Return to:
Salvatore Folino, Esquire
Brennan & Associates, P.C.
2 Woodland Road
Wyomissing, PA 19610

Property Address:
801 Park Road
Maidencreek Township, PA
PARCEL ID: 61542118304153

FOURTH ADDENDUM TO MAIDENCREEK TOWNSHIP DEVELOPER'S IMPROVEMENT AGREEMENT

This is a Fourth Addendum to the Maidencreek Township Developer's Improvement Agreement dated May 30, 2006 by and between RODOLFO FOLINO, with an address at 129 Grandview Boulevard, Wyomissing, Pennsylvania 19610, (hereinafter "Developer"); and the BOARD OF SUPERVISORS OF MAIDENCREEK TOWNSHIP, Berks County, Pennsylvania, (hereinafter "Township").

W I T N E S S E T H:

WHEREAS, Developer entered into an Agreement dated May 30, 2006, which was recorded in the Berks County Office of the Recorder of Deeds at Record Book 4899, Page 2255, on June 14, 2006, (hereinafter "DIA"); and

WHEREAS, Developer entered into an Addendum to the Maidencreek Township Developer's Improvement Agreement dated July 11, 2013, which was recorded in the Berks County Office of Recorder of Deeds at Instrument #2013032582 on July 31, 2013, granting an extension of timeframes with conditions;

WHEREAS, Developer entered into a Second Addendum to the Maidencreek Township Developer's Improvement Agreement dated September 10, 2015, which was recorded in the

Berks County Office of Recorder of Deeds at Instrument # 2015037291 on October 21, 2015, granting extension of timeframes with conditions;

WHEREAS, construction of the project has not been completed in accordance with the DIA; and

WHEREAS, Developer has nevertheless continued to post financial security as described in the DIA and has obtained additional security in the form of a letter of credit for the amount of Eighty Three Thousand Four Hundred 00/100 Dollars ($83,400); and

WHEREAS, Developer agrees to continue the financial security in such amounts as may from time to time be reasonably determined by the Township's Municipal Engineer; and

WHEREAS, Developer has requested a further extension of time from the January deadline; and

NOW THEREFORE, in consideration of the above-recitals which are incorporated herein by reference and for other good and valuable consideration, the parties hereto agree as follows:

1. Incorporation by Reference.

The recitals above and the terms of the DIA are incorporated herein by reference.

2. Extension of Time.

Subject to full and ongoing compliance by Developer of the terms and conditions of this Addendum and in consideration of the additional undertakings and promises of the Developer herein, Township agrees that the completion date for the improvements as provided for in the DIA Shall be extended until July 31, 2018. Except where the context clearly indicates otherwise all other timeframes set forth in the DIA measured from the completion date shall be measured

from this completion date, and all timeframes shall be extended by reference to this completion date subject to the terms set forth herein.

3. Conditions and further obligations of this Extension.

a) This extension of time is conditioned upon the Developer fully and completely maintaining financial security required in Paragraph 4 of the DIA in such amounts and in such form shall be reasonably satisfactory to the Maidencreek Township Municipal Engineer including any request for increases in the amount of security, if any, as provided for the DIA and pursuant to statutory authority conferred by law. In addition to and not in substitution of this obligation, Developer ratifies and confirms the continued validity of the original letter of credit issued by National Penn Bank (now BB&T) and further agrees to increase the remaining amount of that existing financial security by immediate issuance of an additional irrevocable letter of credit in the amount of $ 83,400.00 which shall be treated as an integral part of the financial security obligations of the Developer pursuant to the , financial security

In the event for any reason or no reason any financial security is terminated or notice of intention to terminate the same is received, such termination or notice of intent to terminate the same shall be deemed a material default of this Addendum and the DIA, and accordingly, Maidencreek Township may immediately draw against all letters of credit or other financial security in full as a result of said material breach.

b) Developer previously modified the DIA in the Second Addendum to provide additional provisions, inspections and rebuilding of the road way as described in the Second Addendum and those provisions are hereby expressly incorporated herein by reference and shall continue and be fully enforceable as part of the DIA as amended.

4. Further Modification

At this time, not all lots in the development have been improved and it is anticipated that even after completion of the road and an offer of dedication, additional construction and construction vehicles will use the road in order for Developer to improve and sell his remaining lots. It was originally anticipated that the lots would be all improved and construction completed before the roadways would be completed and offered for dedication, but in light of the fact that this will not be the case, Developer hereby expressly agrees that the DIA is expressly modified and amended to provide that regardless of whether or not the Township takes dedication, Developer hereby extends the maintenance period for a period of 36 months instead of the 18 month provision called for in the DIA. This extended maintenance period will commence upon completion as described in the DIA. In addition to the extension of the maintenance period, and to the extent that any damage repair or maintenance to the road is caused by construction vehicles related to the remaining lots, Developer is and shall remain liable for the prompt ;payment and reimbursement of the same.

5. Ratification.

Earlier Addenda contained two references to the date of the underlying Developer's Improvement Agreement, including the date of December 13, 2007 (the date of a separate project called Melrose Commercial), even though the text of all Addenda and intent of the parties referred to the DIA dated May 30, 2006. Both Developer and Township hereby expressly acknowledge and confirm that earlier Addenda referred to and intended to refer to the Developer's Improvement Agreement dated May 30, 2006 and to the extent required shall be amended and shall be construed to clarify that the DIA dated May 30, 2006 and all Addenda signed by the parties hereto addressed and concerned that document. The terms of the first Addendum, the Second Addendum and this Addendum and the terms of the DIA shall to the

maximum extent possible be construed together extent possible as one Agreement. However, in the event of any irreconcilable conflict or change between this Addendum and the DIA, the terms of this Addendum shall replace any such inconsistent or different terms or provisions.

6. General Provisions.

This Agreement:

A. May be executed in any number of counterparts, and each such counterpart thereof shall be deemed to be an original instrument, but all such counterparts together shall constitute but one agreement; and

B. Shall be binding upon and inure to the benefit of the parties hereto, their respective heirs, executors, administrators, successors, and assigns; and

C. Shall be construed and enforced in accordance with the domestic internal law (but not the law of conflicts of laws) of the Commonwealth of Pennsylvania; and

D. Shall be performed timely and time is of the essence of this Agreement; and

E. Shall not be assignable by any of the parties hereto.

IN WITNESS WHEREOF and intending to be legally bound, the undersigned set their hands and seals this _____ day of _____, 2017

DEVELOPER:

_____

RODOLFO FOLINO

BOARD OF SUPERVISORS OF
MAIDENCREEK TOWNSHIP

By: _____
JOSEPH E. RUDDEROW, III, Chairman

Attest: _____
DIANE HOLLENBACH, Township Manager

COMMONWEALTH OF PENNSYLVANIA:
: ss
COUNTY OF BERKS :

On this the _____ day of _____, 2017, before me, the undersigned officer, a Notary Public in and for the County and State aforesaid, personally appeared _____ _____ and acknowledged that he is the individual whose name appears on the foregoing Agreement and that he executed the foregoing Agreement for the purposed therein contained and desired that the same may be recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public

COMMONWEALTH OF PENNSYLVANIA :
: ss
COUNTY OF BERKS :

On this the _____ day of _____, 2017, before me, the undersigned officer, a Notary Public in and for the County and State aforesaid, personally appeared JOSEPH E. RUDDEROW, III, Chairman, and acknowledged that he is the individual whose name appears on the foregoing Agreement and that he executed the foregoing Agreement for the purposed therein contained and desired that the same may be recorded.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

_____
Notary Public