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SECOND AGREEMENT TO AMEND
RECREATIONAL FACILITIES AGREEMENT
FOR WESTPHALIA ROW

350279
Clerk of the
Circuit Court
2016 OCT 24 AM 11:43
PR GEO CO MD #03

THIS AGREEMENT TO AMEND is made this 14th day of October 2016, by and between the MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION, a public body corporate, (hereinafter referred to as the "Commission"), and Westphalia Row Partners, LLC, (hereinafter the "Developer"), with its principal office located at 6110 Executive Blvd, Suite 430, Rockville, MD 20852.

WHEREAS, the Developer and the Commission, parties hereto, entered into a Recreation Facilities Agreement dated December 18, 2009, recorded among the Land Records of Prince George's County, Maryland at Liber 31300, Folio 291 (the "Original RFA") for the purpose of Developer constructing Private Recreational Facilities at Westphalia Row per Detailed Site Plan ("DSP") 08039; and

WHEREAS, the Developer and the Commission, parties hereto, amended said RFA on October 15, 2014 via an Agreement to Amend the Recreational Facilities Agreement for Westphalia Row recorded among the Land Records of Prince George's County, Maryland at Liber 36520, Folio 206 for the purpose of the Developer constructing Private Recreational Facilities at Westphalia Row per DSP 08039/06. The RFA recorded at Liber 31300, Folio 291 and the Agreement to Amend the Recreation Facilities Agreement Recorded at Liber 36520, Folio 206 shall be collectively referred to as the "RFA"; and

WHEREAS, within the intervening time since the execution of the RFA, the Developer and the Commission agreed to further amend the RFA as more fully stated by the Commission in DSP 08039/08; and

WHEREAS, the Developer and the Commission, parties hereto, have agreed to so amend the RFA, by the execution of this Second Agreement to Amend (the "Second Agreement");

NOW, THEREFORE, THIS SECOND AGREEMENT WITNESSETH, the said parties hereto, their successors and/or assigns, in consideration of the promises aforesaid and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, do hereby agree as follows:

1. That notwithstanding anything to the contrary in this Second Agreement to Amend, the terms and conditions of the RFA remain in full force and effect except for Paragraphs 1 and 2(a) of the RFA, which shall be deleted in their entirety and replaced as follows:

LR - Agreement
Recording Fee 20.00
Grantor/Grantee Name:
md national
capital/westphalia row
Reference/Control #: LR - Agreement
Surcharge 40.00
SubTotal: 60.00
Total: 60.00
10/24/2016 11:43
CC16-A5
#7161332 C00703 -
Prince George's
County/CC07.03.02 -
Register 02

1. Recreation Facilities. The Developer shall construct on that portion of the property being subdivided, in accordance with approved plan, DSP 08039, or any revision thereto, the recreation facilities approved by the Planning Board as specified below:

The recreation facilities to be constructed by the Developer and the locations of same are as follows:

- (a) Prior to the issuance of the 208th building permit:

Parcel E: Developer shall commence the construction of the 2,400 sq. ft. Community Building, 267 lf 5' wide walks, 38 lf 6' wide walks (circular), 45 lf 8' wide walks, 50 lf 10' wide walks. There shall be no fewer than three pieces of exercise equipment in the Community Building. As of the date of this Second Agreement, Developer has commenced construction of the Community Building.

Parcel G: Metal fenced play area with 3 benches, spider climber, dome climber and 150 lf of 5' wide walks; Sitting area as shown on the approved DSP 08039 plans, or as amended, with 2 benches. As of the date of this Second Agreement, the recreational facilities on Parcel G are complete and the associated bond has been released by MNCPPC.

Parcel J: Metal Fenced Play area with 4 benches, swing set, grass play area as shown on the approved DSP 08039, or as amended, and 171 lf 5' wide walks; Sitting area with two benches across a concrete area and 50 lf of 5' wide walks; Sitting area with 4 benches and 98 lf of 5' wide walks. As of the date of this Second Agreement, the recreational facilities on Parcel J are complete and the associated bond has been released by MNCPPC.

- (b) Townhomes Phase II. Concurrent with the construction of lots 77 through 81, Block A in Phase II:

Parcel N: Sitting area #1 with 3 benches, grassy play area as shown on the approved DSP 08039/06 plan, or as amended, and 80 lf 5' wide walks.

- (c) Townhomes Phase III. Concurrent with the completion of the townhomes in Phase III, as shown on DSP-08039-08:

Parcel B - Sitting Area #2 - 4 benches facing an oval grass area with 115 LF of 5' wide concrete sidewalk;

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Parcel R - Sitting Area #3 - 8 benches facing a rectangular grass area with 190 LF of 5' wide concrete sidewalk and 128 LF of 4' wide concrete sidewalk;

Parcel P - Sitting Area #4 - 2 benches with 169 LF of 5' wide concrete sidewalk.

2. Performance Bonds for Private Recreation Facilities.

(a) To guarantee the prompt and satisfactory construction of the recreation facilities Community Building set forth in paragraph 1(a) above, the Developer, his heirs, successors and/or assigns, shall deliver to the Planning Department, immediately prior to the application of the 208th townhome building permit, an irrevocable performance bond (i.e. surety bond, letter of credit or other suitable financial guarantee) for the portion of the recreational facilities Community Building in paragraph 1(a) which has not been built by that date. The amount of the performance bond shall be determined by the Planning Department. The Developer shall request in writing from the Planning Department a determination as to the amount of the required performance bond not less than two weeks prior to filing an application for building permits.

3. That this Agreement to Amend shall be recorded among the Land Records of Prince George's County, said recording fees to be paid by the Developer, his successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on the date first hereinabove written.

[Signatures on Following Page]

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ATTEST:

Westphalia Row Partners, LLC
By: Westphalia Row Partners, Inc., its
Manager

Douglas E. Brand
DOUGLAS E. BRAND

Gregory S. Balian
Name: Gregory S. Balian
Title: President

ATTEST:

THE MARYLAND-NATIONAL CAPITAL
PARK AND PLANNING COMMISSION

Joseph Zimmerman
Joseph Zimmerman
Secretary Treasurer

Patricia Colihan Barney
Patricia Colihan Barney
Executive Director

STATE OF MARYLAND :

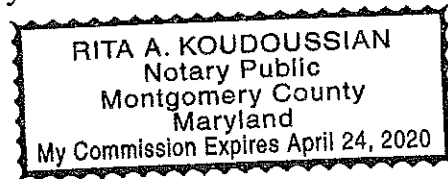
COUNTY OF MONTGOMERY : ss

I hereby certify that before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Gregory S. Balian, President of Westphalia Row Partners, Inc., the Manager of Westphalia Row Partners, LLC who acknowledged that he/she is authorized to execute the above Agreement for the reasons and purposes stated therein.

Witness my hand and official seal this 15th day of August, 2015.

Rita A. Kouduoussian
Notary Public

My commission expires: 4/24/2020



APPROVED AS TO LEGAL SUFFICIENCY.

Mary M. ...
M-NCPPC Legal Department

Date 9/15/16

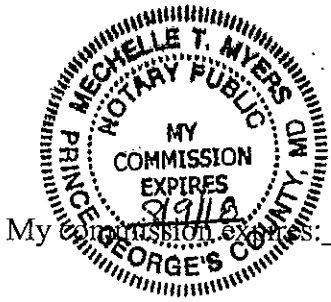
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STATE OF MARYLAND :

COUNTY OF PRINCE GEORGE'S: ss

I hereby certify that before me, the subscriber, a Notary Public in and for the State and County aforesaid, personally appeared Patricia Colihan Barney, Acting Executive Director, who acknowledged that she is authorized to execute the above Agreement for the reasons and purposes stated therein.

Witness my hand and official seal this 14th day of October, 2016.



Michelle T. Myers

Notary Public

My commission expires: 8/9/18

Upon Recordation, please return this document to:

Gregory S. Balian
Westphalia Row Partners, LLC
6110 Executive Blvd, Suite 430
Rockville, MD 20852
301-864-6500

State of Maryland Land Instrument Intake Sheet

Baltimore City County: Prince George's

Information provided is for the use of the Clerk's Office, State Department of Assessments and Taxation, and County Finance Office Only.

(Type or Print in Black Ink Only—All Copies Must Be Legible)

3864

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Space Reserved for Circuit Court Clerk Recording Validation

1	Type(s) of Instruments	<input type="checkbox"/> Check Box if addendum Intake Form is Attached.						
	<input type="checkbox"/> Deed <input type="checkbox"/> Deed of Trust <input type="checkbox"/> Mortgage Lease <input checked="" type="checkbox"/> Other Agreement <input type="checkbox"/> Other							
2	Conveyance Type Check Box	<input type="checkbox"/> Improved Sale Arms-Length /1/	<input type="checkbox"/> Unimproved Sale Arms-Length /2/	<input type="checkbox"/> Multiple Accounts Arms-Length /3/	<input type="checkbox"/> Not an Arms-Length Sale /9/			
3	Tax Exemptions (if applicable)	Recordation State Transfer County Transfer						
	Cite or Explain Authority							
4	Consideration and Tax Calculations	Consideration Amount		Finance Office Use Only				
		Purchase Price/Consideration	\$	Transfer Tax Consideration	\$			
		Any New Mortgage	\$	X () %	=	\$		
		Balance of Existing Mortgage	\$	Less Exemption Amount	=	\$		
		Other:	\$	Total Transfer Tax	=	\$		
		Other:	\$	Recordation Tax Consideration	\$			
		Full Cash Value:	\$	X () per \$500	=	\$		
			TOTAL DUE	\$				
5	Fees	Amount of Fees		Doc. 1	Doc. 2			
		Recording Charge	\$	\$	Agent:			
		Surcharge	\$	\$	Tax Bill:			
		State Recordation Tax	\$	\$	C.B. Credit:			
		State Transfer Tax	\$	\$	Ag. Tax/Other:			
		County Transfer Tax	\$	\$				
		Other	\$	\$				
		Other	\$	\$				
6	Description of Property SDAT requires submission of all applicable information. A maximum of 40 characters will be indexed in accordance with the priority cited in Real Property Article Section 3-104(g)(3)(i).	District	Property Tax ID No. (1)	Grantor Liber/Folio	Map	Parcel No.	Var. LOG	
		15	4021499,1711571,1762194	27631/450&31020/131			Tax Parcel 81	<input type="checkbox"/> (5)
		Subdivision Name		Lot (3a)	Block (3b)	Sect/AR (3c)	Plat Ref.	SqFt/Acreage (4)
		Westphalia Row						
		Location/Address of Property Being Conveyed (2)						
		Fernwood Drive Upper Marlboro, MD 20772						
		Other Property Identifiers (if applicable)					Water Meter Account No.	
		15-1762186, 15-1760719, 15-1760701, 15-1711522, 15-1711548 & 15-1711530						
		Residential <input type="checkbox"/> or Non-Residential <input type="checkbox"/>		Fee Simple <input type="checkbox"/> or Ground Rent <input type="checkbox"/>		Amount:		
		Partial Conveyance? <input type="checkbox"/> Yes <input type="checkbox"/> No		Description/Amt. of SqFt/Acreage Transferred:				
	If Partial Conveyance, List Improvements Conveyed:							
7	Transferred From	Doc. 1 – Grantor(s) Name(s)			Doc. 2 – Grantor(s) Name(s)			
		Westphalia Row Partners, LLC						
		Doc. 1 – Owner(s) of Record, if Different from Grantor(s)			Doc. 2 – Owner(s) of Record, if Different from Grantor(s)			
8	Transferred To	Doc. 1 – Grantee(s) Name(s)			Doc. 2 – Grantee(s) Name(s)			
		M-NCPPC						
		New Owner's (Grantee) Mailing Address						
9	Other Names to Be Indexed	Doc. 1 – Additional Names to be Indexed (Optional)			Doc. 2 – Additional Names to be Indexed (Optional)			
10	Contact/Mail Information	Instrument Submitted By or Contact Person				<input type="checkbox"/> Return to Contact Person		
		Name: William E. Grueninger, III Prof. LS				<input type="checkbox"/> Hold for Pickup		
		Firm Gutschick, Little & Weber, PA				<input checked="" type="checkbox"/> Return Address Provided		
	Address: 3909 National Drive Suite 250 Burtonsville, MD 20866				Phone: (301) 421-4024			
11	IMPORTANT: BOTH THE ORIGINAL DEED AND A PHOTOCOPY MUST ACCOMPANY EACH TRANSFER							
	Assessment Information	<input type="checkbox"/> Yes <input type="checkbox"/> No	Will the property being conveyed be the grantee's principal residence?					
		<input type="checkbox"/> Yes <input type="checkbox"/> No	Does transfer include personal property? If yes, identify: _____					
		<input type="checkbox"/> Yes <input type="checkbox"/> No	Was property surveyed? If yes, attach copy of survey (if recorded, no copy required).					
	Assessment Use Only – Do Not Write Below This Line							
	Terminal Verification	Agricultural Verification	Whole	Part	Tran. Process Verification			
	Transfer Number	Date Received:	Deed Reference:	Assigned Property No.:				
	Year	20	20	Geo.	Map	Sub	Block	
	Land			Zoning	Grid	Plat	Lot	
	Buildings			Use	Parcel	Section	Occ. Cd.	
	Total			Town Cd.	Ex. St.	Ex. Cd.		
	REMARKS:							

Space Reserved for County Validation

CLERK OF THE CIRCUIT COURT
FOR
PRINCE GEORGE'S COUNTY, MARYLAND


STATE OF MARYLAND
PRINCE GEORGE'S COUNTY, TO WIT,

I HEREBY CERTIFY, THAT THE FOREGOING IS A TRUE COPY OF

**SECOND AGREEMENT TO AMEND RECREATIONAL FACILITIES
AGREEMENT FOR WESTPHALIA ROW**

TAKEN FROM **LIBER 38641 FOLIO 296** OF THE LAND RECORDS
OF THE STATE AND COUNTY AFORESAID.

IN TESTIMONY WHEREOF, I HERETO SET
MY HAND AND AFFIX THE SEAL OF THE
CIRCUIT COURT FOR THE STATE AND
COUNTY AFORESAID, THIS 24TH DAY OF
OCTOBER- 2016.



SYDNEY J. HARRISON
CLERK OF THE CIRCUIT COURT, PRINCE GEORGE'S CO, MD
CLERK #664