

**FIRST AMENDMENT TO
AUBURN RIDGE ANNEXATION
AND DEVELOPMENT AGREEMENT**

DATE:

August 4, 2015.

PARTIES:

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

AUBURN VENTURES, LP, a Colorado limited partnership, 15957
N. 81st Street, Suite 101, Scottsdale, Arizona 85260, **AUBURN
VENTURES II, LP**, a Colorado limited partnership, 15957 N. 81st
Street, Suite 101, Scottsdale, Arizona 85260 and **AUBURN CASTLE
PARTNERS, LLC**, a Colorado limited liability company, 15957 N.
81st Street, Suite 101, Scottsdale, Arizona 85260 (collectively,
"Owner").

MORTGAGEES:

**National Mortgage Investors, LLC
Douglas County Housing Partnership**

RECITALS:

A. The Town and Owner are parties to the Auburn Ridge Annexation and Development Agreement dated December 11, 2012, recorded in the Douglas County public records on January 18, 2013 at Reception No. 2013004871 ("Development Agreement").

B. The parties have determined it is necessary to amend the Development Agreement to address certain conditions and requirements to be imposed on the development of the Property resulting from rezoning of Lot 1, Block 7, Castle Highlands Filing No. 2 ("Lot 1, Block 7"), and incorporating such property into the Auburn Ridge PD.

C. Mortgagees are party to this First Amendment solely for the purpose of subordinating their lien and interest in the Property to the terms and conditions of the Development Agreement, as amended.

COVENANTS:

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

Section 1. Amendment. Section 1.01 of the Development Agreement is amended as follows:

A. The following definitions are amended in their entirety to read as follows:

Owner: the person(s) in title to any portion of the Property, according to the records of the Douglas County Clerk and Recorder. The use of the singular "Owner" shall refer to all Owners of the Property, unless the context of the Agreement otherwise limits the reference. As of the date of execution of this Agreement, the Owner of the Property is Auburn Ventures, LP, Auburn Ridge, LP, II, and Auburn Castle Partners, LLC.

Property: the property described in the attached *Exhibit 1*.

B. The following definition is added to Section 1.01 to read as follows:

Parcel C: Lot 1, Block 7, Castle Highlands Filing No. 2.

Section 2. Amendment. Article IV of the Development Agreement is amended as follows:

A. Section 4.04 is amended in its entirety to read as follows:

4.04 Transfer of Water Credit.

A. Parcel B and Parcel C are subject to the Castle Highlands Water Rights Dedication Agreement dated April 13, 1995, recorded in the Records on June 22, 1995 at Reception No. 9527711 ("Water Agreement").

B. At the time of recordation of the Auburn Ridge Final PD Site Plan, 77 SFE were transferred from the Castle Highlands Water Bank, as defined in the Water Agreement, to the Auburn Ridge Water Bank ("Water Credit") in order to satisfy the water demand for development of Parcel A and Parcel B. Upon recordation of the Auburn Ridge SIA, 7.34 SFE was debited from the Auburn Ridge Water Bank to satisfy the water demand for Parcel A. At the time Owner purchased Parcel C, 4 SFE were transferred from the Castle Highlands Water Bank to the Auburn Ridge Water Bank ("Supplemental Water Credit"). Final confirmation of the transfer of the Supplemental Water Credit will take place at the time of recordation of the Auburn Ridge Planned Development Plan No. 1. Upon completion of the Supplemental Water Credit transfer, the balance in the Auburn Ridge Water Bank will be 73.66 SFE.

C. The 73.66 SFE may be allocated to development on the Property as follows:

1. 19.35 SFE for the proposed 96 apartment units to be constructed in Planning Area MF-3,
2. 29.33 SFE for the proposed 100 apartment units to be constructed in Planning Area MF-2, and
3. the remaining 24.98 SFE may be utilized upon such lands subsequently annexed to the Town and incorporated in the Auburn Ridge PD.

B. A new Section 4.08, Water Efficiency Plan is added to Article IV to read as follows:

4.08 Water Efficiency Plan. In an effort to meet the long-term renewable water needs of the Town, developments are encouraged to establish water efficiency plans for development within the Town. In order to maximize the use of the Water Credit established in the Auburn Ridge Water Bank, Owner, in its sole discretion, may submit a water efficiency plan in accordance with Town Regulations.

Section 3. Amendment. Article V of the Development Agreement is amended to add a new Section 5.07 to read as follows:

5.07 Wolfensberger Road.

A. Concurrently with and as a condition to recordation of the Lot 3, Auburn Ridge, Amendment 1 Site Development, at no cost to Town, Owner shall dedicate additional right-of-way for the expansion of Wolfensberger Road ("Dedicated Tract"). Such conveyance shall be by special warranty deed free and clear of any liens, encumbrances or assessments that would impair the use of the property by the Town for its intended purpose as reasonably determined by Town. Subdivider shall furnish Town with an ALTA form policy of title insurance, issued by a title company licensed to do business in the State of Colorado, and which insures the Town's title to the Dedicated Tract in the amount of \$10,000 per acre. Owner shall pay the premium for such title insurance. Taxes for prior years shall be paid in full and current year taxes shall be prorated and paid to Town with recordation of the deed.

B. Owner is required to construct roadway improvements to Wolfensberger Road, namely curb, gutter, sidewalk, street lighting, storm sewer, median and pavement as part of the public improvements associated with development of Parcel C ("Wolfensberger Road Improvements"). Provided, however, Owner may elect to pay to Town cash-in-lieu for the Wolfensberger Road Improvements, in which event, the cash-in-lieu payment would be due prior to and as a condition to recordation of the first Plat or Site Development Plan within Parcel C. Upon payment of the cash-in-lieu amount, Owner shall be relieved of any further responsibility for Wolfensberger Road Improvements. In such event, Town shall construct the Wolfensberger Road Improvements when at the time Wolfensberger road is expanded or when determined such improvements are warranted.

Section 4. Amendment. Article VII is amended to add a new section 7.09 Cash-in-lieu of Public Land Dedication, to read as follows:

7.09 Cash-in-lieu of Public Land Dedication. In lieu of dedicating 2.086 acres of property for public lands (PLD) as required under the Town Regulations, Owner shall pay to Town \$181,732 as cash-in-lieu of PLD. Such payment shall be made prior to and as a condition to recodation of this Agreement.

Section 5. Ratification. In all other respects, the Development Agreement shall remain in full force and effect.

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Unofficial Copy

OWNER:

AUBURN VENTURES, LP,
a Colorado limited partnership.

By: Mark D. Breen

Its: Managers

STATE OF Arizona)

) ss.

COUNTY OF Maricopa)

The foregoing instrument was acknowledged before me this 27 day of January, 2016 by Mark Breen as Manager for Auburn Ventures, LP, a Colorado limited partnership.

Witness my official hand and seal.

My commission expires: April 22, 2018

(S E A L)

Janet Malefors

Notary Public



AUBURN CASTLE PARTNERS, LLC,
a Colorado limited liability company

By: Mark Green

Its: Manager

STATE OF Arizona)

COUNTY OF Maricopa) ss.

The foregoing instrument was acknowledged before me this 27 day of January 2016 by Mark Green as Manager for Auburn Castle Partners, LLC, a Colorado limited liability company.

Witness my official hand and seal.

My commission expires: April 22, 2018

(SEAL)

Janet Malefors
Notary Public



Exhibit 1

Legal Description

Lot 1, Block 7, Castle Highlands Filing No. 2 and Lots 1 and 2, Auburn Ridge, According to the Recorded Plats thereof, County of Douglas, State of Colorado

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