

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made as of this 31st day of August, 2015, by and between (i) Comstock Sixth Street, LLC ("Comstock"), and (ii) Emerson Park Homeowners' Association, Inc., a non-stock corporation ("Emerson Park") (collectively, the "Parties").

RECITALS

WHEREAS, Comstock is the contract owner of certain property located in Square 3788, known as Lot 814, which is at the terminus of the public portion of the 4800 block of 6th Street, NE, Washington DC and currently improved with a small storage building and a large concrete parking slab (the "Property");

WHEREAS, the Property is the subject of a Zoning Map amendment and related planned unit development (PUD) Application, Application No. ZC 15-04 ("PUD Application"), requesting certain Zoning Map changes and development to permit redevelopment of the Property for approximately 40 townhouses;

WHEREAS, Emerson Park borders the Property to its north, and its members are generally in support of the PUD Application;

WHEREAS, to continue to have the support of Emerson Park on the PUD Application, Comstock has agreed to perform certain activities on the Property and in connection with property owned by Emerson Park, and Emerson Park has agreed to continue to support the PUD Application, subject to the terms and conditions set forth below.

NOW THEREFORE, in consideration of the agreements contained herein, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

- A. Comstock shall perform and monitor the following as part of the redevelopment of the Property, either itself or through its contractors:
 - 1) Erosion and Dust Controls, Work Hours and Noise:
 - a. Erosion from the Property during construction of the residential project will be controlled through the use of approved E&S (Erosion and Sediment) controls designed by a civil engineer on a E&S plan approved by DDOE (DC Department of Environment).
 - b. Dust generated as part of construction of the residential project will be controlled as required by conditions of land disturbance permitting and DC Code. Typical

controls include an onsite water truck spraying water to keep dust from becoming airborne.

- c. Work Hours will be established by permits for the residential project, and generally allow work to be performed from 7:00am to 7:00PM Monday through Friday, and 8:00am to 5:00pm on Saturday.

2) Rodent Abatement: Comstock will hire a firm to perform a rodent abatement trapping program beginning prior to the start of land disturbing activities and continuing for a period of 4 months, unless there is documented evidence of continuing rodent activity. In such case, the abatement program will be extended for 4 months. Comstock will use good faith efforts to install traps that are designed to look like rocks or other naturally occurring designs on or along the property of Emerson Park.

3) Tree maintenance and removal:

- a. Representatives from Emerson Park and Comstock will inspect that portion of the Property adjacent to Emerson Park and identify trees of concern to Emerson Park. Comstock will prune or remove trees located between Emerson Park and the top of the slope on Comstock that are deemed to be dangerous, dying or dead. After the trees are identified, Comstock will request permission from the DC Arborist to maintain or remove the trees identified by Emerson Park. If the DC Arborist does not allow certain trees to be pruned or removed, Comstock will inform Emerson Park and proceed to perform maintenance on such trees as the DC Arborist has approved. Comstock shall further replace the dead trees with a similar species in the general area of removed trees.
- b. Comstock shall either pay for or install plantings behind the retaining wall on Emerson Park property to discourage pedestrians from walking in this area, the cost not to exceed \$3,000.
- c. Comstock shall landscape and install bollards at the terminus of the pedestrian/bicycle connection on 6th Street in the manner depicted on the rendering attached as Exhibit 2. Where applicable, such landscaping is to meet allowable standards for plantings within a DC Water or Washington Gas easement.

4) Grant of Parking and Maintenance Easement:

- a. In order to allow Emerson Park members and their visitors to park along the edge of the paved area on the Property in front of those homes located at 4939-4979 Sixth Street, Comstock shall grant an easement to Emerson Park through a recorded easement agreement. The easement agreement will require Emerson Park to indemnify Comstock and hold Comstock harmless for any damage that

occurs on the Property due to use by Emerson Park members and their visitors. The easement agreement shall also allow Comstock to temporarily disrupt parking in the easement area for grading, installation of utilities, roadway repair, and repair and maintenance of utilities. Emerson Park will be responsible for the maintenance of the roadway and associated plantings in the easement area and not allow parking to interfere with bicycle or pedestrian traffic.

- b. Comstock agrees that the paved area of the Property remain open and available for parking in front of those homes located at 4939-4979 Sixth Street so that Emerson Park members and visitors can continue to park along the edge of the pavement in that area. When this portion of 6th Street is restored to equal or better condition after the sanitary and storm pipes are installed by Comstock, an asphalt or concrete curb will be placed along the edge of the roadway so as to keep cars from parking on the grass. Emerson Park notes that there is some erosion present in that area, and asks that Comstock's design and restoration of the roadway address that issue as well.

5) Stormwater Facility Maintenance: Comstock will pay to Magnolia Plumbing, or another firm chosen by Emerson Park, the sum of \$10,000 prior to the issuance of the 10th building permit on the Property. The payment by Comstock shall be used by said plumbing contractor to pay for cleaning and maintenance of the stormwater management facilities located within and maintained by Emerson Park for a period of two years.

6) Existing Easements: Comstock and Emerson Park confirm their respective rights and responsibilities as successors in title under the two recorded Easement and Right-of-Way Agreements dated June 27, 2005, and each will coordinate and cooperate with the other for the proposed development of the Property and the PUD Application.

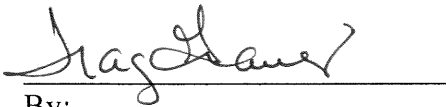
- B. Emerson Park shall support the proposed redevelopment of the Property, the PUD Application, and Comstock's commitments regarding the work referenced herein. At Comstock's request, Emerson Park provide written and/or oral testimony in support of the PUD Application and/or permits requested to facilitate construction and occupancy of the residential project on the Property.
- C. The terms and provisions of this MOU are contingent upon no opposition coming from a member of Emerson Park at all public hearings and other related proceedings under the PUD Application. The terms and provisions of this MOU are further conditioned upon final approval of the PUD Application as evidenced by the issuance of a final written order by the Zoning Commission, expiration of any appeals period without appeal being taken, and construction of the Property as approved.
- D. No modification of this MOU shall be valid unless made in writing and duly executed by authorized representatives of the Parties.

- E. This MOU contains the entire understanding of the Parties and supersedes any and all prior agreements and understandings between the Parties relating to the subject matter hereof.

IN WITNESS WHEREOF, the parties signing below hereby affirm the statements and understandings contained in this Memorandum of Understanding.

Comstock Sixth Street, LLC

By: Comstock Holding Companies, Inc., Manager



By:

Name: Tracy Graves

Title: Senior VP, Land Acquisitions & Development

Emerson Park Homeowners' Association, Inc.

By:

Name:

Title: