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

DATE: May 7, 2020

SUBJECT: Water Service, Sewer Service, and Annexation Agreement with McLaughlin Family Companies Inc.

McLaughlin Family Companies Inc. owns and has started operations at 23634 Hwy 30 which is in the former Midwest Homes, Inc. building. The property is currently in unincorporated Carroll County and is not currently contiguous to the City of Carroll. In the past, the City has only permitted utilities to be extended to properties that are part of the incorporated City.

McLaughlin Family Companies Inc. has requested that the City permit the extension of utilities to their property and has signed a Water Service, Sewer Service, and Annexation Agreement related to that request. The agreement outlines that at such time the property would be adjoining the corporate limits of the City with a common boundary then the property would be annexed into the City. Additionally, the agreement permits the City to impose a rate for customers outside the City for water and sanitary sewer usage and McLaughlin agrees to said rates.

Initially any sanitary sewer discharge would be limited to domestic non-industrial sanitary sewer discharge. With the copper limits in place as part of the City NPDES permit with the Iowa DNR the City at this time is not permitted to accept the non-domestic industrial sanitary sewer discharge that is generated on the site. Any future proposed non-domestic industrial sanitary sewer discharge from the site is subject to approval by the City of Carroll and the Iowa DNR.

RECOMMENDATION: Mayor and City Council consideration of a resolution approving a Water Service, Sewer Service, and Annexation Agreement with McLaughlin Family Companies Inc.

RESOLUTION NO. _____

RESOLUTION APPROVING A WATER SERVICE, SEWER SERVICE, AND ANNEXATION AGREEMENT WITH MCLAUGHLIN FAMILY COMPANIES INC.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CARROLL, IOWA:

Section 1. That the Water Service, Sewer Service, and Annexation Agreement with McLaughlin Family Companies Inc. is approved.

Section 2. That the Mayor and City Clerk are hereby authorized and directed to execute said Water Service, Sewer Service, and Annexation Agreement with McLaughlin Family Companies Inc. on behalf of the City of Carroll.

Passed and approved by the Carroll City Council this 11th day of May, 2020.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

By: _____
Eric P. Jensen, Mayor

ATTEST:

By: _____
Laura A. Schaefer, City Clerk

Prepared by:
Return to:

WATER SERVICE, SEWER SERVICE, AND ANNEXATION AGREEMENT

THIS ANNEXATION AGREEMENT (the "Agreement") entered into by the City of Carroll, 627 N Adams St, Carroll Iowa 51401 (hereafter the "City"); and McLaughlin Family Companies Inc., 101 State Street, Scranton, Iowa 51462 along with their successors and assigns. (hereafter collectively "McLaughlin").

WHEREAS, McLaughlin is the owner of the following described property located in unincorporated Carroll County, Iowa:

> Lot Two (2) of the Northeast Quarter of the Northwest Quarter (NE1/4 NW1/4), EXCEPT Lot A thereof; and Lot One (1) of the Northwest Quarter of the Northeast Quarter (NW1/4 NE1/4) (including Lot A thereof); all in Section Twenty-nine (29), Township Eighty-four (84) North, Range Thirty-four (34) West of the 5th P.M., Carroll County, Iowa, EXCEPT the right-of-way of the State of Iowa in Book 161, Page 146, all in Carroll County, Iowa. (the "Property")

; and

WHEREAS, McLaughlin has contacted the City about connecting to City water mains and City sanitary sewer mains; and

WHEREAS, it is the City's policy that a person who connects to the City water or sanitary sewer must annex into the corporate limits of the City; and

WHEREAS, at this time, an annexation of the Property is prohibited under Chapter 368 of the Code of Iowa (2019) as it is not adjoining the corporate limits of the City with a common boundary for not less than fifty feet; and

WHEREAS, pursuant to Section 92.05 of the Code of Ordinances of the City of Carroll, McLaughlin may be allowed City water service by special agreement of the council; and

WHEREAS, pursuant to Section 95.06 of the Code of Ordinances of the City of Carroll, McLaughlin may be allowed City sanitary sewer service by special agreement of the council to; and

WHEREAS, the City retains the right to impose a rate for customers outside the City for water and sanitary sewer usage and McLaughlin agrees to said rates; and

WHEREAS the City Council of the City desires to allow McLaughlin to connect to the City's water and/or sanitary sewer system, at McLaughlin's sole cost, as long as McLaughlin agrees to voluntarily annex the Property into the City at such time as requested by a future City Council.

NOW, THEREFORE, BASED UPON THE COVENANTS DESCRIBED ABOVE, the Parties agree as follows:

1. Annexation. McLaughlin, and their successors and assigns, by the execution of this Agreement, irrevocably agree to voluntarily annex the Property into the City when the Property adjoins the corporate limits of the City with a common boundary of not less than fifty feet as required under Chapter 368 of the Code of Iowa. The parties to this Agreement expressly agree that this Agreement therefore constitutes an Application for Voluntary Annexation in the future when requested by a future City Council without further documentation from McLaughlin, and their successors and assigns.

2. City ordinances. By execution of this Agreement, McLaughlin expressly agrees to abide by the City's ordinances, rules, and regulations that apply to water services and/or sewer services established by the Council.

3. Connection to the water and sanitary sewer system. Upon the execution of this Agreement, McLaughlin, at its sole cost and expense, may cause a water or sanitary sewer service line, a water meter and associated equipment to be constructed and connect to the City's public utility systems. Said connection shall be made by a licensed plumber and be in strict compliance with the rules and regulations of the City's Code of Ordinances. If only sewer service is used at the property, McLaughlin shall cause City of Carroll water meters to be installed on all domestic water pipes (rural water service and/or well systems) in order to establish the amount of sewer flow that is discharged in to the Carroll sanitary sewer system. McLaughlin shall also pay any charges billed by West Central Iowa Rural Water Association for switching from West Central Iowa Rural Water Association water service to the City of Carroll water service. All non-domestic industrial sanitary sewer discharges shall be subject to approval by the City of Carroll and the Iowa DNR.

4. Payment for water and sewer services. McLaughlin expressly agrees to pay, when due, all amounts invoiced to McLaughlin by the City using the rates in effect at the time the invoice is created.

5. Recording. The City shall cause this Agreement to be recorded and McLaughlin shall reimburse the City for the costs of said recording.

Dated this 4th day of May, 2020.

McLaughlin Family Companies Inc.

Steve Goetsch, Chief Operating Officer

City of Carroll, Iowa

Eric P. Jensen, Mayor

ATTEST:

Laura Schaefer, City Clerk

STATE OF IOWA, CARROLL COUNTY, ss:

On this _____ day of _____, _____, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Eric P. Jensen and Laura Schaefer, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Carroll, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as passed by Resolution of the City Council; and Eric P. Jensen and Laura Schaefer acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.

Notary Public

STATE OF IOWA, COUNTY OF Greene, **ss:**

This instrument was acknowledged on this 5 day of May, 2020, by Steve Goetsch, Chief Operating Officer of McLaughlin Family Companies a Iowa corporation, on behalf of the corporation.

NOTARIAL SEAL IOWA
JUSTIN ROETMAN
Commission Number 776062
MY COMMISSION EXPIRES
12-7-21

Notary Public