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SW

Washington County, Oregon 2014-045669
07/24/2014 02:26:58 PM
D-E Cnt=2 Stn=22 I REED
\$35.00 \$5.00 \$5.00 \$11.00 \$20.00 - Total = \$76.00



01958946201400456690070079

I, Richard Hobernicht, Director of Assessment and Taxation and Ex-Officio County Clerk for Washington County, Oregon, do hereby certify that the within instrument of writing was received and recorded in the book of records of said county.

Richard Hobernicht, Director of Assessment and Taxation, Ex-Officio County Clerk



Tax Statements to be sent to:
FPWL SHERWOOD, LLC
403 Madison Ave., No., Ste. 230
Bainbridge Island, WA 98110

After recording, please return to:
City of Sherwood
Engineering Department
22560 SW Pine St
Sherwood, OR 97140

**AMENDED AND RESTATED
PRIVATE STORMWATER FACILITY
ACCESS & MAINTENANCE COVENANT**

THIS 30 DAY OF MAY, 2014

FPWL SHERWOOD, LLC, an Oregon limited liability company, is the Owner and/or Developer ("Owner") of the real property subject to this Amended and Restated Private Stormwater Facility Access and Maintenance Covenant ("Covenant"), commonly known as the Sherwood Marketplace and located on SW 12th Street, Sherwood, Washington County, Oregon, 97140, and more particularly described as Parcels 1 through 3 of Partition Plat 2014- 032, in the City of Sherwood, County of Washington, State of Oregon (the "Property").

Owner's predecessor, JPMCC 2006-CIBC14 12th Street Market, LLC, an Oregon limited liability company ("Predecessor Owner"), recorded that certain Private Stormwater Facility Access and Maintenance Covenant, Washington County Document No. 2013-021616 (the "Original Covenant") against Parcels 1 through 3 of Partition Plat 1995-110, in the City of Sherwood. At the time the Original Covenant was entered into and recorded, Predecessor Owner owned only Parcels 2 and 3 of Partition Plat 1995-110 and had no authority to record the Original Covenant against Parcel 1 of Partition Plat 1995-110 ("Parcel 1 of Partition Plat 1995-110"). This Covenant shall not apply to Parcel 1 of Partition Plat 1995-110.

Owner and the City of Sherwood hereby amend, restate and replace the Original Covenant in its entirety.

In consideration of the City of Sherwood approving a partition of the Property into three parcels (each, a "Parcel") and the required continuing maintenance of an existing private stormwater facility located on this Property, Owner and his/her/its successors in interest to title, hereby accept and bind themselves to the terms and conditions contained in this Covenant and the City of Sherwood Construction Standards, as those standards exist on the effective date of this Covenant and as they may be updated in the future. The private stormwater facility is located on Parcel 1 of Partition Plat 2014- 032, in the City of Sherwood ("Parcel 1").

This Covenant runs with the Property, and shall bind and obligate any future successors in title to Owner with respect to the Parcels. In the absence of privity of estate, Owner intends to create an equitable servitude. This Covenant is perpetual in nature, and may only be modified in writing, with consent by

the current Owner(s) and approval by the City of Sherwood. It is within the City's sole discretion to approve any proposed amendment or modification to this Covenant.

Owner agrees to allow City to access the Property on each and every occasion as necessary to verify compliance with the terms and conditions of this Covenant.

As a condition precedent to the effectiveness of this Covenant, Owner shall provide the City with manufacturer's recommendations for the maintenance of the storm filter system.

The Owner(s) shall provide annual reports documenting compliance with the engineer's or manufacturers' recommended maintenance requirements for the private stormwater facility and any applicable City of Sherwood Construction Standards. Maintenance of the system and compliance with the engineer's or manufacturers' recommendations regarding maintenance and the City's Construction Standards is the sole responsibility of the Owner of Parcel 1 of Partition Plat 2014- 032 _____. Without limitation, the Owner(s) of each parcel of the Property are each jointly and severally responsible for all costs associated with maintaining the system. The first report shall be due exactly one year from the Engineering Department's acceptance of the improvements. Each Owner of a Parcel of Partition Plat 2014- 032 _____ shall be responsible for one-third of the maintenance, repair and replacement costs of the private stormwater facility, and shall reimburse the other Owner who paid more than its, his or her share of such maintenance costs within fifteen (15) days after written demand for reimbursement.

In the event of a disagreement concerning maintenance obligations and payment, the Owners of the Property shall agree upon an arbitrator who shall resolve such disagreement. If the Owners of the Property cannot agree on an arbitrator, the presiding judge of the Circuit Court of the State of Oregon for the County of Washington shall appoint an arbitrator. The decision of the arbitrator shall be binding on the Owners of the Property and the fee of the arbitrator shall be borne equally by the owners of the Property. In the event the Owner or Owners of a parcel of the Property fails to pay its, his or her share of required maintenance costs within fifteen (15) days after written demand for reimbursement by the other owner, or owners, who paid more than its, his or her share of such costs, then such reimbursement amount shall become an automatic charge and lien against the non-paying Owner's or Owners' parcel of the Property, which may be foreclosed in the manner provided in Chapter 88 of the Oregon Revised Statutes (or its successor statutes) for the foreclosure of liens generally. In addition, any such unreimbursed amounts shall bear interest at the rate of twelve percent (12%) per annum from the date of written demand for reimbursement until paid in full. The Owner of any parcel of the Property upon which a lien is imposed shall also be personally liable for any deficiency remaining unpaid after any foreclosure of the foregoing lien.

Any default by the Owners in regard to the agreed upon maintenance practices and schedule gives the City of Sherwood all repair and replacement rights with the Owners of Parcels 1 through 3 of Partition Plat 2014- 032 _____ agreeing jointly and severally to reimburse the City for all costs including but not limited to materials, labor, equipment and administrative fees as determined at the time of services. As set forth above, each Owner shall reimburse any other Owner who paid more than its one-third share of such costs. If full reimbursement is not made within 30 days of the City's demand, City may place and record a lien against the Property described above for the costs City incurred in maintaining the system, including all design costs, legal costs and other related costs incurred by the City. Owner waives any objection it may legally possess to the City placing a lien on its property. Repair

and replacement rights become effective thirty (30) days after the required annual maintenance report is due.

Owner accepts that the City of Sherwood may charge a reasonable administrative fee for monitoring and record keeping when such fee is adopted by City Council.

Owner warrants that it has fee title to the property and has the full authority to execute this Covenant.

Attached hereto are Exhibit A – Legal Description; Exhibit B – Map of Legal Description; and Exhibit C – A site plan showing the storm water treatment facility location, the source of run-off entering the facility, and where storm water will be discharged after leaving the facility.

[Signatures on the following page.]

FPWL SHERWOOD, LLC,
an Oregon limited liability company

By: PWL REI, LLC, a Delaware limited liability company
Its: Manager

By: Pacific West Land, LLC, a Delaware limited liability company

Its: Manager Bruce C. Galloway

By: Bruce C. Galloway, CEO
Date: 5/1/2014

STATE OF WASHINGTON)
) ss.
County of Kitsap)

Subscribed and sworn to before me this 1st day of May, 2014 by Bruce C. Galloway, the CEO of Pacific West Land, LLC, a Delaware limited liability company, which is the manager of PWL REI, LLC, a Delaware limited liability company, which is the manager of FPWL Sherwood, LLC, an Oregon limited liability company, on behalf of the limited liability company.



Vera McGeer
Notary Public for Washington
My commission expires: April 2, 2017

Robert Galati
Robert Galati
City Engineer
City of Sherwood

5.29.14
Date

Joseph Galati
Joseph Galati, ICMA-CM
City Manager
City of Sherwood

5/30/14
Date

EXHIBIT 'A'
PRIVATE STORMWATER FACILITY EASEMENT

A TRACT OF LAND LOCATED IN THE IN THE SOUTHEAST ONE-QUARTER OF SECTION 30, TOWNSHIP 2 SOUTH, RANGE 1 WEST, WILLAMETTE MERIDIAN, IN THE CITY OF SHERWOOD, WASHINGTON COUNTY, OREGON AND BEING A PORTION OF 'NEW PARCEL 2' OF THAT WARRANTY DEED RECORDED ON MAY 15, 1996 AS DOC. NO. 96043221, RECORDS OF WASHINGTON COUNTY. SAID TRACT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST WESTERLY CORNER OF 'NEW PARCEL 2' OF THAT WARRANTY DEED RECORDED ON MAY 15, 1996 AS DOC. NO. 96043221, RECORDS OF WASHINGTON COUNTY;

THENCE ALONG THE NORTHWESTERN LINE OF SAID PARCEL, BEING COINCIDENT WITH THE SOUTHEASTERN RIGHT-OF-WAY LINE OF SW PACIFIC HIGHWAY (US 99W), NORTH 46°53'37" EAST, 90.00 FEET;

THENCE SOUTH 43°06'23" EAST, 29.60 FEET;

THENCE SOUTH 00°52'25" WEST, 23.37 FEET;

THENCE SOUTH 18°19'44" WEST, 10.09 FEET;

THENCE SOUTH 02°07'08" WEST, 38.53 FEET;

THENCE SOUTH 63°08'59" EAST, 108.97 FEET;

THENCE NORTH 89°18'14" EAST, 20.50 FEET;

THENCE SOUTH 07°48'36" WEST, 47.50 FEET TO THE SOUTHWEST LINE OF SAID PARCEL, BEING COINCIDENT WITH THE NORTHEASTERN RIGHT-OF-WAY OF SW 12TH STREET, AT A POINT OF NON-TANGENT CURVATURE WITH A 185.00 FOOT RADIUS CURVE CONCAVE TO THE NORTHEAST FROM WHICH THE RADIAL LINE BEARS NORTH 00°13'42" WEST;

THENCE ALONG SAID SOUTHWESTERN PROPERTY LINE CURVE THROUGH A CENTRAL ANGLE OF 46°52'31" (THE CHORD BEARS NORTH 66°47'26" WEST; 131.26 FEET) AN ARC DISTANCE OF 134.99 FEET;

THENCE CONTINUING ALONG SAID PROPERTY LINE NORTH 43°21'10" WEST, 104.33 FEET TO THE POINT OF BEGINNING.

SAID TRACT IS MORE PARTICULARLY DEPICTED ON THE ACCOMPANYING EXHIBIT 'B' AND BY THIS REFERENCE MADE A PART HEREOF.

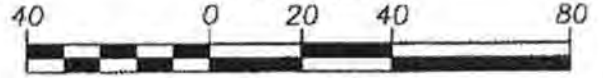
SAID TRACT CONTAINS 12,763 SQUARE FEET / 0.29 ACRES, MORE OR LESS.

BEARINGS ARE BASED ON THE NAD83[CORS96-2002] OREGON COORDINATE REFERENCE SYSTEM, PORTLAND ZONE.

EXHIBIT 'B'
PRIVATE STORMWATER FACILITY EASEMENT



SCALE



(FEET)
1 INCH = 40 FT

POINT OF BEGINNING
MOST WESTERLY
CORNER OF 'NEW
PARCEL 2'
DOC. NO. 96043221

SW PACIFIC HWY (US 99W)

SW 12TH ST

N46°53'37"E 90.00'
S43°06'23"E 29.60'
N43°21'10"W 104.33'

S00°52'25"W
23.37'

S18°19'44"W
10.09'

'NEW PARCEL 2'
DOC. NO. 96043221

M.810'08"W
38.53'

S63°08'59"E 108.97'
N89°18'14"E 20.50'

PRIVATE STORM WATER
FACILITY EASEMENT
± 12,763 SQUARE FEET /
0.29 ACRES

M.36°48'36"W
47.50'

REGISTERED
PROFESSIONAL
LAND SURVEYOR

OREGON
JULY 19, 1994
JOHN D. PUTNAM
2676

RENEWAL: 12-31-14

1/15/2013

R=165.00'
L=134.99'
 $\Delta=46^{\circ}52'31"$
CHORD=N66°47'26"W, 131.26'



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T: 503.359.1688 | www.oriongeomatics.com

2011017/KOHL'S BNDY.DWG

JANUARY 14, 2013

EXHIBIT C
PRIVATE STORMWATER FACILITY EASEMENT

