

**FIRST AMENDMENT TO
TOWN OF CASTLE ROCK, AMENDMENT NO. 29
SUBDIVISION IMPROVEMENTS AGREEMENT
(Riverwalk South)**

DATE: December 13, 2017.

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 Wilcox Street, Castle Rock, Colorado 80104 ("Town").

RIVERWALK CASTLE ROCK, LLC

~~CD WILCOX, LLC~~, a Colorado limited liability company, 15710 W. Colfax Avenue, Suite 202, Golden, Colorado 80401 ("Subdivider").

RECITALS:

A. Town and Subdivider are parties to the Town of Castle Rock, Amendment No. 29 Subdivision Improvements Agreement (Riverwalk South) dated July 25, 2017, recorded in the Records on July 26, 2017 at Reception No. 2017050618 (the "Agreement").

B. The parties have determined that it is necessary to amend the Agreement to concerning construction of the Sellars Gulch Improvements in Section 8 of the Agreement.

COVENANTS:

NOW, THEREFORE, in consideration of these mutual promises, the parties agree and covenant as follows:

Section 1. Amendment. Section 8 of the Agreement is amended in its entirety to read as follows:

Section 8. Sellars Gulch Improvements.

A. Subdivider, at its sole expense, shall be responsible for the construction of those Improvements to Sellars Gulch identified in the Sellars Gulch Watershed Master Plan in order to support development of the Property. Such Improvements include, but are not limited to sheet pile (or equivalent) grade structure within 100-year design storm capacity on Sellars Gulch located immediately downstream of the existing concrete trail located on property owned by the Colorado Department of Transportation ("CDOT"), and shall be based on an engineering analysis of the Sellars Gulch and the minimum requirements necessary to protect from flood

RE-RECORDED TO CORRECT SUBDIVIDER I

damage due to erosion (“Sellars Gulch Improvements”). Subdivider is responsible for obtaining all necessary easements, licenses and property interests from the CDOT necessary to construct the Sellars Gulch Improvements. The Town shall assist Subdivider in the application process and execute necessary documentation required by CDOT as a condition to issuance of CDOT approvals.

B. In order to construct the Sellars Gulch Improvements, Subdivider shall secure a Floodplain Development Permit from the Town for the Sellars Gulch Improvements. Issuance of the Floodplain Development Permit is dependent on Subdivider obtaining the necessary permits and approvals from US Army Corps of Engineers, US Fish and Wildlife and CDOT to construct the Sellars Gulch Improvements.

C. In the event, despite best efforts, Subdivider is unable to secure the Floodplain Development Permit for the Sellars Gulch Improvements by August 1, 2018, all construction on the Property shall cease until such time that either (i) Subdivider obtains the Floodplain Development Permit from the Town for the Sellars Gulch Improvements, or (ii) Subdivider obtains approval from the Town, which approvals shall not be unreasonably withheld, of an alternative plan for improvements that protects the building on the Property from a 100-year flood event, and which plan does not require approvals from state and federal agencies (“Alternative Improvements”). Such Alternative Improvements shall include, at a minimum, foundation shoring (or equivalent) along all sides of the building immediately adjacent to the floodplain and shall be designed to protect against channel degradation as identified in the Sellars Gulch Watershed Master Plan and/or supplemental scour analysis.

D. The Sellars Gulch Improvements, or as applicable, the Alternative Improvements shall be constructed and substantially completed, as determined by the Town, prior to the issuance of a temporary Certificate of Occupancy. Issuance of a final Certificate of Occupancy shall be conditioned on Town’s initial acceptance of the Sellars Gulch Improvements, or as applicable, the Alternative Improvements.

E. Subdivider shall ensure adequate access is maintained from the Riverwalk North construction site in order to construct the Sellars Gulch Improvements or the Alternate Improvements.

F. The Town shall not be liable for the stability of the Sellars Gulch channel banks necessary to support structures constructed on the Property. Subdivider further agrees that the Town has no obligation to repair or maintain channel banks adjacent to the Property at any time.

