

RESOLUTION NO. R-018- 048

**THE BOARD OF COUNTY COMMISSIONERS OF THE
COUNTY OF DOUGLAS, COLORADO**

**A RESOLUTION APPROVING THE DRAW IN THE AMOUNT OF \$210,204.37 ON
IRREVOCABLE LETTER OF CREDIT NO. S323187 ISSUED BY KEYBANK, N.A., IN
CONNECTION WITH THE PINERY WEST FILING 2, PUBLIC ROADS WARRANTY
PERFORMANCE IMPROVEMENTS, EXECUTED BY FORESTAR (USA) REAL
ESTATE GROUP, INC.,**

WHEREAS, on May 16, 2014, KeyBank, N.A. issued its Irrevocable Letter of Credit No. S323187 ("LOC"), and subsequent five amendments, in the amount of \$210,204.37; and

WHEREAS, said Letter of Credit was issued at the request of Forestar (USA) Real Estate Group, Inc. ("Developer"), as Performance security, of its obligations under the Subdivision Improvements Agreement ("SIA"), for Project No. DV 09 143; and

WHEREAS, said Letter of Credit will expire on May 15, 2018 and, under the terms and conditions of the Subdivision Improvements Agreement ("SIA"), security must remain valid and in full force and effect until all public improvements have been accepted and approved for final acceptance by Douglas County; and

WHEREAS, the Douglas County Engineering Division has determined that those obligations of Forestar (USA) Real Estate Group, Inc. have not been fulfilled; and

WHEREAS, Forestar (USA) Real Estate Group, Inc. is in default in the performance of its obligations under the SIA; and

WHEREAS, Forestar (USA) Real Estate Group, Inc. was provided with a minimum of fourteen days written notice of Douglas County's intention to draw on said Letter of Credit; and

WHEREAS, Forestar (USA) Real Estate Group, Inc. was provided timely notice of the hearing on this matter; and

WHEREAS, the Board of County Commissioners has concluded that in order to maintain its security for the performance of the obligations of Forestar (USA) Real Estate Group, Inc., under the terms of the SIA, it must draw on said Letter of Credit No. S323187, in the amount of \$210,204.37; now, therefore,

BE IT RESOLVED by the Board of County Commissioners of the County of Douglas, State of Colorado, that the Chair or Vice Chair of the Board of County Commissioners is authorized and directed to draw on said Letter of Credit No. S323187, issued by KeyBank, N.A., in the amount of \$210,204.37, and to execute any statement, draft, or other documents necessary to accomplish said draw on or before May 15, 2018; now, therefore,

BE IT FURTHER RESOLVED, in the event that Forestar (USA) Real Estate Group, Inc. extends said Letter of Credit to May 15, 2019 before such draw is made, this resolution shall have no further effect and such draw on said Letter of Credit shall not be made.

PASSED AND ADOPTED this 8TH day of May 2018, in Castle Rock, Douglas County, Colorado.

THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO

BY: Lora L Thomas
LORA T. THOMAS, Chair

ATTEST:

Emily Wrenn
Emily Wrenn, Deputy Clerk

