

**RESOLUTION OF THE COUNTY COUNCIL OF FREDERICK COUNTY,
MARYLAND**

RESOLUTION NO. 19-21

(Adopted on June 25, 2019)

RE: BALLENGER RUN DRRA AMENDMENT

RECITALS

On or about October 17, 2013, RBG Family LLC ("RBG") and the Board of County Commissioners of Frederick County, Maryland ("BOCC") (now known as Frederick County, Maryland under Charter government or the "County") entered into a Development Rights and Responsibilities Agreement (the "Original DRRA") for the development of real property known as the Ballenger Run PUD (the "Property"). The Original DRRA is recorded among the Land Records of Frederick County ("Land Records") at Liber 09814, folio 0012.

On November 23, 2015, RBG conveyed the Property, by deed, to SeD Maryland Development, LLC, a Delaware limited liability company ("Owner"), which deed was recorded on December 2, 2015 among the Land Records in Liber 10880, folio 403.

On September 6, 2016, the Owner and the County amended the Original DRRA through the execution of an Amendment to Development Rights and Responsibilities Agreement recorded among the Land Records in Liber 11362, folio 444 (the "First Amendment"), in order to allow the Owner to develop the Property in accordance with revisions to §1-6A-5.2 of the Frederick County Code, which took effect September 5, 2015, and which allow State and Federal affordable housing program requirements to replace certain County Code requirements for Moderately Priced Dwelling Units.

On October 19, 2018, RBG submitted a petition for a new amendment to the Original DRRA

(the “Second Amendment”). The Original DRRA limits the overall density of residential development on the Property to 855 dwelling units, and the mix of units includes a maximum of 445 single-family (attached and detached units) and 410 multi-family or condominium units. The Original DRRA also states that, of the 410 multi-family or condominium units, two hundred (200) units may be located in Land Bay D of the Phase I Concept Plan, which the Owner may construct either as a 200-bed Continuing Care Retirement Community (“CCRC”) or as 200 multi-family age-restricted residential units in accordance with the terms of the Phase I approval for the All-Age PUD.

The Second Amendment revises the Original DRRA in order to expand the unit types permitted to be constructed within Land Bay D. The Second Amendment allows the Owner discretion to develop Land Bay D with a maximum of two hundred (200) age-restricted residential units of any type. The Second Amendment also adds language to the DRRA that allows for the collection of Building Excise Taxes, as required by the County Code, for unbuilt dwelling units that require APFO testing after February 21, 2023.

On February 27, 2019, the Frederick County Planning Commission considered the Second Amendment at a duly advertised public meeting, and voted (4-0-3 absent) to find the Second Amendment consistent with the County Comprehensive Plan.

The County Council held a duly advertised public hearing in connection with the proposed Second Amendment on April 16, 2019, at which time the public had the opportunity to comment. The Council voted (6-0-1 absent) to approve the Second Amendment and directed staff to prepare this Resolution to authorize the County Executive to sign the Second Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY COUNCIL OF FREDERICK COUNTY, MARYLAND, that the Frederick County Executive is hereby authorized to sign the

Second Amendment to the Ballenger Run DRRA.

The undersigned hereby certifies that this Resolution was approved and adopted on the 25th
day of June, 2019.

COUNTY COUNCIL OF
FREDERICK COUNTY, MARYLAND

By: M.C. Keegan-Ayer
M.C. Keegan-Ayer, President

KAM
6/25/19