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 MPW

DATE: August 2, 2018

SUBJECT: Rolling Hills South Condominiums

1) Hold a public hearing and consider approving a rezoning request from A-1, Agricultural District to P.U.D., Planned Unit Development with an underlay zoning of R-3, Low-Density Residential District
2) Resolution approving the Rolling Hills South Condominiums Subdivision, Preliminary Plat
3) Resolution fixing date for a public hearing on the proposal to enter into a Development Agreement with 704 Development Corp.

A request was received from Matthew Greteman, President of 704 Development Corp., to rezone a parcel of land in the southwest quarter of Section 25, Township 84 North, Range 35 West of the Fifth P.M., City of Carroll, Carroll County, Iowa, whose exterior boundary is more fully described on attached Exhibit A.

Additionally, 704 Development Corp. has presented for consideration, a Preliminary Plat for Rolling Hills South Condominiums Subdivision, City of Carroll, Carroll County, Iowa.

Finally, at the February 26, 2018 Council meeting, action was taken to proceed with creating an Urban Renewal Plan to support a development/tax increment finance (TIF) rebate agreement with 704 Development Corporation related to the Development of Rolling Hills South Condominiums. Attached is a copy of the draft Development Agreement that enables the proposed TIF rebate.

The development contains 2.63 acres of land and is located between Highway 71 and Meadow Lane.

Rezoning Request

The request is to rezone this area from A-1, Agricultural District to P.U.D. – Planned Unit Development with the underlaying zoning of R-3, Low-Density Residential District. The property is identified in the 2013 Carroll Comprehensive Plan as Low Density Residential.

The development will be a condominium development with a home owner's association owning and maintaining the common areas within the development. The development meets the minimum requirements for R-3 zoning.

Included with the rezoning request is a copy of the preliminary plat, floor plans and building elevations of the proposed duplexes, and a copy of the home owner association document. If the P.U.D. rezoning request is approved, the development is required to conform to these plans.

Preliminary Plat

The plat includes a total of 1 residential lot and one street lot. The residential lot is for the condominium association and will include all 6 duplex buildings (12 units total). Each unit will be individually titled in the condominium association so they can be sold to individual owners. A home owner's association will own and maintain the common areas within the development.

A public street called Westridge Drive will be extended as a cul-de-sac as part of the development and each unit will have access to that new street. City owned utilities are proposed to extend into the development and will be served by City of Carroll water, sanitary sewer, and storm sewer systems.

The attached preliminary plat is pertinent to the application and includes the exterior boundary description of the proposed plat.

Preliminary Plat Requested Design Exception

The Rolling Hills South Condominium proposal includes completion of a three-leg public street intersection of Westridge Drive and Summit Drive. The street grades on existing Westridge Drive and Summit Drive and proposed Westridge Drive to the north provide for storm water runoff to flow to the intersection from the north and east and through the intersection to the south. The design storm water flow crossing the intersection has been determined by JEO Consulting Group, Inc. (JEO) to be 2.6 cubic feet per second.

Because excessive flow across intersections can be a hazard to pedestrians and vehicular traffic, design criteria often includes restrictions on the maximum rate of surface storm water flow across intersections. When restricted flow rates are exceeded, the general solution is to collect the storm water in intakes and discharge through storm sewers.

The Iowa Statewide Urban Design and Specifications (SUDAS) Design Standards include the following related to storm water intake spacing:

"**b. Intake Spacing**: Locate street intakes upgrade from intersections, sidewalk ramps, and outside of intersection radii. At least one intake is to be installed at the low point of the street grade.

1) **First Intake**: An intake should be located no further than 500 feet from the street high point.
2) **Remaining Intakes**: To be spaced at a distance no greater than 400 feet, regardless of gutter flow capacity, in order to meet maintenance needs."

The SUDAS Design criteria are modified by City of Carroll Special Provisions. This special provision provides a lower standard/requirement than was is set out in SUDAS, is as follows:

"C. Intersections. Inlets are placed at the upgrade side of street approaches as required, not in curb returns. On all streets, the maximum gutter flow across intersections shall not be greater than:

Longitudinal Gutter Slope	Flow Cubic Feet Per Second (cfs)
0.5%	0.30
1.0%	0.45
2.0%	0.60
3.0%	0.70
4.0%	0.85
5% and Over	1.00"

JEO has determined that, based on grades above, the maximum permitted flow across Westridge Drive is 0.30 cubic feet per second. The JEO request is for an exception to the design criteria of 0.30 cubic feet per second to permit a flow of 2.6 cubic feet per second to cross the street intersection.

When water spreads across an intersection, which is expected to occur here, homeowners and the traveling public perceive this to be an issue. Additionally, without the intakes, there is the potential that ice conditions could occur during freeze thaw cycles, especially in the early morning hours, which would require daily maintenance by the City. This type of situation has occurred historically on High Ridge Road and after years of complaints the City has added storm water intakes and has made physical modifications to the roadway in order to improve conditions on High Ridge Road. Staff is concerned without the intakes a similar situation could occur in this neighborhood.

Development Agreement
The Development Agreement outlines the terms and conditions of the proposed of $72,000 to 704 Development Corporation in support of their Workforce Housing Tax Credit (WHTC).

The City worked with Nathan Overberg and Jenna Bishop, attorneys with Ahlers & Cooney, P.C., to create the draft Development Agreement.

It is requested that the City Council consider setting a public hearing on the proposed adoption of the Development Agreement for the August 27, 2018 Council meeting.

PLANNING AND ZONING COMMISSION RECOMMENDATION: The Planning and Zoning Commission reviewed the requested rezoning and preliminary plat at their July 11, 2018 meeting.

Rezoning Recommendation
The Commission voted to recommend that the City Council approved the proposed rezoning.

Preliminary Plat Recommendation
Related to the preliminary plan and requested design exception, the Planning and Zoning Commission's first motion was to recommend City Council approval of the preliminary plat without adding the staff recommended storm water intakes in the intersection of Westridge Drive and Summit Drive. The vote was 4 – 1. The motion failed since all motions by the Planning and Zoning Commission requires a minimum of 5 yes votes. The Commission then continued to discuss the preliminary plat and the requested design exception. The original motion to recommend City Council approval of the preliminary plat without staff recommendation of adding storm water intakes in the intersection of Westridge Drive and Summit Drive was made again. That time the motion was approved on a 5-0 vote.

STAFF RECOMMENDATIONS:

1. That the City Council consider approving a request to rezone the above described property from A-1, Agricultural District to P.U.D., Planned Unit Development with an underlaying zoning of R-3, Low-Density Residential District.
2. That the City Council consider approval of the Rolling Hills South Condominiums Subdivision, City of Carroll, Carroll County, Iowa Preliminary Plat subject to adding storm water intakes in the intersection of Westridge Drive and Summit Drive to meet the maximum permitted flow of 0.30 cubic feet per second across the intersection of Westridge Drive and Summit Drive.
3. That the City Council consider approving a resolution fixing date for a public hearing on the proposal to enter into a Development Agreement with 704 Development Corp.

Exhibit "A"

REFERRING TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE N00°44'28"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1315.06 FEET; THENCE S89°10'32"E, A DISTANCE OF 118.13 FEET TO THE EAST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 AND THE NORTHWEST CORNER OF LOT 3, BLOCK 1 OF ROLLING HILLS SOUTH 3RD ADDITION, CARROLL, IOWA; THENCE S00°55'09"W ON SAID EAST RIGHT OF WAY LINE, SAID EAST RIGHT OF WAY LINE ALSO BEING THE WEST LINE OF LOTS 3, 4 AND 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 359.13 FEET TO THE SOUTHWEST CORNER OF LOT 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION AND THE POINT OF BEGINNING; THENCE S00°56'00"E CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 419.61 FEET; THENCE S04°13'30"W CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 39.13 FEET TO THE NORTHWEST CORNER OF LOT 2, BLOCK 5 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE S89°05'23"E ON THE NORTH LINE OF SAID LOT 2 AND THE NORTH RIGHT OF WAY LINE OF SUMMIT DRIVE, A DISTANCE OF 246.91 FEET TO THE SOUTHWEST CORNER OF LOT 6, BLOCK 2 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE N00°32'38"E ON THE WEST LINE OF LOTS 6, 5, 4, 3, 2 AND 1 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 460.10 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE N89°27'22"W ON THE SOUTH LINE OF LOTS 8, 6 AND 5 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 255.21 FEET TO THE POINT OF BEGINNING.

TO BE KNOWN AS ROLLING HILLS SOUTH CONDOMINIUMS SUBDIVISION, CITY OF CARROLL, CARROLL COUNTY, IOWA

CITY OF CARROLL
SUBDIVISION DATA

NAME OF PLAN: Rolling Hills South Condominiums Subdivision, City of Carroll, Carroll County, Iowa – Preliminary Plat
NAME OF OWNER/DEVELOPER: 704 Development Corp.

GENERAL INFORMATION:

PLAT LOCATION:	Between Bella Vista Drive and Griffith Road
SIZE OF PLAN:	5.42 Acres
CURRENT ZONING:	A-1, Agricultural District
PROPOSED ZONING:	P.U.D., Planned Unit Development with an underlaying zoning of R-3, Low-Density Residential District

LOTS:

NUMBER:	1 Residential Lot
SIZE/DENSITY:	2.08 acres per lot (average)
USE:	Residential
BUILDING LINES:	P.U.D. – Planned Unit Development District: The minimum lot and yard requirements of the conventional zoning districts in which the development is located shall not apply, except that minimum yards specified in the conventional district for suitable screening or buffering shall be provided around the boundary of the development. In the absence of any appropriate physical barrier, the Council may require open space or screening be located along all or a portion of the development boundary. While the minimum yard requirements of the conventional zoning district in which the development is located do not apply, a minimum distance of ten feet between buildings shall be observed. R-3, Low-Density Residential District: The front yard shall be a minimum of 30 feet. The side yard shall be a minimum of seven and one-half (7 1/2) feet, except on a corner lot the side-yard shall be a minimum of thirty (30) feet on the side abutting the street. A garage attached to a dwelling may be located five (5) feet from the side lot, but not a street line. The rear yard shall be a minimum of 15 feet.

ADJACENT LANDS:

NORTH:	R-3, Low-Density Residential District
SOUTH:	R-3, Low-Density Residential District
EAST:	R-3, Low-Density Residential District
WEST:	A-1, Agricultural District (2-Mile)

STREET DEVELOPMENT:

Continuation of Westridge Drive to the north.

WASTE WATER:

New City owned water utilities are proposed in the development.

WATER SYSTEM:

New City owned sanitary sewer utilities are proposed in the development.

PRELIMINARY AND FINAL PLAT DRAWINGS:

Staff recommends approval of the preliminary plat subject to adding storm water intakes in the intersection of Westridge Drive and Summit Drive to meet the maximum permitted flow of 0.30 cubic feet per second across the intersection of Westridge Drive and Summit Drive.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING MAP REFERRED TO IN SECTION 170.06 OF THE ZONING ORDINANCE INCORPORATED IN CHAPTER 170 OF THE CODE OF ORDINANCES OF THE CITY OF CARROLL, IOWA AND ALTERING THE ZONING DISTRICT FOR REAL ESTATE SITUATION IN THE CITY OF CARROLL, CARROLL COUNTY, IOWA:

BE IT ORDAINED by the City Council of the City of Carroll, Iowa as follows:

SECTION 1. The Zoning Map referred to and incorporated as a part of Section 170.06, Chapter 170 of the Code of Ordinances, City of Carroll, Iowa is hereby amended to the extent of altering the Zoning District of the following property described from A-1, Agricultural District to P.U.D., Planned Unit Development District with an underlay zoning of R-3, Low-Density Residential District:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 84 NORTH, RANGE 35 WEST OF THE 5TH P.M., CARROLL COUNTY, IOWA, WHICH EXTERIOR BOUNDARY IS MORE FULLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE N00°44'28"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1315.06 FEET; THENCE S89°10'32"E, A DISTANCE OF 118.13 FEET TO THE EAST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 AND THE NORTHWEST CORNER OF LOT 3, BLOCK 1 OF ROLLING HILLS SOUTH 3RD ADDITION, CARROLL, IOWA; THENCE S00°55'09"W ON SAID EAST RIGHT OF WAY LINE, SAID EAST RIGHT OF WAY LINE ALSO BEING THE WEST LINE OF LOTS 3, 4 AND 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 359.13 FEET TO THE SOUTHWEST CORNER OF LOT 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION AND THE POINT OF BEGINNING; THENCE S00°56'00"E CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 419.61 FEET; THENCE S04°13'30"W CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 39.13 FEET TO THE NORTHWEST CORNER OF LOT 2, BLOCK 5 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE S89°05'23"E ON THE NORTH LINE OF SAID LOT 2 AND THE NORTH RIGHT OF WAY LINE OF SUMMIT DRIVE, A DISTANCE OF 246.91 FEET TO THE SOUTHWEST CORNER OF LOT 6, BLOCK 2 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE N00°32'38"E ON THE WEST LINE OF LOTS 6, 5, 4, 3, 2 AND 1 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 460.10 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE N89°27'22"W ON THE SOUTH LINE OF LOTS 8, 6 AND 5 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 255.21 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 2.63 ACRES MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS OF RECORD NOT SHOWN ON THE PLAT.

SECTION 2. The City Clerk is directed to attach a copy of the Ordinance to the official Zoning Map.

SECTION 3. The remainder of the Zoning Map, other than herein specified, shall remain the same as previously drawn and published.

SECTION 4. The Ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved by the Carroll City Council this _____ day of _____, 2018.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

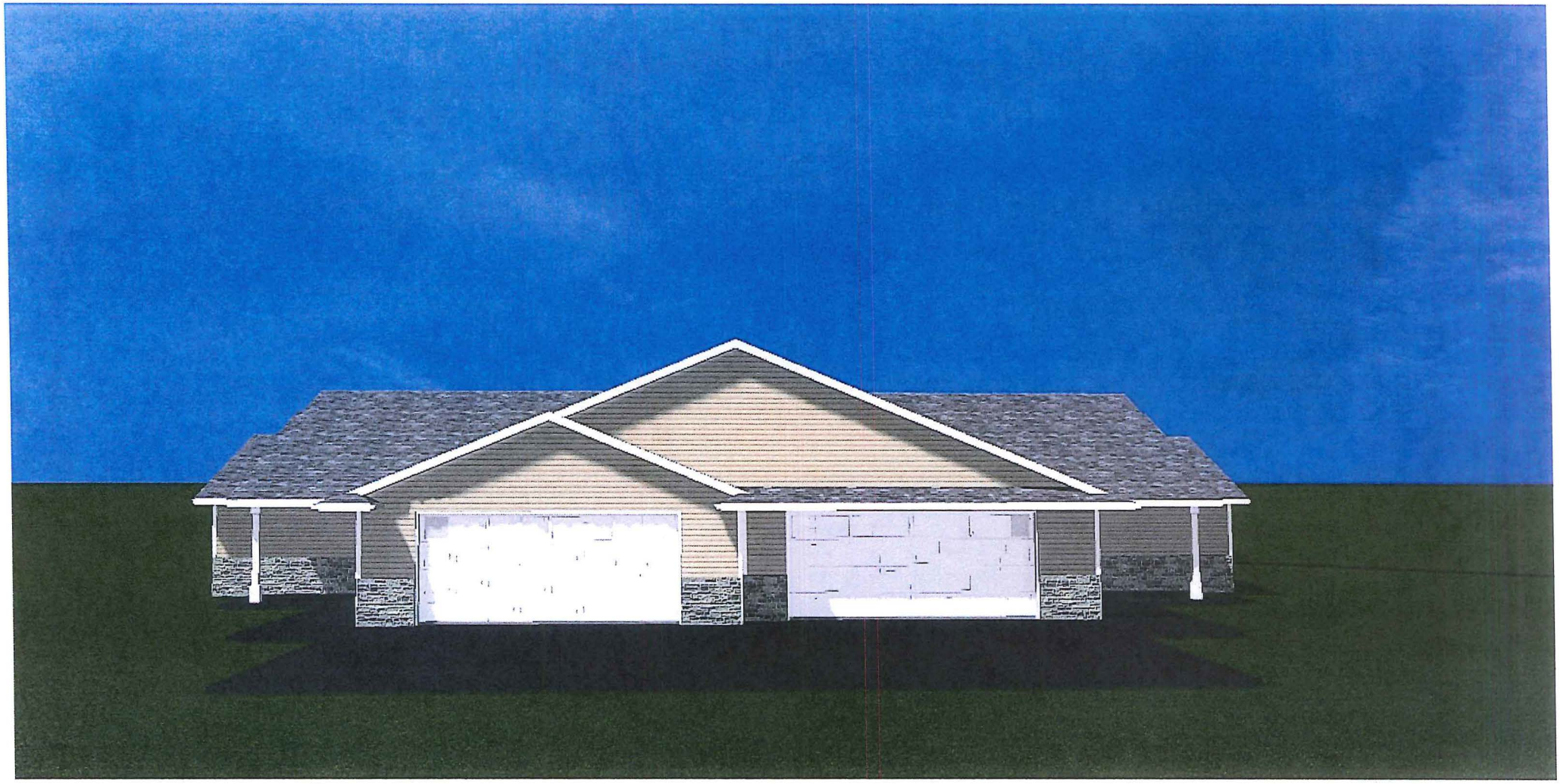
BY: _____
Eric P. Jensen, Mayor

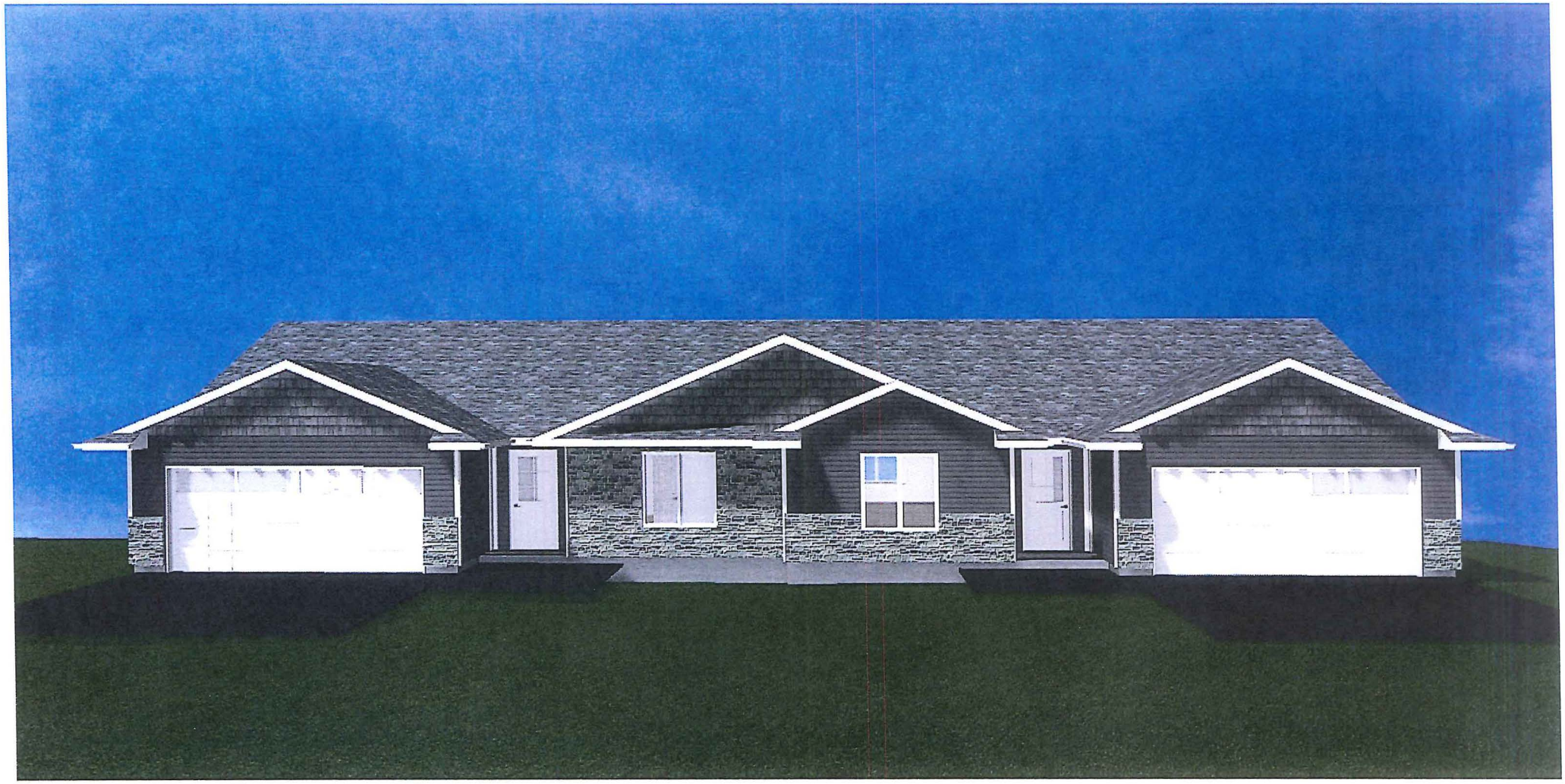
ATTEST:

_____
Laura A. Schaefer, City Clerk

I certify that the foregoing was published as Ordinance No. _____ on the ____ day of _____, 2018.

_____
Laura A. Schaefer, City Clerk





DECLARATION OF SUBMISSION TO A HORIZONTAL PROPERTY REGIME AND EASEMENTS, RESTRICTIONS AND COVENANTS FOR ROLLING HILLS SOUTH CONDOMINIUMS

THIS DECLARATION is made and entered into by 704 Development Corp., an Iowa corporation, and its successors and assigns ("Developer").

WHEREAS, Developer is the owner of certain real estate located in the City of Carroll, Carroll County, Iowa, which is legally described below, and is referred as the "Real Estate":

> A parcel of land in the Southwest Quarter of Section 25, Township 84 North, Range 35 West of the 5th P.M., Carroll County, Iowa, which exterior boundary is more fully described as follows: Referring to the Southwest Corner of the Southwest Quarter of said Section 25; thence N 00°44'28W (assumed bearing) on the West line of the said Southwest Quarter, a distance of 1315.06 feet; thence S 89°10'32" E, a distance of 118.13 feet to the East right of way line of U.S. Highway 71 and the Northwest Corner of Lot 3, Block 1 of Rolling Hills South 3rd Addition, Carroll, Iowa; thence S 00°55'09" W on said East right of way line, said East right of way line also being the West line of Lots 3, 4, and 5 of said Rolling Hills South 3rd Addition, a distance of 359.13 feet to the Southwest Corner of Lot 5 of said Rolling Hills South 3rd Addition and the Point of Beginning; thence S 00°56'00" E continuing on said East right of way line, a distance of 419.61 feet; thence S 04°13'30" W continuing on said East right of way line, a distance of 39.13 feet to the Northwest Corner of Lot 2, Block 5 of Rolling Hills South 3rd Addition; thence S 89°05'23" E on the North line of said Lot 2 and the North right of way line of Summit Drive, a distance of 246.91 feet on the Southwest Corner of Lots 6,5,4,3,2 and 1 of Rolling Hills South 3rd Addition, a distance of 460.10 feet to the Northwest Corner of said Lot 1; thence N 89°27'22" W on the South line of Lots 8, 6 and 5 of Rolling Hills South 3rd Addition, a distance of 255.21 feet to the point of beginning.

The above described parcel contains 2.63 acres more or less and is subject to any easements of record.

WHEREAS, IT IS THE DESIRE AND INTENTION OF THE Developer to enable all of the Real Estate, together with all buildings, structures, improvements and other permanent fixtures thereon, and all rights and privileges belonging in or pertaining to the Real Estate (all of which

shall be called the "Property") to be owned by Developer and by each successor in interest of Developer, under that certain type or method of ownership commonly known as "Condominium" and described as a "Horizontal Property Regime" under Chapter 499B of the Iowa Code, 2017, with the Property to be known as the "Rolling Hills South Condominiums", which shall hereinafter be referred to as the "Condominium Project", all to take effect when this Declaration is filed for record with the Recorder of Carroll County, Iowa.

WHEREAS, by this Declaration, Developer has subdivided the Property into separate parcels of real estate hereinafter defined as units, which in accordance with the provisions of this Declaration shall be subject to the benefits and burdens of a Horizontal Property Regime for the Condominium Project.

WHEREAS, Developer further desires to establish for the mutual benefit of all owners and occupants of the units, certain easements and rights on, over and upon the Property and certain mutually beneficial restrictions and obligations with respect to the proper use, conduct, and maintenance of the Property.

WHEREAS, Developer desires and intends that the several owners, as occupants of the units in the Property, shall at all times enjoy the benefits of, and shall hold their interests subject to the rights, easements, privileges and restrictions hereinafter set forth, all of which shall be in furtherance of a plan to promote and protect the cooperative aspect of the Rolling Hills South Condominiums, and all of which are established for the purpose of enhancing and perfecting the value, desirability and attractiveness of the property; and

NOW, THEREFORE, the Developer, as owner of the Real Estate and for the purposes set forth above, makes the following Declaration hereby specifying that such Declaration shall constitute covenants, restrictions, limitations, easements, conditions, and uses to run with the land, and shall be binding upon the Developer herein, all subsequent owners of all or any part of said Real Estate and improvements thereon, and their grantees, successors, heirs, executors, administrators, devisees, successors and assigns.

ARTICLE I
DEFINITIONS

For the purpose of clarity, certain words and terms used in this Declaration are defined as follows:

1.1 Development Parcel. The entire tract of Real Estate subjected to this Declaration is legally described as follows:

> A parcel of land in the Southwest Quarter of Section 25, Township 84 North, Range 35 West of the 5th P.M., Carroll County, Iowa, which exterior boundary is more fully described as follows: Referring to the Southwest Corner of the Southwest Quarter of said Section 25; thence N 00°44'28W (assumed bearing) on the West line of the said Southwest Quarter, a distance of 1315.06 feet; thence S 89°10'32" E, a distance of 118.13 feet to the East right

of way line of U.S. Highway 71 and the Northwest Corner of Lot 3, Block 1 of Rolling Hills South 3rd Addition, Carroll, Iowa; thence S 00°55'09" W on said East right of way line, said East right of way line also being the West line of Lots 3, 4, and 5 of said Rolling Hills South 3rd Addition, a distance of 359.13 feet to the Southwest Corner of Lot 5 of said Rolling Hills South 3rd Addition and the Point of Beginning; thence S 00°56'00" E continuing on said East right of way line, a distance of 419.61 feet; thence S 04°13'30" W continuing on said East right of way line, a distance of 39.13 feet to the Northwest Corner of Lot 2, Block 5 of Rolling Hills South 3rd Addition; thence S 89°05'23" E on the North line of said Lot 2 and the North right of way line of Summit Drive, a distance of 246.91 feet on the Southwest Corner of Lots 6,5,4,3,2 and 1 of Rolling Hills South 3rd Addition, a distance of 460.10 feet to the Northwest Corner of said Lot 1; thence N 89°27'22" W on the South line of Lots 8, 6 and 5 of Rolling Hills South 3rd Addition, a distance of 255.21 feet to the point of beginning.

1.2 Building Complex. Developer plans to construct on the Condominium project no more than six (6) buildings consisting of two (2) Units within each such buildings. Building Complex shall mean all such buildings which have been or will be constructed for the Condominium Project. A description of the building specifications and construction materials is shown on the attached Exhibit A.

1.3 Unit. A Unit shall be used to designate a part of the development property intended for use as a one-family dwelling, and shall consist of a Unit and Garage, as shown on Exhibit B. "Unit" shall have the same meaning as the term "apartment" as defined in Section 499B.2 of the Iowa Code, 2017. It consists of the area enclosed horizontally by the exposed faces of the drywalls at the exterior walls of the Buildings and the exposed face of the drywalls at the Unit side of the drywalls dividing the Unit from the other Units. Vertically each Unit consists of the Unit space between the upper face of the concrete or other floor and the exposed face of the ceiling. Doors, including garage doors, and windows which open from a Unit are a part of a Unit. A Unit shall also consist of all inner decorated or furnished surfaces of the walls, floors and ceiling, including but not limited to drywall, paint, wallpaper, vinyl or linoleum, carpeting and other floor or wall coverings which are a permanent part of each unit.

1.4 Bylaws. The Bylaws of the Association, a true unsigned copy of which is attached hereto as Exhibit C.

1.5 Common Elements. Common Elements shall have the same meaning as "General Common Elements" as defined in Section 499B.2 of the Iowa Code, 2017, and as described and defined in paragraph 4.1 of this Declaration.

1.6 Unit Ownership. Ownership of a part of the property, consisting of one Unit and the undivided interest in the Common Elements appurtenant thereto.

1.7 Unit Owner or Owner. The person or persons whose interest, individually or collectively, aggregate fee simple absolute ownership of a Unit. "Owner" shall have the same meaning as the term "Co-Owner" defined in Section 499B.2 of the Iowa Code, 2017.

1.8 Occupant. Person or persons, other than Owner, in possession of a Unit.

1.9 Association. An association of owners of units to manage all the property subject to this Declaration. The association is referred to in this Declaration as the "Association" and shall have the same meaning as the term "Council of Co-Owners" as defined in Iowa Code Section 499B.2.

1.10 Member. "Member" shall mean every person or entity that holds membership in the Association.

1.11 Board. The Board of Directors of the Association, as constituted at any time or from time to time, in accordance with the applicable provision is of this Declaration and the Bylaws of the Association.

ARTICLE 2
LOCATION OF LAND AND BUILDINGS

2.1 Location of Land. The land hereby submitted to the Condominium Project is located in the City of Carroll, Carroll County, Iowa, and is legally described as follows:

> A parcel of land in the Southwest Quarter of Section 25, Township 84 North, Range 35 West of the 5th P.M., Carroll County, Iowa, which exterior boundary is more fully described as follows: Referring to the Southwest Corner of the Southwest Quarter of said Section 25; thence N 00°44'28W (assumed bearing) on the West line of the said Southwest Quarter, a distance of 1315.06 feet; thence S 89°10'32" E, a distance of 118.13 feet to the East right of way line of U.S. Highway 71 and the Northwest Corner of Lot 3, Block 1 of Rolling Hills South 3rd Addition, Carroll, Iowa; thence S 00°55'09" W on said East right of way line, said East right of way line also being the West line of Lots 3, 4, and 5 of said Rolling Hills South 3rd Addition, a distance of 359.13 feet to the Southwest Corner of Lot 5 of said Rolling Hills South 3rd Addition and the Point of Beginning; thence S 00°56'00" E continuing on said East right of way line, a distance of 419.61 feet; thence S 04°13'30" W continuing on said East right of way line, a distance of 39.13 feet to the Northwest Corner of Lot 2, Block 5 of Rolling Hills South 3rd Addition; thence S 89°05'23" E on the North line of said Lot 2 and the North right of way line of Summit Drive, a distance of 246.91 feet on the Southwest Corner of Lots 6,5,4,3,2 and 1 of Rolling Hills South 3rd Addition, a distance of 460.10 feet to the Northwest Corner of said Lot 1; thence N 89°27'22" W on the South line of Lots 8, 6 and 5 of Rolling Hills South 3rd Addition, a distance of 255.21 feet to the point of beginning.

2.2 Description of Building. The building specifications and construction materials for the Condominium Project are shown in Exhibit A attached hereto.

ARTICLE 3
LOCATION AND DESCRIPTION OF UNITS

3.1 Location of Units. The Units, completed or to be completed, are shown and designated by number on the site plan and drawing contained in the attached Exhibit B, as required by Iowa Code Section 499B.4.

3.2 Description of Units. Each Unit submitted to the Condominium Project is described by the Unit set opposite the number below which corresponds to the number designations for each Unit in Exhibit B. The Dimensions and sizes are approximations.

(a) Unit 1 – 631 Westridge Drive, 1200 sq feet on main level, attached garage with walk out basement.
Unit 2 - 629 Westridge Drive, 1200 sq feet on main level attached garage with walk out basement.
Unit 3 - 623 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 4 - 621 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 5 - 617 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 6 - 615 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 7 - 605 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 8 - 603 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 9 - 604 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 10 - 602 Westridge Drive, 1200 sq feet on main level with attached garage.
Unit 11 - 626 Westridge Drive, 1340 sq feet on main level with attached garage.
Unit 12 - 628 Westridge Drive, 1340 sq feet on main level with attached garage.

3.3 Utility Lines Through Units. Pipes, wires, conduits, flues, ducts, chutes, public utility lines and structural components running through a Unit and servicing more than one Unit shall be a part of the Common Elements.

ARTICLE 4
COMMON ELEMENTS

4.1 Description. The Common Elements shall consist of the Property as defined in this Declaration, except all the property and space designated and described as Units set forth above. The Common Elements shall include, but not by the way of limitation the following:

(a) The land on which the buildings are erected, and including all of the surrounding lands embraced within the legal description of the property;

(b) All foundations, columns, girders, beams, supports, those portions of the exterior walls beyond the exposed face of the drywall, those portions of the walls and partitions dividing the Units from other Units beyond the exposed face of the

drywall enclosing the Unit, those portions of the walls and partitions located between the exposed faces of both drywalls enclosing the respective Units, the concrete floors, those portions of the ceiling of Units from the exposed lower face of the ceiling to the upper face of the roof above, the roofs and entrances and exits or communication ways to the Building.

(c) All land, sidewalks, lawns, gardens, shrubbery, private roads, paths, driveways, landscaping and planting, outside parking and other improved or unimproved areas not within the Units, provided, however, that each Unit Owner shall have an easement for the exclusive use of the driveway abutting his Unit;

(d) All installations outside the Units for services such as power, light, telephone and water;

(e) All sewer and drainage pipes;

(f) The driveways leading from the street to the respective Units, provided, however, that each Unit Owner shall have an easement for the exclusive use and possession of such portion of the driveway directly adjacent to such Unit Owner's garage;

(g) All patios, provided, however, that each Unit Owner whose Unit has direct access to a patio directly from the interior of his Unit shall have an easement for the exclusive use of such patio; and

(h) All other apparatus and installations existing in the Building for common use or necessary or convenient to the existence, maintenance or safety of the Building.

4.2 No partition of Common Elements. There shall be no partition of the Common Elements through judicial proceedings or otherwise until this Declaration is terminated and the Property is withdrawn from its terms.

4.3 Limited Common Elements. The front stoops and steps and courtyards, the driveway for each garage and all exterior patios attached to each Unit are defined as Limited Common Element reserved for the use of the Unit to which such elements are attached. The cost of upkeep and maintenance of Limited Common Elements shall be common expense. The use of the Limited Common Elements shall be exclusive to the Unit to which they are attached.

ARTICLE 5
OWNERSHIP OF UNITS, APPURTENANCES, AND EASEMENTS

5.1 Exclusive Ownership of Unit. Each Unit Owner shall be entitled to exclusive ownership and possession of their Unit.

5.2 No Severance of Ownership. No Owner shall execute any deed, mortgage, lease or other instrument affecting title to their Unit ownership without including therein both the interest

in the unit and the corresponding percentage of ownership in the Common Elements, to prevent any severance of such combined ownership. Any such deed, mortgage, lease or other instrument purporting to affect the one without including also the other shall be deemed and taken to include the interest so omitted even though the latter is not expressly mentioned or described therein.

5.3 Description and Ownership. Every deed, lease, mortgage or other instrument may legally describe a Unit by its identifying number as shown thereon, and every such description shall be deemed good and sufficient for all purposes and to incorporate by reference the necessary language thereof. No Unit Owner shall, by deed, plat or otherwise, subdivide or in any other manner cause any Unit to be separated into any tracts or parcels smaller than the whole Unit as shown in Exhibit B.

5.4 Appurtenances. There shall pass with the ownership of each Unit as a part thereof, whether or not separately described, all appurtenances to such Unit (whether such appurtenance is described herein or elsewhere in this Declaration or in the Bylaws of the Association), and no part of the appurtenant interest of any Unit may be sold, transferred or otherwise disposed of except in connection with the sale, transfer or other disposition of such Unit itself or of all Units in the condominium Project.

5.5 Undivided Ownership Interest. An undivided ownership interest in the Real estate and other Common Elements of the Condominium Project shall be appurtenant to each Unit. The amount of such undivided ownership interest appurtenant to each Unit situated shall be as follows:

One-twelfth (1/12) – Unit 1, 631 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 2, 629 Westridge Drive Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 3, 623 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 4, 621 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 5, 617 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 6, 615 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 7, 605 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 8, 603 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 9, 604 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 10, 602 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 11, 626 Westridge Drive, Carroll, IA 51401
One-twelfth (1/12) – Unit 12, 628 Westridge Drive, Carroll, IA 51401

5.6 Common Elements. Appurtenant to each Unit shall be a right to use and enjoy the Common Elements.

5.7 Membership and Voting Rights. Appurtenant to each Unit shall be one membership in the Association and there shall be one vote in the affairs of the Association for each membership.

5.8 Encroachment Easements. If any portion of the Common Elements now encroaches upon any Unit, or if any Unit now encroaches upon any other Unit or upon any portion of the Common Elements, or if any such encroachment shall occur hereafter as a result of (a) settling of the building, or (b) alteration or repair to the Common Elements made by or with the

consent of the Board of Directors, or (c) as a result of restoration of the Building or a Unit after damage by fire or other casualty, or (d) as a result of condemnation or eminent domain proceedings, a valid easement shall exist for such encroachment and for the maintenance of the same so long as the Building stands.

5.9 Pipes, Wires, Ducts, Cables, Conduits, Public Utility Lines and Other Common Elements Located Inside of Units. Each Unit Owner shall have an easement in common with the owners of all other Units to use all pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements located in any of the other Units and serving his or her Unit. Each Unit shall be subject to an easement in favor of the owners of all other Units to use the pipes, wires, ducts, cables, conduits, public utility lines and other Common Elements serving such other Units and located in such Unit. The Board of Directors of the Association shall have a right of access to each Unit to inspect the same, to remove violations therefrom and to maintain, repair or replace the Common Elements contained therein or elsewhere in the Building.

5.10 Easements Granted by Association. The Association may hereinafter grant easements for utility purposes, including the right to install, lay, maintain, repair and replace water mains and pipes, sewer lines, gas mains, telephone wires and equipment, cable television wires and electrical conduits and wires over, under, along and on the Common Elements for the benefit of the Condominium Project.

5.11 Right of Ingress and Egress. Each Unit Owner shall have an easement for the right of ingress to and egress from his or her Unit, with such right being perpetual.

5.12 Cross Easements. Appurtenant to each Unit shall be easements from each Unit Owner to each other Unit Owner and to the Association and from the Association to the respective Unit Owners as follows:

(a) For ingress and egress through the Common Elements and for maintenance, repair, and replacement as authorized;

(b) Every portion of a Unit contributing to the support of the Building is burdened with an easement of such support for the benefit of all such other Units.

5.13 Easements are Perpetual. All easements and rights described or authorized herein are easements appurtenant, running with the land, perpetually in full force and effect, and at all times shall inure to the benefit of and be binding on any Owner, and occupants of Units and all other persons having an interest in the Property, or any part or portion of the Property.

5.14 Legality of Easements. Reference in deeds of conveyance, or in any mortgage or trust deed or other evidence of obligation, to the easement and rights described in this Article, or described in any other part of this Declaration, shall be sufficient to create and reserve such easements and rights to the respective grantees, mortgages and trustees of such parcels as fully and

completely as though such easements and rights were recited fully and set forth in their entirety in such documents.

ARTICLE 6
DEVELOPER'S RESERVED RIGHTS AND POWERS

6.1 Developer's Activities and Unit Ownership. Developer is irrevocably and perpetually empowered, notwithstanding any use restriction or other provision hereto to the contrary, to sell, lease or rent Units to any Person and shall have the right to transact on the Condominium Property any business relating to construction, sale, lease or rental of Units including, but not limited to, the right to maintain models, offices, signs, employees and equipment and materials on the land, and to use Common Elements to show Units. Developer retains the right to be and remain the Owner of completed but Unsold Units under the same terms and conditions as other Owners including membership in the Association except for this right to sell, rent or lease.

6.2 Easements. Developer expressly reserves perpetual easements for ingress, egress, and utility purposes as may be required across and under the land submitted hereby and by any supplemental Declarations hereto for expansion of the Condominium Project and in connection with any development of the land.

6.3 Construction of Units – Variation and Adjustment. The Developer reserves the right to substitute any of the materials, equipment and appliances, for materials, equipment and appliances of equal or better quality.

ARTICLE 7
NAME OF CONDOMINUM

7.1 Name. The Condominium Project is to be known as Rolling Hills South Condominiums. An Association of Unit Owners through which the Unit Owners will manage and regulate the Condominiums pursuant to the Bylaws.

ARTICLE 8
THE UNIT OWNER'S ASSOCIATION

8.1 Association. The Association shall be known as the Rolling Hills South Condominium Association, Inc. The responsibility of the Association shall be to administer the Common Elements, approve the annual budget, provide for, and collect assessments, and arrange for the management and insuring of the Property. Every Unit Owner shall become a Member of the Association, which membership shall terminate upon the sale or other disposition by such Member of his or her Unit ownership, at which time the new Unit Owner shall automatically become a member of the Association.

8.2 Voting Rights. The voting rights and other rights and privileges in the Association shall be determined by the Bylaws of the Association.

ARTICLE 9
UNITS SUBJECT TO DECLARATION, WARRANTY DEED AND BYLAWS

9.1 Compliance. All present and future owners, tenants, visitors, servants and occupants of Units shall be subject to, and shall comply with, the provisions of this Declaration, the Warranty Deed and the Bylaws. The acceptance of a deed or conveyance or the entering into occupancy of any Unit shall constitute an agreement that (a) the provisions of this Declaration, the Warranty Deed and the Bylaws, are accepted and ratified by such owner, tenant, visitor, servant or occupant, and all such provisions shall be deemed and taken to be covenants running with the land and shall bind any person having at any time any interest or estate in such Unit, as though such provisions were cited and stipulated at length in each and every deed or conveyance or lease thereof, and (b) a violation of the provisions of this Declaration, the Warranty Deed and the Bylaws by any such person shall be deemed a substantial violation of the duties of the Condominium Unit Owner.

ARTICLE 10
INVALIDITY

10.1 Invalidity. The invalidity of any provision of this Declaration shall not be deemed to impair or affect in any manner the validity, enforceability or effect of the remainder of this Declaration, and, in such event, all of the other provisions of this Declaration shall continue in full force and effect as if such invalid provision had never been included herein.

ARTICLE 11
WAIVER

11.1 Waiver. No provision contained in this Declaration shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

ARTICLE 12
AMENDEMENT TO DECLARATION

12.1 Amendment. This Declaration may be amended by the vote of at least 75% of all Unit Owners, in person or by proxy at a meeting duly held in accordance with the provisions of the Bylaws, or in lieu of a meeting, any amendment may be approved in writing by 75% of all Unit Owners; provided, however, that:

(a) No amendment shall change the Developer's reserved rights and powers pursuant to the provisions of Article 6;

(b) No amendment shall change the formula prescribed in Article 5, for determining the amount of Undivided Ownership Interest appurtenant to each Unit set out in this Declaration or in any executed and recorded supplemental Declaration.

ARTICLE 13
CONFLICTS

13.1 Conflicts. This Declaration is set forth to comply with the requirements of Iowa Code Chapter 499B. In case the provisions stated herein are in conflict with the provisions of said Chapter, the provisions of said Chapter shall control.

ARTICLE 14
COVENANTS AND RESTRICTIONS FOR USE AND OCCUPANCY

14.1 Covenants and Restrictions. The Units and Common Elements shall be occupied and used as follows:

(a) Single Family Residences. Except as otherwise provided in this Declaration, no part of the Property shall be used for other than housing and the purposes for which the Property was designed. Each Unit shall be used as a residence for a single family and for no other purpose. An Owner may use a portion of his or her Unit for an office or studio provided that the activities therein shall not interfere with the quiet enjoyment or comfort of any other Owner or occupant; and provided further that in no event shall any part of the Property be used as a school or music studio.

(b) Developer Promotional Use. Developer may use the Property as provided in Section 6.1 regarding Developer's reserved rights and powers.

(c) No Adverse Use. There shall be no obstruction of the Common Elements nor shall anything be stored in the Common Elements without the prior consent of the Association except as otherwise expressly provided in this Declaration. No structure, shed, or storage structure of any kind, shall be placed on the property, including the common elements, unless all unit owners consent in writing. Each Owner shall be obligated to maintain and keep in good order and repair his or her own Unit.

(d) Insurability. Nothing shall be done or kept in any Unit or in the Common Elements which will increase the rate of insurance of any building, or contents thereof, applicable for residential use, without prior written consent of the Association. No Owner shall permit anything to be done or kept in his or her Unit or in the Common Elements which will result in the cancellation of insurance on any building, or contents thereof, or which would be in violation of any law. No waste shall be permitted in the Common Elements; provided, however, that furniture, fixtures, equipment and decorative items provided by the Association may be placed in any

of the Common Elements at the discretion of the Board of Directors of the Association.

(e) Alterations of Common Elements. Nothing shall be altered or constructed in or removed from the Common Elements, except upon the written consent of the Association, and except as provided in this Declaration or in the Bylaws of the Association.

(f) Adverse Use and Signs. Except as provided in Sections 14.1(a) and 14.1(b) of this Declaration, no industry, business, trade, occupation or profession of any kind, commercial, religious, educational, or otherwise, designed for profit, altruism, exploration, or otherwise, shall be conducted, maintained or permitted on any part of the Property, nor shall any "For Sale" or "For Rent" signs or other window displays or advertising be maintained or permitted on any part of the Property or in any Unit therein, except as is otherwise provided in this Declaration. However, the right is reserved by Developer, or its agent, to place "For Sale" or "For Rent" signs on any unsold or unoccupied Units, and the right is hereby given to any mortgagee, who may become the Owner of any Unit, to place such signs on any Unit owned by such mortgage.

(g) Exterior Appearance. Owners shall not cause or permit anything to be hung or displayed on the outside of windows or placed on the outside walls of the Units, and no sign, awning, canopy, shutter, radio or other antenna shall be affixed to or placed upon the exterior walls or roof or any part thereof without the prior consent of the Association, except a satellite dish 24" diameter or less attached to the Owner's Unit. Furthermore, Owners shall not paint or alter the exterior siding, finish or roof of the Unit without the prior written consent of the Association.

(h) For Sale Signs. Notwithstanding anything to the contrary herein, in the event that a Unit Owner desires to sell his or her Unit Ownership he or she may cause to be erected one "For Sale" sign on the Common Element in front of his or her Unit which sign shall not exceed six (6) square feet in surface area.

(i) Pets. No animals, livestock, fowl, or reptiles of any kind shall be raised, bred, or kept in any Unit or in the Common elements, except that dogs, cats or other normal household pets, not exceeding two in total number of pets, may be kept in any Unit, unless prohibited by and subject to rules and regulations adopted by the Association, provided that they are not kept, bred, or maintained for any commercial purpose; and provided further that any such pet or pets causing or creating a nuisance or unreasonable disturbance shall be permanently removed from the Property upon written notice from the Association.

(j) Nuisances. No noxious or offense activity shall be carried on in any Unit or in the Common Elements, nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or Occupants.

(k) Structural Damage. Nothing shall be done in any Unit or in, on or to the Common Elements which will impair the structural integrity of the Building or which would structurally change the Building except as is otherwise provided in this Declaration.

(l) Unsightly Use of Common Elements. No clothes, sheets, blankets, laundry or any kind of other articles shall be hung out or exposed on any part of the Common Elements. The Common Elements shall be kept free and clear of rubbish, debris and other unsightly materials. All garbage containers shall be stored inside the Units.

(m) Patios. Outdoor furniture, gas grills, portable barbeques, and the like may be kept on a patio; however, the same shall not be used for the storing of general items of personal property.

(n) Parking on Common Elements. There shall be no parking of baby carriages, playpens, bicycles, wagons, toys, vehicles, boats, campers, RVs, trailers, benches or chairs on any part of the Common Elements; provided, however, that automobiles may be parked on the surfaced areas designated for such use.

ARTICLE 15
LEASING

15.1 Lease by Owner. No Owner (except Developer, or a Mortgagee who takes title in lieu of foreclosure or who under the terms of his or her mortgage, or decree of Court foreclosing a mortgage takes possession or title to a Unit) shall have the right to lease a Unit for a period in excess of six (6) months in any one calendar year without the prior written consent of the Association. If an Owner does rent a Unit, the Owner shall ensure that such tenant observes all Bylaws of the Association and such Owner shall be held liable for any action of such tenant. In case of violation of any rules or Bylaws, the Board may demand that such tenant surrender possession of the Unit immediately. The judgment of the Board shall be final in any such matter.

ARTICLE 16
COMMON EXPENSES, INSURANCE OR DAMAGE OR DESTRUCTION AND DISPOSITION OF INSURANCE PROCEEDS; CONDEMNATION

16.1 Common Expenses. The Owners of each Unit shall be responsible for and pay for their proportionate share of charges, costs and expenses incurred, including without limitation, administrative expenses, risk and fire insurance for the Building, liability insurance for Common Elements, exterior repairs and maintenance including lawn care, mowing, snow removal and other general maintenance of the buildings and Common Elements, to be paid in such manner and time as fixed by the Board of Directors of the Association pursuant to the Bylaws. Until all units are constructed only such units that utilize snow removal or lawn care services shall be responsible

for payment of charges. Developer shall be responsible for maintaining services for undeveloped or unsold areas.

16.2 Insurance – Fire and Casualty. The Association shall secure a policy or policies of fire and casualty insurance as provided in the Bylaws of the Association. Unit Owners shall provide insurance for personal property and furniture or other property located in a Unit and owned by the Unit Owner. All proceeds of insurance payable as a result of casualty losses, except on furniture and personal property, shall be paid to the Association and shall be distributed in accordance with the following provisions.

(a) Sufficient, Insurance Proceeds. In the event the improvements, or any portion thereof, including the Units, shall suffer damage or destruction from any cause and the proceeds of any policy or policies insuring against such loss or damage paid shall be sufficient to pay the cost of repair or restoration or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association and the insurance proceeds shall be applied in payment therefor; and any excess of such insurance proceeds, after completion and payment of such repair, restoration or reconstruction, shall be paid to the Association to apply against common expenses; provided, however, that in the event, within thirty (30) days after the damage or destruction the Owners elect as provided in Article 17 of this Declaration either to sell the Property or to withdraw the Property from this Declaration, then such Repair, restoration or reconstruction shall not be undertaken.

(b) Insufficient Coverage. In the event that improvements, or any portion thereof, including the Units, shall suffer damage or destruction from any cause, and such damage or destruction is not insured against or the insurance proceeds are not sufficient to pay the cost of repair, restoration, or reconstruction, then such repair, restoration or reconstruction shall be undertaken by the Association, unless the Owners shall within thirty (30) days or any such longer time permitted by law after said damage or destruction elect as provided in Article 17 of this Declaration, either to sell or to withdraw the Property from the provisions of this Declaration and terminate the same. Each Unit Owner shall be liable for the cost of any repair, restoration or reconstruction to such owner's Unit in excess of the insurance proceeds paid as a result of the damage or destruction and which are allocated to such Unit. The Board of Directors shall have the authority and duty to allocate between and among the damaged Units the available insurance proceeds paid as a result of the damage or destruction, with such allocated based on the actual insurance coverage obtained by the Association for the benefit of each Unit. Should any owner refuse or fail after reasonable notice to pay the share of such cost in excess of available insurance proceeds, the amount thereof may be advanced by the Association or by any one or more of the other Owners and the amount so advanced shall constitute a lien on the interest of that Owner in the Property in favor of the Association or the Owner or Owners making the advance, which liens shall have the same force and effect and may be enforced in the same manner as provided in the Bylaws of the Association.

(c) Method for Handling Insurance Proceeds. In the event of repair, restoration or reconstruction of the improvements, the available insurance proceeds shall be paid out (after disbursement of funds, if any, required to be furnished by the Association)on architect's certificates or other proper evidence satisfactory to the Association indicating that the amount paid out from time to time does not exceed the value of the repair, restoration or reconstruction that has been or is being effected, and that the balance of the available insurance proceeds remaining in the hands of the Association are sufficient to complete the repair, restoration or reconstruction. Satisfactory waivers of lien shall also be furnished to the Association at the time of each payout.

(d) Decision to Withdraw Property from the Condominium. In the event that improvements, or any portion thereof, including the Units, shall suffer damage or destruction from any cause and the Owners may, within thirty (30) days after the damage or destruction pursuant to Section 16.2(a) or within thirty (30) days or any such longer time permitted by law after damage or destruction pursuant to this Article, elect as provided herein to (a) repair, reconstruct or rebuild, or (b) sell the same, and if the decision is to sell or terminate, than the Association shall distribute the available insurance proceeds to each Owner and his or her mortgagee, if any, based on the Owner's percentage ownership in the Units and Common Elements as provided herein.

(e) Mortgage Beneficiary. The insurance covenants contained in this Article are covenants for the benefit of any mortgagee of a Unit and may be enforced by any such mortgagee, but nothing herein contained shall be construed so as to give any mortgagee the right to determine or participate in the determination of whether to reconstruct or repair.

16.3 Condemnation; General. If all or part of the Property is taken or threatened to be taken by condemnation, the Board and each Unit Owner shall be entitled to participate in proceedings incident thereto at their respective expense. The expense of participation in such proceedings by the Board shall be a common expense. The Board may obtain and pay for such assistance from attorneys, appraisers, architects, engineers, expert witnesses, and other persons as the Board deems necessary or advisable to aid or advise it in matters relating to such proceedings. All damage or awards for any such taking shall be deposited with the Board, acting as trustee, and such damages or award shall be applied or paid as provided in this Declaration.

(a) Condemnation of Common Elements. If any action is brought to condemn a portion of the Common Elements, the Board shall have the sole authority to determine whether to defend or resist such action, to make any settlement with respect thereto, or to convey such property to the condemning authority in lieu of condemnation. After the damages or awards for such taking are determined, such damages or awards shall be paid to each Unit Owners in proportion to his or her ownership interest. The Board may call a meeting of the Association, at which meeting the Members by a majority vote may decide whether to replace or restore insofar as possible the Common Elements so taken or damaged.

(b) Payment of Awards and Damages. Any damages or awards paid to or for the account of any Unit Owner by the Board, acting as trustee, shall be applied first to the payment of any taxes or assessments by governmental authorities past due and unpaid with respect to that Unit; secondly, to amounts due under any mortgages; thirdly, to the payment of any unpaid Common Expenses or special assessments charged to or made against the Unit; and finally to the Unit Owner.

(c) Mortgagee. If any Unit or portion thereof of the Common Elements or any portion thereof is made the subject matter of any condemnation or eminent domain proceedings or is otherwise sought to be acquired by a condemning authority, the Mortgagee of a Unit shall be entitled to timely written notice of any such proceeding or proposed acquisition, and no provision of this Declaration or any other document establishing the Condominium Project shall entitle the Unit Owner or other party to priority over such Mortgagee with respect to the distribution of the proceeds of any award or settlement.

ARTICLE 17
SALE OR WITHDRAWAL AND TERMINATION

17.1 Action by Owners. The Owners by affirmative vote of 75% of the total vote, at a meeting of the voting Members duly held in accordance with the Bylaws, may elect to sell the Property as a whole, or to withdraw the Property from the provisions of this Declaration, and to terminate the same. The interest of any Owner of the minority not voting in favor of such action may be purchased by any of the Owners voting in favor thereof, or the Association on behalf of those Owners voting in favor thereof, at its then fair market value.

17.2 Conveyance. In the event the election is made to terminate this Declaration and to withdraw the Property from its status as a horizontal property regime, then upon the consummation of the purchases of dissenting Owners' interests as herein provided, all of the Owners and their respective spouses shall duly execute, acknowledge and record an instrument setting forth the facts and circumstances, waiving dower and homestead rights insofar as such rights affect the exclusive ownership of any Unit, and expressly declaring their intention to withdraw the Property. The instrument shall provide that titles to all Units shall thereby be conveyed and become vested in all the then Owners of the Common Elements as tenants in common, in the same proportions as such Owners shall then own said Common Elements, subject, however, to the rights of any mortgagee or other person having a bona fide lien of record against any Unit, unless such lienholder shall consent in writing to the transfer of his or her lien to the appropriate Owner's undivided interest in the whole Property resulting from the recording of such instrument.

ARTICLE 18
REMEDIES FOR BREACH OF COVENANTS, RESTRICTIONS AND REGULATIONS

18.1 Abatement and Enjoyment. The violation of any covenant, restriction or condition within this Declaration, or of the Bylaws of the Association or any regulation adopted by the

Association, shall give Developer or the Association the right, in addition to the rights set forth in the next succeeding section:

(a) to enter any Unit upon which, or as to which, such violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition that may exist thereon or therein contrary to the intent and meaning of the provisions of this Declaration, and Developer or the Association or its agents, shall not thereby be deemed guilty in any manner of trespass; and

(b) to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

Developer's rights under this Section shall terminate upon conveyance by Developer of all of the Units.

18.2 Involuntary Sale. If any Owner (either by his or her own conduct or by the conduct of any other occupant of the Unit) shall violate any of the covenants or restrictions or provisions of this Declaration or the regulations adopted by the Association and such violation shall continue for thirty (30) days after notice in writing from the Association, or shall occur repeatedly during any thirty (30) day period after written notice or request to cure such violation from the Association, then the Association shall have the power, by action of a majority of its Board of Directors, to issue to the defaulting Owner a ten (10) day notice in writing to terminate the rights of the defaulting Owner to continue as an Owner and to continue to occupy, use or control his or her Unit, and thereupon an action in equity may be filed by the Association against the defaulting Owner for a decree of mandatory injunction against the Owner or occupant, subject to the prior consent in writing of any mortgagee having a security interest in the Unit ownership of the defaulting owner, which consent shall not be unreasonably withheld. In the alternative, a decree may be obtained declaring the termination of the defaulting Owner's right to occupy, use or control the Unit owned by him or her on account of the breach of covenant, and ordering that all the right, title and interest of the Owner in the Property shall be sold (subject to the lien of any existing mortgage) at a judicial sale upon such notice and terms as the court shall establish, except that the court shall enjoin and restrain the defaulting Owner from re-acquiring his or her interest at such judicial sale. The proceeds of any such judicial sale shall first be paid to discharge court costs, master's or commissioner's fees, court reporter charges, reasonable attorneys' fees and all other expenses of the proceedings, and all such items shall be taxed against the defaulting Owner in the Decree. Any balance of proceeds, after satisfaction of such charges and any unpaid assessments hereunder or any liens shall be paid to the Owner. Upon the confirmation of such sale, the Unit owner shall execute, acknowledge and deliver a deed conveying to the purchaser all his or her right, title and interest to the property, waiving dower and homestead therein, and such purchaser shall, subject to the rights and privileges of the Association, be entitled to possession of the Unit sold and may apply to the court for a writ of assistance for the purpose of acquiring such possession, and it shall be a condition of any such sale, and the decree shall so provide, that the purchaser shall take the interest in the property sold subject to this Declaration, and the purchaser shall become a Member of the Association in the place of the defaulting Member.

ARTICLE 19

GENERAL PROVISIONS

19.1 Initial Board Shall Govern. Until such time as the first annual meeting of the Association is held as provided in the Bylaws of the Association, the Board of Directors appointed by Developer shall exercise the powers, rights, duties and functions of the Association.

19.2 Lender Notices. Upon written request to the Board, the holder of any duly recorded mortgage against any Unit ownership shall be given a copy of any and all notices permitted or required by this Declaration to be given to the Owner or Owners whose Unit ownership is subject to such mortgage.

19.3 Notices to the Board. Notices required to be given to the Board or the Association shall be delivered to the President and a copy to the Secretary of the Association either personally or by regular mail addressed to such officer at his or her Unit or other business address.

19.4 Notices to Others. Notices required to be given any devisee or personal representative of a deceased Owner may be delivered either personally or by mail to such party at his, or her or its address appearing in the records of the court wherein the estate of such deceased Owner is being administered.

19.5 Separate Taxation. Real property taxes, special assessments, and any other special taxes or charges of the State of Iowa or of any political subdivision thereof, or other lawful taxing or assessing body, which are authorized by law to be assessed against and levied upon real property shall be assessed against and levied upon each Unit and the Owner's corresponding percentage of ownership in the Common Elements as a tract, and not upon the Property for a whole.

19.6 Captions. The article and paragraph headings are intended for convenience only and shall not be construed with any substantive effect in this Declaration.

19.7 Uniform Plan. The provisions of this Declaration shall be liberally construed to effectuate its purpose of creating a uniform plan for the development and operation of the Condominium Project.

19.8 Duration. This Declaration shall be effective for a period of 21 years from the date of the recordation of this Declaration and, unless sooner terminated as provided in this Declaration, shall be automatically extended for successive periods of ten (10) years each thereafter.

19.9 Enforcement. The Association or any Owner of a Unit shall have the right to enforce the provisions of this Declaration against any other Owner or Occupant violating the same by proceedings for injunction or for money damages, or both. All expenses in connection with any such action or proceeding, including court costs and reasonable attorneys' fees, shall be charged to and assessed against such defaulting Owner or Occupant, and shall be collected as part of the judgment in such suit assessed in favor of the prevailing party. The remedies provided for in this Declaration shall be in addition and supplementary to any other remedies provided by law.

19.10 Provisions Binding. All provisions of this Declaration shall be fully binding upon the Developer, its successors and assigns, and upon all subsequent Owners of all or any part of the Real Estate and improvements thereon, together with their grantees, heirs, executors, administrators, devisees, successors and assigns.

IN WITNESS WHEREOF, 704 Development Corp., an Iowa corporation has caused its name to be signed by its President on this 25 day of June, 2018.

704 DEVELOPMENT CORP.

By: _____
Matthew P. Greteman, President

STATE OF IOWA)
)ss:
COUNTY OF CARROLL)

This instrument was acknowledged before me on the 25 day of June, 2018, by Matthew P. Greteman, President of 704 Development Corp.

NOTARIAL SEAL IOWA
JACQUIE S. MASON
Commission Number 182488
MY COMMISSION EXPIRES
12-12-2019

Jacquie S. Mason
Notary Public

EXHIBIT A

Building Specifications and Construction Materials

The buildings will be a "duplex style" fronting on Westridge Drive in the City of Carroll, Iowa. The buildings will be a one story building, containing two individual units with attached garages. The general construction consists of eight inch concrete foundation walls. There is a sound insulated stud and double-layer five-eighths inch gypsum board on double stud walls between the units. Steel pipe columns and wood laminated beams support the center spans of the first floor. The first floor construction consists of 11 7/8 I-joists on sixteen inch centers with ¾ tongue and groove OSB floor for resilient floor coverings or carpet. Exterior walls above grade consist of four or six inch walls, ½" OSB sheeting and vinyl, steel or composite siding. Interior partitions between dwellings consist of two insulated wood stud walls separated with air space and fire-resistant gypsum board finish. Roof construction consists of wood rafters and ½" OSB sheathing covered with asphalt shingle surface. First floor ceiling consists of 5/8" gypsum board surface and 14 inch blown cellulose insulation. Balance of the interior partitions, are wood stud with ½" gypsum board surface and wood trim. Furnace and air conditioning units: gas forced air and electric cooling. One central sewer service for each unit with two units hooked to single sewer lateral. Separate water service and exterior water shut-offs for each unit.

PRELIMINARY PLAT
ROLLING HILLS SOUTH CONDOMINIUMS
CITY OF CARROLL
CARROLL COUNTY, IOWA

CURVE	RADIUS (FT)	DELTA	LENGTH	TANGENT	DIRECTION
C1	165.00' L	33° 33' 18.85"	108.15'	108.61'	N 18° 59' 14.65" W
C2	225.00' R	27° 51' 55.46"	109.43'	108.35'	N 18° 49' 55.76" W
C3	38.00' L	40° 34' 48.54"	27.52'	27.05'	N 25° 11' 18.53" W
C4	59.00' R	276° 36' 44.04"	284.67'	78.48'	S 87° 09' 20.54" E
C5	39.00' L	63° 29' 05.81"	43.21'	41.04'	S 19° 25' 27.77" W
C6	175.00' L	20° 20' 48.50"	62.45'	62.12'	S 22° 53' 29.85" E
C7	235.00' R	33° 33' 18.85"	137.53'	135.67'	S 18° 59' 14.65" E

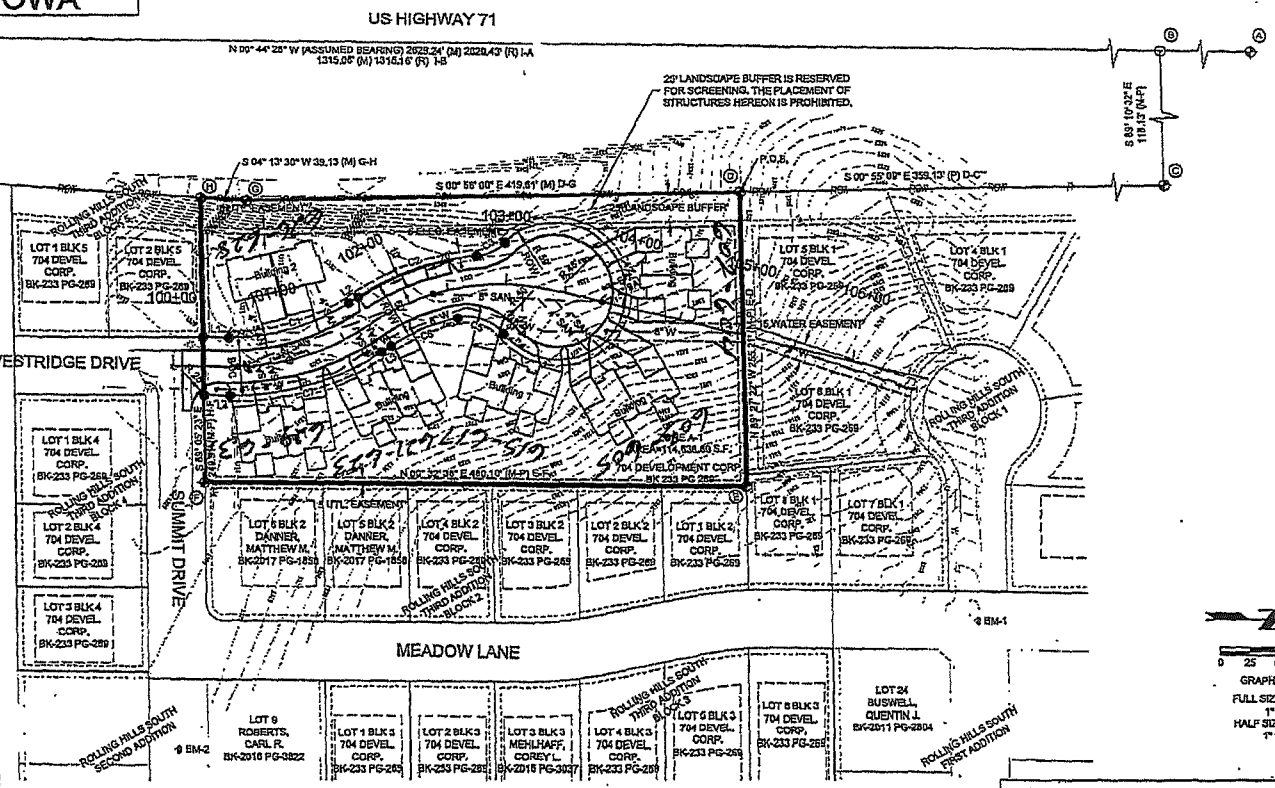
LINE	LENGTH	BEARING
L1	22.77'	N 00° 47' 24.77" E
L2	9.55'	N 32° 45' 54.13" W
L3	9.55'	S 32° 45' 54.13" E
L4	22.66'	S 00° 47' 24.77" W

INDEX OF SHEETS

SHEET 1 - BOUNDARY INFORMATION
SHEET 2 - BOUNDARY DESCRIPTION AND DEDICATION

LEGEND

UTILITY EASEMENT		MEASURED DISTANCE	M
BUILDING SET BACK LINE		PLATTED DISTANCE	P
MONUMENT FOUND		RECORDED DISTANCE	R
FOUND MONUMENT LABEL	A	RIGHT-OF-WAY	ROW
MONUMENT SET YELLOW CAP, NO. 21443		EASEMENT	EASE.
TEMPORARY POINT		UTILITY	UTIL.
		PROPOSED	PROP.
		ELECTRICAL	ELEC.



OWNER, SUBDIVIDER
704 DEVELOPMENT CORP.
704 W. HWY. 30
CARROLL, IA 51401
712-792-5050

LAND SURVEYOR
MATT FOUTS, LS
724 SIMON AVENUE
CARROLL, IOWA 51401
712-792-9711

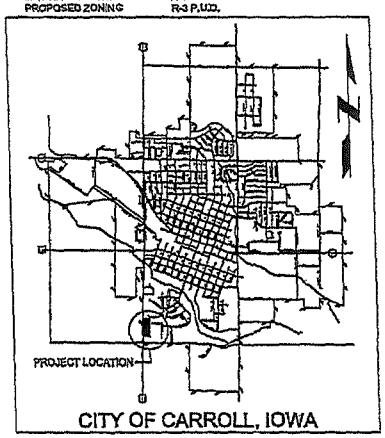
DESIGN ENGINEER
CODY FORCH, PE
724 SIMON AVENUE
CARROLL, IOWA 51401
712-792-9711

ACREAGE TABLE

TOTAL ACREAGE	2.63 ACRES
NUMBER OF LOTS	1
MIN. LOT AREA	2.08 ACRES
AVG. LOT AREA	2.08 ACRES
MAX. LOT AREA	2.08 ACRES
PUBLIC LAND AREA	0.00 ACRES
ROW LAND AREA	0.55 ACRES
COMMON OPEN SPACE	1.53 ACRES

ZONING:

EXISTING ZONING	A-1
PROPOSED ZONING	R-3 P.U.D.



BUILDING SETBACKS:
SPACE BETWEEN BUILDINGS - 10' MIN.

NOTE:
ALL BEARINGS ARE ASSUMED. ALL MONUMENTS SET ARE 5/8" REBAR WITH YELLOW CAP LS#21443 UNLESS OTHERWISE NOTED. MONUMENTS TO BE SET UPON COMPLETION OF CONSTRUCTION.

SEE SHEET 2 FOR MONUMENT DESCRIPTIONS.

CITY APPROVALS	PRELIMINARY PLAT APPROVED 704 DEVELOPMENT CORP.
RECOMMEND TENTATIVE PLAT APPROVAL - PLANNING & ZONING COMMISSION	
CHAIRMAN DATE	
TENTATIVE PLAT APPROVAL - CITY OF CARROLL, IOWA	
CLERK DATE	704 DEVELOPMENT CORP. Pres. 3/22/18 DATE

LICENSED PROFESSIONAL ENGINEER CODY F. FORCH 22843 IOWA

I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF IOWA.

Cody Forch 3/22/18
SIGNATURE CODY F. FORCH DATE
PRINTED OR TYPED NAME
22843
MY LICENSE RENEWAL DATE IS: DECEMBER 31, 2018
PAGES OR SHEETS COVERED BY THIS SEAL:
SHEET 1 & 2

Exhibit B

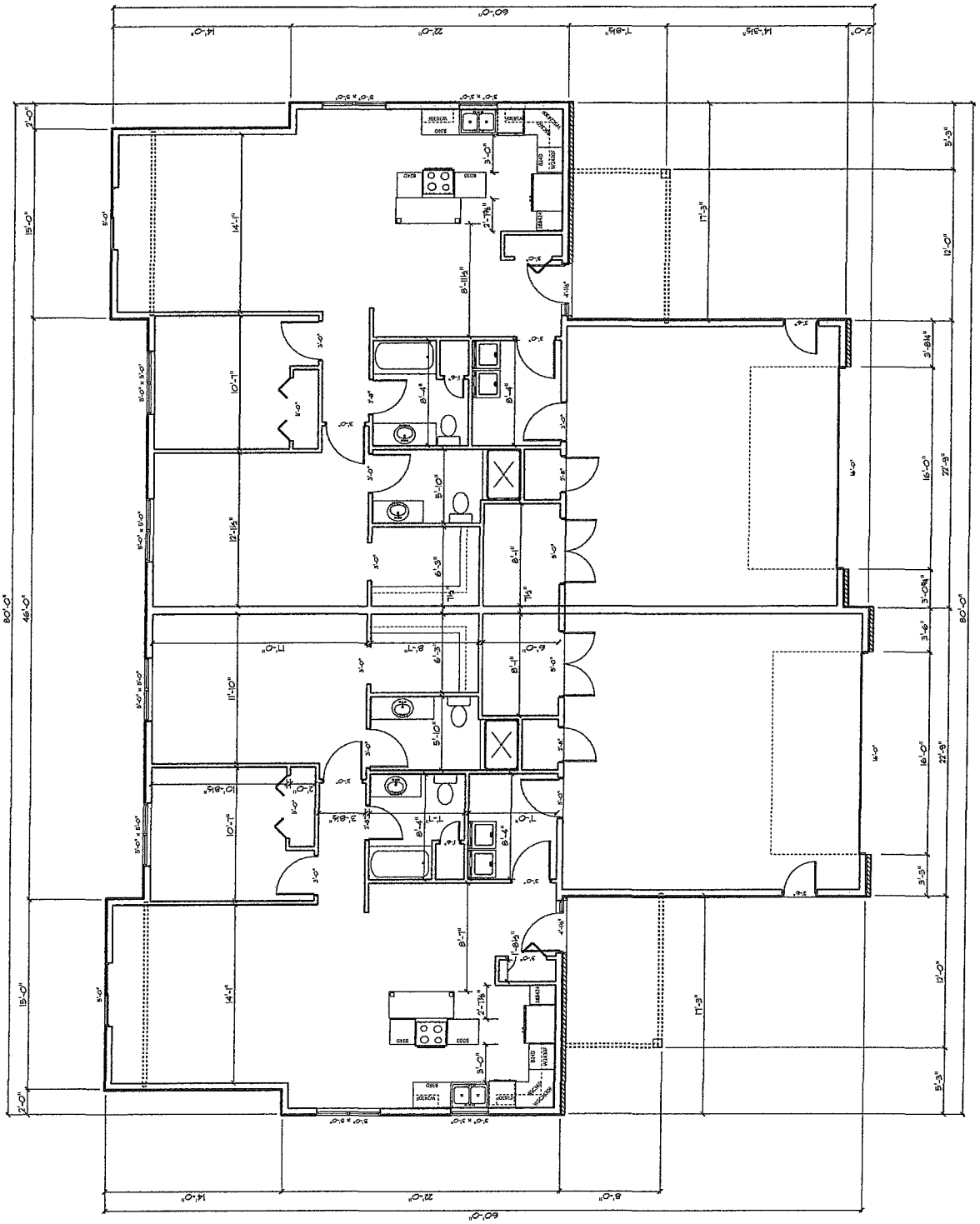
2017 ROLLING HILLS SOUTH

PRELIMINARY PLAT BOUNDARY INFORMATION

SHL

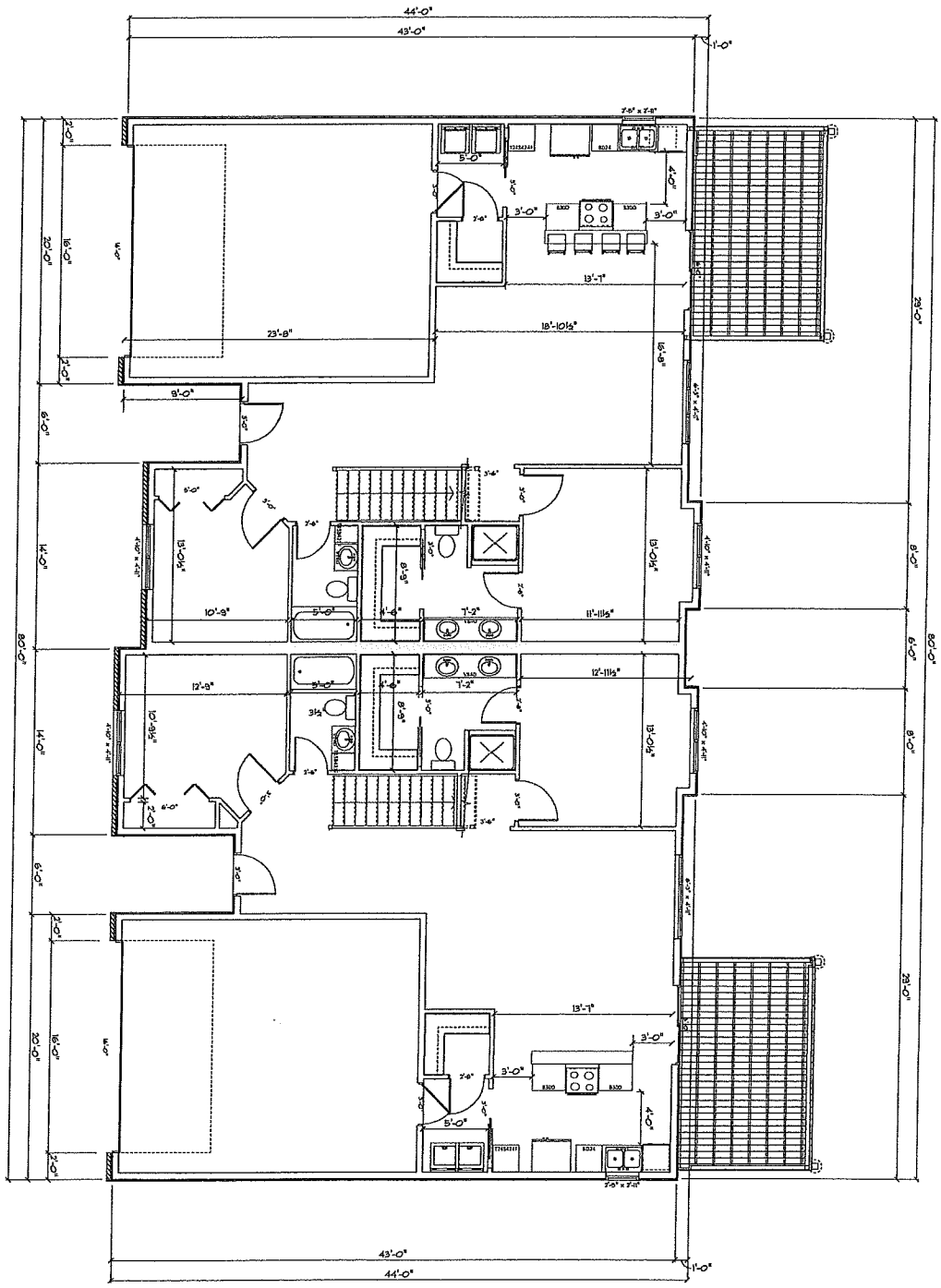
626 & 628 Westridge

N

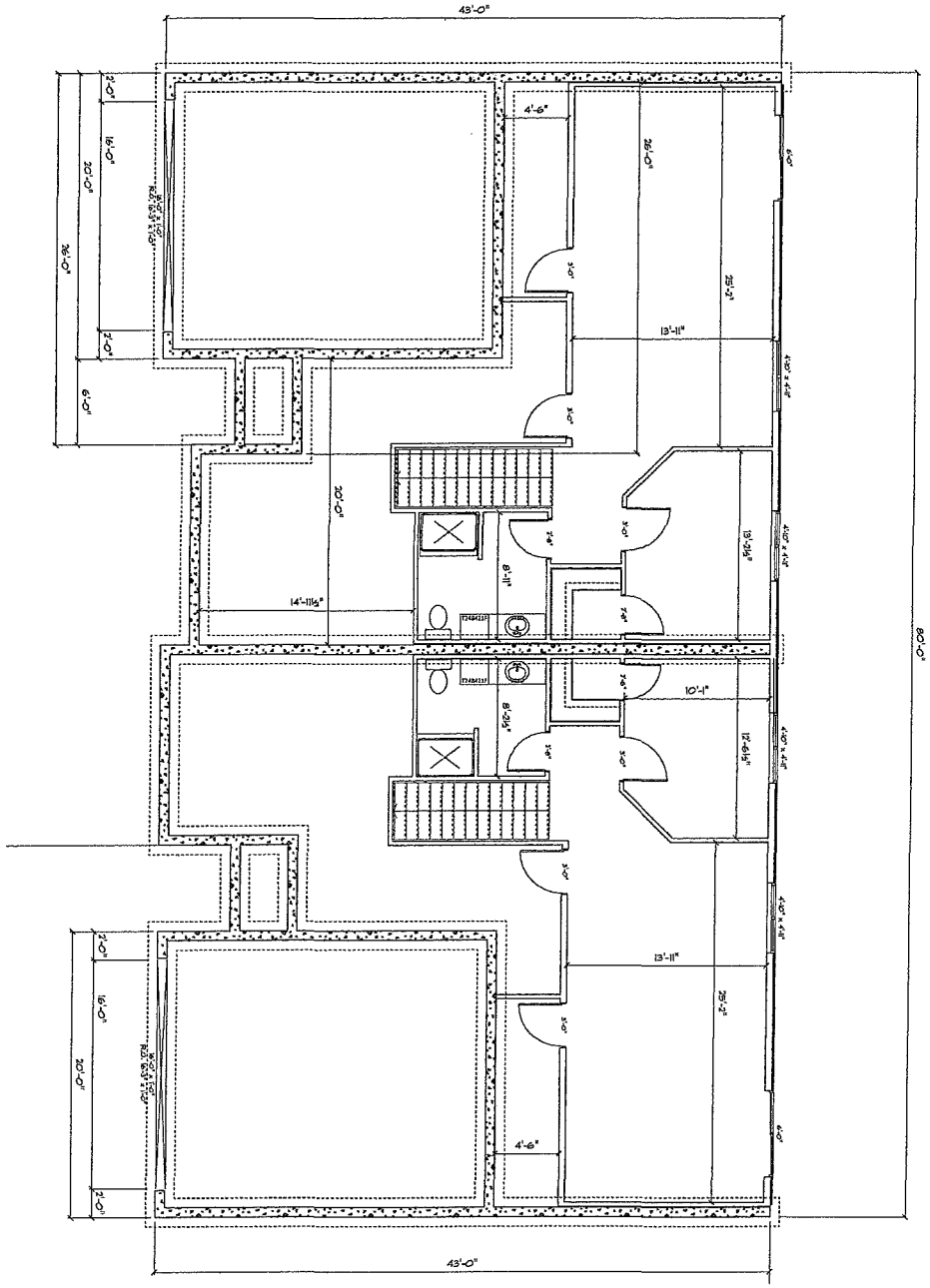


602, 604, 603, 605, 615, 617, 621, 623, 629, 631

Westridge. Main floor



Lower level. (unfinished)



PRELIMINARY PLAT
ROLLING HILLS SOUTH CONDOMINIUMS
CITY OF CARROLL
CARROLL COUNTY, IOWA

CURVE	RADIUS (FT)	DELTA	LENGTH	TANGENT	DIRECTION
C1	185.00' L	33° 33' 18.88"	108.15'	106.81'	N 15° 59' 14.68" W
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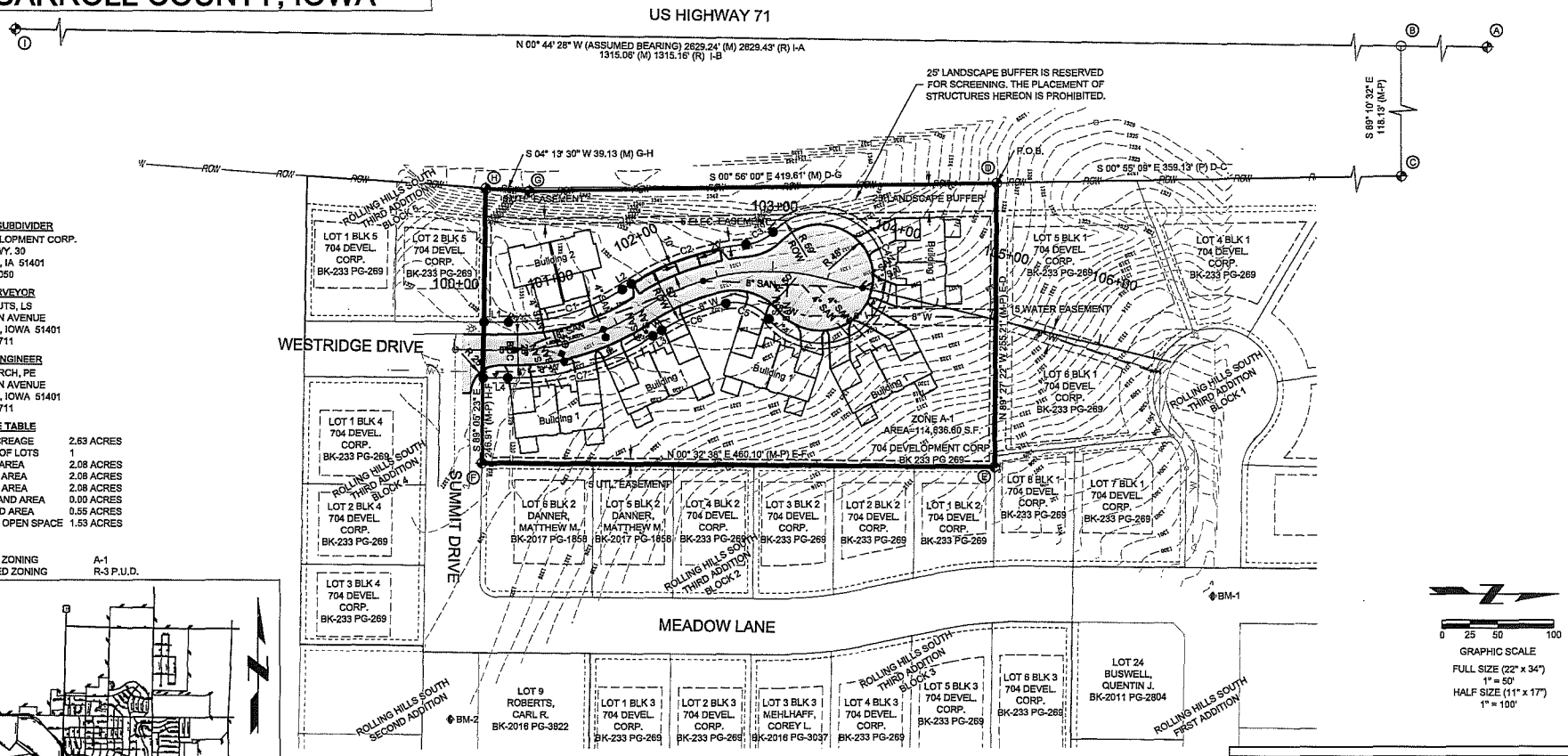
BUILDING SET BACK LINE		PLATTED DISTANCE	P
MONUMENT FOUND		RECORDED DISTANCE	R
FOUND MONUMENT LABEL	Ⓐ	RIGHT-OF-WAY	ROW
MONUMENT SET YELLOW CAP. NO. 21443	●	EASEMENT	EASE.
		UTILITY	UTIL.
		PROPOSED	PROP.
TEMPORARY POINT	○	ELECTRICAL	ELEC.

JEO 800.723.8567



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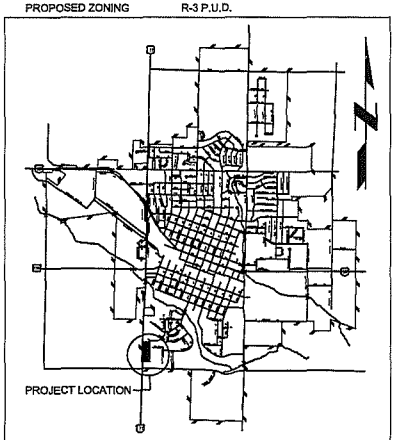
COMMON OPEN SPACE	1.53 ACRES

ZONING:

EXISTING ZONING	A-1
PROPOSED ZONING	R-3 P.U.D.



CITY OF CARROLL, IOWA

BUILDING SETBACKS:
SPACE BETWEEN BUILDINGS - 10' MIN.

NOTE:
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SEE SHEET 2 FOR MONUMENT DESCRIPTIONS.

CITY APPROVALS	PRELIMINARY PLAT APPROVED 704 DEVELOPMENT CORP.
RECOMMEND TENTATIVE PLAT APPROVAL - PLANNING & ZONING COMMISSION	
CHAIRMAN DATE	
TENTATIVE PLAT APPROVAL - CITY OF CARROLL, IOWA	
CLERK DATE	704 DEVELOPMENT CORP. DATE 6/25/18

LICENSED PROFESSIONAL ENGINEER CODY F. FORCH 22843 IOWA

I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF IOWA

Cody Forch 6/25/18
SIGNATURE DATE
CODY F. FORCH
PRINTED OR TYPED NAME
22843
MY LICENSE RENEWAL DATE IS: DECEMBER 31, 2018
PAGES OR SHEETS COVERED BY THIS SEAL:
SHEET 1 & 2

PROJECT NO.	160499.00
DATE	6/25/2018
DRAWN BY	ASCHLADER
FILE NAME	S-160499-Preliminary Plat 1.dgn
FIELD BOOK	FIELDBOOK
FIELD CREW	FC INI
SURVEY FILE NO.	SURVEY FILE NO
PLAN IN HAND INITIALS / DATE	PIH INI / PIH DATE
70 PERCENT REVIEW INITIALS / DATE	70% INI / 70% DATE
95 PERCENT REVIEW INITIALS / DATE	95% INI / 95% DATE
REVISIONS	

2017
ROLLING HILLS SOUTH CONDOMINIUMS
CARROLL, IOWA
160499

PRELIMINARY PLAT
BOUNDARY INFORMATION

SHEET 1

Plat Driver Used: K:\Bentley\Resources\WORD_OpenRoads\Workspace\Standards\plots\Plat_Site_PDF_BW.pltcfg
Pen Table Used: K:\Bentley\Resources\WORD_OpenRoads\Workspace\Standards\tables\JEO_printable.tbl

File Name and Location: P:\Engineering\160499.00 - 704 Development Rolling Hills South Condos\7 Design\3 Drawings\Sheets\S-160499-Preliminary Plat 1.dgn
Print Date/Time: 6/25/2018 6:06:14 PM By: cforch

PRELIMINARY PLAT
ROLLING HILLS SOUTH CONDOMINIUMS
CITY OF CARROLL
CARROLL COUNTY, IOWA

BOUNDARY DESCRIPTION

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 84 NORTH, RANGE 35 WEST OF THE 5TH P.M., CARROLL COUNTY, IOWA, WHICH EXTERIOR BOUNDARY IS MORE FULLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE N00°44'28"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1315.06 FEET; THENCE S89°10'32"E, A DISTANCE OF 118.13 FEET TO THE EAST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 AND THE NORTHWEST CORNER OF LOT 3, BLOCK 1 OF ROLLING HILLS SOUTH 3RD ADDITION, CARROLL, IOWA; THENCE S00°55'09"W ON SAID EAST RIGHT OF WAY LINE, SAID EAST RIGHT OF WAY LINE ALSO BEING THE WEST LINE OF LOTS 3, 4 AND 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 359.13 FEET TO THE SOUTHWEST CORNER OF LOT 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION AND THE POINT OF BEGINNING; THENCE S00°56'00"E CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 419.61 FEET; THENCE S04°13'30"W CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 39.13 FEET TO THE NORTHWEST CORNER OF LOT 2, BLOCK 5 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE S89°05'23"E ON THE NORTH LINE OF SAID LOT 2 AND THE NORTH RIGHT OF WAY LINE OF SUMMIT DRIVE, A DISTANCE OF 246.91 FEET TO THE SOUTHWEST CORNER OF LOT 6, BLOCK 2 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE N00°32'38"E ON THE WEST LINE OF LOTS 6, 5, 4, 3, 2 AND 1 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 460.10 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE N89°27'22"W ON THE SOUTH LINE OF LOTS 8, 6 AND 5 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 255.21 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 2.63 ACRES MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS OF RECORD NOT SHOWN ON THIS PLAT.

OWNER: 704 DEVELOPMENT CORP.

NATIONAL FLOOD INSURANCE PROGRAM INSURANCE RATE MAP:

COMMUNITY-PANEL NUMBER 190041 0153C
SEPTEMBER 15, 2017
ZONE X (NON-FLOOD PLAIN).

NOTE:
THERE ARE BURIED UTILITIES IN THE VICINITY OF THE PROPOSED WORK. THE CONTRACTOR SHALL NOTIFY THE RESPECTIVE UTILITY COMPANIES BEFORE COMMENCING WORK. NEITHER THE OWNER NOR ENGINEER ASSUMES ANY RESPONSIBILITY FOR UTILITY LOCATIONS BEING ACCURATELY SHOWN, OR NOT SHOWN ON THE PLAN.

CONTOURS SHOWN ARE AT 2 FOOT CONTOUR INTERVALS.

DEDICATION:

KNOW ALL MEN BY THESE PRESENT: THAT 704 DEVELOPMENT CORP. IS THE OWNER OF THE LAND DESCRIBED WITHIN THE PERIMETER DESCRIPTION AND EMBRACED WITHIN THIS PLAT AND HAVE CAUSED SAID LAND TO BE SUBDIVIDED INTO LOTS TO BE NAMED AND NUMBERED AS SHOWN, SAID SUBDIVISION TO BE HEREAFTER KNOWN AS ROLLING HILLS SOUTH CONDOMINIUMS. SAID OWNER HEREBY RATIFIES AND APPROVES OF THE DISPOSITION OF ITS PROPERTY AS SHOWN ON THIS PLAT. ALL STREET RIGHT-OF-WAY CONTAINED WITHIN THE PERIMETER OF THIS SUBDIVISION AS SHOWN HEREON ARE HEREBY TENDERED FOR PUBLIC USE. SAID OWNER FURTHER GRANTS PERPETUAL UTILITY EASEMENTS AND ELECTRICAL EASEMENTS TO THE CITY OF CARROLL AND ANY PUBLIC OR PRIVATE UTILITY FOR RECIPROCAL USE BY THE LICENSEES OF SAID SUBDIVISION TO BUILD, ERECT, MAINTAIN AND OR REPAIR THE FOLLOWING: WATERLINES, DRAINAGE FACILITIES, NATURAL GAS LINES, WIRES AND CABLES FOR CARRYING TRANSMISSION OF ELECTRICAL CURRENT FOR LIGHT, HEAT, POWER AND FOR THE TRANSMISSION AND RECEPTION OF SIGNALS AND SOUNDS OF ALL KINDS ON, OVER, THROUGH, UNDER AND ACROSS ALL STRIPS OF LAND LABELED AS UTILITY OR ELECTRICAL EASEMENTS ON THIS PLAT. THE GRADE, ELEVATION OR CONTOUR OF ANY PART OF THE EASEMENT AREA SHALL NOT BE CHANGED WITHOUT OBTAINING THE PRIOR WRITTEN CONSENT OF THE CITY OF CARROLL. NO LANDSCAPING OR STRUCTURE SHALL BE ERECTED OVER OR WITHIN THE EASEMENT AREA WITHOUT OBTAINING THE PRIOR WRITTEN APPROVAL OF THE CITY OF CARROLL.

MONUMENT DESCRIPTIONS (SEE SHEET 1)

A = FOUND A 5/8" REBAR WITH YELLOW CAP LS# 12108, CORNER CERTIFICATE BOOK 3, PAGE 279. NNW 19.83' NE CORNER OF STORM SEWER INLET NW 14.53' CORNER OF STORM SEWER INLET. WNW 8.25' S CORNER OF STORM SEWER INLET W 30.7' TO CENTERLINE JOINT OF U.S. HIGHWAY 71. SEC. 25-T84N, R35W.
B = TEMPORARY POINT.
C = FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP LS#6806. NW CORNER OF LOT 3 BLK. 1 OF ROLLING HILLS SOUTH THIRD ADDITION
D = FOUND #5 REBAR WITH YELLOW PLASTIC CAP LS# 21443.
E = FOUND #5 REBAR WITH YELLOW PLASTIC CAP LS# 21443.
F = FOUND #5 REBAR WITH YELLOW PLASTIC CAP LS# 21443.
G = FOUND 5/8" REBAR WITH YELLOW PLASTIC CAP LS# 10041, R.O.W. MARKER.
H = FOUND #5 REBAR WITH YELLOW PLASTIC CAP LS# 21443.
I = FOUND PK NAIL, CORNER CERTIFICATE BOOK 3, PAGE 280. NW 92.37' TO A FOUND MAG NAIL IN TOP OF CMP. NE 140.23' TO A FOUND IDOT R.O.W. MARKER. SW 176.14' TO A FOUND IDOT R.O.W. MARKER IN CENTERLINE OF U.S. HIGHWAY 71 AND 210TH ST.

BENCHMARKS - DATUM NAVD 88

POINT NAME	NORTHING	EASTING	ELEVATION	LONG DESCRIPTION
BM - 1			1296.67	CUT 'X' IN NORTH EDGE OF SANITARY SEWER MANHOLE RIM AT VALLEY DR. AND MEADOW LN.
BM - 2			1330.05	CUT 'X' NORTH RIM SAN. SEWER MANHOLE RIM 100' EAST OF WEST DEAD END ON SUMMIT DR.

JEO
800.723.8567

2017
ROLLING HILLS SOUTH
CONDOMINIUMS
CARROLL, IOWA
160499

PRELIMINARY PLAT
BOUNDARY DESCRIPTION AND DEDICATION

PROJECT NO. 160499.00
DATE 6/25/2018
DRAWN BY ASCHLADER
FILE NAME S-160499-Preliminary Plat 2.dgn
FIELD BOOK FIELDBOOK
FIELD CREW FC INI
SURVEY FILE NO. SURVEY FILE NO
PLAN IN HAND INITIALS PIH INI
DATE PIH DATE
70 PERCENT REVIEW INITIALS 70% INI
DATE 70% DATE
95 PERCENT REVIEW INITIALS 95% INI
DATE 95%DATE
REVISIONS

SHEET 2

File Name and Location: P:\Engineering\160499.00 - 704 Development Rolling Hills South Condos\7 Design\2 Drawings\Sheets\S-160499-Preliminary Plat 2.dgn
Plot Date/Time: 6/25/2018 4:17 PM By: aschlader

Plot Driver Used: K:\Bentley\Resources\WBRD_OpenTools\Workspace\Standards\plotdrv\Plot_Site_PDF_68W.pltcfg
Pen Table Used: K:\Bentley\Resources\WBRD_OpenTools\Workspace\Standards\Standard.tbl\WBRD_OpenTools.tbl

Prepared by: City of Carroll, 112 E. 5th Street, Carroll, IA 51401 712-792-1000

RESOLUTION NO.: _____

WHEREAS, Matthew Greteman, President of 704 Development Corp., has filed a Preliminary Plat for Rolling Hills South Condominiums, City of Carroll, Carroll County, Iowa; and,

WHEREAS, the Preliminary Plat was given tentative approval by the City Planning and Zoning Commission at their meeting of July 11, 2018;

NOW, THEREFORE, BE IT RESOLVED that the Council does hereby tentatively approve the Preliminary Plat for Rolling Hills South Condominiums, City of Carroll, Carroll County, Iowa. Council gives authorization to proceed with preparation of the Final Plat pursuant to Section 6-6.0308 of the City of Carroll Subdivision Ordinance.

Passed and adopted by the Carroll City Council this 6th day of August, 2018.

CITY COUNCIL OF THE
CITY OF CARROLL, IOWA

By: _____
Eric P. Jensen, Mayor

ATTEST:

By: _____
Laura A. Schaefer, City Clerk

CERTIFICATE

State of Iowa)
ss.
Carroll, County)

We, Eric P. Jensen, Mayor and Laura A. Schaefer, City Clerk of the City of Carroll, Iowa hereby certify that at a meeting of the City Council of the City of Carroll, Iowa, held on the 6th day of August, 2018 the attached Resolution was adopted by the City Council of the City of Carroll, Iowa, approved by the Mayor, duly entered into the record of the City Council meeting of that date, and we further certify that the Preliminary Subdivision Plat is found to conform to the law as approved and accepted and we hereby certify this Resolution and cause the same to be affixed to the Preliminary Subdivision Plat as provided by law.

_____
Eric P. Jensen, Mayor

ATTEST:

_____
Laura A. Schaefer, City Clerk

State of Iowa)
ss.
Carroll County)

On this 6th of August, 2018, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Eric P. Jensen and Laura A. 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, executing the within and foregoing instrument, and that said instrument was signed and sealed on behalf of the City of Carroll, Iowa, by authority of its City Council and that said Mayor and City Clerk, as such officers acknowledged the execution of said instrument to be the voluntary act and deed of the City of Carroll, Iowa, by it and by them voluntarily executed.

_____
Notary Public in and for the State of Iowa

August 6, 2018

The City Council of the City of Carroll in the State of Iowa, met in _____ session, in the Council Chamber, City Hall, 112 East 5th Street, Carroll, Iowa, at 5:15 P.M., on the above date. There were present Mayor _____, in the chair, and the following named Council Members:

_____

Absent: _____

Vacant: _____

* * * * * * *

Council Member _____ then introduced the following proposed Resolution entitled "RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH 704 DEVELOPMENT CORP., AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF", and moved that the same be adopted. Council Member _____ seconded the motion to adopt. The roll was called and the vote was,

AYES: _____

_____

NAYS: _____

Whereupon, the Mayor declared the Resolution duly adopted as follows:

RESOLUTION NO. _____

RESOLUTION FIXING DATE FOR A PUBLIC HEARING ON THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH 704 DEVELOPMENT CORP., AND PROVIDING FOR PUBLICATION OF NOTICE THEREOF

WHEREAS, on August 27, 2018, this Council will consider whether certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and will consider adoption of the Rolling Hills South Condominiums Urban Renewal Plan (the "Urban Renewal Plan" or "Plan") for the Rolling Hills South Condominiums Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan, if adopted, will be filed in the office of the Recorder of Carroll County; and

WHEREAS, it is desirable that properties within the Area be redeveloped as part of the overall redevelopment area covered by said Plan; and

WHEREAS, the City has received a proposal from 704 Development Corp. (the "Developer"), in the form of a proposed Development Agreement (the "Agreement") by and between the City and the Developer, pursuant to which, among other things, the Developer would agree to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the proposed Urban Renewal Area as defined and legally described in the Agreement and consisting of the construction of approximately 12 Housing Units, together with all related site improvements, and Infrastructure Improvements, including streets, sanitary sewer, storm sewer, gas and electric infrastructure, and other necessary infrastructure, as outlined in the proposed Agreement; and

WHEREAS, the Agreement further proposes that, under the terms and following Developer's satisfaction of the conditions set forth in the Agreement, the City will make annual payments of Economic Development Grants to Developer starting the first fiscal year in which Tax Increment generated by the construction of the Minimum Improvements is collected pursuant to Iowa Code Section 403.19 and ending after 10 Grants have been paid, or in the fiscal year that the maximum cumulative total of the Grants has been paid, whoever is earlier; the cumulative total for all Grants not to exceed the lesser of (i) $72,000, (ii) the amount of the Developer's certified costs and expenses in constructing the Infrastructure Improvements, or (iii) the amount of Tax Increment collected, before the Termination Date of the Agreement, in respect of the Minimum Improvements less the amount of Tax Increment set aside annually to satisfy the low and moderate income housing assistance requirements of Section 403.22; and

WHEREAS, Iowa Code Chapters 15A and 403 (the "Urban Renewal Law") authorize cities to make grants for economic development in furtherance of the objectives of an urban renewal project and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapter, and to levy taxes and assessments for such purposes; and

WHEREAS, the Council has determined that the Agreement is in the best interests of the City and the residents thereof and that the performance by the City of its obligations thereunder is a public undertaking and purpose and in furtherance of the proposed Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Chapters 15A and 403 of the Iowa Code, taking into account the factors set forth therein; and

WHEREAS, neither the Urban Renewal Law nor any other Code provision sets forth any procedural action required to be taken before said economic development activities can occur under the Agreement, and pursuant to Section 364.6 of the City Code of Iowa, it is deemed sufficient if the action hereinafter described be taken and the City Clerk publish notice of the proposal and of the time and place of the meeting at which the Council proposes to take action thereon and to receive oral and/or written objections from any resident or property owner of said City to such action.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF CARROLL IN THE STATE OF IOWA:

Section 1. That this Council meet in the Council Chamber, City Hall, 112 East 5th Street, Carroll, Iowa, at 5:15 P.M. on August 27, 2018, for the purpose of taking action on the matter of the proposal to enter into a Development Agreement with 704 Development Corp.

Section 2. That the City Clerk is hereby directed to cause at least one publication to be made of a notice of said meeting, in a legal newspaper, printed wholly in the English language, published at least once weekly, and having general circulation in said City, said publication to be not less than four (4) clear days nor more than twenty (20) days before the date of said public meeting.

Section 3. The notice of the proposed action shall be in substantially the following form:

(One publication required)

NOTICE OF PUBLIC HEARING OF THE CITY COUNCIL OF THE CITY OF CARROLL IN THE STATE OF IOWA, ON THE MATTER OF THE PROPOSAL TO ENTER INTO A DEVELOPMENT AGREEMENT WITH 704 DEVELOPMENT CORP., AND THE HEARING THEREON

PUBLIC NOTICE is hereby given that the Council of the City of Carroll in the State of Iowa, will hold a public hearing on August 27, 2018, at 5:15 P.M. in the Council Chamber, City Hall, 112 East 5th Street, Carroll, Iowa, at which meeting the Council proposes to take action on the proposal to enter into a Development Agreement (the "Agreement") with 704 Development Corp. (the "Developer").

The Agreement would obligate the Developer to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the Rolling Hills South Condominiums Urban Renewal Area as defined and legally described in the Agreement, consisting of the construction of approximately 12 Housing Units, together with all related site improvements, and Infrastructure Improvements including streets, sanitary sewer, storm sewer, gas and electric infrastructure, and other necessary infrastructure, as outlined in the proposed Agreement.

The Agreement would obligate the City, under the terms and following Developer's satisfaction of the conditions set forth in the Agreement, to make annual payments of Economic Development Grants to Developer starting the first fiscal year in which Tax Increment generated by the construction of the Minimum Improvements is collected pursuant to Iowa Code Section 403.19 and ending after 10 Grants have been paid, or in the fiscal year that the maximum cumulative total of the grants has been paid, unless the payments are ended earlier under the terms of the Agreement. The cumulative total for all such payments would not exceed the lesser of (i) $72,000, (ii) the amount of the Developer's certified costs and expenses in constructing the Infrastructure Improvements, or (iii) the amount of Tax Increment collected in respect of the Minimum Improvements less the amount of Tax Increment set aside annually to satisfy the low and moderate income housing assistance requirements of Section 403.22.

A copy of the Agreement is on file for public inspection during regular business hours in the office of the City Clerk, City Hall, City of Carroll, Iowa.

At the above meeting the Council shall receive oral or written objections from any resident or property owner of said City, to the proposal to enter into the Agreement with the Developer. After all objections have been received and considered, the Council will at this meeting or at any adjournment thereof, take additional action on the proposal or will abandon the proposal to authorize said Agreement.

This notice is given by order of the City Council of the City of Carroll in the State of Iowa, as provided by Section 364.6 of the City Code of Iowa.

Dated this _____ day of _____, 2018.

_____

City Clerk, City of Carroll in the State of Iowa

(End of Notice)

PASSED AND APPROVED this 6th day of August, 2018.

_____
Mayor

ATTEST:

_____
City Clerk

CERTIFICATE

STATE OF IOWA)
) SS
COUNTY OF CARROLL)

I, the undersigned City Clerk of the City of Carroll, State of Iowa, do hereby certify that attached is a true and complete copy of the portion of the records of the City showing proceedings of the Council, and the same is a true and complete copy of the action taken by the Council with respect to the matter at the meeting held on the date indicated in the attachment, which proceedings remain in full force and effect, and have not been amended or rescinded in any way; that meeting and all action thereat was duly and publicly held in accordance with a notice of meeting and tentative agenda, a copy of which was timely served on each member of the Council and posted on a bulletin board or other prominent place easily accessible to the public and clearly designated for that purpose at the principal office of the Council pursuant to the local rules of the Council and the provisions of Chapter 21, Code of Iowa, upon reasonable advance notice to the public and media at least twenty-four hours prior to the commencement of the meeting as required by law and with members of the public present in attendance; I further certify that the individuals named therein were on the date thereof duly and lawfully possessed of their respective City offices as indicated therein, that no Council vacancy existed except as may be stated in the proceedings, and that no controversy or litigation is pending, prayed or threatened involving the incorporation, organization, existence or boundaries of the City or the right of the individuals named therein as officers to their respective positions.

WITNESS my hand and the seal of the Council hereto affixed this _____ day of _____, 2018.

_____
City Clerk, City of Carroll, State of Iowa

(SEAL)

01505008-1\10275-064

AGREEMENT FOR PRIVATE DEVELOPMENT

By and Between

THE CITY OF CARROLL, IOWA

AND

704 DEVELOPMENT CORP.

_____, 2018

Draft Version 5/17/18

AGREEMENT FOR
PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT (hereinafter the "Agreement"), is made on or as of the _____ day of _____, 2018, by and between the CITY OF CARROLL, IOWA, a municipality (hereinafter the "City"), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2017, as amended (hereinafter the "Urban Renewal Act"), and 704 DEVELOPMENT CORP., an Iowa corporation (hereinafter the "Developer").

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for economic development in a residential area in the City and, in this connection, on _____, 2018 will adopt or has adopted the Rolling Hills South Condominiums Urban Renewal Plan (the "Urban Renewal Plan") for purposes of carrying out urban renewal project activities in an area known as the Rolling Hills South Condominiums Urban Renewal Area (the "Urban Renewal Area"); and

WHEREAS, a copy of the foregoing Urban Renewal Plan has been or will be recorded among the land records in the office of the Recorder of Carroll County, Iowa; and

WHEREAS, the Developer owns certain real property located in the foregoing Urban Renewal Area as more particularly described in Exhibit A attached hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, the Developer is willing to cause certain Minimum Improvements to be constructed on the Development Property in the Urban Renewal Area; and

WHEREAS, the City believes that the development of the Development Property pursuant to this Agreement and the fulfillment generally of this Agreement, are in the vital and best interests of the City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I. DEFINITIONS

Section 1.1. Definitions. In addition to other definitions set forth in this Agreement, all capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

704 Development Corp. TIF Account means a separate account within the Rolling Hills South Condominiums Urban Renewal Area Tax Increment Revenue Fund of the City in which there shall be

deposited Tax Increments received by the City with respect to the Minimum Improvements and Development Property.

Agreement means this Agreement and all exhibits and appendices hereto, as the same may be from time to time modified, amended, or supplemented.

City means the City of Carroll, Iowa, or any successor to its functions.

Code means the Code of Iowa, 2017, as amended.

Commencement Date means the date of this Agreement.

County means the County of Carroll, Iowa.

Developer means 704 Development Corp. and its permitted successors and assigns.

Development Property means that portion of the Rolling Hills South Condominiums Urban Renewal Area of the City described in Exhibit A hereto.

Economic Development Grants mean the payments of Tax Increment to be made by the City to the Developer under Article VIII of this Agreement.

Event of Default means any of the events described in Section 11.1 of this Agreement.

First Mortgage means any Mortgage granted to secure any loan made pursuant to either a mortgage commitment obtained by the Developer from a commercial lender or other financial institution to fund any portion of the construction costs and initial operating capital requirements of the Minimum Improvements or Public Improvements, or all such Mortgages as appropriate.

Homebuyer means the person or persons who purchase or rent a Housing Unit.

Housing Unit shall mean each dwelling unit constructed on the Development Property.

Indemnified Parties means the City and the governing body members, officers, agents, servants, and employees thereof.

Infrastructure Improvements shall mean the construction of streets, sanitary sewer, storm sewer, and the installation of water, gas, and electric infrastructure to be completed by Developer on the Development Property under this Agreement, as detailed in Exhibit B attached to this Agreement, which improvements shall be dedicated to the City upon acceptance by the City.

Minimum Improvements shall mean the construction of Housing Units and Infrastructure Improvements on the Development Property as more particularly described in Exhibits B and B-1 to this Agreement.

Mortgage means any mortgage or security agreement in which the Developer has granted a mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon.

Net Proceeds means any proceeds paid by an insurer to the Developer under a policy or policies of insurance required to be provided and maintained by the Developer pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means the Ordinance of the City under which the taxes levied on the taxable property in the Urban Renewal Area shall be divided and a portion paid into the Rolling Hills South Condominiums Urban Renewal Area Tax Increment Revenue Fund.

Project shall mean the construction of the Minimum Improvements on the Development Property, as described in this Agreement.

Qualified Costs and Expenses means the costs and expenses incurred by Developer and related to the design and construction of the Infrastructure Improvements, including, without limitation, interest during construction and for not more than six months thereafter, costs for landscaping, grading, drainage, paving, engineering, plans and specifications, labor, materials, supplies, equipment use and rental, delivery charges, overhead, mobilization and legal expenses related to those improvements, as more particularly described herein.

Rolling Hills South Condominiums Urban Renewal Area Tax Increment Revenue Fund means the special fund of the City created under the authority of Section 403.19(2) of the Code and the Ordinance, which fund was created in order to pay the principal of and interest on loans, monies advanced to or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds or other obligations issued under the authority of Chapters 15A, 403, or 384 of the Code, incurred by the City to finance or refinance in whole or in part projects undertaken pursuant to the Urban Renewal Plan for the Urban Renewal Area.

State means the State of Iowa.

State Agreement means the agreement between the Iowa Economic Development Authority (IEDA) and the Developer, to be entered into pursuant to IEDA's approval of Developer for financial incentives through the Workforce Housing Tax Credits program.

Tax Increments means the property tax revenues on the Housing Units and Development Property divided and made available to the City for deposit in the 704 Development Corp. TIF Account of the Rolling Hills South Condominiums Urban Renewal Area Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code and the Ordinance.

Termination Date means the date this Agreement terminates, as established in Section 12.9 of this Agreement.

Unavoidable Delays means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions, or

other casualty losses, unusual weather conditions, strikes, boycotts, lockouts, or other labor disputes, litigation commenced by third parties, or the acts of any federal, State, or local governmental unit (other than the City with respect to the City's obligations).

Urban Renewal Area shall mean the area known as the Rolling Hills South Condominiums Urban Renewal Area.

Urban Renewal Plan means the Rolling Hills South Condominiums Urban Renewal Plan, as amended, approved in respect of the Rolling Hills South Condominiums Urban Renewal Area, described in the preambles hereof.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. The City makes the following representations and warranties:

a. The City is a municipal corporation and political subdivision organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions, or provisions of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.

c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City only, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.

Section 2.2. Representations and Warranties of Developer. The Developer makes the following representations and warranties:

a. The Developer is an Iowa corporation duly organized and validly existing under the laws of the State of Iowa, and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under this Agreement.

b. This Agreement has been duly and validly authorized, executed, and delivered by the Developer and, assuming due authorization, execution, and delivery by the City, is in full force and effect and is a valid and legally binding instrument of the Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally.

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions, or provisions of the governing documents of the Developer or of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which the Developer is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits, or proceedings pending or threatened against or affecting the Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position or results or operations of the Developer or which in any manner raises any questions affecting the validity of the Agreement or the Developer's ability to perform its obligations under this Agreement.

e. The Developer cause the Minimum Improvements to be constructed on the Development Property in accordance with the terms of this Agreement, the Urban Renewal Plan, the State Agreement, and all local, State, and federal laws and regulations.

f. The Developer will use its best efforts to obtain, or cause to be obtained, in a timely manner, all required permits, licenses, and approvals, and will meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

g. The Developer has not received any notice from any local, State, or federal official that the activities of the Developer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). The Developer is not currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State, or federal environmental law, regulation, or review procedure applicable to the Development Property, and the Developer is not currently aware of any violation of any local, State, or federal environmental law, regulation, or review procedure which would give any person a valid claim under any State or federal environmental statute with respect thereto.

h. The Developer has firm commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Minimum Improvements in accordance with the Construction Plans contemplated in this Agreement and the performance and maintenance bonds required under Section 6.6 hereof.

i. The Developer will cooperate fully with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

j. The Developer expects that, barring Unavoidable Delays, construction of the Infrastructure Improvements shall be complete on or before June 1, 2020 and construction of all the Minimum Improvements shall be complete on or before March 1, 2021.

k. The Developer anticipates that Project shall require an investment of approximately $2.65 Million Dollars, and that the portion of the Project's costs for the construction of the Infrastructure Improvements will be approximately $250,000.

l. The Developer would not undertake its obligations under this Agreement without the potential for payment by the City of the Economic Development Grants being made to the Developer pursuant to this Agreement.

ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS, TAXES AND PAYMENTS

Section 3.1. Construction of Minimum Improvements. The Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with all applicable federal, State, and local laws, ordinances, and regulations, including any City permit and/or building requirements. All work with respect to the Minimum Improvements shall be in conformity with any plans approved and/or permits issued by the building official(s) of the City, which approvals and permits shall be made according to standard City processes for such plans and permits. The Developer agrees that the scope and scale of the Minimum Improvements as constructed shall not be significantly less than the scope and scale as detailed and outlined in this Agreement and the State Agreement.

Section 3.2. Reserved.

Section 3.3. Commencement and Completion of Construction.

a. Subject to Unavoidable Delays, the Developer shall cause construction of the Infrastructure Improvements and rest of the Minimum Improvements, respectively, to be undertaken and completed by the dates set forth in Section 2.2(j) or such other dates as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays.

b. The Developer agrees that it shall permit designated representatives of the City, upon reasonable notice to the Developer (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof.

c. Upon notice from the Developer of completion of the Infrastructure Improvements, the City shall inspect the Infrastructure Improvements, as applicable, and determine whether they have been completed in accordance with this Agreement. If the City finds that the Infrastructure Improvements have been duly completed in compliance with this Agreement and all federal, State, and City laws, regulations, ordinances, policies, and procedures;; and the City is in receipt of copies of the maintenance bonds required by Section 6.6; the Developer shall dedicate to the City and the City shall accept dedication of the Infrastructure Improvements.

Section 3.4. Reserved.

Section 3.5. Certification of Qualified Costs and Expenses. The Developer shall certify to the City the amount of all Qualified Costs and Expenses of the Infrastructure Improvements dedicated to and

accepted by the City, and that such amounts are true and correct. The Developer shall submit the Certification after all the Infrastructure Improvements have been completed, dedicated to and accepted by the City. *See* Exhibit D for the form of Certification. Along with the Certification, Developer shall attach invoices for and other documentation showing substantiation of Qualified Costs and Expenses incurred for construction of the Public Improvements. The City's engineer shall review Developer's Certification to verify the submitted costs and expenses as Qualified Costs and Expenses.

Section 3.6. Real Property Taxes. Developer or its successors shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned by them and pursuant to the provisions of this Agreement. Until Developer's obligations have been assumed by any other person or legal title to the property is vested in another person, all pursuant to the provisions of this Agreement, Developer shall be solely responsible for all assessments and taxes.

Developer and its successors agree that prior to the Termination Date:

a. They will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property or Minimum Improvements, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and

b. They will not seek any tax exemption deferral or abatement either presently or prospectively authorized under any State, federal, or local law with respect to taxation of real property contained on the Development Property between the Commencement Date and the Termination Date.

Section 3.7. No Special Legal Entitlements to Infrastructure Improvements. Developer recognizes and agrees, that upon dedication to the City and the City's acceptance thereof, the Infrastructure Improvements shall be owned by the City and that nothing in this Agreement grants Developer any special legal entitlements or other rights not held by members of the general public with respect to ownership, sufficiency for any particular purpose, or use of the Infrastructure Improvements.

ARTICLE IV. STATE AGREEMENT

Section 4.1. State Agreement. The Developer has applied for, or been approved for, Workforce Housing Tax Credits by the Iowa Economic Development Authority (IEDA) for the Project described in this Agreement. The City's performance under this Agreement is conditional upon IEDA's approval of the Developer for Workforce Housing Tax Credits, the execution of the State Agreement between IEDA and the Developer by no later than January 1, 2025, and, following execution of the State Agreement, the Developer's continued compliance with the State Agreement until the Termination Date.

Section 4.2. Local Match. The Economic Development Grants provided for in Article VIII of this Agreement are intended to serve as the local match for Developer's application for incentives under the Iowa Economic Development Authority's Workforce Housing Tax Credits Program. If the Developer is not approved by IEDA for the Workforce Housing Tax Credits, the Developer shall not be eligible for the Economic Development Grants described herein.

Section 4.3. Indemnification. Developer shall indemnify and hold harmless the City from any loss arising out of or related to the City's failure to fulfill the terms of the State Agreement or any related agreement with IEDA if the City's failure is due to an Event of Default by the Developer.

ARTICLE V. INSURANCE

Section 5.1. Insurance Requirements.

a. Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of the City, furnish the City with proof of coverage or payment of premiums on):

i. Builder's risk insurance, written on the so-called "Builder's Risk–Completed Value Basis," in an amount equal to the full replacement cost of the Public Improvements, and with coverage available in non-reporting form on the so-called "all risk" form of policy.

ii. Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) with limits against bodily injury and property damage of at least $1,000,000 for each occurrence. The City shall be named as an additional insured for the City's liability or loss arising out of or in any way associated with the project and arising out of any act, error, or omission of Developer, or either entity's directors, officers, shareholders, contractors, and subcontractors or anyone else for whose acts the City may be held responsible (with coverage to the City at least as broad as that which is provided to Developer and not lessened or avoided by endorsement). The policy shall contain a "severability of interests" clause and provide primary insurance over any other insurance maintained by the City.

iii. Workers' compensation insurance with at least statutory coverage.

b. Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date (excepting any portion of the Minimum Improvements no longer owned by Developer, whether following sale to a Homebuyer or dedication to and acceptance by the City), Developer shall maintain or cause to be maintained, at its cost and expense (and from time to time at the request of the City shall furnish proof of coverage or the payment of premiums on), insurance as is statutorily required and any additional insurance customarily carried by like enterprises engaged in like activities of comparable size and liability exposure.

c. All insurance required by this Article V to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer, which are authorized under the laws of the State to assume the risks covered thereby.

d. Developer shall complete the repair, reconstruction, and restoration of the Minimum Improvements (excepting any portion of the Minimum Improvements then-owned by a Homebuyer, or dedicated to and accepted by the City), whether or not the Net Proceeds of insurance received by Developer for such purposes are sufficient.

ARTICLE VI. COVENANTS OF THE DEVELOPER

Section 6.1. Maintenance of Properties. The Developer will maintain, preserve, and keep its properties (whether owned in fee or a leasehold interest), including but not limited to the Development Property (for so long as it is owned by Developer), in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions, subject to the following:

a. Developer's obligation under this Section 6.1 shall cease to apply to those portions of the Development Property that are conveyed to Homebuyers; and

b. Developer's obligation under this Section 6.1 shall cease to apply to those portions of the Development Property that are dedicated to and accepted by the City.

Section 6.2. Maintenance of Records. The Developer will keep at all times proper books of record and account in which full, true, and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of the Developer relating to this Project in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and the Developer will provide reasonable protection against loss or damage to such books of record and account.

Section 6.3. Compliance with Laws. The Developer will comply with all State, federal, and local laws, rules, and regulations relating to the Minimum Improvements.

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, the Developer shall not discriminate against any applicant, employee, Homebuyer, or tenant because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status. Developer shall ensure that applicants, employees, Homebuyers, and tenants are considered and are treated without regard to their age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

Section 6.5. Available Information. Upon request, Developer shall promptly provide the City with copies of information requested by City that are related to this Agreement so that City can determine compliance with the Agreement.

Section 6.6. Bonding Requirements. Developer shall obtain, or require each of its general contractors to obtain, one or more bonds that guarantee the faithful performance of this Agreement for, in the aggregate, the anticipated full value of the completed Infrastructure Improvements and that further guarantee the prompt payment of all materials and labor. The performance bond(s) for a given project of the Infrastructure Improvements shall remain in effect until construction of such Improvement is completed, at which time a four-year maintenance bond(s) shall be substituted for each performance bond with respect to paving and a two-year maintenance bond(s) shall be substituted for each performance bond with respect to any underground work. The bonds shall clearly specify the Developer and City as joint obligees. The Developer shall also comply with all City requirements for the construction of the Infrastructure Improvements.

Section 6.7. No Abatement. Homebuyers who purchase Housing Units within the Development Property are not eligible for tax abatement under any Urban Revitalization Plan or any other State, federal

or local law, and Developer shall inform prospective Homebuyers of this information in writing prior to the sale to a buyer of any lot(s) on the Development Property and secure a receipt from all Homebuyers that they received such information prior to the sale in the form of Exhibit F.

Section 6.8. LMI Assistance. The City and Developer acknowledge the statutory requirements of Chapter 403, Code of Iowa, specifically with respect to the Low and Moderate Income (LMI) housing assistance. The current applicable percentage for Carroll County is 36.62%. The City will set aside a portion of the Tax Increment collected from the Development Property in each year that an Economic Development Grant is made to Developer in order to comply with Iowa Code Section 403.22. The statutory requirements with respect to LMI assistance may be met by the construction of LMI-affordable Housing Units as part of the development under this Agreement, which would decrease the required set aside funds.

ARTICLE VII. ASSIGNMENT AND TRANSFER

Section 7.1. Status of the Developer; Transfer of Substantially All Assets; Assignment. As security for the obligations of the Developer under this Agreement, the Developer represents and agrees that, prior to the Termination Date, the Developer will not dispose of all or substantially all of its assets or transfer, convey, or assign its interest in this Agreement to any other party unless (i) the transferee partnership, corporation or individual assumes in writing all of the obligations of the Developer under this Agreement with respect to the portion of the Development Property being transferred and (ii) the City consents thereto in writing in advance thereof, which consent shall not be unreasonably withheld.

Section 7.2. Prohibition Against Use as Non-Taxable or Centrally-Assessed Property. During the term of this Agreement, the Developer agrees that no portion of the Development Property or Minimum Improvements shall be transferred or sold to a non-profit entity or used for a purpose that would exempt said portion of the Development Property from property tax liability. Notwithstanding the prior sentence, Developer may convey portions of the Development Property to the City to be used by the City for public infrastructure, or other public purposes. During the term of this Agreement, Developer agrees not to allow any portion of the Development Property or Minimum Improvements to be used as centrally-assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

ARTICLE VIII. ECONOMIC DEVELOPMENT GRANTS

Section 8.1. Economic Development Grants. For and in consideration of the obligations being assumed by Developer hereunder, and in furtherance of the goals and objectives of the Urban Renewal Plan for the Urban Renewal Area and the Urban Renewal Act, the City agrees, subject to the Developer being and remaining in compliance with this Agreement, to make up to ten (10) consecutive annual payments of Economic Development Grants to the Developer under the following terms and conditions:

a. Payment and Calculation of Economic Development Grants. Starting with the June 1 of the first fiscal year that the City receives Tax Increment from the County for the Urban Renewal Area, and on each June 1 thereafter the City shall make an Economic Development Grant to Developer until the earliest of: (i) ten (10) Economic Development Grants have been paid to Developer, (ii) the maximum

aggregate amount of Economic Development Grants, as described in Section 8.1(b), has been paid to Developer; or (iii) this Agreement has been terminated pursuant to its terms.

Each annual payment shall be equal in amount to 100% of the Tax Increments remaining after the LMI assistance requirements of Chapter 403 are satisfied, with respect to the Tax Increments that were collected by the City with respect to the Development Property and the Minimum Improvements and deposited into the 704 Development Corp. TIF Account (without regard to any averaging that may otherwise be utilized under Section 403.19 and excluding any interest that may accrue thereon prior to payment to Developer) during the preceding twelve-month period, but subject to limitation and adjustment as provided in this Article.

For example, if no Housing Units are sold as LMI-affordable units and the percentage of LMI Families in Carroll County is 36.62%, the LMI requirements of Chapter 403 require that 36.62% of the Tax Increments collected be placed in a fund for LMI housing and the Developer would receive 100% of the Tax Increments remaining after the LMI set-aside, or 63.38% of the originally collected Tax Increments.

Under no circumstances shall the failure by Developer to qualify for an Economic Development Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Economic Development Grants may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Economic Development Grants only if Developer fully complies with the provisions hereof and the Developer becomes entitled thereto, up to the maximum aggregate amounts set forth in Section 8.1(b).

b. Maximum Amount of Economic Development Grants. The aggregate amount of the Economic Development Grants that may be paid to the Developer under this Agreement shall not exceed the lesser of: (i) the amount of Tax Increment actually collected as described in Section 8.1(a); (ii) $72,000; or (iii) the aggregate amount of the Qualified Costs and Expenses submitted to the City pursuant to Section 3.5 and approved by the City as a part of Developer's completion of the Project. It is further agreed and understood that each Economic Development Grant shall come solely and only from incremental taxes received by the City under Iowa Code Section 403.19 from levies upon the Development Property and in no event shall Developer be entitled to receive more than calculated under the formula set forth in Section 8.1(a), even if the aggregate amount is less than $72,000.

c. Certification of Infrastructure Improvement Costs. The Developer acknowledges that under current law, for non-LMI residential urban renewal projects, Tax Increment can only be used in support of the provision of public improvements related to housing and residential development; therefore, the amount of Tax Increment used for the Project cannot exceed the Qualified Costs and Expenses. The obligation of the City to make any Economic Development Grants to the Developer shall be subject to and conditioned upon, among other things, the timely filing by the Developer of the Certification of Qualified Costs and Expenses required under Section 3.5 and the City's approval thereof.

d. City Certification, Timing. It is the responsibility of the Developer to inform the City in writing when it wishes that the City first certify debt in the Urban Renewal Area by submitting the form attached as Exhibit E by October 1 of the year the Developer wishes the City to certify for Tax Increment. After the Developer requests that the City first certify for Tax Increment, and if the Developer's Certification and supporting documentation is timely filed, contains the information required under

Section 3.5, and the City approves of the same; and Developer satisfies all terms of this Agreement and all conditions precedent in Section 8.4 are satisfied, the City shall certify to the appropriate County office prior to December 1 of that year its request for the available Tax Increments resulting from the assessments imposed by the County as of January 1 of that year, to be collected by the County and paid to the City as taxes are paid during the following fiscal year and a portion of which shall thereafter be disbursed to the Developer on June 1 of that fiscal year, provided that Developer remains in compliance with the terms of this Agreement at the time of payment. As an example, if the first Housing Units are built and fully assessed on January 1, 2019, and if the Developer requests the City to first certify by October 1, 2019, the City would then review the Developer's request, and if approved and all other terms of this Agreement are satisfied, would certify for the Tax Increment generated by the Minimum Improvements by December 1, 2019, for collection by the County and payment to the City in fiscal year 2020-2021, allowing for initial Grant to be paid to Developer on June 1, 2021, all subject to the terms of this Article and this Agreement.

If Developer fails to submit a written request that the City first certify debt under this Section 8.1(d) by October 1, 2020, then this Agreement shall automatically terminate with no further action required by the City.

Section 8.2. TIF Ordinance and Annual Appropriation.

a. The City hereby covenants and agrees to maintain the Ordinance with respect to the Development Property in force during the term of this Agreement and to apply the incremental taxes collected in respect of the Development Property and the Minimum Improvements and allocated to the 704 Development Corp. TIF Account to pay the Economic Development Grants, as and to the extent set forth in this Article. The Economic Development Grants shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds.

b. Each Economic Development Grant is subject to annual appropriation by the City Council. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future Economic Development Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no Event of Default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

c. Notwithstanding the provisions of Section 8.1 hereof, the City shall have no obligation to make an Economic Development Grant to the Developer if at any time during the term hereof the City fails to appropriate funds or receives an opinion from a court of competent jurisdiction to the effect that the use of Tax Increments resulting from the Minimum Improvements to fund an Economic Development Grant to the Developer, as contemplated under said Section 8.1, is not authorized or otherwise an appropriate urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code, as then constituted. Upon such non-appropriation, or receipt

of such an opinion, the City shall promptly forward a notice of the same to the Developer. If the circumstances or legal constraints continue for a period during which two (2) Economic Development Grants would otherwise have been paid to the Developer under the terms of Section 8.1, the City may terminate this Agreement, without penalty or other liability to the Developer, by written notice to the Developer.

d. The City makes no representation with respect to the amounts that may finally be paid to the Developer as the Economic Development Grants, and under no circumstances shall the City in any manner be liable to the Developer so long as the City timely applies the Tax Increments actually collected and held in the 704 Development Corp. TIF Account (regardless of the amounts thereof) to the payment of the Economic Development Grants to the Developer, as and to the extent described in this Article.

Section 8.3. Use of Other Tax Increments. Subject to the terms of this Article, the City shall be free to use any and all available Tax Increments in excess of the stated maximum or resulting from the suspension or termination of the Economic Development Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act, including but not limited to recovering the City's costs in establishing the Plan and adopting this Agreement, and the City shall have no obligations to the Developer with respect to the use thereof.

Section 8.4. Conditions Precedent. Notwithstanding the provisions of Sections 8.1 and 8.2, the obligation of the City to make an Economic Development Grant in any year shall be subject to and conditioned upon the all of the following:

a. Developer's dedication of the Infrastructure Improvements to the City and the City's acceptance thereof (i.e., Developer's completion of the Infrastructure Improvements consistent with this Agreement, including completion by the date set forth in Section 2.2(j) and the provision of the maintenance bonds required by Section 6.6);

b. Developer's timely filing of the Certification of the Qualified Costs and Expenses of Infrastructure Improvements as set forth in Section 3.5, using Exhibit D;

c. Developer's filing of the written request that the City first certify debt to the County, using Exhibit E, received by the City no later than October 1, 2020;

d. Developer's compliance with the terms of this Agreement and the State Agreement at the time of payment.

In the event that an Event of Default occurs, the City shall have no obligation thereafter to make any payments to Developer in respect of the Economic Development Grants and the provisions of this Article shall terminate and be of no further force or effect.

Section 8.5. Clawback. In addition to the Events of Default listed in Section 11.1, it shall be an Event of Default under this Agreement if Developer sells a Housing Unit to a Homebuyer for a purchase price that is over $215,000.00 and/or makes the Housing Unit ineligible for the Workforce Housing Tax Credit program under the terms of the State Agreement. If this Event of Default occurs, in addition to the remedies set forth in Section 11.2, the City shall be entitled to recover from Developer, take any action, including legal action, it deems necessary to recover, and Developer shall repay to the City, an amount

equal to the full amount of any Economic Development Grants previously made to Developer under this Agreement, with interest thereon at the highest rate permitted by State law.

ARTICLE IX. RESERVED

ARTICLE X. INDEMNIFICATION

Section 10.1. Release and Indemnification Covenants.

a. The Developer releases the Indemnified Parties from, covenants, and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify, defend, and hold harmless the Indemnified Parties against any loss or damage to property or any injury to or death of any person occurring at or about, or resulting from any defect in, the Development Property, or the Minimum Improvements (but, with respect to the Infrastructure Improvements, only until the City accepts said Infrastructure Improvements and the maintenance bond has been issued on said Infrastructure Improvements).

b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, the Developer agrees to protect and defend the Indemnified Parties, now or forever, and further agrees to hold the Indemnified Parties harmless, from any claim, demand, suit, action, or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from (i) any violation of any agreement or condition of this Agreement (except with respect to any suit, action, demand or other proceeding brought by the Developer against the City to enforce its rights under this Agreement), (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Minimum Improvements (but, with respect to the Infrastructure Improvements, only until the City accepts said Infrastructure Improvements and the maintenance bond has been issued on said Infrastructure Improvements), or (iii) any hazardous substance or environmental contamination located in or on the Development Property.

c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants, or employees or any other person who may be about the Minimum Improvements due to any act of negligence of any person, other than any act of negligence on the part of any such Indemnified Party or its officers, agents, servants, or employees.

d. The provisions of this Article X shall survive the termination of this Agreement.

ARTICLE XI. DEFAULT AND REMEDIES

Section 11.1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events, in addition to the Event of Default described in Section 4.3:

a. Failure by the Developer to cause the construction of the Minimum Improvements to be commenced and completed pursuant to the terms, conditions, and limitations of this Agreement;

b. Transfer of any interest in this Agreement in violation of the provisions of this Agreement;

c. Failure by the Developer to substantially observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

d. The holder of any Mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable Mortgage documents;

e. The Developer shall:

i. file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended, or under any similar federal or state law; or

ii. make an assignment for the benefit of its creditors; or

iii. admit in writing its inability to pay its debts generally as they become due; or

iv. be adjudicated bankrupt or insolvent; or if a petition or answer proposing the adjudication of the Developer as bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of the Developer or the Minimum Improvements, or part thereof, shall be appointed in any proceedings brought against the Developer, and shall not be discharged within ninety (90) days after such appointment, or if the Developer shall consent to or acquiesce in such appointment; or

f. Any representation or warranty made by the Developer in this Agreement, or made by the Developer in any written statement or certification furnished by the Developer pursuant to this Agreement, shall prove to have been incorrect, incomplete or misleading in any material respect on or as of the date of the issuance or making thereof.

Section 11.2. Remedies on Default. Whenever any Event of Default referred to in Section 11.1 of this Agreement occurs and is continuing, the City, as specified below, may take any one or more of the following actions after (except in the case of an Event of Default under subsections 11.1(d) or 11.1(e) of said Section 11.1) the giving of thirty (30) days' written notice by the City to the Developer and the holder of the First Mortgage (but only to the extent the City has been informed in writing of the existence of a First Mortgage and been provided with the address of the holder thereof) of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and the Developer does not provide assurances reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

a. The City may suspend its performance under this Agreement until it receives assurances from the Developer, deemed adequate by the City, that the Developer will cure its default and continue its performance under this Agreement;

b. The City may terminate this Agreement;

c. The City shall have no obligation thereafter to make any payments to Developer in respect of the Economic Development Grants; and

d. The City may take any action, including legal, equitable, or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Developer, as the case may be, under this Agreement.

Section 11.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 11.4. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 11.5. Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of the Developer herein contained, the Developer agrees that it shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith.

ARTICLE XII. MISCELLANEOUS

Section 12.1. Conflict of Interest. The Developer represents and warrants that, to its best knowledge and belief after due inquiry, no officer or employee of the City, or its designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 12.2. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

a. In the case of the Developer, is addressed or delivered personally to 704 Development Corp. at 704 W Highway 30, Carroll, IA 51401; Attn: Matthew P. Greteman, President; and

b. In the case of the City, is addressed to or delivered personally to the City of Carroll at 112 E. Fifth Street, Carroll, IA 51401; Attn: City Manager;

or to such other designated individual or officer or to such other address as any party shall have furnished to the other in writing in accordance herewith.

Section 12.3. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit C, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof. The City shall pay for the costs of recording.

Section 12.4. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 12.5. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 12.6. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 12.7. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement between the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations or discussions, whether oral or written. This Agreement may not be amended except by a subsequent writing signed by all parties hereto.

Section 12.8. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 12.9. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2031, unless the Agreement is terminated earlier by the other terms of this Agreement.

Section 12.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, homebuyer, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, the Developer has caused this Agreement to be duly executed in its name and behalf all on or as of the day first above written.

[Remainder of this page intentionally left blank. Signature pages to follow.]

(SEAL) CITY OF CARROLL, IOWA

By: _____
Eric Jensen, Mayor

ATTEST:

By: _____
Laura Schaefer, City Clerk

STATE OF IOWA)
) SS
COUNTY OF CARROLL)

On this _____ day of _____, 2018, before me a Notary Public in and for said State, personally appeared Eric Jensen and Laura Schaefer, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Carroll, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Agreement for Private Development – City of Carroll, Iowa]

704 DEVELOPMENT CORP., an Iowa corporation

By: _____
Matthew P. Greteman, President

ATTEST:

By: _____

Name: _____

Its: _____

STATE OF IOWA)
) SS
COUNTY OF _____)

On this _____ day of _____, 2018, before me the undersigned, a Notary Public in and for said State, personally appeared Matthew P. Greteman and _____ to me personally known, who, being by me duly sworn, did say that they are the President and _____, respectively, of 704 Development Corp., and that said instrument was signed on behalf of said corporation; and that the said officer acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Agreement for Private Development – 704 Development Corp.]

EXHIBIT A

DEVELOPMENT PROPERTY

The Development Property is described as consisting of all that certain parcel or parcels of land located in the City of Carroll, County of Carroll, State of Iowa, more particularly described as follows:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 84 NORTH, RANGE 35 WEST OF THE 5TH P.M., CARROLL COUNTY, IOWA, WHICH EXTERIOR BOUNDARY IS MORE FULLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE N00°44'28"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1315.06 FEET; THENCE S89°10'32"E, A DISTANCE OF 118.13 FEET TO THE EAST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 AND THE NORTHWEST CORNER OF LOT 3, BLOCK 1 OF ROLLING HILLS SOUTH 3RD ADDITION, CARROLL, IOWA; THENCE S00°55'09"W ON SAID EAST RIGHT OF WAY LINE, SAID EAST RIGHT OF WAY LINE ALSO BEING THE WEST LINE OF LOTS 3, 4 AND 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 359.13 FEET TO THE SOUTHWEST CORNER OF LOT 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION AND THE POINT OF BEGINNING; THENCE S00°56'00"E CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 419.61 FEET; THENCE S04°13'30"W CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 39.13 FEET TO THE NORTHWEST CORNER OF LOT 2, BLOCK 5 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE S89°05'23"E ON THE NORTH LINE OF SAID LOT 2 AND THE NORTH RIGHT OF WAY LINE OF SUMMIT DRIVE, A DISTANCE OF 246.91 FEET TO THE SOUTHWEST CORNER OF LOT 6, BLOCK 2 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE N00°32'38"E ON THE WEST LINE OF LOTS 6, 5, 4, 3, 2 AND 1 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 460.10 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE N89°27'22"W ON THE SOUTH LINE OF LOTS 8, 6 AND 5 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 255.21 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 2.63 ACRES MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS OF RECORD NOT SHOWN ON THIS PLAT.

EXHIBIT B
MINIMUM IMPROVEMENTS

The Minimum Improvements shall consist of the construction of approximately 12 Housing Units (in 6 separate duplex buildings) together with related site improvements for the housing development and Infrastructure Improvements, to be constructed consistent with approved plats and plans.

Each Housing Unit shall include approximately 1200 to 1360 square feet of livable space, and be valued for sale at approximately $200,000. The Housing Units are estimated to be completed by March 1, 2021.

The Infrastructure Improvements include the construction and/or installation of street, sanitary sewer, storm water, gas, and electric infrastructure to be completed by Developer on the Development Property under this Agreement and dedicated to the City upon completion by Developer and acceptance by the City. The Infrastructure Improvements will be completed by June 1, 2020 and will require an investment of approximately $250,000 by the Developer.

See Exhibit B-1 for the preliminary site plans for the Project.

EXHIBIT B-1

SITE PLANS FOR DEVELOPMENT PROPERTY

Draft

EXHIBIT C

MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of Carroll, Iowa (the "City") and 704 Development Corp., an Iowa limited liability limited partnership (the "Developer"), did on or about the _____ day of _____, 2018, make, execute, and deliver an Agreement for Private Development (the "Agreement"), wherein and whereby the Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within the City and as more particularly described as follows:

A PARCEL OF LAND IN THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 84 NORTH, RANGE 35 WEST OF THE 5TH P.M., CARROLL COUNTY, IOWA, WHICH EXTERIOR BOUNDARY IS MORE FULLY DESCRIBED AS FOLLOWS:

REFERRING TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 25; THENCE N00°44'28"W (ASSUMED BEARING) ON THE WEST LINE OF SAID SOUTHWEST QUARTER, A DISTANCE OF 1315.06 FEET; THENCE S89°10'32"E, A DISTANCE OF 118.13 FEET TO THE EAST RIGHT OF WAY LINE OF U.S. HIGHWAY 71 AND THE NORTHWEST CORNER OF LOT 3, BLOCK 1 OF ROLLING HILLS SOUTH 3RD ADDITION, CARROLL, IOWA; THENCE S00°55'09"W ON SAID EAST RIGHT OF WAY LINE, SAID EAST RIGHT OF WAY LINE ALSO BEING THE WEST LINE OF LOTS 3, 4 AND 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 359.13 FEET TO THE SOUTHWEST CORNER OF LOT 5 OF SAID ROLLING HILLS SOUTH 3RD ADDITION AND THE POINT OF BEGINNING; THENCE S00°56'00"E CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 419.61 FEET; THENCE S04°13'30"W CONTINUING ON SAID EAST RIGHT OF WAY LINE, A DISTANCE OF 39.13 FEET TO THE NORTHWEST CORNER OF LOT 2, BLOCK 5 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE S89°05'23"E ON THE NORTH LINE OF SAID LOT 2 AND THE NORTH RIGHT OF WAY LINE OF SUMMIT DRIVE, A DISTANCE OF 246.91 FEET TO THE SOUTHWEST CORNER OF LOT 6, BLOCK 2 OF ROLLING HILLS SOUTH 3RD ADDITION; THENCE N00°32'38"E ON THE WEST LINE OF LOTS 6, 5, 4, 3, 2 AND 1 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 460.10 FEET TO THE NORTHWEST CORNER OF SAID LOT 1; THENCE N89°27'22"W ON THE SOUTH LINE OF LOTS 8, 6 AND 5 OF ROLLING HILLS SOUTH 3RD ADDITION, A DISTANCE OF 255.21 FEET TO THE POINT OF BEGINNING.

THE ABOVE DESCRIBED PARCEL CONTAINS 2.63 ACRES MORE OR LESS AND IS SUBJECT TO ANY EASEMENTS OF RECORD NOT SHOWN ON THIS PLAT.

WHEREAS, the term of this Agreement shall commence on the ____ day of _____, 2018 and terminate on the Termination Date, as set forth in the Agreement; and

WHEREAS, the City and the Developer desire to record a Memorandum of the Agreement referring to the Development Property and their respective interests therein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.

2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.

3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, City Hall, Carroll, Iowa.

IN WITNESS WHEREOF, the City and the Developer have executed this Memorandum of Agreement for Private Development as of the ____ day of _____, 2018.

[Rest of page intentionally left blank; Signature pages to follow]

(SEAL) CITY OF CARROLL, IOWA

By: _____
Eric Jensen, Mayor

ATTEST:

By: _____
Laura Schaefer, City Clerk

STATE OF IOWA)
) SS
COUNTY OF CARROLL)

On this _____ day of _____, 2018, before me a Notary Public in and for said State, personally appeared Eric Jensen and Laura Schaefer, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Carroll, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Memorandum of Agreement for Private Development – City of Carroll, Iowa]

704 DEVELOPMENT CORP., an Iowa corporation

By: _____
Matthew P. Greteman, President

ATTEST:

By: _____

Name: _____

Its: _____

STATE OF IOWA)
) SS
COUNTY OF _____)

On this _____ day of _____, 2018, before me the undersigned, a Notary Public in and for said State, personally appeared Matthew P. Greteman and _____ to me personally known, who, being by me duly sworn, did say that they are the President and _____, respectively, of 704 Development Corp., and that said instrument was signed on behalf of said corporation; and that the said officers acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.

_____
Notary Public in and for the State of Iowa

[Signature page to Memorandum of Agreement for Private Development – 704 Development Corp.]

EXHIBIT D

DEVELOPER CERTIFICATION OF COSTS OF INFRASTRUCTURE IMPROVEMENTS

704 Development Corp. (the "Developer") certifies that the expenses shown on the table below were/are the actual expenses incurred by the Developer for the Infrastructure Improvements that are the subject of a Development Agreement entered into the _____ day of _____, 2018 between the City of Carroll, Iowa and the Developer (the "Agreement").

Qualified Costs and Expenses of Infrastructure Improvements							
Project Cost Category	**Engineering, Plans, Specifications**	**Construction Costs**	**Legal Costs**	**Drainage, Landscaping, Grading**	**Cost for acquisition of land within the ROW**	**Interest during construction and for not more than six months thereafter**	**Miscellaneous**
Invoice description and cost							
Invoice description and cost							
Invoice description and cost							
Invoice description and cost							
Invoice description and cost							
Invoice description and cost							
Total Cost per category							

If you need additional space please attach another table.

Attach actual receipts and invoices

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

704 DEVELOPMENT CORP.
By: _____
Its: _____

STATE OF IOWA)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me the undersigned, a Notary Public in and for said State, personally appeared _____to me personally known, who, being by me duly sworn, did say that s/he is _____of 704 Development Corp., and that said instrument was signed on behalf of said corporation; and that the said _____as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him/her voluntarily executed.

_____
Notary Public in and for the State of Iowa

Draft

EXHIBIT E

DEVELOPER'S REQUEST FOR CITY CERTIFICATION FOR TAX INCREMENT

Developer must file this Request for City Certification of Debt by October 1 of the year in which it requests that the City certify its request for Tax Increment to the County by December 1.

Please note, the City will certify in the year Developer submits this form. **The City's certification will set the base year and start the time for expiration of the ability to collect Tax Increment from the Development Property.**

If Developer has any questions regarding the timing of the submission of this form, it should seek legal counsel of its choosing.

The Developer requests that the City certify its request for Tax Increment to the County by December 1, 20_____:

(check yes or no): yes _____ no _____.

Signed this _____ day of _____, 20____.

704 DEVELOPMENT CORP.

By: _____

Name: _____

Its: _____

STATE OF IOWA)
) SS
COUNTY OF _____)

On this _____ day of _____, 20____, before me the undersigned, a Notary Public in and for said State, personally appeared _____to me personally known, who, being by me duly sworn, did say that s/he is _____of 704 Development Corp., and that said instrument was signed on behalf of said corporation; and that the said _____as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him/her voluntarily executed.

_____
Notary Public in and for the State of Iowa

Draft

EXHIBIT F

RECEIPT OF HOMEBUYER REGARDING NON-ELIGIBILITY FOR TAX ABATEMENT

To:

_____

_____

_____

By signing this form, you (the Homebuyer) acknowledge receipt of this document, which informs you that as a homeowner purchasing the below-described property, you will not be eligible for tax abatement under any urban revitalization plan of the City of Carroll, or any other state, federal, or local law.

[legal description, property address]

Signature: _____

Print Name: _____

Date: _____

Address: _____

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