

City of Tipton, Iowa

Meeting: Tipton Special City Council Meeting
Place: Tipton Fire Station, 301 Lynn Street, Tipton, Iowa 52772
Date/Time: Monday, June 13, 2022, 5:30 p.m.
Web Page: www.tiptoniowa.org
Posted: Friday, June 10, 2022 (Front door of City Hall & City Website)

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/620614781>

You can also dial in using your phone.

United States (Toll Free): [1 877 309 2073](tel:18773092073)

United States: [+1 \(646\) 749-3129](tel:+16467493129)

Access Code: 620-614-781

Mayor: Bryan Carney

Council at Large:	Abby Cummins-VanScoy	Council At Large:	Jason Paustian
Council Ward #1	Ron Hembry	Council Ward #2	Mike Helm
Council Ward #3	Tim McNeill	City Attorney:	Lynch Dallas, P.C.
City Manager:	Brian Wagner	Gas Utilities Supt:	Adam Fitch
Finance Director:	Melissa Armstrong	Electric Utilities Supt:	Floyd Taber
City Clerk:	Amy Lenz	Water & Sewer Supt:	Brian Brennan
Dir. Of Public Works:	Steve Nash	Ambulance Svc Dir:	Brad Ratliff
Police Chief:	Lisa DuFour	Economic Dev. Dir.	Linda Beck
Park & Recreation:	Adam Spangler	Library Director:	Denise Smith

Call to Order

A. Roll Call

B. Pledge of Allegiance

C. Agenda Additions/Agenda Approval

D. Communications

E. City Business

1. Resolution No. 061322A: Resolution to approve amended and restated easement agreement between the City of Tipton, Iowa, and Cedar County Cooperative.
2. Discussion and possible action concerning 4th of July parade route change due to street project.
3. Discussion and possible action concerning moving the August meetings to August 8th and August 22nd.
4. Discussion and possible action concerning bid from Crock Construction for concrete pad at Tipton Airport.
5. Discussion and possible action setting the July 20th Council Meeting as the time and location of the "Tipton Urban Renewal Area Amendment/Consultation Session with representatives of the Tipton School District and Cedar County.
6. Resolution No. 061322B: Resolution in support of the "Rhino's Building Upper-Story Housing Project" and its application to the Workforce Housing Tax-Credit Program and affirming the City's financial support for the project.

F. Adjournment

Pursuant to §21.4(2) of the Code of Iowa, the City has the right to amend this agenda up until 24 hours before the posted meeting time. If anyone with a disability would like to attend the meeting, please call City Hall at 886-6187 to arrange for accommodations/transportation.

RESOLUTION NO. 061322A

**RESOLUTION TO APPROVE AMENDED AND RESTATED EASEMENT AGREEMENT
BETWEEN THE CITY OF TIPTON, IOWA AND CEDAR COUNTY COOPERATIVE**

WHEREAS, Cedar County Cooperative approached the City to request amendments to a previously agreed upon Easement Agreement, said prior agreement having been previously been approved and thereafter recorded on April 5, 2021, in Book 1101, Page 50-53, Cedar County Recorder records, and

WHEREAS, Cedar County Cooperative's request is tied to its desire to construct a new building in a location and manner that would be inconsistent with aforementioned Easement Agreement, and

WHEREAS, City staff and Cedar County Cooperative have negotiated the terms of an Amended and Restated Easement Agreement, same to modify, amend and replace the original Easement, and

WHEREAS, this matter was set for public hearing by the City Council for May 16, 2022, notice was published, public comment was received, and the public hearing was held, and

WHEREAS, after closing of the public hearing the Council requested that additional consideration be given to the terms of the proposed Easement Agreement and that it be brought back to the City Council for further consideration, and

WHEREAS, the Council finds that the Amended and Restated Easement as now drafted, a copy of same appended hereto, is in the best interests of the City and also allows the Cedar County Cooperative to build as proposed, subject to the limits set out in the Amended and Restated Easement Agreement, further finding that the terms of the Agreement are written in a manner to protect both the City and other property owners, and

WHEREAS, for the above and foregoing reasons the Council finds that the Amended and Restated Easement Agreement should be approved.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Tipton, Iowa does hereby approve the terms and provisions of the attached Amended and Restated Easement Agreement and authorizes the Mayor and City Clerk to execute same on behalf of the City Council.

PASSED AND APPROVED this 13th day of June 2022.

Bryan Carney, Mayor

ATTEST:

Amy Lenz, City Clerk

CERTIFICATION

I, Amy Lenz, City Clerk, do hereby certify the above is a true and correct copy of Resolution No. 061322A which was passed by the Tipton City Council this 13th day of June 2022.

Amy Lenz, City Clerk

Prepared by:	Douglas D. Herman Lynch Dallas, PC PO Box 2457 Cedar Rapids, Iowa 52406-2457 Telephone: 319-365-9101 Facsimile: 319-365-9512	Taxpayer/Return Address: Cedar County Cooperative 906 E. 7 th Street Tipton, IA 52772
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Amended and Restated Easement Agreement

COMES NOW, Cedar County Cooperative, Grantor, and the City of Tipton, Iowa, Grantee, and hereby agree to be bound by the following terms and conditions regarding the amendment and restatement of a previously executed and recorded “Easement Agreement for Landscaping Screening and Transition Zones”, same being dated March 21, 2012, and recorded on April 5, 2012, in Book 1101 Page 50-53 records of the Cedar County Recorder. (Hereinafter referred to as the “2012 Easement”)

WHEREAS, Grantor and Grantee (“Parties”) agree that the 2012 Easement should be amended and restated, both to clarify certain terms and provisions thereof and to amend provisions thereof to allow for an expansion of the Grantor’s business, an expansion that would not be permissible without amendments to the 2012 Easement, and

WHEREAS, the Parties have mutually agreed to the terms and provisions set out below, said terms and provisions to replace, amend, and supersede the 2012 Easement as described above.

THEREFORE, in consideration of the above and foregoing recitals, the Parties do hereby agree as follows:

Article I. Property Legal Description: The property subject to the terms and provisions set forth herein is legally described as follows:

"Parcel L located in the Southeast Quarter of the Southeast Quarter of Section 31, Township 81 North, Range 2 West of the 5th Principal Meridian, City of Tipton, Cedar County, Iowa as shown in Plat Book I, at page 188 in the Cedar County Recorder's Office"

(The property described above will hereinafter be described as "Subject Property".)

Article II. Prior Zoning Classification Change: The Subject Property was rezoned from Residential to M-2 Heavy Industrial at or about the approval and execution of the 2012 Easement, the 2012 Easement being a condition of Subject Property rezoning by Grantee.

Article III: 2012 Easement

A. Landscape Screening and Transition Zones: The Subject Property, by terms of the 2012 Easement, was subjected to easements, usage restrictions, and berm creation and planting requirements, described as follows:

1. Grantor agreed to construct a 40-foot wide LANDSCAPE SCREENING ZONE and a 100-foot wide TRANSITION ZONE on the Subject Property, said combined 140' area being located or described as the north 140' of Subject Property.
2. Grantor agreed to construct and maintain an earthen berm and install plant screening within said LANDSCAPE SCREENING ZONE as depicted on an attachment to the 2012 Easement. The attachment entitled "Land Use Buffer Plan Exhibit" set forth specific planting requirements.
 - a. The 2012 Easement provided that the Grantor was obligated to maintain the health and appearance of said earthen berm and plants as depicted on the "Land Use Buffer Plan Exhibit", and if the GRANTOR failed to do so, the adjoining owner to the north was allowed to have said maintenance performed and/or completed at the expense of the GRANTOR.
3. Grantor agreed to construct, use and maintain buildings and driveways within the 100' TRANSITION ZONE and FUTURE LAND USE BUFFER PLAN only as depicted within the attached "Land Use Buffer Plan Exhibit".
 - a. An attachment to the 2012 Easement captioned "Future Land Use Buffer Plan" included the following provisions, superimposed over an aerial of the property:

- i. "Proposed Earthen berm shall only be located along the North side of the property.", and
 - ii. "Buildings within the Transition Zone shall be warehouse type use with bay doors and driveways located on south side only."
4. The 2012 Easement provided that if GRANTOR installed any exterior yard lighting that GRANTOR agreed to construct said lighting structures south of the property set out above and pointed only toward the southerly direction as depicted on said FUTURE LAND USE BUFFER PLAN.
5. The 2012 Easement further provided that Grantor would, "erect no buildings, obstructions or other improvements upon or under the property within the LANDSCAPE SCREENING ZONE".

Article IV: Amended and Restated Terms

The Parties hereby agree to the following terms and provisions, said terms and provisions to replace the terms of the 2012 Easement in their entirety. The Parties acknowledge, however, that many of the terms and provisions of the 2012 Easement will stand and remain largely intact, as set forth below.

A. GRANTOR previously constructed a 40-foot wide LANDSCAPE SCREENING ZONE, and a berm, and will continue to maintain the 40-foot wide LANDSCAPE SCREENING ZONE and berm as currently constructed. Maintenance shall include the care and replacement of the berm and of all trees and shrubs originally required by the "FUTURE LAND USE BUFFER PLAN" Exhibit attached to the 2012 Easement. (Said exhibit is incorporated herein as if same had been appended hereto.)

1. GRANTOR agrees, that upon GRANTOR'S failure to maintain and care for the berm and/or trees and shrubs as set forth above, that the adjoining owner to the north may have said maintenance performed and/or completed at the expense of the GRANTOR.

B. GRANTOR agrees that it will not construct, use or maintain any structure, buildings, and/or other permanent installations, or driveways within the 40-foot wide LANDSCAPE SCREENING ZONE and/or within the 100-foot wide TRANSITION ZONE as depicted within the attached "FUTURE LAND USE BUFFER PLAN" Exhibit but for the exceptions set forth immediately below hereto, as Article IV(B)(1), (2), and (3).

1. GRANTOR has installed two 30,000 gallon "Torpedo" style propane tanks within the TRANSITION ZONE. Those two tanks, and replacement tanks, shall be allowed to remain within the TRANSITION ZONE at their current location and footprint.

2. GRANTOR shall be permitted to construct a new building that may extend into the southernmost 35' of the TRANSITION ZONE, with garages/bays and doors that open to the east, west, and or south at the Grantor's discretion. The building width shall not exceed 115', and said construction is subject to the following additional conditions and obligations:

- i. The building must be insulated and also be fitted with insulated garage doors, and maintained in that fashion from construction forward.
- ii. The doors on the northernmost bay will be closed during the unloading of liquids by incoming trucks.

3. GRANTOR shall also be permitted to construct driveways or accesses to enter the new building, same to be allowed to extend into the southernmost 35' of the TRANSITION ZONE, as further limited below:

- a. The southernmost 35' may only be used for driveways or accesses to the new building within the following described areas:
 - i. Within 50' from the west face of the building addition to the west and within 100' from the east face of the building addition to the east.

C. GRANTOR agrees to plant and maintain as many arborvitae to the north and west of the proposed building as necessary to create a natural fence as shown on the attached Exhibit A. Grantor's obligations shall be met as follows:

1. New Arborvitae shall be planted to the west of the building in such a manner as to create a natural fence from the approximate NW corner of the property (as shown by the attached Exhibit A) to the approximate midpoint of the western circular tank as shown on Exhibit A, Page 1, a distance of approximately 420'.

2. New Arborvitae shall be planted to the north of the building in such a manner as to create a natural fence from the approximate NW corner of the property (as shown by the attached Exhibit A) in an easterly direction a distance of approximately 280'.

3. The arborvitae shall be planted in two rows and staggered as shown on the attached Exhibit A (Page 1) and more fully explained or detailed on the attached Exhibit A (Page 2).

4. All arborvitae shall be planted and maintained according to planting specifications and guidelines, as set forth on page 2 of Exhibit A so that when the arborvitae grow and mature they will 'connect' with one another to create the desired living fence/buffer.

5. Prior to planting, the Grantor or Grantor's agents shall contact the City of Tipton Public Works Director (Arborist) to review and obtain written consent to proceed. The Public Works Director (Arborist) shall review the proposed planting plans in light of this agreement and the intent and agreement of the parties that the arborvitae will create a living fence/buffer as noted above.

6. Grantor agrees to maintain and replace said arborvitae with the same or similar variety as necessary in the future to maintain the same level of coverage.

1. GRANTOR agrees, that upon GRANTOR'S failure to maintain and care for the additional Arborvitae as set forth above, that the adjoining owner to the north may have said maintenance performed and/or completed at the expense of the GRANTOR.

D. GRANTOR may install exterior yard lighting, however, agrees that no lighting structures may be installed in the 40-foot wide LANDSCAPE SCREENING ZONE, and that all yard lighting must be pointed towards or directed in a southerly direction as depicted on said FUTURE LAND USE BUFFER PLAN attached to the 2012 Easement.

E. GRANTOR agrees to apply Dust Control to gravel surfaces on the Subject Property as necessary to control and limit airborne dust from said surfaces leaving the Grantor's property in an unreasonable manner. The City shall determine compliance by considering complaints from nearby property owners and inspection by City staff. In the event the City, in its sole discretion, determines the Grantor to be out of compliance with this provision the City shall give Grantor written notice of noncompliance and a seven (7) day period within which to come into compliance. The City will not pursue enforcement action under Article V, Paragraph G of this Agreement unless Grantor fails to comply with the notice provisions of this paragraph.

F. GRANTOR agrees to the following regarding the storage, mixing, loading and transportation of chemicals and/or other regulated materials at or from Subject Property:

1. To share with the City by delivery to the City Clerk, without request of the City, any letters, notices of violation, administrative orders, or other similar writings/notifications received by Grantor from any State or Federal Agency in any way related to Grantor's storage and/or mixing of chemicals or other regulated materials at the subject property, within fourteen (14) days of receipt thereof and to keep the City timely informed thereafter of any steps taken by Grantor, or said agency, to remedy any concern or violation so identified as well as any final enforcement action, agreements, etc.

Article V: Miscellaneous Provisions

- A. **Effective Date:** This Easement shall be effective upon execution by both parties and approval of the City of Tipton City Council.
- B. **Perpetual in Nature:** The easement granted herein is perpetual in nature and shall run with the land and be binding on all successors in interest, heirs and/or assigns.
- C. **Amendment:** This agreement shall only be amended by written agreement of the Grantor and Grantee. No amendment to this agreement shall be considered by the Grantee if Grantee is presented with a Petition against any proposed amendment signed by 50% or more of the owners of property lying within 200' of the

boundary of Subject Property at any point in the following process.¹ If a request is received by Grantee to amend this easement from Grantor, the following steps will be taken:

- a. The proposed amendment will be presented to the City Planning & Zoning Board for consideration and recommendation to the City Council. The Board, in its discretion, may choose to schedule and hold a public hearing.
 - b. The Planning & Zoning Board shall, within forty-five (45) days of receiving the request, deliver a written recommendation to the City Council setting out any factual findings, background, and other considerations in support of their recommendation.
 - c. The City Council will upon receipt of the Planning & Zoning Board recommendation, schedule a public hearing on the proposed amendments and publish notice of the public hearing at least four but not more than twenty (20) days in advance of the Public Hearing.
 - d. The City Council will hold a public hearing on the request, consider all prior written comments, comments at the public hearing, and any written petitions received on or before the public hearing.
 - e. The Mayor will close the public hearing and the Council will take action on the request either immediately following the public hearing or within thirty (30) days thereafter to approve or deny the requested amendment.
- D. **Consideration:** GRANTOR acknowledges the adequacy of consideration. In addition to the consideration given at the execution of the 2012 Easement, the GRANTOR has been given additional consideration at this time, the consideration being the agreement of the City to the amendment and restatement of the conditions and terms of the 2012 Easement, in addition to other good and valuable consideration, the adequacy and receipt of same being acknowledged by the execution hereof.
- E. **Recording:** Grantor shall record this Agreement in the Office of the Recorder, Cedar County, Iowa within a reasonable period of time following the execution hereof and approval of the Tipton City Council, at Grantor's expense.
- F. **No Other Representation:** Parties represent and warrant that no promise, inducement or agreement not expressed in this Agreement, oral or written,

¹ The City Clerk shall be responsible for determining, with the assistance of any other person or entity as is appropriate, all properties lying within 200' of the subject property, which shall be determined by measuring 200' off of all boundaries of subject property. If any portion of any other property is located within the 200' range, regardless of the portion of said other property located within said range, said property shall be considered to fall within 200' of the subject property.

express or implied, has been made and that all terms of this Agreement are contractual and not a mere recital.

G. Enforcement: The Parties agree that the City may seek to enforce the terms of this Easement Agreement by any legal means, including but not limited to the procedures and penalties provided by Chapter 3 of the City Code, "Municipal Infractions", or successor chapter. Prior to the City filing a Municipal Infraction Citation, seeking daily penalties for violations of this Easement Agreement, abatement of the violations, injunctive relief, and other relief allowed by the Code and/or found to be appropriate by the Court, the City shall provide a Notice of Violation to the Grantor with a thirty (30) day opportunity to cure or otherwise address the violation. Grantor shall also be given an opportunity to appeal the Notice of Violation to the City Council by filing a written notice of appeal with the City Clerk within ten (10) days of receipt of the Notice of Violation. All enforcement action will be stayed during the appeal which shall be promptly heard by the City Council. The parties also acknowledge that penalties for second or subsequent violations of this agreement will subject the Grantor to increased penalties under Chapter 3 of the City Code.

H. Construction: Words and phrases herein, including acknowledgement hereof, shall be construed as in the singular or plural number, and as masculine, feminine, or neuter gender according to the context. The captions preceding the Sections are inserted only as a matter of convenience and for reference purposes and should not be considered substantive or relied upon in interpreting any provision of this Agreement. This Agreement shall be considered to have been jointly drafted by the Parties.

I. Captions: The captions preceding the Sections are inserted only as a matter of convenience and for reference purposes and should not be considered substantive or relied upon in interpreting any provision of this Agreement.

J. Acknowledgement: The Parties, by signing this Agreement, acknowledge having carefully read the same, having had an opportunity to consult with counsel concerning the legal effect of this Agreement and its various terms and conditions, and have signed the Agreement voluntarily and without duress or coercion.

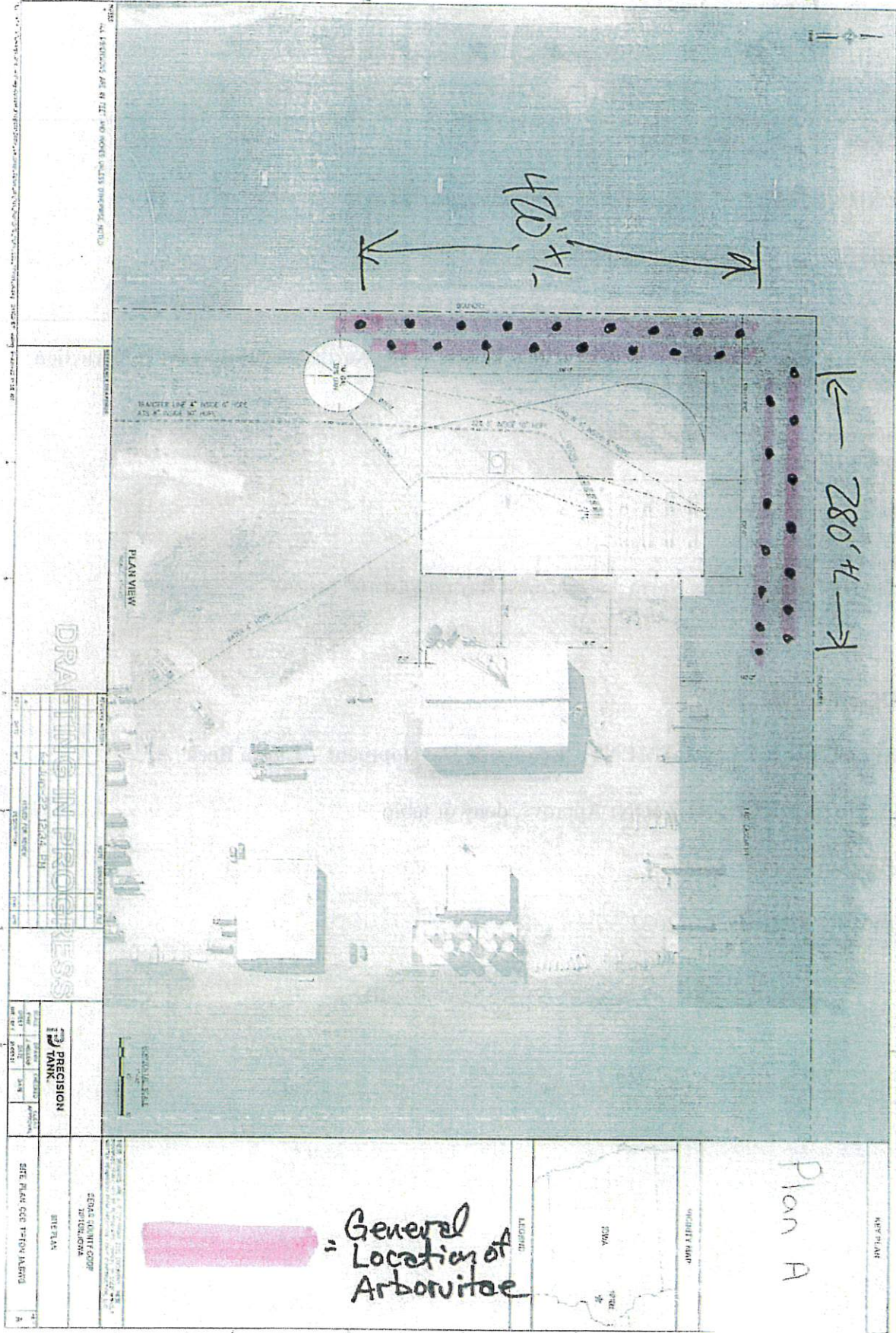
K. Authority: Grantee, as a municipal corporation, represents that it has taken all action legally required of a municipal corporation to authorize the acceptance or conveyance of easement rights including but not limited to holding public hearings and passing required resolutions.

Exhibit A

(Page – 2, Planting Specifications)

1. Techny Arborvitae shall be planted in two rows in the general location shown on Page 1 of this Exhibit A.
2. The arborvitae shall be planted fourteen (14) feet on center in each row.
3. The two rows of arborvitae shall be separated by 16', measured from the centerline of one row to the centerline of the other row.
4. The two rows of arborvitae shall be staggered, as generally shown on Page 1 of this Exhibit A. (The representation of "staggered" arborvitae on Exhibit A, Page 1 is merely intended to show what is intended by the word "staggered" and in no way represents the number of arborvitae to be planted in accordance with this agreement. The exact number of arborvitae to be determined in accordance with the area over which the arborvitae are to be planted at the separations provided in sections 2 and 3 of the Exhibit A, page 2.
5. All arborvitae planted shall be as close to 3' tall or taller if possible, with all arborvitae planted to be of a generally consistent size so that they grow and mature at approximately the same rate.

Exhibit A
(Page 1, General Overview)



AGENDA ITEM

**AGENDA INFORMATION
TIPTON CITY COUNCIL COMMUNICATION**

DATE:	6/13/2022
AGENDA ITEM:	4 th of July Parade route changes due to street work
ACTION:	Move to Approve, Deny or Table

SYNOPSIS: Street change for Fourth of July Parade route: North Avenue is under construction and not able to use for parade.

**Parade starts on East 4th and Cedar
Right on 10th Street
Left on Mulberry Street
Right on North Street
Right on Plum
End at the Park
(Instead of turning left on North Avenue must stay on East 10th Street)**

BUDGET ITEM: N/A

RESPONSIBLE DEPARTMENT: Economic Development – Linda Beck

MAYOR/COUNCIL ACTION: Approve, deny or table

ATTACHMENTS: None

DATE PREPARED: 6/7/2022

Aavantis Construction/DBA Crock Construction

1120 Monroe Ave Tipton, IA 5772
Kolton Crock- 563-889-3537---- Kenneth Crock- 563-889-0029

May 17, 2022

Tipton Airport

RE: Bid for 32' X 34' Concrete Pad at Tipton Airport

I viewing and measuring the property with Steve Nash on 5/16/22 we are submitting the following bid for the concrete pad at the Tipton Airport.

- Excavate grass and dirt on surface to a depth of 10" fill and compact 4" of 1" road rock for fill to proper grade
- Install 3/8 fiberglass rebar 3' on center.
- Pour 4000# mix of concrete to grade.
- Light Broom Finish as needed.
- Apply cure and seal as needed.
- Cut concrete to minimize cracking.

Total cost for job with concrete, fill rock, rebar, cure/sealer and Labor-----\$ 8,432.00



Kenneth Crock

RESOLUTION NO. 061322B

RESOLUTION IN SUPPORT OF THE “RHINOS BUILDING UPPER-STORY HOUSING PROJECT” AND ITS APPLICATION TO THE WORKFORCE HOUSING TAX-CREDIT PROGRAM AND AFFIRMING THE CITY’S FINANCIAL SUPPORT FOR THE PROJECT

WHEREAS, the Iowa Economic Development Authority (IEDA) administers the Workforce Housing Tax-Credit (WHTC) Program in which investors or developers can purchase tax-credits with the purchase proceeds providing partial funding for market-rate housing projects; and

WHEREAS, the City is working with local investors toward their goal of developing two privately-owned upper-story apartments that qualify for the WHTC Program; and

WHEREAS, the City of Tipton has a special interest in the building’s renovation and the development of these upper-story apartments as well as the building’s commercial ground floor as community attractions and economic anchors in our downtown; and

WHEREAS, the apartment project has received a \$200,000 Downtown Housing Grant from IEDA; and

WHEREAS, to provide additional funding, the City is amending its urban renewal plan and urban renewal area to designate the Rhinos Building as a Tax-Increment Financing project with up to \$100,000 in upfront funding for the apartments and up to \$50,000 for the commercial ground floor; and

WHEREAS, while as the transitional owner of the building, the City has approved a contract to replace its roof for \$33,154; and

WHEREAS, the Rhinos Building is in the City-wide urban revitalization area and can qualify for a 10-year, graduated tax-exemption on its new taxable improvements.

NOW, THEREFORE, Be It Resolved that the City Council of the City of Tipton does hereby state its wholehearted support for the “Rhinos Building Upper-Story Housing Project” and its Workforce Housing Tax-Credit Program application.

PASSED AND APPROVED this 13th day of June 2022.

Bryan Carney, Mayor

ATTEST:

Amy Lenz, City Clerk

CERTIFICATION

I, Amy Lenz, City Clerk, do hereby certify the above is a true and correct copy of Resolution No. 061322B which was passed by the Tipton City Council this 13th day of June 2022.

Amy Lenz, City Clerk

