

**COVENANT AT CASTLE ROCK ANNEXATION AND
DEVELOPMENT AGREEMENT**

DATE: February 18, August 29, 2014.

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

**NATIONAL COVENANT PROPERTIES LAND COMPANY,
LLC**, an Illinois limited liability company, 8303 W. Higgins Road,
Chicago, Illinois, 60631 ("Owner").

Mortgagee: **National Covenant Properties**

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RECITALS:

A. The parties have determined that it is in their mutual interest to enter into an agreement governing the development of the property described in the attached **Exhibit 1** ("Property") in conjunction with the annexation and zoning 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.

C. Mortgagee is a party to this Agreement solely for the purpose of subordinating its lien and interest in the Property to the terms and conditions of this Agreement.

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: this Covenant at Castle Rock Annexation and Development Agreement and any amendments to this Agreement.

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

Code: the Castle Rock Municipal Code, as amended.

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

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.

Municipal Services: police and fire protection, water, wastewater, storm water drainage, street maintenance, general administrative services including Code enforcement and any other service provided by Town within the municipality.

Owner: the person(s) in title to any portion of the Property, according to the records of the Douglas County Clerk and Recorder, and their successors and/or assigns from time to time. 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 National Covenant Properties Land Company, LLC.

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

Plat: a subdivision plat of all or a portion of the Property.

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

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.

Records: the public records of the Clerk and Recorder of Douglas County, Colorado.

System Development Fees: the capital recovery charges for water, wastewater plant and renewable water resources imposed under the Code.

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

Water Rights: the right to withdraw and use the Denver Basin groundwater underlying the Property as adjudicated in Case No. 2006CW210, Water Division.

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 benefited and burdened by the mutual covenants of the Agreement, and such covenants shall constitute real covenants binding upon successors in interest to the Property.

2.02 Owner Responsibility. 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. However, Town shall accept performance of the covenants of the Agreement from a developer on behalf of the Owner, 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. 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 or police powers as applied to the Property, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of the Agreement.

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 this Agreement expressly provide to the contrary.

**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. 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 infrastructure necessary for provision of the Municipal Services to the Property are addressed in Article V.

3.02 Permitted Development. The development of the Property shall be in accordance with this Agreement, Town Regulations and land use approvals, and applicable state and federal law and regulations. Subject to the further provisions of Article V, Town shall allow and permit the development of the Property consistent with all land use approvals associated with the Property, upon 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 coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under this Agreement.

3.03 Design Enhancements. Owner shall comply with the design guidelines in accordance with the attached *Exhibit 2* and install entry features as depicted on the attached *Exhibit 3* at the time of development of the Property.

3.04 Disconnection from Fire District. Pursuant to the agreement between the Town and the Castle Rock Fire Protection District ("Fire District") dated September 15, 2009 ("CRFPD Agreement"), ordinances annexing territory to the Town within the boundaries of the Fire District to the Town are required to recite that all such annexed territory be excluded from the Fire District. In compliance with the terms of the CRFPD Agreement, Town shall file a Motion for Exclusion of Property along with certified copy of the Annexation Ordinance with the District Court in Case No. 80CV209, and upon receipt of an Order of Exclusion, record a such Order in the Records.

ARTICLE IV WATER RIGHTS

4.01 Requirement. It is the obligation of Owner to convey to Town the Water Rights (together with additional water resources, if needed in accordance with this Agreement) to support Town's obligation to provide a municipal water supply to the Property. 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 marketable title to the Water Rights, free and clear of all liens and encumbrances. The conveyance of the Water Rights shall transfer to Town the right to use, reuse, lease or sell the water withdrawn under the Water Rights. Owner, at its expense, has furnished an opinion of its legal counsel that Owner has good and marketable title to the Water Rights upon which the Town has relied. 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 Water Rights. Should it subsequently be determined that marketable title to any portion of the Water Rights did not vest in Town with the conveyance, the Water Credit established in 4.03 shall be reduced accordingly.

4.03 Water Credit. With conveyance of the Water Rights, a credit shall be established against the Town's water dedication requirements for the benefit of the Property in accordance with the Town Regulations in effect as of the date of this Agreement (Water Credit). The SFE entitlement in the Water Bank (as defined in 4.05) shall not be affected by changes in the conversion rate of Water Rights into SFE that the Town may implement through modifications to the Town Regulations after the date of this Agreement, including any future changes in the current non-renewable dedication requirement under the Town Regulations.

The Water Credit is expressed in single-family equivalent. An SFE is the measure of average annual wholesale water production that must be developed to meet the imputed demand from a single-family residence under the Town Regulations. Consequently, 1 SFE of Water Credit represents that the holder has

satisfied the Town's water dedication requirement for one single-family residence or the equivalent demand attributable to multi-family, commercial or irrigation uses under the Town Regulations.

4.04 Application of Water Credit. The Water Credit established under 4.03 shall be reduced (i.e. applied) at the time of Site Development Plan approval or at building/irrigation permit issuance for those uses not accounted for at the time of Site Development Plan approval.

4.05 Water Bank. In order to properly account for the Water Credit, Town shall administratively maintain an account designated the Covenant at Castle Rock Water Bank (Water Bank). The Water Bank shall periodically be debited or credited in accordance with this Article IV. The Water Bank shall be formatted as follows:

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COVENANT AT CASTLE ROCK WATER BANK					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Deed to Water Rights				31.36	
Transfer from Metzler Water Bank				29	
Final Plat			Y		60.36-Y

With any entry made by the Town, the Owner of the Water Bank (see 4.06) shall receive notification in writing, and any objection not resolved to the satisfaction of the Owner at the administrative level shall be referred to a mutually acceptable independent water engineer whose determination made in accordance with this Agreement shall be final and binding.

4.06 Ownership and Transfer of Water Credit. The Water Credit shall be applied in accordance with this Agreement on a "first-come, first-served" basis to approved development within the Property on a per unit basis, unless the Owner(s) direct the Town in writing to allocate a certain portion of the Water Credit for use on a specific portion of the Property (Allocated Water Credit). In the event of such allocation, the Allocated Water Credit may be used exclusively for the designated portion of the Property. Owner may grant a security interest in the Water Credit to a creditor, provided

that such creditor's use of the Water Credit upon foreclosure of the security interest shall be subject to all rights, conditions and restrictions contained in Article IV.

After Town and Owner have agreed that full development has occurred and the total water demand for the Property has been determined, the Water Credit has been applied or allocated to meet such demand, and a surplus remains in the Water Bank, the Water Credit shall revert to the Town.

4.07 Required Water Sources. If the Water Bank is exhausted prior to full development of the Property as determined by this Article IV, the Owner shall be required to provide additional water resources or pay to Town cash-in-lieu of water rights in accordance with the Town Regulations.

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ARTICLE V
FACILITIES DEVELOPMENT

5.01 Responsibility. Except for the Facilities the Town is obligated to develop under the Town Regulations in consideration of the Development Exactions, or Facilities that are oversized at the direction of the Town 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, except as otherwise provided in this Agreement. The property interests necessary for the Town to maintain the Facilities shall be conveyed or dedicated to Town in accordance with the Town Regulations and at no cost to Town. The Facilities shall be developed in strict accordance with Town Regulations, this Agreement and the applicable SIA, as defined below, and Plat. Owner's construction of the Facilities shall not relieve it of the obligation to pay in full applicable Development Exactions, unless expressly authorized in the Town Regulations, this Agreement or the SIA. Upon dedication of Facilities by Owner and acceptance by Town, Town shall have the exclusive management, ownership, maintenance and control of the Facilities.

5.02 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.

5.03 Facilities Surety. Owner shall post surety in accordance with Town Regulations to assure the completion and warranty of Facilities to be constructed. Performance sureties may be reduced incrementally in accordance with the Town Regulations.

5.04 Subdivision Improvements Agreement. The Town Regulations require that a subdivider enter into a Subdivision Improvements Agreement ("SIA") at the time of approval of a Plat. The SIA addresses with greater specificity the Facilities to be constructed to serve the Plat as well as other site specific provisions, including but not limited to cash-in-lieu payments.

5.05 Off-site Facilities. Owner shall be obligated to acquire the necessary easement or fee interest (as required by Town) from adjacent properties necessary to develop any off-site Facilities to serve the Property as identified in subsequent platting requiring the acquisition of necessary fee interest or easement. In the event Owner 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 has furnished Town with appropriate assurances and financial guarantees to cover the costs of such acquisitions. Owner shall have the right to utilize any current rights of way or easements owned or controlled by Town as necessary to construct the off-site Facilities and develop the Property, subject to compliance with applicable Town Regulations, and Town shall cooperate with Owner in obtaining the cooperation and consent of any other governmental entities to utilize any applicable rights of way held or controlled by another governmental entity. In addition, in the event that the Facilities to be constructed are oversized at the Town's request, and such oversizing benefits other properties not yet within the Town's municipal boundaries, the Town shall make best efforts to obtain reimbursement for such oversizing costs from such benefited property at the time such property annexes to the Town.

5.06 Oversizing of Facilities. In the event the Town requests Owner to construct Facilities that are sized (i) to serve areas within the Town other than the Property, and (ii) of a greater capacity than required under the Town Regulations, the incremental construction cost of the additional Facility capacity required by the Town, together with the incremental engineering and design costs incurred by Owner as a result of Town's election to oversize such Facilities shall be paid by Town. Prior to the construction of any oversized Facility, Owner shall secure written bids from no less than two (2) contractors for the construction or installation of such Facility, and the bids

shall be submitted to Town for its review and approval prior to the construction of such Facility. Should Town fail to approve or disapprove any bid in writing within fifteen (15) days of submittal, Owner may proceed with the bid that it deems most appropriate under the circumstances. Should Town reject the bids for good cause, Owner shall re-bid the Facility construction and resubmit the bids to Town pursuant to this Section 5.06. Town shall pay its portion of the cost of design and construction of such oversized Facility concurrently with the payment of such obligation by Owner under the terms of the applicable design and construction contracts.

**ARTICLE VI
TRANSPORTATION AND UTILITIES**

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6.01 Plum Creek Parkway/I-25 Interchange Contribution. Based upon the traffic study provided by Owner, development of the Property will increase traffic utilizing the Plum Creek/I-25 Interchange ("Interchange") by 0.3%. Accordingly, Owner's pro rata share of the cost to construct the Interchange is \$41,343. Payment of the Town its pro rata of the Interchange cost shall be due concurrently with and as a condition to recordation of the first Plat on the Property.

6.02 Intersection Control Improvements. Concurrently with and as a condition to approval of the first Plat on the Property, Owner shall pay to Town \$12,937 which represents Owner's pro rata share of the Plum Creek Parkway /Wolfensberger Road intersection control improvements. Such intersection control improvements shall be constructed by Town when warranted, as determined by an approved traffic analysis. With such payment, Owner shall have no further obligation toward the construction or funding of the intersection control improvements.

6.03 Wolfensberger Road Improvements. Owner will be responsible for the construction of certain improvements to that portion of Wolfensberger Road that fronts the Property. Such improvements include, but are not limited to, pavement, curb and gutter, sidewalk, street lights, and storm sewer ("Wolfensberger Road Improvements"). The Wolfensberger Road Improvements shall be part of the public improvements required with the first Plat on the Property, or if so requested by Town, cash-in-lieu of construction shall be paid concurrently with and as a condition to recordation of the first Plat. In the event Owner pays cash in lieu of construction, Owner shall have no further obligation toward the Wolfensberger Road Improvements. Should Town undertake construction of the Wolfensberger Road Improvements prior to approval of the first Plat

on the Property, Owner shall reimburse Town for the pro rata share of the Town's design and construction costs for the Wolfensberger Road Improvements. Such payment shall be a condition to recordation of the first Plat on the Property.

In addition, prior to and as a condition to approval of the first Plat on the Property, Owner shall convey to Town, at no cost to Town, the property described in the attached **Exhibit 4** as right of way for the Wolfensberger Road. However, irrespective of the status of platting of the Property, in the event of the imminent construction of the Wolfensberger Road Improvements, Owner shall convey the right-of-way described in **Exhibit 4** at no cost to Town, within 60 days notice from Town stating the Town or others have commenced the design of the Wolfensberger Road improvements. Such conveyance shall be in accordance with the conveyance provisions set forth in Article VII.

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6.04 Plum Creek Parkway Improvements. Owner assumes the financial responsibility for the construction of certain improvements to the portion of Plum Creek Parkway that fronts the Property. Such improvements include, but are not limited to, pavement, curb and gutter, sidewalk, street lights and storm sewer ("Plum Creek Parkway Improvements"). Accordingly, concurrently with and as a condition to recordation of the first Plat on the Property, Owner shall pay \$50,017 plus interest to Town cash-in-lieu of construction of the Plum Creek Parkway Improvements. Interest on the \$50,017 shall commence on the date of recordation of this Agreement and shall accrue at the rate construction costs escalate as calculated under the Colorado Construction Cost Index. Owner shall have no further obligation toward construction of the Plum Creek Parkway Improvements.

6.05 Emergency Access. If determined necessary by Town, concurrently with the public improvements associated with the first Plat on the Property, Owner shall construct a secondary access from Wolfensberger Road to the Property, as generally depicted on the attached **Exhibit 5**. Such access shall comply with the Town Regulations and be restricted for emergency vehicles only. Owner shall be responsible for the construction of any necessary appurtenances and maintenance of the emergency access shall be transferred to the applicable homeowners association at the time such association is formed. Until such time, Owner will be responsible for the maintenance of the emergency access.

6.06 Malibu Street Sewer Upgrade. The Town anticipates the construction of an upsized sanitary sewer main along Malibu Street which will service the

Property, as well as other properties. Prior to and as a condition to recordation of the first Plat for the Property, Owners shall pay to Town \$3,422, which represents Owner's pro rata share of the cost of upsizing the sewer line. With such payment, Owner shall have no further obligation toward the construction or funding of upsized sewer main, which shall be the sole responsibility of Town. In all events, the Town will maintain adequate wastewater capacity to service the Property.

6.07. Drainage Improvements. Owner shall be responsible for completing all drainageway improvements consistent with the Omni Industrial and Westfield Watershed Master Plan (January 2011) adjacent to and within the Property.

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ARTICLE VII
PUBLIC LAND AND FACILITIES

7.01 Public Land Dedication. Concurrently with recordation of each Plat on the Property, Owner shall pay to Town cash-in-lieu of public land dedication in accordance with the Town Regulations.

7.02 Open Space Dedication. Concurrently and as a condition to recordation of the first Plat on the Property, , Owner shall convey to Town the parcel identified on the PDP as PA-2 and more particularly described in the attached **Exhibit 6** ("PA-2 Parcel"). . Such conveyance shall be at no cost to Town and in accordance with the provisions of this Article VII. Prior to such conveyance, Owner shall grant to Town, at no cost to Town, a license to allow for the construction and use of a public trail system on the PA-2 Parcel.

7.03 Public Trail Connections. Concurrently with and as a condition to recordation of the first Plat on the Property, Owner shall pay to Town \$25,000 as cash-in-lieu of construction for the necessary trail and connection between Plum Creek Parkway, the area identified on the PDP as Planning Area 1, and the PS Miller Park as well as the construction of the public trail from Wolfensberger Road to PS Miller Park, more particularly depicted on the attached **Exhibit 7**. Such cash-in-lieu payment does not relieve Owner from its obligation to construct additional public trails within the Property pursuant to a Site Development Plan.

7.04 Conveyance. Any property to be conveyed to Town shall be by special warranty deed, subject to matters of record but free and clear of liens, or other title impediments that would preclude Town from utilizing the property for its

intended purposes, as reasonably determined by Town. Unless otherwise provided in the Town Regulations to the contrary, the grantor shall furnish the 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 amount of \$10,000 per acre of the subject parcel.

7.054 Environmental Conditions. Prior to conveyance of Public Lands designated for parks, open space or Facilities development (but excluding street rights of way and utility easements), Owner shall furnish Town with a Phase 1 environmental audit of the subject property. Town will not require any additional environmental testing or reports prior to acceptance of such Public Lands, unless adverse environmental conditions are disclosed in the environmental audit, in which event Town may require Owner to perform additional inspection and testing, and if warranted, as reasonably determined by Town, completion of necessary remedial measures related to Town's intended use of such portion of the Public Lands affected by such adverse environmental condition, prior to conveyance to and acceptance by Town of such Public Lands.

7.06 Exclusion of Covenants. Owner shall exclude all Public Lands from 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 community association to the exclusion of the Public Lands from the application of such covenants. However, prior to constructing or placing any structures on Public Lands, Town shall give Owner and the applicable community association a reasonable opportunity to review and comment on the design and plans for any such improvements, but Town shall retain the ultimate authority to determine what improvements are placed on Public Lands.

7.07 Street Landscape Maintenance. 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 for maintenance established by Town for similar Facilities. Owner's maintenance obligation includes procurement of water services from the Town and

payment of applicable water service charges under the Town Regulations. Owner may delegate its maintenance obligation to a community association or District.

**ARTICLE VIII
DEFAULT, REMEDIES AND DISCONNECTION**

8.01 Event of Default. Failure of Town or Owner to perform any covenant, agreement, obligation or provision of this Agreement, shall constitute an event of default under this Agreement.

8.02 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. 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.

8.03 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. The defaulting party shall have 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. If such default is not of a nature that can be cured in such 20-day period, corrective action must be commenced within such period by the defaulting party and thereafter diligently pursued.

**ARTICLE IX
GENERAL PROVISIONS**

9.01 Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Colorado.

9.02 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 representatives, heirs, successors or assigns.

9.03 TAVOR. Any financial obligation of the Town under this Agreement which may mature in a future fiscal year is subject to appropriation by the Town Council of sufficient funds to meet such obligation. Consequently, this Agreement does not create a multiple fiscal year obligation of the Town under Article X, Section 20 of the Colorado Constitution.

9.04 Notice. The addresses of the parties to this Agreement are 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 three days following the date the same is deposited in the United States mail, registered or certified, 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
100 Wilcox Street
Castle Rock, CO 80104

OWNER: National Covenant Properties Land Company, LLC
8303 W. Higgins Road
Chicago, IL 60631

9.06 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.

9.07 Conflicts. If the terms and provisions of this Agreement are in conflict with any other agreement between the Town and the Owner, the terms of the latest agreement shall control.


9.08 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.

9.09 Attorney's Fees. Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court awards relief to both parties, each will bear its own costs in their entirety.

9.10 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.

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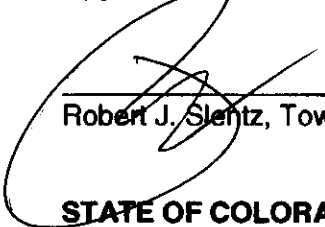
ATTEST:


Sally A. Misare, Town Clerk

TOWN OF CASTLE ROCK


Paul Donahue, Mayor

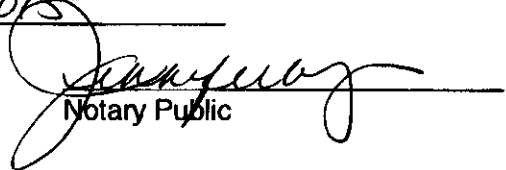
Approved as to form:


Robert J. Slentz, Town Attorney

STATE OF COLORADO)
) **ss.**
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 29th day of August, 2014 by Sally A. Misare as Town Clerk and Paul Donahue as Mayor of the Town of Castle Rock.

Witness my official hand and seal.
My commission expires: 9-21-2015


Notary Public

JENNIFER L. KING
NOTARY PUBLIC
STATE OF COLORADO
Notary ID: #19954015016
My Commission Expires: September 21, 2015

EXHIBIT 1



JR ENGINEERING

COVENANT AT CASTLE ROCK

PROPERTY DESCRIPTION

A PARCEL OF LAND BEING ALL OF THE AREA SOUTH OF THE CASTLE HIGHLANDS ANNEXATION RECORDED UNDER RECEPTION NO. 342923, WEST OF LEE'S ANNEXATION RECORDED UNDER RECEPTION NO. 167502, NORTH OF THE PARCEL 2 OF SOUTH MEADOWS P.U.D. ANNEXATION RECORDED UNDER RECEPTION NO. 364375 AND EAST OF WOLFENSBERGER ROAD, ALL IN THE RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER, LOCATED IN THE NORTHEAST ONE-QUARTER OF SECTION 9, AND THE NORTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 8 SOUTH, RANGE 67 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE NORTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SECTION 10, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN BEING ASSUMED TO BEAR N01°05'34"W A DISTANCE OF 1288.91 FEET. MONUMENTED BY A 3-1/4" ALUMINUM CAP LS 12046 AT THE SOUTHWEST CORNER AND A 3-1/4" ALUMINUM CAP LS 25629 AT THE NORTHWEST CORNER.

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 10;

THENCE S06°23'18"E A DISTANCE OF 574.52 FEET, TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF WOLFENSBERGER ROAD AND A POINT ON THE SOUTHERLY LINE OF THE CASTLE HIGHLANDS ANNEXATION AS RECORDED UNDER RECEPTION NO. 342923, SAID POINT BEING THE POINT OF BEGINNING;

THENCE ON THE SOUTHERLY LINE OF SAID CASTLE HIGHLANDS ANNEXATION THE FOLLOWING THREE (3) COURSES:

1. S62°56'35"E A DISTANCE OF 350.24 FEET;
2. S23°57'35"E A DISTANCE OF 608.07 FEET, TO A POINT ON THE NORTH LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 10;
3. ON SAID NORTH LINE, N89°44'13"E A DISTANCE OF 2013.63 FEET, TO THE NORTHEAST CORNER OF SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER OF SAID SECTION 10 ALSO BEING A POINT ON THE WESTERLY LINE OF LEE'S ANNEXATION RECORDED UNDER RECEPTION NO. 167502;

THENCE ON THE SAID WESTERLY LINE AND THE EAST LINE OF THE SOUTH ONE-HALF OF THE NORTHWEST QUARTER OF SAID SECTION 10, S00°35'44"E A DISTANCE OF 536.44 FEET TO A POINT ON THE NORTHERLY LINE OF THE PARCEL 2 OF THE SOUTH MEADOWS P.U.D. ANNEXATION RECORDED UNDER RECEPTION NO. 364375;

THENCE ALONG SAID NORTHERLY LINE, THE FOLLOWING TWO (2) COURSES:

1. S89°44'47"W A DISTANCE OF 2607.23 FEET;
2. N40°01'12"W A DISTANCE OF 701.87 FEET, TO A POINT ON THE SOUTHEASTERLY RIGHT-OF-WAY LINE OF WOLFENSBERGER ROAD;

THENCE ALONG SAID SOUTHEASTERLY RIGHT-OF-WAY LINE OF SAID WOLFENSBERGER ROAD THE FOLLOWING EIGHT (8) COURSES:

1. N40°41'26"E A DISTANCE OF 45.02 FEET;
2. N36°49'43"E A DISTANCE OF 342.88 FEET;
3. N37°48'17"E A DISTANCE OF 60.64 FEET;
4. N34°21'14"E A DISTANCE OF 42.46 FEET;
5. N25°05'24"E A DISTANCE OF 53.85 FEET;
6. N17°36'33"E A DISTANCE OF 66.56 FEET;
7. N33°47'11"E A DISTANCE OF 111.08 FEET;
8. N33°35'51"E A DISTANCE OF 144.17 FEET, TO THE POINT OF BEGINNING.

CONTAINING AN AREA OF 1,947,732 SQUARE FEET OR 44.714 ACRES.

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EXHIBIT 2

THE HENRY DESIGN GROUP
LAND PLANNING • LANDSCAPE ARCHITECTURE & DESIGN

1501 WAZEE STREET, SUITE 111, DENVER, COLORADO 80202 • (303) 441-1168

COVENANT AT CASTLE ROCK
Architectural Design Guidelines

January 2, 2014

I. EXTERIOR ARCHITECTURE

A. Overall Design Approach

- Establish a signature of quality that will be evident to residents and visitors.
- Seek a middle ground between monotonous repetition of design elements and the chaos of too many forms, materials and colors.
- The architectural character shall be present-day interpretations of traditional architectural styles.
- Breakup the apparent scale of the homes and provide visual interest through a variety of shapes and forms, architectural projections, variety of window treatments, roof-breaks, change in materials and colors, porches, reveals, roof dormers, and like items.

B. Diversity of Homes and Adjacency of Like Homes

1. Design of the homes shall be varied to create visual interest. The variations in design shall include the following:
 - Variation in the elevations and façade composition consisting of different window and door style and placement
 - Variation in the exterior wall color scheme
 - Variation in the massing and composition of the home
 - Variation in roof forms/lines/profiles
 - Mix between single and two story homes
2. Excessive repetition of homes with identical floor plans and elevations is not permitted.
3. Front yard building setbacks shall be staggered to add diversity to the streetscape.
 - No two single family detached dwellings adjacent to one-another shall have the same front yard setback. On adjacent lots, the front of each home shall vary by a minimum of two feet. This requirement may be fulfilled when housing designs incorporate the required two foot stagger into the plane of the front elevation
4. Adjacency of Design: (Similar floor plans / elevations/ color and materials schemes)
 - The same home elevation shall be separated by at least two (2) or more lots.



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- No two (2) elevations of the same color scheme shall be placed side by side or across the street from one another.
 - When building the same floor plan and elevation are across the street from one another, a minimum of two (2) lots shall separate homes.
5. No more than 25% of the homes in the subdivision filing shall have the same model as defined by the building elevation.

C. Exterior Design Elements

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- Exterior design and details should be incorporated in the overall building form to provide visual interest and functional amenities
- Interior side and rear elevations may be designed with a lesser level of architectural expression than front elevations, but should still use compatible materials and colors, and incorporate elements and details that unify the building's composition
- Side and rear elevations as viewed from a park, public open space or thoroughfare shall have similar architectural expression to that of a front elevation.
- Each house shall have a minimum of three elevation styles (for production home development)
- All elevations shall have at least one horizontal offset or a significant change in roofline.
- Building elements such as porches, columns, box and bay windows, cantilevered fireplaces, etc, shall be used to articulate the exterior design.
- The front elevations of building shall provide a balance between the repetition and variety of architectural elements such as entries, porches, windows, bays, dormers and cornices.
- There shall be no windowless elevations.

D. Exterior Materials

1. Cladding:
- Cladding materials with varying textures and depths should be used.
 - Materials shall contribute to the creation of attractive and varied elevation designs.
 - The materials shall be used in a way that they do not appear simply added.
 - Appropriate exterior wall materials including: artificial or real stone, veneer or real brick, stucco, painted or stained wood siding, and cementitious siding.
 - Stucco shall have integral color.
 - Wood or cement-based siding patterns shall be clapboard with a maximum of 6 inch spacing, drop siding or board and batten, and shall be painted or stained. Plywood simulating the above materials is prohibited.



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- Vinyl or aluminum siding is not permitted.
- Façade Materials shall extend to the ground plane to fully cover exposed foundation walls, including those on walk-out and garden-level homes
- Homes shall use heavy, visually solid foundation materials, transitioning upwards to lighter cladding and roof materials.
- The number of wall materials used on an elevations should be limited to a maximum of three (one being trim) and be selected in accordance with the architectural style of the building. These are in addition to foundation materials or coverings.
- Material changes should generally occur along horizontal lines, typically at a floor line or gable end. Vertical material changes are discouraged and should occur at logical articulations of the building wall, typically at inside corners.

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2. Color:

- Buildings should typically express three main colors: roof, main body exterior walls and trim elements. Limited use of a fourth color as an accent is permitted to create greater visual interest, identity and individuality.
- Buildings clad in real or veneer brick or stone may employ additional body colors when other wall materials are combined with the brick or stone.
- Strong colors should be muted shades or tints of the pure hue.
- Highly saturated colors should be used sparingly, as accents only.
- Vertical color changes should occur at an inside corner. Horizontal color changes should occur at massing articulations, a change in material, or a significant trim band.
- Wall colors shall be coordinated with the roof colors.

3. Masonry Application:

- 25% or more masonry (real or veneer brick or stone) shall be installed on the front elevation. (Exclude window and door area from the calculation).
- 25% or more masonry (real or veneer brick or stone) shall be installed on side or rear elevations abutting Wolfensberger Road. (Exclude window and door area from the calculation)
- Masonry (real or veneer brick or stone) shall be installed on columns supporting deck structures on walkout units that are visible from Wolfensberger Road.
- Vertical transitions between masonry and other wall materials, such as stucco or siding should occur on inside corners only. Horizontal transitions should occur at logical locations such as a floor line or window sill, and be accompanied by banding or molding at the material intersections.



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4. Corner Lots

- On corner lots, a six (6) foot masonry wrap equal in height to the front façade at the corner where the wrap is located shall be provided. A two (2) foot masonry wrap equal in height to the front façade at the corner where the wrap is located shall be provided on the sides of interior lots.
- Corner lots are also required to have enhanced corner architectural details including architectural features such as a wraparound front porch, bay or box window, etc. Or as an alternative to the masonry stated above, the full length of the corner side shall be masonry at a height equal to the front façade masonry at the corner where the wrap is located. This may be provided to satisfy the requirement for the architectural feature.

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E. Massing and Roof Forms

- Primary pitched roofs shall be covered with asphalt shingles with a 30 year warranty, high profile composition shingles, slate, concrete tile or ceramic tile. Flat roofs shall be commercial type roofing material. Wood/cedar shingle roofs are not permitted.
- Roof overhangs shall be designed to respond to passive solar requirements as appropriate for seasonal / climatic conditions.
- Roof forms and pitches shall be appropriate for the architectural style.
- As appropriate the principal roof pitches, overhangs and eave details shall be between 5:12 and 12:12 and appropriate to the architectural expression of the building. Secondary roof pitches may be as shallow as 3:12. Shallower pitches are permitted for "Prairie Style" homes.
- Roofs shall consist of one primary form in combination with complementary secondary forms.
- Secondary forms include dormers, box, bays, cross gables, hips and porch roofs.
- Roof overhangs, fascias, soffits, and eaves shall be detailed and scaled appropriately for the architectural style of the house.
- Gutters and downspouts shall be constructed of painted galvanized metal, painted aluminum or copper. Painted gutters and downspouts shall be painted to match the primary color of the home.
- Large flues, HVAC equipment, swamp coolers, satellite dishes, play structures, hot tubs and similar appurtenances shall be placed to minimize their visual impact on the street.
- Skylights shall be flat panel.
- Solar panels shall be co-planar with the roof.



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F. Garage Variation/Integration

- Encourage the design of the Covenant at Castle Rock so that garages are not the dominant feature of the streetscape.
- Garages shall not appear "tacked-on" to the front of a house but shall be integrated with the home.
- At least 33% of the total number of lots in the subdivision shall have recessed garage configurations, alternate-load garage configurations or a combination of either.
- A recessed garage shall be a minimum of four feet behind the most forward wall of the home or the forward plane of a covered porch.
- For two car garages facing a street, the garage door frontage shall not exceed 50% of the total width of the front elevation. For three car garages facing a street in a non-tandem configuration, the garage door frontage shall not exceed 55% of the total width of the front elevation.
- Three car garages shall have a minimum offset of two feet between the single and double garage doors or between two (2) single doors if three (3) single doors are provided.
- "Snout" garages, where the garage facing the street projects more than 10 feet in front of a porch or living space are prohibited. Forward projection of the garage is only permitted on a Hillside lot.
- Integrate garage roof with the home's main roof characterized by similar roof forms, slope and massing
- Incorporate second story building components and detailing to create visual interest

G. Porches and Entry Character

- A variety of porch sizes and details are encouraged which complement the architectural character of the building.
- Each porch element shall be designed with clear articulation of the deck platform, railings, columns, header trim surround, porch ceiling, soffit, fascia, gutter and roof.
- The area beneath the porch should be enclosed with skirting material consisting of masonry or wood boards.
- Porch columns may be exposed wood or metal posts or have wood siding, stucco, or real or veneer stone or brick finish applied over structural elements.
- All residents shall have a primary entrance that includes a porch or covered entry that is visible from the thoroughfare.
- Usable front porches shall be a minimum of 6 to 8 feet in depth and 50 square feet in size.
- 50% of the homes in the subdivisions shall have a usable front porch.
- Double height entrances are not permitted.
- Wood columns shall be no less than 6" x 6" square or 8" diameter round.
- Porches that wrap around the corner of the home are encouraged.



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II. ENERGY AND WATER CONSERVATION

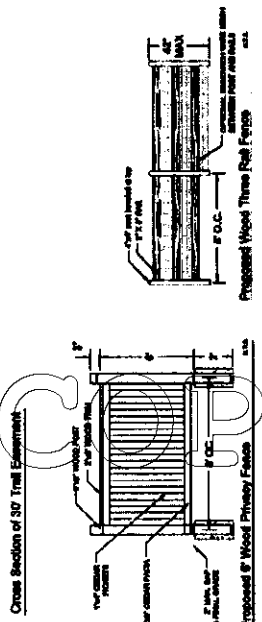
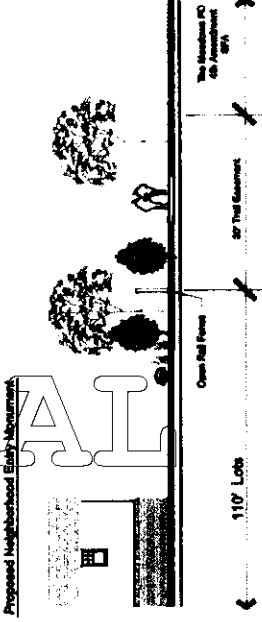
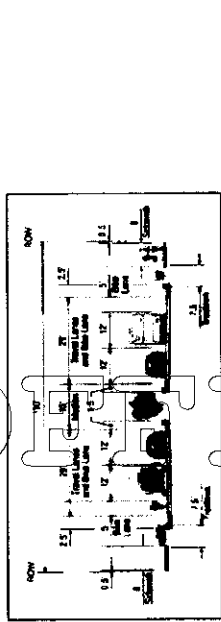
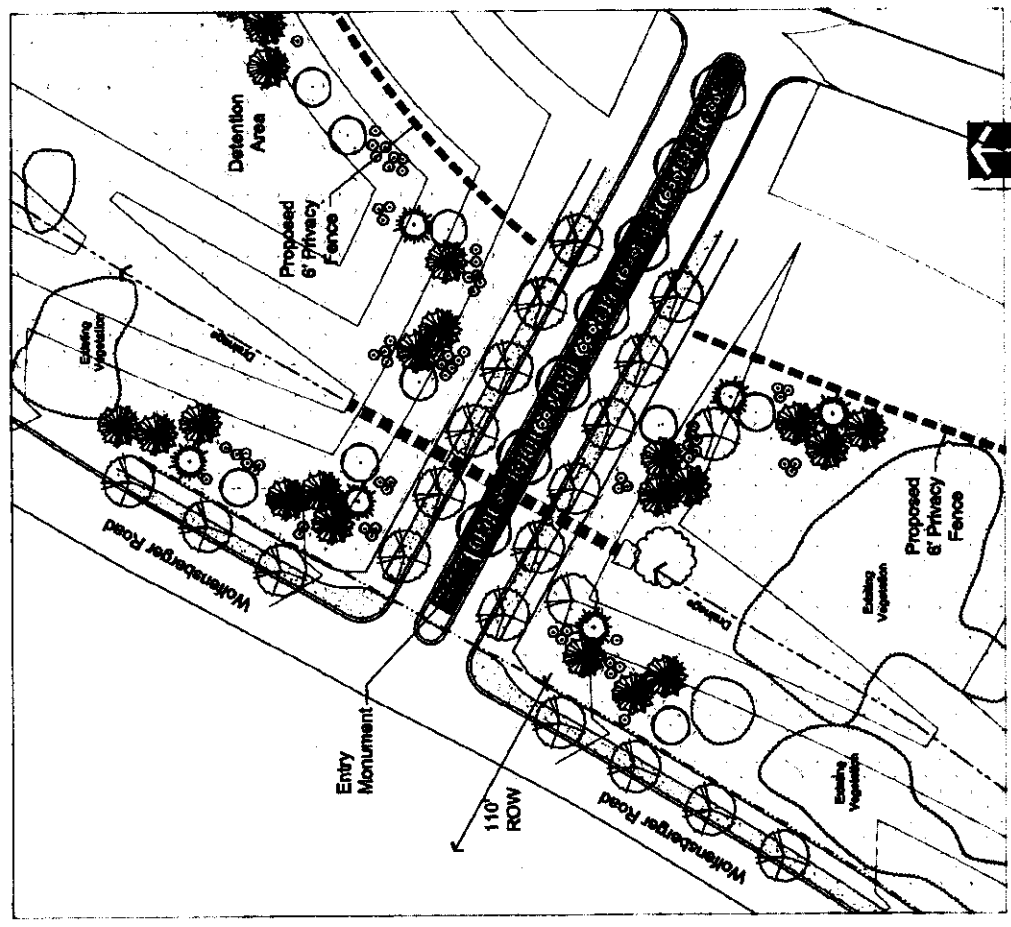
- Energy Star rated appliances are installed
- Furnace efficiency of greater than .78 to .95 AFUE is encouraged
- Water heater efficiency of between .675 and .82 is encouraged
- Air conditioners with efficiency greater than or equal to 14 SEER is encouraged
- Shower heads and hand held showers with a flow rate of 2.0 GPM are encouraged
- Lavatory faucets with a flow rate of 1.5 GPM or 60 PSI are encouraged.
- Toilets with 1.28 GPF are encouraged
- Dishwashers are Energy Star labeled.
- Rain sensors shall be installed as part of the irrigation system
- Landscaped area utilizes Water Sense budget tool
- Planted turf areas shall comply with the Town of Castle Rock's Landscape and Irrigation Performance Standards and Criteria. Additionally, all turf areas shall be limited to a maximum of 3,000 square feet for lots less than 8,000 square feet in size. Lots greater than 8,000 square feet shall have a maximum of 4,000 square feet of turf. All turf areas shall be Revielle or Thermal Blue Texas hybrid blue grass,

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EXHIBIT 3

COVENANT AT CASTLE ROCK PLANNED DEVELOPMENT PLAN

DOUGLAS COUNTY, COLORADO
TWO PARCELS OF LAND BEING A PORTION OF THE NORTHEAST QUARTER OF SECTION 9 AND
THE NORTHWEST QUARTER OF SECTION 10, TOWNSHIP 8 SOUTH,
RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN
COUNTY OF DOUGLAS, STATE OF COLORADO



COVENANT AT CASTLE ROCK
PLANNED DEVELOPMENT PLAN
PROJECT NO. PDP14-0001
CONCEPTUAL ENTRY LANDSCAPE
DATE PREPARED: JAN 28, 2015

H THE BURR ESTIMATE GROUP
LANDSCAPE ARCHITECTURE
1000 N. 10TH ST., SUITE 100
DENVER, CO 80202
TEL: 303.733.8888

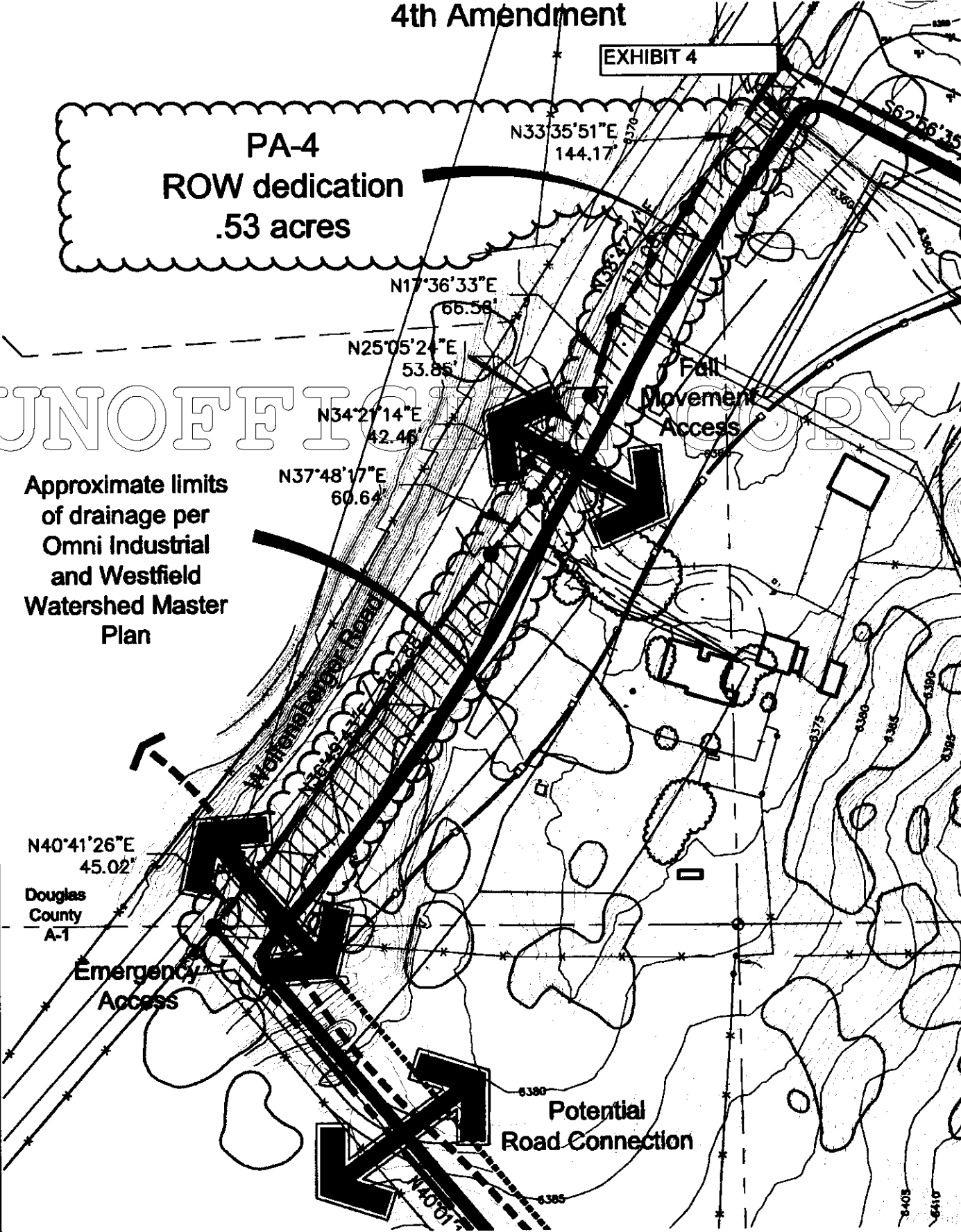
4th Amendment

EXHIBIT 4

PA-4
ROW dedication
.53 acres

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Approximate limits
of drainage per
Omni Industrial
and Westfield
Watershed Master
Plan

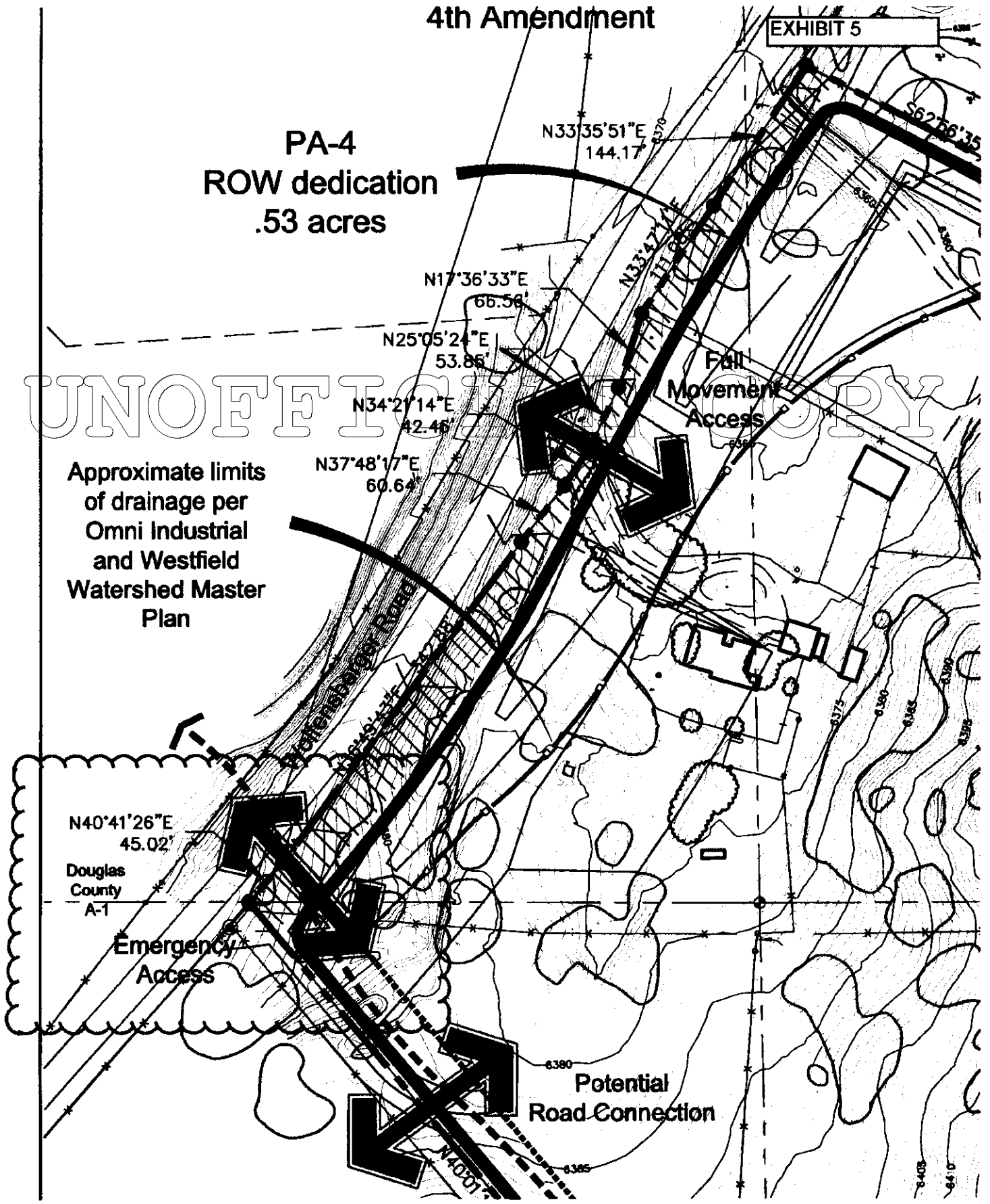


4th Amendment

EXHIBIT 5

PA-4 ROW dedication .53 acres

Approximate limits
of drainage per
Omni Industrial
and Westfield
Watershed Master
Plan



N40°41'26"E
45.02'

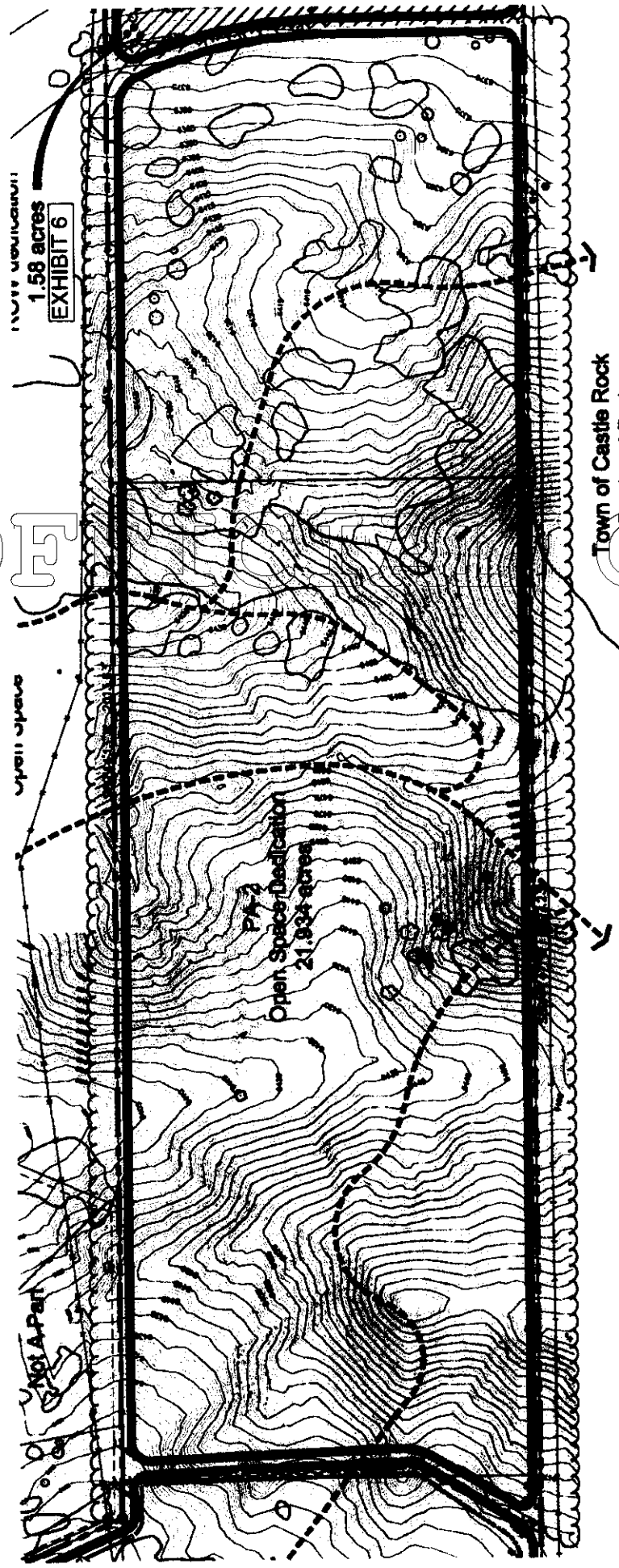
Douglas
County
A-1

Emergency
Access

Potential
Road Connection

Fall
Movement
Access

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Town of Castle Rock Regional Park



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