discharges the other party and any current and former officers, employees, elected officials and agents from any and all demands, claims, causes of action, obligations, agreements, promises, representations, damages, suits and liabilities whatsoever, of any kind or nature in law or in equity, that exists as of the date this Agreement is executed, whether developed or undeveloped, known or unknown, foreseen or unforeseen.

6. **Interpretation of Agreement.** The Parties and their attorneys have reviewed this Agreement, and accordingly, this Agreement shall not be construed for or against any party by reason of source of drafting. If any portion, provision, or part of this Agreement is held, determined, or adjudicated to be invalid, unenforceable, or void for any reason whatsoever, each such portion, provision, or part of this agreement and release shall be severed from the remaining portions, provisions, or parts of this Agreement and shall not affect the validity or enforceability of such remaining portions, provisions, or parts.

7. **Warranty of Authority to Execute Agreement.** The signatories to this Agreement represent and warrant that each has the right and authority to execute this Agreement in their individual and/or representative capacity, as applicable. In entering into this Agreement, no Party has relied on any representations or warranties of any other Party, other than the representations or warranties expressly set forth within this Agreement. The Parties intend this Agreement to be legally binding. The Parties are legally able to give and entitled to receive the consideration being provided in settlement of Plaintiff's Claims. The Parties have not been involved in any bankruptcy or other insolvency proceedings at any time since the aforementioned lawsuit was filed.

8. **Entire Agreement.** This Agreement constitutes the entire agreement, written and oral, of the Parties hereto, and it supersedes and replaces all prior negotiations, proposed agreements, understandings, representations, and agreements, written or oral.

9. **Amendment, Modification, Waiver.** This Agreement may not be amended, modified, or changed unless the changes are in writing and signed by all the Parties. The waiver by any of the Parties of any breach of any provision of this Agreement shall not constitute or operate as a waiver of any other breach of such provision or of any other provision hereof, nor shall any failure to enforce any provision hereof operate as a waiver at such time or at any future time of such provision or of any other provision hereof.

10. **Additional Representations.** The Parties, without further consideration, agree to execute and deliver such other documents and take such other action as may be necessary to affect delivery of this Agreement and the dismissal of all claims with prejudice, each Party paying their own costs, including, but not limited to execution of necessary documents to dismiss the lawsuit with prejudice.

11. **Fees and Costs.** Each party hereto will bear its respective costs and fees, including attorneys' fees incurred in the litigation of this matter, except for the payments noted within Paragraph 2 above.

12. **Choice of Law; Consent to Jurisdiction.** This Agreement will be governed by and construed under the laws of the state of Iowa. The Parties understand that they consent to the personal jurisdiction of the state and federal courts in Iowa with respect to any action seeking to enforce the terms of this Agreement.

13. **Counterparts.** This Agreement may be executed in one or more counterparts, all of which, taken together, shall constitute one and the same instrument. Copies or facsimiles of signatures shall be the equivalent of original signatures.

14. **Council Approval.** Defendant acknowledges this Agreement is subject to the approval of the City Council. The City agrees to present this document to the Council at the next meeting following Defendant's execution of this Agreement.

Please read carefully. This document includes a release of substantial claims and rights you may have. By signing this document, you are acknowledging that you have read the foregoing document, that you understand its terms, and that you are freely and voluntarily signing the same after first bring advised to consult your own attorney.

Date: 7/20/2022

Home Key L.C.
Donna Jo Smith
By: Donna Jo Smith
Its: Manager and Registered Agent
On Behalf of Home Key, L.C.

Date: _____

By: _____

Its: _____

On Behalf of the City of Newton, Iowa

RESOLUTION NO. 2022 – _____

**RESOLUTION APPROVING THE DEVELOPMENT AND MINIMUM
ASSESSMENT AGREEMENT BETWEEN THE CITY OF NEWTON, IOWA
AND 427 NORTH 3RD LLC**

WHEREAS, there the property at 427 North 3rd Avenue East is currently subject to an abandoned building litigation, *City of Newton, Iowa v. Kathleen Webb & Unknown Parties, EQCV122310*, as authorized by City Council Resolution #2020-305;

WHEREAS, a Development and Minimum Assessment Agreement has been prepared for the property at 427 North 3rd Avenue East and has been signed by Nancy Sorbella, 427 North 3rd LLC;

WHEREAS, City Council has reviewed said agreement;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, the Development and Minimum Assessment Agreement for 427 North 3rd Avenue East is hereby approved and the Mayor is hereby authorized to sign said agreement.

PASSED this _____ day of September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

DEVELOPMENT AND MINIMUM ASSESSMENT AGREEMENT

This Development Agreement, including Exhibit A, is entered into between the City of Newton, Iowa (the "City") and 427 North 3rd LLC (the "LLC"), for the development of the property located at 427 North 3rd Avenue East, Newton, Iowa, (the "Property") as of the ____ day of _____, 2022.

Preamble

WHEREAS, The Code of Iowa grants Cities the authority to enter into development agreements with private entities to provide for the proper development and use of real property; and

WHEREAS, the property is currently subject to an abandoned building litigation being pursued by the City; and

WHEREAS, the property was transferred to the LLC by Kathleen Webb, by way of a Quit Claim Deed, after the commencement of the abandoned building litigation and the placement of the property on Jasper County's lis pendens docket; and

WHEREAS, the City and the LLC intend that the Property be developed and used for a single-family home; and

NOW THEREFORE, the parties hereto agree as follows:

A. LLC's Covenants

The LLC agrees to the following conditions:

Rehabilitation of existing single-family residence.

\$190,000.00 minimum assessment December 31, 2023, regardless of the completion of structure.

Approval of building permit and plans prior to construction.

Inspection by City Building Inspector.

House must meet all current city codes and ordinances.

The property will be taxed as residential.

Payment of Kathleen Webb's attorney fees, if any assessed against the City in the abandoned building litigation, entitled *City of Newton Iowa vs. Kathleen Webb*, *Jasper County District Court, Case No. EQCV122310*.

MONITORING TIMEFRAMES:

Building permits pulled no later than October 15, 2022 for the renovation project.

Windows and doors repaired and building able to be secured without boarding by June 30, 2023.

These are benchmark required deadlines to monitor the progress of the completion of the renovation and are required to be met.

FINAL completion is defined as the issuance of a Certificate of Occupancy by the City of Newton.

B. City's Obligations

The City agrees to dismiss its Chapter 657A.10B action in the District Court of Jasper County, Case Number EQCV122310; subject to City Council's approval at next council meeting scheduled for September 6, 2022.

C. Administrative Provisions

1. This Agreement may not be amended or assigned by either party without the express written permission of the other party. This is the entire agreement of the parties and is subject to city council approval.

2. **Successors and Assigns.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties. The LLC shall not assign this agreement without prior written consent of the City.

3. **Choice of Law.** This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with the laws of the State of Iowa.

4. **Preamble.** All terms and definitions set forth in the Preamble of this Agreement shall apply and be binding as if set forth thereafter.

The City and the LLC have caused this Agreement to be signed, and the City's seal to be affixed, in their names and on their behalf by their duly authorized officers, all as of the day and date written above.

CITY OF NEWTON, IOWA

By _____

Michael L. Hansen, Mayor

Attest:

Katrina Davis, City Clerk

427 NORTH 3RD LLC

By Nancy Sorbella

Nancy Sorbella, having legal
authority to sign on behalf
of 427 North 3rd LLC

Approved as to form:

CLJ
Clinton J. Follette
Attorney for 427 North 3rd LLC

EXHIBIT "A"

Real property located at 427 North 3rd Avenue East, Newton, Iowa

Legally described as:

Lot One, of OutLot Twenty-five, in the Original Town of Newton, Jasper County, Iowa, as shown by Plat Book B, page 275 of the records in the office of the Recorder of said County

City of Newton Council Report

Item: Resolution amending contract with Teamsters Local 120.

Summary: Resolution approving memo of understanding with Teamsters Local 120 Article-18, Sec. 2 clothing allowance.

Financial Impact: \$2,400.00 increase split between RUT, Landfill, WPC, Parks and SWU funds.



Report Number: 22-253

Date: September 6, 2022

Lead Department: Public Works

Recommendation: Approve

Background:

The City of Newton and the Teamsters Local 120 wish to enter into the following agreements and understandings in order to modify specifically ARTICLE – 18 UNIFORMS from the July 1, 2019 – June 30, 2024 contract.

Article 18 of the collective bargaining agreement between the City and the Union currently requires a clothing allowance on a receipt and reimbursement system. This practice has caused issue with the auditors, and takes a lot of staff time to process invoices and regulate to meet the IRS rules. The City and the Union, through mutual consideration, seek to eliminate the receipt and reimbursement for clothing allowances and convert to a cash system.

However this change causes the employee to be taxed on both the income tax and sales tax for the items they purchase. This is approximately a \$100 net loss to the employees, therefor the mutually agreed upon amount would change from \$400 to \$500 to compensate for the taxes paid by the employee.

The City and the Union agree to change the method and computation of clothing allowances in Article 18 of the collective bargaining agreement, by changing the clothing allowance from a receipt and reimbursement system to a direct cash payment to employees, effective in 2022 and thereafter, subject to the following conditions:

1. For 2022, the City shall pay a clothing allowance of four hundred dollars (\$400.00) and an additional one hundred dollar (\$100) Gross-up payment (to offset any additional income and/or sales taxes) as a cash payment to all employees within the bargaining unit less any amount previously used from July 1, 2022. Such payment shall be placed on employees' paychecks, and be made within a reasonable time after signing this agreement but no later than September 30, 2022. Thereafter such clothing allowances and gross-up payments shall be paid on the first check in July of each year.

2. Effective August 16, 2022, all existing balances shall be frozen and clothing balances, as of August 16, 2022, shall serve as the basis for establishing existing balances. At the time the 2022 clothing allowance is paid to employees, the City shall cash out all existing

balances, up to four hundred dollars (\$400.00) per employee. Safety shoes and/or overshoes and work related outerwear should no longer be charged to the City accounts.

The City of Newton and Teamsters Local 120 Agreement is hereby amended by adding or ~~deleting~~ the following:

ARTICLE - 18
UNIFORMS

Sec. 2. All employees shall receive an allowance ~~The City agrees to pay 100% of for the cost of~~ safety shoes and/or overshoes and, ~~class II high visible outerwear and other work related outerwear not required to be class II high visible~~ for employees not to exceed \$400 as well as a \$100 gross up payment (to cover income and/or sales taxes) with 100% to be paid on the first pay check after July 1st. ~~The employee is required to submit a receipt for proof of purchase to be reimbursed for such purchases. This practice will be subject to the same provisions as in Sec. 1 of Article 21 in the event the employee requests the purchase of more than one pair of safety shoes per year.~~

This Memorandum of Understanding applies this agreement to practice and is effective upon signature by both parties. It shall remain in full force and effective for the duration of the July 1, 2019 – June 30, 2024 contract.

Recommendations:

Adopt resolution amending the contract between The City of Newton and Teamsters Local 120.



Matt Muckler
City Administrator

RESOLUTION NO. 2022-_____

RESOLUTION AMENDING CONTRACT WITH TEAMSTERS LOCAL 120.

WHEREAS, the City of Newton and the Teamsters Local 120 wish to enter into the following agreements and understandings in order to modify specifically ARTICLE – 18 Section 2 UNIFORMS from the July 1, 2019 – June 30, 2024 contract.

WHEREAS, Article 18 of the collective bargaining agreement between the City and the Union currently requires a clothing allowance on a receipt and reimbursement system; and

WHEREAS, the City and the Union, through mutual consideration, seek to eliminate the receipt and reimbursement for clothing allowances and convert to a cash system;

NOW THEREFORE, it is agreed as follows:

The City and the Union agree to change the method and computation of clothing allowances in Article 18 of the collective bargaining agreement, by changing the clothing allowance from a receipt and reimbursement system to a direct cash payment to employees, effective in 2022 and thereafter, subject to the following conditions:

1. For 2022, the City shall pay a clothing allowance of four hundred dollars (\$400.00) and an additional one hundred dollar (\$100) Gross-up payment (to offset any additional income and/or sales taxes) as a cash payment to all employees within the bargaining unit less any amount previously used from July 1, 2022. Such payment shall be placed on employees' paychecks, and be made within a reasonable time after signing this agreement but no later than September 30, 2022. Thereafter such clothing allowances and gross-up payments shall be paid on the first check in July of each year.

2. Effective August 16, 2022, all existing balances shall be frozen and clothing balances, as of August 16, 2022, shall serve as the basis for establishing existing balances. At the time the 2022 clothing allowance is paid to employees, the City shall cash out all existing balances, up to four hundred dollars (\$400.00) per employee. Safety shoes and/or overshoes and work related outerwear should no longer be charged to the City accounts.

The City of Newton and Teamsters Local 120 Agreement is hereby amended by adding or deleting the following:

ARTICLE - 18
UNIFORMS

Sec. 2. ~~All employees shall receive an allowance The City agrees to pay 100% of for the cost of safety shoes and/or overshoes and, class II high visible outerwear and other work related outerwear not required to be class II high visible for employees not to exceed \$400 as well as a \$100 gross up payment (to cover income and/or sales taxes) with 100% to be paid on the first pay check after July 1st. The employee is required to submit a receipt for proof of purchase to be reimbursed for such purchases. This practice will be subject to the same provisions as in Sec. 1 of Article 21 in the event the employee requests the purchase of more than one pair of safety shoes per year.~~

NOW, THEREFORE, BE IT RESOLVED this Memorandum of Understanding applies this agreement to practice and is effective upon signature by both parties. It shall remain in full force and effective for the duration of the July 1, 2019 – June 30, 2024 contract.

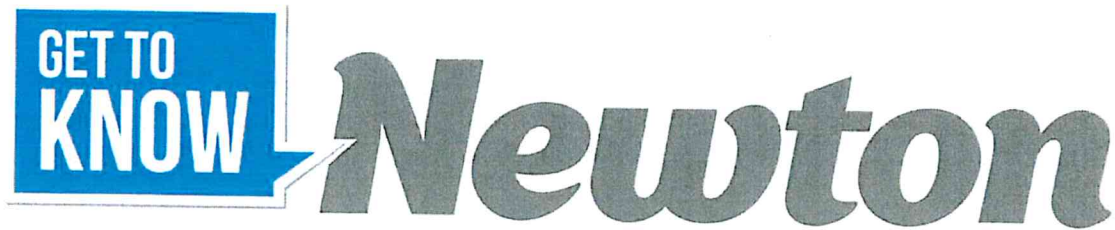
PASSED this _____ day of September 2022.

APPROVED this _____ day of September 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



MEMORANDUM OF UNDERSTANDING

City of Newton
and
Teamsters Local 120

The City of Newton and the Teamsters Local 120 enter into the following agreements and understandings in order to modify specifically ARTICLE – 18 UNIFORMS from the July 1, 2019 – June 30, 2024 contract.

The City of Newton and the Teamsters Local 120 mutually agree to modify, amend or alter the provisions of this Agreement. Any such changes shall be effective only if reduced to writing and executed by the authorized representatives of the City of Newton and the Teamsters Local 120.

WHEREAS, Article 18 of the collective bargaining agreement between the City and the Union currently requires a clothing allowance on a receipt and reimbursement system; and

WHEREAS, the City and the Union, through mutual consideration, seek to eliminate the receipt and reimbursement for clothing allowances and convert to a cash system;

NOW THEREFORE, it is agreed as follows:

The City and the Union agree to change the method and computation of clothing allowances in Article 18 of the collective bargaining agreement, by changing the clothing allowance from a receipt and reimbursement system to a direct cash payment to employees, effective in 2022 and thereafter, subject to the following conditions:

1. For 2022, the City shall pay a clothing allowance of four hundred dollars (\$400.00) and an additional one hundred dollar (\$100) Gross-up payment (to offset any additional income and/or sales taxes) as a cash payment to all employees within the bargaining unit less any amount previously used from July 1, 2022. Such payment shall be placed on employees' paychecks, and be made within a reasonable time after signing this agreement but no later than September 30, 2022. Thereafter such clothing allowances and gross-up payments shall be paid on the first check in July of each year.

2. Effective August 16, 2022, all existing balances shall be frozen and clothing balances, as of August 16, 2022, shall serve as the basis for establishing existing



Newton

balances. At the time the 2022 clothing allowance is paid to employees, the City shall cash out all existing balances, up to four hundred dollars (\$400.00) per employee. Safety shoes and/or overshoes and work related outerwear should no longer be charged to the City accounts.

The City of Newton and Teamsters Local 120 Agreement is hereby amended by adding or deleting the following:

ARTICLE - 18

UNIFORMS

Sec. 1. It will be left up to the individual Supervisor if employees will be allowed to wear shorts.

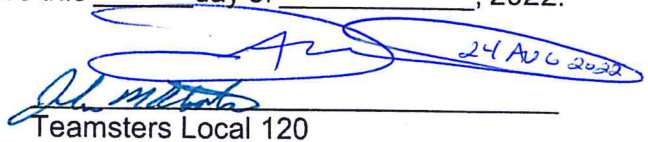
Sec. 2. All employees shall receive an allowance ~~The City agrees to pay 100% of for the cost of safety shoes and/or overshoes and, class II high visible outerwear and other work related outerwear not required to be class II high visible for employees not to exceed \$400 as well as a \$100 gross up payment (to cover income and/or sales taxes) with 100% to be paid on the first pay check after July 1st. The employee is required to submit a receipt for proof of purchase to be reimbursed for such purchases. This practice will be subject to the same provisions as in Sec. 1 of Article 21 in the event the employee requests the purchase of more than one pair of safety shoes per year.~~

Sec. 3. Uniforms are to protect employee's clothes from damage, promote safety and enhance the image of the city and its employees. Uniforms are not to be worn by an employee during non-working hours. Employees are encouraged to change out of uniform as soon as practical following the end of a workday. Employees shall not wear city-issued uniforms in conducting personal/household work.

This Memorandum of Understanding applies this agreement to practice and is effective upon signature by both parties. It shall remain in full force and effective for the duration of the July 1, 2019 – June 30, 2024 contract.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representative this _____ day of _____, 2022.

City of Newton


Teamsters Local 120

City of Newton Council Report



Item: Resolution Authorizing Amendments to the City of Newton Employee Handbook Regarding Clothing Allowances

Summary: Resolution Adopting Changes to the Clothing Allowance in the City of Newton's Employee Handbook

Financial Impact: Paid from Department Budgeted Accounts

Report Number: 22-254

Date: September 6, 2022

Lead Department:
Administration

Recommendation:
Approval

BACKGROUND

Police, Fire, Public Works and Community Services currently provide a clothing allowance for various non-bargaining employees on a receipt and reimbursement system. The City seeks to eliminate the receipt and reimbursement process for clothing allowances and convert to a cash system since under general tax principles, the value of employer-provided clothing is a taxable benefit unless the clothing qualifies for an exclusion. Switching to a cash system for non-bargaining employees would eliminate the administration and auditing complications surrounding clothing reimbursements.

For 2022, the City would pay a clothing allowance less any amount previously used from July 1, 2022. Subsequent allowances would be paid on the first check in July of each year. Such payments would be placed on employees' paychecks and treated as a taxable fringe benefit which is subject to income, social security and Medicare taxes.

Recommendation:

Staff recommends approval of the proposed changes to the City of Newton Employee Handbook effective September 6, 2022.

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

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

**RESOLUTION AUTHORIZING AMENDMENTS TO THE CITY OF
NEWTON EMPLOYEE HANDBOOK REGARDING CLOTHING
ALLOWANCES**

WHEREAS, Police, Fire, Public Works and Community Services currently provide a clothing allowance for various non-bargaining employees on a receipt and reimbursement system; and

WHEREAS, The City seeks to eliminate the receipt and reimbursement process for clothing allowances and convert to a cash system since under general tax principles, the value of employer-provided clothing is a taxable benefit unless the clothing qualifies for an exclusion; and

WHEREAS, Switching to a cash system for non-bargaining employees would eliminate the administration and auditing complications surrounding clothing reimbursements; and

WHEREAS, for 2022, the City would pay a clothing allowance less any amount previously used from July 1, 2022. Subsequent allowances would be paid on the first check in July of each year. Such payments would be placed on employees' paychecks and treated as a taxable fringe benefit which is subject to income, social security and Medicare taxes;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, approval of the proposed changes to the City of Newton Employee Handbook effective September 6, 2022.

PASSED this _____ day of September, 2022

APPROVED this _____ day of September, 2022

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

III. GENERAL POLICIES

3.1 Clothing Allowance

Sec. 1 Police - All sworn Police non-union supervisors shall receive a yearly clothing allowance of ~~\$615~~\$700. ~~One-half of the annual allowance shall be paid semi-annually on the second payroll in August and February less applicable taxes. Office Staff employees shall receive an allowance for the cost of required work related outerwear not to exceed \$265 to be paid on the first pay check after July 1st.~~



Sec. 2 Fire - All Fire supervisors shall receive a uniform credit in the amount of \$615 a year. Any portion, which is not utilized by an employee, may be carried over into the next year. It may not be carried over into a third year. Upon termination of employment, the employee will be entitled to a clothing allowance payout. Annual allowance will be pro-rated monthly to include the month of departure. Fire supervisors are entitled to the unused previous year carry-over balance. The uniform credit may be used to purchase any article of clothing allowed by the department's Uniform Code. Fire supervisors may continue to purchase uniform articles anytime during the year. Office Staff employees shall receive an allowance for the cost of required work related outerwear not to exceed \$265 to be paid on the first pay check after July 1st.

Sec. 3 Public Works/Community Services - Public Works and Community Services non-bargaining employees who as part of their job wear a uniform, may receive up to eleven (11) uniform pants and shirts, and to replace such uniforms as they become worn, so long as the old uniforms are turned in. Uniforms shall be maintained at the City's expense to include one set up charge per year for employees who have gained or lost weight. All uniforms shall be returned to the City when the employee's employment is terminated. Such uniforms are not to be utilized on non-city employment. ~~The City will pay 100% of the cost of safety shoes and/or overshoes and other work related outer ware for employees not to exceed \$265 in any fiscal year. The employee is required to submit a receipt for proof of purchase to be reimbursed for such purchases. Employees shall receive an allowance for the cost of overshoes and work related outerwear not to exceed \$265 to be paid on the first pay check after July 1st unless the employee's supervisor deems that wearing safety shoes is necessary for the employee's job, in which case, the total allowance will be the same amount as provided for in the Teamster's bargaining unit agreement as opposed to this section. See 3.23.~~

All full-time, part-time, and temporary non-bargaining unit employees may also receive replacement of clothing, watches, and/or glasses damaged while on duty.

3.2 Discriminatory and/or Sexual Harassment

It is the responsibility of the City to ensure an employee's right to a work environment free of all forms of discriminatory and sexual harassment. Harassment on the basis of age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion, or disability, or having filed a discrimination complaint is a violation of both state and federal civil rights laws. It subverts the interest of the City and threatens the working relationship within City employment as a whole. It is the policy of the City that discriminatory and sexual harassment is unacceptable and will not be tolerated.

The City, by this policy, affords all employees the right to work in an environment free from discriminatory intimidation, ridicule, and insult. The City hereby declares that all complaints of discriminatory and sexual harassment shall be promptly and fully investigated. The City shall take

City of Newton Council Report

Item: Resolution to Reorganize Staff in the Administration Department



Summary: Resolution Reorganizing Staff in the Administration Department

Report Number: 22-255

Date: September 6, 2022

Financial Impact:

\$13,196 General Fund Impact

Lead Department:
Administration

Recommendation:
Approve

Background: In November of 2021, the full time Administrative Assistant position in the Administration Department was vacated. At that time, a proposal to hire a part time Office Assistant to replace this full-time position was approved.

During the 9 month period that this part time position has been in place, it has been determined that the office is in need of a full time position. This would provide more flexibility for staff to attend meetings and coordinate lunch breaks, while providing consistent coverage at the front desk. This will also allow for additional cross training and segregation of duties in the finance and payroll area.

The current Office Assistant has quickly achieved several benchmarks and desires to learn higher level duties in the Administration department as well as begin full time hours. The proposal is to eliminate the Part Time Office Assistant position and add a full time Administrative Assistant position. This job classification better aligns with the increased responsibilities and will provide increased levels of support to the Finance area as well as segregation of duties within the Administration department.

Recommendation

Staff recommends approval of this resolution.

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

Matt Muckler
City Administrator

RESOLUTION NO. 2022-_____

RESOLUTION TO REORGANIZE STAFF IN THE ADMINISTRATION DEPARTMENT

WHEREAS, City staff consistently evaluates operations and believes there are areas within City operations that would benefit from organizational changes to encourage employee development, retention, and better align with job skills and responsibilities going forward; and

WHEREAS the Office Assistant position within the Administration department is currently 0.625 FTE – 25 hours per week. Due to increased work load, the continued need for additional cross training within Accounts Payable, Finance, and Payroll, it is proposed to increase the hours to full time which would provide for more functionality within the Administration department; and

WHEREAS, the current Office Assistant has quickly achieved several benchmarks and desires to learn higher level duties in the Administration department. Elimination of the Part Time Office Assistant position and the addition of an Administrative Assistant position better aligns with these increased responsibilities and will provide increased levels of support to the Finance area as well as segregation of duties within the Administration department; and

Position	Current Authorization	Proposed Authorization	Reporting to:
Part-Time Office Assistant Administration	0.625 FTE Range 2, Step 2	Eliminate	N/A
Administrative Assistant	N/A	1 FTE Range 3, Step 1	Senior Financial Analyst

WHEREAS, the stated changes were presented to the Employee Relations Committee (ERC) and the ERC recommended the changes be made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the City of Newton hereby approves the realignment changes as stated.

PASSED this 6th day of September 2022.

APPROVED this _____ day of September 2022.

Michael L. Hansen, Mayor

(SEAL)
ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

Item: Resolution for Acceptance of the 2021 Assistance to Firefighters Grant (AFG).

Summary: Resolution authorizing acceptance of an AFG grant in the amount of \$53,437.14 for the purchase of a new SCBA Compressor and a Gear Dryer.

Financial Impact: Local match of 5%, \$2,671.86, from the FY23 Fire Department Budget.



Report Number: 22-256

Date: September 19, 2022

Lead Department:
Fire Department

Recommendation:
Approve

Background:

The primary goal of the Assistance to Firefighters Grant (AFG) is to meet the firefighting and emergency response needs of fire departments and nonaffiliated emergency medical service organizations. Since 2001, AFG has helped firefighters and other first responders to obtain critically needed equipment, protective gear, emergency vehicles, training and other resources needed to protect the public and emergency personnel from fire and related hazards (FEMA, 2017). The Newton Fire Department has a great track record in applying for and receiving funds from this program as shown by the table below:

AFG Grants for the Newton Fire Department

Year	AFG	Federal Share	City Share
FY03	\$57,214.00	\$51,493.00	\$5,721.00
FY06	49,730.00	44,757.00	4,973.00
FY07	211,000.00	200,450.00	10,550.00
FY08	31,400.00	29,830.00	1,570.00
FY09	57,252.00	54,390.00	2,862.00
FY10	46,000.00	43,700.00	2,300.00
FY11	11,000.00	10,450.00	550.00
FY13	80,000.00	76,000.00	4,000.00
FY14	235,000.00	223,250.00	11,750.00
FY17	114,771.00	109,306.00	5,465.00
FY20	6,845.00	6,519.05	325.95
FY21	56,109.00	53,437.14	2,671.86
Total	\$956,321.00	\$843,626.00	\$49,741.00

This program has funded projects like the automatic fire sprinkler system, new turnout gear, new self-contained breathing apparatus, a vehicle exhaust extraction system, and much more.

The current award is for the purchase of a new SCBA compressor and a new gear dryer. This replaces equipment that has passed its useful life and has become unreliable.

The Fire Department is seeking City Council approval to accept the 2021 AFG Grant.

RECOMMENDATION

To approve the resolution authorizing the Newton Fire Department to accept the 2021 AFG grant award in the amount of \$53,437.14. The 5% local match of \$2,671.86 will be paid from the FY23 Fire Department Budget.

A handwritten signature in black ink, appearing to read "Matt Muckler". The signature is fluid and cursive, with the first name "Matt" and last name "Muckler" clearly distinguishable.

Matt Muckler
City Administrator

RESOLUTION NO. 2022 – _____

**RESOLUTION AUTHORIZING THE NEWTON FIRE DEPARTMENT TO
ACCEPT THE 2021 ASSISTANCE TO FIREFIGHTERS GRANT AWARD
IN THE AMOUNT OF \$ 53,437.14.**

WHEREAS, the Federal Emergency Management Agency (FEMA) administers the Assistance to Firefighters Grant Program (AFG); and

WHEREAS, the purpose of the program is to award one-year grants directly to fire departments to enhance their abilities to respond to emergencies; and

WHEREAS, the program seeks to identify departments that lack resources necessary to protect the health and safety of the public and their firefighting personnel; and

WHEREAS, on August 31, 2022 the fire department received a 2021 AFG grant award in the amount of \$53,437.14 to purchase a new SCBA compressor and a new gear dryer and

WHEREAS, the 2021 AFG includes a federal grant in the amount of \$ 53,437.14; and requires a 5% local cost match for applications. Total local cost match for the grant shall not exceed \$ 2,671.86.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa that the City accept the AFG award of \$53,437.14, and

BE IT FURTHER RESOLVED, the \$2,671.86 local match required funds used for the purchase of the SCBA compressor and a new gear dryer be allocated from the FY23 Fire Department Budget for a total project cost of \$56,109.

PASSED this _____ day of September, 2022.

APPROVED this _____ day of September, 2022.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk