EAST FALLOWFIELD TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA

FIRST AMENDMENT TO SUBDIVISION AND LAND DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO SUBDIVISION AND LAND DEVELOPMENT AGREEMENT, made this __ day of _____, 2012, between **LONGVIEW FIELDSTONE L.P.**, located at 1055 Westlakes Drive, Suite 170, Berwyn, Pennsylvania 19312 (hereinafter referred to as "Developer") and the **TOWNSHIP OF EAST FALLOWFIELD**, a Township of the Second Class organized and existing under the laws of the Commonwealth of Pennsylvania, located at 2264 Strasburg Road, East Fallowfield, Chester County, Pennsylvania, 19320 (hereinafter referred to as the "Township").

BACKGROUND

A. On May 24, 2006, DeLuca Enterprises, Inc. entered into that certain subdivision and land development agreement with the Township (hereinafter referred to as the "Land Development Agreement"), which sets forth the terms and conditions under which DeLuca Enterprises, Inc. as the then developer may obtain permits and construct the development commonly known as Fieldstone Village, and which Land Development Agreement is attached hereto and incorporated herein as Exhibit A.

B. Pursuant to an agreement dated January 26, 2012, between Developer and Rouse Chamberlin, Ltd., in its capacity as Receiver over the real property referred to as "Fieldstone Village" in Exhibit A to a certain Consent Order Appointing Receiver dated May 6, 2010 in the matter of *Wells Fargo Bank, N.A. v. DeLuca Enterprises, Inc*., Civil Action No. 10-1711, in the United States District Court for the Eastern District of Pennsylvania, Developer has succeeded to the interests of DeLuca Enterprises, Inc. under the Land Development Agreement as successor to DeLuca Enterprises, Inc.

C. The public and quasi-public improvements made the subject of the Land Development Agreement are subject to financial security posted in compliance with Section 509 of the Pennsylvania Municipalities Planning Code in the form of Performance Bond #1045778909 issued by Travelers Casualty and Surety Company of America (hereinafter referred to as the "Performance Bond"), which Performance Bond is incorporated herein by reference without attachment hereto.

D. Developer has entered into a Bond Continuation and Indemnity Agreement with Travelers Casualty and Surety Company of America wherein the Developer has succeeded to the interests of DeLuca Enterprises, Inc. as Developer thereunder and the Performance Bond will remain in full force and effect as the financial security for Fieldstone Village (hereinafter referred to as the "Bond Continuation and Indemnity Agreement"), which Bond Continuation and Indemnity Agreement is attached hereto and incorporated herein as Exhibit B.

E**.** Developer does not intend at this time to obtain permits for the construction of buildings or other improvements as shown on the Plan, or to otherwise undertake further land development as shown on the Plan, but does intend to undertake all necessary operation and maintenance activities to faithfully operate and maintain the existing improvements as constructed in Fieldstone Village pursuant to the Land Development Agreement in good order and repair.

F. The Performance Bond currently has a penal sum of $1,448,262.50, including contingency.

G. The Township engineer has confirmed that the present amount of the Performance Bond meets or exceeds 110% of the costs of completing the required improvements in accordance with Paragraph I.5. of the Land Development Agreement as of the date of this agreement.

NOW, THEREFORE, the parties hereto, intending to be legally bound hereby, agree as follows:

1. Incorporation of Recitals. The foregoing Background paragraphs A. through G. are incorporated herein by reference.

2. Forbearance of Enforcement of Performance Bond. So long as the Developer does not undertake any building or development, with the sole exception of the maintenance required below, the Township will not hold the Developer in default of paragraph I.5. of the Land Development Agreement for failure to timely complete the improvements, or enforce the Performance Bond limited to such failure. The Developer shall undertake all necessary operation and maintenance activities to operate and maintain all of the existing improvements as constructed in Fieldstone Village pursuant to the Land Development Agreement in good order and repair to the satisfaction of the Township, and otherwise in compliance with all applicable Township ordinances, codes and resolutions, and all applicable requirements of other agencies having jurisdiction. For the purposes of this agreement, repair and maintenance of all existing improvements shall mean keeping the improvements at all times in such condition that the structural integrity and functioning of the same shall be maintained in accordance with and/or as contemplated by the design and specifications thereof as shown on the plans, and with respect to improvements consisting of streets or roads, shall further mean keeping the same at all times free of mud, snow, ice and other impediments or other obstructions to motor vehicular traffic thereon and thereover, and otherwise in a passable condition by and for motor vehicles.

In the event that the Developer fails to faithfully maintain the existing improvements as required hereinabove, or to otherwise fail to comply with the applicable requirements of the Township or other agencies having jurisdiction, in the sole reasonable discretion of the Board of Supervisors, after 10 days' written notice of such failure and the Developer's failure to commence correcting such deficiency within such 10-day period and continuing diligently such corrective action to completion, this forbearance agreement shall be null and void and of no legal force or effect, and the Township shall have the absolute right to pursue all remedies under the

Land Development Agreement, the Performance Bond and in law and equity, including but not limited to right to hold Developer in default of paragraph I.5 of the Land Development Agreement for failure to timely complete all of the improvements.

3. No Modification of Land Development Agreement. Nothing set forth herein shall be deemed to supersede, waive or modify any provision of the Land Development Agreement or the Performance Bond. The parties hereby ratify and reaffirm all the provisions of the Land Development Agreement and Performance Bond.

4. Recording. This agreement shall be recorded in the Office of the Recorder of Deeds of Chester County, Pennsylvania.

5. Term. This agreement shall be a period of five years. If not terminated sooner, this agreement shall terminate on April 17, 2017.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed by their respective duly authorized officers, each intending to be legally bound hereby.

LONGVIEW FIELDSTONE, L.P.,
a Pennsylvania limited partnership

By: _____, LLC,
its sole general partner

Witness:
_____

By: _____
William Andersen, Managing Member

BOARD OF SUPERVISORS OF
EAST FALLOWFIELD TOWNSHIP

_____
Chris Makely, Chairman

_____
Chris Amentas, Vice Chairman

_____
Joseph Pomorski, Member

_____
Edward Porter, Member

_____
Mark Toth, Member

[TOWNSHIP SEAL]

Attest: _____
Denise Miller
Township Secretary

EXHIBIT “A”

[Land Development Agreement]

EXHIBIT “B”

[Agreement between Developer and Surety]

COMMONWEALTH OF PENNSYLVANIA :
: ss
COUNTY OF :

On this, this _____ day of _____, 200__, before me, a notary public, personally appeared _____ who acknowledged himself to be the _____ _____ of _____, a Pennsylvania _____, and that he as such, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the _____by himself as _____.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

COMMONWEALTH OF PENNSYLVANIA :
: ss
COUNTY OF CHESTER :

On this, the _____ day of _____, 200__, before me, a Notary Public in and for the Commonwealth of Pennsylvania, personally appeared _____ _____, who acknowledged himself to be the Chairman of the Board of Supervisors of East Fallowfield Township, and that as such officer, executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

COMMONWEALTH OF PENNSYLVANIA :
: ss
COUNTY OF CHESTER :

On this, the _____ day of _____, 200__, before me, a Notary Public in and for the Commonwealth of Pennsylvania, personally appeared _____ _____, who acknowledged himself to be the Vice Chairman of the Board of Supervisors of East Fallowfield Township, and that as such officer, executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____
Notary Public

COMMONWEALTH OF PENNSYLVANIA :
: ss
COUNTY OF CHESTER :

On this, the _____ day of _____, 200__, before me, a Notary Public in and for the Commonwealth of Pennsylvania, personally appeared _____ _____, who acknowledged himself to be Member of the Board of Supervisors of East Fallowfield Township, and that as such officer, executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____

COMMONWEALTH OF PENNSYLVANIA	:	
	:	ss
COUNTY OF CHESTER	:	

On this, the _____ day of _____, 200__, before me, a Notary Public in and for the Commonwealth of Pennsylvania, personally appeared _____ _____, who acknowledged himself to be Member of the Board of Supervisors of East Fallowfield Township, and that as such officer, executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____

COMMONWEALTH OF PENNSYLVANIA	:	
	:	ss
COUNTY OF CHESTER	:	

On this, the _____ day of _____, 200__, before me, a Notary Public in and for the Commonwealth of Pennsylvania, personally appeared _____ _____, who acknowledged himself to be Member of the Board of Supervisors of East Fallowfield Township, and that as such officer, executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

_____