

FIRST AMENDED AND RESTATED SUBDIVISION IMPROVEMENTS AGREEMENT

THIS AGREEMENT is made and entered into by and between the County of Adams, State of Colorado, hereinafter called "County," and Cardel Westminster Townhomes, LLC, a Colorado liability limited company, hereinafter called "Developer."

WITNESSETH:

WHEREAS, Developer is the owner of real property in the County of Adams, State of Colorado, as described in Exhibit "A" attached hereto, and by this reference made a part hereof; and,

WHEREAS, it is provided by resolution of the Board of County Commissioners, County of Adams, that where designated the Developer shall have entered into a written agreement with the County to install public and/or private improvements, and to deed land for public purposes or right-of-way, if applicable; and,

WHEREAS, the County and Pomponio Terrace Holdings, LLC, entered into a Subdivision Improvements Agreement, attached as Exhibit B, on May 7, 2019; and,

WHEREAS, Cardel Westminster Townhomes, LLC, is the successor and assign of Pomponio Terrace Holdings, LLC; and,

WHEREAS, the County and the Developer now wish to amend and restate that Subdivision Improvements Agreement to extend the time for competition of the improvements and ensure that the improvements meet current County standards.

NOW, THEREFORE, in consideration of the foregoing, the parties hereto promise, covenant, and agree as follows:

1. **Engineering Services.** Developer shall furnish, at its own expense, all engineering and other services in connection with the design and construction of the improvements described and detailed on Exhibit "C" (collectively, the "Improvements") attached hereto, and by this reference made a part hereof.
2. **Drawings and Estimates.** The Developer shall furnish drawings and cost estimates for all Improvements described and detailed on Exhibit "C" for approval by the County. Upon request, the Developer shall furnish one set of reproducible "as built" drawings to the County and a final statement of construction costs to the County.
3. **Construction.** Developer shall furnish and construct, at its own expense and in accordance with the drawings and materials approved by the County, the improvements described and detailed on Exhibit "C".
4. **Time for Completion.** The Improvements shall be completed according to the terms of this Agreement within "construction completion date" appearing in Exhibit "C". The County may for good cause grant extension of time for completion of any part or all of the Improvements described and detailed on Exhibit "C". Any extension greater than 180 days is within the sole discretion of the Board of County Commissioners. All extensions of time shall be in written form only.

5. **Guarantee of Compliance.** Developer shall furnish to the County a cash escrow deposit or other acceptable collateral, releasable only by the County, to guarantee compliance with this Agreement. Said collateral shall be in the amount of \$109,019, which amount includes twenty percent (20%) to cover administration and five percent (5%) per year for the term of this Agreement to cover inflation. Upon approval of the final plat, completion of the Improvements constructed according to the terms of this Agreement, and Preliminary Acceptance of the Improvements by the Director of Public Works in accordance with Section 5-02-05-01 of the County's Development Standards and Regulations, the collateral shall be released. Completion of said Improvements shall be determined solely by the County, and a reasonable part of said collateral, up to 20%, may be retained to guarantee maintenance of public improvements for a period of one year from the date of Preliminary Acceptance.

No building permits shall be issued until said collateral is furnished in the amount required and in a form acceptable to the Board of County Commissioners, and until the final plat has been approved and the improvements described in Exhibit "C" have been preliminarily accepted by the Department of Public Works.

6. **Acceptance and Maintenance of Public Improvements.** All Improvements described and detailed on Exhibit "C" shall be public facilities and become the property of the County or other public agencies upon acceptance. During the period of one year from and after the acceptance of the Improvements, the Developer shall, at its own expense, make all needed repairs or replacement due to defective materials or workmanship which, in the opinion of the County, becomes necessary. If, within ten days of written notice to the Developer from the County requesting such repairs or replacements, the Developer has not undertaken with due diligence to make the same, the County may make such repairs or replacements at the Developer's expense. In the case of an emergency such written notice may be waived.
7. **Successors and Assigns.** This Agreement shall be binding upon the heirs, executors, personal representatives, successors, and assigns of the Developer, and shall be deemed a covenant running with the real property as described in Exhibit "A" attached hereto.
8. **Improvements and Dedication.** The undersigned Developer hereby agrees to provide the following improvements, and to dedicate described property.

A. Improvements.

Public Improvements: All improvements, described and detailed on Exhibit "C". Such Improvements shall be constructed in accordance with all County requirements and specifications in accordance with the approved plans and time schedule as indicated in Exhibit "C".

Private Improvements: Not applicable.

B. [intentionally deleted]

[signature page follows]

Developer:

Cardel Westminster Townhomes, LLC

By: _____

Name: _____

Its: _____

The foregoing instrument was acknowledged before me this 25th day of August 2020,
by Rod Mickelberry as Regional President of Cardel Westminster Townhomes, LLC for the
company.

My commission expires: _____

Address: 9110 E. Nichols Ave. Suite 120
Centennial, CO 80112

Notary Public

APPROVED BY resolution at the meeting of _____, 2020.

Collateral to guarantee compliance with this Agreement and construction of public improvements shall be required in the amount of \$109,019. No building permits shall be issued until said collateral is furnished in the amount required and in a form acceptable to the Board of County Commissioners and until the improvements described in Exhibit "C" have been preliminarily accepted by the Department of Public Works.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
ADAMS COUNTY, COLORADO

Clerk of the Board

Chair

EXHIBIT A

Legal Description:

Pomponio Terrace Subdivision Filing No. 3

EXHIBIT B

See attached, originally approved SIA.

EXHIBIT C

See attached prepared by Entitlement and Engineering Solutions, Inc.

Construction Completion Date: June 26, 2021

Initials or signature of Developer:_____
