(*TYPE OF: IE-TIF OR SUBDIVISION*) DEVELOPMENT AGREEMENT REGARDING *(LOCATION)*

This *(type)* Development Agreement for *(location)*, is entered into this _____ day of _____, 2019 by and between the City of Hiawatha, Linn County, Iowa (the "CITY") and _____.(the "DEVELOPER"). The CITY and the DEVELOPER may hereinafter be referred to collectively as the "Parties").

WHEREAS, Chapter 165 of the Hiawatha Unified Development Code requires the DEVELOPER of new subdivisions located within the CITY to construct, or give satisfactory assurance to the CITY that it will construct certain improvements; and

WHEREAS, the DEVELOPER, above described, is now in the process of subdividing the premises legally described as follows to wit:

See Attachment A

subdivision shall be known as _____ to the City of Hiawatha, Linn County, Iowa.

WHEREAS, The DEVELOPER proposes to record a final plat situated on a portion of the Real Estate to be known as _____ to the City of Hiawatha, Linn County, Iowa, and has prepared a proposed final plat of such addition (the "Plat"). Said Addition consists of _____ (describe lots) _____; and

WHEREAS, the Public Improvements that lie within or provide service to the area included in the proposed final plat of _____ to the City of Hiawatha, Linn County, Iowa have not yet been completed to date, and in order to receive the CITY's approval of the proposed plat the DEVELOPER by this Agreement has submitted an assurance bond equal to the City Engineer's approved estimated costs of said improvements.

NOW, THEREFORE, IT IS AGREED BY THE PARTIES AS FOLLOWS:

1. The DEVELOPER has provided satisfactory assurances that all Public Improvements will be constructed and will perform to CITY Standards as required by Chapter 165 of the Code of Ordinances. The Developer has submitted a Performance Surety to the CITY in the form of a:
   a. Letter of Credit in the amount of~~n~~ _____;
   b. assurance bond in the amount of _____;
   c. A certified check in the amount of _____; or
   d. A cashier's check in the amount of _____.

~~1.~~ Said amount shall equal *110% of the estimated cost of the public improvements yet to be completed as approved by the City Engineer* ~~($$$$) to the CITY to be released when the Public Improvements have been accepted by the CITY~~. [PS1][PS2]The DEVELOPER shall complete, and the CITY shall accept, all the items applicable to said

subdivision set forth in the plan of improvements, not later than the earlier of a) one (1) year from the date of passage of the City Council Resolution approving the Development Agreement unless specifically extended by the Council; or b) occupancy of a newly constructed principal structure built upon a lot in the subdivision. Upon completion and acceptance of the Public Improvements, the City Council shall cause to be filed with the Linn County Recorder a release instrument. Such release instrument will indicate that the Public Improvements have been accepted by the City Council and will release the DEVELOPER and the Real Estate from all obligations due under this Development Agreement and will specifically discharge and release the DEVELOPER and the Real Estate from any lien. If necessary, the City Council shall also cause to be executed and/or filed with the Linn County Recorder any additional instrument(s) reasonably required by the DEVELOPER to further demonstrate that the Public Improvements have been satisfactorily completed with the following exception:

The City reserves the right to terminate all construction with in this designated subdivision in conformance with UDC Section 165.52 [PS3]if the Developer is in default of this Development Agreement.

a. Construction of sidewalk shall be as described below in paragraph two (2) of this Development Agreement.

b. The Storm Water Detention described below in Paragraph six (6) of this Development Agreement is not included in the acceptance of the Public Improvements for release.

2. The DEVELOPER will either construct, or cause to be constructed, within the subdivision all sidewalks required by Chapter 165 and Chapter 136 of the Code of Ordinances as follows:

   a. All sidewalks shall be constructed to meet City Engineer's specifications adjacent to lots *1-10* in the subdivision as part of the construction of a principal structure on each lot.

   b. Notwithstanding the above, the DEVELOPER agrees to construct sidewalk adjacent to any lot which has not had sidewalk constructed for which the City Council passes a resolution of necessity within a period of time established within the resolution of necessity.

3. The CITY acknowledges that the DEVELOPER has paid the final plat filing fee in the amount of $150.00 and all other fees levied by the CITY including, but not limited to, the water main inspection fee of $500 or $1/foot of water main, whichever is greater.[PS4]

4. Street lighting (*number and type*) shall be installed at the DEVELOPER'S expense in accordance with City Council Resolution 12-138. Or, the DEVELOPER has provided an acceptable verification of payment to the appropriate utility company for the street lighting installation.

5. The DEVELOPER has secured a NPDES General Permit No. 2 from the Department of Natural Resources and developed a pollution prevention plan and

agrees to maintain and control the premises so as to prevent erosion. The DEVELOPER further assumes responsibility for any costs associated with erosion and/or siltation of this development as outlined in Chapter 167 of the Code of Ordinances as a result of development of this subdivision.

6. The DEVELOPER agrees (*describe outlot designation)* is designated as a storm water detention facility and will be operated and maintained as such according to Chapter 162 of the Code of Ordnances. The detention system shall remain the responsibility of the developer unless, or until, a transfer to a homeowners association or other entity approved by the CITY is completed and recorded with the Linn County Recorder.

7. All Public Improvements shall be constructed to CITY standards and shall be inspected and approved by the City Engineer. The DEVELOPER, and any contractor or other agent employed by the DEVELOPER, shall provide maintenance surety as required by Chapter 165 of the Code of Ordinances prior to acceptance of the completed Improvements by the CITY.

8. The DEVELOPER, and any contractor or agent employed by the DEVELOPER, shall provide insurance as reasonably required by the City Council when working within the public rights-of-way.

9. All Public Improvements and construction on property dedicated to the CITY shall become property of the CITY upon acceptance by the CITY (except private service connections to sewer and water lines). Such acceptance by the CITY of any Public Improvement shall constitute a release of the obligations hereunder with respect to the Public improvement, except, as to being a surety under the maintenance bond.

10. If the DEVELOPER fails to complete the Public Improvements within the time period as provided in this Development Agreement, the CITY may cause the Public Improvements to be constructed in all respects as it shall reasonably deem appropriate. DEVELOPER shall remain responsible for all costs incurred by the CITY in completing the Public Improvements. In order to assure payment of such costs, if the DEVELOPER has not completed the Public Improvements within the time period above provided, the CITY and DEVELOPER further agree to the following ~~assessment~~ agreement as provided for in UDC Section 165.67~~.12~~.[PS5]

    a. In consideration of the construction of the Public Improvements by the CITY, the undersigned DEVELOPER hereby waives Notice of such construction, waives all legal formalities required by the laws of Iowa to be observed by cities in the construction of Public Improvements where the expense of the Public Improvements is to be assessed, and waives each and every question of jurisdiction. The intention of the DEVELOPER is to authorize and direct the CITY to construct the Public Improvements without any of the formalities or legal proceedings required of cities in constructing like Public improvements. The express intention of the DEVELOPER is that the Public Improvements shall be constructed as aforesaid as if each and every

legal requirement pertaining thereto was fully and faithfully observed and performed.

a.

b. And tThe DEVELOPEReveloper has submitted a Letter of Credit or an assurance bond in the amount of $$$$ 110% of the cost of the unfinished Public Improvements as approved by the City Engineer to be accessed by the CITY to pay for the completion of the Public Improvements.

b.c. And further toto tThe Letter of Credit or the assurance bond is to be released by the CITY onlyity to be released when the PPublic Iimprovements have been accepted by the CITY. [PS6]

c. It is further agreed that the CITY, by and through its City Council, may make assessments against the properties described herein as *Lots 1 through 23 all-inclusive, Dell Ridge 1st Addition* to the City of Hiawatha, Linn County, Iowa, for the cost of the construction of the Public Improvements, to the extent of the entire actual cost deemed necessary by the City Council. Such cost shall be first paid from the assurance bond with remaining amounts[PS7] allocated to each lot according to the benefit received by that lot.

d. It is also agreed that any assessment so made shall be a lien upon the Real Estate, and the undersigned DEVELOPER hereby agrees to pay the amount assessed against the Real Estate, and the 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 DEVELOPER hereby expressly waived every objection to the assessment. The DEVELOPER hereby authorizes the City Council to pass any Resolution requisite or necessary to order and secure the Public Improvements, to provide for the construction of the same and to make assessment herein provide for, without further notice to DEVELOPER or owner of any of the lots in the subdivision.

e. Notwithstanding anything on this Development Agreement to the contrary, any assessment made under this Development 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.

f. Portions of the land include in said *Lots 1 through 23* all-inclusive shall not be released from the requirements of this Development Agreement prior to the completion of all required Public Improvements associated with the lot or lots as determined by the City Council.

[PS8]

11. The DEVELOPER agrees to assume all expenses for any damage to public utilities, public improvements or other public property and assumes all risk of loss to the Public Improvements contemplated by this Development Agreement until final acceptance by the CITY.

12. The DEVELOPER agrees that building permits for any structure will not be allowed without an emergency access plan submitted and approved by the Hiawatha Fire Department.

13. The DEVELOPER agrees that occupancy of any structure will not be allowed until all of the Storm Water Detention requirements as described in Paragraph six (6) of this Development Agreement have been certified as required by Chapter 162 of the Code of Ordinances and the improvements outlined in Paragraph seven (7) of this Development Agreement have been approved and accepted by the CITY and the required Certificate of Final Occupancy is issued by the CITY.

14. The DEVELOPER acknowledges that the home owners shall be responsible for reimbursement to the Hiawatha Water Department for water used within individual homes.

15. The DEVERLOPER acknowledges that the CITY will impose and install no-parking signage restricting on one side of each street that contains the water main and fire hydrants.

16. The DEVELOPER agrees to hold harmless, indemnify and defend the CITY against any and all claims made by any person or entity as a result of personal injury, including death, or property damage occurring during the construction of Public Improvements contemplated by this Development Agreement.

17. This Development Agreement shall be binding upon the Parties hereto and their heirs, successors and assigns, and the sale by the DEVELOPER of all or any part of the premises in the subdivision shall transfer obligations of the DEVELOPER to the successor in interest.

18. This Development Agreement shall be recorded with the Linn County Recorder by the DEVELOPER at the same time as recording the plat, and the CITY agrees that the City Engineer may, by written letter, satisfy any portion of this Development Agreement as having been satisfactorily completed by the DEVELOPER other than final acceptance of the Public Improvements

19. Should there be any ambiguities that arise in the construction of this Development Agreement, it is agreed by the Parties that any such ambiguities shall be construed to favor of public over private interests.

Signed this ____ day of _____, 20__

City Of Hiawatha:

_____
Mayor

ATTEST:

_____
City Clerk

(Developer)

_____
Owner

DRAFT