



Newton City Council Agenda

November 6, 2023 - 6:00 PM

View the City Council Meeting:

In Person

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

Television

Mediacom Channel
12/85/121.12

Online

newtongov.org/cablecast

Pledge

Pledge of Allegiance

Call to Order

1. Roll Call

Citizen Participation

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

Consent Agenda

3. October 16, 2023 Regular City Council Meeting Minutes
4. October 16, 2023 Workshop Minutes
5. October 23, 2023 Goal Setting Workshop Minutes
6. Certify Police Officer Hiring List
7. Approve Liquor Licenses for the following: Alta House Event Center-LC0047705, 1600 East 36th Street South, Class C Retail Alcohol License; Hy-Vee Food Store #1- LE0000090, 1501 First Ave E, Class E Retail Alcohol License; Capitol II Theatre, 116 1st St N, Special Class C Retail Native Wine License
8. Resolution accepting completion of the 2023 pre-season salt purchase
9. Resolution approving an agreement with Driving Cap Entertainment for a UV glow foam party at Newton Fest 2024
10. Resolution appointing Toni Peska to serve on the Newton Historic Preservation Commission for an unexpired term ending December 31, 2024
11. Resolution Approving a Property Tax Rebate for the GG 115, LLC Property Located Within the North Central Urban Renewal Area
12. Resolution Approving a Property Tax Rebate for the Newton Elite Properties, LLC Property Located Within the 1st Avenue East Urban Renewal Area

13. Resolution Approving a Property Tax Rebate for the Van Maanen Electric, Inc Property Located Within the East Mart Urban Renewal Area
14. Resolution Approving a Property Tax Rebate for the Best Midwest LLC Property Located at 109 1st Ave W Within the North Central Urban Renewal Area
15. Resolution accepting completion of the 2023 Streetscape Light Pole Refinishing Project
16. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Revised Schedule 23-09)
17. Resolution fixing the amounts to be assessed against individual private properties for the abatement of nuisance violations (Schedule No. 23-10)
18. Resolution appointing the Public Works Director and City Planner to serve on the Central Iowa Regional Transportation Planning Alliance Committees in 2024
19. Resolution to provide free golf and pool passes for inclusion in the Newton Housing Development Corporation's (NHDC) 2024 Get to Know Newton Welcome Package
20. Resolution awarding contract for the Eversman Field Backstop Repair Project
21. Resolution ordering bids, approving plans, specifications and form of contract and notice to bidders, and ordering clerk to publish notice and fixing a date for receiving same, and for a public hearing on plans, specifications, form of contract and estimate of costs for the Westwood Clubhouse Demolition Project
22. Resolution terminating the Westwood Clubhouse design services agreement with I & S Group, Inc.
23. Resolution ordering bids, approving plans, specifications and form of contract and notice to bidders, and ordering clerk to publish notice and fixing a date for receiving same, and for a public hearing on plans, specifications, form of contract and estimate of costs for the Downtown Spray Park & Gathering Space Project
24. Resolution approving a Telecommunications Licensing Agreement with Unite Private Networks – UPN 6208
25. Resolution approving a Telecommunications Licensing Agreement with Mahaska Communication Group – Phase 4
26. Resolution approving payment for an emergency storm sewer repair at 2026 1st Ave E
27. Resolution Authorizing the Purchase of an additional Handheld Collector and Versaprobe Touch Reader from the Van Wert Company for Utility Billing Meter Reading
28. Resolution to approve a maintenance agreement with Forbes Office Solutions, Inc.
29. Resolution awarding the purchase of self-contained breathing apparatus harnesses and bottles.
30. Resolution awarding the purchase of firefighter's personal protective equipment.
31. Resolution Setting a Date of Meeting at Which it is Proposed to Approve a Development Agreement with Ex Nihilo LLC, Including Annual Appropriation Tax Increment Payments

Public Hearing

32. Approve Bills
33. Public Hearing on Resolution awarding contract for the Water Treatment Plant Controls and Telemetry Replacement Project
 - The Water Treatment Plant was constructed approximately 55 years ago. The controls and telemetry for the water treatment plant, water wells, water storage tanks, towers and pump stations have become outdated and software is no longer supported. The replacement of the controls and telemetry at the Water Treatment Plant was included in the Capital Improvement Plans (CIP) for FY24.
 - Plans, specifications and engineer's estimated cost were prepared by Fox/Strand Engineering. Engineer's estimated cost for this project was \$500,000.00. The bid opening for this project occurred on October 20, 2023.
 - Jetco Inc. of Altoona, Iowa was the lowest, responsive, responsible bidder in the amount of \$225,000.00.
34. Resolution awarding contract for the Water Treatment Plant Controls and Telemetry Replacement Project
35. Public Hearing on Resolution awarding contract for the WPC 1st St N Aerial Sewer Crossing Repair Project
 - The sanitary sewer aerial repair is located in a remote wooded area crossing a Cherry Creek drainage tributary. This drainage area has eroded over the years leaving the footings holding the sanitary sewer exposed and in the danger of failing. The proposed project includes installing a storm sewer culvert and placing earth fill to bury the sanitary sewer pipe. This project was included in the Capital Improvement Plans (CIP) for FY23, but because of some engineering staffing shortages, this project was delayed until now.
 - The engineer's estimate for this project is \$127,500.00. The bid opening for the project was held on October 20, 2023 in the office of the Utilities Director.
 - JET Drain Services LLC. Of Ames, Iowa was the lowest, responsive, responsible bidder in the amount of \$100,000.00. This project will be paid from Water Pollution Control Enterprise funds.

Ordinance

36. Resolution awarding contract the WPC 1st St N Aerial Sewer Crossing Repair Project
37. First Consideration of an Ordinance Amending the Code of Ordinances, City of Newton, Iowa, Chapter 75: All-Terrain Vehicles, Off-Road Utility Vehicles, Golf Cars and Snowmobiles

- City Council passed a UTV/ATV ordinance in November of 2022 that contained a sunset clause.
- That ordinance is going to sunset on November 8, 2022 and action needs to occur to keep the ordinance in place.
- The Police Department advised there have been no major issues and recommends removing the sunset clause and amending the penalty portion of the ordinance.

Resolution

38. Resolution amending Various sections of the Employee Handbook
 - This action amends the Employee Handbook by adding a clothing allowance for the new Utility Meter Reader position, adding section 3.2 "Cooperation in Investigations" and a "Seatbelt Policy" in Appendix A: Safety Policy Manual.
39. Resolution approving a low-moderate income housing set-aside grant for 1318 Glenway Drive, Newton
 - The owner of 1318 Glenway Drive income qualifies for the Low-Moderate Income Existing Housing Improvement Grant.
 - The owner proposes to replace the private water service at the residence and has requested grant funding assistance to the project.
 - The grant program can provide 75% of the project costs, which is equal to \$5,246.25.
40. Resolution adopting the 2023 - 2025 Council Goals for the City of Newton
 - The 2023 – 2025 City Council Goals will serve as a guide during the upcoming budget process as well as serve as direction in setting priorities for City Staff.
41. Resolution Terminating Development Agreement with Cindy Rogers-Sell
 - The City and Cindy Rogers-Sell entered into a development agreement in August 2021. Cindy Rogers-Sell has sold the property at 107 1st Avenue West, Newton.
 - It is necessary to approve the termination of the active development agreement with Cindy Rogers-Sell.

Mayor/Council Comments

42. Mayor and Council Comments

Closed Session

43. To Discuss Strategy with Counsel in Matters that Are Presently in Litigation or Where Litigation is Imminent Where its Disclosure Would be

Likely to Prejudice or Disadvantage the Position of the Governmental Body in that Litigation, Which Discussions are Exempt from the Open Meetings Law Pursuant to the Provision of Section 21.5(1)(c), Code of Iowa 2022

Return to Open Session

44. Return to Open Session

Adjourn

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

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NEWTON CITY COUNCIL MEETING MINUTES
OCTOBER 16, 2023, 6:00 PM

Pledge

Pledge of Allegiance

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

Call to Order

1. Roll Call

The City Council of Newton, Iowa met in regular session at 6:00 P.M. on the above date in the Council Chambers at 101 West 4th Street South. Mayor Pro Tem Ervin presided. Present Council Members: Hallam, Dalton, Ervin, Trotter, Wade. Absent: George.

Presentation

2. HIRTA: Newton's public transportation - Brooke Ramsey, HIRTA Business Development Manager

Presented on the projects HIRTA has accomplished over the past year and their future plans.

Citizen Participation

3. Summer Hesse, 701 E 5th St N, spoke in favor of allowing chickens in lots smaller than 1 acre. Jerry Chandler, 1011 W 8th St N, spoke in opposition to the D&D program and asked questions regarding the cost of pickleball courts. Mark Vickroy, 404 E 12th St Place N, asked if World to Go, 405 1st Ave E, was soon to open. The council confirmed they are. Donna Stumme, 401 E 10th St S., spoke in favor of the D&D program.

Consent Agenda

Moved by Wade, seconded by Hallam to approve consent agenda items 4-19. AYES: Five. NAYS: None. Consent Agenda was adopted.

4. October 02, 2023 Regular City Council Meeting Minutes

5. Approve Liquor Licenses for the following: World To Go, 405 1st Avenue East, New Class B Retail Alcohol License pending staff approval; Veterans Of Foreign Wars Post No 1655- LC0026734, 315 1st Avenue W, Class C Retail Alcohol License, Outdoor Service; Raceway80- LE0003804, 4300 South 22nd Avenue East, Class E Retail Alcohol License; Pit Stop Liquors- LE0002050, 1324 1st Avenue E, Class E Retail Alcohol License; GIT-N-GO Convenience Store #45, 1708 South 8th Avenue East, Class B Retail Alcohol License; Special Event-T & L Foods LLC, 600 North 2nd Avenue West, Wedding, Oct. 21st, Special Class C Retail Alcohol License

6. Certify Firefighter Candidate List

7. Resolution awarding a Professional Services Agreement for a water cost of service analysis
Resolution 2023-279 adopted.

8. Resolution amending the funding source for the 2023 Streetscape Light Pole Refinishing Project
Resolution 2023-280 adopted.

9. Resolution awarding cropland lease at Union Cemetery for the 2024-2026 growing seasons
Resolution 2023-281 adopted.

10. Resolution approving an amendment to the Design Services Agreement for the Downtown Spray Park & Gathering Space Project
Resolution 2023-282 adopted.

11. Resolution to provide five free season pool passes to the Jasper County Conservation Board for their Environmental Education Center fundraising event
Resolution 2023-283 adopted.

12. Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 23-09)
Resolution 2023-284 adopted.

13. Resolution awarding contract for the Roof Repair Project 2023-01 - Parks
Resolution 2023-285 adopted.

14. Resolution awarding contract for the Roof Repair Project 2023-02 - Utilities
Resolution 2023-286 adopted.

15. Resolution approving Amendment No. 2 to the Engineering Services Agreement for

Arbor Estates 2nd Addition
Resolution 2023-287 adopted.

16. Resolution Approving a Property Tax Rebate for the Lion Development Group, LLC Property Located Within the North Central Urban Renewal Area
Resolution 2023-288 adopted.
17. Resolution Approving a Property Tax Rebate for the CRH Properties LLC Property Located at 117 1st Ave W Within the North Central Urban Renewal Area
Resolution 2023-289 adopted.
18. Resolution of support of a SHTF project-based housing program application by Jasper County Habitat for Humanity for new home construction in Newton, Iowa
Resolution 2023-290 adopted.
19. Approve Bills

Public Hearing

20. Public Hearing on Proposed Amended Development Agreement with Hotel Maytag Investors, LLC
Mayor Pro Tem Ervin stated that this is the time and place for a Public Hearing on the above Resolution. There were no written comments. Moved by Dalton, seconded by Wade to close the public hearing. AYES: Five. NAYS: None. The public hearing was closed.
21. Resolution Approving Amended Development Agreement with Hotel Maytag Investors, LLC, Authorizing Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement
Moved by Wade, seconded by Hallam to postpone the Resolution indefinitely in order to obtain additional information. AYES: Five. NAYS: None. Resolution was postponed.
22. Public Hearing on Proposed Development Agreement with Mercurialis Holdings Real Estate Newton LLC
Mayor Pro Tem Ervin stated that this is the time and place for a Public Hearing on the above Resolution. There were no written comments. Moved by Wade, seconded by Hallam to close the public hearing. AYES: Five. NAYS: None. The public hearing was closed.
23. Resolution Approving Development Agreement with Mercurialis Holdings Real Estate Newton LLC, Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement
Moved by Trotter, seconded by Dalton to adopt the Resolution. AYES: Five. NAYS: None. Resolution 2023-291 adopted.
24. Public Hearing on Proposed Development Agreement with Ex Nihilo LLC
Mayor Pro Tem Ervin stated that this is the time and place for a Public Hearing on the above Resolution. There were no written comments. Moved by Wade, seconded by Trotter to close the public hearing. AYES: Five. NAYS: None. The public hearing was closed.
25. Resolution Approving Development Agreement with Ex Nihilo LLC, Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement
Moved by Hallam, seconded by Dalton to adopt the Resolution. AYES: Five. NAYS: None. Resolution 2023-292 adopted.

Resolution

26. Resolution Approving an Amendment to the Allocation of American Rescue Plan Act (ARPA) Funds
Moved by Dalton, seconded by Trotter to adopt the Resolution. AYES: Five. NAYS: None. Resolution 2023-293 adopted.
27. Resolution awarding contract for the Westwood Clubhouse Asbestos Abatement Project
Moved by Trotter, seconded by Hallam to adopt the Resolution. AYES: Six. NAYS: None. Resolution 2023-294 adopted.
28. Resolution approving an amendment to the professional services agreement for engineering on the Union Dr. Reconstruction Project
Moved by Trotter, seconded by Dalon to adopt the Resolution. AYES: Five. NAYS: None. Resolution 2023-295 adopted.
29. Resolution to Reorganize The Supervisor Staff Within The Police Department
Moved by Wade, seconded by Dalton to adopt the Resolution. AYES: Five. NAYS: None. Resolution 2023-296 adopted.

30. Resolution to approve creating a temporary Firefighter/EMT/P position in the Fire Department
Moved by Dalton, seconded by Wade to adopt the Resolution. AYES: Five. NAYS: None. Resolution 2023-297 adopted.
31. Resolution Approving the Purchase Agreement for City-owned Property at 1011 and 1015 East 9th Street North, Newton, Jasper County, Iowa
Moved by Hallam, seconded by Trotter to adopt the Resolution. AYES: Four. NAYS: Wade. Resolution 2023-298 adopted.

Motion

32. Motion approving an FY25 annual budget target for the Newton Public Library of \$686,039 for general fund expenditures, not including donations
Moved by Trotter, seconded by Hallam to approve the Motion. AYES: Five. NAYS: None. Motion passed.

Staff Report

33. Annual Finance Update - Lisa Frasier, Finance Officer
Frasier provided a finance update including information regarding the new Utility Meter Reader position.

Mayor/Council Comments

34. Mayor and Council Comments
Dalton announced the Main Street Conference went wonderfully. Ervin reminded citizens to get pictures of their intakes for the survey. Dalton indicated that there is insurance available to cover water lines. Ervin announced the Iowa League of Women Voters candidate forum that will be held at DMACC on October 24th and the 26th.

Adjourn

Moved by Dalton, seconded by Wade to adjourn the meeting at 7:13 P.M. Motion unanimously carried by voice vote.

Katrina Davis, City Clerk

Michael L. Hansen, Mayor

NEWTON SPECIAL WORKSHOP CITY COUNCIL MEETING MINUTES
OCTOBER 16, 2023, 6:00 PM

Call to Order

1. Roll Call
The City Council of Newton, Iowa met in special session at 7:20 P.M. on the above date in the Council Chambers at 101 West 4th Street South. Mayor Pro Tem Ervin presided.
Present Council Members: Hallam, Dalton, Ervin, Trotter, Wade. Absent: George.

Presentation

2. City of Newton Future Growth
Finance presented on forecasted numbers and provided information on how the legislative changes will affect future growth.

Mayor/Council Comments

3. Mayor and Council Comments
There were no Mayor/Council comments.

Adjourn

Moved by Trotter, seconded by Wade to adjourn the meeting at 7:45 P.M. Motion unanimously carried by voice vote.

Katrina Davis, City Clerk

Michael L. Hansen, Mayor

NEWTON CITY COUNCIL GOAL SETTING WORKSHOP MINUTES
OCTOBER 23, 2023, 6:00 PM

Call to Order

1. Roll Call
The City Council of Newton, Iowa met in special session at 6:00 P.M. on the above date the Newton Arboretum and Botanical Gardens, 3000 N 4th Ave E. Mayor Hansen presided. Present Council Members: Hallam, Dalton, George, Ervin, Trotter, Wade. Absent: None.

Discussion

2. Review of Goal Setting Process – Rob Burdess, Police Chief
3. Comprehensive Plan Review – Erin Chambers, Community Development Director
4. Review of Current FY24-FY28 Capital Improvement Plan (CIP) – Candace Streeter, Financial Analyst
5. Review of Constitutional Debt Limit, Current Outstanding Debt and Debt Service Levy Rate – Lisa Frasier, Finance Officer
6. Review 2022-2024 City Council Goals – Joe Grife, Public Works Director
7. The Goals of the Newton Park Board – August 2023 – Jody Rhone, Utilities Director
8. Presentation of Potential 2023-2025 City Council Goals – Becca Klein, Interim Library Director/Public Services Librarian
9. Executive Team and City Administrator Recommendations for 2023-2025 Goals – Jarrod Wellik, Fire Chief
10. Draft FY25-FY29 CIP – Michele Heisdorffer, Sr. Financial Analyst
11. Instructions to Mayor and Council on 2023-2025 Goal Selection – Katrina Davis, Administrative Service Manager/City Clerk
Each council member has 20 stickers to place on their highest priority option. In order for an option to become a goal, it must have 4 council members select it.
12. City Council Discussion & Goal Selection
13. Preliminary Tabulation and Presentation of City Council Goal Preferences - Matt Muckler, City Administrator
After tabulation, the 2023-2025 city council goals were presented as:
 1. Westwood Clubhouse Phase 2 Improvements (\$500,000) with 28 votes.
 2. Airport NW Expansion (\$80,000 plus \$320,000 FAA Funds = \$400,000) with 26 votes.
 3. Portland Concrete Cement Patching - Various Streets (\$1,000,000) with 25 votes.
 4. TY25 Downtown Street Improvements (\$955,000 TIF) with 23 votes.
 5. Aurora Tennis Court Construction and Resurfacing (\$430,000) with 13 votes.
 6. Aurora Park LED Court Lighting (\$180,000) with 6 votes.

Adjourn

Moved by Dalton, seconded by Trotter to adjourn the meeting at 7:13 P.M. Motion unanimously carried by voice vote.

Katrina Davis, City Clerk

Michael L. Hansen, Mayor

City of Newton Council Report

**Item:**

Resolution accepting completion of the 2023 pre-season salt purchase

Summary:

Accepting completion of the purchase of 728.70 tons of salt at the pre-season price.

Financial Impact:

Council previously approved a bid of \$51,835.00 on May 15, 2023, and this action would accept the purchase and authorize a final payment of \$52,708.06.

Report Number: 2023-1178**Date:**

November 6, 2023

Lead Department:

Public Works

Recommendation:

Approve

Background:

Every year monies are allocated in the Snow & Ice Operating budget to purchase salt, sand, and other winter maintenance materials. The Public Works salt storage building allows for adequate storage, so we may buy salt at pre-season prices, typically about \$25/ton less than the in-season prices. The City of Newton needed to purchase 700 tons of salt to replenish the salt stock used from the past winter in preparation for the 2023-2024 winter season.

City Council passed a resolution on May 15, 2023, authorizing the Public Works Director to purchase 700 tons of salt from Skyline Salt Company of Dubuque, Iowa, in the amount of \$51,835.00. Between September 22 and September 25, 2023, 728.70 tons of salt were delivered at the approved bid price of \$74.05 per ton. The final bid amount, based on the actual quantity of delivered salt, is \$52,708.06.

Recommendation:

City staff recommends accepting the completion of the 2023 pre-season salt purchase and authorizing the payment of the final amount of \$52,708.06.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION ACCEPTING COMPLETION OF THE
2023 PRE-SEASON SALT PURCHASE**

WHEREAS, every year monies are allocated in the Snow & Ice Operating budget to purchase salt, sand, and other winter maintenance materials. The Public Works salt storage building allows for adequate storage, so we may buy salt at pre-season prices, typically about \$25/ton less than the in-season prices. The City of Newton needed to purchase 700 tons of salt to replenish the salt stock used from the past winter in preparation for the 2023-2024 winter season, and

WHEREAS, the City Council of the City of Newton approved a bid from Skyline Salt Company of Dubuque, Iowa in the amount of \$51,835.00 on May 15, 2023, for the 2023 Pre-Season salt purchase; and

WHEREAS, Skyline Salt Company has delivered 728.70 tons of salt at the approved bid price of \$74.05 per ton; and

WHEREAS, the final bid amount, based on the actual quantity of delivered salt, is \$52,708.06.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that the City of Newton hereby accepts completion of the purchase; and authorizes the Public Works Director to execute payment in the amount of \$52,708.06 to Skyline Salt Company, with said payment to be made using road use tax funds.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution approving an agreement with Driving Cap Entertainment for a UV glow foam party at Newton Fest 2024

Report Number: 2023-1206**Date:**

November 6, 2023

Lead Department:

Community Development

Recommendation:

Approve

Summary:

Newton Fest continues to strive to provide free entertainment for the community. On Friday, June 7, 2024, the City of Newton is planning to host a UV glow foam party at Maytag Park from 9 - 10:30 p.m.

Financial Impact:

\$1,600

Background:

Newton Fest continues to strive to provide free entertainment for the community. On Friday, June 7, 2024, the City of Newton is planning to host a UV glow foam party at Maytag Park from 9 - 10:30 p.m. The part was a huge success last year and this year we would like to offer a larger foam party. Driving Cap Entertainment plans to use two foam cannons to stack piles of UV glow foam, play live music and create an experience even better than last year. Kids and adults will have fun jumping through the foam, scooping it up, hiding underneath it and having a blast. The foam is biodegradable, hypoallergenic, non-staining, and scent free. The cost of an hour and a half foam party with UV Glow Foam is \$1600. A \$100 deposit is required with the \$1500 balance due at the time of the event.

Recommendation:

Staff recommends approval of this resolution.

Matt Muckler, City Administrator

RESOLUTION NO. 2023- _____

RESOLUTION APPROVING AN AGREEMENT WITH DRIVING CAP ENTERTAINMENT FOR A UV GLOW FOAM PART AT NEWTON FEST 2024.

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

WHEREAS, the City and partner organizations created Newton Fest as a family-friendly community event that would be a local and regional draw, and

WHEREAS, through private and public partnerships with other organizations, Newton Fest continues to grow each year, and

WHEREAS, City staff from the Community Development & Community Services Departments, are planning the City’s activities during Newton Fest, and

WHEREAS, City staff has been working to provide family friendly and free activities at Maytag Park during the evening of Friday, June 7, 2024 which includes a 90-minute large UV glow foam party (two foam cannons), and

WHEREAS, an agreement with Driving Cap Entertainment of \$1600 must be approved and signed, with a deposit due of \$100 and the balance due the day of the event and

WHEREAS, City Staff recommends approval of this resolution approving the agreement with Driving Cap Entertainment.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



Driving Cap Entertainment LLC

14308 S23 Hwy, Milo, IA 50166

Phone: 515.966.4920 | drivingcap.com

CONTRACT

CONTRACT NO.: 633

ACCOUNT NO.: 152

CLIENT INFORMATION

CONTACT: Michael Hansen

ORG/COUPLE: City of Newton

ADDRESS: 101 W 4th St S

CITY, ST, ZIP: Newton, IA 50208

MOBILE:

WORK: (641) 792-2787

FAX:

EMAIL: danieller@newtongov.org

EVENT INFORMATION

EVENT DATE: Friday, June 7, 2024

EVENT NAME: Newton Fest Glow Foam Party

EVENT TYPE: Foam Party

EVENT PACKAGE: Large Foam Party

START TIME: 9:00 PM

END TIME: 10:30 PM

SETUP TIME:

ASSIGNED: Employee #1: Owen Fuller

LOCATION INFORMATION

VENUE: Maytag Park

ROOM:

ADDRESS: 301 S 11th Ave W
Newton, IA 50208

OTHER LOCATIONS:

CONTRACT NOTES

Two cannon party

PACKAGE / ADD-ONS

Package Description: Perfect for community celebrations, frat/sorority parties, and schools/daycares, our foam parties are a blast for all ages! Play in piles of fluffy, hypoallergenic foam bubbles produced continuously by our foam cannon. Colored foam or UV glow foam is available for an additional charge. Our large foam party package is priced for larger events (around 25 people or more). If you're planning a smaller event, we also have the Backyard Foam Party package. Extremely large/long events may be subject custom pricing.

Quantity	Description	Total Price
1	Large Foam Party	\$1,600.00
	Overtime: \$0.00	

SUMMARY OF CHARGES

PACKAGE AND ADD-ONS: \$1,600.00

OVERTIME: \$0.00

TRAVEL: \$0.00

DISCOUNTS: \$0.00

TOTAL TAX: \$0.00

ORIGINAL BALANCE DUE \$1,600.00

TOTAL PAYMENTS: \$0.00

BALANCE DUE: \$1,600.00

DEPOSIT REQUIRED: \$100.00

Continued on next page

TERMS AND CONDITIONS

1. **ENTIRE AGREEMENT:** This agreement represents the full and complete understanding between Driving Cap Entertainment LLC (Company) and Michael Hansen (Client). This writing supersedes all prior and simultaneous agreements or understandings, either written or oral, between the parties. In the event that any party to this agreement wishes to alter or amend any of the terms set forth herein, such alterations must be set forth in a written document and signed by all relevant and necessary parties.
2. **CLIENT CAPACITY TO CONTRACT:** Client affirms that he/she is at least 18 years old and has the legal capacity to enter into a contract with Driving Cap Entertainment LLC
3. **RESERVATION:** Upon Client's signature, Driving Cap Entertainment LLC will reserve the time and date agreed upon above. For this reason, the Reservation retainer of **\$100.00** is non-refundable, even if the date is changed or the event is canceled for any reason, including an act of God, fire, extreme weather, and/or any other reason beyond either parties control. The reservation retainer is to be paid at the time of signing this contract. The reservation retainer is applied towards the total contracted amount. If the above-mentioned reservation retainer is forfeited, an additional retainer of **\$100.00** will be required to secure a new service date.
4. **PAYMENT:** Client understands and agrees that the remaining amount is due the day of the event. Payment shall be made in the form of cash, check, money order, credit card, or approved cryptocurrency. Failure to make required payments on the schedule will result in a breach of contract and Client will forfeit event coverage with no refund of monies having previously been paid by Client. If Client cancels the services that are the subject of this contract prior to the service date for any reason, regardless of fault, the entire retainer shall be forfeited and will result in the cancellation of this contract by Driving Cap Entertainment LLC. If the cancellation occurs by Client for any reason within two weeks prior to the event date and Driving Cap Entertainment LLC is not able to find comparable employment through ordinary due diligence for the date of the event, Driving Cap Entertainment LLC shall reserve the right to demand, and Client agrees to pay, full payment of the contract amount contained herein.
5. **VENUE OBLIGATIONS:** In order to carry out the services contemplated by this contract, Driving Cap Entertainment LLC must have the full cooperation of the venue where said services are to be rendered. Driving Cap Entertainment LLC must also be provided with the following equipment at the venue where services will be rendered: access to a hose bib or other clean water supply and an electrical power source (at least 15 amps, 110/120 volts AC) in the immediate proximity (as close as possible, but no more than 90 feet) to where Driving Cap Entertainment LLC will be located during the event, and any applicable public entertainment licenses required by law for the venue where services will be rendered. Driving Cap Entertainment LLC will not be responsible for the above-mentioned items and in the event that these items are not provided by the venue where services will be rendered, Driving Cap Entertainment LLC shall not be held liable for the inability to provide the services obligated under this contract. It is Client's responsibility, not that of Driving Cap Entertainment LLC to ensure that the necessary equipment is provided by the venue.
6. **ASSIGNMENT OF THIS CONTRACT:** The services obligated under this contract may not be assigned to any other party without the express written consent of Driving Cap Entertainment LLC.
7. **LIMIT OF LIABILITY:** Driving Cap Entertainment LLC warrants and declares that every effort will be made to provide high-quality entertainment services. In the unlikely event of severe medical, natural, or other emergencies, it may be necessary to retain an alternative service. Driving Cap Entertainment LLC will make every effort to secure a replacement and/or willing to provide similar entertainment services under this contract. If such a situation should occur and a suitable replacement is not found, responsibility and liability are limited to the return of all payments received under this contract.
8. **SEVERABILITY:** In the event that any provision of this agreement is held to be invalid or unenforceable under applicable law, the validity of this agreement as a whole shall not be affected, and the other provisions of the agreement shall remain in full force and effect.
9. **CONTRACT AMENDMENTS:** This contract has been freely negotiated and shall be recognized as the entirety of the agreement. Only those changes or modifications specifically placed in writing, attached, dated and signed by Client and Driving Cap Entertainment LLC at the time acceptance of such terms shall be recognized as amendments to this contract.
10. **DISPUTE RESOLUTION:** In the event that any controversy arises as a result of this contract, the parties agree that good faith efforts will be made to submit their differences to mediation. This effort shall be a prerequisite to any further action by either party to enforce the terms of this contract. In the event that mediation fails, any differences between the parties shall be submitted to arbitration. Such arbitration shall be the sole forum for any differences between the parties under this contract and shall be adjudicated under the laws of the State of IA. This arbitration shall be in conformance with the rules and procedures mandated by the American Arbitration Association. Should legal efforts be required to enforce the terms of this contract, in addition to other sums recoverable herein, Client will pay all costs of collection, including, but not limited to, reasonable attorney fees.

This contract is a binding and legal document and is made for the purposes of entering into a contract for services. I have read, understood and agreed to all terms set forth above. By signing below, I hereby agree to the terms of this contract.

CLIENT SIGNATURE

NAME: _____

DATE & TIME: - _____

IP ADDRESS: - _____

EMAIL: _____

COMPANY SIGNATURE

NAME: _____

DATE & TIME: - _____

COMPANY: _____

RESOLUTION NO. 2023 – _____

**RESOLUTION APPOINTING TONI PESKA TO SERVE ON THE
NEWTON HISTORIC PRESERVATION COMMISSION FOR AN
UNEXPIRED TERM ENDING DECEMBER 31, 2024.**

WHEREAS, Mary Jo Niskin, resigned from her position on the Historic Preservation Commission with her term ending on December 31, 2024; and

WHEREAS, Toni Peska, has expressed an interest in serving on the Newton Historic Preservation Commission, is qualified to do so, and resides within the 50208 zip code;

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that Toni Peska is hereby appointed to the Newton Historic Preservation Commission to fulfill the unexpired term ending December 31, 2024.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Approving a Property Tax Rebate for the GG 115, LLC
Property Located Within the North Central Urban Renewal Area

Summary:

Resolution Approving a Property Tax Rebate to GG 115 LLC
Property According to the Approved Development Agreement

Financial Impact:

\$2,459 property tax rebate from the North Central Urban Renewal
TIF Fund

Report Number: 2023-1221**Date:**

November 6, 2023

Lead Department:

Administration

Recommendation:

Approve

Background:

The City of Newton entered into a development agreement in January of 2020 with GG 115 LLC on the property located at 208 S 2nd Ave W (Viet Thai Taste) within the North Central Urban Renewal Area. The Agreement states that the City shall rebate 100% of all TIF property taxes paid by GG 115 LLC in Fiscal year 23/24.

GG 115 LLC has provided documentation that the 1st half of property taxes in the amount of \$3,001 have been paid to the Jasper County Treasurer for FY 2023/24 property taxes and the amount of the 100% rebate from the TIF Fund would be \$2,459.

Recommendation:

Staff recommends approval of the attached Resolution approving the tax rebate payment of \$2,459 to GG 115 LLC for the first half of the 23/24 property taxes.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

RESOLUTION APPROVING A PROPERTY TAX REBATE FOR THE GG 115, LLC PROPERTY LOCATED WITHIN THE NORTH CENTRAL URBAN RENEWAL AREA

WHEREAS, the City of Newton (City) has established the North Central Urban Renewal Area; and

WHEREAS, a Development Agreement with GG 115, LLC was entered into in January of 2020 on the property located at 208 South 2nd Avenue West (Viet Thai Taste) within the North Central Urban Renewal Area, and

WHEREAS, said Agreement provides that the City provide to the Developer a 100% TIF Property Tax Rebate in Fiscal Year 23-24, and

WHEREAS, the Developer has paid the 1st half of property taxes for the fiscal year 2023-2024 in the total amount of \$3,001 and is eligible to receive a 100% TIF rebate of \$2,459;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa: That, per the terms of the Development Agreement with GG 115, LLC a property tax rebate for the 1st half of fiscal year 2023-2024 property taxes in the amount of \$2,459 is hereby approved.

PASSED this 6th day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Approving a Property Tax Rebate for the Newton Elite Properties, LLC Property Located Within the 1st Avenue East Urban Renewal Area

Summary:

Resolution Approving Property Tax Rebate to the Newton Elite Properties, LLC Property According to the Approved Development Agreement

Financial Impact:

\$4,921 property tax rebate from the 1st Avenue East Urban Renewal TIF Fund

Report Number: 2023-1222**Date:**

November 6, 2023

Lead Department:

Administration

Recommendation:

Approve

Background:

The City of Newton entered into a development agreement in November of 2020 with Newton Elite Properties, LLC on the property located at 1123 1st Avenue East within the 1st Avenue East Urban Renewal Area. The Agreement states that the City shall rebate 75% of all TIF property taxes paid by Newton Elite Properties, LLC in Fiscal year 23/24.

Newton Elite Properties, LLC has provided documentation that 1st half of property taxes in the amount of \$12,829 have been paid to the Jasper County Treasurer for FY 2023-24 for the property, and the amount of the 75% rebate from the TIF fund would be \$4,921.

Recommendation:

Staff recommends approval of the attached Resolution approving the tax rebate payment to Newton Elite Properties, LLC for the 1st half of the 23/24 property taxes.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

**RESOLUTION APPROVING A PROPERTY TAX REBATE FOR THE
NEWTON ELITE PROPERTIES, LLC PROPERTY LOCATED WITHIN
THE 1ST AVENUE EAST URBAN RENEWAL AREA**

WHEREAS, the City of Newton (City) has established the 1ST Avenue East Urban Renewal Area; and

WHEREAS, a Development Agreement with Newton Elite Properties, LLC was entered into in November of 2020 on the property located at 1123 1st Avenue East within the 1st Avenue East Urban Renewal Area, and

WHEREAS, said Agreement provides that the City provide to the Developer a 75% TIF Property Tax Rebate in Fiscal Year 23-24, and

WHEREAS, the Developer has paid the 1st half of property taxes for the fiscal year 2023-2024 in the total amount of \$12,829 and is eligible to receive a 75% TIF rebate of \$4,921;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa:
That, per the terms of the Development Agreement with Newton Elite Properties, LLC a property tax rebate for the 1st half of fiscal year 2023-2024 property taxes in the amount of \$4,921 is hereby approved.

PASSED this 6th day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Approving a Property Tax Rebate for the Van Maanen Electric, Inc Property Located Within the East Mart Urban Renewal Area

Summary:

Resolution Approving Property Tax Rebate to the Van Maanen Electric, Inc Property According to the Approved Development Agreement

Financial Impact:

\$69,014 property tax rebate from the East Mart Urban Renewal TIF Fund as budgeted

Report Number: 2023-1223**Date:**

November 6, 2023

Lead Department:

Administration

Recommendation:

Approve

Background:

The City of Newton entered into a development agreement in September of 2021 with Van Maanen, Inc on the property located at 500 IA Speedway Drive within the East Mart Urban Renewal Area. The Agreement states that the City shall rebate 100% of all TIF property taxes paid by Van Maanen Electric, Inc. in Fiscal year 23/24.

Van Maanen Electric, Inc. has provided documentation that the 1st half of property taxes in the amount of \$81,213 have been paid to the Jasper County Treasurer for FY 2023/24 for the property and the amount of the 100% rebate from the TIF Fund would be \$69,014.

Recommendation:

Staff recommends approval of the attached Resolution approving the tax rebate payment to Van Maanen Electric, Inc. for property taxes paid in FY23/24.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

**RESOLUTION APPROVING A PROPERTY TAX REBATE FOR THE VAN
MAANEN ELECTRIC, INC PROPERTY LOCATED 500 IOWA
SPEEDWAY DRIVE WITHIN THE EAST MART URBAN RENEWAL
AREA**

WHEREAS, the City of Newton (City) has established the East Mart Urban
Renewal Area; and

WHEREAS, a Development Agreement with Van Maanen Electric, Inc was
entered into in September of 2021 on the property located at 500 Iowa Speedway Drive
within the East Mart Urban Renewal Area, and

WHEREAS, said Agreement states the City will provide to the Developer a 100%
TIF Property Tax Rebate in Fiscal Year 23-24, and

WHEREAS, the Developer has paid its property taxes for the 1st half of the fiscal
year 2023-2024 in the total amount of \$81,213 and is eligible to receive a 100% TIF rebate
in the amount of \$69,014;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa:
That, per the terms of the Development Agreement with Van Maanen Electric, Inc, a
property tax rebate for the 1st half of fiscal year 2023-2024 property taxes in the amount
of \$69,014 is hereby approved.

PASSED this 6th day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Approving a Property Tax Rebate for the Best Midwest LLC Property Located at 109 1st Ave W Within the North Central Urban Renewal Area

Summary:

Resolution Approving a Property Tax Rebate to Best Midwest Properties According to the Approved Development Agreement

Financial Impact:

\$1,069 property tax rebate from the North Central Urban Renewal TIF Fund

Report Number: 2023-1224**Date:**

November 6, 2023

Lead Department:

Administration

Recommendation:

Approve

Background:

The City of Newton entered into a development agreement in July of 2021 with Best Midwest Properties LLC on the property located at 109 1st Ave W within the North Central Urban Renewal Area. The Agreement states that the City shall rebate 100% of all TIF property taxes paid by Best Midwest Properties LLC in Fiscal year 23/24.

Best Midwest Properties LLC has provided documentation that the 1st half of property taxes in the amount of \$1,412 have been paid to the Jasper County Treasurer for FY 2023/24 for the property and the amount of the 100% rebate from the TIF Fund would be \$1,069.

Recommendation:

Staff recommends approval of the attached Resolution approving the tax rebate payment of \$1,069 to Best Midwest Properties LLC for the first half of the 23/24 property taxes.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

**RESOLUTION APPROVING A PROPERTY TAX REBATE FOR
BEST MIDWEST PROPERTIES LLC LOCATED AT 109 1ST
AVENUE WEST WITHIN THE NORTH CENTRAL URBAN
RENEWAL AREA**

WHEREAS, the City of Newton (City) has established the North Central Urban Renewal Area; and

WHEREAS, a Development Agreement with Best Midwest Properties LLC was entered into on July 19th of 2021 on the property located at 109 1st Avenue West within the North Central Urban Renewal Area, and

WHEREAS, said Agreement provides that the City provide to the Developer a 100% TIF Property Tax Rebate in Fiscal Year 23/24, and

WHEREAS, the Developer has paid the 1st half of property taxes for the fiscal year 2023-2024 in the total amount of \$1,412 and is eligible to receive a 100% TIF rebate of \$1,069;

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa: that, per the terms of the Development Agreement with Best Midwest Properties LLC, a property tax rebate for the 1st half of fiscal year 2023-2024 property taxes in the amount of \$1,069 is hereby approved.

PASSED this 6th day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution accepting completion of the 2023 Streetscape Light Pole Refinishing Project

Summary:

Accept completion of a contract to repaint 61 existing streetscape lights in downtown Newton.

Financial Impact:

Council previously approved a contract for \$24,705.00 on June 19, 2023, and this action would accept the project and authorize payment of the retainage amount of \$1,235.25 from North Central URA bond funds.

Report Number: 2023-1232**Date:**

November 6, 2023

Lead Department:

Public Works

Recommendation:

Approve

Background:

Existing streetscape lights in the central business district are approaching 30 years old and have begun to show their age. This project saw 61 light poles power washed and repainted to improve their appearance.

City Council passed a resolution on June 19, 2023, awarding a contract to Van Maanen Electric Inc. for \$24,705.00. The Public Works Director has signed the Statement of Completion Form stating that the project has been substantially completed in general compliance with the contract's terms, conditions, and stipulations. Based on actual measured quantities of work completed, the final contract amount is \$24,705.00.

Recommendation:

City staff recommends accepting the completion of the 2023 Streetscape Light Pole Refinishing Project and authorizing the retainage amount of \$1,235.25 to be paid to the contractor no sooner than 30 days after approval of this resolution should no claims be on file.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION ACCEPTING COMPLETION OF THE
2023 STREETSCAPE LIGHT POLE REFINISHING PROJECT.**

WHEREAS, existing streetscape lights in the central business district are approaching 30 years old and have begun to show their age. This project saw 61 light poles power washed and repainted to improve their appearance and;

WHEREAS, City Council passed a resolution on June 19, 2023, awarding a contract to Van Maanen Electric Inc. for \$24,705.00; and

WHEREAS, Van Maanen Electric Inc. has completed the work, and the Public Works Director has signed the Statement of Completion Form stating that the project has been substantially completed in general compliance with the terms, conditions, and stipulations of said contract; and

WHEREAS, based on actual measured quantities of work completed, the final contract amount is \$24,705.00.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that the City of Newton hereby accepts the completion of the project and authorizes the Public Works Director to execute payment and release of the retained amount of \$1,235.25 no sooner than 30 days after approval of this resolution should no claims be on file, with said payment to be made using North Central Urban Renewal Bond Funds.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Revised Schedule 23-09)

Summary:

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

Financial Impact:

Cost Recovery: \$2,190.00

Report Number: 2023-1233

Date:

November 6, 2023

Lead Department:

Community Services

Recommendation:

Approve

Background:

At a recent meeting, City Council approved a Schedule of Assessment for the Expenses of Nuisance Abatement. At their last meeting, City Council approved a resolution levying assessments for costs of nuisance abatement and providing for the payment thereof (Schedule 23-09). This schedule was found to be incorrect, so the corrected amounts in this revised schedule are being levied with this resolution. The total amount for cost recovery is \$2,190.00. The attached revised 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 (revised Schedule 23-09).

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

**RESOLUTION LEVYING ASSESSMENTS FOR COSTS OF
NUISANCE ABATEMENT AND PROVIDING FOR THE
PAYMENT THEREOF (REVISED SCHEDULE 23-09)**

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 revised Schedule No. 23-09 for collection in the same manner as the property tax.

NOW, THEREFORE, BE IT RESOLVED, that approval to levy assessment costs shown in Schedule No. 23-09 as approved and adopted on October 16th is hereby rescinded.

BE IT FURTHER RESOLVED, that the attached revised Schedule No. 23-09, 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 December 6, 2023, 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 November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Schedule 23-09: 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
Michael Ault	835204007	200 E 20th St N	Newton	\$177,830	\$60.00	\$75.00	\$135.00	FAIRMEADOWS ADD PHASE 2 LOT 54	8/4/2023
Vicki Carter	834205004	717 N 3rd Ave E	Newton	\$125,220	\$90.00	\$75.00	\$165.00	EAST ADD LOT H & E 1/2 LOT G SD LOT 14	7/21/2023
Manuel Hidanovic	834276022	306 E 8th St S	Newton	\$39,260	\$60.00	\$75.00	\$135.00	EASTSIDE SD W 111' 10" LOT 2	8/4/2023
Wilma Huff	827411001	830 E 6th St N	Newton	\$81,840	\$295.00	\$75.00	\$370.00	EDMUNDSON'S ADD LOT 12 BLK 20 EX S 8'	8/7/2023
Paul & Kelley Mattingly	834201010	609 N 4th Ave E	Newton	\$47,950	\$60.00	\$75.00	\$135.00	COONEY'S SD W 1/2 LOT C	7/21/2023
William Nace	1303203012	1602 E 7th St S	Newton	\$128,070	\$90.00	\$75.00	\$165.00	LISTER'S ACRES LOT 49	7/24/2023
Randy Cline	835426029	701 E 24th St S	Newton	\$85,640	\$60.00	\$75.00	\$135.00	AURORA HEIGHTS SD LOT 14 BLK O	8/11/2023
Enedina Devarela	833102012	211 W 16th St N	Newton	\$117,910	\$90.00	\$75.00	\$165.00	ILLCREST PLACE LOT 9 BLK A	8/7/2023
Jeffery Funk	828377011	506 W 14th St N	Newton	\$82,960	\$90.00	\$75.00	\$165.00	HILLCREST ADD LOT 8 BLK A	8/22/2023
Robert Spinney	826352024	601 E 13th St N	Newton	\$83,910	\$60.00	\$75.00	\$135.00	EMERSON HOUGH PLACE LOT 12 BLK B	8/22/2023
Sherry Stoner	833283010	623 S 4th Ave W	Newton	\$125,880	\$215.00	\$75.00	\$290.00	WEST NEWTON LOT G BLK D	8/21/2023
Kayla Warren	834426006	806 S 6th Ave E	Newton	\$124,440	\$120.00	\$75.00	\$195.00	LINCOLN PLACE ADD LOT 3 BLK 4 & 1/2 ALLEY ON E	8/22/2023
Total							\$2,190.00		

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. 23-10)

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.

Financial Impact:

Cost Recovery: \$3,364.50

Report Number: 2023-1234

Date:

November 6, 2023

Lead Department:

Community Services

Recommendation:**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.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION FIXING THE AMOUNTS TO BE ASSESSED AGAINST INDIVIDUAL
PRIVATE PROPERTIES FOR THE ABATEMENT OF NUISANCE VIOLATIONS
(SCHEDULE NO. 23-10)**

WHEREAS, the City of Newton has abated nuisance violations at the addresses as found in Schedule No. 23-10: 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 23-10: 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 23-10: 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 23-10: Assessment for the Expenses for Nuisance Abatement.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

Schedule 23-10: 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
Michael Ault	835204007	200 E 20th St N	Newton	\$177,830	\$90.00	\$75.00	\$165.00	FAIRMEADOWS ADD PHASE 2 LOT 54	8/30/2023
Lance Bertrand	833438006	503 S 8th Ave W	Newton	\$109,870	\$60.00	\$75.00	\$135.00	COLLEGE ADD E 1/2 LOT 5 & N 8' OF E 1/2 LOT 6 BLK 11	9/14/2023
Randy Cline	835426029	701 E 24th St S	Newton	\$85,640	\$60.00	\$75.00	\$135.00	AURORA HEIGHTS SD LOT 14 BLK O	9/14/2023
Donald Darrah	834277010	925 1st Ave E	Newton	\$78,770	\$90.00	\$75.00	\$165.00	ENGLE'S SD LOT 19	9/1/2023
Golden Hammer Contractors	834279017	900 S 5th Ave E	Newton	\$22,570	\$90.00	\$75.00	\$165.00	LUSK'S SD LOT C	8/31/2023
Golden Hammer Contractors	834281034	1106 S 5th Ave E	Newton	\$21,440	\$60.00	\$75.00	\$135.00	JONES' SD E 1/2 OF S 178' LOT A BLK U	8/31/2023
Gary Herbrandt	835106011	1306 1st Ave E	Newton	\$86,860	\$60.00	\$75.00	\$135.00	BELMONT PARK LOT 11 BLK 4	8/31/2023
Manuel Hidanovic	834276022	306 E 8th St S	Newton	\$39,260	\$90.00	\$75.00	\$165.00	EASTSIDE SD W 111' 10" LOT 2	9/14/2023
Mary Jenkins	827453026	605 E 7 1/2 St N	Newton	\$69,590	\$339.06	\$75.00	\$414.06	GARRETT'S SD LOT 14	9/13/2023
Devyn Taylor	835153005	416 E 12th St S	Newton	\$135,420	\$60.00	\$75.00	\$135.00	SCHARF'S SD W 132' OF LOTS B-C-F	9/14/2023
Kayla Warren	834426006	806 S 6th Ave E	Newton	\$124,440	\$231.66	\$75.00	\$306.66	LINCOLN PLACE ADD LOT 3 BLK 4 & 1/2 ALLEY ON E	8/30/2023
Henry Chambers	835303017	1312 S 9th Ave E	Newton	\$213,790	\$90.00	\$75.00	\$165.00	STEVEN'S PLACE LOT 11	9/21/2023
Gena Franklin	835134003	201 E 15th St N	Newton	\$75,080	\$133.78	\$75.00	\$208.78	NELSON MANOR ADD LOT 2 & PARCEL C OF LOT 1	9/26/2023
Brian Hearl	833252024	1001 1st Ave W	Newton	\$105,430	\$60.00	\$75.00	\$135.00	MILLER'S ADD LOT 5 & N 1/2 VAC E/W ALLEY & W 1/2 VAC N/S ALLEY BOTH ABUTTING LOT 5	9/26/2023
Wilma Huff	827411001	830 E 6th St N	Newton	\$81,840	\$60.00	\$75.00	\$135.00	EDMUNDSON'S ADD LOT 12 BLK 20 EX S 8'	9/26/2023
Kenneth Kirk	827453027	603 E 7 1/2 St N	Newton	\$83,360	\$75.00	\$75.00	\$150.00	GARRETT'S SD LOT 15	9/22/2023
Nichole O'Neal	833206003	1116 1st Ave W	Newton	\$87,080	\$60.00	\$75.00	\$135.00	EXLINE'S ADD E 50' LOT 3 BLK 5 EX HIGHWAY & EX PART SOLD TO STATE	9/26/2023
Sherry Stoner	833283010	623 S 4th Ave W	Newton	\$125,880	\$170.00	\$75.00	\$245.00	WEST NEWTON LOT G BLK D	9/25/2023
Ian Westbrook	827304015	827 1st St N	Newton	\$153,440	\$60.00	\$75.00	\$135.00	AINSWORTH & WHEELER'S SD, LOT 2 OF LOT U EX W 180.5'	9/20/2023
Total							\$3,364.50		

City of Newton Council Report

**Item:**

Resolution appointing the Public Works Director and City Planner to serve on the Central Iowa Regional Transportation Planning Alliance Committees in 2024

Summary:

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

Financial Impact:

none

Report Number: 2023-1235**Date:**

November 6, 2023

Lead Department:

Community Services

Recommendation:

Approve

Background:

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

Annually, CIRTPA requests that its member governments appoint representatives to the CIRTPA Technical and Policy Committees. The proposal is to have Public Works Director Joe Grife serve as the City's 2024 primary representative to the Technical and Policy Committees, and to have City Planner Brian Dunkelberger serve as the 2024 alternate representative to both committees.

This resolution assigns a different staff position as the City's 2024 primary representative, and reassigns the 2023 primary representative as the 2024 secondary representative to CIRTPA.

Recommendation:

Staff recommends approval of this resolution.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION APPOINTING THE CITY PLANNER AND COMMUNITY SERVICES
DIRECTOR TO SERVE ON THE CENTRAL IOWA REGIONAL TRANSPORTATION
PLANNING ALLIANCE COMMITTEES IN 2024**

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

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

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

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that Public Works Director Joe Grife is designated as the 2024 representative to the CIRTPA Technical Committee, and that City Planner Brian Dunkelberger is designated as the 2024 alternate representative to the CIRTPA Technical Committee.

NOW THEREFORE, BE IT FURTHER RESOLVED that Public Works Director Joe Grife is designated as the 2024 representative to the CIRTPA Policy Committee, and that City Planner Brian Dunkelberger is designated as the 2024 alternate representative to the CIRTPA Policy Committee.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution to provide free golf and pool passes for inclusion in the Newton Housing Development Corporation's (NHDC) 2024 Get to Know Newton Welcome Package

Summary:

Proposed free passes add to the value of the Get to Know Newton Welcome Package, while also getting potential future customers to use Westwood Golf Course and Maytag Pool.

Financial Impact:

The combined current value of the passes is \$308.00 per welcome package. It is estimated that most of those receiving these non-transferrable passes would not normally buy them, so minimal negative impact on annual sales revenue is expected.

Report Number: 2023-1236

Date:

November 6, 2023

Lead Department:

Community Services

Recommendation:

Approve

Background:

As part of the NHDC's Get to Know Newton Welcome Package, those people purchasing new homes have received a package in prior years that included passes to the Iowa Speedway, membership to the YMCA, gift cards to local retailers, and a subscription to Newton Daily News. This proposal would add the following items to the Get to Know Newton Welcome Package:

- An eighteen-hole, ten-punch pass card to Westwood Golf Course (\$128 current value)
- Four season passes to Maytag Pool (\$180 current value)

To help grow the future customer base at Westwood Golf Course and Maytag Pool, providing free passes as part of this welcome package allows the recipients to use and become familiar with these recreational facilities.

It is estimated that most of those receiving these non-transferrable passes, which have a combined current value of \$308.00, would not normally buy them. Because of this, any initial negative impact of this giveaway is expected to be minimal. The potential increased usage of the pool and golf course, both short and long-term by the recipients of this welcome package, could generate additional revenue in sales of concessions, cart rentals, and future season passes.

Should fee changes occur this off-season that affect the value of this package, the estimated difference would be minimal and this resolution would still approve said donations even at the new fees.

Recommendation:

City Staff recommends acceptance of this resolution authorizing the Community Services Department to provide the free golf and pool passes noted above to the Newton Housing Development Corporation's (NHDC) Get to Know Newton Welcome Package through December 31, 2024.

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

Matt Muckler, City Administrator

RESOLUTION 2023- _____

RESOLUTION TO PROVIDE FREE GOLF AND POOL PASSES FOR INCLUSION IN THE NEWTON HOUSING DEVELOPMENT CORPORATION’S (NHDC) 2024 GET TO KNOW NEWTON WELCOME PACKAGE

WHEREAS, as part of the NHDC’s Get to Know Newton Welcome Package, those people purchasing new homes have received a package in prior years that included passes to the Iowa Speedway, a membership to the YMCA, gift cards to local retailers, and a subscription to Newton Daily News; and

WHEREAS, this resolution would add the following items to the Get to Know Newton Welcome Package:

- An eighteen-hole, ten-punch pass card to Westwood Golf Course (currently a \$128 value)
- Four season passes to Maytag Pool (currently a \$180 value); and

WHEREAS, to help grow the future customer base at Westwood Golf Course and Maytag Pool, providing free passes as part of this welcome package allows the recipients to use and become familiar with these recreational facilities; and

WHEREAS, it is estimated that most of those receiving these non-transferrable passes would not normally buy them, so any initial negative impact of this giveaway is expected to be minimal; and

WHEREAS, the potential increased usage of the pool and golf course, both short and long-term by the recipients of this welcome package, could generate additional revenue in sales of concessions, cart rentals, and future season passes.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that this resolution is approved authorizing the Community Services Department to provide the free golf and pool passes noted above to the Newton Housing Development Corporation’s (NHDC) 2024 Get to Know Newton Welcome Package through December 31, 2024.

BE IT FURTHER RESOLVED, by the City Council of the City of Newton, Iowa, that the Community Services Department is authorized to provide the free golf and pool passes noted above should off-season current fees be adjusted that minimally affect the total value of this package by less than \$100 per package.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution awarding contract for the Eversman Field Backstop Repair Project

Summary:

This resolution awards a contract for the repair of the backstop damaged by the March 2022 tornado.

Financial Impact:

\$9,050.00 to be paid using insurance payments from ICAP

Report Number: 2023-1237

Date:

November 6, 2023

Lead Department:

Community Services

Recommendation:

Approve

Background:

On March 5, 2022, a tornado caused damage in the northwest part of Newton. One of the damaged park locations was the baseball field backstop at Eversman Field. Immediately after this storm, the Community Services Department installed a temporary net backstop section to allow the Newton High School baseball team to play their final season at this location before moving to their new stadium in southwest Newton.

Due to the long-term uncertainty about the use of this baseball field, Community Services staff sought quotes for the repair of the western 1/3 of this backstop. This plan would replace this section of backstop in an affordable manner, and not require the removal or altering of the lower donor wall. In seeking quotes from fence contractors, only one quote was able to be secured:

Des Moines Steel Fence – Des Moines, Iowa	\$9,050.00
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The project costs are to be paid by insurance payments. With approval of this resolution, the Eversman Field backstop will be restored to pre-storm condition.

Recommendation:

City Staff recommends that Council award a contract to Des Moines Steel Fence of Des Moines, Iowa in the amount of \$9,050.00.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION AWARDING CONTRACT FOR THE
EVERSMAN FIELD BACKSTOP REPAIR PROJECT**

WHEREAS, on March 5, 2022 a tornado caused damage in the northwest part of Newton; and

WHEREAS, one of the damaged park locations was the baseball field backstop at Eversman Field; and

WHEREAS, immediately after this storm, the Community Services Department installed a temporary net backstop section to allow the Newton High School baseball team to play their final season at this location before moving to their new stadium in southwest Newton; and

WHEREAS, due to the long-term uncertainty of the use of this baseball field, Community Services staff sought quotes for the repair of the western 1/3 of this backstop in an affordable manner, and not require the removal or altering of the lower donor wall; and

WHEREAS, in seeking quotes from fence contractors, only one quote was able to be secured:

Des Moines Steel Fence – Des Moines, Iowa \$9,050.00; and

WHEREAS, the project costs are to be paid by insurance payments; and

WHEREAS, City Staff recommends that Council award a contract to Des Moines Steel Fence of Des Moines, Iowa in the amount of \$9,050.00.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the quote from Des Moines Steel Fence of Des Moines, Iowa in the amount of Nine Thousand, Fifty Dollars and Zero Cents (\$9,050.00) for the Eversman Field Backstop Repair Project is hereby accepted; and that the project will be paid for using insurance payments from ICAP.

BE IT FURTHER RESOLVED, by the City Council of the City of Newton, Iowa, that the proposal from Des Moines Steel Fence of Des Moines, Iowa for the Eversman Field Backstop Repair Project be signed by the Mayor and City Clerk on behalf of the City.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution ordering bids, approving plans, specifications and form of contract and notice to bidders, and ordering clerk to publish notice and fixing a date for receiving same, and for a public hearing on plans, specifications, form of contract and estimate of costs for the Westwood Clubhouse Demolition Project

Summary:

Accept plans and order bids for the Westwood Clubhouse Demolition Project

Financial Impact:

Estimated \$51,400 cost to be paid from ARPA funds

Report Number: 2023-1238**Date:**

November 6, 2023

Lead Department:

Community Services

Recommendation:

Approve

Background:

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

On October 16, 2023, City Council approved a resolution to award a contract for asbestos abatement work in the existing clubhouse ahead of the eventual demolition work. This abatement work has a completion date of January 19, 2023, so the planned demolition work can not begin until January 22, 2024.

The proposed bid opening for the project will occur on December 7, 2023; and the public hearing to accept bids and award the work will take place at the regularly scheduled council meeting on December 18, 2023. Following the anticipated award of contract on December 18, 2023, demolition is expected to begin in mid to late January. The final completion date of the project will be on March 29, 2024. The project will be paid for using ARPA funds.

Recommendation:

City staff recommends approval to accept the plans, set dates for the public hearing and bid opening, and obtain bids for the Westwood Clubhouse Demolition Project.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

RESOLUTION ORDERING BIDS, APPROVING PLANS, SPECIFICATIONS AND FORM OF CONTRACT AND NOTICE TO BIDDERS, AND ORDERING CLERK TO PUBLISH NOTICE AND FIXING A DATE FOR RECEIVING SAME, AND FOR A PUBLIC HEARING ON PLANS, SPECIFICATIONS, FORM OF CONTRACT AND ESTIMATE OF COSTS FOR THE WESTWOOD CLUBHOUSE DEMOLITION PROJECT

WHEREAS, on September 13, 2022 Newton residents approved a park bond referendum, which included the construction of a new clubhouse at the Westwood Golf Course; and

WHEREAS, on October 16, 2023 City Council approved a resolution to award a contract for asbestos abatement work in the existing clubhouse ahead of the eventual demolition work; and

WHEREAS, said abatement work has a completion date of January 19, 2023; so the planned demolition work cannot begin until January 22, 2024; and

WHEREAS, following the anticipated award of a contract on December 18, 2023; demolition work is expected to begin in mid to late January with the final completion date of the project on March 29, 2024; and

WHEREAS, City staff recommends approval to accept the plans, set dates for the public hearing and bid opening, and obtain bids for the Westwood Clubhouse Demolition Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the Westwood Clubhouse Demolition Project for the City of Newton, Iowa is hereby ordered to be advertised for bids; and the project will be paid for using ARPA funds.

BE IT FURTHER RESOLVED, that the detailed plans and specifications for the Westwood Clubhouse Demolition Project for the City of Newton, Iowa, and the form of contract and Advertisement for Bids and Notice of Hearing, be and the same are hereby approved, subject to hearing thereon, and are hereby ordered placed on file in the office of the Clerk for public inspection; and

That the Clerk is hereby directed to advertise for bids for the completion of said demolition work. Bids will be received and opened at the office of the Community Services Director at 10:00 am on the 7th day of December 2023. Thereupon the bids will be referred to the City Council for action upon said bids at a future meeting to be held at the Council Chambers, Newton, Iowa. Notice to Bidders is to be published not less than thirteen (13) calendar days nor more than forty-five (45) days prior to the date fixed for said bid opening in the following: 1) a relevant contractor plan room service with statewide circulation, 2) a relevant construction lead generating service with statewide circulation and 3) the City of Newton website; and

That the Council hold a public hearing on the matter of the adoption of proposed plans, specifications and form of contract for the making of said improvements, which documents are now on file in the office of the Clerk, said hearing to be held at the Council Chambers in the City Hall, Newton, Iowa, on the 18th day of December 2023, at 6:00 pm, and that the City Clerk give notice of said hearing by publication once in a local legal newspaper, printed wholly in English language, not less than four (4) clear days nor more than twenty (20) days prior to the date fixed therefore.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution terminating the Westwood Clubhouse design services agreement with I & S Group, Inc.

Summary:

Approval to terminate existing agreement and obtain use of instruments of service prepared under said agreement

Financial Impact:

No added costs above the original design services contract

Report Number: 2023-1239

Date:

November 6, 2023

Lead Department:

Community Services

Recommendation:

Approve

Background:

On September 13, 2022, Newton residents approved a park bond referendum, which included the construction of a new clubhouse at the Westwood Golf Course. This was followed by City Council's approval of Resolution 2022-318 on November 21, 2022 to enter into a design services agreement with the ETHOS Design Group, Inc. of Ankeny, Iowa for the Westwood Clubhouse Project. Soon after that original resolution, ETHOS was acquired by the I & S Group, Inc. (ISG), who continued work on the design following City Council's approval of Resolution 2023-013 on February 6, 2023.

Due to high bid prices received, said bids were then rejected by City Council per Resolution 2023-245 on September 5, 2023. City staff reacted immediately by working on an alternate plan to construct a more affordable clubhouse which satisfies the language of the bond referendum, while still meeting the needs of the golf course. With the new direction of this project the services of ISG are no longer needed, so staff is proposing that the design services agreement be terminated and the City obtain use of, through language in said agreement, the instruments of service. This information would include all design work done by ISG including interior layout, products, finishes, lighting, kitchen layout, exterior civil plan, utilities, etc. By obtaining the legal rights to use and share this valuable information, remaining design costs will be kept at a minimum in preparing the new building plan.

Approval of this resolution will not increase costs paid to ISG above the original design services contract.

Recommendation:

City staff recommends approval of this resolution terminating the Westwood Clubhouse design services agreement with I & S Group, Inc., and making final payment per said agreement to obtain the instruments of service.

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

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

**RESOLUTION TERMINATING THE WESTWOOD CLUBHOUSE
DESIGN SERVICES AGREEMENT WITH I & S GROUP, INC.**

WHEREAS, on September 13, 2022 Newton residents approved a park bond referendum, which included the construction of a new clubhouse at the Westwood Golf Course; and

WHEREAS, City Council then approved Resolution 2022-318 on November 21, 2022 to enter into a design services agreement with the ETHOS Design Group, Inc. of Ankeny, Iowa for the Westwood Clubhouse Project; and

WHEREAS, soon after that original resolution, ETHOS was acquired by the I & S Group, Inc. (ISG), who continued work on the design following City Council's approval of Resolution 2023-013 on February 6, 2023; and

WHEREAS, due to high bid prices received, said bids were then rejected by City Council per Resolution 2023-245 on September 5, 2023; and

WHEREAS, City staff reacted immediately by working on an alternate plan to construct a more affordable clubhouse which satisfies the language of the bond referendum, while still meeting the needs of the golf course; and

WHEREAS, with the new direction of this project the services of ISG are no longer needed, so staff is proposing that the design services agreement be terminated and the City obtain use of, through language in said agreement, the instruments of service; and

WHEREAS, this information would include all design work done by ISG including interior layout, products, finishes, lighting, kitchen layout, exterior civil plan, utilities, etc.; and

WHEREAS, by obtaining the legal rights to use and share this valuable information, remaining design costs will be kept at a minimum in preparing the new building plan; and

WHEREAS, approval of this resolution will not increase costs paid to ISG above the original design services contract; and

WHEREAS, City staff recommends approval of this resolution terminating the Westwood Clubhouse design services agreement with I & S Group, Inc., and making the \$25,000 final payment per said original agreement to obtain the instruments of service.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that this resolution terminating the Westwood Clubhouse design services agreement with I & S Group, Inc. (ISG) is hereby approved.

BE IT FURTHER RESOLVED, that the required notice of termination be prepared and provided to ISG by the Community Services Director on behalf of the City, along with said final payment for rights to the instruments of service.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution ordering bids, approving plans, specifications and form of contract and notice to bidders, and ordering clerk to publish notice and fixing a date for receiving same, and for a public hearing on plans, specifications, form of contract and estimate of costs for the Downtown Spray Park & Gathering Space Project

Summary:

Accept plans and order bids for the Downtown Spray Park & Gathering Space Project

Financial Impact:

Estimated \$500,000 cost to be paid from private donations and Tax Increment Financing Bonds

Report Number: 2023-1240**Date:**

November 6, 2023

Lead Department:

Community Services

Recommendation:

Approve

Background:

On September 6, 2022, City Council passed Resolution 2022-249 that spelled out the City's commitment to take the lead on the design and construction of the Downtown Spray Park & Gathering Space (known as the Downtown Park at this time). This followed efforts by a group of private citizens associated with the Newton Main Street Economic Vitality Committee to get a park constructed on the vacant City-owned lot at 224 W 3rd St N.

On August 7, 2023, City Council approved a \$49,000 Preliminary Design Services Agreement with Bolton & Menk for the Downtown Spray Park & Gathering Space Project. This was followed by Council's approval on October 16, 2023 of a \$36,000 amendment to said agreement allowing for final design work to be completed; all based on the December 8, 2022 concept plan presented by the Main Street Committee to the City as their final concept plan. Plans and specifications have been prepared by Bolton & Menk in substantial conformance to said concept plan, and are ready to be placed out to bid.

The proposed bid opening for the project will occur on December 5, 2023; and the public hearing to accept bids and award the work will take place at the regularly scheduled council meeting on December 18, 2023. Following the anticipated award of contract on December 18, 2023, work is expected to begin in late winter or early spring. The final completion date of the project will be on June 15, 2024.

Recommendation:

City staff recommends approval to accept the plans, set dates for the public hearing and bid opening, and obtain bids for the Downtown Spray Park & Gathering Space Project.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

RESOLUTION ORDERING BIDS, APPROVING PLANS, SPECIFICATIONS AND FORM OF CONTRACT AND NOTICE TO BIDDERS, AND ORDERING CLERK TO PUBLISH NOTICE AND FIXING A DATE FOR RECEIVING SAME, AND FOR A PUBLIC HEARING ON PLANS, SPECIFICATIONS, FORM OF CONTRACT AND ESTIMATE OF COSTS FOR THE DOWNTOWN SPRAY PARK & GATHERING SPACE PROJECT

WHEREAS, on September 6, 2022 City Council passed Resolution 2022-249 that spelled out the City's commitment to take the lead on the design and construction of the Downtown Spray Park & Gathering Space (known as the Downtown Park at this time); and

WHEREAS, this followed efforts by a group of private citizens associated with the Newton Main Street Economic Vitality Committee to get a park constructed on the vacant City-owned lot at 224 W 3rd St N; and

WHEREAS, on August 7, 2023, City Council approved a \$49,000 Preliminary Design Services Agreement with Bolton & Menk for the Downtown Spray Park & Gathering Space Project, followed by Council's approval on October 16, 2023 of a \$36,000 amendment to said agreement allowing for final design work to be completed; and

WHEREAS, plans and specifications, all in substantial conformance to the December 8, 2022 concept plan presented by the Main Street Committee to the City as their final concept plan, have been prepared by Bolton & and are ready to be place out to bid; and

WHEREAS, following the anticipated award of a contract on December 18, 2023; work is expected to begin in late winter or early spring with the final completion date of the project being June 15, 2024; and

WHEREAS, City staff recommends approval to accept the plans, set dates for the public hearing and bid opening, and obtain bids for the Downtown Spray Park & Gathering Space Project.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the Downtown Spray Park & Gathering Space Project for the City of Newton, Iowa is hereby ordered to be advertised for bids; and the project will be paid for using private donations and Tax Increment Financing Bonds.

BE IT FURTHER RESOLVED, that the detailed plans and specifications for the Downtown Spray Park & Gathering Space Project for the City of Newton, Iowa, and the form of contract and Advertisement for Bids and Notice of Hearing, be and the same are hereby approved, subject to hearing thereon, and are hereby ordered placed on file in the office of the Clerk for public inspection; and

That the Clerk is hereby directed to advertise for bids for the completion of said improvements. Bids will be received and opened at the office of the Community Services Director at 1:00 pm on the 5th day of December 2023. Thereupon the bids will be referred to the City Council for action upon said bids at a future meeting to be held at the Council Chambers, Newton, Iowa. Notice to Bidders is to be published not less than thirteen (13) calendar days nor more than forty-five (45) days prior to the date fixed for said bid opening in the following: 1) a relevant contractor plan room service with statewide circulation, 2) a relevant construction lead generating service with statewide circulation and 3) the City of Newton website; and

That the Council hold a public hearing on the matter of the adoption of proposed plans, specifications and form of contract for the making of said improvements, which documents are now on file in the office of the Clerk, said hearing to be held at the Council Chambers in the City Hall, Newton, Iowa, on the 18th day of December 2023, at 6:00 pm, and that the City Clerk give notice of said hearing by publication once in a local legal newspaper, printed wholly in English language, not less than four (4) clear days nor more than twenty (20) days prior to the date fixed therefore.

PASSED this _____ day of November, 2023.

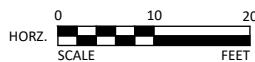
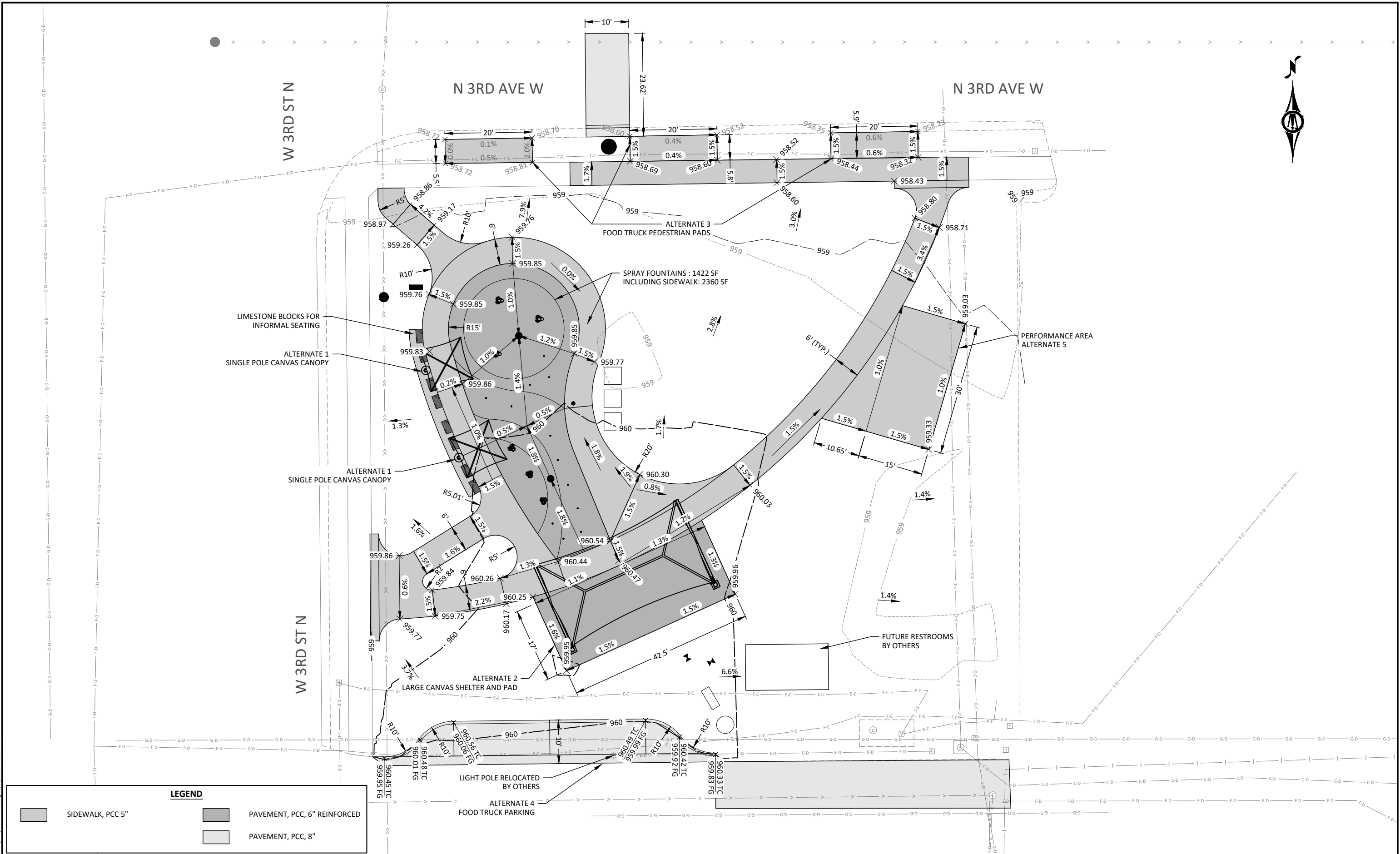
APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

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430 E GRAND AVENUE, SUITE 101
DES MOINES, IOWA 50309
Phone: (515) 259-9190
Email: DesMoines@bolton-menk.com
www.bolton-menk.com



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CITY OF NEWTON, IOWA
DOWNTOWN SPRAY PARK & GATHERING SPACE PROJECT
CIVIL PLAN SHEET

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D.01

City of Newton Council Report

**Item:**

Resolution approving a Telecommunications Licensing Agreement with Unite Private Networks – UPN 6208

Summary:

An agreement with Unite Private Networks to utilize public right-of-way to extend an existing communications network.

Financial Impact:

\$72.60 fee to be paid to the City by Unite Private Networks.

Report Number: 2023-1245

Date:

November 6, 2023

Lead Department:

Public Works

Recommendation:

Approve

Background:

Unite Private Networks (UPN) of Kansas City, Missouri, has proposed an extension of its existing telecommunications system in Newton. The proposed route shall run west from an existing UPN handhole near the corner of E 3rd Street N and N 4th Avenue E to a proposed handhole near E 2nd Street N and N 4th Avenue E.

The proposed underground portion of the route includes 1,210 LF of improvements in the City of Newton right-of-way. Based on the rates the City Council established in Resolution No. 2022-048 passed on February 21, 2022, the licensing fee for the portion of work in the City of Newton right-of-way is \$72.60.

The Public Works Department has reviewed the route of the proposed improvements and will work with Unite Private Networks and their installation contractor to eliminate conflicts with existing utilities and other possible future improvements. All construction work and surface restoration proposed on this project will be subject to this agreement, along with a separate right-of-way excavation permit issued by the Public Works Department.

Recommendation:

Approval of the telecommunications licensing agreement with Unite Private Networks of Kansas City, Missouri.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION APPROVING A TELECOMMUNICATIONS LICENSING AGREEMENT
WITH UNITE PRIVATE NETWORKS – UPN 6208**

WHEREAS, Unite Private Networks (UPN) of Kansas City, Missouri, has proposed an extension of its existing telecommunications system in Newton; and

WHEREAS, said telecommunications system would be an extension of an existing communications system installed previously; and

WHEREAS, the proposed route shall run west from an existing UPN handhole near the corner of E 3rd Street N and N 4th Avenue E to a proposed handhole near the intersection of E 2nd Street N and N 4th Avenue E.; and

WHEREAS, the Public Works Department has reviewed the route of the proposed improvements and will work with Unite Private Networks and their installation contractor to eliminate conflicts with existing utilities and other possible future improvements. All construction work and surface restoration proposed on this project will be subject to this agreement, along with a separate right-of-way excavation permit issued by the Public Works Department; and

WHEREAS, the proposed underground portion of the route includes 1,210 LF of improvements in the City of Newton right-of-way; and

WHEREAS, based on the rates City Council established in Resolution No. 2022-048 passed on February 21, 2022, the licensing fee for the portion of work in the City of Newton right-of-way is \$72.60; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that the City hereby authorizes the Mayor and City Clerk to execute the attached Licensing Agreement with Unite Private Networks of Kansas City, Missouri.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

A LICENSE TO UTILIZE PUBLIC RIGHT-OF-WAYS FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF A FIBER OPTIC NETWORK

SECTION 1. DEFINITIONS

- a. "City" shall mean the City of Newton, Iowa and, where appropriate, shall include its officers, employees and agents.
- b. "Public Improvements" shall mean any improvements as defined in Code of Iowa Section 384.95, including but not limited to paving, sidewalks, grass, vegetation, trees, street lights, traffic signals, water mains, sewers, electric transmission lines and equipment related thereto, and in addition public utilities, on Public Property.
- c. "Public Property" shall mean City-owned or controlled public rights-of-way, easements, bridges, squares or commons.
- d. "Licensee" shall mean Unite Private Networks and shall include all equipment owned, operated, leased or subleased in connection with the operation of the network, and shall include but not be limited to poles, overhead or underground wires, pipes, overhead or underground cables, underground conduits, ducts, manholes, vaults, fiber optic cables, and other structures or appurtenances.

SECTION 2. BASIC GRANT

Licensee is hereby granted a license to construct, maintain, inspect, protect, repair, replace and retain a communications system in, under, upon, along and across the Public Property shown and identified in Exhibit A hereto, subject to the regulatory powers of the City and subject to the conditions hereinafter set forth.

SECTION 3. TERM OF LICENSE

This License shall consist of two separate duration periods, a construction period and a maintenance period. Both periods commence on the execution of the license by both parties.

Construction – Licensee shall have a period of 18 months to put into place the utilities, which Licensee has provided the details on pursuant to other sections of this License.

Maintenance - Licensee shall have the right under this License, after providing proper notice to the City, to maintain/repair its existing utilities. The expansion of (either in geography or in size/capacity) or upgrading of the utility is not considered maintenance/repair.

SECTION 4. FEES REQUIRED

- a. Licensee shall pay the City an administrative license fee in the amount of \$72.60 (Seventy Two Dollars and Sixty Cents) for locations of new underground infrastructure, payable upon execution of this License, for use of the public property as shown in Exhibit "A" during the term of this License.
- b. If during the term of this License the City enacts an Ordinance requiring

compensation from telecommunications providers on a competitively neutral and nondiscriminatory basis for use of public property Licensee shall within sixty (60) days after request by City pay the fees required by such Ordinance, with the effective date of said ordinance being the starting date for the accrual of fees. Any fees paid during the term of this License, however, shall be credited toward the fees required by the Ordinance. If the Ordinance enacted requires fees for this transaction which are less than \$72.60, the City shall refund the excess of \$72.60 over the fees required under such Ordinance, provided, however, that in no event shall the amount refunded exceed the sum of \$2,000.00.

SECTION 5. PERMIT PROCESS FOR INSTALLATION, REPAIR, EXTENSION OR EXPANSION OF THE NETWORK

Before commencing any extension or expansion of its system, or any major repair work, or the installation of any new system in the City, the Licensee shall file with the Public Works Department of the City a written statement verifying the Public Property under which or upon which it proposes to extend, expand, install or repair its system. The statement shall be accompanied by a map, plan or specifications showing the proposed location of the system components with reference to streets and alleys and the location of other utilities, the size and dimensions of all facilities, and the distance above or beneath the surface of the ground it is proposed to repair or to lay the same. If the proposed locations of any facilities shall interfere with the reasonable and proper use, construction, reconstruction and maintenance of any public improvements or any existing public utility system component, or other structure upon or under public property, the Public Works Director shall within 30 days after the filing of such plan, map or specifications, note the changes necessary, eliminate all interference with a public improvement or existing public utility system facility and refer the same back to the Licensee for amendment. Such map, plan or specifications, when properly changed and corrected, shall be filed in the Public Works Department, and after the approval of the same by the Public Works Director, a permit shall be issued authorizing the Licensee to proceed in accordance with the approved maps, plans or specifications. No such excavation, construction or erection shall be commenced before the issuance of the permit herein provided for, unless it is an emergency as described in the Newton City Code, and all work shall be in accordance with the approved maps, plans or specifications.

SECTION 6. CONSTRUCTION AND REPAIR OF NETWORK

In the process of location, construction, reconstruction, replacement, or repair of any system component, the excavation or obstruction made or placed in public property at any time or for any purpose by the Licensee shall, to protect the public and to assure the safe and efficient movement of traffic, be properly barricaded to comply, at a minimum, with requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD). All pavement taken up or damaged or other disturbed areas shall be properly and speedily replaced in accordance with the City's Regulations. As a condition to use of Public Property, the Licensee shall at its own expense repair any private property, utility system component, public improvement or Public Property damaged by such location, construction, reconstruction, replacement or repair work, in a manner reasonably acceptable to City. If the Licensee fails to repair or arrange with the City for the proper repair of any Public Property after excavations have been made, and after seven days' notice in writing to do so is given to its designated representative, the City may make such repairs at the expense of the Licensee.

SECTION 7. EXCAVATIONS

The Licensee is authorized to make excavations in City streets, avenues, alleys and public property for purposes of routine repair, replacement, and maintenance of poles, wires, or other excavations. The Licensee shall obtain a permit pursuant to City Ordinances and Regulations, shall not unnecessarily obstruct the use of streets, avenues, alleys or public places, shall provide the Public Works Director with notice prior to the actual commencement of the work and shall comply with all provisions, requirements, and regulations in accordance with the existing City Ordinance in performing such work. In emergencies which require immediate excavation the Licensee may proceed with the work without first applying for the permit, provided, however, that the Licensee shall apply for and obtain the permit as soon as possible after commencing such emergency work.

If the Licensee fails to comply with the provisions of the City Code the City may repair or restore the public property to a condition as good as the condition of the property prior to the disturbance by the Licensee and the Licensee shall pay the costs of such repair or restoration. The Licensee shall pay to the City its costs and charges for such work within thirty days after receipt of the City's billing.

SECTION 8. WORK BY OTHERS, ALTERATION TO CONFORM WITH PUBLIC IMPROVEMENTS

The City reserves the right to lay, and permit to be laid, wires, pipes, cables, conduits, ducts, manholes and other appurtenances, and to do, or permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in, across, along, over or under any public property occupied by the Licensee and to change any curb or sidewalk or the grade of any street. In permitting others to do such work the City shall not be liable to the Licensee for any damages arising out of the performance of such work by other parties. Nothing in this License shall be construed as to relieve any other person or corporation from liability for damage to the Licensee's facilities.

SECTION 9. LICENSEE CONTRACTORS

The requirements of the License shall apply to all persons, firms or corporations performing work for the Licensee under a contract, subcontract or other type of work order.

SECTION 10. CONDITIONS OF STREET OCCUPANCY

This fiber optic cable systems and other components of the facilities erected by the Licensee within the City shall conform to established grades of streets, alleys, and sidewalks, and be so located as to cause minimum interference with other public utilities located in or upon public property, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin public property.

The Licensee shall conduct its work hereunder in such manner as to cause as little interference as possible with pedestrian and vehicular traffic, and shall abide by scheduling directions, if any, given by the Public Works Director.

The Licensee shall, upon reasonable notice and at its sole cost and expense, remove,

locate and relocate its facilities in, on, over or under public property in such manner as the City may at any time require for the purpose of facilitating the construction, reconstruction, maintenance, repair or change in grade of any public improvement on, in or about any such public property, for the purpose of promoting the efficient operation of any such improvement, or for the purposes of facilitating the vacation and/or redevelopment of public right-of-way by the City. In the event the Licensee fails to act within a reasonably allocated time, the City may cause the Licensee facilities to be relocated or removed, and the costs thereof shall be to the Licensee and shall be paid as provided in Section 6 hereof.

The Licensee shall not place its facilities in the public property where the same will interfere with the normal use or maintenance of any public improvement including but not limited to streets, alleys, sidewalks, traffic control devices, sanitary sewers, storm sewers, storm drains or water mains, or electrical transmission lines, or any public utility facility.

Upon request, the Licensee agrees to assist in locating underground facilities which are part of its system. Such assistance will be provided in a timely manner, but not more than forty-eight hours after the time of request. As a condition of this License the Licensee shall enroll as a member of the 'Iowa One-Call System' and shall respond to all requests and notifications placed to the toll free 'One-Call' number.

Installation, repair, or replacement work completed by the Licensee on any facilities requiring excavation of public property or public right-of-way shall require restoration and replacement of surface vegetation with sod in conformance with city ordinances and in accordance with standard local practices for placing sod.

SECTION 11. POWERS OF CITY

Nothing in this License shall be construed to abridge the right or power of the City to make further regulations relative to the use of the streets, alleys and public grounds by anyone using the same for the erection and maintenance of utility systems.

SECTION 12. PLANS AND COORDINATION

Upon completion of the work the Licensee shall promptly furnish to the City copies of 'as-built' plans related to its facilities located on Public Property.

The Licensee shall keep complete and accurate maps and records on the locations and operations of its facilities in connection with this License.

SECTION 13. VIOLATIONS OF LICENSE

Upon evidence being received by the City that a violation or breach of this License or violation of codes or ordinances lawfully regulating the Licensee in the operation of its facilities, or in the use of public property therefore is occurring or has occurred, (hereinafter referred to as a "default") the City shall cause an investigation to be made. If the City finds that a default exists or has occurred the City may take appropriate steps to secure compliance with the terms of this License or the codes or ordinances.

The City shall notify the Licensee of the default and the Licensee shall cure such default

within thirty days after receipt of such notice; provided, however, where any such default cannot reasonably be cured within such thirty (30) day period, if Licensee shall proceed promptly to cure the same and prosecute such cure with due diligence, the time for curing such default shall reasonably be extended for such period of time as may be necessary to complete such cure, as mutually agreed upon by the parties.

If the Licensee fails to cure a default within the time allowed the City shall have the right to:

- (i) seek specific performance; or
- (ii) remedy the default by doing the act itself, or through a contractor, and charge the costs of such work to the Licensee; or
- (iii) seek damages for such default; or
- (iv) any combination of (i), (ii) and (iii).

SECTION 14. LIABILITY, INDEMNIFICATION AND INSURANCE

The Licensee covenants to indemnify, defend, and save the City and its officers, agents and employees, harmless from any and all damages arising directly from the exercise of the rights granted herein. The Licensee agrees to require contractors and subcontractors engaged in work for the Licensee within the public rights-of-way or on public property to maintain in effect during the term of work liability insurance in comprehensive form and in the amounts to be set by the City. Licensee agrees to accept the risk of having its communications systems and equipment upon the public right-of-way, including the possible risk of damage or injury to its system or equipment, and agrees to release and discharge the City of any liability for damage or injury to Licensee's equipment, except to the extent caused by the City's gross negligence. In no event shall the City be liable for any consequential damages arising out of any damage or injury to Licensee's equipment placed in the right-of-way.

SECTION 15. SEVERABILITY

In the event that a court of competent jurisdiction shall adjudge any provision or provisions hereof invalid or illegal, or direct a change by the Licensee in any matter or thing herein contained, such invalidity or illegality or change shall in no way affect the remaining provisions of this License or their validity or legality, and this License in all other respects shall continue in full force and effect, as if said provision or provisions had not been so adjudged invalid or illegal, or such change had not been directed, or shall at the City's option, cause a termination of this License.

SECTION 16. ASSIGNMENT

Neither party shall assign or otherwise transfer this License or any of its rights and interest to any firm, corporation or individual without the prior written consent of the other party, except either party shall have the right to assign, convey or otherwise transfer its rights, title, interest and obligations under this License, in whole or in part, to any entity controlled by, controlling or under common control with a party hereto, or any entity into which a party may be merged or consolidated or which purchases all or substantially all of the assets of such party, or any lease, sublease, indefensible right of use, or sale or transfer of, conduit, fiber or similar facilities with Licensee's telecommunication system to any third party users of such facilities.

SECTION 17. VACATION OF STREETS AND ALLEY

So long as the Licensee exercises the rights granted to it hereunder the City will not, by ordinance or otherwise, vacate any street, alley or public way in which the Licensee has installed its facilities without reserving such rights as necessary to allow continued use of such property for the said facilities in accordance with the terms of this License, provided that nothing herein shall limit the City's right to require the Licensee to relocate its facilities as provided in Section 10 hereof.

SECTION 18. DELIVERY OF NOTICES

Except as may be expressly provided herein, any notices hereunder shall be in writing and shall be delivered via certified mail and addressed as follows, unless indicated otherwise in the future:

If to City:

Newton Public Works Director
403 W 4th St N, Suite 501
Newton, Iowa 50208

If to Licensee:

Unity Private Networks
1511 Baltimore Avenue
Kansas City, MO 64108

Provided, however, that in the case of an emergency, notices may be given verbally to the above named persons. In such case written confirmation should be provided. Nothing contained herein shall prevent other forms of notice if actually received by the addressee. Notice shall be deemed given on the date of mailing in done by certified mail, or otherwise on the date actual notice is received.

SECTION 19. TELECOMMUNICATIONS ACT

This License is subject to all applicable federal, state and local laws, regulations and orders of governmental agencies as amended, including but not limited to the Communications Act of 1934 as amended, the Telecommunications Act of 1996 as amended and the Rules and Regulations of the FCC. Neither City nor Licensee waive any rights they may have under any such laws, rules or regulations.

This LICENSE is entered into as of the _____ day of _____, 20__.

LICENSEE

By: J. Brewster Hills

Permit Coordinator

Title: Agent for Unity Private Networks

CITY OF NEWTON

By: _____
Michael L. Hansen, Mayor

Attest: _____
City Clerk

City of Newton Council Report

**Item:**

Resolution approving a Telecommunications Licensing Agreement with Mahaska Communication Group – Phase 4

Summary:

An agreement with Mahaska Communications Group to utilize public right-of-way for installing a fiber optic communications network.

Financial Impact:

\$14,787.06 agreement fee to be paid to the City by MCG.

Report Number: 2023-1246

Date:

November 6, 2023

Lead Department:

Public Works

Recommendation:

Approve

Background:

Mahaska Communication Group (MCG) of Oskaloosa, Iowa, has proposed the fourth phase of their planned fiber optic system in Newton, shown on the attached route exhibit.

The proposed underground portion of the route includes 246,451 lineal feet of improvements in the City of Newton right-of-way. Based on the rates the City Council established in Resolution No. 2022-048 passed on February 21, 2022, the licensing fee for the portion of work in the City of Newton right-of-way is \$14,787.06.

The Public Works Department has reviewed the route of the proposed improvements and will work with MCG to eliminate conflicts with existing utilities and other possible future improvements. All construction work and surface restoration proposed on this project will be subject to this agreement, along with a separate right-of-way excavation permit issued by the Public Works Department.

Recommendation:

Approval of the telecommunications licensing agreement with Mahaska Communication Group (MCG) of Oskaloosa, Iowa.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION APPROVING A TELECOMMUNICATIONS LICENSING AGREEMENT
WITH MAHASKA COMMUNICATION GROUP – PHASE 4**

WHEREAS, Mahaska Communication Group (MCG) of Oskaloosa, Iowa, has proposed the fourth phase of their planned fiber optic system in Newton; and

WHEREAS, the proposed underground portion of the route includes 246,451 LF of improvements in the City of Newton right-of-way; and

WHEREAS, the City of Newton has prepared a licensing agreement for the construction and maintenance of said telecommunications system based on that portion of said telecommunications system inside the City right-of-way; and

WHEREAS, based on the rates City Council established in Resolution No. 2022-048 passed on February 21, 2022, the licensing fee for the portion of work in the City of Newton right-of-way is \$14,787.06.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Newton, Iowa, that the City hereby authorizes the Mayor and City Clerk to execute the attached Licensing Agreement with Mahaska Communication Group (MCG) of Oskaloosa, Iowa.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

A LICENSE TO UTILIZE PUBLIC RIGHT-OF-WAYS FOR THE INSTALLATION, OPERATION AND MAINTENANCE OF A FIBER OPTIC NETWORK

SECTION 1. DEFINITIONS

- a. "City" shall mean the City of Newton, Iowa and, where appropriate, shall include its officers, employees and agents.
- b. "Public Improvements" shall mean any improvements as defined in Code of Iowa Section 384.95, including but not limited to paving, sidewalks, grass, vegetation, trees, street lights, traffic signals, water mains, sewers, electric transmission lines and equipment related thereto, and in addition public utilities, on Public Property.
- c. "Public Property" shall mean City-owned or controlled public rights-of-way, easements, bridges, squares or commons.
- d. "Licensee" shall mean Mahaska Communication Group and shall include all equipment owned, operated, leased or subleased in connection with the operation of the network, and shall include but not be limited to poles, overhead or underground wires, pipes, overhead or underground cables, underground conduits, ducts, manholes, vaults, fiber optic cables, and other structures or appurtenances.

SECTION 2. BASIC GRANT

Licensee is hereby granted a license to construct, maintain, inspect, protect, repair, replace and retain a communications system in, under, upon, along and across the Public Property shown and identified in Exhibit A hereto, subject to the regulatory powers of the City and subject to the conditions hereinafter set forth.

SECTION 3. TERM OF LICENSE

This License shall consist of two separate duration periods, a construction period and a maintenance period. Both periods commence on the execution of the license by both parties.

Construction – Licensee shall have a period of 18 months to put into place the utilities, which Licensee has provided the details on pursuant to other sections of this License.

Maintenance - Licensee shall have the right under this License, after providing proper notice to the City, to maintain/repair its existing utilities. The expansion of (either in geography or in size/capacity) or upgrading of the utility is not considered maintenance/repair.

SECTION 4. FEES REQUIRED

a. Licensee shall pay the City an administrative license fee in the amount of \$14,787.06 (Fourteen Thousand Seven Hundred and Eighty-Seven dollars and Six cents) for locations of new underground infrastructure, payable upon execution of this License, for use of the public property as shown in Exhibit "A" during the term of this License.

b. If during the term of this License the City enacts an Ordinance requiring

compensation from telecommunications providers on a competitively neutral and nondiscriminatory basis for use of public property Licensee shall within sixty (60) days after request by City pay the fees required by such Ordinance, with the effective date of said ordinance being the starting date for the accrual of fees. Any fees paid during the term of this License, however, shall be credited toward the fees required by the Ordinance. If the Ordinance enacted requires fees for this transaction which are less than \$14,787.06, the City shall refund the excess of \$14,787.06 over the fees required under such Ordinance, provided, however, that in no event shall the amount refunded exceed the sum of \$2,000.00.

SECTION 5. PERMIT PROCESS FOR INSTALLATION, REPAIR, EXTENSION OR EXPANSION OF THE NETWORK

Before commencing any extension or expansion of its system, or any major repair work, or the installation of any new system in the City, the Licensee shall file with the Public Works Department of the City a written statement verifying the Public Property under which or upon which it proposes to extend, expand, install or repair its system. The statement shall be accompanied by a map, plan or specifications showing the proposed location of the system components with reference to streets and alleys. If the proposed locations of any facilities shall interfere with the reasonable and proper use, construction, reconstruction and maintenance of any public improvements or any existing public utility system component, or other structure upon or under public property, the Public Works Director shall within 30 days after the filing of such plan, map or specifications, note the changes necessary, eliminate all interference with a public improvement or existing public utility system facility and refer the same back to the Licensee for amendment. Such map, plan or specifications, when properly changed and corrected, shall be filed in the Public Works Department, and after the approval of the same by the Public Works Director, a permit shall be issued authorizing the Licensee to proceed in accordance with the approved maps, plans or specifications. No such excavation, construction or erection shall be commenced before the issuance of the permit herein provided for, unless it is an emergency as described in the Newton City Code, and all work shall be in accordance with the approved maps, plans or specifications.

SECTION 6. CONSTRUCTION AND REPAIR OF NETWORK

In the process of location, construction, reconstruction, replacement, or repair of any system component, the excavation or obstruction made or placed in public property at any time or for any purpose by the Licensee shall, to protect the public and to assure the safe and efficient movement of traffic, be properly barricaded to comply, at a minimum, with requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD). All pavement taken up or damaged or other disturbed areas shall be properly and speedily replaced in accordance with the City's Regulations. As a condition to use of Public Property, the Licensee shall at its own expense repair any private property, utility system component, public improvement or Public Property damaged by such location, construction, reconstruction, replacement or repair work, in a manner reasonably acceptable to City. If the Licensee fails to repair or arrange with the City for the proper repair of any Public Property after excavations have been made, and after seven days' notice in writing to do so is given to its designated representative, the City may make such repairs at the expense of the Licensee.

SECTION 7. EXCAVATIONS

The Licensee is authorized to make excavations in City streets, avenues, alleys and public property for purposes of routine repair, replacement, and maintenance of poles, wires, or other excavations. The Licensee shall obtain a permit pursuant to City Ordinances and Regulations, shall not unnecessarily obstruct the use of streets, avenues, alleys or public places, shall provide the Public Works Director with notice prior to the actual commencement of the work and shall comply with all provisions, requirements, and regulations in accordance with the existing City Ordinance in performing such work. In emergencies which require immediate excavation the Licensee may proceed with the work without first applying for the permit, provided, however, that the Licensee shall apply for and obtain the permit as soon as possible after commencing such emergency work.

If the Licensee fails to comply with the provisions of the City Code the City may repair or restore the public property to a condition as good as the condition of the property prior to the disturbance by the Licensee and the Licensee shall pay the costs of such repair or restoration. The Licensee shall pay to the City its costs and charges for such work within thirty days after receipt of the City's billing.

SECTION 8. WORK BY OTHERS, ALTERATION TO CONFORM WITH PUBLIC IMPROVEMENTS

The City reserves the right to lay, and permit to be laid, wires, pipes, cables, conduits, ducts, manholes and other appurtenances, and to do, or permit to be done, any underground and overhead installation or improvement that may be deemed necessary or proper by the City in, across, along, over or under any public property occupied by the Licensee and to change any curb or sidewalk or the grade of any street. In permitting others to do such work the City shall not be liable to the Licensee for any damages arising out of the performance of such work by other parties. Nothing in this License shall be construed as to relieve any other person or corporation from liability for damage to the Licensee's facilities.

SECTION 9. LICENSEE CONTRACTORS

The requirements of the License shall apply to all persons, firms or corporations performing work for the Licensee under a contract, subcontract or other type of work order.

SECTION 10. CONDITIONS OF STREET OCCUPANCY

This fiber optic cable systems and other components of the facilities erected by the Licensee within the City shall conform to established grades of streets, alleys, and sidewalks, and be so located as to cause minimum interference with other public utilities located in or upon public property, and to cause minimum interference with the rights or reasonable convenience of property owners who adjoin public property.

The Licensee shall conduct its work hereunder in such manner as to cause as little interference as possible with pedestrian and vehicular traffic, and shall abide by scheduling directions, if any, given by the Public Works Director.

The Licensee shall, upon reasonable notice and at its sole cost and expense, remove, locate and relocate its facilities in, on, over or under public property in such manner as the City may at any time require for the purpose of facilitating the construction, reconstruction,

maintenance, repair or change in grade of any public improvement on, in or about any such public property, for the purpose of promoting the efficient operation of any such improvement, or for the purposes of facilitating the vacation and/or redevelopment of public right-of-way by the City. In the event the Licensee fails to act within a reasonably allocated time, the City may cause the Licensee facilities to be relocated or removed, and the costs thereof shall be to the Licensee and shall be paid as provided in Section 6 hereof.

The Licensee shall not place its facilities in the public property where the same will interfere with the normal use or maintenance of any public improvement including but not limited to streets, alleys, sidewalks, traffic control devices, sanitary sewers, storm sewers, storm drains or water mains, or electrical transmission lines, or any public utility facility.

Upon request, the Licensee agrees to assist in locating underground facilities which are part of its system. Such assistance will be provided in a timely manner, but not more than forty-eight hours after the time of request. As a condition of this License the Licensee shall enroll as a member of the 'Iowa One-Call System' and shall respond to all requests and notifications placed to the toll free 'One-Call' number.

Installation, repair, or replacement work completed by the Licensee on any facilities requiring excavation of public property or public right-of-way shall require restoration and replacement of surface vegetation.

SECTION 11. POWERS OF CITY

Nothing in this License shall be construed to abridge the right or power of the City to make further regulations relative to the use of the streets, alleys and public grounds by anyone using the same for the erection and maintenance of utility systems.

SECTION 12. PLANS AND COORDINATION

Upon completion of the work the Licensee shall promptly furnish to the City copies of 'as-built' plans related to its facilities located on Public Property.

The Licensee shall keep complete and accurate maps and records on the locations and operations of its facilities in connection with this License.

SECTION 13. VIOLATIONS OF LICENSE

Upon evidence being received by the City that a violation or breach of this License or violation of codes or ordinances lawfully regulating the Licensee in the operation of its facilities, or in the use of public property therefore is occurring or has occurred, (hereinafter referred to as a "default") the City shall cause an investigation to be made. If the City finds that a default exists or has occurred the City may take appropriate steps to secure compliance with the terms of this License or the codes or ordinances.

The City shall notify the Licensee of the default and the Licensee shall cure such default within thirty days after receipt of such notice; provided, however, where any such default cannot reasonably be cured within such thirty (30) day period, if Licensee shall proceed promptly to cure the same and prosecute such cure with due diligence, the time for curing

such default shall reasonably be extended for such period of time as may be necessary to complete such cure, as mutually agreed upon by the parties.

If the Licensee fails to cure a default within the time allowed the City shall have the right to:

- (i) seek specific performance; or
- (ii) remedy the default by doing the act itself, or through a contractor, and charge the costs of such work to the Licensee; or
- (iii) seek damages for such default; or
- (iv) any combination of (i), (ii) and (iii).

SECTION 14. LIABILITY, INDEMNIFICATION AND INSURANCE

The Licensee covenants to indemnify, defend, and save the City and its officers, agents and employees, harmless from any and all damages arising directly from the exercise of the rights granted herein. The Licensee agrees to require contractors and subcontractors engaged in work for the Licensee within the public rights-of-way or on public property to maintain in effect during the term of work liability insurance in comprehensive form and in the amounts to be set by the City. Licensee agrees to accept the risk of having its communications systems and equipment upon the public right-of-way, including the possible risk of damage or injury to its system or equipment, and agrees to release and discharge the City of any liability for damage or injury to Licensee's equipment, except to the extent caused by the City's gross negligence. In no event shall the City be liable for any consequential damages arising out of any damage or injury to Licensee's equipment placed in the right-of-way.

SECTION 15. SEVERABILITY

In the event that a court of competent jurisdiction shall adjudge any provision or provisions hereof invalid or illegal, or direct a change by the Licensee in any matter or thing herein contained, such invalidity or illegality or change shall in no way affect the remaining provisions of this License or their validity or legality, and this License in all other respects shall continue in full force and effect, as if said provision or provisions had not been so adjudged invalid or illegal, or such change had not been directed, or shall at the City's option, cause a termination of this License.

SECTION 16. ASSIGNMENT

Neither party shall assign or otherwise transfer this License or any of its rights and interest to any firm, corporation or individual without the prior written consent of the other party, except either party shall have the right to assign, convey or otherwise transfer its rights, title, interest and obligations under this License, in whole or in part, to any entity controlled by, controlling or under common control with a party hereto, or any entity into which a party may be merged or consolidated or which purchases all or substantially all of the assets of such party, or any lease, sublease, indefensible right of use, or sale or transfer of, conduit, fiber or similar facilities with Licensee's telecommunication system to any third party users of such facilities.

SECTION 17. VACATION OF STREETS AND ALLEY

So long as the Licensee exercises the rights granted to it hereunder the City will not, by ordinance or otherwise, vacate any street, alley or public way in which the Licensee has

installed its facilities without reserving such rights as necessary to allow continued use of such property for the said facilities in accordance with the terms of this License, provided that nothing herein shall limit the City's right to require the Licensee to relocate its facilities as provided in Section 10 hereof.

SECTION 18. DELIVERY OF NOTICES

Except as may be expressly provided herein, any notices hereunder shall be in writing and shall be delivered via certified mail and addressed as follows, unless indicated otherwise in the future:

If to City:

Public Works Director
403 W 4th St N, Suite 501
Newton, Iowa 50208

If to Licensee:

Mahaska Communication Group
210 South D Street
Oskaloosa, IA 52577

Provided, however, that in the case of an emergency, notices may be given verbally to the above named persons. In such case written confirmation should be provided. Nothing contained herein shall prevent other forms of notice if actually received by the addressee. Notice shall be deemed given on the date of mailing in done by certified mail, or otherwise on the date actual notice is received.

SECTION 19. TELECOMMUNICATIONS ACT

This License is subject to all applicable federal, state and local laws, regulations and orders of governmental agencies as amended, including but not limited to the Communications Act of 1934 as amended, the Telecommunications Act of 1996 as amended and the Rules and Regulations of the FCC. Neither City nor Licensee waive any rights they may have under any such laws, rules or regulations.

This LICENSE is entered into as of the _____ day of _____, 20__.

LICENSEE

CITY OF NEWTON

By: _____

By: _____

Michael L. Hansen, Mayor

Title: _____

Eng. and Const. Manager

Attest: _____

City Clerk

City of Newton Council Report

**Item:**

Resolution approving payment for an emergency storm sewer repair at 2026 1st Ave E

Summary:

Approve payment to Warnick Mechanical for an emergency storm sewer repair at 2026 1st Ave E

Financial Impact:

\$13,960.00 from Stormwater Utility funds to be reimbursed by Windstream Communications, LLC

Report Number: 2023-1247**Date:**

November 6, 2023

Lead Department:

Public Works

Recommendation:

Approve

Background:

On August 29, 2023, Warnick Mechanical responded to a property owner's complaint of a non-functioning storm sewer at 2026 1st Ave E. During Warnick Mechanical's investigation; it was discovered that a communication conduit owned by Windstream Communications had been bored through the storm sewer service located in the right-of-way in multiple locations. Because of the emergency nature of the repair and Windstream Communications' unresponsiveness, Warnick Mechanical was directed to make the repair with the understanding that the City would cover the costs and then seek reimbursement from Windstream Communications. Warnick Mechanical has invoiced the City of Newton for the repair, the cost of which is \$13,960.00.

Recommendation:

City staff recommends approving payment of an invoice from Warnick Mechanical for \$13,960.00 to be paid from stormwater Utility Funds.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

**RESOLUTION APPROVING PAYMENT FOR AN EMERGENCY
STORM SEWER REPAIR AT 2026 1ST AVE EAST**

WHEREAS, on August 29, 2023, Warnick Mechanical responded to a property owner's complaint of a non-functioning storm sewer at 2026 1st Ave E; and

WHEREAS, during Warnick Mechanical's investigation, it was discovered that a communication conduit owned by Windstream Communications had been bored through the storm sewer service located in the right-of-way in multiple locations; and

WHEREAS, because of the emergency nature of the repair and Windstream Communications' unresponsiveness, Warnick Mechanical was directed to make the repair with the understanding that the City would cover the costs and then seek reimbursement from Windstream Communications.`

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that payment of the invoice from Warnick Mechanical of Newton, Iowa, in the amount of Thirteen Thousand and Nine Hundred and Sixty Dollars and Zero Cents (\$13,960.00) for the emergency sewer repair at 2026 1st Ave E, is hereby approved, with said amount to be paid from stormwater utility funds.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Authorizing the Purchase of an additional Handheld Collector and Versaprobe Touch Reader from the Van Wert Company for Utility Billing Meter Reading

Summary:

Resolution Authorizing the Purchase of an additional Handheld Collector and Versaprobe Touch Reader from the Van Wert Company for Utility Billing Meter Reading

Financial Impact:

\$6,595 from the Water Fund & WPC fund for a total of \$13,190.00

Report Number: 2023-1248**Date:**

November 6, 2023

Lead Department:

Administration

Recommendation:

Approve

Background:

At the September 5, 2023 City Council meeting, a resolution was approved to purchase software and equipment in order for the utility billing department to begin reading meters and converting this information into their billing system.

This equipment has been received and is being tested in the field at this time. The purchase included one handheld collector and one touch reader and it is recommended to have an additional collector and reader in case of equipment damage or breakdown. Without this backup and if something would happen, staff would need to physically go to each location and hand write meter readings on paper, then office staff would manually add readings into the billing system.

Recommendation:

Staff recommends approval of a resolution authorizing the purchase of an additional handheld collector and touch reader from Van Wert Company in the amount of \$13,190.00.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

**RESOLUTION AUTHORIZING THE PURCHASE OF AN ADDITIONAL
HANDHELD COLLECTOR AND VERSAPROBE TOUCH READER FROM
THE VAN WERT COMPANY FOR UTILITY BILLING METER READING**

WHEREAS, At the September 5, 2023 City Council meeting, a resolution was approved to purchase software and equipment in order for the utility billing department to begin reading meters and converting this information into their billing system; and

WHEREAS, it is recommended that the City have an additional handheld collector and touch reader on hand in case of equipment damage or breakdown,

NOW, THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa:
That the attached proposal purchasing an additional handheld collector and touch reader from the Van Wert Company in the amount of \$13,190.00 be approved and paid equally from the Water fund and the Water Pollution Control fund.

PASSED this 6th day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



VAN WERT COMPANY
606 8th Street
Grundy Center, IA 50638

Wednesday, October 25, 2023

City of Newton
101 West 4th Street
Newton, IA 50208

Itron AMR System Proposal

Description	Quantity	Unit Price	Extended Price
AMR Software/Hardware			
• Honeywell CN80 Handheld Collector (includes handheld, charging base and 5 year maintenance plan)	1	\$7,900.00	\$7,900.00
• Versaprobe Touch Reader	1	\$5,290.00	\$5,290.00
AMR Software/Hardware Total			\$13,190.00

City of Newton Council Report

**Item:**

Resolution to approve a maintenance agreement with Forbes Office Solutions, Inc.

Summary:

This resolution approves a maintenance agreement with Forbes Office Solutions, Inc. for the recently purchased machine used by multiple City Departments.

Financial Impact:

\$232.00 per month initially to be paid between Public Works/Community Services/Community Development/Utility departments

Report Number: 2023-1250

Date:

November 6, 2023

Lead Department:

Community Development

Recommendation:

Approve

Background:

The existing copier, scanner, and printer machine used by Community Development, Community Services, Public Works, and Utilities had met the end of its useful life and needed to be replaced. A new TASKalfa 5054ci copier, printer, and scanner was purchased from Forbes Office Solutions, Inc. of Newton, Iowa. In conjunction with that purchase, city staff is seeking approval of a maintenance agreement with Forbes Office Solution, Inc. The agreement has a monthly base charge of \$232.00 for up to 3,500 black and white copies and 5,000 color copies. Additional copies will be charged at an initial rate of \$.009 per black and white and \$.04 per color. This charge is subject to a maximum increase of 10% in any annual period. The maintenance agreement includes all labor, parts, travel, and supplies except paper to complete any necessary repairs to the machine.

Recommendation:

City Staff recommends approval of the resolution approving a maintenance agreement with Forbes Office Solutions, Inc. for the TASKalfa 5054ci machine.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION TO APPROVE A MAINTENANCE AGREEMENT WITH FORBES
OFFICE SOLUTIONS, INC.**

WHEREAS, the existing copier, scanner, and printer machine used by Community Development, Community Services, Public Works, and Utilities had met the end of its useful life and needed to be replaced; and

WHEREAS, a new TASKalfa 5054ci copier, printer, and scanner was purchased from Forbes Office Solutions, Inc. of Newton, Iowa. In conjunction with that purchase, city staff is seeking approval of a maintenance agreement with Forbes Office Solution, Inc. The agreement has a monthly base charge of \$232.00 for up to 3,500 black and white copies and 5,000 color copies; and

WHEREAS, additional copies will be charged at an initial rate of \$.009 per black and white and \$.04 per color. This charge is subject to a maximum increase of 10% in any annual period. The maintenance agreement includes all labor, parts, travel, and supplies except paper to complete any necessary repairs to the machine; and

WHEREAS, City Staff recommends approval of the resolution approving a maintenance agreement with Forbes Office Solutions, Inc. for the TASKalfa 5054ci machine.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the City of Newton hereby accepts this resolution authorizing the City to enter into a maintenance agreement with Forbes Office Solutions, Inc. for the TASKalfa 5054ci copier, printer, and scanner at the monthly cost of \$232.00 to be paid between Public Works/Community Services/Community Development/Utility departments; and authorizes the Mayor to sign said agreement.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution awarding the purchase of self-contained breathing apparatus harnesses and bottles.

Summary:

The purchase of self-contained breathing apparatus harnesses and bottles were part of the 2024 CIP and are funded through the American Rescue Plan Act (ARPA).

Financial Impact:

\$20,273 total project cost with \$20,250 from the 2023 ARPA Funds (300-1050-67270) and \$23 from Fire Department Budget (001-1050-65040).

Report Number: 2023-1255**Date:**

November 6, 2023

Lead Department:

Fire

Recommendation:

Approve

Background:

The Fire Department equips their firefighters with personal protective equipment that provides protection from structural firefighting hazards. Part of that protective ensemble is self-contained breathing apparatus (SCBA). Our SCBA harnesses were purchased in 2009 and are nearing the end of their useful life. We have been systematically trying to replace bottles in advance of the expiration to spread the cost of purchase over many years. We are starting to add in the replacement of harnesses to provide for timely replacement and spread the cost over a number of years. This was planned for purchase in FY23-24 and is being requested early as there is a 10% price increase on 10/24/2023.

Sandry Fire Supply is our area representative for the purchase of MSA products. Internet pricing was checked to ensure competitive pricing from the vendor.

Recommendation:

City Staff recommends Council award the purchase of two (2) SCBA harnesses in the amount of \$20,273. This purchase includes with 4 (4) MSA H-30 self-contained breathing apparatus bottles and other accessory parts from Sandry Fire Supply of DeWitt, Iowa. Funds from the 2024 American Rescue Plan Act (ARPA) funds (300-1050-67270) will be used to pay \$20,250 of project cost with the remaining \$23 coming from the Fire Department Minor Equipment Budget (001-1050-65040).

Matt Muckler, City Administrator

RESOLUTION NO. 2023-_____

RESOLUTION AWARDING THE PURCHASE OF SELF-CONTAINED BREATHING APPARTUS HARNESSSES AND BOTTLES

WHEREAS, a firefighter’s personal protective equipment is key in providing for their safety and protection. This includes self-contained breathing apparatus harnesses and bottles; and

WHEREAS, fire department staff have been systematically replacing bottles over the past eight years and is now starting to include harnesses; and

WHEREAS, Sandry Fire Supply is our area MSA vendor. Quoted pricing was compared from two internet vendors; and

WHEREAS, these funds were budgeted for FY23-24 from the American Rescue Plan Act (ARPA) we can save roughly \$3,000 by purchasing now as MSA is implementing a 10% price increase on October 24, 2023 and is honoring order pricing prior to October 24, 2023; and

WHEREAS, City staff recommends that the City of Newton award the purchase to Sandry Fire Supply of DeWitt, Iowa for the purchase of two (2) MSA G1 SCBA units with accessories, four (4) MSA H-30 self-contained breathing apparatus bottles with accessories in the amount of \$ 20,273.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the purchase of MSA self-contained breathing apparatus harnesses and bottles in the amount of twenty thousand two hundred seventy-three dollars and zero Cents (\$ 20,273). The project cost will be paid from the 2024 American Rescue Plan Act (300-1050-67270) in the amount of \$20,250 and the balance of \$23 paid from the Fire Department budget Minor Equipment account (001-1050-65040).

PASSED this _____ day of November 2023.

APPROVED this _____ day of November 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution awarding the purchase of firefighter's personal protective equipment.

Summary:

Resolution to purchase firefighter's personal protective equipment including turnout gear for firefighter.

Financial Impact:

A total of \$10,500 from the ARPA funds (300-1050-67270) for Fire Equipment, and the remaining cost of \$71 from the Fire Department Budget (001-1050-61800).

Report Number: 2023-1256**Date:**

November 6, 2023

Lead Department:

Fire

Recommendation:

Approve

Background:

The Fire Department equips their firefighters with personal protective equipment that provides protection from structural firefighting hazards. In addition, the firefighters rely on quality fire hose for their protection and to extinguish fires.

Project Specifications were prepared by the Fire Department and vendors came in to demonstrate the products they represented. We received bids from turnout gear vendors and made comparison by internet search:

<u>Company</u>	<u>Quote</u>
<i>Firefighter Turnout Gear</i>	
Sandry Fire Equipment	\$ 3,400 per set
Dinges Fire Company	\$ 3,496 per set
The Fire Store (Internet)	\$ 4,345 per set

Recommendation:

City Staff recommends Council award the purchase of firefighter's personal protective equipment to the following:

Firefighter Turnout Gear: Sandry Fire Supply of DeWitt, Iowa for the purchase of three (3) sets of firefighter PPE in the amount of \$ 10,500.

The total project cost is \$ 10,429 will be divided between the following funds:

ARPA Funds (300-1050-67270)	\$10,429
Fire Department Budget (001-1050-61800)	<u>\$ 71 Accessory and Shipping Costs</u>
	\$10,500 Total

Matt Muckler, City Administrator

RESOLUTION NO. 2023-_____

RESOLUTION AWARDING THE PURCHASE OF FIREFIGHTER'S PERSONAL PROTECTIVE EQUIPMENT

WHEREAS, a firefighter's personal protective equipment and fire hose are key in providing for their safety and protection; and

WHEREAS, fire department staff have been systematically replacing personal protective equipment over the past ten years; and

WHEREAS, specifications were prepared and bids sought from vendors; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of Newton, Iowa, that the bids firefighter's personal protective equipment be accepted from Sandry Fire Supply of DeWitt, Iowa for the purchase of three (3) sets turn out gear and three (3) hoods in the amount of \$ 10,429.

NOW, THEREFORE, BE IT RESOLVED, the total purchase of ten-thousand five hundred dollars and zero cents (\$ 10,500) for the November 2023 firefighter's personal protective equipment project, is hereby approved. The project cost will be paid with \$10,429 from the American Rescue Plan Act (ARPA) funds (300-1050-67270), and any and all additional costs plus any associated shipping and handling to be paid from the Fire Department Budget (001-1050-61800).

PASSED this _____ day of November 2023.

APPROVED this _____ day of November 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution Setting a Date of Meeting at Which it is Proposed to Approve a Development Agreement with Ex Nihilo LLC, Including Annual Appropriation Tax Increment Payments

Summary:

Resolution setting a public hearing for a new development agreement with the new buyer of 107 First Avenue West.

Financial Impact:

None. Setting a Public Hearing.

Report Number: 2023-1265

Date:

November 6, 2023

Lead Department:

Community Development

Recommendation:

Approve

Background:

Ex Nihilo LLC purchased the building at 107 First Avenue West. In order to provide a continuation of economic development incentives to the new buyer, a public hearing on a development agreement is necessary.

Recommendation:

Staff recommends approval of setting the time and date of a public hearing.

Matt Muckler, City Administrator



November 1, 2023

Via Email

Matt Muckler
City Administrator/City Hall
Newton, IA

Re: Development Agreement (Ex Nihilo LLC)
Our File No. 504612-61

Dear Matt:

Attached please find copies of proceedings to enable the City Council to act on November 6th to set November 20th as the date for a public hearing on the proposed Development Agreement with Ex Nihilo LLC, including the proposal for tax increment payments.

The notice of public hearing on the Development Agreement must be published once, not less than four (4) and not more than twenty (20) days prior to the City Council meeting at which the hearing will be held. The last date on which the notice can effectively be published is November 16, 2023. Please print an extra copy of the notice for delivery to the newspaper. Please insert the time and place of the hearing in both the resolution and the notice, and please email a copy of the published notice to lemke.susan@dorsey.com.

We will prepare and forward to you in time for the November 20th meeting the necessary proceedings to approve the Development Agreement.

We would appreciate receiving one fully executed copy of these proceedings as soon as they are available.

Please contact John Danos, Severie Orngard or me if you have questions.

Kind regards,

Amy Bjork

Attachments

cc: Katrina Davis
Lisa Frasier
Erin Chambers

SET DATE FOR HEARING ON
DEVELOPMENT AGREEMENT AND
TAX INCREMENT PAYMENTS

(Ex Nihilo LLC)

504612-61

Newton, Iowa

November 6, 2023

A meeting of the City Council of the City of Newton, Iowa, was held at _____ p.m., on November 6, 2023, at the _____, Newton, Iowa, pursuant to the rules of the Council.

The Mayor presided and the roll was called, showing members present and absent as follows:

Present: _____

Absent: _____.

Council Member _____ introduced the resolution next hereinafter set out and moved its adoption, seconded by Council Member _____; and after due consideration thereof by the City Council, the Mayor put the question upon the adoption of said resolution, and the roll being called, the following named Council Members voted:

Ayes: _____

Nays: _____.

Whereupon, the Mayor declared said resolution duly adopted, as follows:

RESOLUTION NO. _____

Resolution Setting a Date of Meeting at Which it is Proposed to Approve a Development Agreement with Ex Nihilo LLC, Including Annual Appropriation Tax Increment Payments

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

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

WHEREAS, the City proposes to enter into a certain development agreement (the “Development Agreement”) with Ex Nihilo LLC (the “Developer”) in connection with the renovation of an existing building in the Urban Renewal Area for use in the business operations of a salon and retail store; and

WHEREAS, the Development Agreement would provide financial incentives to the Developer in the form of (i) an economic development forgivable loan (the “Forgivable Loan”) in the amount of \$10,000; and (ii) annual appropriation incremental property tax payments (the “Payments”) in an amount not to exceed \$14,000 under the authority of Section 403.9(1) of the Code of Iowa; and

WHEREAS, it is necessary to set a date for a public hearing on the Development Agreement, pursuant to Section 403.9 of the Code of Iowa;

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

Section 1. This City Council shall meet on November 20, 2023, at _____ p.m., at the _____, in the City, at which time and place proceedings will be instituted and action taken to approve the Development Agreement and to authorize the Forgivable Loan and the Payments.

Section 2. The City Clerk is hereby directed to give notice of the proposed action, the time when and place where said meeting will be held, by publication at least once not less than four (4) and not more than twenty (20) days before the date of said meeting in a legal newspaper of general circulation in the City. Said notice shall be in substantially the following form:

NOTICE OF MEETING FOR APPROVAL OF DEVELOPMENT
AGREEMENT WITH EX NIHILO LLC AND AUTHORIZATION OF
ANNUAL APPROPRIATION TAX INCREMENT PAYMENTS

The City Council of the City of Newton, Iowa, will meet at the _____, on November 20, 2023, at _____ p.m., at which time and place proceedings will be instituted and action taken to approve a Development Agreement between the City and Ex Nihilo LLC (the “Developer”) in connection with the renovation of an existing building for use in the business operations of a salon and retail store, which Development Agreement provides for certain financial incentives to the Developer in the form of (i) an economic development forgivable loan in the amount of \$10,000; and (ii) incremental property tax payments in a total amount not exceeding \$14,000 as authorized by Section 403.9 of the Code of Iowa.

The commitment of the City to make incremental property tax payments to the Developer under the Development Agreement will not be a general obligation of the City, but such payments will be payable solely and only from incremental property tax revenues generated within the North Central Urban Renewal Area. Some or all of the payments under the Development Agreement may be made subject to annual appropriation by the City Council.

At the meeting, the City Council will receive oral or written objections from any resident or property owner of the City. Thereafter, the City Council may, at the meeting or at an adjournment thereof, take additional action to approve the Development Agreement or may abandon the proposal.

This notice is given by order of the City Council of Newton, Iowa, in accordance with Section 403.9 of the Code of Iowa.

Katrina Davis
City Clerk

Section 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed.

Section 4. This resolution shall be in full force and effect immediately upon its adoption and approval, as provided by law.

Passed and approved November 6, 2023.

Mayor

Attest:

City Clerk

• • • •

On motion and vote the meeting adjourned.

Mayor

Attest:

City Clerk

STATE OF IOWA
JASPER COUNTY SS:
CITY OF NEWTON

I, the undersigned, City Clerk of the City of Newton, Iowa hereby certify that the foregoing is a true and correct copy of the minutes of the Council of the City relating to the adoption of a resolution to fix a date of meeting at which it is proposed to take action to approve a Development Agreement.

I do further certify that the notice of hearing, to which the printed slip attached to the publisher's original affidavit hereto attached is a true and complete copy, was published on the date and in the newspaper specified in such affidavit, which newspaper has a general circulation in the City.

WITNESS MY HAND this ____ day of _____, 2023.

City Clerk

(Attach here the publisher's original affidavit with clipping of the notice as published.)

(PLEASE NOTE: Do not sign and date this certificate until you have checked a copy of the published notice and have verified that it was published on the date indicated in the publisher's affidavit.)

Vendor	Department	Description	Amount
Accujet LLC	Water Pollution Control	Supplies	\$ 2,716.88
Acushnet Company	Golf	Merchandise	\$ 311.86
Ahlers & Cooney P C	Legal Service	Service	\$ 33.00
Air Products and Chemicals Inc	Water Treatment Plant	Supplies	\$ 3,362.96
Airgas USA LLC	Fire	Supplies	\$ 213.60
Alliant Energy/IPL	All	Utilities	\$ 13,399.47
Amazon Capital Service	All	Supplies	\$ 1,725.89
American Legal Publishing Corporation	Administration	Service	\$ 478.80
Applied Industries Technologies	Water Pollution Control	Service	\$ 1,754.57
APWA Treasurer	Street	Training	\$ 250.00
Axon Enterprise Inc	Police RESO 2023-048	Supplies	\$ 17,934.82
Baker & Taylor	Library	Books	\$ 4,154.81
Baker Group	City Center	Service	\$ 614.50
Bituminous Materials & Supply	Street	Supplies	\$ 2,546.20
Black Clover Enterprises LLC	Golf	Merchandise	\$ 35.00
Black Hills Energy	Airport/WPC	Utilities	\$ 1,310.79
Blackstone Publishing	Library	Books	\$ 84.77
Bolton & Menk Inc	All	Service	\$ 45,244.50
Bound Tree Medical LLC	Fire	Supplies	\$ 1,465.02
Brick Gentry P.C.	Legal Service	Service	\$ 24,572.00
Burdess, Rob	Police	Reimbursement	\$ 120.92
Caldwell Brierly & Chalupa PLLC	D&D Program	Service	\$ 1,667.25
Capital One	All	Supplies	\$ 1,736.85
Cappy's Tire & Auto Service	All	Service	\$ 1,850.82
Carl's Window Service	Library	Service	\$ 90.00
Center Point Large Print	Library	Books	\$ 113.91
Central Iowa Distributing Inc	Water Pollution Control	Supplies	\$ 1,732.00
Christmas Done Bright	Parks	Supplies	\$ 5,771.27
Cintas	All	Supplies	\$ 1,030.05
Claymer, Tiffannie	Utility Billing	Refund	\$ 2.51
CMI Inc	Police	Supplies	\$ 154.41
Coastal Netting Company	Landfill	Supplies	\$ 2,358.00
Consolidated Electrical Distributor	Water Treatment Plant	Service	\$ 6,909.00
Continental Research	City Garage	Supplies	\$ 305.39
Costa Oil Newton	Fire	Service	\$ 232.72
CSG Forte Payments Inc	Landfill	Supplies	\$ 482.98
D & K Products	Golf/Parks	Supplies	\$ 3,879.15
Dannen, Ryan	D&D/Parks	Service	\$ 1,440.00
Demco Inc	Library	Supplies	\$ 233.08
Des Moines Register	Library	Subscription	\$ 242.90
DeVries, Logan	Police	Service	\$ 66.66
Diamond Vogel Inc	Water Pollution Control	Supplies	\$ 74.99
Digium Cloud Service LLC	Library	Service	\$ 406.00
DMACC - Ankeny Campus	All	Rent	\$ 1,895.75
Dodd Trash Hauling & Recycling	Solid Waste	Service	\$ 71,230.81
Elliott Equipment Co	Water Pollution Control	Supplies	\$ 33.04
Engle, Gail & Karyl	Utility Billing	Refund	\$ 18.35
Esrey, Kyle	Fire	Reimbursement	\$ 664.62
Fareway	Executive	Supplies	\$ 80.12
Fastenal	Parks	Supplies	\$ 173.88
FBG Service Corporation	Library	Service	\$ 1,644.00
Forbes Office Solutions	All	Supplies	\$ 246.85
FOX Strand	WPC RESO 2022-267/268	Service	\$ 18,281.00

Galls LLC	Fire	Supplies	\$ 916.72
Garcia, Jose	Police	Reimbursement	\$ 91.48
Gordon Flesh Company Inc	Utility Billing	Service	\$ 330.00
Grainger Inc	Water Pollution Control	Supplies	\$ 1,268.74
Gralnek-Dunitz	City Garage	Supplies	\$ 28.50
Gregg Young Auto Center	Police	Service	\$ 4,302.76
Grimes Asphalt and Paving	Street	Supplies	\$ 846.00
Gronewold Bell Kyhnn & Co PC	Finance	Service	\$ 8,000.00
Hansen, Mike	Executive	Reimbursement	\$ 155.89
Hawkins Water Treatment	Water Treatment/WPC	Supplies	\$ 18,673.12
Heartland Door and Frame Inc	Water Pollution Control	Service	\$ 9,875.00
Hillyard / Des Moines	Fire	Supplies	\$ 12.03
HLW Engineering Group	Landfill	Service	\$ 2,729.00
Home Depot Pro	Parks	Supplies	\$ 221.09
Hornung's	Golf	Merchandise	\$ 157.81
Hotsy Cleaning Systems	Water Distribution	Service	\$ 160.00
Howe Excavating	D&D RESO 2023-198	Service	\$ 30,376.25
HQI	City Garage	Supplies	\$ 25.00
Huffaker Garage Doors LLC	Water Pollution Control	Service	\$ 140.00
Hy-Vee Inc	All	Supplies	\$ 105.60
Image Trend Inc	Fire	Service	\$ 40.00
IMWCA	All	Service	\$ 1,456.94
Interstate All Battery Center	Fire	Supplies	\$ 131.95
Iowa Communities Assurance Pool	Water Pollution Control	Service	\$ 429.77
Iowa Department of Transportation	Engineering	Training	\$ 960.00
Iowa Dept of Natural Resources	Landfill	Service	\$ 42,644.64
Iowa Division IAI	Police	Service	\$ 75.00
Iowa Fire Equipment	Water Treatment Plant	Service	\$ 343.00
Isolved Benefit Service	Finance	Service	\$ 90.13
ITL Patch	Police	Supplies	\$ 364.00
Jacobs Electric Motor	Fire	Service	\$ 713.29
Jasper Construction Service	Water Distribution	Supplies	\$ 254.87
Jasper County Extension	Street	Training	\$ 135.00
Jeff Seals Construction	Library	Service	\$ 650.00
JETCO Inc	Water Pollution Control	Service	\$ 12,688.00
Johnson Aviation	Airport	Service	\$ 3,515.11
Kellogg Lawn & Snow	Airport	Supplies	\$ 1.75
Keltek Incorporated	Fire	Service	\$ 89.33
Lavelly, Dillon	Police	Reimbursement	\$ 74.75
Liberty Tire Service LLC	Landfill	Service	\$ 160.00
Library Journal	Library	Supplies	\$ 99.00
Liebl Marketing Group	Community Marketing	Service	\$ 2,750.00
Lighting Plastics of MN Inc	Street Lighting	Supplies	\$ 497.20
Logan Contractors Supply	City Garage/Street	Supplies	\$ 3,341.61
Lovan, Kyle	Police	Reimbursement	\$ 41.20
Lyman, Rick	Police	Service	\$ 1,330.00
Magnum Automotive	Police	Service	\$ 397.96
Manatts - D.M.	Street/Water Dist	Supplies	\$ 8,582.60
Manfull Construction	D&D/Parks	Service	\$ 4,250.00
Martin Marietta Materials	Street	Supplies	\$ 1,010.53
Martin's Flag Company	Water Treatment Plant	Supplies	\$ 56.01
Maxim Advertising	All	Service	\$ 325.00
McMaster-Carr	Water Pollution Control	Supplies	\$ 1,168.37
Mediacom	Golf	Utility	\$ 454.86
Menards-Altoona	Fire/Parks	Supplies	\$ 470.49
MercyOne DSM Medical Ctr-Financial Ops	Fire	Supplies	\$ 566.63
Metro Waste Authority	Landfill	Service	\$ 8,192.10

Microbac Laboratories Inc	Water Dist/WPC	Service	\$ 5,935.25
Mid-America Pump & Supply Inc	Water Treatment Plant	Supplies	\$ 7,739.30
Midwest Alarm	Water Distribution	Service	\$ 850.00
Mississippi Lime Company	Water Treatment Plant	Supplies	\$ 32,901.10
Morgan, Matt	Police	Service	\$ 66.66
Morrison, Dylon	Police	Service	\$ 66.66
MTI Distributing Inc	Golf	Supplies	\$ 59.00
Municipal Collections of America Inc	Fire	Service	\$ 206.13
Municipal Supply Inc	Water Distribution	Supplies	\$ 1,825.00
Murphy Tractor & Equipment	Street RESO 2023-114	Equipment	\$ 269,418.00
NAPA Auto Parts	All	Supplies	\$ 1,908.87
News Printing Company	All	Service	\$ 799.11
Newton Classic Car Wash	Police	Service	\$ 444.50
Newton Community School	Police	Supplies	\$ 29.10
Northern Lake Service Inc	Water Treatment Plant	Supplies	\$ 840.00
Pesticide Bureau - IDALS	Parks	License	\$ 45.00
Phelps Uniform Specialists	City Center/Fire	Service	\$ 113.25
Playaway Products LLC	Library	Books	\$ 56.99
Popenhagen, Nathan	Police	Reimbursement	\$ 264.28
Preferred Pest Control Inc	Library	Service	\$ 382.20
Premier Office Equipment	Executive/Police	Service	\$ 478.06
Progressive Insurance	Police	Refund	\$ 10.00
Quill Corporation	All	Supplies	\$ 196.33
RACOM Corporation	Police	Service	\$ 1,863.75
Ray, Randy	D&D/SSMID District	Service	\$ 2,999.73
Regal Clean LLC	City Center	Service	\$ 2,754.85
Reilly Construction Co	Street RESO 2022-185	Service	\$ 620,463.72
Reliant Fire Apparatus Inc	Fire	Service	\$ 223.69
Reserve Account	Library	Postage	\$ 1,000.00
Revell, Josh Jannings & Jaysa	Utility Billing	Refund	\$ 56.62
Riggs Printing Inc	Landfill/Street	Supplies	\$ 59.00
Rinker Materials	Landfill	Supplies	\$ 3,066.80
Ryan's Tire & Auto	City Garage/Parks	Supplies	\$ 1,908.04
Sandry Fire Supply LLC	Fire	Supplies	\$ 13,055.50
Schimberg Co	Water Treatment Plant	Supplies	\$ 871.20
SchoolLife	Library	Supplies	\$ 164.20
Skyline Salt Solutions	Snow Removal	Supplies	\$ 52,708.06
Smith, Tyler	Utility Billing	Refund	\$ 18.35
Southwestern Sales Company	Landfill	Supplies	\$ 30,725.00
Spahn & Rose Lumber Co	All	Supplies	\$ 724.38
Springer Professional Home Service	City Center	Service	\$ 128.70
St John, Jamie	Water Distribution	Reimbursement	\$ 115.83
Star Equipment	Water Distribution	Supplies	\$ 64.80
State Steel of Des Moines	Water Distribution	Supplies	\$ 1,338.49
Streeter, Candace	Finance	Reimbursement	\$ 105.43
Streichers	Police	Supplies	\$ 1,406.00
Studio Melee	Library	Service	\$ 920.00
Sullivan Auto Body	Tort Liability	Service	\$ 12,097.35
Theisen's	All	Supplies	\$ 832.78
Thomas Bus Sales Inc	City Garage	Supplies	\$ 45.00
Town & Country Sanitary Service	Water Treatment Plant	Service	\$ 380.00
Town & Country Wholesale Co	Golf	Concessions	\$ 973.95
Truck Equipment	Street Cleaning	Supplies	\$ 2,432.43
True Value Hardware	All	Supplies	\$ 665.07
Utility Equipment Co	Water Distribution	Supplies	\$ 1,409.19
Van Maanen Electric Inc	Landfill/N Central TIF	Service	\$ 23,782.25
Van Wall Equipment	Parks	Supplies	\$ 167.56

Versteegh, Marvin & Barbra	Private Incentives	Incentive	\$ 10,000.00
Walsh Door & Hardware	Police	Supplies	\$ 64.31
Waste Solutions of Iowa	Golf/Parks	Service	\$ 595.00
West Bend Mutual Insurance Company	Parks	Service	\$ 403.00
Wex Bank	Water Distribution	Service	\$ 1,788.77
Williams Scotsman Inc	Golf	Service	\$ 1,535.60
Windstream	City Center	Utilities	\$ 41.70
Zimco Supply Company	Parks	Supplies	\$ 2,698.25

Grand Totals: **\$ 1,545,433.94**

Pre-Authorized Payments

AT&T Mobility	Landfill	Utility	\$ 137.06
Black Hills Energy	All	Utility	\$ 995.70
CRH Properties LLC	N Central TIF RESO 2023-289	Rebate	\$ 1,178.00
Fox Strand	Water Treatment RESO 2023-130	Service	\$ 85,434.25
Hentsch, Carl	N Central TIF RESO 2023-232	Grant	\$ 5,000.00
Hopkins Roofing Inc	Library RESO 2022-363	Service	\$ 60,629.86
Jasper County Museum	Comm Marketing RESO 2023-273	Grant	\$ 2,500.00
Lion Development Group	N Central TIF RESO 2023-288	Rebate	\$ 30,204.00
Mediacom	Administration	Utility	\$ 336.90
Newton Main Street	Comm Marketing RESO 2023-277	Grant	\$ 2,000.00
PGLS INV LLC	D&D Rehab Grant RESO 2022-109	Grant	\$ 27,411.10
United States Cellular	All	Utility	\$ 463.28
Verizon Wireless	Fire	Utility	\$ 35.01
Windstream	All	Utility	\$ 1,482.41

Total: **\$ 217,807.57**

City of Newton Council Report

**Item:**

Public Hearing on Resolution awarding contract for the Water Treatment Plant Controls and Telemetry Replacement Project

Summary:

Awarding contract to Jetco Inc. for the Water Treatment Plant Controls and Telemetry Project.

Financial Impact:

\$225,000.00 from Water Enterprise Funds.

Report Number: 2023-1228

Date:

November 6, 2023

Lead Department:

Utilities

Recommendation:

Approve

Background:

The Water Treatment Plant was constructed approximately 55 years ago. The controls and telemetry for the water treatment plant, water wells, water storage tanks, towers and pump stations have become outdated and software is no longer supported. The replacement of the controls and telemetry at the Water Treatment Plant was included in the Capital Improvement Plans (CIP) for FY24.

Plans, specifications and engineer's estimated cost were prepared by Fox/Strand Engineering. Engineer's estimated cost for this project was \$500,000.00. The bid opening for this project occurred on October 20, 2023.

The following bids were received;

Jetco Inc. Altoona Iowa	\$225,000.00
Automatic Systems Ames Iowa	\$368,340.00

Recommendation:

Award contract to Jetco Inc. of Altoona Iowa for the Controls and Telemetry Replacement Project utilizing Water Enterprise funds for this project.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

RESOLUTION AWARDING CONTRACT FOR THE WATER TREATMENT PLANT CONTROLS AND TELEMETRY REPLACEMENT PROJECT.

WHEREAS, the Water Treatment Plant was constructed approximately 55 years ago; and

WHEREAS, the controls and telemetry for the water treatment plant, water wells, water storage tanks, towers and pump stations have become outdated and software is no longer supported; and

WHEREAS, the replacement of the controls and telemetry at the Water Treatment Plant was included in the Capital Improvement Plans (CIP) for FY24; and

WHEREAS, plans, specifications and engineer’s estimated cost were prepared by Fox/Strand Engineering; and

WHEREAS, the bid opening for the project occurred on October 20, 2023; and

WHEREAS, Jetco Inc. of Altoona Iowa was the lowest responsive, responsible bidder: and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the Controls & Telemetry Replacement Project in the City of Newton, Iowa is hereby awarded to Jetco Inc. of Altoona Iowa in the amount of (\$225,000.00) Two Hundred and Twenty-Five Thousand dollars and Zero cents. The project will be funded by the Water Enterprise funds.

BE IT FURTHER RESOLVED by the City Council of the City of Newton, Iowa, that the Contract and Bond executed by Jetco Inc. of Altoona, Iowa for the Controls & Telemetry Replacement Project as described by the plans and specifications filed in the office of the City Clerk, said contract to be signed by the Mayor and City Clerk on behalf of the City, be and the same are hereby approved

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



FOX Strand
414 South 17th Street, Suite 107
Ames, IA 50010
(P) 515.233.0000
www.strand.com

October 23, 2023

Mr. Michael Hansen, Mayor
City of Newton
101 West 14th Street S
Newton, IA 50208

Re: Water System Controls Replacement
Contract 1-2023
City of Newton, Iowa

Honorable Mayor and City Council Members:

Bids for the above-referenced Project were opened on October 20, 2023. Two responsive Bids were received with the resulting Bid tabulation enclosed. The low Bid of \$225,000.00 was less than ENGINEER's opinion of probable construction cost.

Jetco, Inc. of Altoona, Iowa, was the apparent low Bidder at \$225,000.00. The Bid included a Bid Bond for 5 percent. The Bid is deemed to be responsive.

Strand Associates, Inc.[®] has previously worked with Jetco, Inc. on numerous projects, including several for the City of Newton.

If you determine that Jetco, Inc. is a responsible Bidder, we recommend proceeding with award of the Contract in accordance with Article 18 of the Instructions to Bidders.

Sincerely,

STRAND ASSOCIATES, INC.[®]

Steve A. Van Dyke, P.E.

Enclosure

Bids Received: 2 P.M.
October 20, 2023

FOX STRAND
414 South 17th Street
Suite 107
Ames, IA 50010

CITY OF NEWTON
NEWTON, IOWA
WATER SYSTEM CONTROLS REPLACEMENT
CONTRACT 1-2023

BID TABULATION SUMMARY

Bidder and Address	Bid Bond or Guarantee	Addenda Acknowledged	Lump Sum Bid
Jetco, Inc. 1050 9th Street NE Altoona, IA 50009	5%	N/A	\$225,000.00
Automatic Systems Co. 2740 Ford Street Ames, IA 50010	5%	N/A	\$386,340.00

Reviewed by: 

City of Newton Council Report

**Item:**

Public Hearing on Resolution awarding contract for the WPC 1st St N Aerial Sewer Crossing Repair Project

Summary:

Awarding contract to JET Drain Service LLC. for the WPC 1st St N Aerial Sewer Crossing Project

Financial Impact:

\$100,000.00 utilizing Water Pollution Control Revenue Funds

Report Number: 2023-1229**Date:**

November 6, 2023

Lead Department:

Utilities

Recommendation:

Approve

Background:

The sanitary sewer aerial repair is located in a remote wooded area crossing a Cherry Creek drainage tributary. This drainage area has eroded over the years leaving the footings holding the sanitary sewer exposed and in the danger of failing. The proposed project includes installing a storm sewer culvert and placing earth fill to bury the sanitary sewer pipe. This project was included in the Capital Improvement Plans (CIP) for FY23, but because of some engineering staffing shortages, this project was delayed until now.

The engineer's estimate for this project is \$127,500.00. The bid opening for the project was held on October 20, 2023 in the office of the Utilities Director. The following bids were received:

JET Drain Service, LLC	\$100,000.00
Woodruff Construction, Inc.	\$127,300.00
Thorpe Contracting, LLC	\$139,357.50
Absolute Concrete Construction, Inc.	\$108,192.00
Con-struct, Inc.	\$120,600.00
JK Contracting, LLC	\$210,000.00
On Track Construction, LLC	\$135,255.00

Recommendation:

Award contract to JET Drain Services LLC. Of Ames Iowa in the amount of \$100,000.00 for the WPC 1st St N Aerial Sewer Crossing Project utilizing Water Pollution Control Enterprise funds for this project.

Matt Muckler, City Administrator

RESOLUTION 2023- _____

**RESOLUTION AWARDING CONTRACT THE WPC 1ST ST N AERIAL
SEWER CROSSING REPAIR PROJECT**

WHEREAS, the sanitary sewer aerial repair is located in a remote wooded area crossing a Cherry Creek drainage tributary; and

WHEREAS, this drainage area has eroded over the years leaving the footings holding the sanitary sewer exposed and in the danger of failing; and

WHEREAS, this project was included in the Capital Improvement Plans (CIP) for FY23; and

WHEREAS, plans, specifications and engineer's estimated cost have been prepared by Bolton/Menk Engineering; and

WHEREAS, the bid opening for the project was held on October 20, 2023 in the office of the Utilities Director; and

WHEREAS, Jet Drain Services LLC. of Ames Iowa was the lowest responsive, responsible bidder: and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the 1st St N Aerial Sewer Crossing Repair Project in the City of Newton, Iowa is hereby awarded to Jet Drain Services LLC. of Ames Iowa in the amount of (\$100,000.00) One Hundred Thousand dollars and Zero cents. The project will be funded by the Water Pollution Control Enterprise funds.

BE IT FURTHER RESOLVED by the City Council of the City of Newton, Iowa, that the Contract and Bond executed by Jet Drain Services., LLC of Ames, Iowa for the Aerial Sewer Crossing Repair Project as described by the plans and specifications filed in the office of the City Clerk, said contract to be signed by the Mayor and City Clerk on behalf of the City, be and the same are hereby approved.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

First Consideration of an Ordinance Amending the Code of Ordinances, City of Newton, Iowa, Chapter 75: All-Terrain Vehicles, Off-Road Utility Vehicles, Golf Cars and Snowmobiles

Summary:

Revisit the UTV/ATV ordinance to remove the sunset clause and amend the penalty section of the City Code.

Financial Impact:

N/A

Report Number: 2023-1100

Date:

November 6, 2023

Lead Department:

Police

Recommendation:

Approve

Background:

The Newton City Council passed a UTV/ATV ordinance (Ord. 2420) in November of 2022 allowing limited use of UTVs and ATVs on City streets. That ordinance contained a sunset clause that requires the City Council to revisit the ordinance and take action prior to November 8, 2023 to keep it in effect. The Police Department reports very few issues with UTV/ATV use within the community and believes operators have been respectful of the ordinance.

There are two areas of the current ordinance that City staff recommends amending: removing the sunset clause making the limited use of UTVs and ATVs on City streets permanent and amending the penalty section of the ordinance to allow for the enforcement to be done via a uniform citation vs. a municipal infraction. This change would also reduce the fine for violations and put it inline with fines for other municipal traffic violations. The fine in the current ordinance for 1st offense is \$150, 2nd offense \$250 and \$500 for subsequent offenses. Court costs are in addition to the fine amount, which is currently \$95. If amended, the new fine (per the State of Iowa's current fine schedule) would be \$70 plus \$65.50 in surcharges and court costs for a total of \$135.50. The ordinance would maintain the City's ability to suspend an operator's right to operate a UTV/ATV on City streets should they have 2 or more violations within a 12-month period.

Due to the sunset clause, City staff recommends approving the proposed amendments and waiving the 2nd and 3rd readings of the ordinance so that it remains effective.

Recommendation:

Staff recommends approval of this ordinance.

ORDINANCE NO. ____

ORDINANCE AMENDING THE CITY CODE OF NEWTON, IOWA, CHAPTER 75: ALL-TERRAIN VEHICLES, OFF-ROAD UTILITY VEHICLES, GOLF CARTS, AND SNOWMOBILES

NOW, THEREFORE, BE IT ORDAINED, by the City Council of Newton, Iowa as follows:

SECTION 1. The Code of Ordinances of the City of Newton, Iowa, is hereby by adding or deleting the following:

75.01 Purpose of Chapter.

The purpose of this chapter is to provide reasonable rules and regulations for the maintenance and operation of all-terrain vehicles, off-road utility vehicles, golf carts, and snowmobiles within the City of Newton, Iowa.

75.02 Effective Dates and Termination.

~~This ordinance shall only remain in effect from the effective date of passage, pursuant to Iowa Code 380.6, for a period of twelve (12) months after said date.~~

75.03 Definitions.

For use within this Chapter, the following words, terms, and phrases are defined as follows:

All-terrain vehicle (ATV). Means a motorized vehicle with not less than three (3) but not more than six (6) tires or rubberized tracks, that is limited in engine displacement to less than one thousand (1,000) cubic centimeters and in total dry weight to less than one thousand (1,000) pounds and that has a seat or saddle designed to be straddled by the operator and handlebars for steering control. Two-wheeled, off-road motorcycles as defined in Section 321.11 of the Code of Iowa, shall also be considered an all-terrain vehicle.

Golf Cart. Means a three (3) or more wheeled recreational vehicle primarily designed for transportation of person(s) and sporting equipment in the sport of golf that is either electric powered or gas powered.

Off-road utility vehicle (UTV). A motorized vehicle with not less than four (4) and not more than eight (8) tires or rubberized tracks that has a seat that is of bucket or bench design, not intended to be straddled by the operator, and a steering wheel or control levers for control. This definition includes the following vehicles:

- A. Type 1 is defined as an off-road -utility vehicle with a total dry weight of 1,250 pounds or less and a width of 50 inches or less.
- B. Type 2 is defined as an off-road -utility vehicle (other than a Type 1 off-road utility vehicle), with a total dry weight of 2,000 or less and a width of 65 inches or less.
- C. Type 3 is defined as an off-road -utility vehicle with a total dry weight of more than 2,000 pounds or a width of more than 65 inches, or both.

Operate. To ride in or on, other than as a passenger, use, or control the operation of an all-terrain vehicle in any manner, whether or not the all-terrain vehicle or off-road -utility vehicle is moving.

Operator. A person who operates or is in actual physical control of an all-terrain vehicle or off-road -utility vehicle.

Street or Highway. The entire width between property lines of every way or place of whatever nature when any part thereof is open to the use of the public, as a matter of right, for purposes of vehicular travel.

75.04 General Regulations. In general, golf carts and snowmobiles are not allowed to be operated on City streets unless authorized in writing by the Chief of Police or as otherwise set forth elsewhere in this ordinance. In addition, all persons operating an ATV, UTV, golf cart, or snowmobile shall adhere to all City, county and state regulations relating to the use of such vehicles—including but not limited to the provisions of Chapter 321G of the Code of Iowa, the Newton Code of Ordinances, and/or rules established by the Iowa Department of Natural Resources governing registration, numbering, equipment, and manner of operation. In addition, the following provisions shall apply:

1. Every such vehicle operated upon City streets or highways shall be registered annually and be required to pay all registration fees.
2. The operator shall be required to provide, upon request by any law enforcement official, proof of ownership including but not limited to bill of sale or registration. This requirement shall be satisfied if said vehicle is in compliance with the registration requirements of any state within the United States of America.
3. A person shall not drive or operate an off-road -utility vehicle at a rate of speed greater than the posted speed limit or 35 mph, whichever is less.

75.05 Minimum Equipment Standards for UTV and ATV Operation.

Operators of UTVs and ATVs must adhere to the following equipment requirements and restrictions while operating UTVs and ATVs within the City limits.

- A. Operators of UTVs and ATVs must be 18 years of age or older and possess a valid driver's license.
- B. A person shall not operate a UTV or ATV unless the operator has proof of insurance complying with that required of an operator of a motor vehicle pursuant to applicable provisions of the Iowa Code, including but not limited to Sections 321.20B and 321A.21.
- C. Owners of UTVs and ATVs shall register their vehicle(s) with the Iowa Department of Natural Resources and proof of such registration shall be provided upon request to any City official. Out-of-state UTV and ATV owners or operators must provide appropriate proof of registration from their home state upon request by a City official.
- D. Operators of UTVs and ATVs must adhere to all noise restrictions set forth under the City Code of Ordinances and/or any temporary restrictions established by the City Council.
- E. UTVs and ATVs must display lighted headlamps, tail lamps, and a stop lamp, at all times, while the vehicle is operated on City streets or highways.
- F. Operators of UTVs and ATVs must signal their intention to turn by means of the hand and arm as provided in section 321.318, or by a mechanical or electrical directional signal lamp or device with a manually operated switch controlled by the driver.
- G. Operators of UTVs and ATVs must adhere to all traffic and parking laws, codes, rules, and regulations, applicable to other motor vehicles, unless directed otherwise by this ordinance.
- H. UTVs and ATVs must adhere to the following equipment requirements:
 1. UTVs must be equipped with operational safety belt or harness.
 2. UTVs and ATVs must be equipped with an operational horn with a switch controlled by the driver, and emit a sound clearly audible from at least a distance of 200 feet. The horn shall be actuated with a switch easily accessible to the driver when operating the vehicle.
 3. UTVs and ATVs must be equipped with headlamp(s) that shall be in a plane that is perpendicular to a vertical plane through the longitudinal centerline of the vehicle. The headlamps shall be mounted not less than 24 inches, nor more than 54 inches, above the road surface when measured to the headlamp center.
 4. UTVs and ATVs must be equipped with tail lamp(s) mounted on the rear of the vehicle, exhibiting a red light plainly visible from a distance of 500 feet to the rear. The tail lamps shall be mounted not less than 15 inches, nor more than 72 inches, above the roadway.
 5. UTVs and ATVs must be equipped with a stop lamp that is actuated by a brake switch to indicate braking of the vehicle.
 6. A rear facing mirror providing the operator with a clear view of the road behind the UTV or ATV.

7. Operational muffler which complies with the standards and procedures required by Iowa Code 321I.12 and the City Code of Ordinances.
- I. All UTV occupants, except as noted below, must wear safety belts or safety harnesses, which meet the definitions set forth by Iowa Code 321.445 and 321.446.
 1. Children under 1 year old and weighing less than 20 pound must be secured in a rear-facing child restraint system while the UTV is motion.
 2. Children, ages 1-6 years, must be secured in a child restraint system (safety seat or booster seat) while the UTV is in motion.
 3. A child restraint system is a specially designed seating system, including a belt positioning seat or booster seat which meets federal motor vehicle safety standards. The child restraint system must be used in accordance with the manufacturer's instructions, the child must be secured in the child restraint, and the child restraint must be properly secured to the UTV.
 4. No animals will be transported in the cargo portion or bed of a UTV unless they are contained within an enclosure or securely tethered the to the UTV.
- J. The number of passengers in a UTV shall not exceed the number of factory-installed seatbelts.
- K. The number of passengers on an ATV shall not exceed the factory recommendation for passengers based on the specific make/model being operated.
- L. No open containers of alcohol are allowed on the operator or vehicle while the UTV or ATV is being operated.
- M. Drivers may not operate a UTV or ATV under the influence of intoxicating liquor or narcotics as prescribed under Iowa Code 321J
- N. No UTV or ATV may be operated in a careless or reckless manner, including but not limited to, endangering any person, causing injury or damage to person or property, creating unnecessary skidding or sliding, and/or causing a wheel or wheels to lose traction or contact with the ground.

75.06 Places of Operation and Prohibited Streets/Highways.

The operators of ATVs, UTVs, golf carts, and snowmobiles shall comply with the following restrictions as to where they may be operated within the City:

- A. Streets and Highways. Except as set forth elsewhere in this Ordinance, the operation of golf carts and snowmobiles is prohibited on all streets and/or highways within the City. Properly equipped UTVs and ATVs may be operated upon any street/highway within the City with limited or prohibited use on the following roadways:
 1. First Avenue (Highway 6) – UTVs and ATVs may be operated on First Avenue (Highway 6) over the most direct and accessible route between any of the following locations:
 - a. An all-terrain vehicle park or trail outside of the City limits
 - b. A secondary road outside of the City limits on which such vehicles are authorized to operate.
 - c. A City street on which such vehicles are authorized to operate.
 - d. An address on First Avenue not directly accessible by an authorized City street.
 - e. The vehicle operator's residence.
 2. 100 – 2300 block of Highway 14 South
 3. 100 – 300 block of Highway 14 North
- B. Trails. ATVs, UTVs, golf carts, and snowmobiles shall not be operated on City trails.
- C. Parks and other City Land. ATVs, UTVs, golf carts, and snowmobiles shall not be operated on any park trail, on any playground, or upon any other City-owned property, with the exception of designated driveways or parking lots.

- D. Sidewalk or Parking. ATVs, UTVs, golf carts, and snowmobiles shall not be operated upon the public sidewalk or that portion of the street located between the curb line and the sidewalk or property line commonly referred to as the “the parking” except for purposes of crossing the same to a public street upon which operation is authorized by this chapter.
- E. Public Ice. ATVs, UTVs, golf carts, and snowmobiles may not be operated upon any frozen creeks, streams, ponds, or lakes within City limits.
- F. Waterways. ATVs, UTVs, golf carts, and snowmobiles may not be operated in any creek, stream, river, or other waterway—nor in any portion of a creek bed, stream bed, or riverbed with City limits.

75.07 Operation Exceptions.

ATVs, UTVs, golf carts, and snowmobiles may be operated on City streets under the following circumstances:

- A. Emergencies. ATVs, UTVs, golf carts, and snowmobiles may be operated on a City street in an emergency during the period of time when and at locations where snow upon the roadway renders travel by conventional motor vehicles impractical.
- B. Direct Crossing. UTVs may make a direct crossing of a prohibited City street provided:
 - 1. The crossing is made at an angle of approximately ninety degrees to the direction of the street and at a place where no obstruction prevents a quick and safe crossing;
 - 2. The UTV is brought to a complete stop before crossing the street;
 - 3. The driver yields the right-of-way to all on-coming traffic which constitutes and immediate hazard; and
 - 4. In crossing a divided road, the crossing is made only at an intersection of such road with another road.
- A. Railroad Right-of-way. ATVs, UTVs, golf carts, and snowmobiles shall not be operated on an operational railroad right-of-way. An UTVs may be driven directly across a railroad right-of-way only at an established crossing and notwithstanding the any other provisions of law may, if necessary, use the improved portion of the established crossing after yielding to all oncoming traffic.
- B. Special or Limited Purposes: ATVs, UTVs, golf carts, and snowmobiles may be operated on City streets or other areas of the City for limited or special purposes upon application and authorization from to the Chief of Police.

75.08 Exempt Vehicles.

The following all-terrain vehicles or off-road utility vehicles shall be exempt from registration pursuant to Iowa Code, Section 321I.9 and the requirements of this Ordinance if:

- A. The all-terrain or off-road -utility vehicle is owned by the United States, this state, or another state, or by a governmental subdivision thereof, and used for law enforcement, public safety, search and rescue, construction and maintenance activities, or official research studies, but not for recreational or commercial purposes.
- B. The all-terrain or off-road -utility vehicle is used exclusively to conduct agricultural purposes and in accordance with Iowa Code Section 321.234A(1)(a).

75.09 Leaving Motor Running or Keys in the Ignition.

It is unlawful for the owner or operator of an ATV, UTV, golf cart, or snowmobile to leave or allow such vehicles to remain unattended on public property while the motor is running or while the keys for starting the vehicle are left in the ignition.

75.10 Violation of a Stop Signal.

An owner or operator, after having received a visual or audible signal from a peace officer to come to a stop, shall not operate an ATV, UTV, golf cart, or snowmobile in willful or wanton disregard of the signal or interfere with or endanger the officer or any other person or vehicle, or increase speed or attempt to flee or elude the officer.

75.11 Negligence.

The owner and operator of an ATV, UTV, golf cart, or snowmobile shall be liable for any injury or damage occasioned by the negligent operation of said vehicle.

75.12 Accident Reports.

Whenever an ATV, UTV, golf cart, or snowmobile is involved in an accident resulting in injury or death to anyone or property damage amounting to two hundred (\$200.00) or more, either the owner, operator or someone acting on their behalf shall immediately notify a law enforcement officer and shall file an accident report within forty-eight (48) hours in accordance with State Law.

75.13 Penalties for Violations.

~~A. Unless another penalty is expressly provided for a violation of any particular provision, section or Chapter of the City Code of Ordinances, any person failing to perform a duty or obtain a license required by this Code of Ordinances or violating any provision of this Code of Ordinances, or any rule or regulation adopted herein, shall be subject to fines of one hundred fifty dollars (\$150) for a first offence, two hundred fifty dollars (\$250) for a second offence within a twelve (12) month period, and five hundred dollars (\$500) for any subsequent offences occurring in a twelve (12) month period.~~

A. The sections of the Code of Iowa identified below, to the extent they define simple misdemeanor offenses, are hereby adopted by reference to their Code of Iowa chapter and section numbers, the same as if fully set out herein; whenever any such section refers to any other section of the Code of Iowa, the section referred to is also hereby incorporated and adopted by such reference the same as if fully set out herein; violations of all such sections of the Code of Iowa when committed within the city shall constitute offenses against the city; such offenses shall be identified in all charging and court documents with the section number of this section followed by a decimal point and the relevant Code of Iowa section number, to wit:

<u>Identifying Number</u>	<u>Description</u>
<u>75.13.321.234A</u>	<u>All-terrain vehicles, as defined in Iowa Code §§ 321.234A</u>

B. If, over the course of a twelve (12) month period, an operator of a permitted vehicle is cited for two or more violations of the provisions of this Chapter, the operator's privilege to operate a permitted vehicle under the terms and provisions of this Chapter may be suspended for a period of twelve (12) months—in addition to a monetary penalty.

SECTION 2. REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be effect from and after its final passage, approval and publication as provided by law.

Passed First Reading by the City Council of Newton, Iowa, ____ day of _____, 2023.

Passed Second Reading by the City Council of Newton, Iowa, the ____ day of _____, 2023.

PASSED AND ENACTED by the City Council of Newton, Iowa, the ____ day of _____, 2023.

Michael Hanson, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution amending Various sections of the Employee Handbook

Summary:

Updates the Employee Handbook

Financial Impact:

None

Report Number: 2023-1080

Date:

November 6, 2023

Lead Department:

Administration

Recommendation:**Background:**

At the September 5, 2023 City Council Meeting, council authorized the hiring of a Utility Meter Reader position in the Administration Department. That position has since been hired. This action amends the Employee Handbook section 3.1 on page 11 to allow for a clothing allowance for the Utility Meter Reader, who will be working outside in all types of inclement weather.

Each department within the City of Newton does have its own Standard Operating Procedure (SOP) that currently addresses seatbelts. IMWCA, the city's Workers Compensation insurance provider, recently required that all participant cities adopt IMWCA's model seatbelt policy into their Employee Handbook. The "Seatbelt Policy" has now been added to Appendix A: Safety Policy Manual page 40.

Following the Iowa Court of Appeals determination in Hyatt v. Marion Civil Service Commission, it is recommended to add a truth in investigation policy to all city employees' handbooks. This policy has now been added as section 3.2: Cooperation in Investigations on page 11.

Recommendation:

Staff recommends approval of the proposed changes to the City of Newton Employee Handbook.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

RESOLUTION AMENDING VARIOUS SECTIONS OF THE EMPLOYEE HANDBOOK

WHEREAS, at the September 5, 2023 City Council Meeting, council authorized the hiring of a Utility Meter Reader position in the Administration Department. That position has since been hired. This action amends the Employee Handbook section 3.1 on page 11 to allow for a clothing allowance for the Utility Meter Reader, who will be working outside in all types of inclement weather:

Sec. 4 Administration – Utility Meter Reader – The Utility Meter Reader shall receive an allowance for the cost of overshoes and work-related outerwear not to exceed \$500 annually to be paid on the first pay check after July 1st. The full amount will be paid to new employees on their first paycheck and not prorated.

WHEREAS, each department within the City of Newton does have its own Standard Operating Procedure (SOP) that currently addresses seatbelts. IMWCA, the city's Workers Compensation insurance provider, recently required that all participant cities adopt IMWCA's model seatbelt policy into their Employee Handbook. The "Seatbelt Policy" has now been added to Appendix A: Safety Policy Manual page 40:

Seatbelt Policy

Purpose

This policy was created to protect the safety of our employees while operating official vehicles, equipment, personal and rental cars on official business.

Leadership and Accountability

Department Management will be responsible for enforcing and annually evaluating the seatbelt/restraint policy of their department.

Employees are accountable for following the policy and ensuring that other occupants of the vehicles or equipment they operate abide by the policy.

Policy

It is the policy of the City of Newton that all employees operating official vehicles, equipment, personal and rental cars on official business and other occupants use seatbelts and shoulder restraints.

Employees operating on and off-road equipment with a Rollover Protective Structure (ROPS) shall use seatbelts when operating the equipment.

Employees are also prohibited from riding in or on parts of a vehicle not designed for human occupancy. This includes but is not limited to pick-up and truck boxes, fenders, steps and bumpers. This also applies to trailers, ATV dump boxes and lift buckets.

Failure to comply with these rules is a violation of name of member safety policies, which is cause for disciplinary action.

Employees should refer questions or comments about this policy to Department Management or HR.

Employee Information and Training

All employees will be trained on the policy. Training will be documented and the records stored in employee's personnel files.

WHEREAS, following the Iowa Court of Appeals determination in Hyatt v. Marion Civil Service Commission, it is recommended to add a truth in investigation policy to all city employees' handbooks. This policy has now been added as section 3.2: Cooperation in Investigations on page 11:

3.2 Cooperation in Investigations

All employees are required to fully cooperate with any representative of the City who is conducting a work-related investigation. Employees will be disciplined for lying to any representative of the City, or providing information to any representative of the City which is dishonest, misleading, inaccurate, or incomplete.

Employees will also be disciplined for impeding, obstructing, or failing to cooperate with an inquiry or investigation conducted by any representative of the City. "Obstructing" includes, but is not limited to, threatening, intimidating, or coercing other individuals who may be contacted by a representative of the City, and discouraging other individuals who may be contacted by a representative of the City from responding to or cooperating with the City. "Failing to cooperate" includes, but is not limited to, failing to provide information, documents, or materials requested by a representative of the City, and providing information, documents, or materials to a representative of the City which are dishonest, misleading, inaccurate, or incomplete.

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 November 06, 2023.

PASSED this _____ day of November, 2023

APPROVED this _____ day of November, 2023

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk

City of Newton Council Report

**Item:**

Resolution approving a low-moderate income housing set-aside grant for 1318 Glenway Drive, Newton

Summary:

A Low-Mod Income Existing Housing Assistance Grant to help with the replacement of a private water service line.

Financial Impact:

\$5,246.25 from LMI Housing Set-Aside Funds

Report Number: 2023-1219**Date:**

November 6, 2023

Lead Department:

Community Development

Recommendation:

Approve

Background:

The City of Newton has identified housing development as a serious need for the community. Some barriers to providing housing options are the cost of infrastructure construction, the cost of labor and materials, and the challenge of enticing regional developers into the community. To address such barriers to general housing development, the City of Newton utilizes Tax Increment Financing (TIF), when and where City Council has determined it is appropriate. When TIF funding is used for residential development, State of Iowa law requires that the City of Newton set aside a portion of the newly generated tax increment for Low-Moderate Income (LMI) Housing throughout the community.

Recent residential development activity (Fairmeadows North and Arbor Estates) has been spurred utilizing TIF, and a LMI Housing set-aside fund has been slowly growing. By resolution 2023-093, City Council established the Low-Moderate Income Housing Set-Aside Funds Policy which has several program areas for which the set-aside dollars can be used. Program areas include: LMI Existing Housing Improvement Grant; State/Federal Affordable Housing Application Financial Support; Neighborhood Sidewalk Construction, Reconstruction & ADA improvements; and Neighborhood Revitalization and Blight Removal (which includes acquisition & demolition and dead/dying trees). The US Department of Housing & Urban Development (HUD) establishes the median family income for every county in the United States. Persons who meet the "low income" requirements have earnings at or below 80% of the median household income for the county based on household size.

The City has received its first grant application for a project under the LMI Housing Set-Aside Policy. Joseph Parnell, owner and resident of 1318 Glenway Drive, has requested LMI housing grant funding under the plumbing category. Mr. Parnell has been income verified and meets the income criteria for the program. Parnell has received a quote from Warnick Mechanical to replace his private water service line. The LMI grant program requires a 25% match by the owner. The total cost of the project is \$6,995.00. If approved, the grant would provide funding in an amount of \$5,246.25.

Recommendation:

Staff recommends approval of the grant for 1318 Glenway Drive.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

RESOLUTION APPROVING A LOW-MODERATE INCOME HOUSING SET-ASIDE GRANT FOR 1318 GLENWAY DRIVE

WHEREAS, the City of Newton has identified housing development as a serious need for the community and utilizes Tax Increment Financing (TIF) to address this need; and

WHEREAS, State of Iowa law requires that the City of Newton set aside a portion of newly generated residential tax increment for Low-Moderate Income (LMI) housing needs; and

WHEREAS, Resolution 2023-093 established a Low-Moderate Income Housing Set-Aside Funds Policy that includes an Existing Housing Improvement Grant policy area; and

WHEREAS, Joseph Parnell, owner of 1318 Glenway Drive meets the income requirements established by the policy; and

WHEREAS, Joseph Parnell proposes to replace his private water service line to his owner-occupied home at 1318 Glenway Drive;

NOW THEREFORE, BE IT RESOLVED by the City Council of Newton, Iowa, that Low-Mod Income Existing Housing Improvement Grant Funds be issued to the contractor, Warnick Mechanical of Newton, Iowa, in an amount equal to 75% of the total project cost, up to a maximum of \$5,246.25;

BE IT FURTHER RESOLVED by the City Council of Newton, Iowa: That the City shall obtain the signatures on the grant program agreement.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



**LMI Existing Housing Improvement Grant Agreement
Between City of Newton and Joseph J. Parnell**

This Agreement made and entered into this _____ day of November 2023 by and between the City of Newton, Iowa, hereinafter called "City" and Joseph J. Parnell, hereinafter called "Applicant."

WHEREAS, the Applicant submitted an application to receive LMI Existing Housing Improvement Grant funds for property located at 1318 Glenway Dr., Newton, Iowa; and

WHEREAS, the City's Community Development Department and Newton City Council reviewed and approved the application;

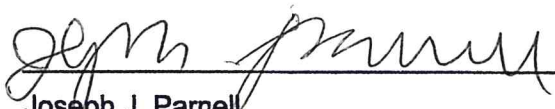
NOW, THEREFORE BE IT UNDERSTOOD AND AGREED:

- 1.) The Applicant will receive **up to \$5,246.25** in grant funds for Plumbing improvements to install a new water service line from the City water main to inside the home, before the water meter, providing a 25% applicant cash match is met.
 - a. Funding breakdown as follows:
 - Total Estimated Project Cost - \$ 6,995.00
 - 25% Applicant Cash Match - 1,748.75
 - **Plumbing Improvement Grant - \$ 5,246.25**
- 2.) Required sign, building, plumbing, mechanical or other permits will be obtained and work will be completed by licensed contractors, when required.
- 3.) The City of Newton will provide the grant funding directly to the contractor that completed the work in the amount referenced above once the project is fully completed. City staff will inspect and verify completeness of work prior to issuance of grant funds.

- a. The applicant shall provide a copy of the invoice from the licensed contractor that performed the work.
- b. All work shall comply with applicable City Codes, including but not limited to, zoning and building codes. All completed work shall be inspected and approved by the City's Building Official/Inspector.

4.) The applicant will provide a 25% cash match to the grant funds for the approved work and pay that amount to the contractor directly.

Applicant:


Joseph J. Parnell

10/20/2023
Date

For City of Newton:

Michael L. Hansen, Mayor

Date

Contractor Acknowledgement:

Fletcher Christy, President
Fletcher Christy, President

10/18/2023
Date

Warnick Mechanical, 1618 North 15th Avenue East, Newton

City of Newton Council Report

**Item:**

Resolution adopting the 2023 - 2025 Council Goals for the City of Newton

Summary:

The 2023 – 2025 City Council Goals will serve as a guide during the upcoming budget process as well as serve as direction in setting priorities for City Staff

Financial Impact:

No financial impact by adopting the Goals.

Report Number: 2023-1243**Date:**

November 6, 2023

Lead Department:

Administration

Recommendation:

Approve

Background:

Presented for the City Council's consideration are the 2023 – 2025 City Council Goals. The City of Newton Goal Setting Process takes place every year. It is an opportunity for elected officials to communicate to the city administrator a work plan for the coming year. It also allows elected officials to communicate to staff which projects they consider to be the highest priority projects and serve Department Directors in the course of their daily work and the setting of priorities. These priorities are then used to create a budget proposal for Council consideration. The priorities selected by elected officials also guide City staff in developing a five-year Capital Improvement Plan (CIP) for the consideration of elected officials.

Recommendation:

Staff recommends approval of the 2023 – 2025 Council Goals.

Matt Muckler, City Administrator

RESOLUTION NO. 2023 – _____

RESOLUTION ADOPTING THE 2023 - 2025 COUNCIL GOALS FOR THE CITY OF NEWTON

WHEREAS, it is the fundamental and foundational purpose of the City of Newton to provide a safe community, encourage economic development, foster a high quality of life, and lead with effective, efficient governance; and

WHEREAS, the 2023 - 2025 City Council Goals set forth goals, objectives, and strategies to achieve these purposes as well as to set the future course for the City;

WHEREAS, the 2023 – 2025 City Council Goals will assist in the upcoming budget process for FY24;

WHEREAS, the 2023 - 2025 City Council Goals summarizes the details of the tasks and responsibilities that will serve Directors in the course of their daily work and the setting of priorities;

WHEREAS, it is important for the City Council, City Staff, and the community to clearly know the direction of the organization and to hold one another accountable for that direction;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Newton, Iowa, that the attached 2023 - 2025 City Council Goals are hereby adopted and shall be used by City Staff in accomplishing the City’s Goals.

PASSED this _____ day of November, 2023.

APPROVED this _____ day of November, 2023.

Michael L. Hansen, Mayor

ATTEST:

Katrina Davis, City Clerk



2023 – 2025 CITY COUNCIL GOALS

1. Westwood Clubhouse Phase 2 Improvements - \$500,000 (28 votes)
2. Airport Apron Expansion (NW or SE) - \$80,000 plus matching grant funds (26 votes)
3. Portland Concrete Patching of Various Streets - \$1,000,000 (25 votes)*
4. FY25 Downtown Street Improvements - \$955,000 TIF Funding (23 votes)*
5. Aurora Park Tennis Court Construction and Resurfacing - \$430,000 plus matching funds of \$150,000 from the Newton Community School District (13 votes)
6. Aurora Park LED Court Lighting - \$180,000 (6 votes)

* Bonds for these projects to be issued in the Spring of 2025 and constructed in the summer of 2025.

Additional Projects were approved by consent:

1. Park Shelter & Restroom Upgrades (\$10,000 annually, GF Budget).
2. Zero-Turn Mower – Cemetery (\$11,200).
3. Large Format Scanner (\$12,000).
4. 6' Zero-Turn Mower – Parks (\$18,000).
5. Tree & Stump Removal in Parks (\$25,000).
6. City Hall 2nd Phase Microzone Replacement (\$25,000).
7. Library Heater Replacement (\$29,000).
8. ADA Improvements in Parks (\$30,000 annually) (PBG).
9. Community Services Vehicle (\$35,000)
10. Knox Box System Upgrades (\$50,000).
11. Police Computers & Technology (\$56,500).
12. Police Equipment – Miscellaneous (\$58,000).
13. Parks Mechanic Truck (\$66,000).
14. Airport Joint and Crack Sealing Project (\$74,500 plus \$670,500 FAA Funding = \$745,000).
15. Police Department Vehicles (\$120,000).
16. Outdoor Warning Sirens and Activation Equipment (\$140,000).
17. W. 8th St. Traffic Signal Improvements (\$160,000 RUT).
18. W. 8th St. N. Bridge Approach Replacement (\$165,000).
19. D&D Funding (\$175,000).
20. Union Cemetery Street Repair Project (\$180,000 Perpetual Care Funds).
21. Landfill HMA Overlay Project (\$200,000 Landfill).
22. Plow Truck Replacement (\$225,000 RUT).
23. S. 8th Ave. Hot Mix Asphalt Mill and Overlay (\$225,000).
24. Water Main – S. 5th Ave. W. (400-700 blocks) – Phase 1 (\$260,000 Water).
25. Purchase of Smart Meters (\$300,000 Water).
26. Medic 2 Ambulance Replacement (\$330,000).
27. WPC Northeast Pump Station Improvements (\$575,000 Sewer).

City of Newton Council Report

**Item:**

Resolution Terminating Development Agreement with Cindy Rogers-Sell

Summary:

In August 2021, the City and Cindy Rogers-Sell entered into a development agreement for the rehabilitation of 107 1st Avenue West. Cindy Rogers-Sell has sold the property, and now it is necessary to approve the termination of the active development agreement. As part of the agreement, Cindy Rogers-Sell will repay the City \$10,000 of the \$20,000 forgivable loan.

Financial Impact:

Return of \$10,000

Report Number: 2023-1266

Date:

November 6, 2023

Lead Department:

Community Development

Recommendation:

Approve

Background:

The development agreement between Cindy Rogers-Sell and the City of Newton provided benefits to support the redevelopment and rehabilitation of the property at 107 1st Avenue West. The development agreement contained two key elements: tax rebate payments and a \$20,000 forgivable loan. The City has forgiven \$8,000 of the forgivable loan for Fiscal Years 2021-22 and 2022-23. The termination agreement provides a partial year forgiveness for Fiscal Year 2023-24. Cindy Rogers-Sell will repay the City \$10,000 of the forgivable loan. Tax rebate payments to Cindy Rogers-Sell will also be ceased.

This action closes the door on the development agreement between the City of Newton and Cindy Rogers-Sell.

Recommendation:

Staff recommends approval.

Matt Muckler, City Administrator



November 1, 2023

Via Email

Matt Muckler
City Administrator/City Hall
Newton, IA

Re: Cindy Rogers-Sell
Termination of Development Agreement
File No. 504612-61

Dear Matt:

Attached please find proceedings covering the adoption of a resolution approving the termination of the Development Agreement with Cindy Rogers-Sell.

We would appreciate receiving one fully executed copy of these proceedings as soon as they are available.

Please contact John Danos or me if you have questions.

Kind regards,

Amy Bjork

Attachments

cc: Lisa Frasier
Erin Chambers
Katrina Davis

APPROVE TERMINATION OF
DEVELOPMENT AGREEMENT

(Merge, LLC)

504612-61

Newton, Iowa

November 6, 2023

A meeting of the City Council of the City of Newton, Iowa, was held at ____ p.m., on November 6, 2023, at the _____, Newton, Iowa, pursuant to the rules of the Council.

The Mayor presided and the roll was called, showing members present and absent as follows:

Present: _____

Absent: _____.

Council Member _____ introduced the resolution next hereinafter set out and moved its adoption, seconded by Council Member _____; and after due consideration thereof by the Council, the Mayor put the question upon the adoption of said resolution, and the roll being called, the following named Council Members voted:

Ayes: _____

Nays: _____.

Whereupon, the Mayor declared said resolution duly adopted, as follows:

RESOLUTION _____

Resolution Terminating Development Agreement with Cindy Rogers-Sell

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

WHEREAS, the City previously entered into a Development Agreement dated August 27, 2021 (the “Development Agreement”) with Cindy Rogers-Sell (the “Developer”) pursuant to which the Developer agreed to undertake the renovation of an existing building (the “Existing Building”) on certain real property (the “Property”) in the Urban Renewal Area for use in the business operations of a retail store; and

WHEREAS, under the Agreement, the City agreed to provide annual appropriation tax increment payments (the “Payments”) to the Developer in a total amount not exceeding \$15,000 and an economic development forgivable loan (the “Forgivable Loan”) in the amount of \$20,000; and

WHEREAS, the Developer has determined to discontinue its business operations in the Existing Building and to sell the Property, including the Existing Building, to Ex Nihilo LLC; and

WHEREAS, the Developer and the City have determined that the Development Agreement should be terminated; and

WHEREAS, a certain agreement terminating the Development Agreement (the “Termination Agreement”) has been prepared, and it is now necessary to make provision for its approval; and

WHEREAS, it is now necessary for the City to take action to terminate the Agreement;

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

Section 1. \$8,000 of the principal amount of the Forgivable Loan has been forgiven by the City. The Developer shall repay \$10,000 of the principal amount of the Forgivable Loan to the City prior to execution by the City of the Termination Agreement. It is hereby determined that upon receipt of \$10,000 from the Developer as repayment of a portion of the principal of the Forgivable Loan, the remaining amount of the Forgivable Loan in the amount \$2,000 shall be deemed forgiven by the City.

Section 2. It is hereby determined that the Development Agreement is hereby terminated, including the City’s obligation to make the Payments thereunder. The City Administrator is hereby directed to send written notice to representatives of the Developer notifying the Developer that the Agreement has been terminated. Further, the Mayor and the

City Clerk are hereby authorized and directed to execute the Termination Agreement in substantially the form and content in which the Termination Agreement has been presented to the City Council, and such officers are also authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Termination Agreement. All actions heretofore taken in with respect to terminating the Development Agreement are all hereby ratified and affirmed.

Section 3. All resolutions or parts thereof in conflict herewith are hereby repealed.

Passed and approved on November 6, 2023.

Mayor

Attest:

City Clerk

• • • • •

On motion and vote the meeting adjourned.

Mayor

Attest:

City Clerk

STATE OF IOWA
JASPER COUNTY SS:
CITY OF NEWTON

I, the undersigned, Clerk of the aforementioned City, hereby certify that the foregoing is a true and correct copy of the minutes of the Council of the City relating to adopting a resolution to terminate the Development Agreement with Cindy Rogers-Sell.

WITNESS MY HAND hereto affixed this ____ day of _____, 2023.

City Clerk

AGREEMENT TERMINATING DEVELOPMENT AGREEMENT

This Agreement is entered into between the City of Newton, Iowa (the “City”) and Cindy Rogers-Sell, (the “Developer”) as of the ____ day of _____, 2023 (the “Execution Date”).

WHEREAS, the City has established the North Central Urban Renewal Area (the “Urban Renewal Area”) and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the City and the Developer have entered into a Development Agreement (the “Development Agreement”) dated August 27, 2021; and

WHEREAS, pursuant to the Development Agreement, the Developer agreed to undertake the renovation of an existing building (the “Existing Building”) on certain real property (the “Property”) in the Urban Renewal Area for use in the business operations of a retail store; and

WHEREAS, pursuant to the Development Agreement, the City agreed to provide financial assistance in the form of an economic development forgivable loan (the “Forgivable Loan”) and incremental property tax payments (the “Payments”) to be used by the Developer in paying the costs of undertaking the Project;

WHEREAS, the Developer has determined to discontinue its business operations in the Existing Building and to sell the Property, including the Existing Building, to Ex Nihilo LLC; and

WHEREAS, the Developer and the City have determined that the Development Agreement should be terminated; and

WHEREAS, it is now necessary to set forth the agreement between the City and the Developer to terminate the Development Agreement;

NOW THEREFORE, the parties hereto agree as follows:

1. Forgivable Loan Forgiveness As of the Execution Date of this Agreement, \$8,000 of the principal amount of the Forgivable Loan has been forgiven by the City. The Developer shall repay \$10,000 of the principal amount of the Forgivable Loan to the City prior to the Execution Date of this Agreement. The City hereby forgives the remaining amount of the Forgivable Loan (\$2,000) as of the Execution Date.

2. Termination of Development Agreement. The City and the Developer hereby agree that the Development Agreement attached hereto as Exhibit A is terminated. The City and the Developer agree that the Developer is released from its obligations under the Development Agreement. The City and the Developer further agree that the City is released from its obligations under the Development Agreement, including its obligation to make the Payments to the Developer thereunder.

2. **Amendment and Assignment.** This Agreement may not be amended or assigned by either party.

3. **Successors.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

4. **Term.** The term (the "Term") of this Agreement shall be perpetual.

5. **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 laws of the State of Iowa.

The City and the Developer have caused this Agreement to be signed, 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: _____
Mayor

Attest:

City Clerk

CINDY ROGERS-SELL

By: _____

EXHIBIT A
DEVELOPMENT AGREEMENT

DEVELOPMENT AGREEMENT

This Development Agreement is entered into between the City of Newton, Iowa (the "City") and Cindy Rogers-Sell (the "Developer") as of the 27th day of August, 2021 (the "Commencement Date").

WHEREAS, the City has established the North Central Urban Renewal Area (the "Urban Renewal Area"), and has adopted a tax increment ordinance for the Urban Renewal Area; and

WHEREAS, the Developer owns certain real property which is situated in the Urban Renewal Area and is more specifically described on Exhibit A hereto (the "Property"); and

WHEREAS, the Developer has proposed to undertake the renovation of an existing building on the Property ("the Project") for use in the business operations of a retail store; and

WHEREAS, the Developer has requested that the City provide financial assistance in the form of a forgivable loan (the "Forgivable Loan") and incremental property tax payments to be used by the Developer in paying the costs of undertaking the Project; and

WHEREAS, the City and the Developer entered into an Economic Development Forgivable Loan Agreement (the "Original Agreement") dated August 27, 2021, pursuant to which the City agreed to provide the Forgivable Loan; and

WHEREAS, it is now necessary to amend the Original Agreement to provide for the incremental property tax payments to be made to the Developer and to make other related changes; and

WHEREAS, this Development Agreement (the "Agreement") has been prepared to set forth the updated, mutual understanding between the City and the Developer and to replace the Original Agreement; and

WHEREAS, for purposes of calculating Incremental Property Tax Revenues (as herein defined) under this Agreement and Section 403.19 of the Code of Iowa, the base valuation (the "Base Valuation") of the Property shall be the assessed taxable valuation of the Property as of January 1, 2021; and

WHEREAS, Chapter 403 of the Code of Iowa authorizes cities to establish urban renewal areas and to undertake economic development projects; and

WHEREAS, Chapter 15A of the Code of Iowa authorizes cities to provide grants, loans, guarantees, tax incentives and other financial assistance to or for the benefit of private persons;

NOW THEREFORE, the parties hereto agree as follows:

A. Developer's Covenants

1. **Project.** The Developer agrees to undertake the Project on the Property. The Developer agrees that the Project will minimally include the improvements (the "Required

Improvements”) as set forth on Exhibit B hereto. The Developer agrees to construct the Project, including the Required Improvements, in substantial conformance with the City’s zoning, land use, building and safety codes and regulations. The Developer further agrees to substantially complete such construction by no later than September 30, 2021.

The Developer agrees to use the completed Project in the business operations of a retail store throughout the Term (as hereinafter defined) of this Agreement (the “Business Operations Requirement”).

Further, the Developer agrees to maintain, preserve, and keep the Property, including but not limited to the Project, useful and in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

2. Ownership of Property; Use of Project; Developer’s Annual Report. The Developer agrees to submit an annual report (the “Annual Report”) to the satisfaction of the City by no later than each June 1 during the Term (as hereinafter defined) commencing June 1, 2022, demonstrating that (i) the Business Operations Requirement is being met; and (ii) the Developer owns the Property, including the Project. The Developer agrees to provide such supporting documentation as may be requested by the City as an accompaniment to the Annual Report. The first Annual Report submitted by the Developer shall also include documentation demonstrating, to the satisfaction of the City, that the Developer has completed the Required Improvements.

3. Minimum Assessment Agreement. The Developer agrees to enter into an assessment agreement (the “Assessment Agreement”), pursuant to Section 403.6 of the Code of Iowa fixing the minimum assessed valuation of the Property, in contemplation of the improvements to be constructed thereon, at not less than One Hundred Thousand Dollars (\$100,000) (the “Minimum Assessed Valuation”) as of January 1, 2022 (the “First Valuation Date”). It is intended by the Developer that the Minimum Assessed Valuation shall be established on the Jasper County property tax rolls as of the First Valuation Date regardless of the then-current degree of completion or incompleteness of the Project. The Assessment Agreement shall be in substantially the form attached hereto as Exhibit C and shall remain in effect throughout the Term (as hereinafter defined) of this Agreement.

4. Property Taxes. The Developer agrees to make timely payment of all property taxes as they come due with respect to the Property with the completed Project thereon throughout the Term (as hereinafter defined) and to submit a receipt or cancelled check in evidence of each such payment.

5. No Abatement; No Property Tax Exemption. The Developer agrees that it will not seek any tax exemption or abatement either presently or prospectively authorized under any State, federal or local law with respect to taxation of the Property throughout the Term (as hereinafter defined) including causing or allowing the property to be leased, sold, transferred to or otherwise used by an entity that is exempt from property taxes under the laws of the State of Iowa.

6. **Property Tax Payment Certification.** The Developer agrees to certify to the City by no later than October 15 of each year, commencing October 15, 2022, an amount (the "Developer's Estimate") equal to the estimated Incremental Property Tax Revenues anticipated to be paid in the fiscal year immediately following such certification with respect to the taxable valuation of the Property. In submitting each such Developer's Estimate, the Developer will complete and submit the worksheet attached hereto as Exhibit D.

The City reserves the right to review and request revisions to each such Developer's Estimate to ensure the accuracy of the figures submitted. For purposes of this Agreement, Incremental Property Tax Revenues are calculated by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with respect to taxation of the Property; (2) subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the taxable valuation of the Property, as shown on the property tax rolls of Jasper County, above and beyond the Base Valuation; and (4) deducting any property tax credits which shall be available with respect to the incremental valuation of the Property.

Upon request, the City staff shall provide reasonable assistance to the Developer in completing the worksheet required under this Section A.6.

7. **Forgivable Loan.** The Developer hereby acknowledges that the City has advanced the proceeds (the "Forgivable Loan Proceeds") of the Forgivable Loan to the Developer in accordance with Section B.1 of this Agreement. The Developer's obligation to repay the Forgivable Loan is evidenced by a promissory note (the "Promissory Note") that has been executed by the Developer and delivered to the City. A copy of the Promissory Note shall be attached as Exhibit E hereto.

The Developer agrees to apply the Forgivable Loan Proceeds to the payment and/or reimbursement of the costs of the Required Improvements.

All principal advanced under the Forgivable Loan shall be due and owing to the City at City Hall by Noon on June 30, 2026, unless sooner forgiven in accordance with the terms of this Agreement or made subject to acceleration in accordance with Section A.10 of this Agreement.

Nothing herein shall prohibit the Developer from forfeiting the right to loan forgiveness, as set forth in Section B.1 of this Agreement by prepaying on the Forgivable Loan at any time.

8. **Insurance.**

(a) The Developer, and any successor in interest to the Developer, shall obtain and continuously maintain insurance on the Property and the completed Project and, from time to time at the request of the City, furnish proof to the City that the premiums for such insurance have been paid and the insurance is in effect. The insurance coverage described below is the minimum insurance coverage that the Developer must obtain and continuously maintain, provided that the Developer shall obtain the insurance described in clause (i) below prior to the commencement of construction of the Project (excluding excavation and footings):

- (i) Builder's risk insurance, written on the so-called "Builder's Risk—Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Project at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy.
- (ii) Comprehensive general liability insurance (including operations, contingent liability, completed operations when substantially completed and contractual liability insurance) together with an Owner's/Contractor's Policy naming the City, as an additional insured, with limits against bodily injury and property damage of not less than \$2,500,000 for each occurrence (to accomplish the above-required limits, an umbrella excess liability policy may be used), written on an occurrence basis.
- (iii) Workers compensation insurance, with statutory coverage limited to employees of the Developer.

(b) All insurance required in this Section shall be obtained and continuously maintained in responsible insurance companies selected by the Developer or its successors that are authorized under the laws of the State of Iowa to assume the risks covered by such policies. Unless otherwise provided in this Section, each policy must contain a provision that the insurer will not cancel nor modify the policy without giving written notice to the insured at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, the Developer, or its successors or assigns, must renew the existing policy or replace the policy with another policy conforming to the provisions of this Section. In lieu of separate policies, the Developer or its successors or assigns, may maintain a single policy, blanket or umbrella policies, or a combination thereof, having the coverage required herein.

(c) The Developer, its successors or assigns, agrees to notify the City promptly in the case of damage exceeding \$250,000 in amount to, or destruction of the Project resulting from fire or other casualty. Furthermore, the Developer agrees to apply the proceeds from any and all casualty claims against the insurance detailed in this Section to the restoration and improvement of the Property and/or the Project.

9. Indemnification. The Developer agrees to indemnify, defend and hold harmless the City, its officers, employees and departments, from and against any and all losses, liabilities, penalties, fines, damages, and claims (including taxes), and all related costs and expenses (including reasonable attorneys' fees and disbursements and costs of investigation, litigation, settlement, judgments, interest and penalties) arising from or in connection with any of the following, except to the extent caused by the negligent acts or omissions of the City, its officers, employees and departments:

a) Any claim, demand, action, citation or legal proceeding arising out of or resulting from the construction of the Project.

b) Any claim, demand, action, citation or legal proceeding arising out of or related to occurrences that the Developer is required to insure against under this Agreement in connection with the Project and/or the Property; and

c) Any claim, demand, action, citation or legal proceeding arising out of or resulting from an act or omission of the Developer or any of its agents in its or their capacity as an employer of a person.

10. Default Provisions.

A. Events of Default. The following shall be "Events of Default" under this Agreement, and the term "Event of Default" shall mean, whenever it is used in this Agreement (unless otherwise provided), any one or more of the following events:

- I. Failure by the Developer to complete construction of the Project pursuant to the terms and conditions of this Agreement.
- II. Failure by the Developer to maintain compliance with the Business Operations Requirement pursuant to the terms and conditions of this Agreement.
- III. Failure by the Developer to fully and timely remit payment of property taxes when due and owing.
- IV. Failure by the Developer to enter into the Assessment Agreement.
- V. Failure by the Developer to maintain compliance with Sections A.2, A.5, A.6, A.7, A.8 and A.9 of this Agreement.
- VI. Failure by the Developer to observe or perform any other material covenant on its part, to be observed or performed hereunder.

B. Notice and Remedies. Whenever any Event of Default described in this Agreement occurs, the City shall provide written notice to the Developer describing the cause of the default and the steps that must be taken by the Developer in order to cure the default. The Developer shall have thirty (30) days after receipt of the notice to cure the default or to provide assurances satisfactory to City that the default will be cured as soon as reasonably possible. If the Developer fails to cure the default or provide assurances, the City shall then have the right to:

- I. Pursue any action available to it, at law or in equity, in order to enforce the terms of this Agreement.
- II. Accelerate the due date of the then unforgiven principal amount of the Forgivable Loan, which amount shall become due and owing within 30-days of the provision of a written notice of such acceleration from the City to the Developer. In the event of acceleration of the Forgivable Loan, the provisions with respect to loan forgiveness as set forth in section B.1 of this Agreement shall not apply.
- III. Withhold the Payments provided for under Section B.2 below.

11. Legal and Administrative Costs. The Developer hereby acknowledges that the City will cover the initial payment of legal fees and administrative costs (the "Actual Admin Costs") incurred by the City in connection with the drafting, negotiation and authorization of this Agreement, including the necessary amendment to the Urban Renewal Area. Furthermore, the Developer agrees that the City shall withhold an amount (the "Admin Withholding Amount")

equal to the lesser of (1) \$3,500 or (2) the Actual Admin Costs from the initial Payments, as hereinafter set forth in order to recover some or all of the Actual Admin Costs.

B. City's Obligations

1. **Forgivable Loan; Loan Forgiveness.** The City has advanced the Forgivable Loan Proceeds to the Developer in an amount equal to \$20,000.

Upon receipt of a satisfactory Annual Report from the Developer demonstrating that the Developer is in compliance with required elements set forth in Section A.2 of this Agreement, the City shall forgive \$4,000 of the principal amount of the Forgivable Loan. If the Developer fails to submit an Annual Report as required in Section A.2 above in any given fiscal year, then no principal of the Forgivable Loan will be forgiven in such fiscal year.

2. **Payments.** In recognition of the Developer's obligations set out above, the City agrees to make ten (10) annual economic development tax increment payments (the "Payments" and, individually each, a "Payment") to the Developer during the Term (as hereinafter defined) pursuant to Chapters 15A and 403 of the Code of Iowa, provided however that the aggregate, total amount of the Payments to be made under this Agreement during the Term (as hereinafter defined) shall not exceed \$15,000 (the "Maximum Payment Total"). All Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

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

Prior to funding any Payments hereunder, the City shall retain an amount equal to the Admin Withholding Amount from the Incremental Property Tax Revenues received with respect to the Property. Once such amount has been withheld, the Payments shall be funded as described herein.

Each Payment shall not exceed an amount which represents the amount of Incremental Property Tax Revenues available to the City with respect to the Property during the twelve (12) months immediately preceding each Payment date.

It is assumed that the new valuation from the Project will go on the property tax rolls as of January 1, 2022. Accordingly, the Payments will be made on June 1 of each fiscal year, beginning on June 1, 2024 and continuing to, and including, June 1, 2033, or until such earlier date upon which total Payments equal to the Maximum Payment Total have been made.

3. **Annual Appropriation.** Each Payment shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term (as hereinafter defined) of this Agreement, beginning in calendar year 2022, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payment due in the following fiscal year, an amount (the "Appropriated Amount") of Incremental Property Tax Revenues to be collected in the following fiscal year equal to or less than the most recently submitted Developer's Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payment scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payment or to seek damages relative thereto or to compel the funding of such Payments in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payment shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Developer's Estimate as called for in Section A.6 above, provided however that no Payment shall be made after June 1, 2033.

4. **Payment Amounts.** Each Payment shall be in an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, 2024, the amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, 2022) provided, however, that no Payment shall exceed an amount which represents the Incremental Property Tax Revenues available to the City with respect to the Property during the twelve (12) months immediately preceding each Payment date.

5. **Certification of Payment Obligation.** In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section B.3 above, then the City Clerk will certify by December 1 of each such year to the Jasper County Auditor an amount equal to the most recently obligated Appropriated Amount.

C. **Administrative Provisions**

1. **Amendment and Assignment.** Neither party may cause this Agreement to be amended, assigned, assumed, sold or otherwise transferred without the prior written consent of the other party. However, the City hereby gives its permission that the Developer's rights to receive the Payments hereunder may be assigned by the Developer to a private lender, as security on a credit facility taken with respect to the Project, without further action on the part of the City.

2. **Successors.** This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

3. **Term.** The term (the "Term") of this Agreement shall commence on the Commencement Date and end on June 1, 2033 or on such earlier date upon which the aggregate sum of Payments made to the Developer equals the Maximum Payment Total.

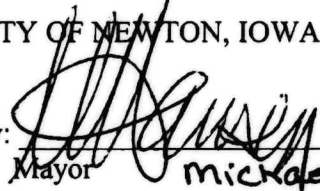
4. **Choice of Law.** This Agreement shall be deemed to be a contract made under the laws of the State of Iowa and for all purposes shall be governed by and construed in accordance with laws of the State of Iowa.

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

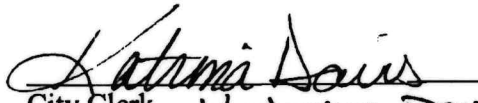
CITY OF NEWTON, IOWA

By:

Mayor


Michael L. Hansen

Attest:


City Clerk Katrina Davis

CINDY ROGERS-SELL



EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

THE EAST ONE-THIRD OF LOT 2 IN BLOCK 20, ORIGINAL TOWN, NOW IN THE CITY OF NEWTON, JASPER
COUNTY, IOWA

EXHIBIT B
REQUIRED IMPROVEMENTS

- (1) the installation of a new heating, ventilation and air conditioning system;
- (2) the construction of bathroom improvements;
- (3) the installation of new flooring;
- (4) wall restorations;
- (5) electrical work;
- (6) painting; and
- (7) interior first level tin ceiling restoration.

EXHIBIT C
MINIMUM ASSESSMENT AGREEMENT

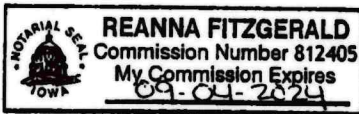
CERTIFICATION BY ASSESSOR

The undersigned Assessor, being legally responsible for the assessment of the above described property upon completion of improvements to be made on it, hereby certifies that the actual value assigned to such land and improvements upon completion, shall be not less than One Hundred Thousand Dollars (\$100,000) until termination of the Agreement.

John M. Deeg
County Assessor for Jasper County,
State of Iowa

Subscribed and sworn to before me this 31 day of August, 2021.

Reanna Fitzgerald
Notary Public





Doc ID: 003971330022 Type: GEN
Recorded: 10/04/2021 at 10:06:07 AM
Fee Amt: \$112.00 Page 1 of 22
Jasper County, Iowa
Denise Allan County Recorder

File **2021-00007445**

**MINIMUM ASSESSMENT AGREEMENT
Recorder's Cover Sheet**

Preparer Information: (name, address and phone number)

Amy M. Bjork, Esq., Dorsey & Whitney LLP, 801 Grand Avenue, Suite 4100, Des Moines, IA 50309; Phone: 515-699-3285

Return Document To:

Katrina Davis, City Clerk, City of Newton, Iowa, 101 W 4th St S., Newton Iowa 50208, Phone 641-791-0807

City:

City of Newton, Iowa

Property Owner:

Cindy Rogers-Sell

Legal Description: See Attached

Book & Page Reference if applicable:

MINIMUM ASSESSMENT AGREEMENT

THIS AGREEMENT, dated as of the 27th day of August, 2021, by and among the City of Newton, Iowa (the "City"), Cindy Rogers-Sell (the "Property Owner"), and the County Assessor of Jasper County (the "Assessor").

WITNESSETH

WHEREAS, the Property Owner owns the real property, the legal description of which is contained in Exhibit A attached hereto (the "Property"), which is located in the North Central Urban Renewal Area in the City; and

WHEREAS, the Property Owner has undertaken the renovation of an existing building on the Property ("the Project") for use in the business operations of a retail store; and

WHEREAS, a development agreement (the "Development Agreement"), dated August 27, 2021, has been executed between the City and the Property Owner in connection with the Property Owner's investment in and business operations on the Property; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, the City and the Property Owner desire to establish a minimum taxable value for the Property and the improvements to be constructed thereon, which shall be effective as of January 1, 2022, and from then until this Agreement is terminated pursuant to the terms herein and which is intended to reflect the minimum market value of the land and improvements;

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Effective January 1, 2022, the minimum actual value which shall be assessed for the Property, taking into account the improvements to be constructed thereon, shall be One Hundred Thousand Dollars (\$100,000) until termination of this Agreement.

2. The Property Owner hereby agrees that the assessed valuation (hereinafter referred to as the "Minimum Actual Value") set forth in Section 1 above shall become and remain effective as of January 1, 2022, and throughout the term of this Agreement, regardless of the actual degree of completion or incompleteness of the Project, even if construction of the Project is not commenced by such date. Furthermore, the Property Owner acknowledges that the City has changed its position in reliance on the timeliness of such increase in valuation as set forth in the Development Agreement.

3. The Property Owner agrees to pay when due, all taxes and assessments, general or special, and all other charges whatsoever levied upon or assessed or placed against the Property, subject to any limitations set forth in the Development Agreement. The Property Owner further agrees that until this Agreement is terminated they will not seek administrative or judicial review

of the applicability, enforceability, or constitutionality of this Agreement or the obligation to be taxed based upon the Minimum Actual Value or to raise any such argument by way of defense in any proceedings, including delinquent tax proceedings.

4. This Agreement, and the minimum assessed valuation established herein, shall be effective until such time as the City's obligations to make Payments (as defined in the Development Agreement) have been satisfied in-full.

5. Nothing herein shall be deemed to waive the Property Owner's rights under Section 403.6(19) Code of Iowa, (2021) or otherwise, to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value.

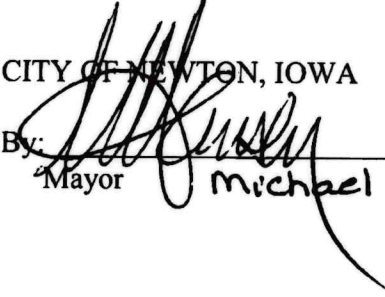
6. This Agreement shall be promptly recorded with the Jasper County Recorder, along with a copy of Iowa Code Section 403.6.

7. Neither the preamble nor provisions of this Agreement are intended to, nor shall they be construed as, modifying the terms of any other contract between the City and the Property Owner, including the Development Agreement.

[Remainder of page intentionally left blank.]

This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties.

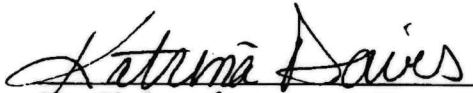
CITY OF NEWTON, IOWA

By: 

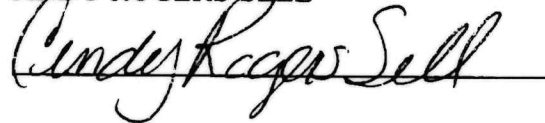
Mayor

Michael L. Hansen

Attest:


City Clerk Katrina Davis

CINDY ROGERS-SELL



STATE OF IOWA)
)
COUNTY OF JASPER) SS:

The foregoing instrument was acknowledged before me this 3rd day of August, 2021, by Michael Hansen and Katrina Davis, the Mayor and City Clerk, respectively, of Newton, Iowa, a municipal corporation of the State of Iowa, on behalf of the City.

Shawnda Nine
Notary Public



STATE OF IOWA)
) SS:
COUNTY OF Jasper)

The foregoing instrument was acknowledged before me this 27 day of August, 2021 by Cindy Rogers-Sell.



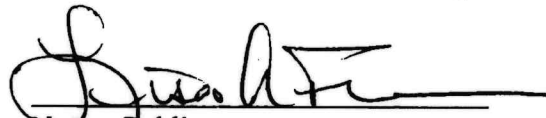

Notary Public

EXHIBIT A TO MINIMUM ASSESSMENT AGREEMENT

THE EAST ONE-THIRD OF LOT 2 IN BLOCK 20, ORIGINAL TOWN, NOW IN THE CITY OF NEWTON, JASPER
COUNTY, IOWA

LIENHOLDER'S CONSENT, IF ANY

In consideration of one dollar and other valuable consideration, the receipt of which is hereby acknowledged, and notwithstanding anything in any loan or security agreement to the contrary, the undersigned ratifies, approves, consents to and confirms the Assessment Agreement entered into between the parties, and agrees to be bound by its terms. This provision shall be binding on the parties and their respective successors and assigns.

[NAME OF LIENHOLDER]

By: _____
Signature

Date: _____

STATE OF IOWA)
) SS:
COUNTY OF JASPER)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by _____ the _____ of _____.

Notary Public

[Add additional pages for each Lienholder]

[If no Lienholders exist, this consent will not be completed]

EXHIBIT D

DEVELOPER'S ESTIMATE WORKSHEET

- (1) Date of Preparation: October ____, 20__.
- (2) Assessed Taxable Valuation of Property as of January 1, 20__:
- \$_____.
- (3) Base Taxable Valuation of Property:
- \$_____.
- (4) Incremental Taxable Valuation of Property (2 minus 3):
- \$_____ (the "TIF Value").
- (5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):
- \$_____ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).
- \$_____ x \$_____/1000 = \$_____ (the "Developer's Estimate")

EXHIBIT E
EXECUTED PROMISSORY NOTE