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**CASTLEWOOD RANCH  
DEVELOPMENT AGREEMENT**

DC98105516

**DATE:** June 11, 1998.

**PARTIES:** **TOWN OF CASTLE ROCK** a home rule municipal corporation, 680 N. Wilcox, Castle Rock, Colorado 80104 ("Town").

**DSSD, LIMITED LIABILITY COMPANY**, a Colorado limited liability Company, 512 Wilcox Street, Castle Rock, CO 80104 ("Owner").

**RECITALS:**

A. The parties have determined that it is in their mutual interest to enter into a revised development contract for the property described in the attached **Exhibit 1** in conjunction with the rezoning of the property.

B. The parties acknowledge that this agreement contains reasonable conditions and requirements to be imposed upon the development of the property, and that these restrictions are imposed to protect and enhance the public health, safety and welfare of current and future residents of the Town, including those residents of Castlewood Ranch.

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**COVENANTS:**

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

**ARTICLE I  
DEFINITIONS**

**1.01 Defined Terms.** Unless the context expressly indicates to the contrary, the following words when capitalized in the text shall have the meanings indicated:

**Agreement:** the Castlewood Ranch Development Agreement and any amendments to this Agreement.

**Annexation Agreement:** Annexation Contract Villages at Castle Rock Annexation recorded August 11, 1981 in Book 419 at Page 88; First Amendment to Annexation Contract Villages at Castle Rock Annexation, recorded August 12, 1985 in Book 589 at Page 589; Second Amendment to Annexation Contract Villages at Castle Rock, recorded January 29, 1987 in Book 697 at Page 629; Third Amendment to Annexation Contract Villages at Castle Rock Annexation, recorded May 27, 1987 in Book 723 at Page 464; and Fourth Amendment to Annexation Agreement Villages at Castle Rock, recorded January 21, 1988 in Book 772 at Page 90; Discontinuance of Annexation Contract and Right of First

Refusal recorded October 21, 1992 in Book 1092 at Page 1708; and Reinstatement of Annexation Contract, recorded October 17, 1997 in Book 1475 at Page 1396 of the public records of Douglas County, Colorado.

**Charter:** the Home Rule Charter of the Town, as amended.

**Code:** the Castle Rock Municipal Code, as amended.

**C.R.S.:** Colorado Revised Statutes, as amended.

**Development Exactions:** the fees and charges imposed by Town under the Town Regulations on development, including the System Development Fees.

**Development Plan:** the PUD Ordinance, Preliminary Site Plan (inclusive of the Facilities Phasing Plan), the underlying PD zoning ordinance in the Code, the utilities, drainage and open space and park master plans approved for the Property with the Preliminary Site Plan; and the Special Development Items attached as *Exhibit 2*.

**District:** the Castlewood Ranch Metropolitan District (fka The Villages at Castle Rock Metropolitan District No. 2).

**District Agreements:** the service plan for the District approved by the Town and the Master Intergovernmental Agreement between the Town and District dated June 1, 1998.

**Facilities:** the infrastructure prescribed by Town Regulations necessary to furnish Municipal Services and Public Utilities to the Property, including the infrastructure required to extend or connect the Facilities to complimentary infrastructure off-site of the Property but excluding infrastructure and improvements necessary to service Public Lands.

**Final Site Plan:** the zoning document prescribed under 17.60.220 of the Code.

**Municipal Services:** police and fire protection, water and wastewater, stormwater drainage and detention, parks and recreation, transportation and street maintenance, general administrative services including code enforcement and any other service provided by Town within the municipality under its police powers.

**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 DSSD Limited Liability Company.

**Plans:** the plans, documents, drawings and specifications prepared by or for Owner for the construction, installation or acquisition of the Facilities.

**Plat:** a final subdivision plat of a portion of the Property.

**Preliminary Site Plan:** the Castlewood Ranch Preliminary PD Site Plan recorded at Reception No. 98105515 of the public records of Douglas County, Colorado.

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

**Public Lands:** those portions of the Property designated on the Development Plan for dedication to the Town or other public entities for parks, recreational areas, public open space, well sites, utilities, public safety and other public purposes, or to the Douglas County School District for educational facilities.

**Public Utilities:** the infrastructure necessary to extend services (other than Municipal Services) to the Property, which are provided by a public or quasi-public utilities including natural gas, electricity and cable television.

**System Development Fees:** the capital recovery charges for water and wastewater plant imposed under 13.12.080 of the Code.

**Town Regulations:** the Charter, ordinances, resolutions, rules and regulations of the Town, including the Code, and the provisions of all zoning, subdivision and building codes, as the same may be amended from time to time and applied uniformly throughout the Town.

**Urban Services:** Municipal Services and services provided through Public Utilities.

**Water Rights:** the right and interest to all Denver Basin groundwater underlying the Property adjudicated in Case No. 80CW284, consisting of 1453 acre feet decreed annual withdrawal.

Certain other terms are defined in the text of the Agreement and shall have the meaning indicated.

**1.02 Cross-reference.** Any reference to a section or article number, without

further description, shall mean such section or article in the Agreement.

**ARTICLE II  
APPLICATION AND EFFECT**

**2.01 Binding Effect.** The Agreement shall apply to the Property and its covenants shall be binding upon the successors and assigns of the parties in the same manner and to the same effect as if such successors were signatories to the Agreement. The parties acknowledge that the Property is both benefitted and burdened by the mutual covenants of the Agreement, and such covenants shall constitute real covenants binding upon successors in interest to the Property, including any mortgagees or lienholders, irrespective of whether specific reference to the Agreement or its covenants is made in any instrument affecting title to the Property. After recordation of this Agreement, the current owner, DSSD Limited Liability Company ("DSSD") anticipates the conveyance of the Property to Montex Property Management, Inc., or assignee. Upon the transfer of all of DSSD's interest in the Property; DSSD shall have no further rights or obligation under this Agreement, except for the restrictions in 4.03 applicable to the Reserved Rights.

**2.02 Owner Responsibility.** Subject to the further provisions of Article VII, the Owner of the Property upon which development approval is requested shall have the ultimate responsibility for performance of the covenants and obligations assumed by Owner under this Agreement, irrespective of whether development activity on the Property is undertaken by the Owner, or by a third party on behalf of and/or with the authorization of the Owner, or by the District. Town shall accept performance of the covenants of the Agreement from a developer on behalf of Owner or from the District, unless such performance requires the conveyance, encumbrance or security of the Owner's interest in the Property, in which event the express consent or joinder of the Owner shall be required.

**2.03 Town Regulations.** Unless otherwise provided in this Agreement, Town

Regulations shall apply to the Property in the same manner and effect as within other areas of the municipality. Unless expressly stated to the contrary in the Agreement, the Agreement shall not in any manner restrict or impair the lawful exercise by the governing body of the Town of its legislative, quasi-legislative or administrative powers and responsibilities as applied to the Property, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of the Agreement. Except as otherwise authorized in this Agreement or as may be subsequently accepted by Owner pursuant to a statutory assessment process, no exaction, fee or assessment shall be imposed by Town against the Property, which is not imposed in other areas of the Town pursuant to the Town Regulations. When the Agreement calls for compliance with the Town Regulations, the operative Town Regulations in effect at the time such compliance is required shall govern, unless the provisions of the Agreement provide to the contrary.

**2.04 District's Interest.** To the extent the District discharges the obligation of Owner under this Agreement, as further provided in Article VII, it shall have the same contractual rights and responsibilities as Owner under this Agreement with respect to such obligation.

### **ARTICLE III GENERAL OBLIGATIONS**

**3.01 Municipal Services.** Town shall provide the Property with Municipal Services at an equivalent service level as provided elsewhere within its municipal boundaries, provided that the portion of the Property for which Municipal Services are requested has been developed in substantial compliance with the Agreement. Town reserves the right to contract with other governmental or private entities for delivery of Municipal Services to the Property, provided such service level is comparable to that provided by the Town in its proprietary capacity. The respective obligations of the parties for development of the infrastructure necessary for provision of the Municipal

Services to the Property is addressed in Article V.

**3.02 Permitted Development.** Owner shall develop the Property in accordance with the Agreement and Town Regulations, and applicable state and federal law and regulations. Town shall allow and permit the development of the Property, upon submission of proper application, payment of fees, exactions and charges imposed by the Town Regulations, including Development Exactions, and compliance with conditions precedent to permitting imposed by the Agreement or Town Regulations. Town shall not unduly delay or hinder the development of the Property (such as refusing to timely process, review and act upon development applications), nor shall Town unreasonably withhold its consent to or approval of a development request or permit. Town shall coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under the Agreement or to allow development of the Property, in accordance with the Agreement.

**ARTICLE IV  
WATER RIGHTS**

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**4.01 Requirement.** It is the obligation of Owner to convey to Town a sufficient quantity of the Water Rights to support Town's obligation to provide a municipal water supply to the Property in accordance with this Agreement. Town shall have no obligation to issue land use approvals for additional development on the Property unless Owner is in compliance with the provisions of this Article IV.

**4.02 Conveyance.** Concurrently with recordation of this Agreement, Owner shall convey to Town by special warranty deed, free and clear of all liens and encumbrances, marketable title to 1253 acre feet of the Water Rights (representing an undivided 86% interest in each aquifer under the Water Rights decree [the "Development Water Rights"]). The remaining 200 acre feet (i.e. 14%) of the Water Rights shall be retained by Owner (the "Reserved Water Rights"). The conveyance of the Development Water Rights shall transfer to Town the right to use, reuse, lease or sell the water withdrawn

under the Development Water Rights, subject to the terms and conditions of the applicable decree. Post-conveyance, Owner shall execute such further reasonable and additional instruments of conveyance and other documents which Town reasonably determines necessary to grant to the Town the exclusive ownership, management and control of the Development Water Rights conveyed with each respective Plat. Should it subsequently be determined that marketable title to any portion of the Development Water Rights did not vest in Town with the conveyance. The Water Credit established in 4.04 shall be reduced accordingly.

**4.03 Restriction on Reserved Rights.** Owner shall be allowed to use the Reserved Water Rights to satisfy the Town's water dedication requirements on other properties owned by Owner within the corporate limits of the Town. Alternatively, Owner may transfer the Reserved Water Rights to third parties for use on other properties within the corporate limits of the Town of Castle Rock, but only after first offering the Reserved Water Rights (or a portion thereof proposed for transfer) to the Town at the offer price. Owner shall, pursuant to the notification requirements set forth in this Agreement, give thirty (30) days written notice to the Town of its intention to sell the Reserved Water Rights. In the event the Town desires to purchase all or a portion of the Reserved Water Rights proposed for transfer, it shall give written notification to Owner of its intention to do so within such thirty (30) day period. The Town shall pay Owner for the Reserved Water Rights in cash at closing, which shall be held within sixty (60) days of the date of the Town's notice of exercise of its option.

**4.04 Water Credit.** With conveyance of the Water Rights, the Owner shall have satisfied the water rights dedication requirements under the Town Regulations for up to 1300 dwelling units and associated irrigation (the "Water Credit"), the maximum density permitted under the Development Plan. Owner shall not be responsible for the water rights demand from development of Public Lands. The Water Credit shall not be affected by subsequent changes in the Town Regulations, including modification of Town water dedication policy.

**4.05 Required Water Sources.** If the Property is subsequently rezoned to permit development beyond 1300 dwelling units, the Owner shall be required to provide additional water resources in accordance with the Town Regulations then in effect.

**4.06 Ownership and Transfer of Water Credit.** The Water Credit constitutes a personal property interest, held and administered by the Town for the benefit of the Property. The Water Credit shall be applied in accordance with the Agreement on a "first-come, first-served" basis to approved development within the Property on a per unit basis. No purported assignment or allocation of the Water Credit as between the owner(s) of the Property shall be effective or binding upon the Town. The Water Credit may not be assigned or transferred for use on properties other than the Property. If the Property develops at less than 1300 dwelling units, the "surplus" Water Credit reverts to Town, without compensation to Owner.

**4.07 Unified System.** Owner acknowledges that the Town will manage the Development Water Rights conveyed pursuant to this Agreement as part of its unified municipal water system, and Town is not restricted by this Agreement, from distributing the potable water produced from the Development Water Rights to any area of the Town, provided that the water supply available to serve existing and/or proposed development on the Property is not jeopardized by such diversion.

## **ARTICLE V FACILITIES DEVELOPMENT**

**5.01 Responsibility.** Subject to the further provisions of Article VII and except for the Town Facilities as defined in 5.07, development of the Facilities shall be the exclusive obligation of Owner, and Owner shall bear the cost of planning, design, construction and financing of the Facilities and all other related and incidental activities. In lieu of independent development of Facilities, Owner may cause to be irrevocably dedicated to Town unrestricted and unlimited capacity in the Facilities developed by The Villages at Castle Rock Metropolitan District No. 1/4. The Facilities shall be developed in strict accordance with Town Regulations, the Development Plan, this Agreement and the

applicable Plat. Except as otherwise expressly provided in this Agreement, Town shall have no obligation to develop Facilities. In the event that the "green zone" water transmission Facilities are constructed by other developments prior to commencement of development of the Property, Town reserves the right to require alternative (but complimentary) upgrades to such water transmission lines, in lieu of the green zone transmission Facilities currently specified.

**5.02 Review Process.** Prior to the commencement of construction of any Facilities, Plans shall be submitted to and approved by the Town. Prior to the submittal of any Plans, Owner shall request a pre-design meeting at which time the scope of the proposed project shall be discussed. Town shall complete the initial review of Plans within 45 days of the date of receipt of a complete submittal. Failure of the Town to review the Plans and to respond in writing to the submittal within such time period shall constitute approval by the Town of the Plans as submitted. With re-submittal of complete Plans by Owner, based upon Town critique, Town shall have an additional 15 days to approve, disapprove or make further comment on the submittal. Disapproval of the Plans shall be accompanied by a specific explanation of the reasons for such disapproval. Once the Plans are finally approved by the Town, the Plans shall not be amended except by written change orders, pursuant to consent of Owner and Town, which consent shall not be unreasonably withheld. Town's approval (express or by default) of Plans shall not constitute a waiver or relaxation of the requirements that all Facilities shall be developed in accordance with Town Regulations. Owner shall not undertake the development of Facilities, unless the Plans for the Facilities have been approved in accordance with provisions of this section. Prior to the bidding of any project, Owner shall provide the Town with all contract documents for the purpose of determining that the documents are consistent with Town Regulations and the terms of this Agreement. Owner shall furnish the Town with a continuous complete record, including but not limited to test results, schedules, change orders and "as-built" drawings, of all Facilities prior to and as a condition of Town's acceptance.

**5.03 Acceptance.** Upon final completion of the Facilities that will be maintained by the Town after acceptance by the Town, Owner shall so notify Town in writing and request inspection and acceptance of the completed Facilities. Written acceptance or rejection of the Facilities shall be given by Town to the Owner within 30 days after the written request for acceptance, provided such inspection may be reasonably accomplished within such period. If such inspection cannot be so accomplished, Town shall, within 30 days after the written request for acceptance, notify Owner in writing as to the additional time required, but in no event to exceed an additional 30 days after the written request for acceptance. Failure of Town to respond to a written request for inspection and acceptance within such 30 day period (or failure to accept or reject the Facilities within the additional time period provided for above) shall constitute acceptance of the Facilities tendered for acceptance. Should acceptance of the Facilities be denied, the nature of rejection shall describe specifically the defects which preclude acceptance. Should Owner or Town desire that the Facilities be placed into service prior to the correction of all deficiencies, responsibilities for maintenance, warranty, operation and correction of deficiencies must be clearly defined by written agreement. In the event Town and Owner are unable to agree to the modifications that need to be made to any Facility or other public improvement to secure its acceptance by Town, or whether Owner has reasonably completed the cure of any defects or need for modification identified by Town, then such dispute shall be resolved through private arbitration by one qualified independent engineer selected by mutual agreement, or in the event agreement cannot be reached as to one engineer, each party shall select a qualified engineer who shall select a third engineer, in which case the majority decision shall be binding upon the parties. In the event the result of such arbitration is in Owner's favor, the warranty period shall be deemed to have commenced thirty (30) days after the date upon which the Facility was completed. The costs of such arbitration shall be paid by the party deemed in error at the conclusion of such arbitration, or the arbitrators may award costs on any basis deemed equitable.

**5.04 Warranty.** Owner shall warrant those Facilities developed by it against defects in materials and workmanship as required under applicable Town Regulations. Town shall not be obligated to accept any Facilities for maintenance until compliance with the applicable acceptance procedure of the Town Regulations is made. Facilities developed in accordance with Town Regulations and the Agreement shall be accepted by Town for perpetual maintenance, unless such maintenance obligation is assumed by a Public Utility.

**5.05 Conveyance.** Concurrently with acceptance of the Facilities in accordance with the provisions of 5.03, Owner shall convey to Town its entire interest in the Facilities that will be maintained by the Town. If the Facilities have been constructed on properties (or within easements) previously conveyed to the Town, Owner shall convey its interest in the Facilities by warranty bill of sale. If the underlying property upon which the Facilities are located has not been previously dedicated or conveyed to the Town (or an easement for same previously conveyed to Town), Owner shall convey (or ~~cause to be conveyed by the record owner~~) such property interest by special warranty deed, in addition to the tender of the required warranty bill of sale unless the facilities are located entirely underground in which event an appropriate easement shall be conveyed to Town. The conveyance by deed of the fee interest or by bill of sale, as applicable, shall include Owner's warranties as to marketable title to the property interest conveyed. The conveyance of the Facilities and associated property interests shall be free and clear of any liens, encumbrances, easements or rights-of-way except those which do not materially interfere with the use and enjoyment of the Facilities by Town.

**5.06 Cooperation in Facilities Development.** Town and Owner shall cooperate in obtaining necessary permits and approvals required by other governmental agencies in order to develop Facilities. Town shall apply for any such permits or approvals in its name or in the joint names of the Town and Owner, if so required by the governmental agencies.

**5.07 Town Facilities.** Town shall have the exclusive obligation to:

- (a) construct or acquire sufficient wastewater treatment and interceptors (which are not required to be constructed by Owner as part of the Facilities) to serve approved development on the Property;
- (b) develop additional off-site water transmission capacity in the event the capacities developed by Owner are fully utilized by other developments prior to full build-out of the Property (collectively, the "Town Facilities").

Town shall not withhold development approvals on account of current or projected deficiencies in Town Facilities. The refusal of Town to approve Plats or other land use approvals to the Property due to the lack of available capacities in Town Facilities shall constitute an event of default under Article IX; provided however, Town shall have 180 days from the date of the default notice under 9.03 to effect cure of the default by acquiring or developing the needed Town Facilities and granting the requested land use approvals.

**5.08 Development Fees.** Certain of the Facilities to be constructed by Owner pursuant to this Agreement are typically developed by the Town (the "System Facilities"). The Town recovers the cost of the System Facilities through the System Development Fees. Therefore, Owner is entitled to recover a portion of the System Development Fees imposed by Town from development on the Property in accordance with the following (the "Pledged Fees"):

- (a) \$6,100 per SFE of the water component;
- (b) \$715 per SFE of the wastewater component for all commercial and single family detached residential;
- (c) \$643 per SFE of the wastewater component for single-family attached/single-unit (e.g., townhouse);
- (d) \$453 per SFE of the wastewater component for multi-family/multi-unit;
- (e) not later than 30 days after the end of each preceding month, Town shall remit to Owner the portion of the System Development Fees to which

Owner is entitled, collected by Town in the preceding month, less a 1% administrative fee.

Owner shall be entitled to recover 100% of the water component of the System Development Fees up to a maximum of \$6,100 per SFE. The wastewater component recovery shall not be affected by subsequent changes (up or down) in the wastewater component imposed through Town Regulations. The Pledged Fees are the sole source of recovery of Owner's investment in the System Facilities from the Town. At the time of approval of a subdivision improvements agreement (the "SIA"), Owner may designate the subdivider as a recipient of Owner's entitlement to the Pledged Fees collected within the subdivision. If both Owner and District are constructing Facilities, Owner and District shall stipulate in the applicable SIA the allocation of the Pledged Fees as between District and Owner. Provided however, Owner's right to receive the all or a portion of the Pledged Fees encumbered by Villages at Castle Rock Metropolitan District No. 4 ("District 4") is conditioned upon Owner obtaining an irrevocable release (partial or complete) by District No. 4 of the obligation of the Town to pay to District 4 an equivalent amount of the Pledged Fees collected from development on the Property. Prior to obtaining such release or releases, Owner shall be entitled only to that portion of the Pledged Fees that Town is not obligated to pay to District 4.

**5.09 Phasing of Facilities.** As part of the Preliminary Site Plan, six (6) development phases are defined (the "Phases"). The Facilities required to be developed under the Town Regulations to serve each respective Phase (the "Phase Facilities") and the required Public Lands dedications are listed on the phasing plan made part of the Preliminary Site Plan (the "Phasing Plan"). The Phase Facilities must be developed in conjunction with the first Plat within such Phase, unless development of one or more of the Phase Facilities is deferred pursuant to a sub-phasing plan proposed by Owner and approved by Town concurrently with such Plat. Development of the Property in any particular sequence is not required, however, the required Public Lands dedications and all of the Facilities designated on the Phasing Plan for each respective Phase must be

developed (subject to sub-phasing) even though one or more of such Facilities may be required to serve one or more of the other Phases. Development of the required Phase Facilities within a particular Phase shall be assured by the provision of financial guarantees at the time of recordation of the first Plat within such Phase in accordance with the provisions of applicable Town Regulations; provided that the provisions of Article VII shall control and supersede conflicting provisions of the Town Regulations. Town shall have the absolute right to withhold further development approvals for any development within the Property which utilizes or benefits from the Phase Facilities which are not developed when required by the Phasing Plan. Similarly, Town may withhold development approvals within the applicable Phase if the required Public Lands dedications for that Phase are not made in accordance with the Phasing Plan. In the event of the invocation of such development approval withholding, Town shall have no liability for any loss or injury incurred to any Owner, as a result of diminution in value of the Property, loss of development rights (whether vested or not), or deprivation of any property interest.

**5.10 Facilities Control.** Upon dedication of Facilities by Owner and acceptance by Town, Town shall have the exclusive management control of the Facilities and all capacities therein. Town may use or allow others to use the capacities in Facilities, provided that the capacities developed by Owner at Owner's cost shall be reserved for the benefit of the Property, or if used by Town to serve other properties, Town shall provide replacement or alternative capacities in such a manner as to not impede development on the Property.

**5.11 Subdivision Improvements Agreement.** The Town Regulations require that a subdivider enter into a SIA at the time of approval of a Plat. The SIA addresses with greater specificity the Facilities to be constructed to serve the Plat and the financial guarantees to assure construction of the Facilities. Unless modified in the SIA, the provisions of this Article V will apply to the development of such Facilities, irrespective of whether or not reference to this Article V is made in the SIA.

**5.12 Ridge Road.** Paving of two lanes of Ridge Road from Mikelson Boulevard to Enderud Boulevard is required with the first Plat in any Phase (the "Road Project"). Owner shall be responsible for processing an access permit from Douglas County and fulfilling all requirements and conditions for such access permit including construction of the Road Project. The section for the Road Project is specified in *Exhibit 2*. Owner shall be entitled to recover from Town a portion of Owner's costs in constructing the Road Project as follows:

- (a) Town shall pay to Owner the sum of \$95,000 within 30 days of the date Douglas County provisionally accepts the Road Project for maintenance and the applicable warranty period commences; and
- (b) Town shall pay to Owner all funds collected by Town from third-party property owners for the Road Project construction.

Under the terms of the Castle Ridge Annexation Agreement dated July 8, 1996, the annexor is contractually committed to improve substantially the same section of Ridge Road as a condition to development. Owner acknowledges that Town does not have the contractual right to obtain reimbursement or recoupment from such annexor in the event that Ridge Road is improved by Owner. Likewise if the Castle Ridge developer improves Ridge Road prior to Owner or District, Owner shall have no obligation to reimburse the Castle Ridge developers. In the event Ridge Road is improved pursuant to the Castle Ridge Agreement, no recovery shall be due Owner under this section 5.02 for the remaining portion of Ridge Road constructed by Owner between Castle Ridge and Mikelson Boulevard.

**5.13 Development Standards.** The Special Development Items attached as *Exhibit 2* contains certain Facilities and development standards and criteria which shall supersede any conflicting provisions in the Town Regulations.

**5.14 Mikelson Boulevard Extension.** Owner (or if applicable, District) shall be obligated to acquire the necessary right-of-way off-site of the Property for connection to Mikelson Boulevard. All costs of right-of-way acquisition shall be borne by Owner (or

District). In the event that Owner or District is unable to acquire the right-of-way, Town shall make best efforts to exercise its powers of eminent domain to condemn the right-of-way, provided that Owner or District has first provided financial guaranties to Town to cover all of Town's costs (including condemnation award or settlement) incurred in acquiring the right-of-way.

**5.15 Off-site Facilities.** Owner (if applicable, District) shall be obligated to acquire the necessary easement or fee interest (as required by Town) from adjacent properties necessary to develop all off-site Facilities. In the event Owner or District is unable to acquire such property interests, Town shall make best efforts to exercise its powers of eminent domain to condemn the necessary property, provided Owner or District has provided financial guarantees as referenced in 5.14.

**5.16 Recoupment.** Town shall make good faith efforts to obtain recoupment to Owner from other developments which utilize the below listed Facilities as an integral part of such developments. Town shall seek recoupment for a proportionate share of the reasonable cost incurred by Owner in off-site property acquisition (i.e., right-of-way, easement or fee interest) and constructing the following Facilities:

16" Transmission Line - Mikelson On-site;  
16" Transmission Line - Mikelson On-site;  
16" Transmission - Lantern;  
24" Water Line - Lantern Connection;  
20" Water Line - Lantern to Mikelson;  
Mikelson Boulevard Off-site  
12" Water Transmission Mikelson Blvd. Off-site  
12" Sanitary Sewer (Trunk Line C)  
Northwest Lift Station & Force Main Total

Town shall seek to make the recoupment obligation effective with and as a condition to recordation of the first subdivision plat in such development. Town shall not incur liability to Owner if Town is unable to obtain such contractual recoupment, after good faith effort.

## ARTICLE VI PUBLIC LANDS

**6.01 Required Dedication.** As set forth in the Phasing Plan, Public Lands shall be dedicated to Town concurrently with the first Plat within the respective Phase. The areas designated DUA are Public Lands. The provisions in this Agreement and the Preliminary Site Plan for dedication of Public Lands shall supersede the requirements in the Town Regulations for dedication of a portion of the area of each Plat for Public Lands.

**6.02 Well Sites.** Three (3) well sites are designated on the Preliminary Site Plan for dedication to the Town. The well sites shall be conveyed to Town concurrently with recordation of the first Plat of the Phase within which the respective well site is located; provided, at the option of Town, Owner shall convey to Town these well sites within 60 days of the date Town notifies Owner of Town's request for immediate dedication. The conveyance of the well sites shall be in conformance with 6.03.

Owner shall cause the existing wells on the Property to be abandoned and physically render such wells inoperable if required by the State Engineer as a condition of issuance of well permits to Town for development of the Water Rights.

Developed well sites shall be landscaped so as to reduce the visual impact of the improvements to the adjacent private developments on the Property. In the event the Town should determine one or more well sites are not needed for well development, Town may utilize such parcel(s) for any permitted purpose of Public Lands so long as the well sites continue to be landscaped as to reduce the visual impact of their existence.

**6.03 Conveyance.** All Public Lands shall be conveyed to Town by special warranty deed, subject to matters of record but free and clear of liens, or other title impediments, and such conveyance shall be in compliance with applicable Town Regulations. Unless otherwise provided in the Town Regulations to the contrary, the grantor shall furnish the Town with a policy of title insurance, issued by a title company licensed to do business in the State of Colorado, in an amount reasonably approximating market value of the Public Land in its undeveloped conditioned and reflecting its current

zoning as the highest and best use. If so requested by Town or required by the Town Regulations, Owner shall complete a Phase I environmental audit of all Public Lands prior to conveyance and acceptance by Town, and shall be solely responsible for any remedial environmental measures of hazards identified in the audit.

**6.04 Exclusion from Covenants.** Owner shall exclude all Public Lands from the application and effect of restrictive covenants which may otherwise be imposed on the Property. If any Public Lands are inadvertently made subject to such covenants, this Agreement shall constitute the irrevocable consent of the Owner and the Board of Directors of any homeowners association to the exclusion of the Public Lands from the application of such covenants.

**6.05 Landscape Maintenance.** Notwithstanding the provisions of 3.01, Owner shall have the responsibility for the maintenance of landscaping within any public street right-of-way dedicated to the Town, including water, irrigation system, features, plantings, etc., for the landscaping between the right-of-way and street curbing, as well as within street medians. Such maintenance shall be at the sole expense of Owner and to the standard of maintenance established by Town for similar Facilities. Owner's maintenance obligation includes the procurement of water service from the Town and payment of the applicable water service charge under the Town Regulations. Owner may delegate its maintenance obligation to a community association of the Property or to the District.

## **ARTICLE VII DISTRICT PARTICIPATION**

**7.01 Authorization.** The parties anticipate that the District will finance and construct a significant portion of the Facilities, as set forth in the capital plan in the District Agreements, as the same may be amended from time to time. Town shall accept the performance by the District of the obligations imposed on Owner under Article V, provided the District is so authorized under the District Agreements. When

undertaking development of Facilities, referenced in Article V to "Owner" shall mean "District" unless the context clearly indicates otherwise.

**7.02 Surety.** In recognition of the quasi-governmental nature of the District and its financial and taxing powers, District may satisfy the requirements under the Town Regulations for posting of financial guarantees to assure the construction and warranty obligations for Facilities by establishing a cash escrow (the "Escrow") in accordance with the following:

- (a) the Escrow shall be established with a title insurance company or financial institution;
- (b) the construction Escrow deposit shall be in the amount prescribed by the Town Regulations;
- (c) District may make progress payments to its contractors from the Escrow construction deposit, provided Town approves the draw request, which approval shall not be unreasonably withheld;
- (d) the construction Escrow deposit may not be drawn down below the amount required for the warranty surety under the Town Regulations; and
- (e) the Escrow agreement shall authorize the Town to access the Escrow deposit in the event of a default by District for the purpose of undertaking completion or remediation work on the Facilities as more specifically provided under the applicable SIA.
- (f) the Escrow deposit remaining after expiration of the warranty period and application to remedy unmet warranty obligations, if any, shall be returned to District.

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In the event that alternative surety arrangements are authorized in the Town Regulations, such provisions shall be available to District, notwithstanding the above requirements.

**7.03 Performance.** The applicable SIA shall designate those Facilities for which District is to develop and post surety. With District's assumption of these obligations under the SIA, Owner shall have no financial or other legal obligation to Town to develop

such Facilities. However, in the event of a default by District in its obligations under the SIA, to develop such Facilities, Town shall have the right to withhold approvals and permits for the subdivision, until the default is cured, all as more particularly provided in the SIA. Notwithstanding any provisions in the Town Regulations to the contrary, existing Facilities for which District has assumed responsibility to expand under the SIA and for which expansion surety has been provided, need not be completed and accepted by Town prior to issuance of the first building permit, provided that the District is contractually obligated under the SIA to design such Facilities expansion at 80% utilization of existing capacity and commence construction at 90% utilization of capacity. Should District default in its obligation to timely design, construct and complete such Facility expansion, Town shall retain the right under the SIA to withhold issuance of further building permits as necessary to protect the public health and safety.

**7.04 Limited Effect.** This Article VII is intended and shall be construed to enable the performance of the District of the Article V obligations of the Owner and for no other

purpose.  
**UNOFFICIAL COPY**  
**ARTICLE VIII**  
**LAND USE VESTING**

**8.01 Vesting.** The Development Plan for the Property shall constitute a "site specific development plan" as defined in C.R.S. § 24-68-101 and Chapter 15.24 of the Code, and accordingly vested property rights are established with respect to the Development Plan in accordance with statute and applicable Code provisions. Such vesting shall become effective concurrently with the effective date of the ordinance authorizing this Agreement.

**8.02 Duration.** Due to the scale of development proposed on the Property and that the cost of Facilities development is recovered sequentially through the development cycle, property rights in the Development Plan are vested until December 31, 2013 pursuant to the provisions of Chapter 15.24 of the Code. After December 31, 2013 the

Development Plan shall remain valid and effective as it exists on the date of lapse; however, the Development Plan shall then be subject to amendment pursuant to a rezoning, in accordance with applicable law.

**8.03 Compliance with General Regulations.** The establishment of the rights vested under this Agreement shall not preclude the application of Town Regulations of general applicability including, but not limited to, Development Exaction, building, fire, plumbing, engineering, electrical and mechanical codes, or the application of regional, state or federal regulations.

**8.04 No Monetary Liability of Town.** Although C.R.S. § 24-68-101, et seq., allows for monetary damages in the event of breach or default by the Town, the sole remedies hereunder shall be equitable remedies of specific performance or mandatory or prohibitory injunction. Owners hereby waive any rights to money damages either may have under the Constitution and laws of the United States or the State of Colorado for any such breach or default.

UNOFFICIAL COPY  
ARTICLE IX  
DEFAULT AND REMEDIES

**9.01 Event of Default.** Failure of Town or Owner to perform any covenant, agreement, obligation or provision of this Agreement, constitutes an event of default under this Agreement.

**9.02 Remedies.** In addition to specific remedies provided elsewhere in the Agreement (including Town's right to withhold development approvals), upon default, the non defaulting party shall have the right to take whatever action at law or in equity appears necessary or desirable to enforce performance and observation of any obligation, agreement or covenant of the defaulting party under the Agreement, or to collect the monies then due and thereafter to become due, subject however, to the limitation on remedies of 8.04. In any such legal action, the prevailing party shall be entitled to recover its reasonable attorney's fees and litigation costs from the other party.

**9.03 Default Notice.** In the event either party alleges that the other is in default, the non-defaulting party shall first notify the defaulting party in writing of such default, and specify the exact nature of the default in such notice. Except as otherwise provided in 5.07, the defaulting party shall have twenty (20) business days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder; provided that (i) such default is capable of being cured, (ii) the defaulting party has commenced such cure within said 20-day period, (iii) the defaulting party diligently prosecutes such cure to completion<sup>1</sup>. If such default is not of a nature that can be cured in such twenty (20) day period, corrective action must be commenced within such period by the defaulting party and thereafter diligently pursued.

## ARTICLE X GENERAL PROVISIONS

**10.01 Amendment.** Any and all changes to this Agreement, in order to be mutually effective and binding upon the parties and their successors, must be in writing and duly executed by the signatories or their respective representative, heirs, successors or assigns.

**10.02 Interpretation.** In this Agreement unless the context otherwise requires:

- (a) All definitions, terms, and words shall include both the singular and the plural;
- (b) Words of the masculine gender include correlative words of the feminine and neuter genders, and words importing the singular number include the plural number and vice versa; and
- (c) The captions or headings of this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provision, article, or section of this Agreement.

**10.03 Notice.** The addresses of the parties to this Agreement are as listed below. Any and all notices allowed or required to be given in accordance with this Agreement are deemed to have been given when delivered to the other parties or five (5)

---

<sup>1</sup> Subject to the 180 day cure period for a default under 5.07.

days following the date the same is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested addressed to the other parties at the addresses noted: or such address as is subsequently endorsed in writing, or in the event of transfer of the Property to the address of such grantee as indicated in the recorded instrument whereby such grantee acquired an interest in the Property.

TOWN: Town Attorney  
Town of Castle Rock  
680 N. Wilcox Street  
Castle Rock, CO 80104

OWNER: DSSD Limited Liability Company  
512 Wilcox Street  
Castle Rock, CO 80104

**10.04 Severability.** It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the Courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

**10.05 Conflicts.** If the terms and provisions of this Agreement are in conflict with any prior agreement between the Town and the Owner or the Town Regulations, the terms and provisions of this Agreement as it may be amended from time to time shall control.

**10.06 Verification.** The Town and the Owner shall provide the other written verification regarding the status, performance or completion of any action required of the Town or the Owner under the Agreement or by the terms of any other agreement.

**10.07 Supersession.** This Agreement supersedes the following documents in their entirety and such documents shall be of no further force or effect with respect to the Property:

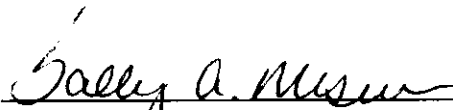
- Annexation Contract


- Villages at Castle Rock P.U.D. Preliminary Development Site Plan recorded August 11, 1981 at Reception No. 272709
- Villages at Castle Rock P.U.D. Preliminary Site Plan recorded December 18, 1986 at Reception No. 8629511

**10.08 Entire Agreement.** This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written.

**ATTEST:**

**TOWN OF CASTLE ROCK**

  
\_\_\_\_\_  
Sally A. Msare, Town Clerk

  
\_\_\_\_\_  
Donald K. Jones, Mayor

Approved as to form:

UNOFFICIAL COPY

  
\_\_\_\_\_  
Robert J. Slentz, Town Attorney

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 30<sup>th</sup>  
day of OCTOBER, 1998 by Sally A. Misare as Town Clerk and Donald K.  
Jones as Mayor.

Witness my official hand and seal.  
My commission expires: 9-21-99.



J. L. King  
Notary Public

DSSD LIMITED LIABILITY COMPANY, a  
Colorado limited liability company.

By: A. Dale M. Kelso

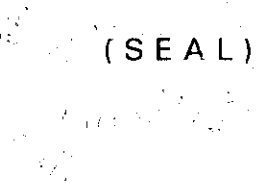
Its: Manager

UNOFFICIAL COPY

STATE OF COLORADO )  
 ) ss.  
COUNTY OF Douglas )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup>  
day of October, 1998 by A. Dale M. Kelso as Manager  
for DSSD Limited Liability Company, a Colorado limited liability company.

Witness my official hand and seal.  
My commission expires: 6/21/2002



A. Dale M. Kelso  
Notary Public

\\castlew\castlewo.da  
October 19, 1998

EXHIBIT 1

**LEGAL DESCRIPTION:**

A PARCEL OF LAND LOCATED IN SECTIONS 8, 9 & 17, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN; COUNTY OF DOUGLAS, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE EAST LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 8 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEING ASSUMED TO BEAR S 00°17'16" E;

BEGINNING AT THE NORTHEAST CORNER OF SAID SECTION 17; THENCE ALONG THE EAST LINE OF SAID SECTION 17, S 00°17'16" E, A DISTANCE OF 1325.34 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 17; THENCE CONTINUING ALONG SAID EAST LINE OF SECTION 17, S 00°20'51" E, A DISTANCE OF 1325.29 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 17; THENCE CONTINUING ALONG SAID EAST LINE OF SECTION 17, S 00°18'55" E, A DISTANCE OF 2650.67 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 17; THENCE ALONG THE SOUTH LINE OF SAID SECTION 17, S 89°24'56" W, A DISTANCE OF 2003.80 FEET; THENCE N 26°59'48" W, A DISTANCE OF 1477.06 FEET; THENCE N 03°23'59" W, A DISTANCE OF 2.01 FEET TO THE SOUTHEAST CORNER OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, S 89°25'40" W, A DISTANCE OF 1330.80 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17; THENCE ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 17, N 00°25'21" W, A DISTANCE OF 1325.19 FEET TO THE SOUTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 17; THENCE ALONG THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, S 89°23'13" W, A DISTANCE OF 830.07 FEET; THENCE ALONG A LINE PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17, N 00°23'36" W, A DISTANCE OF 250.01 FEET; THENCE ALONG A LINE PARALLEL WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 17, S 89°23'13" W, A DISTANCE OF 469.79 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF RIDGE ROAD; THENCE ALONG SAID EASTERLY RIGHT OF WAY OF RIDGE ROAD, SAID LINE BEING PARALLEL WITH AND 30.00 FEET EAST OF THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 17, N 00°23'36" W, A DISTANCE OF 963.04 FEET; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 269.99 FEET, A CENTRAL ANGLE OF 30°43'54", AND A LENGTH OF 144.81 FEET; THENCE ALONG THE ARC OF A COMPOUND CURVE TO THE RIGHT, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 95°35'20", AND A LENGTH OF 33.37 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY OF MIKELSON BOULEVARD; THENCE ALONG SAID SOUTHERLY RIGHT OF WAY OF MIKELSON BOULEVARD THE FOLLOWING 4 COURSES:

1. ALONG THE ARC OF A REVERSE CURVE TO THE LEFT HAVING A RADIUS OF 892.47 FEET, A CENTRAL ANGLE OF 59°04'15", AND AN ARC LENGTH OF 920.12 FEET;
2. N 66°51'29" E, A DISTANCE OF 256.01 FEET;
3. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A RADIUS OF 3142.38 FEET, A CENTRAL ANGLE OF 16°48'59" AND AN ARC LENGTH OF 922.29 FEET;
4. N 50°02'30" E, A DISTANCE OF 548.26 FEET TO A POINT ON THE WESTERLY LINE OF A 225.00 FEET WDE PUBLIC SERVICE COMPANY EASEMENT;

THENCE ALONG SAID WESTERLY EASEMENT LINE, N 24°42'16" W, A DISTANCE OF 556.17 FEET;  
THENCE N 44°15'11" E, A DISTANCE OF 498.72 FEET;  
THENCE N 36°21'55" E, A DISTANCE OF 612.21 FEET;  
THENCE N 28°05'51" E, A DISTANCE OF 461.24 FEET;  
THENCE N 27°28'05" E, A DISTANCE OF 68.16 FEET TO A POINT ON THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 8; THENCE ALONG SAID NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 8, N 89°11'47" E, A DISTANCE OF 2171.40 FEET TO THE NORTHEAST CORNER OF SAID SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 8; THENCE ALONG THE WEST LINE OF SAID SECTION 9, N 00°43'50" W, A DISTANCE OF 1340.86 FEET TO THE WEST QUARTER CORNER OF SAID SECTION 9; THENCE CONTINUING ALONG SAID WEST LINE OF SECTION 9, N 00°42'02" W, A DISTANCE OF 1341.01 FEET TO THE NORTHWEST CORNER OF THE SOUTH HALF OF THE NORTHWEST QUARTER OF SAID SECTION 9; THENCE ALONG THE NORTH LINE OF SAID SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 9, N 89°45'32" E, A DISTANCE OF 2652.25 FEET TO THE NORTHEAST CORNER SAID SOUTH HALF OF THE NORTHWEST QUARTER OF SECTION 9; THENCE ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 9, S 00°25'22" E, A DISTANCE OF 1331.85 FEET TO THE CENTER QUARTER CORNER OF SAID SECTION 9; THENCE ALONG THE NORTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 9, N 89°33'49" E, A DISTANCE OF 1318.03 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 9; THENCE ALONG THE EAST LINE OF SAID WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 9, S 00°28'52" E, A DISTANCE OF 2638.47 FEET TO THE SOUTHEAST CORNER OF SAID WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 9; THENCE ALONG THE SOUTH LINE OF SAID SECTION 9, S 88°55'15" W, A DISTANCE OF 1318.05 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 9; THENCE CONTINUING ALONG SAID SOUTH LINE OF SECTION 9, S 88°56'46" W, A DISTANCE OF 2635.32 FEET TO THE POINT OF BEGINNING;  
CONTAINING 37,145,055 SQUARE FEET OR 852.733 ACRES, MORE OR LESS;

EXCEPT THE FOLLOWING THREE PARCELS:

MIKELSON NO. 4 WELL FIELD

COMMENCING AT THE EAST QUARTER CORNER OF SAID SECTION 17;

THENCE S 66°39'44" W, A DISTANCE OF 1251.91 FEET TO THE POINT OF BEGINNING;  
THENCE S 00°35'04" E, A DISTANCE OF 150.00 FEET;  
THENCE S 89°24'56" W, A DISTANCE OF 300.00 FEET;  
THENCE N 00°35'04" W, A DISTANCE OF 150.00 FEET;  
THENCE N 89°24'56" E, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING;  
CONTAINING 45,000 SQUARE FEET OF 1.033 ACRES , MORE OR LESS.

MIKELSON NO. 2 WELL FIELD

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 8;

THENCE N 57°36'29" W, A DISTANCE OF 768.15 FEET TO THE POINT OF BEGINNING;  
THENCE S 89°24'44" W, A DISTANCE OF 300.00 FEET;  
THENCE N 00°35'16" W, A DISTANCE OF 150.00 FEET;  
THENCE N 89°24'44" E, A DISTANCE OF 300.00 FEET;  
THENCE S 00°35'16" E, A DISTANCE OF 150.00 FEET TO THE POINT OF BEGINNING;  
CONTAINING 45,000 SQUARE FEET OR 1.033 ACRES, MORE OR LESS.

MIKELSON NO. 3 WELL FIELD

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 9;

THENCE N 45°03'02" E, A DISTANCE OF 2484.23 FEET TO THE POINT OF BEGINNING;  
THENCE N 01°05'14" W, A DISTANCE OF 150.00 FEET;  
THENCE N 88°56'46" E, A DISTANCE OF 300.00 FEET;  
THENCE S 01°03'14" E, A DISTANCE OF 150.00 FEET;  
THENCE S 88°56'46" W, A DISTANCE OF 300.00 FEET TO THE POINT OF BEGINNING;  
CONTAINING 45,000 SQUARE FEET OR 1.033 ACRES, MORE OR LESS.

THE TOTAL AREA OF THE PARCEL HEREIN DESCRIBED EXCLUDING THE THREE EXCEPTION PARCELS IS 37,010,055  
SQUARE FEET OR 849.634 ACRES OF LAND, MORE OR LESS.

ORIGINAL COPY

**EXHIBIT 2**

**DEVELOPMENT STANDARDS**

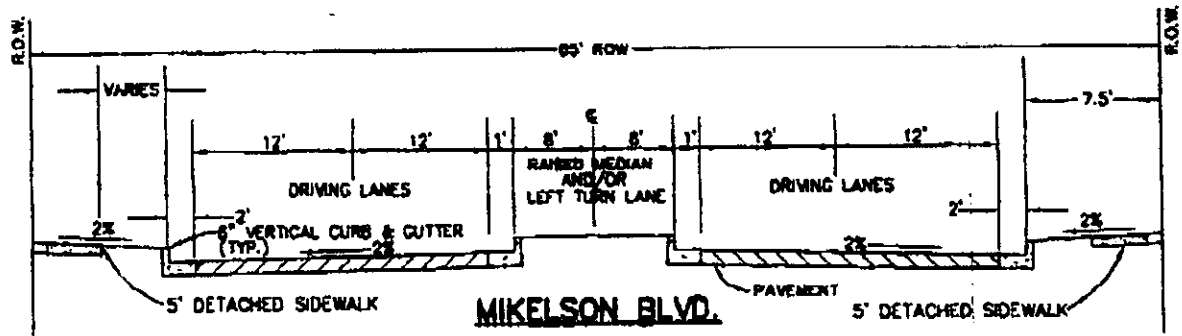
- 1.0 MIKELSON BOULEVARD. Mikelson Boulevard improvements shall be improved to the design standard as depicted on Exhibit 2A. The north half of Mikelson Boulevard shall be constructed in Phase I. If the project is developed out of sequence, the north half of Mikelson Boulevard shall be constructed in whatever phase is developed first. The south half of Mikelson Boulevard shall be constructed with whichever development phase brings the total number of units to one thousand (1,000) or greater.
- 1.01 LANTERN TRAIL. Lantern Trail improvements shall be improved to the design standard as depicted on Exhibit 2A. Lantern Trail shall be constructed in its entirety within the first development phase which would utilize Lantern Trail for access. Those development phases which access onto Lantern Trail are Phases I, II and III.
- 1.02 MITCHELL STREET. Mitchell Street improvements shall be improved to the design standard as depicted on Exhibit 2A. Mitchell Street shall be constructed in phases. Each development phase which accesses onto Mitchell Street shall construct that portion of Mitchell Street from the existing terminus to the farthest boundary of that development phase. Those phases which access onto Mitchell Street are Phases IV, V, and VI. To avoid Mitchell Street becoming a dead end until such time as Mitchell Street is extended through the properties to the north and west, internal local street looping shall be required within each development phase which accesses onto Mitchell Street.
- 1.03 RIDGE ROAD. Ridge Road shall be improved to the design standards as depicted on Exhibit 2A. Ridge Road shall be improved from the end of the existing pavement to the south frontage of the Property. Ridge Road shall be improved within the first development phase.
- 1.04 LOCAL ROAD STANDARDS. Two local road standards shall be utilized within the development as depicted on Exhibit 2A. The "local road standards" shall be utilized in land use designations of SF-3 and higher densities. The "rural local road standard" shall be utilized in land use designations of SF-2 and SF-1.
- 1.05 PRIVATE DRIVES. Private drives may be utilized in land designated parcels of SF-2 and SF-1. Private drives shall only be allowed so as to access flag lots. Private drives shall be dedicated as Tracts during platting of the parcels with SF-2 and SF-1 land designations and shall be owned and maintained by the Home Owners Association. Private drives accessing two (2) or more lots shall consist of a eighteen-foot (18') wide asphalt surface within a twenty-foot (20') wide tract. Private drives accessing only one (1) flag lot shall consist of a nine-foot (9') wide asphalt surface within a ten-foot (10') wide tract. Private drives shall not exceed three hundred feet (300') in length.

- 1.06 SANITARY SEWER SERVICE. A portion of the development lies outside of the limits of gravity sewer capabilities. The areas outside of this boundary shall be serviced through a series of lift stations and force mains. Actual size and final locations of these facilities shall be determined at preliminary platting of the development parcels requiring such facilities. However, the Town of Castle Rock ("Town") has requested and the Owner has agreed to diligently pursue locating one of the lift stations outside the development plan onto the property known as the "Faust Property". The Owner, through its quasi-governmental district, shall negotiate with the Faust Property owner to obtain said easements. The offsite lift station and force main shall be oversized to accommodate sewage from adjoining property, including the Faust Property. The Town shall require any and all adjoining property that shall be serviced by the offsite lift station be allocated a proportionate share of the cost to construct said lift station. The proportionate share of each benefiting property shall be determined by the total number of SFEs serviced by the offsite lift station. The Town shall require recoupment from the benefiting property owners pursuant to the Town's Recoupment Ordinance, as the same shall be amended. The total number of SFEs allocated to the Property is 1300, based upon existing Town facilities.
- 1.07 REGIONAL STORM DRAINAGE IMPROVEMENTS. In an effort to minimize numerous small on-site detention ponds, the Town has requested and the Owner has agreed to design regional stormwater detention ponds in the locations depicted in the drainage study. The regional ponds are intended to collect stormwater flows from adjacent properties as well as the Owner's property. These regional stormwater detention ponds may be located outside the boundaries of the Owner's property. In such cases, the Owner, through its quasi-governmental district, shall negotiate with the Property Owner of the property where said ponds are to be located to acquire of sufficient size the property necessary to accommodate said ponds. Acquisition of property shall include an easement of sufficient width to accommodate the designed flows from all tributary properties and an access gravel road as deemed necessary by the Town.
- 1.08 FLAG LOTS. Flag lots are hereby identified as individual single family lots that are set back from public roadways requiring vehicular access through the use of private drives. Flag lots shall be allowed in land designated parcels of SF-2 and SF-1 only. Actual lot sizes, configurations and use of flag lots shall be identified at time of platting.
- 1.09. TRAIL NETWORK. A regional trail shall be constructed by Owner to connect access to dedicated open space, school sites and development parcels. The trail shall be eight feet (8') wide, six inches (6") thick and constructed in sequence with the development phases.
- 1.10. ROCK PILE. The debris rock pile as depicted on the PUD shall be removed from the open space prior to acceptance of the Phase II improvements.

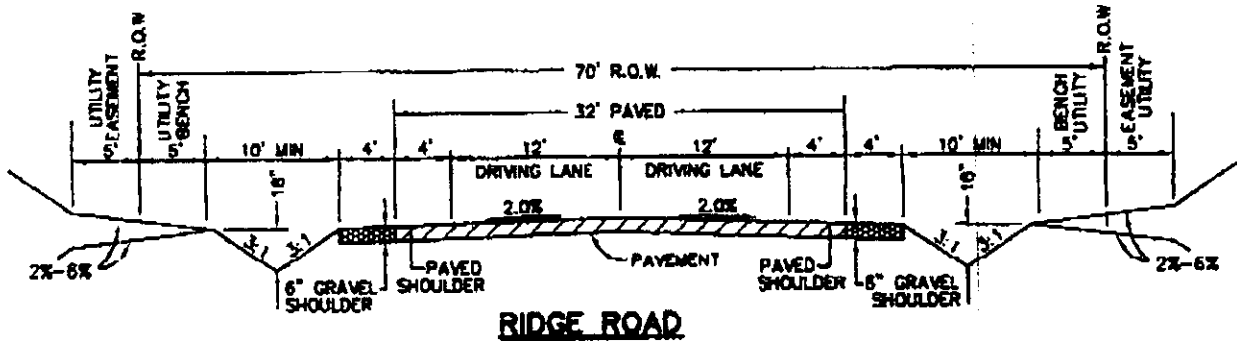
## EXHIBIT 2A


### FOUNDERS VILLAGE

### TYPICAL STREET SECTIONS



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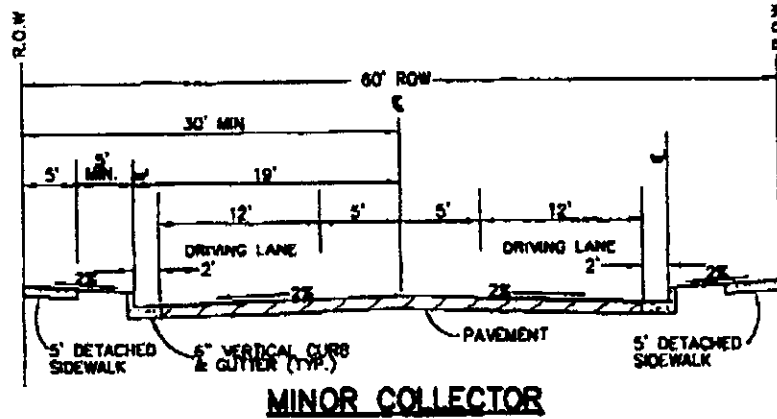


**P.R. FLETCHER  
& ASSOCIATES, INC.**

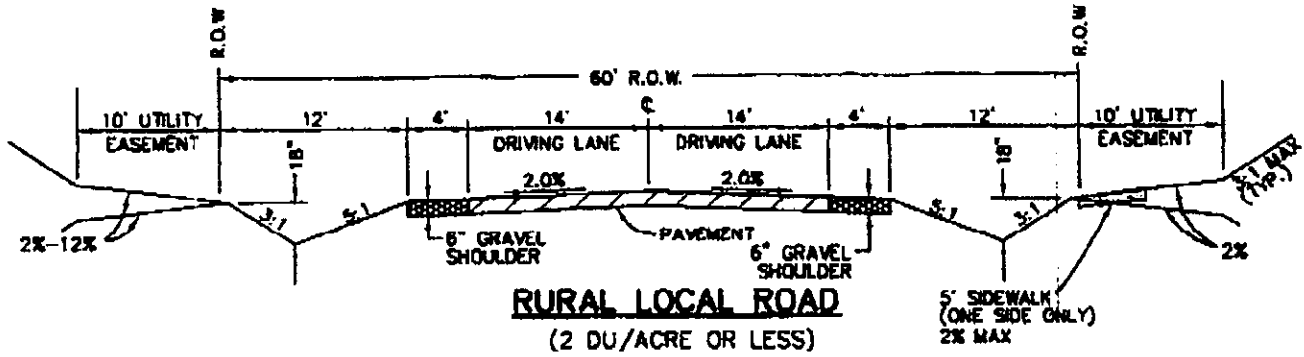
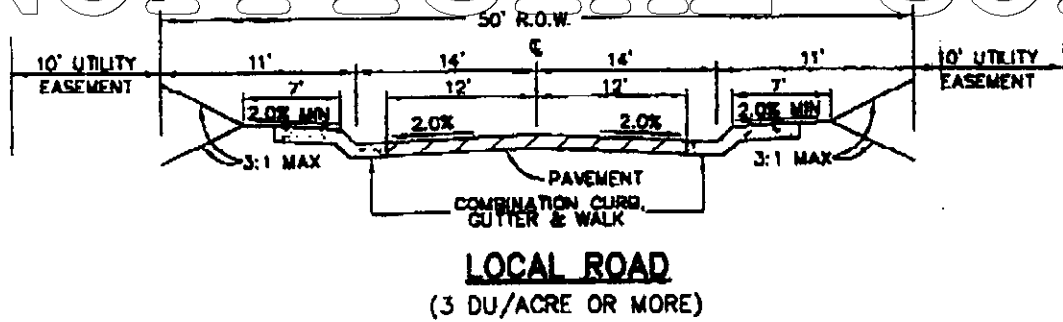
Civil Engineering • Land Surveying • Construction Administration  
 2135 South Cherry Street, Suite 310  
 Denver, Colorado 80222 (303) 758-4058 FAX (303) 758-4828

PREPARED 12/4/98  
 PROJECT NO. 802.00  
 802/EXHIBITS/ST-SEC.DWC

## EXHIBIT 2A FOUNDERS VILLAGE TYPICAL STREET SECTIONS



UNOFFICIAL COPY





**P.R. FLETCHER  
 & ASSOCIATES, INC.**

Civil Engineering • Land Surveying • Construction Administration  
 2135 South Cherry Street, Suite 310  
 Denver, Colorado 80222 (303) 758-4058 FAX: (303) 758-4828

PREPARED 12/4/98  
 PROJECT NO. 802.00  
 802/EXHIBITS/ST-SEC.DWG