City of Carroll

112 E. 5th Street Carroll, Iowa 51401-2799 (712) 792-1000 FAX: (712) 792-0139

MEMO TO: Honorable Mayor and City Council Members

FROM: Mike Pogge-Weaver, City Manager MJP-W

DATE: March 7, 2019

SUBJECT: Consideration of a Resolution approving a Purchase Agreement of real estate at 224 N Main St from Thomas Daniel (City Apartments Property) and waiving City Policy 0307 which requires an appraisal of real estate prior to the purchase of said property by the City of Carroll

For a number of years, the City of Carroll has been working to address building deficiencies at 224 N Main St which is owned by Mr. Thomas Daniel and is known locally as the City Apartments. Ultimately this effort led City Staff to declare the property a Dangerous Building with the City Council upholding that determination on December 10, 2018.

Since the December 10th meeting, staff has been in contact with Mr. Daniel about the situation and ultimately extended an offer to purchase the property. Purchasing the property allows the City to avoid the time and expense of litigation. Additionally, after demolition, the City will have an asset that will assist in mitigating some of our costs associated in acquiring and/or demolishing the property.

A summary of the terms that have been agreed to by Mr. Daniel are as follows:

- Closing would be July 31, 2019 at which time the City would take possession of the property.
- The purchase price for the property would be $31,500, of which $500 is due and payable to an escrow account upon Council approval of the Purchase Agreement and the rest would be due at closing on July 31, 2019.
- Mr. Daniel has the right to remove any and all property, including fixtures and personal property through July 31, 2019. After that point all fixtures and personal property will become the property of the City.

The Carroll County Assessor has set an estimated assessed value of $22,090 for the land and $37,360 for the building for a total of $59,450. At this time and due to the nature of the transaction, staff did not seek an appraisal of the property. Due to this, the Council would need to waive council policy 0307 which requires appraisal of real property prior to the purchase of property by the City.

Attached to this staff report is a copy of the Purchase Agreement agreed to by Mr. Daniel.

RECOMMENDATION: Mayor and City Council adopt a resolution approving a Purchase Agreement for real estate at 224 N Main St owned by Mr. Thomas Daniel, known locally as City Apartments and waive City Policy 0307 which requires an appraisal of real estate prior to the purchase of said property by the City of Carroll.

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RESOLUTION NO. _____

A RESOLUTION APPROVING A PURCHASE AGREEMENT FOR REAL ESATE LEGALLY DESCRIBED AS LOT 9 AND THE SOUTH 11 FEET OF THE WEST 68 FEET OF LOT 10, BLOCK 37, SECOND ADDITION TO THE CITY OF CARROLL, CARROLL COUNTY, IOWA AND LOCATED AT 224 N MAIN ST, CARROLL, IA 51401

WHEREAS, Chapter 17, of the Code of Ordinances of the City of Carroll, Iowa, provides that all contracts made by the City be approved by the City Council by resolution; and

WHEREAS, the purchase agreement is attached hereto as Exhibit "A"; and

WHEREAS, it is determined that the approval of the attached agreement is in the best interest of the City of Carroll, Iowa;

NOW, THEREFORE, BE IT RESOLVED that the purchase agreement attached as Exhibit "A", be authorized and approved, and that the Mayor is authorized to execute the agreement on behalf of the City of Carroll.

PASSED AND APPROVED by the City Council of the City of Carroll, Iowa, this 11th day of March, 2019.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

BY:_____
Eric P. Jensen, Mayor

ATTEST:

By:_____
Laura A. Schaefer, City Clerk

PURCHASE AGREEMENT

TO: Thomas L. Daniel, a/k/a Thomas Lowell Daniel, Seller:

1. REAL ESTATE DESCRIPTION. The Buyer offers to buy real estate in Carroll County, Iowa, described as follows:

Lot 9 and the South 11 Feet of the West 68 feet of Lot 10, Block 37, Second Addition to the City of Carroll, Carroll County, Iowa.

with any easements and appurtenant servient estates, but subject to the following:

a. any zoning and other ordinances;

b. any covenants of record; and

c. any easements of record for public utilities, roads and highways.

2. PRICE. The purchase price shall be $31,500.00, payable at Carroll, Carroll County, Iowa, as follows: **$500.00** downpayment, held in trust with Bruner, Bruner, Reinhart & Morton, LLP, with the balance paid on **July 31, 2019.**

In addition, if the Buyer subsequently sells the property for more than the above purchase price plus all costs to demolish the buildings thereon, associated costs for debris and material disposal and site leveling, the Seller shall be entitled to any gain over, if any, and above the above purchase price and above-mentioned costs.

3. REAL ESTATE TAXES. Seller shall pay 2nd half of real estate taxes payable in March 2019, and any unpaid real estate taxes payable in prior years. Buyer shall pay all subsequent real estate taxes.

4. RISK OF LOSS AND INSURANCE. All risk of loss shall remain with Seller until possession of the Real Estate shall be delivered to Buyer.

5. POSSESSION. If Buyer timely performs all obligations, possession of the Real Estate shall be delivered to Buyer on **July 31, 2019.** Seller shall vacate the premises on July 31, 2019, and relinquish sole possession and ownership to the Buyer on that date.

6. FIXTURES AND PERSONAL PROPERTY. **Seller may remove fixtures and personal property from the building until July 31, 2019. Thereafter, the fixtures and personal property remaining shall become the property of the Buyer.**

7. ENVIRONMENTAL MATTERS. SELLER warrants to the best of his knowledge and belief that there are no abandoned wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks located on the Property. The Property may contain levels of radon gas, asbestos, or urea-formaldehyde foam insulation which require remediation under current governmental standards. SELLER has done nothing to further contaminate the Property with hazardous wastes or substances. SELLER warrants that the property is not subject to any local, state, or federal judicial or administrative action, investigation or order, as the case may be, regarding wells, solid waste disposal sites, hazardous wastes or substances, or underground storage tanks. SELLER shall also provide BUYER with a properly executed GROUNDWATER HAZARD STATEMENT showing no wells, private burial sites, solid waste disposal sites, private

sewage disposal system, hazardous waste and underground storage tanks on the Property.

8. USE OF PURCHASE PRICE. At time of settlement, funds of the purchase price may be used to pay taxes and other liens and to acquire outstanding interests, if any, of others.

9. ABSTRACT AND TITLE. Seller shall obtain an abstract of title to the Real Estate and deliver it to Buyer for examination. It shall show merchantable title in Seller in conformity with this agreement, Iowa law and Title Standards of the Iowa State Bar Association. The abstract shall become property of the Buyer when the purchase price is paid in full. Buyer shall pay all the costs of abstracting.

10. DEED. Upon payment of purchase price, Seller shall convey the Real Estate to Buyer, by Warranty Deed, free and clear of all liens, restrictions, and encumbrances.

11. TIME IS OF THE ESSENCE. Time is of the essence in this contract.

12. REMEDIES OF THE PARTIES.

a. If Buyer fails to timely perform this contract, the Seller may forfeit it as provided in The Code, and all payments made shall be forfeited or, at Seller's option, upon thirty days written notice of intention to accelerate the payment of the entire balance because of such failure (during which thirty days such failure is not corrected) Seller may declare the entire balance immediately due and payable. Thereafter this contract may be foreclosed in equity and the Court may appoint a receiver.

b. If Seller fails to timely perform this contract, Buyer has the right to have all payments made returned to them.

c. Buyer and Seller also are entitled to utilize any and all other remedies or actions at law or in equity available to them and shall be entitled to obtain a judgment for costs and attorney fees as permitted by law.

13. CONTRACT BINDING ON SUCCESSORS IN INTEREST. This contract shall apply to and bind the successors in interest of the parties.

14. CONSTRUCTION. Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context.

15. CERTIFICATION. Buyer and Seller each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.

16. TIME FOR ACCEPTANCE. If this offer is not accepted by Seller on or before February 27, 2019, it shall become void and all payments shall be repaid to the Buyer.

17. AS IS. The property is sold "as is".

DATED: _____, 2019.

CITY OF CARROLL, IOWA

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Eric Jensen, Mayor, Buyer

THIS OFFER IS ACCEPTED: February 25, 2019.

Thomas L. Daniel
Thomas L. Daniel, Seller
a/k/a Thomas Lowell Daniel

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