CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

ITEM: Approval to execute an Infrastructure Agreement between Jordan Ridge, LLC and the City of West Des Moines

DATE: September 7, 2021

RESOLUTION: Approval of Infrastructure Agreement

FINANCIAL IMPACT: Based on the attached Infrastructure Agreement between the City and Jordan Ridge, LLC, the City proposes to construct Stagecoach Drive between South Jordan Creek Parkway and South 78th Street to facilitate development of the area. These costs will be funded by incremental property tax revenues generated by the Mills Parkway Tax Increment Financing District and are estimated at $4.4 Million.

BACKGROUND: Jordan Ridge LLC is considering new construction for commercial office and retail use on a lot at the intersection of South Jordan Creek Parkway and Stagecoach Drive. Because of significant terrain issues the developer has requested assistance from the City in constructing the portion of Stagecoach Drive from Jordan Creek Parkway and South 78th Street.

This item was reviewed at the August 18, 2021, Finance and Administration Council Subcommittee meeting for recommendation. The Subcommittee recommended approval of the requested Infrastructure Agreement.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Adopt the resolution approving the Infrastructure Agreement and authorizing the Mayor to sign the Infrastructure Agreement on behalf of the City.

Lead Staff Member: Clyde E. Evans, AICP, Director

STAFF REVIEWS

Department Director	Clyde Evans, Community and Economic Development Director
Appropriations/Finance	Tim Stiles, Finance Director
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register	
Date(s) Published	August 27, 2021	
Letter sent to surrounding property owners	N/A	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Finance & Administration		
Date Reviewed	August 18, 2021		
Recommendation	Yes ☒	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Infrastructure Agreement
Exhibit II - Resolution

INFRASTRUCTURE AGREEMENT

BY AND BETWEEN

CITY OF WEST DES MOINES

AND

JORDAN RIDGE, LLC

THIS INFRASTRUCTURE AGREEMENT (this "Agreement") is made as of this_____ day of _____, 2021, by and between the CITY OF WEST DES MOINES, IOWA, a municipality ("City"), established pursuant to the Code of Iowa and JORDAN RIDGE, LLC, an Iowa limited liability company having offices for the transaction of business in the State of Iowa at 611 Monticello, Burlington, Iowa 52601 ("Developer"). The City and Developer are the "Parties" to this Agreement.

WITNESSETH:

WHEREAS, Developer is or will be the owner of certain real property, consisting of approximately 130 acres, located within the City and legally defined in Exhibit A attached hereto (the "Property"); and

WHEREAS, Developer is willing to transfer right of way to the City in support of the City's construction of certain Public Improvements as set forth in this Agreement; and

WHEREAS, City believes that the parties' fulfillment generally of this Agreement are in the vital and best interests of City and in accord with the public purposes and provisions of the applicable State and local laws and requirements.

NOW, THEREFORE, in consideration of the promises 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:

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

City means the City of West Des Moines, Iowa, or any successor to its functions.

City Code means the West Des Moines Code of Ordinances.

Code means the Code of Iowa, 2021, as amended.

County means the County of Dallas, Iowa.

Developer means Jordan Ridge, LLC, an Iowa limited liability company, and its successors and assigns.

Event of Default means any of the events described in Section 6.1 of this Agreement.

Infrastructure Improvements means the initial two (2) lanes of an ultimate four (4) lane arterial street, including all rough and final grading and underground public infrastructure including water main, fiber conduit, and storm sewer, located on or adjacent to the Property between the terminus of and aligning with the existing Stagecoach Drive on the east and continuing through the anticipated intersection with S. 78th Street on the west, as depicted in Exhibit B. Installation of the Infrastructure Improvements will substantially conform to the existing Stagecoach Drive and will adhere to all City design standards and specifications. The Infrastructure Improvements do not include the extension of 78th Street to the anticipated intersection with Stagecoach, nor do they include the sidewalks and streetlights adjacent to that portion of Stagecoach Drive being constructed by the City as part of the Infrastructure Improvements.

Property means that portion of the City described on Exhibit A attached hereto and incorporated herein.

State means the State of Iowa.

Termination Date means the date of termination of this Agreement, as established in Section 7.11 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, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State, or local governmental unit (other than the City).

ARTICLE II. REPRESENTATIONS AND WARRANTIES

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

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

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

a. Developer is an Iowa limited liability company duly organized and validly existing as a limited liability company under the laws of the State, 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 Developer and, assuming due authorization, execution and delivery by City, is in full force and effect and is a valid and legally binding instrument of 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 Developer or of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which 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 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 of operations of Developer or which in any manner raises any questions affecting the validity of the Agreement or Developer's ability to perform its obligations under this Agreement.

e. Developer has not received any notice from any local, State, or federal official that the activities of Developer with respect to the Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which City has previously been notified in writing). 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 Property, and 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.

ARTICLE III. COVENANTS OF DEVELOPER

Section 3.1. Developer shall dedicate, or cause to be dedicated, at no cost to the City, all property necessary for the construction of the Infrastructure Improvements and shall provide, or cause to be provided, at no cost to the City, any temporary construction easements on the Property necessary for the

construction of the Infrastructure Improvements. The dedication of property and provision of easements shall occur before, and shall be condition precedent to, the City's initiation of construction of the Infrastructure Improvements. Except for easements encumbering the Property, City agrees that City shall be responsible for obtaining the temporary construction easements required, if any, to construct the Infrastructure Improvements.

Section 3.2. Except for the Infrastructure Improvements, and any additional extension of Stagecoach Drive to the west, Developer shall construct or cause the construction of the public streets and associated infrastructure and utilities on or in the Property as and to the extent required by City Code for a preliminary and final plat for the Property to be approved by the City pursuant to the City's normal processes.

ARTICLE IV. INFRASTUCTURE IMPROVEMENTS

Section 4.1. Infrastructure Improvements. For and in consideration of the Developer's obligations under this Agreement, the City agrees to construct the Infrastructure Improvements subject to the terms and conditions of this Agreement.

a. Conditions Precedent to Construction of Infrastructure Improvements. It is recognized and agreed that the ability of the City to perform the obligations described in this Agreement with respect to construction of the Infrastructure Improvements is subject to each of the following conditions precedent:

i. Developer shall have satisfied the requirements of Sections 3.1 and 3.2 of this Agreement;

ii. City shall have approved a final plat for the Property;

iii. The City Council shall have completed all legislative processes necessary to identify the Infrastructure Improvements as an urban renewal project in an applicable urban renewal plan or amendment;

iv. The City Council shall have completed all applicable public bidding requirements for the Infrastructure Improvements in the City's sole discretion and shall have awarded a contract for the Infrastructure Improvements;

v. The completion and satisfaction of certain separate City Council actions and all required legal proceedings relating to the financing necessary for the construction of the Infrastructure Improvements, if any; and

vi. The City shall have secured financing for the construction of the Infrastructure, such as the completed sale of bonds, if any, on such terms and conditions as it shall deem necessary or desirable in its sole discretion.

Subject to unavoidable delays, City agrees to diligently and in good faith act to the extent within its power to satisfy the foregoing conditions in as timely a manner as is reasonably possible.

b. Construction of the Infrastructure Improvements. Contingent on the Developer's compliance with the terms of this Agreement and contingent upon satisfaction of the Conditions Precedent in Section 4.1(a) of this Agreement, the City shall fund and then construct the Infrastructure Improvements. The City's obligation to construct the Infrastructure Improvements as described in this Article shall be subject in all respects to Unavoidable Delays, the provisions of this Section 4.1, and to the satisfaction of all conditions and procedures required (in the judgment of bond counsel for the City) by Chapters 384 and 403 of the Code including the holding of all required public hearings relating to the same.

c. Completion of the Infrastructure Improvements. Subject to Unavoidable Delays, the City shall cause construction of the Infrastructure Improvements to be undertaken and completed by December 1, 2022. 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, provided that the City agrees to provide Developer with a written notice within five (5) days of City becoming aware of any claimed Unavoidable Delay. The City shall cause the Infrastructure Improvements to be constructed in conformity with (i) the terms and conditions of this Agreement, and (ii) all applicable federal, State, and local laws, ordinances, rules, and regulations and permit requirements.

d. No Special Legal Entitlements.

i. Developer recognizes and agrees that the Infrastructure Improvements shall be owned and maintained 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, maintenance, or use of the Infrastructure Improvements.

ii. The Parties agree that the City and other Indemnified Parties (as defined in Section 5.1(a)) are not responsible for and will have no liability to Developer associated with the specifications, design, plans, quality of construction, or sufficiency of the Infrastructure Improvements for any particular purpose.

e. Special Assessments. In exchange for dedication of the right of way for Stagecoach Drive, the City hereby waives and disclaims the right to levy a special assessment under Iowa Code 384.37-79 on the Property for construction or installation of Stagecoach Drive within any portion of the Property. This provision shall survive the termination or expiration of the Agreement and is irrevocable and binding upon recording of the deed for dedication of the right of way for Stagecoach Drive. It is agreed and understood by the parties that the City is undertaking the construction of the Infrastructure Improvements pursuant to this Agreement, covering a portion of the anticipated Stagecoach Drive as shown on Exhibit B, and that while the City is not undertaking any responsibility under this Agreement for the further extension of Stagecoach Drive within any portion of the Property, City is agreeing not to levy a special assessment on the Property for any portion of such extension of Stagecoach Drive when and if made. Nothing in this Agreement shall be interpreted as interfering with the City's right to levy property taxes on the Property, nor as exempting the owner of the Property from paying such property taxes.

ARTICLE V. INDEMNIFICATION

Section 5.1. Release and Indemnification Covenants.

a. Developer releases City and the governing body members, officers, agents, servants, and employees thereof (hereinafter, for purposes of this Agreement, 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 Property.

b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, 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) the acquisition and condition of the Property and the construction, installation, ownership, and operation of any improvements thereon, not including the Infrastructure Improvements; or (ii) any hazardous substance or environmental contamination located in or on the Property.

c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of Developer, or their officers, agents, servants, or employees, or any other person who may be about the Property 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. All covenants, stipulations, promises, agreements, and obligations of City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of City, and not of any governing body member, officer, agent, servant, or employee of City in the individual capacity thereof.

e. The provisions of this Article V shall survive the termination of this Agreement.

ARTICLE VI. EVENTS OF DEFAULT AND REMEDIES

Section 6.1. Events of Default

a. Developer Events of Default. Each of the following shall constitute an event of default by Developer if left uncured following any applicable notice and cure periods: Any breach by Developer of any of its representations, covenants or agreements contained herein.

b. City Events of Default. Each of the following shall constitute an event of default by the City if left uncured following any applicable notice and cure periods: Any breach by the City of any of its representations, covenants or agreements contained herein.

Section 6.2. Remedies. Upon the default by a Party to this Agreement, the non-defaulting Party shall thereafter provide written notice of the default to the defaulting Party and shall specify a period of not less than fifteen (15) business days during which the defaulting Party shall have a right to cure the default; provided, however, such cure period may be extended if all of the following occur: (a) a default cannot reasonably be cured within the cure period provided in such notice, (b) the curing party notifies the non-defaulting party and provides evidence of such fact not later than the end of the cure period provided in the notice, (c) the curing party has theretofore been diligent in pursuing the cure, and (d) the curing party in such extension notice covenants to (and thereafter actually does) diligently pursue the cure to completion. In the event the defaulting party fails to cure the default, the non-defaulting party may

(i) terminate this Agreement; or (ii) enforce this Agreement by specific performance. No remedy herein conferred upon or reserved to either party 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. 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 6.3. 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.

ARTICLE VII. MISCELLANEOUS

Section 7.1. Conflict of Interest. Developer represents and warrants that, to the best of its knowledge and belief after due inquiry, no officer or employee of the City, or their 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 7.2. 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 Developer, is addressed or delivered personally to Jordan Ridge LLC, 611 Monticello, Burlington, Iowa 52601, Attn: Mike Pierson, Manager;

b. In the case of the City, is addressed to or delivered personally to City of West Des Moines at City Hall, 4200 Mills Civic Parkway, P.O. Box 65320, West Des Moines, Iowa 50265-0320; Attn: City Clerk;

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 7.3. 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 7.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 7.5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 7.6. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among 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 7.7. 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 permitted successors and assigns. Prior to fulfillment of its obligations under this Agreement, Developer shall not transfer, convey, or assign its obligations under this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing in advance thereof, which consent shall not be unreasonably withheld, conditioned, or delayed.

Section 7.8. Severability. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby and the parties shall thereupon amend this Agreement to legally and most closely embody the spirit and intent of the invalid provisions.

Section 7.9. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, 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.

Section 7.10. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement, 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 all costs of recording.

Section 7.11. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2023, unless terminated earlier under the terms of this Agreement.

IN WITNESS WHEREOF, 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, and Developer has caused this Agreement to be duly executed in its name and behalf by its authorized representatives, all on or as of the day first above written.

(Signatures Appear on the Following Pages)

CITY OF WEST DES MOINES, IOWA,
an Iowa municipal corporation

_____
Steven K. Gaer
Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this_____day of_____, 2021, before me a Notary Public in and for said County, personally appeared Steven K. Gaer and Ryan T. Jacobson, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of West Des Moines, Iowa, a municipal corporation, created and existing under the laws of the State of Iowa and that said record was signed on behalf of said municipal corporation by authority and resolution of its City Council as contained in Roll Call No._____, passed on the_____day of_____, 2021, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said municipal corporation by it voluntarily executed.

_____
Notary, State of Iowa

DEVELOPER:
Jordan Ridge LLC,
an Iowa limited liability company

By_____
Its _____

STATE OF_____)
) ss
COUNTY OF_____)

This record was acknowledged before me on_____, 2021, by _____ as_____of Jordan Ridge LLC, an Iowa limited liability company, on behalf of whom the record was executed.

_____
Notary Public in and for said State

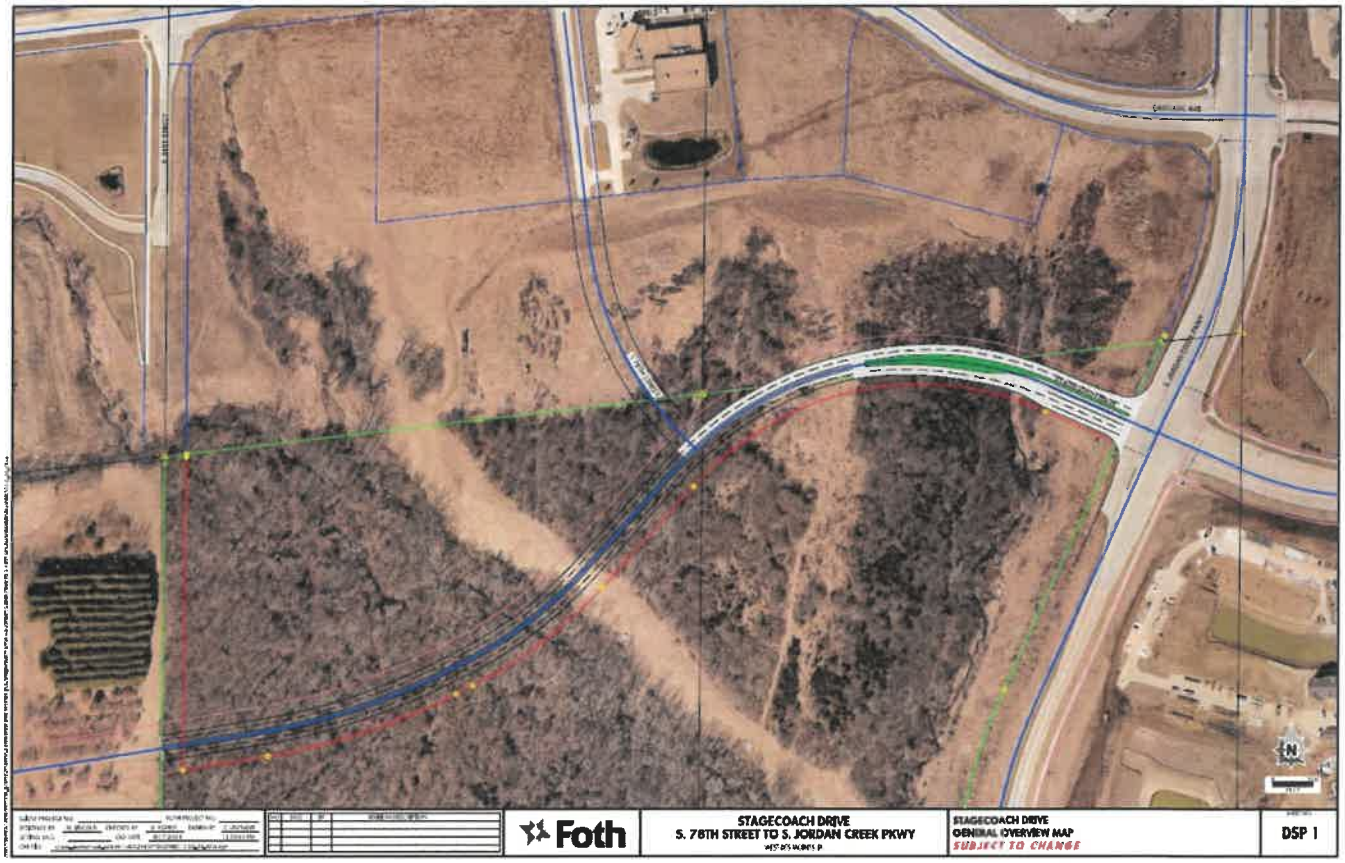
EXHIBIT A
LEGAL DESCRIPTION OF PROPERTY

LEGAL DESCRIPTION: PARCEL 21-76

A PARCEL OF LAND IN THE NE1/4 & SE1/4 OF SECTION 23 AND THE NW1/4 SW1/4 OF SECTION 24, ALL IN TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE 5TH P.M., CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE N1/4 CORNER OF SAID SECTION 23; THENCE N83°22'32"E, 50.37 FEET ALONG THE NORTH LINE OF SAID NE1/4 OF SECTION 23, SAID NORTH LINE ALSO BEING THE SOUTH LINE OF LOT 'B', THE CASCADES AT JORDAN CREEK PLAT 1, AN OFFICIAL PLAT RECORDED IN BOOK 2015, PAGE 13814 AT THE DALLAS COUNTY RECORDER'S OFFICE, TO THE SE CORNER OF SAID LOT 'B'; THENCE S00°21'47"W, 6.18 FEET ALONG THE EAST LINE OF THE WEST 50.00 FEET OF SAID NE1/4 TO A POINT; THENCE S00°29'27"W, 755.91 FEET ALONG SAID EAST LINE OF THE WEST 50.00 FEET OF THE NE1/4 TO A POINT; THENCE N80°47'37"E, 210.11 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1560.00 FEET AND A CHORD BEARING N71°53'58"E, AN ARC LENGTH OF 484.33 FEET TO A POINT OF TANGENCY; THENCE N63°00'19"E, 45.06 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1060.00 FEET AND A CHORD BEARING N52°27'31"E, AN ARC LENGTH OF 390.24 FEET TO A POINT OF TANGENCY; THENCE N41°54'43"E, 327.37 FEET TO A POINT OF CURVATURE; THENCE EASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 740.00 FEET AND A CHORD BEARING N77°57'43"E, AN ARC LENGTH OF 931.21 FEET TO A POINT OF TANGENCY; THENCE S65°59'16"E, 185.75 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF S. JORDAN CREEK PARKWAY AS IT IS PRESENTLY ESTABLISHED IN BOOK 2004, PAGE 294 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S24°11'07"W, 653.22 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1355.74 FEET AND A CHORD BEARING S01°27'43"E, AN ARC LENGTH OF 1213.74 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT OF TANGENCY; THENCE S27°06'33"E, 1413.67 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1827.36 FEET AND A CHORD BEARING S19°46'50"E, AN ARC LENGTH OF 467.47 FEET ALONG SAID WEST RIGHT-OF-WAY LINE A POINT OF TANGENCY; THENCE S12°27'07"E, 130.04 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT ON THE CENTERLINE BOONEVILLE ROAD AS IT IS ESTABLISHED IN BOOK 440, PAGE 65 AT THE DALLAS COUNTY RECORDER'S OFFICE, SAID POINT ALSO BEING ON THE NORTH LINE OF THE PLAT OF SURVEY RECORDED IN BOOK 7, PAGE 485 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S82°14'23"W, 87.76 FEET ALONG SAID CENTERLINE AND SAID NORTH LINE TO A POINT; THENCE S78°07'29"W, 244.40 FEET ALONG SAID CENTERLINE AND SAID NORTH LINE TO A POINT; THENCE S82°01'23"W, 591.58 FEET ALONG SAID CENTERLINE AND SAID NORTH LINE TO THE NW CORNER OF SAID PLAT OF SURVEY RECORDED IN BOOK 7, PAGE 485 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S00°37'56"E, 14.44 FEET ALONG THE WEST LINE OF SAID PLAT OF SURVEY TO A POINT ON THE SOUTH LINE OF THE NE1/4 SE1/4 OF SAID SECTION 23; THENCE S83°19'15"W, 55.21 FEET ALONG SAID SOUTH LINE TO THE SW CORNER OF THE E1/2 NE1/4 SE1/4 OF SAID SECTION 23; THENCE N00°03'20"E, 1317.20 FEET ALONG THE WEST LINE OF SAID E1/2 NE1/4 SE1/4 TO THE NW CORNER OF SAID E1/2 NE1/4 SE1/4, SAID NW CORNER ALSO BEING ON THE SOUTH LINE OF SAID NE1/4 OF SECTION 23; THENCE S83°06'34"W, 653.49 FEET ALONG SAID SOUTH LINE TO THE SE CORNER OF THE SW1/4 NE1/4 OF SAID SECTION 23; THENCE S83°04'41"W, 1307.79 FEET ALONG SAID SOUTH LINE OF THE NE1/4 TO THE CENTER OF SAID SECTION 23; THENCE N00°29'27"E, 2643.34 FEET ALONG WEST LINE OF SAID NE1/4 TO THE POINT OF BEGINNING AND CONTAINING 130.03 ACRES INCLUDING 0.92 ACRES OF PUBLIC RIGHT-OF-WAY EASEMENT MORE OR LESS

EXHIBIT B
INFRASTRUCTURE IMPROVEMENTS DEPICTION



Execution Version

EXHIBIT C

Type of Document:	**MEMORANDUM OF INFRASTRUCUTRE AGREEMENT BETWEEN THE CITY OF WEST DES MOINES AND JORDAN RIDGE LLC**
Return Document to:	**Ryan T. Jacobson** **City of West Des Moines** **4200 Mills Civic Parkway, Suite 1A** **West Des Moines, IA 50265**
Preparer Information:	**Nathan J. Overberg** **Ahlers & Cooney, P.C.** **100 Court Ave., Ste. #600** **Des Moines, IA 50309** **(515) 243-7611**
Taxpayer Information:	**N/A**

GRANTORS: N/A

GRANTEES: N/A

LEGAL DESCRIPTION: See Page C-2 of Memorandum of Agreement

MEMORANDUM OF INFRASTRUCTURE AGREEMENT

WHEREAS, the City of West Des Moines, Iowa ("City") and Jordan Ridge LLC ("Developer") did on or about the_____ day of_____, 2021, make, execute, and deliver, each to the other, an Infrastructure Agreement (the "Agreement") related to certain real property located within City and as more particularly described as follows:

LEGAL DESCRIPTION: PARCEL 21-76

A PARCEL OF LAND IN THE NE1/4 & SE1/4 OF SECTION 23 AND THE NW1/4 SW1/4 OF SECTION 24, ALL IN TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE 5TH P.M., CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE N1/4 CORNER OF SAID SECTION 23; THENCE N83°22'32"E, 50.37 FEET ALONG THE NORTH LINE OF SAID NE1/4 OF SECTION 23, SAID NORTH LINE ALSO BEING THE SOUTH LINE OF LOT 'B', THE CASCADES AT JORDAN CREEK PLAT 1, AN OFFICIAL PLAT RECORDED IN BOOK 2015, PAGE 13814 AT THE DALLAS COUNTY RECORDER'S OFFICE, TO THE SE CORNER OF SAID LOT 'B'; THENCE S00°21'47"W, 6.18 FEET ALONG THE EAST LINE OF THE WEST 50.00 FEET OF SAID NE1/4 TO A POINT; THENCE S00°29'27"W, 755.91 FEET ALONG SAID EAST LINE OF THE WEST 50.00 FEET OF THE NE1/4 TO A POINT; THENCE N80°47'37"E, 210.11 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1560.00 FEET AND A CHORD BEARING N71°53'58"E, AN ARC LENGTH OF 484.33 FEET TO A POINT OF TANGENCY; THENCE N63°00'19"E, 45.06 FEET TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1060.00 FEET AND A CHORD BEARING N52°27'31"E, AN ARC LENGTH OF 390.24 FEET TO A POINT OF TANGENCY; THENCE N41°54'43"E, 327.37 FEET TO A POINT OF CURVATURE; THENCE EASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 740.00 FEET AND A CHORD BEARING N77°57'43"E, AN ARC LENGTH OF 931.21 FEET TO A POINT OF TANGENCY; THENCE S65°59'16"E, 185.75 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF S. JORDAN CREEK PARKWAY AS IT IS PRESENTLY ESTABLISHED IN BOOK 2004, PAGE 294 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S24°11'07"W, 653.22 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT OF CURVATURE; THENCE SOUTHERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1355.74 FEET AND A CHORD BEARING S01°27'43"E, AN ARC LENGTH OF 1213.74 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT OF TANGENCY; THENCE S27°06'33"E, 1413.67 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT OF CURVATURE; THENCE SOUTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1827.36 FEET AND A CHORD BEARING S19°46'50"E, AN ARC LENGTH OF 467.47 FEET ALONG SAID WEST RIGHT-OF-WAY LINE A POINT OF TANGENCY; THENCE S12°27'07"E, 130.04 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT ON THE CENTERLINE BOONEVILLE ROAD AS IT IS ESTABLISHED IN BOOK 440, PAGE 65 AT THE DALLAS COUNTY RECORDER'S OFFICE, SAID POINT ALSO BEING ON THE NORTH LINE OF THE PLAT OF SURVEY RECORDED IN BOOK 7, PAGE 485 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S82°14'23"W, 87.76 FEET ALONG SAID CENTERLINE AND SAID NORTH LINE TO A POINT; THENCE S78°07'29"W, 244.40 FEET ALONG SAID CENTERLINE AND SAID NORTH LINE TO A POINT; THENCE S82°01'23"W, 591.58 FEET ALONG SAID CENTERLINE AND SAID NORTH LINE TO THE NW CORNER OF SAID PLAT OF SURVEY RECORDED IN BOOK 7, PAGE 485 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S00°37'56"E, 14.44 FEET ALONG THE WEST LINE OF SAID PLAT OF SURVEY TO A POINT ON THE SOUTH

LINE OF THE NE1/4 SE1/4 OF SAID SECTION 23; THENCE S83°19'15"W, 55.21 FEET ALONG SAID SOUTH LINE TO THE SW CORNER OF THE E1/2 NE1/4 SE1/4 OF SAID SECTION 23; THENCE N00°03'20"E, 1317.20 FEET ALONG THE WEST LINE OF SAID E1/2 NE1/4 SE1/4 TO THE NW CORNER OF SAID E1/2 NE1/4 SE1/4, SAID NW CORNER ALSO BEING ON THE SOUTH LINE OF SAID NE1/4 OF SECTION 23; THENCE S83°06'34"W, 653.49 FEET ALONG SAID SOUTH LINE TO THE SE CORNER OF THE SW1/4 NE1/4 OF SAID SECTION 23; THENCE S83°04'41"W, 1307.79 FEET ALONG SAID SOUTH LINE OF THE NE1/4 TO THE CENTER OF SAID SECTION 23; THENCE N00°29'27"E, 2643.34 FEET ALONG WEST LINE OF SAID NE1/4 TO THE POINT OF BEGINNING AND CONTAINING 130.03 ACRES INCLUDING 0.92 ACRES OF PUBLIC RIGHT-OF-WAY EASEMENT MORE OR LESS

(the "Property"); and

WHEREAS, the term of the Agreement commenced on the _____ day of _____, 2021 and terminates as set forth in the Agreement; and

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

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Infrastructure Agreement shall serve as notice to the public that the Agreement contains provisions restricting development and use of the 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 Infrastructure Agreement made a part hereof by reference, and that anyone making any claim against any of said 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, West Des Moines, Iowa.

IN WITNESS WHEREOF, the City and Developer have executed this Memorandum of Infrastructure Agreement on the_____day of_____, 2021.

[Signatures Start on Next Page]

CITY OF WEST DES MOINES, IOWA,
an Iowa municipal corporation

_____
Steven K. Gaer
Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this_____day of_____, 2021, before me a Notary Public in and for said County, personally appeared Steven K. Gaer and Ryan T. Jacobson, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively of the City of West Des Moines, Iowa, a municipal corporation, created and existing under the laws of the State of Iowa and that said record was signed on behalf of said municipal corporation by authority and resolution of its City Council as contained in Roll Call No._____, passed on the _____ day of_____, 2021, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said municipal corporation by it voluntarily executed.

_____
Notary, State of Iowa

DEVELOPER:
Jordan Ridge LLC,
an Iowa limited liability company

By_____
Its _____

STATE OF_____)
) ss
COUNTY OF_____)

This record was acknowledged before me on_____, 2021, by _____as_____of Jordan Ridge LLC, an Iowa limited liability company, on behalf of whom the record was executed.

_____
Notary Public in and for said State

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN INFRASTRUCTURE AGREEMENT BY AND BETWEEN THE CITY OF WEST DES MOINES AND JORDAN RIDGE, LLC

WHEREAS, the City has received a proposal from Jordan Ridge, LLC (the "Developer"), in the form of a proposed Infrastructure Agreement (the "Agreement") by and between the City and Developer, pursuant to which, among other things, the Developer would dedicate, at no cost to the City, all property necessary for the City's construction of certain Infrastructure Improvements, consisting of two (2) lanes of a four (4) lane arterial street, as outlined in the proposed Agreement; and

WHEREAS, in exchange, the City would agree to construct the Infrastructure Improvements, under the terms and following satisfaction of the conditions set forth in the Agreement; 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 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 403, Code of Iowa, to wit:

WHEREAS, pursuant to notice published as required by law, this Council has held a public meeting and hearing upon the proposal to approve and authorize execution of the Agreement and has considered the extent of objections received from residents or property owners as to said proposed Agreement; and, accordingly the following action is now considered to be in the best interests of the City and residents thereof.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES IN THE STATE OF IOWA:

Section 1. That the form and content of the Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Agreement, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreement as executed.

PASSED AND APPROVED this 7th day of September, 2021.

_____

Steven K. Gaer, Mayor

ATTEST:

_____

Ryan T. Jacobson, City Clerk