

**FIRST AMENDMENT TO SUBDIVISION DEVELOPMENT AND IMPROVEMENT  
AGREEMENT CONCERNING JOHNSTOWN VILLAGE, FILING NO. 1**

**This First Amendment to Subdivision Development and Improvement Agreement Concerning Johnstown Village, Filing No. 1** (“First Amendment”), is made and entered into on this \_\_\_ day of \_\_\_\_\_, 2021, by and between the **Town of Johnstown, Colorado**, a municipal corporation (the “Town”) and **Forestar (USA) Real Estate Group, Inc.**, a Delaware Corporation (the “Developer”).

**WITNESSETH:**

**WHEREAS**, on or about September 4, 2019, the Town and Johnstown Village, LLC, a Colorado limited liability company, entered into a Subdivision Development and Improvement Agreement (“Agreement”) for development of property known as Johnstown Village, Filing No. 1 (“Development”), which was recorded in the real estate records of Weld County, Colorado on December 23, 2019 at Reception Number 4552736; and

**WHEREAS**, Johnstown Village, LLC, a Colorado limited liability company, subsequently sold the real property associated with the Development to Developer; and

**WHEREAS**, the Developer is bound by and subject to the terms of the Agreement; and

**WHEREAS**, the Agreement provides, among numerous other provisions, that the Developer is required to construct and install an offsite stormwater line from the Development to the Little Thomson Creek and that, unlike the other public improvements, Developer is required to operate and maintain the offsite stormwater line upon completion of the construction of the improvement; and

**WHEREAS**, upon subsequent conferral and consideration, the Town Council desires that the Developer dedicate the offsite stormwater line to the Town; and

**WHEREAS**, the Developer agrees to dedicate the offsite stormwater line to the Town; and

**WHEREAS**, the Town inspected the offsite stormwater line and issued a letter of initial acceptance of the same on August 25, 2020.

**WHEREAS**, to effectuate the foregoing, the Parties desires to enter into this First Amendment.

**NOW, THEREFORE**, in consideration of the premises cited above and the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the Town and the Developer agree as follows:

1. Recitals. The Recitals are incorporated into this First Amendment as if fully set forth herein.

2. Offsite Stormwater Line. The Parties agree that, contrary to the terms of the Agreement, the offsite stormwater line is hereby dedicated to the Town, and the Town granted initial acceptance of the offsite stormwater line on August 25, 2020. To effectuate that agreement, the Agreement shall be amended as follows.

A. Paragraph 1.7.1 of the Agreement shall be amended in full to read as follows:

1.7.1 **“Private Improvements – Phase 1A”** shall mean the construction, installation and improvement of privately owned and maintained stormwater improvements, landscaping, irrigation structures, fencing, entry signs, street signs and posts if the same are enhanced above the Town standards, street lights that are not Xcel Energy’s standard lights, parks and open space, trails, postal service boxes, if required by the U.S. Postal Service, and school bus shelters, all as shall be shown on the Town-approved Site Development Plan for Phase 1A of the Development.

B. Paragraph 1.8.1 of the Agreement shall be amended in full to read as follows:

1.8.1 **“Public Improvements – Phase 1A”** shall mean the improvements that will be dedicated to the Town, except as otherwise provided herein, and include the construction, installation, improvement and dedication of the public thoroughfares and streets, street signs and posts if the same are not enhanced above the Town standards, street lights that are Xcel Energy’s standard lights, sanitary sewer facilities, water line facilities, drainage facilities in the public right of way, irrigation structures solely benefitting Town property, if any, the Offsite Stormwater Line, as defined in **Exhibit B-3**, and other public facilities and improvements to serve the Development, as shall be shown on the Town-approved Civil Engineering Construction Plans for Phase 1A of the Development, and shall also include the Lift Station Improvements, as defined and more fully described in and required by the provisions of **Exhibit B-3**.

C. Paragraph 3 of Exhibit B-3 of the Agreement shall be amended in full to read as follows:

3. In connection with the development of the Property, Developer is required to install an offsite stormwater line extending from the Property to an outfall into Little Thompson Creek (“Offsite Stormwater Line”). The estimated cost of the Offsite Stormwater Line is set forth on **Exhibit C**. The Offsite Stormwater Line shall be constructed in accordance with the Civil Engineering Construction Plans and shall be constructed as part of

the Public Improvements – Subphase 1A1. Except as provided in Section 2.6 if authorized by the Town and except with respect to the model homes, if at all, no building permits shall be issued for the Development until the Developer has constructed the Offsite Stormwater Line and obtained the Town’s Notice of Initial Acceptance.

Subsequent to completion of the construction of the Offsite Stormwater Line, Developer shall be entitled to seek reimbursement from offsite benefitted property owners. Developer shall provide the certified cost of the Offsite Stormwater Line to the Town for review and approval. The Town may thereafter enter into a Reimbursement Agreement with Developer to require offsite benefitted property owners to pay a proportionate share of the cost of the Offsite Stormwater Line prior to connection thereto in form and substance acceptable to Developer and the Town. Developer expressly recognizes and agrees that, pursuant to the approved Service Plan for Johnstown Village Metropolitan District Nos. 1-5 (“Districts”), if the Districts, or any of them, impose a mill levy to recover the cost of the Offsite Stormwater Line, Developer shall be obligated to assign funds received from the offsite benefitted property owners to the District, or any of them.

3. Validity of Subdivision Development and Improvement Agreement. Except as expressly modified herein, the Agreement shall remain in full force and effect.

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FORESTAR (USA) REAL ESTATE GROUP, INC.

By: Matthew Napier  
Name: Matthew Napier  
Title: Vice President  
Date:

STATE OF COLORADO )  
) ss.  
COUNTY OF Arapahoe )

SUBSCRIBED AND SWORN to before me this 4<sup>th</sup> day of March, 2021, by Matthew Napier as Vice President of Forestar (USA) Real Estate Group, Inc.

WITNESS my hand and official seal.

My commission expires: 4/6/2022



Troy Hazel  
Notary Public

TOWN OF JOHNSTOWN, COLORADO  
A Municipal Corporation

By:  
Gary Lebsack, Mayor

ATTEST:

By: \_\_\_\_\_  
Diana Seele, Town Clerk