



Roll Call Number

22-1239

Agenda Item Number

21

Date August 8, 2022

**RESOLUTION ACCEPTING AND APPROVING AMENDED STORM WATER MANAGEMENT FACILITIES MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT FOR THE WOODS OF COPPER CREEK PLAT 5**

**WHEREAS**, on September 10, 2012, the City Council of the City of Des Moines by Roll Call Number 12-1410, approved the subdivision plat entitled THE WOODS OF COPPER CREEK PLAT 1 for land located in the vicinity of the 4700 block of NE 23<sup>rd</sup> Avenue (Easton Boulevard) to be developed by HDR Land Development, LLC of Ankeny, Iowa (“Developer”); and

**WHEREAS**, subsequent subdivision plats for THE WOODS OF COPPER CREEK have been approved, including, most recently, THE WOODS OF COPPER CREEK, PLAT 5; and

**WHEREAS**, Developer is required by the Municipal Code of the City of Des Moines to control stormwater runoff for the proposed development as a part of the subdivision plat approval process and accordingly, Developer or its predecessors in interest have entered into Stormwater Management Facilities Maintenance Covenants and Permanent Easement Agreements filed of record on November 7, 2012 at Book 14521, Page 697 of the office of the Polk County Recorder and revised on July 30, 2018 in Book 15270, Page 475 and on August 24, 2018 in Book 17052, Page 84; and

**WHEREAS**, as part of the approval process for the Subdivision plat for THE WOODS OF COPPER CREEK, PLAT 5, and pursuant to Municipal Code chapter 135’s requirement for control of stormwater management, the Developer and the City have negotiated an Amendment to the existing Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement; and

**WHEREAS**, the Amendment, in form on file in the office of the City Clerk, amends the previous covenant and easement to include the land subdivided as THE WOODS OF COPPER CREEK, PLAT 5, to make the lots in said subdivision subject to the rights and responsibilities contained within the Covenant and Easement Agreement; and

**WHEREAS**, the City’s Development Services, Engineering, and Public Works Departments intend for the Agreement as amended to fulfill Developer’s obligations under the Planning and Design Ordinance, Chapter 135 of the Des Moines Municipal Code, to provide stormwater management and landscaping for the Property; and

**WHEREAS**, the Amendment is being presented to City Council for approval due to the nature of the City’s interest in use of the stormwater detention basin as part of the City’s regional stormwater management system.



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**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Des Moines, Iowa, that the Amendment of Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement, in form on file in the office of the City Clerk, is hereby approved; the Mayor is hereby directed to sign and accept the Amendment on behalf of the City and the City Clerk is hereby directed to attest to his signature; the City's Real Estate Division is directed to record the Amendment; and the City's Public Works and Engineering Departments are directed to administer and monitor compliance with the Amendment and Agreement.

Moved by Gatto to adopt. Second by Boesen

APPROVED AS TO FORM:

/s/ Gary D. Goudelock Jr.  
Gary D. Goudelock Jr.  
Assistant City Attorney

COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE	✓			
BOESEN	✓			
GATTO	✓			
MANDELBAUM	✓			
SHEUMAKER	✓			
VOSS	✓			
WESTERGAARD	✓			
TOTAL	7			

**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.

J. M. Frankin Cownie Mayor

Laura Baumgartner City Clerk