CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: June 11, 2018

ITEM: Approval and Acceptance of Ingress/Egress Turn-Around Easement– Westwoods LLC – West Terminus of Thorne Drive West of 100th Street – (FP-003623-2017)

Resolution: **Approval and Acceptance of Turn-Around Easement**

FINANCIAL IMPACT: Undetermined.

BACKGROUND: In 2017 a final plat for Kings Landing Plat 2 at 100th Street and Stagecoach road was approved and released for filing. There was a temporary ingress/egress turn around easement placed on Lot 41, which is the last house on Thorne drive west of 100th Street for the ability of emergency services and general services to use to turn around at this temporary dead end street. Kings Landing LLC requested that the easement be vacated and replaced with the attached easement on property to the west and the end of Thorne Drive, which is held by Westwoods LLC. The vacation of the easement on Lot 41 Kings Landing Plat 2 will occur under separate action.

Exhibit II is a copy of the Ingress/Egress Turn-Around Easement. For policy purposes, formal acceptance by the City Council of this document is required.

CITY COUNCIL SUBCOMMITTEE: Acceptance of this document by Council is a required formality; this item was not presented to the Development and Planning City Council Subcommittee.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Adopt a resolution approving and accepting the Ingress/Egress Turn-Around Easement between the Westwoods LLC and the City of West Des Moines.

Lead Staff Member: Kara V. Tragesser, AICP

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	
Date(s) Published	N/A
Letter sent to surrounding property owners	

SUBCOMMITTEE REVIEW (if applicable)

Committee	None		
Date Reviewed			
Recommendation	Yes ☐	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Resolution
Exhibit II - Ingress/Egress Turn Around Easement

EXHIBIT I

Prepared by: KTragesser Development Services, City of WDM, PO Box 65320, WDM, IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

RESOLUTION

A RESOLUTION APPROVING AND ACCEPTING DOCUMENTS CONVEYING PROPERTY INTERESTS TO THE CITY OF WEST DES MOINES, IOWA

WHEREAS, it is the policy of the City of West Des Moines, Iowa to approve the conveyance of all property interests to the City; and

WHEREAS, the following documents conveying property interests to the City have been presented to the City for approval; and

> Ingress/Egress Turn-Around Easement from Westwoods LLC for property located at the west terminus of Thorne Drive west of 100th Street and on property legally described as:
>
> Parcel A of the survey of the east ½ of the northeast ¼ and the northeast ¼ of the southeast ¼ of Section 21 Township78 North Range 26 West of the 5th PM, City of West Des Moines as shown in Book 809 Page 334 in the office of the Dallas County, Iowa, Recorder

WHEREAS, it is in the best interest of the citizens of the City to approve and accept the above-described document.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT the document(s) described above conveying property interests to the City of West Des Moines, Iowa, are hereby approved and accepted and shall be filed with the county recorder as appropriate.

PASSED AND ADOPTED this 11th day of June 2018.

_____
Steven K Gaer, Mayor

ATTEST:

_____
Ryan Jacobson
City Clerk

EXHIBIT II

Prepared by: KTragesser West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265-0320, 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

INGRESS/EGRESS TURN AROUND EASEMENT(S)

KNOW TO ALL MEN BY THESE PRESENTS:

1. Grant of Easement(s).

The undersigned, **Westwoods LLC**, (hereinafter referred to as the "Grantor(s)"), owner(s) of the following described property and Kings Landing LLC, (hereinafter referred to as the Obligator under this agreement):

Legal Description

PARCEL 'A' OF THE SURVEY OF THE EAST ½ OF THE NORTHEAST ¼ AND THE NORTHEAST ¼ OF THE SOUTHEAST ¼ OF SECTION 21 TOWNSHIP 78 RANGE 26 WEST OF THE 5TH PM, CITY OF WEST DES MOINES AS SHOWN IN BOOK 809 PAGE 334 IN THE OFFICE OF THE DALLAS COUNTY, IOWA, RECORDER.

in consideration of the sum of One Dollar ($1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant, and convey to the City of West Des Moines, Iowa, a municipal Corporation (hereinafter referred to as "the City"), an easement (hereinafter referred to as "Turn-Around" or "Easement(s)") and right-of-way upon, over, under, through and across the real property legally described as:

A PART OF PARCEL 'A' OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 21, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AS SHOWN ON THE PLAT OF SURVEY RECORDED IN BOOK 809, PAGE 334, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 40, KINGS LANDING PLAT 2, AN OFFICIAL PLAT; THENCE SOUTH 15°16'17" EAST ALONG THE WESTERLY LINE OF SAID LOT 40, A DISTANCE OF 20.00 FEET; THENCE SOUTH 74°43'43" WEST, 24.00 FEET; THENCE NORTH 55°36'47" WEST, 47.89 FEET; THENCE NORTH 15°16'17" WEST, 24.00 FEET; THENCE NORTH 74°43'43" EAST, 40.93 FEET; THENCE NORTH 29°43'43" EAST, 19.90 FEET TO THE WESTERLY LINE OF STREET LOT 'E', SAID KINGS LANDING PLAT 2; THENCE SOUTH 15°16'17" EAST ALONG SAID WESTERLY LINE, 54.57 FEET TO THE POINT OF BEGINNING AND CONTAINING 0.07 ACRES (2,861 SQUARE FEET).

2. Use and Purpose of Easement(s)

This Easement is granted to the City for the purpose of providing a vehicular turn-around as described above. The traveling public shall have the right to use the above-described easement area for turn-around purposes. In addition, the City shall have the right to use said Easement area in connection with the discharge of its functions as a municipal corporation.

3. The Grantor(s) further agree that no structure or building of any kind whatsoever shall be erected upon property that is the subject of this Easement without the express written consent of the City.

4. Change of Grade Prohibited.

The Grantor shall not change the grade, elevation, or contour of any part of the Easement area without the written consent of the City of West Des Moines.

5. Maintenance.

The Grantor(s) and Obligator(s) agree that said Easement shall be maintained solely by Obligator. Maintenance by Obligator shall include, but is not limited to, repair and maintenance of the easement area as described and removal of improvements to the easement area when the Easement is no longer needed. Obligator shall generally police and survey the Easement to maintain said area free from garbage, debris and other unnatural articles.

6. Hold Harmless.

The Obligator agrees to indemnify and hold harmless the City, its elected officials, employees, officers, agents, representatives, contractors, and attorneys from and against any and all claims or demands for liability, loss, damage, costs, expenses, or attorney's fees of any kind for actions or omissions of the Obligator arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

In addition thereto, the Obligator agrees to indemnify and hold harmless the Grantor(s), its employees, officers, agents, representatives, contractors, and attorneys from and against any and all claims or demands for liability, loss, damage, costs, expenses, or attorney's fees of any kind for actions or omissions of the Obligator arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

7. Running of Benefits and Burdens.

The terms and conditions of this Easement are binding upon the Grantor including, but not limited to, future owners, developers, lessees or occupants. All provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto until this Easement is terminated as provided in Section 14 of this Easement.

8. Jurisdiction and Venue.

The City, the Grantor(s) and the Obligator agree the District Court of the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties consent to the jurisdiction of the person being in Dallas County, Iowa.

9. Words and Phrases.

Words and phrases shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to context.

10. Parties.

The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, and contractors. The term "Grantor(s)" shall refer to Westwoods LLC, their heirs, assigns,

successors-in-interest, or lessees, if any. The term "Obligator" as used herein shall refer to Kings Landing, LLC, their heirs, assigns, successors-in-interest, or lessees, if any.

11. Attorney's Fees.

Either party may enforce this instrument by appropriate action, and should they prevail in such litigation they shall recover as part of their costs the reasonable attorney's fees incurred in such litigation.

12. Integration.

This Agreement shall constitute the entire Agreement between the parties and no amendments or additions to this Agreement shall be binding unless in writing and signed by both parties.

13. Paragraph Headings.

The paragraph headings in this Agreement are included solely for convenience and shall not affect or be used in connection with, the interpretation of this Agreement.

14. Termination of Easement.

This Easement shall automatically terminate on the date upon which the City Council of the City of West Des Moines, Iowa adopts a preliminary plat that includes that portion of the Grantor's property comprising the easement area authorizing the construction of improvements upon Grantor's property and thereafter this Easement shall automatically become null and void and shall be of no further legal force or effect.

Dated this 3 day of MAY, 2018.

Westwoods LLC
By: Signature Real Estate Holdings, LLC, its Manager

By: _____
Printed DAVID I. HANSEN

Title Vice President

STATE OF IOWA, COUNTY OF POLK

This record was acknowledged before me on MAY 3, 2018, by DAVID I. HANSEN (Name) Vice President of (Title) of Westwoods LLC. Signature Real Estate Holdings, LLC, Manager of

NOTARIAL SEAL IOWA
ANGELA R. KEIL
Commission Number 785876
My Commission Expires
September 3, 2020

_____
Notary Public in and for the State of Iowa

Dated this 2nd day of May, 2018.

Kings Landing LLC
By: Vista Real Estate and Investment Corp., its Manager

By: _____
Printed Scott L. Temple

Title Vice President, Vista

STATE OF IOWA, COUNTY OF POLK

This record was acknowledged before me on May 2, 2018, by Scott L. Temple (Name) _____ (Title) of Kings Landing LLC.

_____
Notary Public in and for the State of Iowa

BRIAN McMURRAY
Commission Number 808875
My Commission Expires
2/12/21

CITY OF WEST DES MOINES, IOWA

_____
Steven K. Gaer, Mayor

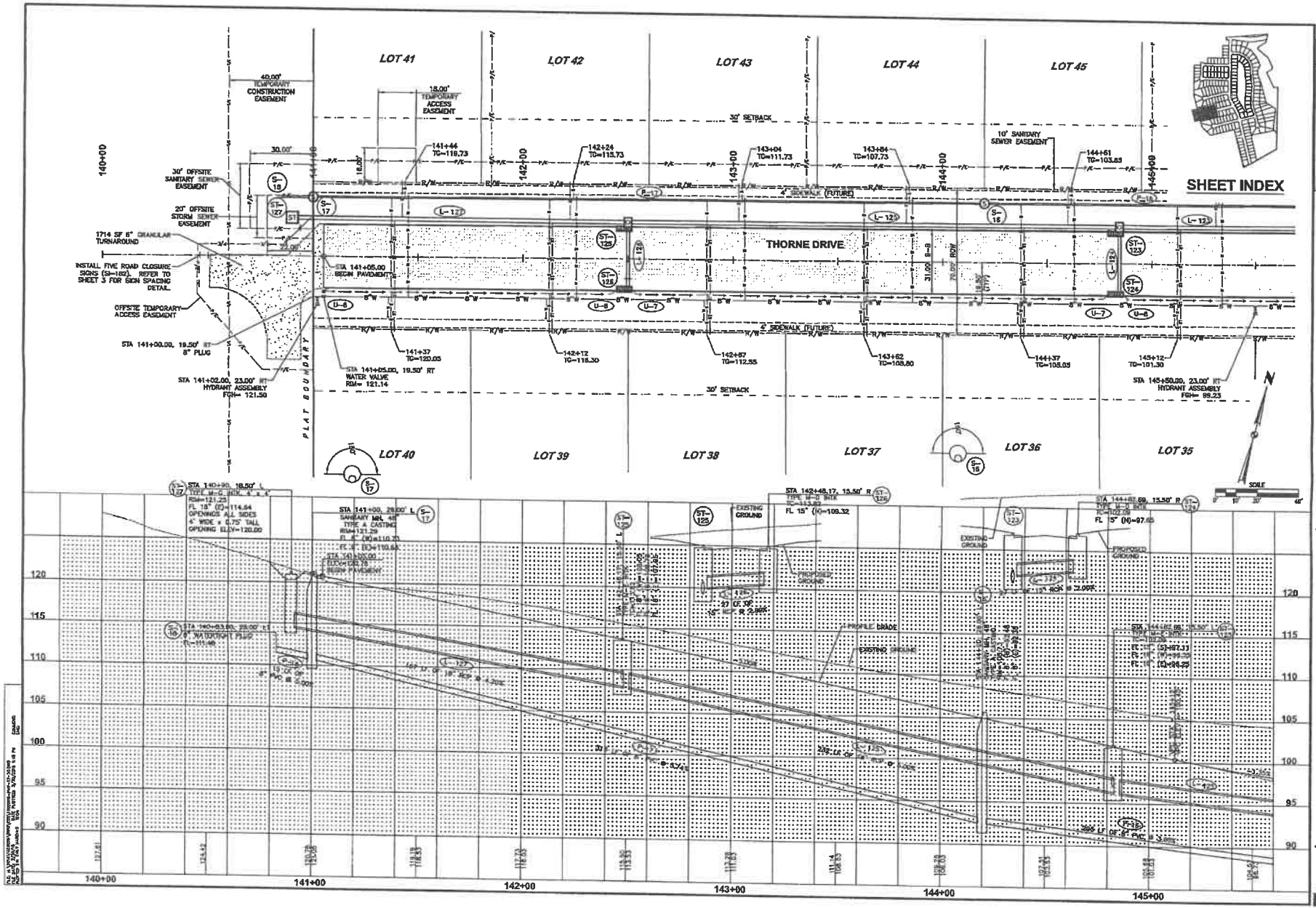
Attest:

_____
Ryan Jacobson, City Clerk

CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City of West Des Moines by Resolution and Roll Call No. _____, passed on the _____ day of _____, 2018, and this certificate is made pursuant to authority contained in said Resolution.

Signed this _____ day of _____, 2018.



REVISIONS	DATE
REVISED WATER VALVE ON STAKE	5/8/17
FINAL SUBMITTAL	4/21/17
FOURTH SUBMITTAL	4/11/17
THIRD SUBMITTAL	3/30/17
SECOND SUBMITTAL	3/20/17
FIRST SUBMITTAL	3/01/17

3405 S.E. CROSSROADS DRIVE, SUITE G
GRIMES, IOWA 50111
PHONE: (515) 369-4400 FAX: (515) 369-4410
TECH: MDM
ENGINEER: ENH
CIVIL DESIGN ADVANTAGE

KINGS LANDING PLAT 2
PLAN AND PROFILE
WEST DES MOINES, IOWA