

RESOLUTION NO. 1461

RESOLUTION APPROVING A SUBDIVIDER'S AGREEMENT WITH KLM INVESTMENTS, INC., IN CONNECTION WITH THE MEADOWS SUBDIVISION – PART 2, WEST BRANCH, IOWA.

WHEREAS, KLM Investments, Inc. ("KLM"), is the owner of that certain parcel of real estate generally referred to as the Meadows Subdivision; and

WHEREAS, KLM has submitted a preliminary plat for the Meadows Subdivision – Part 2, West Branch, Iowa; and

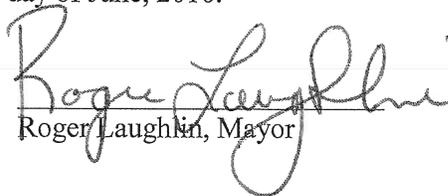
WHEREAS, in accordance with the City's subdivision regulations, KLM, as part of plat approval, will need to construct certain municipal improvements, namely streets, sidewalks, storm sewer, water and sanitary sewer improvements; and

WHEREAS, the City Attorney has drafted a Subdivider's Agreement which outlines the responsibilities of KLM with respect to said Meadows Subdivision – Part 2; and

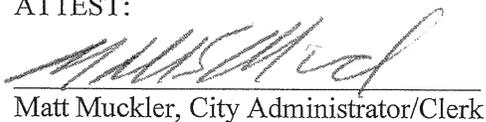
WHEREAS, it is now necessary for the City Council to formally approve said Agreement.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of West Branch, Iowa, that the aforementioned Subdivider's Agreement be and the same is hereby approved. Further, the Mayor and City Clerk are authorized to execute said Subdivider's Agreement on behalf of the City. Further, the City Clerk shall record said Subdivider's Agreement, along with the required documents outlined in Chapter 354 of the Code of Iowa when the final plat of the Meadows Subdivision – Part 2 has been formally approved.

Passed and approved this 6th day of June, 2016.


Roger Laughlin, Mayor

ATTEST:


Matt Muckler, City Administrator/Clerk

CITY OF WEST BRANCH, IOWA/SUBDIVIDER'S AGREEMENT

THE MEADOWS SUBDIVISION, PART TWO

This Agreement is made by and between KLM Investments, L.L.C., an Iowa limited liability company, hereinafter referred to as the "Subdivider", and the City of West Branch, Iowa, a Municipal corporation, hereinafter referred to as the "City".

WITNESSETH

SECTION 1. MUNICIPAL IMPROVEMENTS; CONSTRUCTION AND INSTALLATION OF MUNICIPAL IMPROVEMENTS.

In consideration of the city approving the plat and subdivision of real estate known and designated as The Meadows Subdivision, Part Two, West Branch, Iowa, prior to Subdivider's installation and construction of the required municipal improvements, Subdivider shall make escrow provisions as provided herein. Municipal improvements shall include a 29-foot PCC street known as Sullivan Street, a 29-foot PCC street known as Ridge View Drive, sanitary sewers, water mains, storm sewers, sump-pump line, and street lighting. Said municipal improvements shall be constructed and installed in accordance with construction plans and specifications approved by the City Engineer of the City who shall have the right to make or authorize occasional inspections of the work in progress. Said inspections shall not relieve or release the Subdivider from the responsibility to construct the municipal improvements in accordance with the approved plans and specifications.

SECTION 2. SIDEWALKS.

The Subdivider agrees that no later than three (3) years from the date of the City's Resolution approving the Final Plat of The Meadows Subdivision, Part Two, West Branch, Iowa, or upon seventy-five percent (75%) of the development of the lots therein, whichever occurs first, to install sidewalks abutting each lot which shall be at least five (5) feet wide and constructed according to the plans and specifications as approved by the City Engineer. In the event that all of the sidewalks are not installed within said three (3) year period, the City may order the construction of sidewalks to be made on one side of each street to ensure pedestrian access for property owners. However, all sidewalks must be constructed within five (5) years of the approval of the Final Plat for this subdivision. The escrow provision need not include the sidewalk installation, however, the same shall remain a lien against each lot until accepted and released by the City.

SECTION 3. ESCROW MONIES

The Subdivider shall deposit with the City Clerk in escrow an amount equal to the estimated cost of constructing the municipal improvements plus 10% thereof as determined by the City Engineer and said deposit shall be referred to as "Municipal Improvements Escrow". The escrow deposit shall be in the form of cash, bank check that will be cashed, bond or irrevocable letter of credit, all as approved by the City Attorney.

SECTION 4. USE OF ESCROW MONIES

If, after one year from the date of the City's resolution approving the preliminary plat of the subdivision, the municipal improvements have not been constructed and installed for the subdivision, then City may use and/or make demand upon the municipal improvements escrow to construct and install said municipal improvements. The City shall release any bond or letter of credit or refund to the Subdivider any portions of or any excess escrow monies not used by the City after construction, installation and acceptance of all of the municipal improvements. Any cash or check held in escrow shall be released as needed for payment of the costs of the improvements.

In addition, the City may make use of any of the proceeds of the security provided by Subdivider in order to enforce the erosion control requirements pursuant to Section 170.15(15) of the West Branch Code of Ordinances.

SECTION 5. WAIVER

In the event the Subdivider shall sell or convey or make application for a building permit on any lot or lots in the subdivision without having first constructed and installed all the municipal improvements for the subdivision, then the City shall have the right to proceed therewith as provided in Section 3 above.

SECTION 6. LIEN

The costs of the construction and installation of the municipal improvements shall be a lien and charged against all lots in said subdivision and need not meet the requirements of notice, benefit or value as provided for by the Code of Iowa for assessing said municipal improvements which may exceed the municipal improvements escrow.

SECTION 7. RELEASE

The City agrees that when all municipal improvements have been constructed and installed for the subdivision, to the satisfaction of the City and upon acceptance by resolution, to furnish the Subdivider a good and sufficient Release for filing in the office of the County Recorder so that this Agreement will not constitute a cloud upon the title.

SECTION 8. PUBLIC SERVICES.

Subdivider agrees that public services including, street maintenance, snow plowing, water and sanitary sewer service, will not be provided in said subdivision until the municipal improvements have been constructed, installed and accepted by the City.

SECTION 9. SECOND ACCESS REQUIRED.

The Subdivider expressly acknowledges and agrees that no additional phase of The Meadows shall be submitted to or approved by the City until such time as a secondary street access is connected to W. Main Street, except for the following portion of Auditor Parcel "G": Beginning at the Southwest Corner of Auditor Parcel "G", in accordance with the Plat thereof recorded in Plat Book I, at Page 103 of the Records of the Cedar County Recorder's Office; Thence N01°19'13"W, along the West Line of said Auditor Parcel "G", 755.33 feet; Thence N88°40'47"E, 157.95 feet; Thence S81°06'34"E, 108.86 feet; Thence S74°08'16"E, 365.98 feet; thence S57°30'03"E, 273.91 feet; Thence S02°51'42"E, 452.25 feet, to a Point on the South Line of said Auditor Parcel G; Thence S87°06'47"W, along said South Line, 854.78 feet, to the Point of Beginning. Said Rezoning Tract contains 12.77 Acres (556,235 square feet), and is subject to easements and restrictions of record.

SECTION 10. PAYMENT OF SANITARY SEWER CONNECTION FEE.

Prior to the approval of the final plat of the Meadows Subdivision Part 2, the Subdivider shall pay to the City the sum of \$5,250.00 as payment of the Sanitary Sewer Connection Fee.

SECTION 11. ZONING CLASSIFICATIONS.

The parties expressly agree that the lots in this subdivision are zoned as follows:

Lots 20-29 and Lots 36-40	R-1	Single-Family Residential
Lots 30-35	R-2	Two-Family Residential

SECTION 12. STORM WATER EROSION CONTROL AND TOPSOIL REQUIREMENTS.

Subdivider or its assigns or successors in interest shall be responsible for the maintenance of appropriate erosion control measures during construction of the infrastructure and during building of any structures in the Subdivision. In addition, the Subdivider shall be responsible for the placement of 4-inches of topsoil or allowed substitute upon each lot after the structures have been constructed prior to the issuance of any occupancy permit for said structure.

The Subdivider shall also install bioretention cells in the 20-foot stormwater easement along the south side of lots 20-24 (per the version of the Iowa Stormwater Management Manual in effect at the time this Subdivider's agreement is executed) following final lot grading and turf establishment. The City will not issue a building permit for lot 20 until bioretention cells along the rear yard of lots 20-24 have been constructed and approved by the City. The developer shall provide an additional ten-foot easement on Lot 1 for the purpose of accessing and maintaining the bioretention cells along the rear yard of lots 20-24.

The City will not issue a building permit for lot 40 until after final lot grading and turf establishment of lots 35-39 have been approved by the City. The City may require the installation of bioswales, bioretention cells or other stormwater best management practice along the rear yard of lots 35-40 at such time that the area north of these lots develops.

SECTION 13. PARKS/TRAILS.

The Subdivider expressly acknowledges and agrees that no additional phase of The Meadows shall be submitted to or approved by the City until such time as useable park and open space or its value, as required by the comprehensive plan, is provided to the City.

SECTION 14. SULLIVAN STREET IMPROVEMENTS AND REPAIRS.

As part of this subdivision, the Subdivider shall replace the storm water intake and two concrete panels currently located at the present west end of Sullivan Street as shown on the construction plans for this subdivision. The City has agreed, within thirty (30) days of acceptance of the municipal improvements for this subdivision, to reimburse the Subdivider the sum of not-to-exceed \$12,835.00, which will be based upon actual invoices for the work discussed in this Section 14.

SECTION 15. ASSIGNS AND SUCCESSORS

This agreement, including specifically the requirement referred to in Section 13, shall be binding upon the parties, their assigns or successors in interest and it is understood that the City, at its option, may contract for the construction and installation of the municipal improvements as provided above.

Dated this 30 day of August, 2016.

KLM Investments, LLC:

By: 
Brad L. Larson, Manager

City of West Branch:

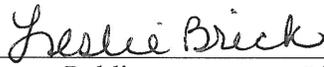

Roger Laughlin, Mayor

ATTEST:


Matt Muckler, City Administrator/Clerk

STATE OF IOWA, COUNTY OF CEDAR, ss:

On this 7th day of June, 2016, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Roger Laughlin and Matt Muckler, to me personally known, who, being by me duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Branch, Iowa; a municipal corporation; that the seal affixed to the foregoing instrument is the corporate seal of the corporation, and that the instrument was signed and sealed on behalf of the corporation, by authority of its City Council, as passed by Resolution of the City Council; and Roger Laughlin and Matt Muckler acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the corporation, by it voluntarily executed.


Notary Public



STATE OF IOWA, COUNTY OF CEDAR, ss:

This instrument was acknowledged before me on the 30 day of August, 2016, by Brad L. Larson as Manager of KLM Investments, L.L.C..


Notary Public

