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Date February 8, 2021

**APPROVING ESCROW AGREEMENT FOR PUD RESTORATION
FOR GRADING WORK ASSOCIATED WITH
"NORTHRIDGE" PUD IN THE VICINITY OF
4600 AND 4700 EAST 14TH STREET**

WHEREAS, on March 23, 2020, by Roll Call Number 20-0577 the City Council approved the 1st Amendment to the "Northridge" PUD Conceptual Plan for property located in the vicinity of 4600 and 4700 East 14th Street ("Property"), to be developed by ILEX Group, Inc.(Owner), and

WHEREAS, on application by the Developer, the City's Planning Administrator approved an amended PUD Conceptual Plan "Northridge" to allow grading, construction and operation of uses allowed within the I1 district on the Property; and

WHEREAS, the developer, ILEX Group, Inc., is required to provide restoration security for the grading and ground surface restoration in order to secure a Grading Permit for construction on property within "Northridge" PUD; and,

WHEREAS, the City Engineer has approved the amount of security for the Site grading, silt fence, inlet protection, inspection, and site restoration, in the estimated amount of \$83,210.00; and

WHEREAS, City staff have negotiated an Escrow Agreement with ILEX Group, Inc., as developer and owner of the Property, whereby ILEX Group, Inc. has agreed to deposit the sum of \$83,210.00 with the City in payment to secure the required cost of grading restoration work on the Property.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Des Moines, Iowa, as follows:

1. The proposed Escrow Agreement with ILEX Group, Inc., as developer and owner of the Property is hereby approved, and the Mayor and City Clerk are hereby authorized and directed to execute the Escrow Agreement on behalf of the City.

2. The Engineering Department and Finance Department are hereby authorized and directed to administer the Escrow Agreement and to use and disburse the escrowed funds as required by the Escrow Agreement.

★ Roll Call Number

Agenda Item Number

12

Date February 8, 2021

MOVED by _____ to adopt.

FORM APPROVED:

Judy K. Parks-Kruse
Judy K. Parks-Kruse, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
GATTO				
GRAY				
MANDELBAUM				
VOSS				
WESTERGAARD				
TOTAL				
MOTION CARRIED			APPROVED	

CERTIFICATE

I, P. Kay Cmelik, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

DEPARTMENT OF ENGINEERING
CITY OF DES MOINES, IOWA
NORTH RIDGE PUD
PUD RESTORATION BOND ESTIMATE

DATE: December 21, 2020

Before approval for commencement of sitework may be given to this phase of the PUD entitled NORTH RIDGE PUD, a bond is required for site restoration for the amount of these estimated costs:

PUD RESTORATION

Grading / Topsoil (calculated as 6" over site area)	14500 CY	@	\$ 3.00 /CY	= \$	43,500.00
Silt Fence	4800 LF	@	\$ 2.50 /LF	= \$	12,000.00
Inlet Protection / Ditch Checks / Temporary Sediment Basin(s)	1 LS	@	\$ 5,000.00 /LS	= \$	5,000.00
Seeding and Mulching	18 AC	@	\$ 1,000.00 /AC	= \$	18,000.00
			Subtotal	= \$	78,500.00
Engineering and Inspection	\$ 78,500.00	@	6%	= \$	<u>4,710.00</u>
			Total Restoration	= \$	83,210.00
			TOTAL	\$	83,210.00

COMPUTED BY Adam Puhoff APPROVED BY Adam Puhoff on behalf of SLN
(City Engineer)

CHECKED BY Adam Puhoff Eric Owen Douglas
(Community Development Director) FAD

ESCROW AGREEMENT

This Escrow Agreement (this "Agreement") is made on or as of the ___ day of February, 2021, by and between the **City of Des Moines, Iowa**, a municipal corporation (the "City"); and ILEX Group, Inc., an Iowa corporation (the "developer").

WHEREAS, the Developer owns the real estate in the vicinity of 4600 and 4700 E. 14th Street, Des Moines, Iowa (the "Property"); and

WHEREAS, the Developer is undertaking grading upon the Property; and

WHEREAS, on application by the Developer, the City's Planning Administrator approved an amended PUD Concept Plan "Northridge" to allow grading, construction and operation of uses allowed within the I1 district on the Property; and

WHEREAS, the developer, ILEX Group, Inc., is required to provide restoration security for the grading and ground surface restoration in order to secure a Grading Permit for construction on property within "Northridge" PUD; and,

WHEREAS, the City Engineer has approved the amount of the security.

1. Site grading, silt fence, inlet protection, inspection, and site restoration in anticipation of a PUD Development Plan on property located in the vicinity of 4600 and 4700 E 14th Street, Des Moines, Iowa; and

WHEREAS, the purpose of this Agreement is to memorialize the agreement between City, and Developer for the grading and site restoration as described above and required by the Northridge PUD Development.

NOW THEREFORE, the City, and Developer hereby agree as follows:

1. Deposit of Escrowed Funds. No later than February 2nd, 2021, and prior to the issuance by City of a Certificate of Satisfactory Completion for the PUD Restoration Bond on the Property, developer shall deposit the sum of 83,210 and 00/100 U.S. Dollars (\$83,210.00) (the "Escrowed Funds") with City, to be held by City in trust for the benefit of Developer and City under the terms of this Agreement.

2. Construction of (Site Restoration). City shall proceed with all necessary steps to grade and restore the site, as determined appropriate by the City Engineer, and related work and improvements (all collectively "improvements"), as a public improvement.

3. Application of Escrowed Funds. City may draw on the Escrowed Funds for payment of the construction of improvements as identified above at the time of such construction, either as an advance payment or as a reimbursement for City payment of construction costs. If the City's cost for construction of the improvements described above is less than the amount deposited by

developer pursuant to this Agreement (\$83,210), then the remaining balance of the Escrowed Funds shall be promptly refunded to developer.

4. Deadline for Release of Funds. If the City has not completed the construction of improvements as described above within 10 years of the date of this Agreement, then the Escrowed Funds shall be returned to developer.

5. Investment of Escrowed Funds. City, at its sole discretion, may comingle the Escrowed Funds for the purpose of placing the Escrowed Funds on deposit with a financial institution. Any interest earned by the Escrowed Funds shall be retained by City.

6. Owner Consent. The Developer acknowledges and consents and agrees to the construction of the improvements on the Property and escrow arrangement as described herein.

7. Force Majeure. In the event the City is delayed in the timely performance of its obligation to complete the design, bidding and construction of the improvements as described above due to unforeseeable causes beyond its control and without its fault or negligence, the time allowed for performance of the obligation shall be extended for the period of such delay.

IN WITNESS WHEREOF, the City and Developer have caused this Agreement to be duly executed on or as of the day first above written.

"DEVELOPER"

an Iowa corporation

By: _____
Its: _____

"CITY"

CITY OF DES MOINES,
a Municipal Corporation

By: _____
T.M. Franklin Cownie, Mayor

ATTEST:
By: P. Kay Cmelik, City Clerk

Authorized by Roll Call No. 21-_____, passed _____, 2021.