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**COMMUNITY DEVELOPMENT**

Planning,  
Zoning,  
Building Safety,  
Construction Inspection Services,  
Public Health,  
Housing Inspections,  
Code Enforcement

**To:** Mayor and City Council Members  
**From:** Andrew Fangman, City Planner  
**Cc:** Gregg Mandsager, City Administrator

**Date:** June 20, 2019

**Re:** Arbor Commons Sewer Extension Benefit District Establishment Agreement

At the August 16, 2018 City Council meeting, Mike Nolan with NPSW Enterprises, LLC reviewed their request for Tax Increment Financing (TIF) assistance and Sewer Extension Benefit District funding assistance for the Arbor Commons Subdivision, a proposed development of up to 62 new homes in a new subdivision located off of West Fulliam Avenue. City Council, by consensus, gave approval for this project to proceed. On December 6, 2018 City Council approved the development agreement for the TIF financing. The preliminary plat for this subdivision was approved by City Council on January 17, 2019. The final task that must be completed prior to commencement of construction on this subdivision is the execution of an agreement between NPSW and the City of Muscatine regarding Sewer Extension Benefit District funding assistance and the additional funding request that was discussed at June 13<sup>th</sup> City Council in-depth meeting.

Under the proposed agreement, which is attached, NPSW will construct the sewer infrastructure serving the new Arbor Commons neighborhood, including a lift station, and then dedicate it to the City of Muscatine as public infrastructure. Once the City Engineer has certified that the sewer infrastructure has been satisfactorily constructed to City standards, City Council will take action on three items as outlined in the agreement. The acceptance of the sewer improvements as public infrastructure, the payment to NPSW of \$298,500, and the establishment of a sewer extension benefit district which will create a connection fee, paid to the City of Muscatine, for each home connecting to the new sewer infrastructure.

The proposed Arbor Commons Subdivision is a direct and impactful step towards addressing this issue. It has now been more than a decade since a new single-family home subdivision has been constructed in the City of Muscatine. The resulting shortage of suitable lots for the construction of a significant number of single-family homes is a barrier towards achieving a more vibrant and healthy community.

It is the recommendation of City Staff that the proposed sewer extension benefit district establishment agreement be approved. Ensuring that this new 62 home subdivision gets built helps fulfill a critical community need.

## SEWER EXTENSION BENEFIT DISTRICT ESTABLISHMENT AND LIFT STATION ENHANCEMENT AGREEMENT

This Agreement is entered into between the City of Muscatine, Iowa (the "City") and NPSW Enterprises, LLC (the "Developer") as of the 20 day of June, 2019 (the "Commencement Date").

WHEREAS, the Developer owns certain property in the City of Muscatine, the legal description of which is set out in Exhibit A hereto (the "Property"), and the Developer has undertaken the development of sixty-two market-rate, single-family homes (the "Housing Project") on the Property, including the construction of certain public sewer infrastructure improvements in connection therewith (the "Sewer Infrastructure Project"); and

WHEREAS, the Developer has requested that the City provide sewer extension benefit district funding for a portion of the Sewer Infrastructure Project costs; and

WHEREAS, the City Council is willing to provide direct financial assistance to the Developer in order to assist in paying a portion of the cost of the Sewer Infrastructure Project; and

WHEREAS, the City Council declares its intent to utilize connection fees to recover a the direct financial assistance, given by the City to the Developer, from property owners who connect to the Sewer Infrastructure Project subsequent to its construction; and

WHEREAS, establish upon completion of the Sewer Infrastructure Project, a sewer extension benefit district and establish a connection fee under the provisions of Section 384.38(3) of the Code of Iowa; and

WHEREAS, during the subsequent design review process the Water Pollution Control Director recommend a number of upgrades, based on experience with existing lift stations, that increased the cost of the lift station by \$148,500.

NOW THEREFORE, the parties hereto agree as follows:

### **A. Developer's Covenants:**

**1. Infrastructure Project Construction and Costs.** The Developer agrees to cause the construction of the Sewer Infrastructure Project in accordance with the timeline and specifications set forth on Exhibit B hereto. Prior to constructing the Sewer Infrastructure Project, the Developer will submit copies of all engineering documents related to the proposed Infrastructure Project to the City.

The City shall retain all rights to inspect the Sewer Infrastructure Project for quality of work and full compliance with City Code. Nothing in this subsection shall be interpreted as

limiting the City's rights to not accept the work if the Sewer Infrastructure Project is not completed to the satisfaction of the City.

**2. Sewer Infrastructure Project to be Dedicated as Public Infrastructure.**

Upon completion of the Sewer Infrastructure Project the developer shall dedicate it as public infrastructure to the City of Muscatine. Said dedication shall meet all the requirements for the dedication and acceptance of public infrastructure contained in Title 11 of City Code.

**3. Establishment of a Sewer Extension Benefit District.**

The developer consents to the establishment of a sewer extension benefit district and the resulting sanitary sewer connection fees.

**A. City's Covenants:**

**1. Acceptance of Sewer Infrastructure Project.**

The city shall accepted dedication of the Sewer Infrastructure Project as public infrastructure; if the City Engineer deems the complete work satisfactory and meeting all specifications contained in Exhibit B.

**1. City Payment to Developer.** Upon the acceptance of the Sewer Infrastructure Project as public infrastructure the City shall pay the Developer \$298,500, which includes \$148,5000 for the lift station enhancements recommended by the City.

**2. Establishment of Sewer Extension Benefit District.** The City shall establish a sewer extension benefit district which shall create sewer connection fee that shall be \$2,000 per each originally platted lot, if a dwelling unit is built on a parcel, comprised of more than one originally platted lot, the connection fee shall be \$2,000 multiplied by the number of originally platted, either in whole or part.

**C. Administrative Provisions**

**1. Assignment.** Neither party shall have the right to cause the 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 payment hereunder may be assigned by the Developer to a private lender, as security on a credit facility taken in connection with the Housing Project and/or the Sewer Infrastructure 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. 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.



Attest:

[Signature]  
City Clerk

CITY OF MUSCATINE, IOWA

By: [Signature]  
Mayor

NPSW ENTERPRISES, LLC

By: [Signature]  
Jeff Sorensen  
Managing Partner

The need for improved housing stock has been identified as one of the most pressing problems the community must address for Muscatine to be a thriving community. As a step towards addressing this issue, in 2017 the City of Muscatine commissioned RDG Inc. to conduct a Housing Market and Demand Study. This study evaluated and identified strategies to address housing issues throughout the city; and through community engagement, identified the market gaps and desires of residents and stakeholders. The study summarized these opportunities and identifies potential strategies. One of the key findings of the study is the following: "A limited lot supply presents the most significant challenge to overcome. The construction of new homes meets an immediate need for households who can afford homes above \$200,000. Additionally, new construction indirectly alleviates other housing challenges by opening existing housing and rental units at more affordable prices."

The proposed Arbor Commons Subdivision is a direct and impactful step towards addressing this issue. It has now been more than a decade since a new single-family home subdivision has been constructed in the City of Muscatine. The resulting shortage of suitable lots for the construction of a significant number of single-family homes is a barrier towards achieving a more vibrant and health community.