

RESOLUTION NUMBER 7772

WHEREAS, Excel Health Services d/b/a Excel Development Group (“Developer”), owns real estate legally described as:

Beatrice Commons Addition to the City of Beatrice, Gage County Nebraska; and

WHEREAS, Developer intends to develop said property into a residential housing development; and

WHEREAS, Developer desires to guarantee the completion of certain public improvements for Beatrice Commons Addition, as required by the Subdivision Regulations Ordinance of the City of Beatrice, Nebraska, Ordinance Number 98-6, as amended; and

WHEREAS, the City of Beatrice and Developer desire to enter into a Subdivision Improvements Agreement whereby Developer agrees to guarantee the completion of all required improvements; and

WHEREAS, City’s purpose for entering into this Subdivision Improvement Agreement includes, but is not limited to, eliminating the harmful effects of premature subdivisions which leaves property undeveloped and unproductive; and

WHEREAS, the benefits of this Subdivision Improvement Agreement are intended to inure solely to the City of Beatrice, not to third parties such as lot purchasers.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BEATRICE, NEBRASKA:

SECTION 1. That the Mayor and City Clerk are hereby authorized to execute the Subdivision Improvement Agreement with Excel Health Services d/b/a Excel Development Group.

A copy of said Subdivision Improvement Agreement is attached hereto as Exhibit "A" and is incorporated herein by reference.

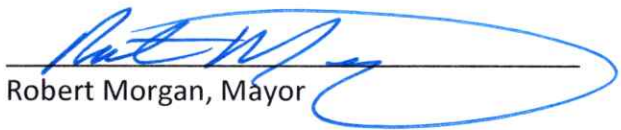
SECTION 2. That all resolutions or parts of resolutions in conflict herewith are hereby repealed.

RESOLUTION PASSED AND ADOPTED this 20th day of April, 2026.

Attest:



Erin Saathoff, MMC, City Clerk



Robert Morgan, Mayor

Exhibit "A"

**SUBDIVISION IMPROVEMENT
AGREEMENT**

This Agreement is made and entered into on this 10 day of April, 2026 by and between Excel Health Services (dba Excel Development Group), a Nebraska Limited Liability Company (hereinafter referred to as "Developer"), and the City of Beatrice, Nebraska, a Municipal Corporation in the State of Nebraska (hereinafter referred to as "City").

WITNESSETH:

WHEREAS, Developer owns certain real estate within the proposed plat attached hereto and incorporated herein as **Exhibit "A"** ("Plat");

WHEREAS, Developer applied to the City for approval of a subdivision designated as Beatrice Commons Addition to the City of Beatrice, Gage County, Nebraska ("Beatrice Commons Addition");

WHEREAS, Developer desires to guarantee the completion of the improvements for Beatrice Commons Addition as required by the Subdivision Regulations Ordinance of the City of Beatrice, Nebraska, Ordinance Number 98-6 as amended (hereinafter referred to as the "Beatrice Subdivision Regulations"); and

WHEREAS, in lieu of requiring the completion of all improvements prior to final plat approval, the City desires to enter into this Agreement with Developer whereby Developer agrees to guarantee the completion of all required improvements;

WHEREAS, City's purpose for entering into this Agreement includes, but is not limited to, eliminating the harmful effects of premature subdivisions which leave property undeveloped and unproductive; and

WHEREAS, the benefits of this Subdivision Improvement Agreement are intended to inure solely to the City, not to third parties such as lot purchasers.

NOW, THEREFORE, in consideration of the mutual covenants herein, the parties agree as follows:

1. Developer agrees to complete, at its expense, the following improvements (hereinafter referred to as "Public Improvements"):

- a) Site Grading and Erosion Control Plan to be submitted to NDEE for compliance with NPDES regulations, prepared by Olsson Inc., a copy of which is attached hereto as **Exhibit "B"**.
- b) On-Site Sanitary Sewer constructed in dedicated street rights-of-way and easements, per plat (Exhibit "A"), to be located as shown on sanitary sewer exhibit prepared by Olsson Inc., a copy of which is attached hereto as **Exhibit "D"**.

- c) On-Site Storm Sewer constructed in dedicated street rights-of-way and easements, per plat (Exhibit "A"), to be located as shown on storm sewer exhibit prepared by Olsson Inc., a copy of which is attached hereto as **Exhibit "E"**.
- d) Concrete Paving Improvements of all streets dedicated per the plat (Exhibit "A"), as shown on paving exhibit prepared by Olsson Inc., a copy of which is attached hereto as **Exhibit "F"** and cross section design shall be approved by the City Engineer which approval shall not be unreasonably withheld, and including an anticipated minimum the street cross section shall have seven inches (7") of concrete over prepared subgrade per the recommendations of the geotechnical report or other mutually acceptable solution.

The Developer agrees to complete the Public Improvements for Beatrice Commons Addition in accordance with the Beatrice Subdivision Regulations, Ordinance Number 98-6 and any amendments thereto ("Beatrice Subdivision Regulations") and in accordance with the plans for such Public Improvements prepared by Olsson Inc., approved by the City Engineer and approval of plans and specs by the Department of Health and Human Services and Nebraska Department of Environment and Energy of water and sanitary sewer and on file in the office of the City Engineer. Developer agrees that all design change orders for the construction of the site grading, sanitary sewer, water main, storm sewer, concrete paving improvements, and street lights must be approved by the Beatrice City Engineer. The Beatrice City Engineer shall review all design change orders and advise if approved within seven (7) business days of the change order being submitted to Beatrice. Developer further agrees that Developer's engineer will make itself readily available to resolve problems and questions concerning the construction of such Public Improvements during the construction thereof and provide regular construction inspection.

2. City agrees to complete the following improvements (hereinafter referred to as "City Improvements").

- a) On-Site water main constructed in collaboration with the City in dedicated street rights-of-way and easements, per plat (Exhibit "A"), to be located as shown on water main exhibit prepared by Olsson Inc., a copy of which is attached hereto as "Exhibit "C".
- b) On-Site street light system within Beatrice Commons Addition to be located as shown on electric exhibit prepared by the City of Beatrice, a copy of which is attached hereto as Exhibit "G". Said street lights shall meet the state street lighting specifications. City shall install all of the lights (poles, bases and light fixtures) and any other components that are part of the street light system.

- c) The primary electrical extension design and installation, City shall provide any and all components that are required including bases for the transformers.

Cost of the City Improvements, less two hundred thousand dollars (\$200,000.00), shall be paid by the Developer.

3. The Developer shall provide City with all utility easements necessary within Beatrice Commons, to construct, reconstruct, maintain, and operate said improvements, as set forth on the Plat.

4. It is agreed by the parties that the obligation of Developer to complete the Public Improvements described in Paragraphs 1 and 2 is an independent obligation to be performed regardless of whether the Developer alleges (or proves) a breach of this Agreement on the part of the City. It is further agreed that the Developer's obligations under this Agreement to construct and complete improvements is not conditioned upon the commencement of work in the subdivision or upon the sale of lots.

5. Developer agrees to guarantee the completion and payment for all required Public Improvements, by delivering to City an irrevocable Letter of Credit in favor of the City of Beatrice issued by a bank authorized to do business in Nebraska, herein "Bank". Such Letter of Credit shall be available by the City's drafts drawn at sight up to the amount of \$1,231,425.00. Such Letter of Credit shall not provide for any expiration date and shall provide that such Letter of Credit shall not be terminated without the written authorization of the Mayor of the City. Drafts will be accepted against the delivery of a letter from the Mayor of City stating that such draft is being drawn in accordance with this Subdivision Improvement Agreement between City and Developer. The Letter of Credit shall also state that any extension of time, change, alteration, or addition which may be approved by the City of Beatrice for construction or completion of the Public Improvements provided for in this Subdivision Improvement Agreement shall in no manner affect or relieve the obligation of the Bank, regardless of whether or not the Bank is given notice of any extension of time, change, alteration or addition. The amount of the Letter of Credit is based upon the estimated cost as determined by the City Engineer, of Developer's responsibility for the required improvements, as follows:

Site Grading	\$ 210,040.00
Sanitary Sewer	\$ 252,500.00
Water Main	\$ 114,607.71
Storm Sewer	\$ 248,300.00
Paving	\$ 372,710.00
Street Lights within Beatrice Commons	\$ 46,670.06
Electrical Extension	\$ 186,597.44
Less: City's contribution to City Utilities	(\$ 200,000.00)
<u>Total</u>	<u>\$1,231,425.21</u>

Developer agrees to file the executed Letter of Credit with the City Clerk within five (5) business days of approval of the final plat of Beatrice Commons Addition by the City Council. Such Letter of Credit shall be subject to the approval of the City Attorney. It is understood by the parties that

the respective amounts for public improvements described in this paragraph are only estimated amounts and Developer, as applicable, will remain responsible for all costs associated with Improvements for which they are responsible, as described in this Agreement in excess of the estimated amounts.

6. The parties agree that the amount of the Letter of Credit for Public Improvements described in Paragraph 5 may be terminated only after written authorization for such termination by the Mayor of the City.

7. Prior to any approval to terminate the Letter of Credit by the Mayor of the City, Developer shall provide formal notice of the completion of required Public Improvements and request for inspection to the City Engineer, and the City Engineer shall approve such Public Improvements in accordance with Section 703 of the Subdivision Ordinance. In addition, the Public Improvements shall pass any final inspections required by Department of Health and Human Services and Nebraska Department of Environment and Energy. Developer shall further file with the City Engineer an Affidavit certifying that all contractors, subcontractors, laborers, and suppliers of material or equipment for the Public Improvements have been fully paid. Developer shall also provide a certification from a Registered Professional Engineer attesting to the adequacy of the installation of the Public Improvements. The Mayor of the City shall agree to termination of the Letter of Credit described in Paragraph 5 upon satisfaction of the foregoing requirements by Developer. Upon approval of the Public Improvements, such Public Improvements shall be owned by and be the property of the City.

8. Developer agrees that all of the required Public Improvements shall be completed no later than two (2) years from the date of approval of the final plat by the City Council. The City Council shall have the power to extend this deadline for one (1) additional year where Developer can present substantial reasons for doing so.

9. Developer expressly warrants that the Public Improvements to be constructed pursuant to this Agreement will be constructed in accordance with the requirements of the Beatrice Subdivision Regulations and will be free from defects for a period of one (1) year after acceptance by City. Developer agrees to remedy any defects within thirty (30) days after receipt of notice from the City. If the Developer fails to so remedy any defects within the thirty (30) day period, City may contract with any other party to correct the defects or to use city employees to perform the work, and Developers shall reimburse the City for its costs in having such work completed.

10. Developer agrees to indemnify and hold harmless the City against all claims, expenses and liability as a result of loss or injury arising out of or in connection with Developer's breach of or default under this Agreement.

11. Developer, its successors and assigns, shall indemnify City and shall save and hold City harmless from all liability, loss, damage, death, injury, cost or expense, including, but not limited to, the cost or expense of defending any legal action, which may be occasioned by, or attributable to, or arise out of or incurred in any activity, operations, acts or omissions covered in this Agreement.

12. In the event that Developer fails to complete the Public Improvements within the time specified in this Agreement, that the Public Improvements are not approved by the City Engineer within the time specified in this Agreement, that Developer fails to commence work as provided in this Agreement, that Developer fails to perform work for a period of ninety (90) days after commencement of construction, that Developer becomes insolvent, that a voluntary or involuntary bankruptcy petition is filed concerning the Developer, that a foreclosure proceeding of a lien against the property platted as Beatrice Commons Addition is commenced, or a conveyance in lieu of foreclosure is made, or for any other just cause, City shall have the right to draw on the security described in Paragraph 5. The City reserves to itself all other remedies available at law or in equity. Any damages sought in such an action will be based upon the reasonable cost of completing the required improvements.

13. This Agreement shall be binding upon the parties hereto, their successors, heirs, personal representatives, and assigns.

Dated this 10 day of April, 2026.

20th April, 2026

Excel Health Services, LLC
(dba Excel Development Group)

By: 

Alexander Carlson, Chief Executive Officer

Attest:

CITY OF BEATRICE, NEBRASKA,
a Municipal Corporation


Erin Saathoff, City Clerk

By 
Robert Morgan, Mayor

STATE OF NEBRASKA)

) ss.

COUNTY OF LANCASTER)

The foregoing instrument was acknowledged before me on this 10 day of April, 2026 by Alexander Carlson, Chief Executive Officer and authorized signatory of Excel Health Services, LLC (dba Excel Development Group), a Nebraska limited liability corporation.



Notary Public

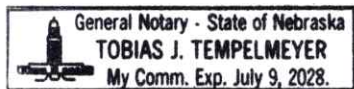



STATE OF NEBRASKA)

) ss.

COUNTY OF GAGE)

The foregoing instrument was acknowledged before me this 20 day of April, 2026 by Robert Morgan, Mayor of the City of Beatrice, Nebraska, a Municipal Corporation, and authorized signatory of the City of Beatrice, Nebraska, to be his voluntary act and deed on behalf of the City of Beatrice.





Notary Public