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CHRIST'S EPISCOPAL CHURCH  
DEVELOPMENT AGREEMENT



**DATE:** June 22, 2004.

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

**CHRIST EPISCOPAL CHURCH**, a Colorado non-profit  
corporation, 615 Fourth Street, Castle Rock, Colorado 80104  
(Owner).

**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 rezoning of the Property and the concurrent approval by the Town of a development plan for 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.

**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 Christ's Episcopal Church 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, including System Development Fees.

**Development Plan:** The Christ's Episcopal Church Preliminary PD Zoning Regulations, Preliminary PD Site Plan, the underlying PD zoning ordinance in the Code.

**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.

**Final Site Plan:** a Final PD Site Plan subsequently approved by the Town for the Property through the zoning process.

**Municipal Services:** police and fire protection, water, wastewater and storm water drainage and detention, 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 Christ Episcopal Church.

**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 final subdivision plat of the Property.

**Preliminary Site Plan:** the Christ's Episcopal Church Preliminary PD Site Plan recorded at Reception No. \_\_\_\_\_ of the public records of Douglas County, Colorado.

**Property:** the real property located in Douglas County, Colorado, 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.

**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 other 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 rights to all Denver Basin ground water underlying the Property, whether adjudicated or unadjudicated as of the date of this Agreement.

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 shall have the ultimate responsibility for performance of this Agreement, irrespective of whether development activity on the Property is undertaken or pursued by a development entity, owned or controlled, in whole or in part, by the Owner, or by a third party undertaking the development activity on behalf of and/or with the authorization of the Owner. Town shall accept performance of the covenants of the Agreement from a developer on behalf of Owner, unless such performance requires the conveyance, encumbrance or security of the Owner's interest in the Property, in order to effectuate such performance or to provide surety for the performance, 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, 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. When the

Agreement calls for compliance with an ordinance or other Town Regulations, the operative Town Regulations in effect at the time such compliance is required shall govern, unless the provisions of the Agreement expressly provide to the contrary. Any addition or modification to the Town Regulations with application to the Property, shall be applied and enforced by Town on a Town-wide basis, including other development areas of the Town, subject to such limitations on application and enforcement which are imposed under existing contractual arrangements between Town and third parties.

### **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 and Town Regulations. 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 is addressed in Article V.

**3.02 Permitted Development.** The development of the Property shall be in accordance with the Agreement and Town Regulations, and applicable state and federal law and regulations. Subject to the further provisions of 3.04, 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 this Agreement.

**ARTICLE IV  
FACILITIES DEVELOPMENT**

**4.01 Responsibility.** Except for the Facilities the Town constructs in consideration for payment of System Development Fees, 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. Facilities shall be developed in strict accordance with Town Regulations and the specific provisions of this Agreement.

**4.02 Parking.** Pursuant to Town Regulations, the total amount of parking required for use of the Property in accordance with the terms and conditions of this Agreement is 67 spaces. By separate Reciprocal License Agreement, dated October 18, 2003, between Owner and the Douglas County School District RE-1, Owner, on behalf of itself, its employees, agents and invitees, has obtained a nonexclusive license to utilize 44 parking spaces in the parking lot of the Cantril School Building, which spaces are a portion of the 67 total spaces required to serve the Property. If, during the term of this Agreement, Owner's right to utilize such parking spaces is terminated, then Owner shall give Town notice within 30 days of the termination of the Reciprocal License Agreement, and shall submit to the Town a new parking plan to make 44 alternative parking spaces available for use in connection with its use of the Property within ninety (90) days following such termination, for approval by the Director of Development Services, which approval shall not be unreasonably withheld. Such alternative parking spaces may be located at the discretion of Owner, provided, however, that in the event such spaces are not located on, or in close proximity to, the Property, Owner shall provide reasonable transportation, at Owner's sole cost, between the alternative parking location and the Property during times of higher use of the Property, such as weekly services. In the event Owner fails to submit a new parking plan within 90 days, the Director of Development Services may grant Owner an extension of an additional 90 days to submit the new parking plan to make the required number of parking spaces available on the Property.

**ARTICLE V  
SIDEWALK CONSTRUCTION**

**5.01 Sidewalk Construction.** Owner shall construct a concrete, detached sidewalk 8-feet in width in the right-of-way along Fourth Street from Cantril Street to the parking lot driveway (Sidewalk). Sidewalk shall be constructed in accordance with the Town's Public Work Regulations, and all other applicable Town codes and regulations. Town shall contribute 50% of the actual costs towards the expense of the Sidewalk construction, not to exceed \$2,200. Town shall pay Owner Town's share of the Sidewalk construction at the time a certificate of occupancy for the sanctuary to be constructed on the Property is issued.

**5.02 Additional Improvements.** Owner may construct additional improvements to the corner bulb to be constructed by the Town at Cantril Street and Fourth Street. Such improvements shall consist of additional paving to connect the corner bulb improvements to the Sidewalk. Such additional improvements shall be at Owner's expense, and shall not be constructed until the bulb construction is completed by the Town and until plans for the additional improvements have been approved by the Town.

**ARTICLE VI  
DEFAULT, REMEDIES AND DISCONNECTION**

**6.01 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.

**6.02 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.

**6.03 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 twenty (20) working 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 twenty (20) day period, corrective action must be commenced within such period by the defaulting party and thereafter diligently pursued.

**ARTICLE VII  
GENERAL PROVISIONS**

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

**7.02 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.

**7.03 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 or 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.

**7.04 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 (3) 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: Christ Episcopal Church  
615 Fourth Street  
Castle Rock, CO 80104

**7.05 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.

**7.06 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.

**7.07 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.

**7.08 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. Misare  
Sally A. Misare, Town Clerk

Ray Waterman  
Ray Waterman, Mayor

**Approved as to form:**

Robert J. Stentz  
Robert J. Stentz, Town Attorney

**STATE OF COLORADO**

)  
) **ss.**

**COUNTY OF DOUGLAS**

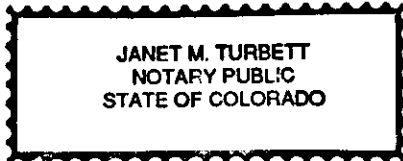
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The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of September, 2004 by Sally A. Misare as Town Clerk and Ray Waterman as Mayor of the Town of Castle Rock.

Witness my official hand and seal.

My commission expires: 4-3-2008

Janet M. Turbett  
Notary Public





**EXHIBIT 1**

All of Block 8, Craig and Gould's Addition to the Town of Castle Rock, Douglas County, Colorado, except Lots 11 & 12 and the east 10 feet of vacated alley adjoining Lots 11 & 12.

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