CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION

Meeting Date: May 3, 2021

ITEM: The Preserve Estates Plat 1, East side of SW Grand Prairie Parkway, south of the Raccoon River – Approval and Acceptance of First Amendment to the Storm Water Management Facility Maintenance Agreement – Raccoon River Land Co., L.L.C. – FP-004829-2020

Resolution: Approval and Acceptance of First Amendment to the Storm Water Management Facility Maintenance Agreement

Background: The original Storm Water Management Facility Maintenance Agreement ("SWMFMA") was approved and accepted by the City Council November 16, 2020. The First Amendment to the SWMFMA is necessary to correct the reference to the homeowner's association ("Association"). Raccoon River Land Co., L.L.C. has prepared an amendment to the SWMFMA to identify the correct Association. There is no impact to the City.

Staff Review & Comment: For policy and title purposes, formal acceptance by the City Council of property interests being conveyed to the City is required.

Outstanding Issues: There are no outstanding issues.

Recommendation: Approve and Accept First Amendment to the Storm Water Management Facility Maintenance Agreement

Lead Staff Member: Brian Portz BP

Approval Meeting Dates:

Plan and Zoning Commission	n/a
City Council	May 3, 2021

Staff Report Reviews:

City Council	☒ Director	☒ Legal Department
	☐ Appropriations/Finance	☑ Agenda Acceptance

Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	n/a
Date(s) of Mailed Notices	n/a

Council Subcommittee Review (if applicable)

Committee	Development & Planning
Date Reviewed	n/a
Recommendation	☐ Yes ☐ No ☐ Split

Prepared by: Brian Portz, City of West Des Moines Development Services Dept., PO Box 65320, West Des Moines, Iowa 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 DOCUMENT(S) 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 interest to the City; and

WHEREAS, A First Amendment to the Storm Water Management Facility Maintenance Agreement ("SWMFMA") has been presented to the City Council for approval; and,

WHEREAS, it is in the best interests of the citizens of the City to approve and accept the above-described document(s).

NOW, THEREFORE, the City Council does approve and accept the document(s) described above. Said document(s) shall be filed with the county recorder as appropriate.

PASSED AND ADOPTED on May 3, 2021.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan Jacobson, City Clerk

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on May 3, 2021, by the indicated vote.

Prepared by: Stuart Ruddy, Knapp Properties, L.C., 5000 Westown Parkway, Suite 400, West Des Moines, Iowa 50266 (515) 222-5234
Return to: City Clerk, City of West Des Moines, 4200 Mills Civic Parkway, West Des Moines, IA 50265

FIRST AMENDMENT TO THE PRESERVE ESTATES PLAT 1 STORM WATER MANAGEMENT FACILITY MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT FOR MULTIPLE OWNERSHIP PARCELS

This First Amendment to The Preserve Estates Plat 1 Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement for Multiple Ownership Parcels (herein "First Amendment") is made effective on the date this First Amendment is recorded in the office of the Dallas County Recorder.

RECITALS:

WHEREAS, Grantor and City have caused to be filed The Preserve Estates Plat 1 Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement for Multiple Ownership Parcels ("Agreement"), that was recorded in the office of the Dallas County Recorder on November, 19, 2020, in Book 2020 Page 32857, and which Agreement affects the property therein referenced as Benefited Property;

WHEREAS, Part 1 – Covenants on the Benefited Property, Paragraph 3, of the Agreement erroneously defines the Association;

WHEREAS, the Grantor and City desire to amend the Agreement as set forth below.

NOW, therefore, in consideration of the foregoing, the Agreement is amended as follows:

NOW, THEREFORE, Grantor and City, hereby amend the Agreement as follows:

1. Part 1 – Covenants on the Benefited Property, Paragraph 3, of the Agreement is hereby deleted and replaced with the following:

   "It is hereby agreed and covenanted that the above-described Benefited Property receives benefits from the Storm Water Management Facility by controlling runoff from the Benefited Property to meet the requirements of the Post-Construction Storm Water Management Ordinance of the Municipal Code of the City of West Des Moines, Iowa and the Subdivision Design requirements of Section 10-3-1 or succeeding legislation of the Municipal Code of the City of West Des Moines, Iowa. In recognition of such benefit and to meet the maintenance, repair and replacement obligations of the Municipal Code of the City of West Des Moines, Iowa, Grantor has created The Preserve Estates Plat 1 Homeowner Association, Inc., as well as the Preserve Owners Master Association, Inc., Iowa non-profit corporations ("Association") organized pursuant to Chapter 504

of the Code of Iowa. Every owner of a Benefited Property hereby consents and agrees to be a member of the Association pursuant to the covenants and obligations of this Agreement and by virtue of their ownership of a portion of the Benefited Property".

2. Except as expressly modified by this First Amendment, all other the terms and conditions of the Agreement shall remain in full force and effect.

[SIGNATURES ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this First Amendment in triplicate.

Signed this __ day of April, 2021.

RACCOON RIVER LAND CO., L.L.C.
an Iowa limited liability company

By: William C. Knapp, L.C.
an Iowa limited company
Managing Member

By: _____
Gerard D. Neugent, Manager

By: RACCOON RIVER INVESTORS, LLC
Managing Member

By: JSC TRUST
Member

By: _____
Paul D. Hayes, Trustee

STATE OF IOWA)
)**SS**
COUNTY OF_____)

This record was acknowledged before me on this _____ day of _____, 2021, by Gerard D. Neugent, Manager of William C. Knapp, L.C., Member of Raccoon River Land Co., L.L.C.

_____
Notary Public in and for the State of Iowa

STATE OF IOWA)
)**SS**
COUNTY OF_____)

This record was acknowledged before me on this _____ day of _____, 2021, by Paul D. Hayes, Trustee of JSC Trust, Member in Raccoon River Investors, LLC, Member of Raccoon River Land Co., L.L.C.

_____
Notary Public in and for the State of Iowa

CERTIFICATION BY 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 First Amendment was duly authorized and approved by the City Council of the City of West Des Moines by Roll Call No. _____, passed on the _____ day of _____ _____, 2021, and that this certificate is made pursuant to the authority of said City Council.

Signed this _____ day of _____, 2021.

_____

Ryan T. Jacobson, CMC, MPA
City Clerk of the City of West Des Moines, Iowa