

Amendment and Restatement of Agreement

Whereas on September 6, 2011, Il Palazzo LLC (“Il Palazzo”) entered into an agreement (the Agreement”) with the Reed-Cooke Neighborhood Association (“RCNA”) to jointly create a tree-fence buy-in program for the Reed-Cooke neighborhood (the “Program”);

And whereas the Program constituted one of the “public benefits” that Il Palazzo was required by the Zoning Commission to provide as a condition of being granted a planned unit development for Square 2578 Lot 26 located at 2700 16th Street NW in the District of Columbia (the “PUD”);

And whereas MCREF Embassy LLC (“Mill Creek”) is the successor in interest to Il Palazzo for the PUD and its associated public benefit obligations, including the Program;

And whereas RCNA and Mill Creek now desire to revise the Program;

Therefore, subject to the section entitled “Conditionality” below, the Agreement is hereby amended and restated in its entirety as follows:

Beautification Program

The Program will continue to be a public space beautification program for the Reed-Cooke neighborhood. However, the beautification will no longer be limited to tree fences. Rather, RCNA will divide the geography of the Reed-Cook neighborhood into area groupings (each an “Area Grouping”) of which it is estimated there will be between 10 and 15 of such Area Groupings. RCNA will then identify a volunteer area captain (“Area Captain”) for each Area Grouping who will work with the residents of that Area Grouping to generate a beautification proposal for that Area Grouping (each, a “Beautification Proposal”). RCNA will require that the Beautification Proposals:

- (i) be based on meaningful outreach to the residents of each Area Grouping;
- (ii) include a volunteer work component; and
- (iii) create enduring improvements to public space in the Reed-Cooke Neighborhood (examples might include creating new tree boxes, planting trees and flowers in tree boxes, installing tree fences, or addressing other public space issues specific to a particular Area Grouping).

RCNA will endeavor to effectuate the Program such that the Beautification Proposals will be implemented before the end of 2018.

Financial Contribution

Mill Creek will provide \$120,000.00 to RCNA to effectuate the Program. Within 10 business days following approval of this Amendment and Restatement by the Zoning Commission, Mill Creek will provide (i) \$10,000.00 to RCNA for initiation of the Program (the “Preliminary

Contribution”) and (ii) the remaining \$110,000.00 (the “Financial Contribution Balance”) to Commonwealth Land Title Insurance Company (the “Escrow Agent”).

Using the Preliminary Contribution, RCNA will send a letter to each household in the Reed-Cooke Neighborhood (as reflected in US Postal Service records) informing residents about the Program and inviting them to participate. RCNA will endeavor to ensure that the mailing is sent within 30 days of RCNA’s receipt of the Preliminary Contribution. RCNA will then assist the Area Captains and their participating residents in formulating their Beautification Proposals and readying them for implementation.

With respect to the Financial Contribution Balance, the Escrow Agent will deposit it into an interest-bearing savings account insured by the FDIC (the “Escrow Account”) at a federally-insured financial institution with offices in the District of Columbia (the “Depository”). RCNA and Mill Creek consent to the selection of Bank of America, N.A. as the Depository. If the financial condition of the Depository changes in any adverse way that may prohibit the ability of the Escrow Agent to withdraw the Financial Contribution Balance in accordance with the terms of this Amendment and Restatement, then the Escrow Agent may move the Escrow Account to another federally-insured financial institution with offices in the District of Columbia. The Escrow Agent will notify RCNA and Mill Creek 5 business days in advance of any such move, and will obtain RCNA’s and Mill Creek’s consent to the replacement Depository, provided that RCNA and Mill Creek will not unreasonably withhold their consent. The Escrow Agent will have no liability in the event of failure, insolvency, or inability of the Depository to pay the Financial Contribution Balance, or accrued interest, upon demand or withdrawal. In no event will the Escrow Agent incur any liability for levies by taxing authorities based upon the taxpayer identification number provided by RCNA to the Escrow Agent and used to establish the Escrow Account.

The Escrow Agent will release to RCNA’s Treasurer the money for each Area Captain’s Beautification Proposal within 5 business days following delivery to the Escrow Agent and to Mill Creek by a member of RCNA’s Executive Board (i) a copy of the Beautification Proposal, (ii) the dollar amount associated with the Beautification Proposal, and (iii) a statement signed by two authorized members of RCNA’s Executive Board confirming that the Beautification Proposal has been approved by RCNA’s Executive Board for implementation.

To the extent that the Escrow Account is not fully drawn down by the end of 2018 pursuant to the Beautification Proposals submitted by the Area Captains and approved by RCNA’s Executive Board, the Escrow Agent will release the remaining amount to RCNA’s Treasurer within 5 business days following a request therefore signed by two authorized members of RCNA’s Executive Board and confirming that the Program has concluded. Any such amounts will thereafter be used by RCNA consistent with its purposes as set forth in its by-laws:

“To further the best interests of property owners and residents of the area through the development of programs or activities designed to:

- 1) Combat any deterioration in the community.
- 2) Improve the cleanliness of streets and alleys.
- 3) Beautify the grounds and surroundings of properties.

- 4) Bring relief to the distressed or underprivileged.
- 5) Further the opportunities of youth for recreation, cultural, and educational improvement.
- 6) Aid in combating juvenile delinquency.
- 7) Bring about a spirit of friendliness and understanding among neighbors.
- 8) Eliminate prejudice and discrimination.
- 9) Defend human and civil rights secured by law.
- 10) Promote development compatible with a high quality of residential life.”

Conditionality

Notwithstanding anything to the contrary above, this Amendment and Restatement will only come into effect if approved by the Zoning Commission. Mill Creek will endeavor to obtain such approval from the Zoning Commission as promptly as possible following execution of this Amendment and Restatement. If the Zoning Commission requests changes to this Amendment and Restatement that do not fundamentally alter the Program as described in this Amendment and Restatement, Mill Creek and RCNA will work together in good faith to adopt further amendments in order to promptly obtain the Zoning Commission’s approval.

[Remainder of page intentionally left blank.]

Executed as of February 5, 2018

MCREF Embassy LLC

By: 
Name: Joe Muller
Title: VP

Reed-Cooke Neighborhood Association

By: _____
Name: _____
Title: _____

Commonwealth Land Title Insurance Company

By: 
Name: David P. Nelson
Title: Senior Vice President

Executed as of February 5, 2018

MCREF Embassy LLC

By: _____
Name:
Title:

Reed-Cooke Neighborhood Association

By: Maureen Gallagher
Name: Maureen Gallagher
Title: Acting President

Commonwealth Land Title Insurance Company

By: _____
Name:
Title: