

Date June 17, 2024

SET HEARING FOR APPROVAL OF A LICENSE AGREEMENT WITH TIMBERCREST HOMES, L.L.C. FOR USE OF A PORTION OF EAST ARMY POST ROAD RIGHT-OF-WAY AT PLANNED SE 30TH STREET FOR PRIVATE STORMWATER TREATMENT IMPROVEMENTS FOR \$4,900.00

WHEREAS, on April 15, 2024, by Roll Call 24-0560 City Council approved a request by Timbercrest Homes, L.L.C., John W. Larson, Owner, and Legacy Excavation, LLC for a private construction contract for Sanitary and Storm Sewer Improvements to serve Three Lakes Estates Plat 13, located southeast of East Army Post Road and Sweetwater Drive; and

WHEREAS, Timbercrest Homes, L.L.C. has requested a license agreement for installing and maintaining a Downstream Defender Vortex Separator for Stormwater Treatment and connecting inflow and outflow pipes for private stormwater treatment improvements to serve Three Lakes Estates; and

WHEREAS, the City's Real Estate Division has negotiated a License Agreement with Timbercrest Homes, L.L.C. for a license of a portion of East Army Post Road right-of-way at planned SE 30th Street (hereinafter Leased Premises), which Agreement will include, among other terms, a forty-nine (49) year license term, a one-time rent payment of \$4,900.00 and additional consideration including the following:

- A) The Licensee shall, at its cost, be responsible for providing any additional improvements, equipment and furnishings that it determines are necessary to provide service or comply with said License Agreement.
- B) Licensee shall install in a manner that will not damage the trees and shrubs on the Licensed Premises.
- C) Licensee accepts full responsibility for the security and protection of all of its contents, inventory, equipment, facilities, fixtures and improvements located within the licensed premises and for reasonable efforts to prevent unauthorized access to such equipment.

WHEREAS, the licensing of the Licensed Premises for the purposes described herein will not adversely affect the use of the adjoining real estate by City for municipal purposes.

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

1. That the City Council of the City of Des Moines, Iowa, proposes to enter into a License agreement with Timbercrest Homes, L.L.C. for the use of City-owned right-of-way located along East Army Post Road and planned SE 30th Street, legally described as follows, for the purpose of installing and maintaining a Downstream Defender Vortex Separator for Stormwater Treatment and

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connecting inflow and outflow pipes for private stormwater treatment improvements to serve Three Lakes Estates, for a term of forty-nine (49) years with an expiration date of June 30, 2073, unless terminated earlier pursuant to the License Agreement for a consideration of the consideration identified below:

Grantee: Timbercrest Homes, L.L.C.

Consideration: \$4900.00

Legal Description:

A LICENSED PREMISES IN LOT 'A' OF THREE LAKES ESTATES OUTLOTS PLAT 1, AN OFFICIAL PLAT RECORDED IN BOOK 18832, PAGE 101 AT THE POLK COUNTY RECORDER'S OFFICE AND IN THE PROPERTY DESCRIBED IN THE WARRANTY DEED RECORDED IN BOOK 7686, PAGE 411 AT THE POLK COUNTY RECORDER'S OFFICE AND SHOWN ON THE ACQUISITION PLAT ON PAGE 4 OF SAID WARRANTY DEED, ALL IN THE NE1/4 NE1/4 OF SECTION 36, TOWNSHIP 78 NORTH, RANGE 24 WEST OF THE 5TH P.M., CITY OF DES MOINES, POLK COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

THE SOUTH 40.00 FEET OF THE NORTH 144.00 FEET OF THE EAST 40.00 FEET OF SAID NE1/4 NE1/4 AND CONTAINING 1,600 SQUARE FEET MORE OR LESS.

2. That the meeting of the City Council at which the approval of such license agreement is to be considered shall be on July 15, 2024, said meeting to be held at 5:00 p.m., in the City Council Chamber, City Hall, 400 Robert D. Ray Drive, Des Moines, Iowa.

In addition, the City Council shall receive written views, comments, objections and arguments from any resident or taxpayer of the City that are received by the City Clerk prior to 5:00 p.m. July 11, 2024 (City Clerk's Office, Des Moines City Hall, 400 Robert D. Ray Drive, 1st Floor, Des Moines, IA 50309; Email cityclerk@dmgov.org).

3. That the City Clerk is hereby authorized and directed to publish notice of said proposal in the form hereto attached all in accordance with §362.3 of the Iowa Code.
4. Non-project related land sale proceeds are used to support general operating budget expenses:
Org – EG064090.

 **Roll Call Number**

Agenda Item Number

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Moved by _____ to adopt. Second by _____.

APPROVED AS TO FORM:

/s/ Mackenzie L. Moreno
Mackenzie L. Moreno, Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
BOESEN				
SIMONSON				
VOSS				
COLEMAN				
WESTERGAARD				
MANDELBAUM				
GATTO				
TOTAL				

CERTIFICATE

I, Laura Baumgartner, 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.

MOTION CARRIED APPROVED

Mayor

Laura Baumgartner, City Clerk

