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Dubuque County Iowa
John Murphy Recorder

File **2018-00000956**

CARVER HEIGHTS SUBDIVISION PHASE 5 RESTRICTIVE COVENANTS

Recorder's Cover Sheet

Preparer Information: (name, address and phone number)

Christopher C. Fry, O'Connor & Thomas, P.C., 1000 Main Street, Dubuque, IA 52001, Phone:
(563) 557-8400 (kmp)

Taxpayer Information: (name and complete address)

N/A

Return Document To: (name and complete address)

Christopher C. Fry, O'Connor & Thomas, P.C., 1000 Main Street, Dubuque, IA 52001, Phone:
(563) 557-8400

Grantors:

Roosevelt Land Corporation

Grantees:

N/A

Legal Description: See Page 2

Document or instrument number of previously recorded documents:

4700 Cutting Edge Developers
8180 Seippel Ct
Dubuque, Ia 52002

CARVER HEIGHTS SUBDIVISION PHASE 5 RESTRICTIVE COVENANTS

The undersigned, being the owners of the following described real property:

Lot S, Lot T, Lot U, Lot V and Lot W of CARVER HEIGHTS SUBDIVISION PHASE 4, in the City of Asbury, Dubuque County, Iowa, according to the recorded Plat thereof,

which property has been or will be subdivided and replatted and shall henceforth be known as:

CARVER HEIGHTS SUBDIVISION PHASE 5, IN THE CITY OF ASBURY,
DUBUQUE COUNTY, IOWA, containing 26.16 acres more or less, and subject to
easements, reservations, restrictions, and rights-of-way of record and not of record;

(hereinafter the "Subdivision"),

hereby make the following declarations as to limitations, restrictions and uses to Lots 1 through 25 of the Subdivision, hereby specifying that said declarations shall constitute covenants to run with all said lots, as provided by law, and shall be binding upon the heirs, successors and assigns of all parties and all persons claiming under them and for the benefit and limitation upon all future owners of Lots 1 through 25 of the Subdivision.

- (1) Single Family Dwellings/Zero Lot Line Townhomes: Lots 1 through 6 and Lots 19 through 25 shall be utilized solely and strictly for single family dwellings. Lots 7 through 18 may be utilized as single family dwellings or zero lot line townhomes. Lots 7 through 12 may be combined for multi-family use. Any multi-family buildings on Lots 7 through 12 must obtain prior written approval from the Architectural Review Board, as they will not otherwise comply with the requirements contained herein.

- (2) Architectural Review Board. Roosevelt Land Corporation shall appoint two (2) representatives to carry out the functions of the Architectural Review Board (hereinafter the "Architectural Review Board"), which representatives can be changed by Roosevelt Land Corporation at any time. The objectives of the Architectural Review Board are to carry out the general purposes expressed in this Declaration of Restrictive Covenants, and to assure that any improvements or changes in the lots contained in the Subdivision will be of attractive design, and to assure that materials and workmanship of all improvements are of high quality and comparable to other improvements in the area. To achieve these objectives, the Architectural Review Board shall have the power to administer the Restrictive Covenants contained in this Declaration, including the power to approve or disapprove of those matters expressed herein, until the time the powers and duties of the Architectural Review Board are turned over to the lot owners.

Procedure. Whenever Architectural Review Board approval is required, appropriate plans and specifications shall be submitted to the Architectural Review Board. The Architectural Review Board shall either approve or disapprove the plans, specifications and/or requests made to it within thirty (30) days after said plans, specifications and/or requests have been submitted to it; provided, however, if such plans, specifications and/or requests are disapproved in any respect, the applicant shall be notified wherein such plans, specifications and/or requests are deficient. The Architectural Review Board may withhold approval for any reason deemed by the Architectural Review Board to be appropriate, including aesthetic reasons, except that approval will not be withheld for capricious or unreasonable reasons. If such plans, specifications and/or requests are not approved or disapproved by the Architectural Review Board within thirty (30) days after submission, they shall be deemed approved.

Amendments to Restrictive Covenants. The Architectural Review Board shall be entitled to revise, amend, delete, and/or alter any and/or all of the provisions, restrictions, conditions and/or duties contained in these Restrictive Covenants; provided, however, such revision, amendment, deletion and/or alteration is agreed to unanimously by the members of the Architectural Review Board.

Transfer of Control. Following the sale of the last lot in the Subdivision, or earlier if agreed to by Roosevelt Land Corporation, control over the Architectural Review Board shall be turned over to the lot owners in the subdivision. Lot owners owning at least fifty one percent (51%) of the lots contained in the Subdivision shall appoint an Architectural Review Board. In the event an Architectural Review Board is not appointed by the Subdivision's lot owners, any lot owners seeking Architectural Review Board approval for purposes contemplated by these Restrictive Covenants shall be deemed to have received approval provided they obtain the approvals, in writing, from at least fifty one percent (51%) of the Subdivision lot owners. Following Roosevelt Land Corporation's relinquishment of control over the Architectural Review Board, it shall have no further duties or obligations to the Subdivision for purposes of the Architectural Review Board.

Liability of Architectural Review Board. Neither the Architectural Review Board nor any agent thereof, shall be liable in any way for any costs, fees, damages, delays, or any charges or liability whatsoever relating to the approval or disapproval of any plans submitted to it nor shall the Architectural Review Board be responsible in any way for any defects in any plans, specifications or other materials submitted to it, nor for any defects in any work done according thereto. Further, the Architectural Review Board does not make any representation or warranty as to the suitability or advisability of the design, the engineering, the method of construction involved, or the materials to be used.

- (3) No buildings shall be erected on any residential building lot nearer than 25 feet to the front lot line nor nearer than 6 feet to any side or rear lot line; provided, however, if rear property line or other property set back requirements of the City of Asbury zoning ordinance requires more set back space, then such applicable Asbury zoning ordinance shall govern. On corner lots no building shall be erected nearer than 25 feet to the side street line. For the purposes of this paragraph, all measurements shall be taken from that portion of the structure nearest the property line in question.
- (4) All homes on the property shall contain traditional architectural styling and shall be built with basements. All construction within the subdivision shall be of new materials unless approved by the Architectural Review Board, as defined in paragraph 2, above. All dwellings shall present their most attractive fronts to the street in the subdivision upon which the lot abuts. After window and door square footage is deducted, 75% (50% on 2 story homes) of the remaining square footage of the front shall be brick or stone. (other materials may be used if approved by Architectural Review Board) All roof pitches must be of 6/12 or greater. Horizontal vinyl siding shall not be used on the front of homes.
- (5) No structure erected or permitted on any lot zoned for single family shall exceed two stories in height (excluding basement and attic), for any structure.
- (6) Lots 1 through 6, and Lots 19 through 25, must have at least a three car garage on the street level. If special circumstances warrant (such as limited lot width), the Architectural Review Board may review the lot owner's application to substitute a two (2) car garage for the three (3) car garage requirement. Approval Action on any such application shall be entirely subject to the sole discretion of the Architectural Review Board. Lots 7 through 18 must have at least a two car garage on the street level.
- (7) The developer reserves the right to use any lot for an office and may change location of said office from time to time. No storage shed or any other non-attached accessory building shall be allowed except as a construction office.
- (8) No family dwelling shall be erected or permitted on Lots 1 through 5 unless its cost, under present cost standards, totals the sum of \$225,000.00 or more, exclusive of the lot cost. All such family dwellings erected on Lots 1 through 5 must have an above ground square foot area, exclusive of open porches or garages, of at least 1,500 square feet for a one story home, or at least 1,800 square feet for a one and one-half (1 ½) or two (2) story home.
- (9) No family dwelling shall be erected or permitted on Lots 6 through 25 unless its cost, under present cost standards, totals the sum of \$200,000.00 or more, exclusive of the lot cost. All such family dwellings erected on Lots 6 through 25 must have an above ground square foot area, exclusive of open porches or

garages, of at least 1,300 square feet for a one story home or townhome, or at least 1,400 square feet for a one and one-half (1 ½) or two (2) story home.

- (10) No trailer, trailer house, pre-fab, or manufactured house, foundation, basement, garage, shack, or other non-dwelling type building shall be used as a residence, temporarily or permanently.
- (11) No mobile home, pre-fab, or manufactured house shall be moved onto a lot or constructed on the lot.
- (12) No noxious or offensive activity shall be carried on in any house, building, or on any lot, nor shall anything be done therein or thereon which may be or become a nuisance to the neighbors or neighborhood.
- (13) No automobile, bus, truck, machinery, trailer, boat, recreation vehicle, or any other similar vehicle may be stored on any part of the lot, except within a garage. All applicable laws regarding the parking and storage of machinery and vehicles on public streets shall be obeyed.
- (14) No junk or materials of any nature shall be stored or kept on any part of a lot, except that building materials may be stored or kept for the purpose of immediate incorporation into a structure on the said real estate.
- (15) No building shall be erected, placed or altered on any lot until the construction plan(s), specifications and a plan showing the location of the structure on the lot have been approved by the Architectural Review Board. The Architectural Review Board reserves the right to deny any planned construction based on quality of workmanship and materials, harmony of external design with existing structures, and location of proposed building with respect to topography and finish grade level.
- (16) No fence, wall, clothesline, satellite dish or solar panels shall be erected or placed on any lot or home without prior written approval from the Architectural Review Board pursuant to the provisions of paragraph 3.
- (17) No lot other than a lot designated as a townhome lot may be subdivided without the written consent of the Architectural Review Board. Adjoining lots may be combined for the purposes of the construction of a dwelling house, but in no event shall more than one dwelling house be permitted on any lot unless pre-approved by Architectural Review Board.
- (18) Once excavation for building purposes has commenced on a lot, the house or building on said lot shall be completed, including sodding, seeding and final landscaping, within one year of that time. All lots must plant at least 2 non-shrub trees within the property limits.

- (19) Before any construction or excavation begins on a lot, proper erosion and storm water runoff control measures shall be installed by the lot owner, including but not limited to, silt fences which must be placed as appropriate, including on downhill sides of lots. Any mud tracked by tires, equipment, etc., from lots onto adjoining lots, streets or sidewalks are to be cleaned up at the lot owner's expense prior to the end of the same day in which such mud is tracked. Any sediment that washes onto any neighboring properties must be repaired by the responsible lot owner.
- (20) No trash or garbage shall be kept on any lot, except in adequate sanitary containers, and all lots shall be kept free of weeds and debris. Furthermore, adequate garbage and waste containers (covered dumpsters or similar containers and/or receptacles) shall be used during all stages of construction to prevent waste, debris and/or other materials from obstructing the lot and neighboring lots. Furthermore, no materials are to be buried on any portion of the lot or lots within the subdivision.
- (21) No animals of any kind, including, but not limited to, livestock, chicken or fowl, shall be raised, bred, housed, quartered, or kept on any lot; provided, however, dogs, cats and other ordinary household pets may be kept and housed, provided that they are not kept, bred, housed or maintained for any commercial purpose. No outside kennels will be permitted, except if attached to the rear of the house and no larger than 144 square feet.
- (22) A perpetual public utility easement is reserved over each lot for the installation, repair and maintenance of all utilities, including, but not limited to, electricity, telephone and cable TV, all as shown on the plat of the above described lots in Carver Heights Subdivision. All said utilities shall be placed underground.
- (23) Sidewalks for each lot shall be constructed by each respective lot owner, at the lot owner's expense. Lots that abut more than one street shall install sidewalks along all street frontages in accordance with Chapter 166 of the City of Asbury's Code of Ordinances. Lot owners shall have sidewalks installed prior to or upon completion of dwelling unit; provided, however, all sidewalks shall be completed no later than one (1) year after lot owner purchases the lot(s).
- (24) These covenants and restrictions shall run with the land and shall be binding on all parties hereto, their heirs, successors and assigns, and on persons claiming under them for a period of twenty-one (21) years from the date these covenants are recorded, at which time the covenants and restrictions may be extended by filing a verified claim pursuant to the Iowa Code.
- (25) In case the parties hereto, or any of them or their heirs, successors or assigns, shall violate or attempt to violate any of the covenants and restrictions herein, it shall be lawful for Roosevelt Land Corporation or any other person or persons owning any lot in said subdivision, or any other interested party or parties, to

prosecute any proceeding at law or in equity against the person or persons violating or attempting to violate any such covenants or restrictions, to either prevent him or them from so doing, or recover damages for such violation, or both.

- (26) The invalidation of any one of these covenants or restrictions, or any part thereof, by judgment or court order shall in no way affect any of the other provisions and all other provisions shall remain in full force and effect.
- (27) All earth excavated in the construction of a dwelling and not used on the premises of the lot shall be removed to such place or places on site as designated by Roosevelt Land Corporation at the lot owner's cost.
- (28) No signs, bill boards, or advertising devices, except those used in the sale of said property, shall be placed on any lot or building of said subdivision.
- (29) All driveways leading from any street in the subdivision shall be of hard surface construction. Only one (1) driveway is allowed per single family home except corner lots are allowed two driveways with the appropriate city permit and written approval by the Architectural Review Board.
- (30) If firewood is stored outside of any dwelling unit, it shall be stacked and racked immediately adjacent to the rear of the residence in an orderly fashion. If the wood is purchased by the truckload, it must be cut and stacked within one month.
- (31) Driveway approaches must be identified and rock approaches in place before construction begins to prevent curb damage and to prevent mud from being tracked onto street. Any street and/or curb damage that occurs because of construction shall be replaced at home owner's expense.
- (32) No owner shall cause or allow surface water, subsurface water or other water from any source to be drained, discharged or cast upon or into public property or the private property of another by any device or other means which alters the natural direction or volume of water in such a manner as to cause erosion, subsidence, loss of lateral support or other interference with or impairment of the lawful use and enjoyment of such property. Devices shall be terminated at a minimum of ten feet from the property line if the slope of the yard is less than 3:1. When the slope of the yard is greater than 3:1, devices shall be terminated at a minimum of ten feet before the top of the slope. Surface discharge may be directed into the public right of way in instances where a municipal storm sewer is available. Surface water shall be conveyed through the back of curb and into the gutter through a storm water curb opening approved by the City of Asbury.
- (33) If during the construction process, any material is stored on a neighboring lot or any vehicles are driven across a neighboring lot, the neighboring lot must be

graded and seeded, as necessary, to restore it to its previous condition. Under no circumstances is any rock, dirt, garbage or other debris to be stored on the street.

- (34) The titleholder to each lot, vacant and/or improved, shall keep the lawn area and construction site free of weeds and debris and shall keep the grass cut to give the premises a neat and orderly appearance. If construction does not commence on the residence within twelve (12) months of the original purchase of any lot from Roosevelt Land Corporation, such lot shall be mowed and maintained as a finished yard.
- (35) The lots subject to these Restrictive Covenants are also subject to a natural pollutant discharge elimination system (NPDES) Permit. Roosevelt Land Corporation shall remain responsible for compliance with the NPDES requirements related to each specific lot until the earlier of (i) a lot owner has initiated construction of a home on the lot or (ii) twelve (12) months from the date Roosevelt Land Corporation sells such lot to the initial new lot purchaser. The owner of the Lot shall be responsible for compliance with the NPDES requirements at such time as the owner begins construction of a home upon any lot. In the event the owner of a lot does not begin construction of a home on a lot within twelve (12) months of the date of purchase, the owner shall become responsible for NPDES compliance requirements 365 days after the date of closing of the initial purchase of such lot from Roosevelt Land Corporation. The lot owner shall sign a transfer of permit obligations at the time of conveyance from Roosevelt Land Corporation, and Roosevelt Land Corporation shall be responsible for providing a copy of the required documentation to the Department of Natural Resources to complete the transfer of the permit obligations to the new lot owner.
- (36) Exclusive Excavation, Foundation and Concrete Contractor. Roosevelt Land Corporation hereby designates E.L.W. Corp, a/k/a "Weber Concrete", an Iowa corporation ("Weber Concrete"), as the exclusive excavation, foundation and concrete contractor for the Subdivision. All lot owners shall use Weber Concrete for all new construction excavation, foundation installation and concrete work. Roosevelt Land Corporation reserves the right to waive or modify this requirement in its sole discretion.
- (37) All lots must have 8 inches of topsoil placed before seeding or sod is installed to comply with storm water runoff regulations.

IN WITNESS WHEREOF, the foregoing instrument has been executed this 23
day of Jan, 2018.

ROOSEVELT LAND CORPORATION

By: James J. Herrig
James J. Herrig

Its: Authorized Agent

STATE OF IOWA, DUBUQUE COUNTY, ss:

On this 23 day of January, 2018 before me, the undersigned, a Notary Public in and for said State, personally appeared James J. Herrig, to me personally known, who being by me duly sworn, did say that he is the Authorized Agent of Roosevelt Land Corporation; that no seal has been procured by the said corporation that said instrument was signed on behalf of said corporation by authority of its Board of Directors; and that the said Authorized Agent, acknowledged the execution of said instrument to be voluntary act and deed of said corporation, by it and by him voluntarily executed.

(insert stamp or seal below)

Laura L. Hammel
Notary Public

