

AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF WILDWOOD, MISSOURI AUTHORIZING THE MAYOR OF THE CITY OF WILDWOOD TO EXECUTE A SUCCESSOR DEVELOPER AGREEMENT WITH *THE OAKS AT WILDWOOD OWNERS ASSOCIATION* FOR COMPLETION OF REQUIRED IMPROVEMENTS FOR WILDWOOD FOREST DRIVE, A PRIVATE ROADWAY, IN ACCORDANCE WITH APPROVED PLANS, AND ALLOW FOR THE RELEASE OF FUNDS FROM DEFAULTED ESCROW, NOW HELD BY THE CITY, PER TWO (2) LETTERS OF CREDIT, WHICH WERE CALLED, AFTER THE ORIGINAL DEVELOPER COULD NO LONGER MEET SAID OBLIGATIONS CONTAINED THEREIN. (Ward One)

WHEREAS, the City of Wildwood, Missouri approved the original seven (7) lot residential development, which is located on the north side of State Route 100, west of Mueller Road, in 2001; and

WHEREAS, as part of the approval process, compliance to the City's *Subdivision and Development Regulations* was required to ensure the creation of these lots would comply with its obligations and specifications contained therein; and

WHEREAS, one (1) of the obligations of City's *Subdivision and Development Regulations* was the timely installation of certain improvements, such as guarantee access to lots, provide utility services, manage stormwater and wastewater facilities, and create a pedestrian network within the site; and

WHEREAS, these codes specify levels of improvements and also creates a process to provide financial guarantees to the City and future homebuyers that construction and installation of them will be accomplished in a timely manner and according to accepted standards and specifications; and

WHEREAS, at the time the plat was approved, the original developer, DesPeres Investments LLC, established escrow agreements with the City, but since, all lots have been sold to private parties; thus, the developer had chosen to relinquish its rights hereafter and be released of any subdivision obligations, causing the Letters of Credit to be called upon by the City of Wildwood; and

WHEREAS, the Oaks at Wildwood Owners Association is seeking the approval of the City of Wildwood to be considered as Successor Developer, guaranteeing completion of certain subdivision improvements, per Exhibit A, and allowing the City to release the seized funds, or a portion thereof, directly to said association's contractor, upon the satisfactory installation/construction and inspection of said improvements; and

WHEREAS, the Departments of Planning and Public Works believe the forfeited funds may be utilized, upon City Council action, by the Successor Developer for addressing the final asphalt street re-surfacing and adding a concrete vertical curb around the cul-de-sac island; and

WHEREAS, due to the default of the subdivision by the original developer, all rights associated with the financial guarantees have been voided and the City is within its authority to utilize these funds to promote the public's health, safety, and welfare in this regard, specifically, to the benefit of the residents that reside in this subdivision.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF WILDWOOD, MISSOURI AS FOLLOWS:

Section One. The City Council of the City of Wildwood, Missouri hereby authorizes the Mayor to execute a Successor Developer Agreement with *The Oaks at Wildwood Owners Association* for completion of required improvements for Wildwood Forest Drive, a private roadway, in accordance with approved plans, and allow for the release of funds from defaulted escrow, now held by the City, per two (2) Letters of Credit, which were called, after the original developer could no longer meet said obligations contained therein. Said Successor Developer Agreement and related information are hereby attached and incorporated herein as part of this ordinance.

Section Two. With acceptance of this agreement, *The Oaks at Wildwood Owners Association* hereby acknowledges releases of the escrow will be determined upon the completion of remaining improvements and it is the sole responsibility of said Successor Developer for submitting escrow inspection requests, in writing, relating to this subdivision herein guaranteed by this agreement.

Section Three. The Mayor and the Director of Planning of the City of Wildwood, Missouri are hereby authorized and directed to evidence the approval of this Successor Developer Agreement by affixing their signatures thereto. The City Attorney is likewise authorized to evidence the approval of this agreement and verify its legal compliance with all applicable ordinances, statutes, and codes by affixing said signature thereon.

Section Four. This ordinance shall be in full force and effect from and after its passage and approval providing all required signatures, seals, notarizations, and acknowledgements have been placed upon the document(s) herein referred to and/or attached.

THIS BILL WAS PASSED AND APPROVED THIS ___ DAY OF _____, 2016 BY THE CITY COUNCIL OF THE CITY OF WILDWOOD, MISSOURI AFTER HAVING BEEN READ BY TITLE, OR IN ITS ENTIRETY, TWO (2) TIMES PRIOR TO ITS PASSAGE.

Presiding Officer

Timothy Woerther, Mayor

ATTEST:

City Clerk

City Clerk

**SUCCESSOR DEVELOPER AGREEMENT
GUARANTEEING SUBDIVISION IMPROVEMENTS**

THIS AGREEMENT made and entered into by

OAKS AT WILDWOOD
OWNERS ASSOCIATION

herein called SUCCESSOR DEVELOPER and CITY OF WILDWOOD, MISSOURI, herein called CITY:

WITNESSETH THAT:

WHEREAS, the original Developer of the Subdivision identified below submitted plans, information and data to the City of Wildwood Department of Planning for the creation and development of a subdivision to be known as: OAKS AT WILDWOOD OWNERS, (the "Subdivision") and requesting approval of the same; and ASSOCIATION

WHEREAS, after construction commenced in the Subdivision, the original developer defaulted in completing the required improvements and the City declared the funds guaranteeing such improvements forfeited pursuant to Chapter 420 of the Wildwood Municipal Code and pursuant to a Deposit Agreement dated 22 OCTOBER 2001.

WHEREAS, the SUCCESSOR DEVELOPER is seeking the approval of the CITY to permit the SUCCESSOR DEVELOPER to assume the responsibility of the Developer pursuant to Section 420.080 for the remaining subdivision improvements and to obtain the right to certain releases from the forfeited funds in exchange for assuming such responsibility and completing such improvements;

WHEREAS, such approval will benefit the SUCCESSOR DEVELOPER by removing the Subdivision from its default and enabling completion of the subdivision for sale of lots as planned,

WHEREAS, the subdivision plans have been approved and the City of Wildwood's Director of Planning ("Director") has reasonably estimated and determined that the cost of construction, installation and completion of the subdivision improvements are all in accordance with the provisions of Chapter 420;

NOW, THEREFORE, in consideration of the covenants, promises and agreements herein provided, and that the SUCCESSOR DEVELOPER completes the remaining improvements, it is hereby mutually agreed:

1. That the SUCCESSOR DEVELOPER assumes the responsibility of the Developer of the Subdivision as set forth in Section 420.080 respecting the improvements described on Exhibit "A," attached hereto and incorporated by reference herein.