

**SECOND AMENDMENT TO
SUBDIVISION DEVELOPMENT AND IMPROVEMENT AGREEMENT
FOR
TOWN OF JOHNSTOWN
(East Ledge Rock Center, Filing No. 3)**

This Second Amendment to Subdivision Development and Improvement Agreement (“Second Amendment”), made and entered into by and between the **Town of Johnstown, Colorado**, a Colorado home-rule municipality (the “Town”), and **Ledge Rock Center, LLC**, a Kansas limited liability company (“Developer”). The Town and Developer may be referred to collectively as the “Parties.”

RECITALS

WHEREAS, on or about January 20, 2023, the Parties entered into that certain Subdivision Development and Improvement Agreement for Town of Johnstown (East Ledge Rock Center, Filing No. 3), recorded at Reception Number 4883358 in the Office of the Weld County Clerk and Recorder, concerning, among other matters, construction of Subdivision Improvements in the Development (“Agreement”); and

WHEREAS, the Agreement contains **Exhibit B-3**, attached thereto and incorporated therein by reference, providing additional terms, conditions and provisions related to the Development; and

WHEREAS, on or about October 9, 2023, the Parties entered into that certain First Amendment to Subdivision Development and Improvement Agreement for Town of Johnstown (East Ledge Rock Center, Filing No. 3), modifying **Exhibit B-3** to the Agreement (“First Amendment”); and

WHEREAS, the Developer seeks to construct the Development in phases and desires to set forth a phasing plan; and

WHEREAS, the Town desires to accommodate the Developer’s request and agrees to the phasing plan, subject to certain terms and conditions set forth in an amended version of **Exhibit B-3**; and

WHEREAS, the Parties also seek the removal of the reference to the requirement that the Developer pay a fee associated with construction of the West Johnstown Water Tank because such fee has been incorporated into the Johnstown Municipal Code and is required prior to issuance of building permits for the Development; and

WHEREAS, capitalized terms used herein not otherwise defined shall have the meaning set forth in the Agreement; and

WHEREAS, to effectuate the foregoing, the Parties desire to enter into this Second Amendment.

AGREEMENT

NOW, THEREFORE, in consideration of the terms, conditions and covenants set forth in this Second Amendment and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Recitals. The Recitals set forth above are incorporated herein by reference.

2. Exhibit B-3. **Exhibit B-3**, in the form attached to the First Amendment, is hereby withdrawn and replaced in full with the form of **Exhibit B-3**, attached hereto and incorporated herein by reference.

3. Recording. This Second Amendment shall be recorded in the Office of the Weld County Clerk and Recorder.

4. Effect of Amendment. Except as expressly provided in this Second Amendment, the Agreement has not been amended, supplemented or altered in any way by this Second Amendment and the Agreement shall remain in full force and effect in accordance with its terms. If there is any inconsistency between the terms of the Agreement and the terms of this Second Amendment, the provisions of this Second Amendment will govern and control.

[Remainder of page intentionally left blank.]

EXHIBIT B-3

ADDITIONAL TERMS, CONDITIONS OR PROVISIONS

- (1) Phasing of the Development: Developer shall construct the Development in phases as set forth on **Exhibit 1** to this **Exhibit B-3**. The following terms and conditions apply to the phasing:
 - (a) The Town shall not issue a Notice of Construction Acceptance for Phase 1 or 2 of the Development until the Town has issued a Notice of Construction Acceptance for the Public Improvements associated with Phase 1 of East Ledge Rock Center Subdivision Filing No. 2, the commercial portion of the Ledge Rock Center development.
 - (b) Prior to issuance of any building permits for the Development, Developer shall provide a drainage memorandum to the Town, prepared by a licensed engineer, clearly demonstrating that the detention ponds will not negatively impact any residential lots prior to installation of the final detention outfall piping. No building permits shall be issued for the Development until the Town has reviewed and approved the drainage memorandum.
 - (c) For Phases 1 and 2 of the Development, as depicted on **Exhibit 1** to this **Exhibit B-3**, the Town may, assuming compliance with the Agreement, the Johnstown Municipal Code and all other applicable Town rules and regulations, issue up to fifty (50) building permits total (inclusive of both phases) prior to: (i) construction of the interim intersection at Payton Drive and State Highway 60 and approval of the intersection by the Colorado Department of Transportation (“CDOT”) and (ii) the roadway being open to the public.
 - (d) The Town shall not issue a Notice of Construction Acceptance for Phases 3 and 4 of the Development until the ultimate intersection at Payton Drive and State Highway 60 is constructed, approved by CDOT and open to the public.
- (2) The Town, at its discretion, may withhold the issuance of building permits for any of the single-family homes until the Town and the Front Range Fire Rescue Fire Protection District are satisfied that adequate access and circulation is available to the particular residential lot.

EXHIBIT 1 TO EXHIBIT B-3 PHASING PLANS

