

**A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING THE FIRST AMENDMENT TO THE SUBDIVISION IMPROVEMENT
AGREEMENT FOR GEORGE W. CALKINS TRUST SUBDIVISION AND
RESTRICTION ON LOT CONVEYANCE (GEORGE W. CALKINS TRUST FINAL PLAT)**

WHEREAS, in 2011 GB&L Cherry Hills, LLC, a Colorado limited liability company ("Developer") applied to the City of Cherry Hills Village (the "City") to subdivide a piece of property comprised of 17.9 acres zoned R-1 into seven (7) single-family residential lots, which property is located on the southeast corner of East Quincy Avenue and South Dahlia Street and is now known as the George W. Calkins Trust Subdivision (the "Development"); and

WHEREAS, after review of the Development sketch plat, the Development preliminary plat received conditional recommendations of approval from the Parks, Trails, and Recreation Commission ("PTRC") at a public meeting held on January 9, 2014, and from the Planning and Zoning Commission at a duly noticed public hearing held on February 25, 2014 and March 25, 2014; and

WHEREAS, by unanimous vote on a motion, City Council approved the Development preliminary plat at a duly noticed public hearing held on May 6, 2014; and

WHEREAS, by unanimous vote on a motion, City Council approved the Development final plat, entitled "George W. Calkins Trust Final Plat" (the "Plat" or "Development Plan") at the April 7, 2015, public meeting of City Council, and the Plat was recorded in the office of the Clerk and Recorder for Arapahoe County, Colorado on June 22, 2015, at Reception No. D5065287; and

WHEREAS, in accordance with City regulations and with the Plat, the City and the Developer entered into that certain Subdivision Improvement Agreement for George W. Calkins Trust Subdivision and Restriction on Lot Conveyance dated June 22, 2015 (the "SIA"), and the SIA was recorded with the office of the Clerk and Recorder for Arapahoe County, Colorado on June 22, 2015 at Reception No. D5065285; and

WHEREAS, the SIA requires Developer to submit and obtain the City's approval of the Construction Plans (as defined in the SAI) no later than April 7, 2025 ("Approval Deadline") to avoid a possible vacation of the Plat by the City Council, as allowed for in the SIA; and

WHEREAS, Developer requested that the City extend the Approval Deadline an additional ten (10) years, with a new approval deadline of April 7, 2035; and

WHEREAS, Section XV.L. of the SIA provides that the SIA may be amended only by an instrument in writing signed by the City and the Developer; and

WHEREAS, the City and Developer desire to amend the SIA extended the Approval Deadline as set forth in the first amendment to the SIA (the "First Amendment"), a copy of which is attached hereto as **Attachment A** and incorporated herein by this reference.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

Section 1. The foregoing recitals and findings are incorporated herein as findings and conclusions of City Council.

Section 2. The City Council hereby: (a) approves the First Amendment in a form that is substantially the same as the form attached hereto as **Attachment A**; (b) authorizes the City Manager, in consultation with the City Attorney, to negotiate appropriate changes to the First Amendment that do not substantially increase the City's obligations; and (c) authorizes the Mayor to execute the First Amendment on behalf of the City when in final form.

Section 3. Following the execution of the First Amendment by the Mayor and Developer, the City Clerk shall cause the fully executed First Amendment to be recorded in the real property records of Arapahoe County, Colorado at Developer's cost and expense.

Section 4. This Resolution shall take effect upon its approval by the City Council.

Introduced, passed and adopted at a
regular meeting of City Council this 17th day
of September, 2024, by a vote of 5 yes and 0 no.

(SEAL)


Kathleen Brown
Kathleen Brown, Mayor

ATTEST:

Laura Gillespie
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

Kathie B. Guckenberger
Kathie B. Guckenberger, City Attorney

Attachment A

**First Amendment to the
Subdivision Improvement Agreement
for George W. Calkins Trust Subdivision and
Restriction on Lot Conveyance**

CITY OF CHERRY HILLS VILLAGE, COLORADO

**FIRST AMENDMENT TO
SUBDIVISION IMPROVEMENT AGREEMENT
FOR GEORGE W. CALKINS TRUST SUBDIVISION AND
RESTRICTION ON LOT CONVEYANCE**

This First Amendment to the Subdivision Improvement Agreement for George W. Calkins Trust Subdivision and Restriction on Lot Conveyance (the "Amendment") is entered into by and between the **CITY OF CHERRY HILLS VILLAGE**, a home rule municipal corporation of the State of Colorado ("City"), and property owner **GB&L CHERRY HILLS, LLC**, a Colorado limited liability company ("Developer"). The City and Developer are collectively referred to as "Parties," or occasionally in the singular as a "Party."

WITNESSETH:

WHEREAS, City and Developer entered into that certain Subdivision Improvement Agreement for George W. Calkins Trust Subdivision and Restriction on Lot Conveyance dated June 22, 2015, and recorded with the office of the Clerk and Recorder for Arapahoe County, Colorado on June 22, 2015, at Reception No. D5065285 (the "SIA"), as referenced on the George W. Calkins Trust Final Plat, approved by the City on April 7, 2015, and recorded with the office of the Clerk and Recorder for Arapahoe County, Colorado on June 22, 2015, at Reception No. D5065287 (the "Plat" or "Development Plan"); and

WHEREAS, the SIA pertains to that certain real property located within the City and more particularly described in **Exhibit A**, attached to this Amendment (the "Property"); and

WHEREAS, Section I.C. of the SIA authorizes the City to process a vacation of the Plat if the Developer fails to obtain the City's approval of Construction Plans (as defined in the SIA) on or before April 7, 2025 (the "Approval Deadline"); and

WHEREAS, the Developer has not obtained the City's approval of Construction Plans, as required by Section I.C of the SIA and because the Developer does not anticipate obtaining approval of Construction Plans prior to the Approval Deadline, the Developer submitted a written request to the City for an extension of the Approval Deadline by an additional ten (10) years, proposing a new approval deadline of April 7, 2035; and

WHEREAS, the SIA and the Plat include mutual agreements of the Parties that continue to limit the Developer's authority to sell, convey or transfer the Property and the individual lots shown on the Plat, and the Parties express agree that it is their current intent that all restrictions, limitations, covenants, interests, terms and conditions in the SIA and on the Plat remain in full effect except as expressly modified by this Amendment; and

WHEREAS, Section XV.L. of the SIA provides that the SIA may be amended only by an instrument in writing signed by the Parties; and

WHEREAS, Developer acknowledges and confirms that the Developer's obligations set forth in the SIA have not been assigned or delegated by the Developer, and that Developer remains obligated under the terms of the SIA to complete the Improvements as set forth therein; and

WHEREAS, the City and Developer desire to amend the SIA to incorporate a new Approval Deadline as more particularly set forth herein.

AMENDMENT

NOW THEREFORE, for good and valuable consideration including the mutual covenants and conditions contained herein, the Parties agree to amend the SIA as follows:

Section I. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated in this Amendment in their entireties for all purposes.

Section II. **Effective Date.** This First Amendment shall become effective upon the date of its mutual execution by the Parties.

Section III. **Extended Approval Deadline.** The first sentence of Section I.C. of the SIA is deleted and replaced with the following sentence:

Developer shall submit and obtain the City's approval of the Construction Plans and ECE no later than April 7, 2035 ("**Approval Deadline**"), which is the twentieth (20th) anniversary of the City Council approval of the Development Plan.

Section IV. **Miscellaneous.**

- A. **Section Headings.** The section headings in this Amendment are inserted herein only for convenience of reference and in no way shall they define, limit, or describe the scope or intent of any provision of this Amendment.
- B. **Recording; Benefit; Payment of Costs.** This Amendment shall be recorded with the Clerk and Recorder of Arapahoe County, Colorado and shall run with the Property. Developer shall pay the associated recording fees imposed by Arapahoe County. Developer shall also pay any associated costs and fees incurred by the City, including, but not limited to legal fees associated with the preparation and processing of this Amendment.
- C. **Additional Documents or Action.** The Parties agree to execute any additional documents and to take any additional action necessary to carry out this Amendment.
- D. **Ratification.** Except as expressly modified by this Amendment, the SIA shall remain in full force and effect in accordance with its stated provisions.
- E. **Counterparts.** This Amendment may be executed in counterparts, each of which will constitute an original, but all of which, when taken together, will constitute but one agreement. The Parties specifically acknowledge and agree that electronic signatures shall be effective for all purposes, in accordance with the provisions of the Uniform Electronic Transactions Act, Title 24, Article 71.3 of the Colorado Revised Statutes.
- F. **Authorization of Signers.** The undersigned hereby represent that each serves as an authorized agent of the Party for which the undersigned has executed this Amendment and is fully authorized to execute this Amendment on behalf of the Party.

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IN WITNESS WHEREOF, this Amendment is executed and made effective as provided above.

CITY OF CHERRY HILLS VILLAGE,
a Colorado home rule municipal corporation

By: Kathleen OBrown
Mayor Kathleen Brown, *authorized by*
Resolution No. 21, Series 2024

Date of signature: 9/17, 2024

ATTEST:

Laura Gillespie
Laura Gillespie, City Clerk

APPROVED AS TO FORM:

Kathie Guckenberger
Kathie Guckenberger, City Attorney

[Developer signature page follows]

[Developer signature page to Amendment]

GB&L CHERRY HILLS, LLC,
a Colorado limited liability company

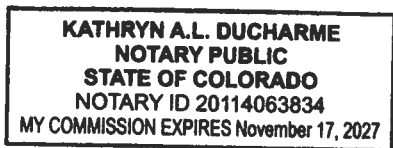
By: [Signature]
Name (printed): Bradley Calkins Jr
Title: Manager
Address: 1666 S University Blvd., Ste B
Denver, CO 80210

STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 4 day of October 2024, by Bradley Calkins as Manager of GB&L Cherry Hills, LLC, a Colorado limited liability company.

Witness my hand and official seal:

My Commission expires: November 17, 2027.



[Signature]
Signature

Kathryn A.L. Ducharme
Name of Notary
2450 East Quincy Ave
Cherry Hills Village, CO 80113
Address of Notary

[S E A L]

EXHIBIT A
TO THE FIRST AMENDMENT TO SUBDIVISION IMPROVEMENT AGREEMENT
FOR GEORGE W. CALKINS TRUST SUBDIVISION AND RESTRICTION ON LOT
CONVEYANCE

PROPERTY LEGAL DESCRIPTION

LOTS 1, 2, 3, 4, 5, 6 AND 7, GEORGE W. CALKINS TRUST FINAL PLAT, COUNTY OF
ARAPAHOE, STATE OF COLORADO