

October 3, 2024

SERVICE COMMITTEE

October 7, 2024

*Committee and Council Meetings can be viewed by accessing YouTube
Following Finance Committee*

Council Chambers

AGENDA

1. Consider **Resolution No. 24-84** A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO EXECUTE A CONTRACT FOR REIMBURSEMENT OF LEGAL REPRESENTATION OF INDIGENT PERSONS FOR CALENDAR YEAR 2025 WITH THE LICKING COUNTY BOARD OF COMMISSIONERS FOR THE CITY OF NEWARK, LICKING COUNTY, OHIO AND DECLARING AN EMERGENCY.
2. Consider **Ordinance No. 24-38** AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AND A RESOLUTION AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY
3. Consider **Resolution No. 24-87** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO TO APPLY FOR, ACCEPT AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT AGREEMENT ON BEHALF OF THE CITY OF NEWARK FOR PLANNING, DESIGN AND\OR CONSTRUCTION OF LEAD SERVICE LINE REPLACEMENT PROJECT #6 AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN.
4. Consider **Resolution No. 24-88** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE AND AWARD BIDS AND ENTER INTO CONTRACT, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR THE RACCOON CREEK – CHERRY BEND SLOPE REPAIR PROJECT.

5. Consider **Resolution No. 24-89** Major rehabilitation of pavement; replacement of composite pavement and construction of additional general use lanes. Bridge and culvert maintenance work to be completed within project area.

6. Consider **Resolution No. 24-90** A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A NEW MANAGEMENT AGREEMENT WITH THE LICKING COUNTY FAMILY YMCA TO OPEN AND OPERATE THE HOLLANDER POOL

7. Other items at the discretion of the Chair

BY _____

A RESOLUTION AUTHORIZING THE DIRECTOR OF PUBLIC SERVICE TO EXECUTE A CONTRACT FOR REIMBURSEMENT OF LEGAL REPRESENTATION OF INDIGENT PERSONS FOR CALENDAR YEAR 2025 WITH THE LICKING COUNTY BOARD OF COMMISSIONERS FOR THE CITY OF NEWARK, LICKING COUNTY, OHIO AND DECLARING AN EMERGENCY.

WHEREAS, in circumstances where an indigent individual is charged with a violation of ordinances of the City of Newark, and that person requests appointed counsel because the defendant is indigent, the Licking County Municipal Court will appoint an attorney to provide for the individual's defense; and,

WHEREAS, the county provides legal representation for indigent adults through an appointed counsel system adopted in accordance with Ohio Revised Code Section 120.33.

WHEREAS, the county may contract with a municipal corporation to provide legal representation for indigent persons charged with a violation of an ordinance of a municipal corporation for which the penalty or any possible adjudication includes the loss of liberty.

WHEREAS, if there is no existing agreement between the City of Newark and Licking County Board of Commissioners regarding the reimbursement of the counsel appointed for defendant, Licking County is unable to reimburse such attorney.

WHEREAS, it is necessary to annually execute a new agreement between the City of Newark and the Licking County Board of Commissioners regarding such reimbursement; and,

WHEREAS, the contract must be executed on or before December 31, 2024 and therefore this Resolution must be effective ahead of that date to ensure the continuation of the required contractual reimbursement process; and

WHEREAS, the Service Committee of the Newark City Council has considered this matter and forwards the same to the full Council for its consideration.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING AND STATE OF OHIO, THAT:

SECTION 1: The Director of Public Service is hereby authorized and directed to enter into and execute a Contract for Legal Representation of Indigent Persons in the Licking County Municipal Court with the Licking County Board of Commissioners regarding the reimbursement of counsel fees for indigents charged with violations of Municipal

Ordinances for which the penalty or any possible adjudication includes potential loss of liberty.

SECTION 2: This Resolution shall become effective immediately for the reasons as set forth herein and to protect the public peace, health, safety or welfare pursuant to Article 4.07 of the Charter of the City of Newark, Ohio.

Adopted this ____ day of _____, 20 ____.

PRESIDENT OF COUNCIL

ATTEST: _____
CLERK OF COUNCIL

DATE FILED WITH MAYOR: _____

DATE APPROVED BY MAYOR: _____

MAYOR

FORM APPROVED:



DIRECTOR OF LAW

Prepared by the Office of the Director of Law

ORDINANCE NO. 24-38

BY: _____

AN ORDINANCE APPROVING THE EDITING AND INCLUSION OF CERTAIN ORDINANCES AND A RESOLUTION AS PARTS OF THE VARIOUS COMPONENT CODES OF THE CODIFIED ORDINANCES; PROVIDING FOR THE ADOPTION OF NEW MATTER IN THE UPDATED AND REVISED CODIFIED ORDINANCES; REPEALING ORDINANCES AND RESOLUTIONS IN CONFLICT THEREWITH; AND DECLARING AN EMERGENCY.

WHEREAS, Council has had the matter of general updating and revision of the Codified Ordinances of the City before it for some time; and

WHEREAS, it has heretofore entered into a contract with The American Legal Publishing Company to prepare and publish such updating and revision; and

WHEREAS, various ordinances and a resolution of a general and permanent nature have been passed by Council since the date of the last updating and revision of the Codified Ordinances (December 31, 2022) and have been included in the Codified Ordinances of the City; and

WHEREAS, certain changes were made in the Codified Ordinances to bring City law into conformity with State law; and

WHEREAS, an emergency exists in the City in that it is necessary to have an up-to-date Code of laws with which to administer the affairs of the City and to insure law and order.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NEWARK, STATE OF OHIO:

Section 1: That the editing, arrangement and numbering or renumbering of the following ordinances and resolution are hereby approved as parts of the various component codes of the Codified Ordinances of the City, so as to conform to the classification and numbering system of the Codified Ordinances:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
23-01-A	2-6-23	830.03 to 830.05
23-22-A	9-5-23	1230.04, 1232.01, 1232.02, 1232.99, 1234.04, 1236.02, 1242.03, 1253.02, 1253.08, 1261.02, 1265.021, 1274.07, 1274.08, 1286.01, 1292.06

Section 2: That the following sections of the Codified Ordinances are or contain new matter in the Codified Ordinances and are hereby approved, adopted and enacted:

202.02, 402.077, 402.36, 408.02, 432.30, 432.41, 434.01, 434.03, 436.071, 436.09, 436.16, 438.16, 438.18, 438.24, 438.30, 440.01, 440.08, 442.01, 442.03, 442.05, 452.05, 606.01, 606.06, 606.12, 606.29, 612.02, 612.07, 618.06, 624.01, 630.11, 636.02, 636.045, 636.05, 636.11, 636.12, 636.13, 636.20, 642.02, 642.08, 648.06, 648.08, 648.15, 666.01, 666.05, 666.06, 666.07, 672.02, 672.04, 672.17, 672.18, 698.02

Section 3: That the following section of the Codified Ordinances is hereby repealed:

Section 4: That pursuant to Ohio R.C. 731.23, the Clerk of Council shall publish, in a manner required by law, a notice of the enactment of this ordinance, containing the title of this ordinance, together with a summary of the new matter contained in the 2024 Replacement Pages hereby approved, adopted and enacted, a copy of which summary is attached hereto as Exhibit A.

Section 5: That all ordinances and resolutions or parts thereof which are in conflict or inconsistent with any provision of the new matter adopted in Section 2 of this ordinance are hereby repealed as of the effective date of this ordinance except as follows:

- (a) The enactment of such sections shall not be construed to affect a right or liability accrued or incurred under any legislative provision prior to the effective date of such enactment, or an action or proceeding for the enforcement of such right or liability. Such enactment shall not be construed to relieve any person from punishment for an act committed in violation of any such legislative provision, nor to affect an indictment or prosecution therefor. For such purposes, any such legislative provision shall continue in full force notwithstanding its repeal for the purpose of revision and recodification.

Section 6: That for the reasons stated in the preamble hereto, which is made a part hereof, this ordinance is hereby declared to be an emergency measure and shall take effect and be in force from and after its passage and approval by the Mayor.

Passed this ___ day of _____, 20__.

President of Council

Attest: _____
Clerk of Council

Date Filed With Mayor: _____

Date Approved by Mayor: _____

Mayor

Form Approved: _____
Law Director

EXHIBIT A

SUMMARY OF NEW MATTER
CONTAINED IN THE 2024 REPLACEMENT PAGES
FOR THE
CODIFIED ORDINANCES OF NEWARK, OHIO

New matter in the Codified Ordinances of Newark, Ohio, as contained in the 2024 Replacement Pages therefor, includes legislation regarding:

<u>Section</u>	<u>New or amended matter regarding:</u>
202.02	General definitions.
402.077	Child care center or type A family child care home definition.
402.36	School bus definition.
408.02	General Code penalty.
432.30	Stopping for school bus; actuating visual signals; discharging children.
432.41	Texting while driving prohibited.
434.01	Driving or physical control of vehicle while under the influence of alcohol or drugs.
434.03	Maximum speed limits; assured clear distance ahead.
436.071	Driving under suspension or in violation of license restriction.
436.09	Display of license plates; registration; obstructions.
436.16	Removal of vehicles after accidents.
438.16	Number of lights permitted; red and flashing lights.
438.18	Vehicle transporting preschool children.
438.24	Limited load extension on left side of passenger vehicle.
438.30	Use of child restraints.
440.01	Load limits.
440.08	Occupying travel trailer, fifth wheel vehicle, or manufactured or mobile home while in motion.
442.01	Definitions pertaining to drivers of commercial vehicles.
442.03	Licensing requirements.
442.05	Criminal offenses.
452.05	Willfully leaving vehicles on unposted private or public property.
606.01	Definitions pertaining to general offenses code.
606.06	Limitation on criminal prosecutions.
606.12	Failure to report a crime or death.
606.29	Misuse of 9-1-1 system.
612.02	Sales to underage persons; prohibitions and misrepresentations.
612.07	Open container prohibited.
618.06	Coloring rabbits and baby poultry; sale or display of poultry.
624.01	Definitions pertaining to drugs.
630.11	Raffle drawings.
636.02	Assault.
636.045	Menacing by stalking.

- 636.05 Menacing.
- 636.11 Endangering children.
- 636.12 Interference with custody.
- 636.13 Failing to provide for a person with a functional impairment.
- 636.20 Illegal distribution of cigarettes, other tobacco products, or alternative nicotine products; transaction scans.
- 642.02 Theft.
- 642.08 Assaulting police dog or horse or assistance dog.
- 648.06 Disturbing a lawful meeting.
- 648.08 Inducing panic.
- 648.15 Impeding public passage of an emergency service responder.
- 666.01 Definitions pertaining to sex related offenses.
- 666.05 Voyeurism.
- 666.06 Polygraph examinations for victims; restrictions on use.
- 666.07 Procuring; engagement in sexual activity for hire.
- 672.02 Carrying concealed weapons.
- 672.04 Improperly handling firearms in a motor vehicle.
- 672.17 Possession of an object indistinguishable from a firearm in a school safety zone.
- 672.18 Concealed handgun licenses; possession of a revoked or suspended license; additional restrictions; posting of signs prohibiting possession.
- 698.02 Penalties for misdemeanor.

RESOLUTION NO. 24-87

BY: _____

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO TO APPLY FOR, ACCEPT AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT AGREEMENT ON BEHALF OF THE CITY OF NEWARK FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF LEAD SERVICE LINE REPLACEMENT PROJECT #6 AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN.

WHEREAS, the City of Newark operates a Water Distribution System throughout the City; and,

WHEREAS, the distribution system has approximately 5,000 lead and/or galvanized water service lines; and,

WHEREAS, replacement of lead and galvanized service lines is a requirement of Ohio EPA in order to eliminate lead material and to maintain efficient and cost-effective operations of the system; and,

WHEREAS, the Ohio Water Supply Loan Fund requires the government authority to pass legislation for application of a loan and the execution of an agreement as well as designating a dedicated repayment source; and,

WHEREAS, the Public Service Committee of the Newark City Council met on October 7, 2024 and approved submission of the legislation for full council consideration.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, AND STATE OF OHIO, THAT:

Section 1: The Director of Public Service is hereby authorized and directed to apply for a WSRLA loan, sign all documents for and enter into a Water Supply Revolving Loan Account Agreement with the Ohio Environmental Protection Agency and the Ohio Water Development Authority for planning, design and/or construction of water facilities on behalf of the City of Newark, Ohio.

Section 2: That the dedicated source of repayment will be user charges.

Section 3: This resolution shall become effective at the earliest time permitted in accordance with Article 4.07 of the Charter of the City of Newark, Ohio.

Passed this _____ day of _____ 2024.

PRESIDENT OF COUNCIL

ATTEST:
CLERK OF COUNCIL

DATE FILED WITH MAYOR: _____

DATE APPROVED BY MAYOR: _____

MAYOR

FORM APPROVED: _____

DIRECTOR OF LAW

Prepared by the Division of Water and Wastewater

W W DIVISION OF WATER & WASTEWATER W W

Brandon Fox
Utilities Superintendent
740-670-7945

34 South 5th Street
P. O. Box 4100
Newark, Ohio 43058-4100

MEMORANDUM

TO: Jeff Rath, Chairman
Public Service Committee

FROM: Brandon Fox 
Water Administrator

SUBJECT: Service Committee Agenda

DATE: September 30, 2024

COPIES: Mayor, Service Director, Clerk of Council, Jeff Rath, Dustin Neely, Bill Cost Jr., Beth Bline, Bradley Chute, file

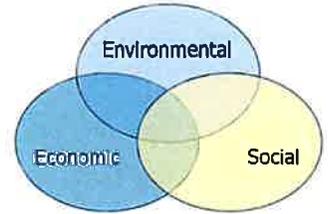
I would appreciate some time on the next Service Committee agenda to present the following resolution.

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO TO APPLY FOR, ACCEPT AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT AGREEMENT ON BEHALF OF THE CITY OF NEWARK FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF LEAD SERVICE LINE REPLACEMENT PROJECT #6 AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN.

Department of Public Service

Division of Water and Wastewater

Request for Legislation



Project Title: Lead Service Line Replacement Project #6 WSRLA funding

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE OF THE CITY OF NEWARK, OHIO TO APPLY FOR, ACCEPT AND ENTER INTO A WATER SUPPLY REVOLVING LOAN ACCOUNT AGREEMENT ON BEHALF OF THE CITY OF NEWARK FOR PLANNING, DESIGN AND/OR CONSTRUCTION OF LEAD SERVICE LINE REPLACEMENTS AND DESIGNATING A DEDICATED REPAYMENT SOURCE FOR THE LOAN.

Background/Purpose:

The City has approximately 5,000 water service lines constructed of material other than copper that need replaced as part of Ohio EPA’s requirements. The water services needing replaced will be split into manageable contracts of 400-500 services every six months, awarded over the next five years.

Scope of Work:

The Division of Water and Wastewater, through the Director of Public Service, is requesting authorization to accept and enter into an agreement for a construction loan for this project. This current legislation authorizes that process to start.

Justification/Urgency:

Ohio EPA has dedicated \$170 Million dollars per year over the next four years for Lead Service Line Replacement Projects through the WSRLA program. The funding is 53% principal forgiveness and 47% zero percent interest. It is in the best interest of the City to take advantage of this funding and it is anticipated the City will award two projects per year through 2028.

Anticipated Costs and funding source:

The estimated construction cost at this time is \$3.0M, however 53% of the funds are Principal Forgiveness. The project has been nominated for funding to Ohio EPA Water Supply Revolving Loan Account for Project Year 2024-2025.

Schedule or Term of Contract:

Construction is anticipated to start in January 2025.

Community Impact:

This project will benefit the City as well as the residents by replacing 75-100 year old water lines that are leaking, plugged and failing and will also meet Ohio EPA requirements.

Request Initiated by:

Brandon Fox, Water Administrator (bfox@newarkohio.net - 670-7945)

RESOLUTION NO: 24-88

BY: _____

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ADVERTISE AND AWARD BIDS AND ENTER INTO CONTRACT, SUBJECT TO THE APPROPRIATION OF FUNDS, FOR THE RACCOON CREEK – CHERRY BEND SLOPE REPAIR PROJECT.

WHEREAS, it is necessary to perform the above construction project in the City of Newark to enhance the convenience, safety, and general well being of the citizens of the City; and,

WHEREAS, the Service Committee of Council considered and authorized the submittal of this legislation during its October 7, 2024, meeting; and,

WHEREAS, the Newark City Engineer has prepared specifications and estimates for cost for the proposed project and filed the same with the Director of Public Service.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING AND STATE OF OHIO, THAT:

Section 1: The Director of Public Service is hereby authorized and directed to advertise and award bids and enter into contracts, subject to the appropriation of funds, for the following projects in accordance with the specifications and cost estimates for same to be filed in the Public Service Director’s office.

- 1. Raccoon Creek – Cherry Bend Slope Repair Project, 202112

Section 2: This Resolution shall take effect and be in force from and after the earliest period allowed by law.

Adopted this _____ day of _____, 2024.

President of Council

Attest: _____
Clerk of Council

Date Filed with Mayor: _____

Date Approved by Mayor: _____

Mayor

Form Approved By: _____
Law Director

Prepared by the Division of Engineering.

BY: _____

PRELIMINARY LEGISLATION

Consent

Rev. 6/26/00

Resolution #: 24-89

County/Route/Section: LIC SR 16/37/ 14.24/15.72

The following is a/an Resolution enacted by the City of Newark of Licking County, Ohio hereinafter referred to as the Local Public Agency (LPA).

SECTION I – Project Description

WHEREAS, the Ohio Department of Transportation (ODOT) has determined the need for the described project:

Major rehabilitation of pavement; replacement of composite pavement and construction of additional general use lanes. Bridge and culvert maintenance work to be completed within project area.

NOW THEREFORE, be it ordained by the City of Newark of Licking County, Ohio.

SECTION II – Consent Statement

Being in the public interest, the LPA gives consent to the Director of Transportation to complete the above described project.

SECTION II – Cooperation Statement

The LPA shall cooperate with the Director of Transportation in the development and construction of the above described project as follows:

1. The LPA gives consent for the above improvement, and
2. The LPA further agrees to pay 100% of the cost of those features requested by the LPA which are determined by the State and Federal Highway Administration to be unnecessary for the Project.

SECTION IV – Utilities and Right-of-Way Statement

If city owned utilities, within a corporation limit or in a private easement outside corporation limits, need to be relocated due to this ODOT project, the city will be reimbursed for any relocation work; ODOT will perform the coordination, relocation, and reimbursement which shall comply with the current provisions of 23 CFR 645 and the ODOT Utilities Manual.

If other public and private utilities need to be relocated due to this ODOT project they will not be reimbursed for relocation; with exceptions due to an easement, etc.

SECTION V – Maintenance

Upon completion of the Project, and unless otherwise agreed, the LPA shall: (1) provide adequate maintenance for the Project in accordance with all applicable State and Federal law, including, but not limited to, Title 23, U.S.C., Section 116; (2) provide ample financial provisions, as necessary, for the maintenance of the Project; (3) maintain

the right-of-way, keeping it free of obstructions; and (4) hold said right-of-way inviolate for public highway purposes.

SECTION VI Authority to Sign

The LPA hereby authorizes, David Rhodes, Director of Public Service, of the City of Newark is hereby empowered on behalf of the City of Newark to enter into agreements with the Director of Transportation which are necessary to complete the above described project.

SECTION VII-Emergency measure

If required, Resolution is hereby declared to be an emergency measure to expedite the highway project and to promote highway safety. Following appropriate legislative action, **as an emergency measure**, it shall take effect and be in force immediately upon its passage and approval, otherwise it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 20____.
(Date)

President of Council: _____

Attested: _____
(Clerk of Council)

Date filed with Mayor: _____

Date Approved by Mayor: _____

Mayor: _____

Approved as to form – Director of Law: _____

Contracting Agent – Service Director: _____

**CERTIFICATE OF COPY
STATE OF OHIO**

City of Newark of Licking County, Ohio

I, _____, as Clerk of the City of Newark of Licking County, Ohio do hereby certify that the foregoing is a true and correct copy of Resolution _____ adopted by the legislative Authority of the said City of Newark on the _____ day of _____, _____.

That the publication of such Resolution has been made and certified of record according to Law; that no proceedings looking to a referendum upon such Resolution have been taken; and that such Resolution and certificate of publication thereof are of record in _____, Page _____.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my official seal, if applicable, this _____ day of _____ 2_____.

(SEAL)

(Clerk)
City of Newark of Licking County, Ohio

The foregoing is accepted as a basis for proceeding with the project herein described.
For the City of Newark of Licking County, Ohio.

Attested: _____ Date _____



For the State of Ohio

Attested: _____ Date _____
(Director, Ohio Department of Transportation)

City of Newark
Division of Engineering

MEMORANDUM

TO : Service Committee
FROM : Brian Morehead, City Engineer
DATE : 26 September 2024
RE : Committee Agenda for 10/7/2024

Please allow time on your next agenda to discuss submitting legislation to Council for the following items:

- 1) Legislation to permit bidding and enter into contract for the following projects:
 - a) Raccoon Creek – Cherry Bend Slope Repair Project, funded with City funds. The City has solicited bids, is awaiting bid award, and the project is planned to begin soon with completion by Summer 2025.
- 2) Preliminary Legislation consenting and participating with the Ohio Department of Transportation (ODOT) in carrying out the following project:

LIC-SR16/37–14.24/15.72 – PID 95445 project, described as major rehabilitation of pavement, replacement of composite pavement and construction of additional general use lanes, and bridge and culvert maintenance as well. Within Newark, this project involves State Route 16, from 0.1 miles east of Thornwood Crossing to the west corp line, about ½ mile in length.

Please let me know if you have any further questions before the meeting.

cc: David Rhodes, Service Director
Brandon Fox, Utilities Administrator
Lindsey Brighton, Storm Water Utility
City Engineer
Files 202112

RESOLUTION NO. 24-90

BY: _____

A RESOLUTION AUTHORIZING AND DIRECTING THE DIRECTOR OF PUBLIC SERVICE TO ENTER INTO A NEW MANAGEMENT AGREEMENT WITH THE LICKING COUNTY FAMILY YMCA TO OPEN AND OPERATE THE HOLLANDER POOL

WHEREAS, the City of Newark and the Licking County Family YMCA have been parties to an operating agreement for the management and operation of the Hollander Pool owned by the City; and,

WHEREAS, the Facility has not been in operation or open to the public for the past few years; and,

WHEREAS, the City has made certain repairs and improvements to the facility in an effort to re-open the facility for public recreation purposes and both the City and the YMCA wish to enter into a new management and operation agreement to facilitate the opening and proper operation of the facility for the benefit of all residents; and,

WHEREAS, this matter was addressed in the Service Committee on October 7, 2024, which recommended consideration of the same by full Council.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF NEWARK, COUNTY OF LICKING, STATE OF OHIO, THAT:

SECTION ONE: The Director of Public Service is hereby authorized and directed to enter into the attached management agreement, subject to the appropriation of funds, with the Licking County Family YMCA for the maintenance and operation of the Hollander Pool, subject to amendment, modification, and extension from time to time.

SECTION TWO: This Ordinance shall be effective at the first date permitted as provided in Article 4.07 of the Charter of the City of Newark.

Adopted this _____ day of _____, _____.

PRESIDENT OF COUNCIL

Attest: _____
Clerk of Council

Date Filed with Mayor: _____

Date Approved by Mayor: _____

Mayor

Form Approved: _____
Director of Law

Resolution Prepared by The Office of The Director of Law

MANAGEMENT AGREEMENT

HOLLANDER POOL

This agreement is made and entered into between the CITY OF NEWARK, OHIO (the City), a municipality chartered pursuant to Ohio law, and the LICKING COUNTY FAMILY YMCA, INC., (YMCA), a non-profit organization incorporated in the State of Ohio on this _____ day of _____, _____.

WHEREAS, the City is the owner of the real property and improvements appurtenant thereto generally known as the Hollander Pool, (the facility) located in Newark, Ohio including but not limited to the facilities, buildings, equipment, swimming pool and all associated filtration and pumping systems, and grounds appurtenant thereto; and,

WHEREAS, YMCA is an Ohio non-profit corporation whose mission will be to operate the facility to provide opportunities to local youth and citizens to participate in activities suitable to the nature of the Facility and consistent with the over-arching mission of the YMCA: and,

WHEREAS, in 2016, after the City had made certain repairs and improvements to the facility in an effort to re-open the facility for public recreation purposes, the City and the YMCA entered into a new management and operation agreement to facilitate the opening and proper operation of the facility for the benefit of all residents.

WHEREAS, after further interruptions in operation which began with the global CoVid-19 pandemic, the City and the YMCA wish to continue their relationship with regard to the management and operation of the facility and therefore execute and enter into a new management agreement to facilitate the opening and proper operation of the facility for the benefit of all users; and,

NOW, THEREFORE, the City and the YMCA agree as follows:

1. **AGREEMENT**: The City and the YMCA agree to enter into this agreement for the management of the facility which shall include the physical facility, swimming pool and all associated filtration and pumping systems, buildings, equipment and the grounds appurtenant thereto according to the terms and conditions of this agreement, said terms and conditions hereby superseding the provisions of any previous management agreement(s) between the parties for the facility in question.
2. **OPERATING AGREEMENT**: The parties agree that YMCA shall continue to manage the physical facility at all times during the term of this agreement and will manage the operation of the facility as a whole during the normal swimming season going forward from the date hereof pursuant to the terms and conditions hereof and in conformity with both the best interests of the facility and the mission of the YMCA.

The YMCA's obligation hereunder shall include all aspects of operation from routine maintenance and minor repair to daily upkeep to ensure the facility is maintained in a

state of good repair and appearance. This responsibility shall include lawn and landscape maintenance and management.

The YMCA shall also be responsible for the procurement, supervision, oversight, retention and all employment related expenses necessary to operate the facility safely and in conformity with both the standards of the industry and the needs of the users of the facility.

The YMCA shall also be responsible for establishing, maintaining, and operating concession services on behalf of the users of the facility in a manner deemed most appropriate by the YMCA in conformity with its overall responsibility to operate the facility consistent with its mission and the specific purpose of the facility.

3. TERM: The term of this agreement shall commence on the date hereof as previously stated and shall continue for a period of four (4) years until its natural termination unless sooner terminated under the provisions of this Agreement. This agreement may be extended by mutual written agreement of the parties
4. USE OF PREMISES: YMCA shall operate the facilities in accordance with its mission to provide local youth and citizens the opportunity to participate in recreational activities consistent with and appurtenant to a municipal swimming pool. The City shall be responsible for making necessary physical improvements and upgrades to the facility to make the same a fully functioning and workable municipal swimming facility and shall assume full responsibility for the costs associated therewith.

The YMCA will, however, lend its assistance and expertise in finalizing the process of making the facility a fully functioning and workable municipal swimming facility. The YMCA's responsibility to otherwise perform as set forth herein will be contingent upon the City satisfying its obligation to make the facility a fully functioning and workable municipal swimming facility.

5. EXPENSES: The YMCA shall be responsible for all expenses associated with the operation and routine maintenance of the facility including all personnel related expenses, all necessary chemicals, miscellaneous equipment, and other related incidental expenses associated with the operation of the facility except as otherwise stated herein.

The City shall pay to the YMCA the sum of \$55,000.00 per year during the term of this agreement as and for an offset to the expense of operation, including but not limited to the procurement of all necessary chemicals, miscellaneous equipment, personnel expenses and other related expenses associated with the operation of the facility. This payment shall be due and payable on or before the 1st day of June of each year hereof.

Should maintenance or repair issues arise during the term of this agreement over and above those repairs ordinarily associated with the operation of a facility of this nature, the City shall be responsible for making such non-ordinary repairs or for the costs of having such repairs completed.

It is understood that the nature of the non-ordinary repair envisioned herein is one which would essentially render the facility non-functional or unusable for its primary purpose. It is further understood that the nature of the non-ordinary expense envisioned herein is one which would not be associated with the normal operation and maintenance of the facility consistent with prevailing industry standards.

6. REVENUES: The YMCA shall be entitled to retain all revenues generated by the operation of the facility and received by the YMCA as a result of any function associated with the facility including but not limited to gate receipts, concessions, rentals or other related receipts.
7. UTILITIES: The City shall provide water and sewer services as needed for the operation of the facility. The City shall assume responsibility for the cost associated with the provision of water and sewer services, electricity, natural gas, telephone and trash collection as is reasonably necessary to operate the facility.
8. INSURANCE: The City shall insure the physical facility under its own general liability and property coverage using limits similar to other City properties. The City shall provide YMCA with a certificate of insurance evidencing liability coverage for all buildings, contents and equipment located at the Facility.

The YMCA shall maintain liability insurance covering the daily functioning and operation, maintenance and management of the facility including but not limited to the conduct and actions of its employees within the scope of their responsibility in managing and operating the facility. YMCA shall provide the City with a certificate of insurance evidencing liability coverage for its agents or employees in the maintenance, operation and administration of the facility.

9. RULES AND REGULATIONS: YMCA shall be responsible for adopting, posting, and enforcing rules and regulations necessary to govern the conduct of persons using the facility, hours of operation and other aspects of facility management. The rules and regulations shall comply with all local, state, and federal law and shall conform to prevailing industry standards.
10. STAFFING: YMCA shall be responsible for managing and supervising the employees and/or agents responsible for the operation and staffing of the facility in a manner consistent with prevailing industry standards. All personnel employed or hired by the YMCA to operate and manage the facility shall be employees of the YMCA and not of the City.
11. ANNUAL MEETING: At the conclusion of each operating season, the parties shall meet to assess the operation and financial status of the facility based upon the activities and results of the preceding year. This meeting shall occur on a mutually agreeable date and shall include representatives of management of the YMCA and members of the City administration as deemed most appropriate by the Mayor. At such meeting, all financial

reports will be shared and discussed by the parties as will all other applicable reports, documents, or information relevant to the operation and viability of the facility. Based upon the information available and the discussions of the parties the amount payable from the City to the YMCA shall be reviewed and modified if necessary by mutual agreement of all parties.

12. SUB-LEASE: YMCA may not sub-lease or assign this agreement, in whole or in part, without the written approval of the City, which shall not be unreasonably withheld. The City acknowledges and approves that YMCA anticipates the possibility of entering into an agreement with a private management company to operate the concessions operations. The YMCA shall, at its discretion, establish the fee charges to the operator with the intention of generating sufficient funds to cover, at a minimum, the costs of such operations.
13. TERMINATION: This agreement may be terminated by mutual agreement of the parties. Each party reserves the right to terminate this agreement upon the giving of ninety (90) days written notice to the other party.
14. ENTIRE AGREEMENT: This agreement sets forth all of the covenants and understandings and shall constitute the entire agreement between the City and YMCA regarding the operation of the facility.
15. MISCELLANEOUS: The terms of this agreement shall be binding upon and shall inure to the benefit of the respective heirs, executors, administrators, successors, and assigns of the undersigned parties. This agreement shall be governed by the laws of the State of Ohio. Time is of the essence as to each provision hereof. Paragraph captions are for identification only and are not a part of this agreement.

IN WITNESS WHEREOF, the undersigned have set their hand on the date as indicated hereon.

CITY OF NEWARK, OHIO

JEFF HALL, MAYOR

DATE: _____

DAVID RHODES
Director of Public Service

DATE: _____

LICKING COUNTY FAMILY YMCA, INC.

DATE: _____

Name: _____
Position: _____

DATE: _____

Name: _____
Position: _____

APPROVED AS TO FORM:

TRICIA M. MOORE
Director of Law