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H. Frank Bellon, Jr., 3613 Caribou Court NE, Cedar Rapids, Iowa 52402, (319) 363-3444

CONCRETE STREET & MULTI-USE TRAIL PAVEMENT PETITION AND ASSESSMENT AGREEMENT

WHEREAS, the undersigned Property owner desires that concrete pavement improvements be constructed to benefit the property hereinafter described, the general description and location of said improvements being as follows:

Concrete Pavement Construction at: Robins Road (Lot 'A')

Parcel No.: GPN: 112830100200000

Legal Description:

Bali Hai First Addition in the City of Hiawatha, Linn County, Iowa

NOW THEREFORE, BE IT AGREED BETWEEN THE PARTIES HERETO AS FOLLOWS:

As soon as practicable the City of Hiawatha, Iowa, shall have the right to cause said above-described improvements to be constructed in all respects, as it shall deem appropriate.

In consideration of the construction of the said improvements, the undersigned Property Owner hereby waives Notice thereof, all legal formalities required by the laws of Iowa to be observed by cities in the construction of said improvements where the expense of such improvements is to be assessed, and waives each and every question of jurisdiction. The intention of the Property Owner is to authorize and direct said City to construct the said improvement without any of the formalities or legal proceedings required of cities in construction like improvements. The express intention of the undersigned Property Owner is that said improvements shall be constructed as aforesaid as if each and every legal requirement pertaining thereto was fully and faithfully observed and performed.

It is further agreed that said City by and through its Council may make assessments against the properties described herein of the undersigned Property Owner for the cost of the construction of said improvements, to the extent of the entire cost of that concrete pavement and facilities, including but not limited to grading, seeding and/or retaining walls, deemed necessary by the City Engineer. Such cost shall be allocated to each parcel according to the benefit received by that parcel.

It is also agreed that said assessment so made shall be a lien upon the property herein described, and the undersigned Property Owner hereby agrees to pay the amount which is thus assessed against said property, and said assessment shall have the same legal force and effect as if all the legal formalities provided by law in such cases had been fully and faithfully performed and observed. The undersigned Property Owner hereby expressly waives every objection to said

assessment. Said Property Owner hereby authorizes the Council of the City of Hiawatha, Iowa, to pass any Resolution requisite or necessary to order and secure said improvements, to provide for the construction of the same and to make assessment herein provided for, without further notice to said Property Owner.

Notwithstanding anything in this Agreement to the contrary, any assessment made under this Agreement shall not be a lien against any property described herein unless and until the City records with the Linn County Recorder a "Notice of Assessment Lien" which Notice shall describe the property against which the lien attaches and the amount of the lien.

The Property Owner agrees that all lots within Bali Hai First Addition may be assessed a proportionate share of the street improvement costs for Robins Road adjoining the site and will be included in an assessment district.

The Property Owner agrees to be responsible for one half the costs of a 28-foot-wide portion of the Robins Road pavement and associated improvements including adjacent 5 foot-wide sidewalk.

The Property Owner agrees to dedicate to the City of Hiawatha, Iowa, at no cost to the City, a temporary grading easement over the west ten (10) feet of said Lots One and Two to accommodate grading as necessary to construct the concrete pavement improvements noted herein. The Property Owner agrees to dedicate the temporary grading easement within 30 days of receiving written notice from the City of Hiawatha, Iowa.

Property Owner agrees that this Petition and Assessment Agreement shall be effective and binding from and after the approval hereof by resolution of the City Council.

Upon completion of the improvements, the City Engineer shall cause to be filed a release instrument. Such release instrument will indicate that the improvements have been accepted by the City Engineer and will release said Property Owner and the Real Estate from all obligations due under this Agreement and will specifically discharge and release said Property Owner and the Real Estate from any lien. If necessary, the City Engineer shall also cause to be executed and/or filed any additional instrument(s) reasonably required by said Property Owners to further demonstrate that the improvements have been satisfactorily completed and that this Agreement and any temporary grading easement are no longer in effect.

The Property Owner agrees to pay to the City of Hiawatha, Iowa, all fees associated with recordation of this Agreement and an approval resolution at the Linn County Recorder's Office.

The Property Owner agrees this Agreement shall be binding upon the Property Owner their successors, and assigns and the sale by the Property Owner of all or any part of said property described above shall transfer obligations of the Property Owner to the successor in interest.

Date: 03-10-18

H. Frank Bellon, Jr., 3613 Caribou Court NE, Cedar Rapids, Iowa 52402, (319) 363-3444

SIGNATURE OF PROPERTY OWNER

BROWN, INC.

Charlotte Ann Brown

Charlotte Ann Brown, President

STATE OF IOWA)
) ss:
COUNTY OF LINN)

This instrument was acknowledged before me this 10TH day of MARCH 20 18, by Charlotte Ann Brown, President of Brown, Inc.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed my Notarial Seal the day and year last above written.

H. Frank Bellon, Jr.

NOTARY PUBLIC IN AND FOR THE
STATE OF IOWA

NOTARIAL SEAL IOWA
H FRANK BELLON, JR.
Commission Number 104768
My Commission Expires
August 31, 2019

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RESOLUTION NO. 18-
City Council

RESOLUTION APPROVING A CONCRETE STREET & MULTI-USE TRAIL PAVEMENT PETITION AND ASSESSMENT AGREEMENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HIAWATHA, IOWA, to approve a Concrete Street & Multi-Use Trail Pavement Petition and Assessment Agreement to waive improvements to Robins Road sidewalk in Bali Hai First Addition (see attached agreement Exhibit A).

AYES:
NAYS:
ABSENT:

PASSED AND APPROVED this 21st day of March, 2018.

_____
Bill Bennett, Mayor

ATTEST:

_____
Kelly Kornegor, City Clerk