

Tax Parcels #18-014.00-229,
231-234 and 245-247
Prepared By & Return To:
City Secretary's Office
220 South Main Street
Newark, DE 19711

ADDENDUM TO SUBDIVISION AGREEMENT

THIS ADDENDUM, made this _____ day of _____, 2016, by and between **CREEKVIEW ROAD ASSOCIATES, LLC**, hereinafter referred to as the "Developer" and the **CITY OF NEWARK**, a municipal corporation of the State of Delaware, party of the second part hereto, hereinafter referred to as the "City";

WITNESSETH:

THAT WHEREAS, Commonwealth Management Corporation sought the approval of its major subdivision plan for the redevelopment of the "NVF property" in order to develop said site for 176 apartments and 26,000 square feet of commercial space, including an approximately 300-seat restaurant, located on the east side of Paper Mill Road south of White Clay Creek for a development to be known as The Mill at White Clay which shall comply with RM, BN and OFD zoning classifications; and

WHEREAS, Newark City Council did approve said subdivision, which is reflected in an agreement dated February 10, 1999; and

WHEREAS, item 8 of the subdivision agreement provided that \$10,000 be placed in escrow towards the costs associated with the construction of a pedestrian/bike bridge across the White Clay Creek to City-owned property located on the north side of the creek; and

WHEREAS, the City has agreed to allow the Developer to transfer the escrow funds to the Preston's Playground project;

NOW, THEREFORE, in exchange for the mutual promises contained herein and for other good and valuable consideration which is hereby deemed sufficient and is acknowledged by the parties hereto, the parties mutually agree as follows:

1) The Developer agrees to abide by the terms and conditions, if any, in Newark City Council Resolution No. 16-__, dated _____, 2016, which resolution is attached hereto and made a part hereof by reference.

2) The Developer agrees to abide by the terms and conditions of the City of Newark Subdivision and Development Regulations and the Newark Zoning Code as

relevant provisions thereof related to RM, BN and OFD zoning classifications and to the aforesaid development.

3) The Subdivision Agreement, dated February 10, 1999, and recorded in the Office of the Recorder of Deeds aforesaid on February 23, 1999, at Instrument No. 19990223-1068702 shall be amended by replacing the existing number 8 with the following:

"8) The Developer agrees to provide an easement associated with the construction of a pedestrian/bike bridge across the White Clay Creek which would provide access to City-owned property on the north side of the creek if such bridge is constructed in the future.

The Developer agrees allow the \$10,000 deposited with the City at the time of the original agreement to be used towards the construction of the Preston's Playground project at the Newark Reservoir."

4) The Developer agrees that all other conditions set forth in Resolution No. 99-B, dated January 25, 1999, Resolution No. 13-II, dated December 9, 2013 and the Addendum to Subdivision Agreement, dated July 12, 2000, and recorded in the Office of the Recorder of Deeds aforesaid on July 18, 2000, at Instrument No. 20000718-0838005, will continue to apply to the property.

5) This Agreement may be modified, but only with the written approval of the Newark City Council, the Developers, and/or their successors in interest.

6) The provisions of this Agreement shall be severable. If any provision of this Agreement is found by any court to be void or unenforceable, the remaining provisions hereof shall remain valid and in full force and effect.

7) This Agreement shall be interpreted pursuant to the Laws of the State of Delaware and shall be binding upon all heirs, successors in interest, and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto have duly executed this agreement on the day and year aforesaid.

WITNESS:

_____ By: _____
Creekview Road Associates, LLC

ATTEST:

CITY OF NEWARK

City Secretary

City Manager

STATE OF DELAWARE

SS.

NEW CASTLE COUNTY

BE IT REMEMBERED, that on this ____ day of _____, in the year of Our Lord, two thousand and sixteen, personally came before me, a Notary Public for the State and County aforesaid, _____, representing party to this Indenture, known to me personally to be such, and does acknowledge this Indenture to be his act and deed and the act and deed of said corporation.

GIVEN under my hand and seal of office, the day and year aforesaid.

Notary Public

STATE OF DELAWARE

SS.

NEW CASTLE COUNTY

BE IT REMEMBERED, that on this ____ day of _____, in the year of Our Lord, two thousand and sixteen personally came before me, the subscriber, a Notary Public for the State and County aforesaid, **CAROL S. HOUCK**, City Manager of the City of Newark, Delaware, party of the second part to this Indenture, known to me personally to be such, and acknowledged this Indenture to be her act and deed and the act and deed of the Council of Newark; that the signature of the City Manager is in her own proper handwriting; that the seal affixed is the Seal of the City of Newark; and, that her act of signing, sealing, executing, acknowledging, and delivering said Indenture was duly authorized by order of said Council of the City of Newark.

GIVEN under my hand and seal of office, the day and year aforesaid.

Notary Public

**CITY OF NEWARK
DELAWARE**

RESOLUTION NO. 16-__

**AMENDMENT OF THE APPROVED SUBDIVISION AGREEMENT
FOR THE MILL AT WHITE CLAY LOCATED ON THE EAST SIDE OF
PAPER MILL ROAD SOUTH OF WHITE CLAY CREEK
IN ORDER TO CHANGE THE DESIGNATION OF ESCROW FUNDS**

WHEREAS, Commonwealth Management Corporation sought the approval of its major subdivision plan for the redevelopment of the "NVF property" in order to develop said site for 176 apartments and 26,000 square feet of commercial space, including an approximately 300-seat restaurant, located on the east side of Paper Mill Road south of White Clay Creek for a development to be known as The Mill at White Clay which shall comply with RM, BN and OFD zoning classifications; and

WHEREAS, Newark City Council did approve said subdivision, which is reflected in an agreement dated February 10, 1999; and

WHEREAS, item 8 of the subdivision agreement provided that \$10,000 be placed in escrow towards the costs associated with the construction of a pedestrian/bike bridge across the White Clay Creek to City-owned property located on the north side of the creek; and

WHEREAS, the City has agreed to allow the Developer to transfer the escrow funds to the Preston's Playground project;

NOW, THEREFORE, in exchange for the mutual promises contained herein and for other good and valuable consideration which is hereby deemed sufficient and is acknowledged by the parties hereto, the parties mutually agree as follows:

a) The Developer agrees to abide by the terms and conditions of the City of Newark Subdivision and Development Regulations and the Newark Zoning Code as relevant provisions thereof related to RM, BN and OFD zoning classifications and to the aforesaid development.

b) The Subdivision Agreement, dated February 10, 1999, and recorded in the Office of the Recorder of Deeds aforesaid on February 23, 1999, at Instrument No. 19990223-1068702 shall be amended by replacing the existing number 8 with the following:

"8) The Developer agrees to provide an easement associated with the construction of a pedestrian/bike bridge across the White Clay Creek which would provide access to City-owned property on the north side of the creek if such bridge is constructed in the future.

The Developer agrees allow the \$10,000 deposited with the City at the time of the original agreement to be used towards the construction of the Preston's Playground project at the Newark Reservoir."

c) The Developer agrees that all other conditions set forth in Resolution No. 99-B, dated January 25, 1999, Resolution No. 13-II, dated December 9, 2013 and the Addendum to Subdivision Agreement, dated July 12, 2000, and recorded in the Office of the Recorder of Deeds aforesaid on July 18, 2000, at Instrument No. 20000718-0838005, will continue to apply to the property.

RESOLVED at a Regularly Scheduled Meeting on _____, 2016.

VOTE: ___ to ___.

Mayor

Attest:

City Secretary



PARKS & RECREATION
CITY OF NEWARK

220 South Main Street · Newark, Delaware 19711
302.366.7000 · Fax 302.366.7169 · www.cityofnewarkde.us

Date: October 10, 2016

To: Carol Houck, City Manager

From: Joe Spadafino, Director of Parks and Recreation

Subject: Mill at White Clay Escrow

In 2000 Commonwealth Management (Jeff Lang) made a \$10,000 escrow payment to the City, which was intended to go toward the costs associated with the construction of a pedestrian/bike bridge across the White Clay Creek. The intent was to construct the bridge from the property of the Mill at White Clay over the creek to our parkland at Old Paper Mill Road. Item #8 on the Subdivision Agreement. The concept never materialized and we are still holding the escrow.

As you know we're currently working with DelDOT to design, purchase and install a Bike/Ped over the creek but on the opposite side of Paper Mill Road from where the Mill at White Clay is located. The construction for that project is not scheduled to begin until 2019.

I would like to recommend the \$10,000 escrow be donated to the Preston's Playground project. The inclusive playground and permanent restroom will serve the children of that area and reservoir users in 2017, when fundraising is complete. The restroom and playground will be a major enhancement for that area and will make an immediate impact on our community when completed. The Developer of the project, Jeff Lang of Lang Development, has sent a letter in support of the escrow being repurposed for Preston's Playground. Attached is the letter expressing his support.

Please let me know if you have any questions.



September 28, 2016

Mr. Joe Spadafino
Director of Parks and Recreation
City of Newark
220 South Main Street
Newark, DE 19711

Re: Preston's Playground

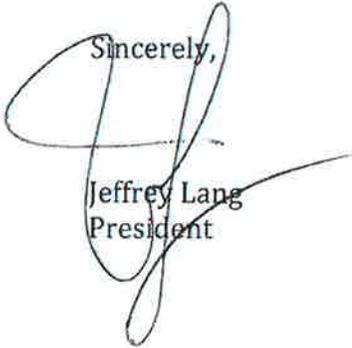
Dear Joe

As per our recent meeting we are excited to hear that you are in agreement to allow us to transfer our escrow that is presently being held by the City of Newark on behalf of the Mill at White Clay Creek to Preston's Playground. We feel very strongly in the cause that Preston's playground represents and want to assist in making this dream become a reality for the children of Newark and its surrounding communities.

As you know our company is very interested in making Newark a better place to live and work and we hope this small gesture makes a difference for the project.

Could you please make Nic and the others involved in the project aware of our gift and please notify us if we can be of any other assistance.

Sincerely,



Jeffrey Lang
President

Cc: Chris Locke