

BILL NO. 12

ORDINANCE NO.

AN ORDINANCE ACCEPTING ALBERTS LAUMEIER COURT FOR PUBLIC MAINTENANCE AND AUTHORIZING EXECUTION OF A DEPOSIT AGREEMENT GUARANTEEING THE CONDITION OF THE STREET FOR A PERIOD OF TWO YEARS AS PROVIDED FOR IN THE CODE OF ORDINANCES OF THE CITY OF SUNSET HILLS.

WHEREAS, Five Star Homes, LLC (the “Developer”) is the owner of the Alberts Laumeier Manor Subdivision (the “Development”); and

WHEREAS, the City approved a final subdivision plat, the Alberts Laumeier Manor Plat 2, via Ordinance 1761, to facilitate the Development, which contemplated that the 50’ Wide Alberts Laumeier Court as shown on the Alberts Laumeier Manor Plat 2 (the “Street”), which is incorporated herein by reference, be accepted by the City for public maintenance; and

WHEREAS, the Developer has completed the subdivision improvements and construction of the Street and has now requested that the City accept the Street for public maintenance; and

WHEREAS, the minimum standards relative to width, curb, and gutter and pavement conditions as determined by the City Engineer have been met; and

WHEREAS, per Appendix A, Section 3.5h, if a developer petitions for acceptance of a street for public maintenance, and if the street is so accepted, the developer shall post a bond acceptable in form to the city attorney in an amount sufficient to guarantee repairs due to construction and any other street failures for a period of two (2) years from the date of acceptance of the street; and

WHEREAS, Staff has reviewed the request and condition of the Street and recommends approval of the request to accept the Street for public maintenance in accordance with the Code; and

WHEREAS, the Planning and Zoning Commission reviewed this request and made a recommendation to the Board of Aldermen that said Street be accepted with the condition that Developer satisfy the requirements of Appendix A, Section 3.5h; and

WHEREAS, the city attorney has reviewed the deposit agreement attached hereto as Exhibit A and found the same coupled with a cash deposit to be in a form acceptable to guarantee repairs to the Street due to construction or other street failures for a period of two (2) years; and

WHEREAS, the Board of Aldermen desires to authorize execution of Exhibit A to facilitate the guarantee of the Street for a period of two (2) years.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF SUNSET HILLS, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Mayor or her designee is hereby authorized to execute the Deposit Agreement in substantially the form of Exhibit A attached hereto and incorporated herein on behalf of the City to guarantee repairs due to construction and any other street failures for a period of two (2) years from the date of acceptance of the Street.

Section 2. Upon execution of the Developer of Exhibit A and receipt by the City of the same and the corresponding Deposit Sum, the Street is accepted by the City as a public street for public maintenance.

Section 3. This Ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and its approval by the Mayor.

PASSED this _____ day of _____, 2022

MAYOR

APPROVED this _____ day of _____, 2022

MAYOR

ATTEST:

CITY CLERK/CITY ADMINISTRATOR

EXHIBIT A

**DEPOSIT AGREEMENT FOR STREET GUARANTEE
BETWEEN THE CITY OF SUNSET HILLS, MISSOURI AND
FIVE STAR HOMES, LLC**

THIS DEPOSIT AGREEMENT (“ESCROW AGREEMENT”), is made and entered into this _____ day of June 2022, by Five Star Homes, LLC a Missouri Limited Liability Company (hereinafter referred to as the “DEVELOPER”), and the CITY OF SUNSET HILLS, MISSOURI (hereinafter referred to as the as “CITY”).

WITNESSETH:

WHEREAS, the DEVELOPER is the owner of the Alberts Laumeier Manor Subdivision (the “Development”); and

WHEREAS, the CITY approved a final subdivision plat, the Alberts Laumeier Manor Plat 2, via Ordinance 1761, to facilitate the Development and required certain improvements, including a street and drainage and utility facilities to be constructed (the “Subdivision Improvements”) in accordance with approved improvement plans (the “Approved Improvement Plans”); and

WHEREAS, in accordance with City Code, the DEVELOPER has completed the required Subdivision Improvements in accordance with the Approved Improvement Plans and has requested that the City accept as a public street and future maintenance the 50’ Wide Alberts Laumeier Court shown on the Alberts Laumeier Manor Plat 2 (the “Street”); and

WHEREAS, per Appendix A, Section 3.5h, if a developer petitions for acceptance of a street for public maintenance, and if the street is so accepted, the developer shall post a bond acceptable in form to the city attorney in an amount sufficient to guarantee repairs due to construction and any other street failures for a period of two (2) years from the date of acceptance of the street (the “Street Guarantee”); and

WHEREAS, Staff has determined that \$10,000.00 is an amount sufficient for the Street Guarantee; and

WHEREAS, the DEVELOPER desires to establish the Street Guarantee in the form of this ESCROW AGREEMENT and accompanying cash deposit to the City which shall be held by the City for a period of two (2) years from the date of acceptance of the Street by the City, unless used by the City to repair Street failures or otherwise extended by the Board of Aldermen due to Street failures; and,

NOW, THEREFORE, in consideration of the covenants, promises, and agreements herein provided,

IT IS HEREBY MUTUALLY AGREED:

1. The DEVELOPER has deposited with the CITY the sum of ten thousand dollars (\$10,000.00) (the "DEPOSIT SUM") payable to the CITY and guaranteeing the Street shall remain in good condition and repair and free of any construction or other street failures in accordance with the CITY ordinances regulating the same and the Approved Improvement Plans. The DEPOSIT SUM shall consist of an amount equal to the estimated costs for the Street Guarantee ("ESTIMATED COSTS") as set forth on the attached Estimate Sheet (**Exhibit 1**). Nothing in the estimates or specification of component items shall in any way limit the CITY and DEVELOPER agrees it continues to be obligated to guarantee that the Street remains in good condition and in compliance with Code requirements for a period of two (2) years following acceptance of the Street. The CITY and DEVELOPER agree that the DEPOSIT SUM shall guarantee the Street remains in good repair, all in accordance with the Approved Improvement Plans and the ordinances of the CITY regulating the same, and that the CITY may use the DEPOSIT SUM in the event any repair is needed, in the CITY's discretion, to the Street within the two (2) year period. The DEVELOPER agrees the City may extend the two (2) year period if the Street experiences construction or other defects requiring repair.

2. The DEPOSIT SUM guarantees the good condition of the Street in accordance with the Approved Improvement Plans and City Code requirements which are incorporated in this ESCROW AGREEMENT by reference and as summarized in the attached Exhibit 1 and as required by the ordinances and regulations of the City.

3. In the event the DEPOSIT SUM herein provided is insufficient to make any necessary repair to the Street as reasonably determined by the CITY, the DEVELOPER will, upon demand by the CITY accompanied by a detailed itemization of the requested additional sum, deposit with the CITY additional monies which, in the opinion of the CITY, will be required to complete said repairs to the Street, and said additional sum shall be subject to the terms of this ESCROW AGREEMENT. In the event that the DEVELOPER does not deposit the additional monies with the CITY within ten (10) business days of the City request or does not request a hearing from the CITY within that time, the DEVELOPER shall be deemed in default as set forth in paragraph 5.

4. Upon expiration of the two (2) year guarantee period, and unless extended by the Board of Aldermen due to Street failures or defects, the remaining DEPOSIT SUM amounts shall be released by the City at the written request of the DEVELOPER.

5. In the event the DEVELOPER shall be in default, the DEVELOPER shall forfeit to the CITY the then current balance of the DEPOSIT SUM or any portion thereof, along with any additional sums deposited pursuant to paragraph 3 above, which funds the CITY may thereafter use to repair the Street failures or otherwise rectify the DEVELOPER's failure hereunder.

6. Exercise or waiver by CITY of any enforcement action under this agreement or the CITY's Code does not waive or foreclose any other or subsequent enforcement action whatsoever. The DEPOSIT SUM and/or deposit placed under this ESCROW AGREEMENT shall be governed by the provisions of the Subdivision Code and Zoning Code, Appendix A and B, and the DEVELOPER agrees to the provisions thereof as if set forth herein. The CITY shall be entitled to its costs, including reasonable attorneys' fees, in enforcement of DEVELOPER'S obligations under this ESCROW AGREEMENT.

7. Nothing in this ESCROW AGREEMENT is deemed to create a third party beneficiary or benefit any party besides the parties to this ESCROW AGREEMENT.

8. The CITY and DEVELOPER hereby accept this agreement as a lawful and satisfactory ESCROW AGREEMENT.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and affixed their seals this ____ day of June, 2022 (“Agreement Date”).

ACCEPTED:

CITY OF SUNSET HILLS, MISSOURI

By: _____

Dated: _____

ATTESTED:

City Clerk

FIVE STAR HOMES, LLC

a Missouri Limited Liability Company

By: _____

Its: _____

Dated: _____

STATE OF MISSOURI)
) ss:
COUNTY OF ST. LOUIS)

On this ____ day of _____, 2022, before me appeared _____, personally known, who being by me duly sworn, did say that he is the _____ of Five Star Homes, LLC, a Limited Liability Company of the State of Missouri, and that the foregoing instrument was signed and sealed on behalf of said company, by authority of its Members, and said _____ acknowledged said instrument to be the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

EXHIBIT 1

Street Guarantee Estimates