

**HAZEN/MOORE
DEVELOPMENT AGREEMENT**

DATE: June 22, 2000.

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

SIR THOMAS, LLC, a Colorado limited liability company, c/o Park Land Company, 7600 E. Arapahoe Road, #211, Englewood, CO 80112 ("Thomas").

CASTLE ONE, LLC, a Colorado limited liability company, ("Castle") 6000 Greenwood Plaza Boulevard, #200, Englewood, Colorado 80111.

MORTGAGEES: **Wellington Mortgage Fund, LLC**
First American State Bank
Covenant Mortgage, L.L.C.

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** (the "Property"), in conjunction with the amendment to the existing zoning 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, including those residents of this development.

C. Mortgagees are parties to this Agreement solely for the purpose of subordinating their respective security interests in the Property to the terms 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 Hazen/Moore 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.

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 Hazen/Moore Zoning Regulations, Preliminary Site Plan, the underlying PD zoning ordinance in the Code, the utilities, drainage and transportation master plans approved for the Property with the Preliminary Site Plan.

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: 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, Parcel A is owned by Thomas and Parcel B by Castle

Parcels: Parcel A and Parcel B.

Parcel A: the westerly 21.3 acres of the Property owned by Thomas, described in the attached **Exhibit 2**

Parcel B: the easterly 28.7 acres of the Property owned by Castle, described in the attached **Exhibit 2**.

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

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

Preliminary Site Plan: the Hazen/Moore Preliminary P.D. Site Plan recorded at Reception No. 01097409 of the public records of Douglas County, Colorado. This plan was originally a part of Metzler Ranch PUD, which in turn, was a part of the Milestone Office Campus site plan.

Prior Agreements: Annexation Contract (Hazen-Moore Annexation) recorded January 30, 1987 in Book 697 at Page 982 of the public records and Annexation and Development Contract Between Town of Castle Rock and Park Funding Corp. (Metzler Ranch Annexation) recorded December 26, 1984, beginning in Book 555 at Page 522 and re-recorded February 20, 1985, beginning in Book 562 at Page 517, as amended by Amendment to Annexation and Development Contract (Metzler Ranch Annexation), recorded December 16, 1987, beginning in Book 766 at Page 156 of the Records.

Property: the real property 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, cable television, and telephone.

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.

Water Rights: the right and interest to all Denver Basin groundwater underlying the Property, as more particularly described in the attached *Exhibit 3*.

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 this 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 this Agreement or its covenants is made in any instrument affecting title to the Property.

2.02 Supersession. This Agreement supersedes the Prior Agreements which shall have no force or effect with respect to the Property.

2.03 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, irrespective of whether development activity on the Property is undertaken by the Owner, a third party 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 Parcel Owner's interest in the Property, in which event the express consent or joinder of the Parcel Owner shall be required.

2.04 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 this 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 other police powers as applied to the Property, including specifically, the amendment, modification or addition to the Town Regulations, subsequent to the execution of this 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 this 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.

**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 this 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 and costs are 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 this Agreement and Town Regulations, and applicable state and federal law and regulations. Town shall allow and permit the development of the Property in accordance with the Development Plan and Town Regulations then in effect, 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 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. Town shall not unduly delay or hinder the development of the Property (such as refusing to timely process, review or to act upon development applications), except when such delay is authorized through the Town Regulations and is of Town-wide applicability.

**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 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 the Water Rights. 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, subject to the terms and conditions of the applicable decree(s), if any. 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 (the "Water Credit"). The amount of the Water Credit expressed in SFE shall be computed for each aquifer as follows:

Water Source 98CW370	Acreage	Decreed Withdrawal (AF)	Annual Conversion (1.1 AF/SFE)
Dawson NNT	50	18.2	17
Denver NNT	50	24.9	25
Arapahoe NT	50	22.0	20
Laramie Fox-Hills NT	50	12.4	11
TOTAL		80.5	73

The Water Credit is expressed as a 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. The SFE entitlement in the Water Bank (as defined in 4.05) shall not be affected by subsequent changes in the conversion rate of water rights into SFE that the Town may implemented through modifications to the Town Regulations.

The Dawson and Denver not-nontributary water can not be utilized by Town until an augmentation plan is adjudicated in accordance with the requirements of law (the "Augmentation Plan"). Town shall assume the responsibility of adjudicating the required Augmentation Plan. Concurrently with recordation of this Agreement, Owner shall tender to Town the sum of \$11,215 (Parcel A - \$4,818, Parcel B \$6,397) to defray Town's expenses in adjudicating the Augmentation Plan and to compensate the Town for utilization of Town water resources for post-pumping replacements which may be required by the Court as a condition to approval of the Augmentation Plan.

By agreement of Owners, the Water Credit is allocated 31 SFE to Parcel A (the "Parcel A Water Credit") and 42 SFE to Parcel B (the "Parcel B Water Credit"). This division of the Water Credit creates separate and distinct property interests and neither party shall have any right to utilize the Water Credit of the other, except when an express transfer is made pursuant to 4.06.

4.04 Application of Water Credit. The Water Credit established under 4.03 shall be reduced (i.e. debited):

- (A) at the time of Plat approval by the total SFE assigned to all approved development (private and public) to the extent the water demand for such use can be determined at Plat approval; and
- (B) at the time of Final Site Plan approval or at building permit issuance for those uses not accounted for at the time of Plat approval.

In order to estimate the water demand at the time of Plat approval, Town may apply an empirical planning formula based on acreage and debit the applicable Water Bank (as defined in 4.05) applicable to the Parcel accordingly. When all actual taps are made for development within a Plat, the applicable Water Bank shall be adjusted to reflect the total SFE assignments in accordance with Town Regulations.

The Water Credit for the affected Parcel shall be increased (i.e. credited) upon the acceptance by Town of other water resources in accordance with 4.07. Such additional

Water Credit shall be determined in accordance with applicable Town Regulations then in effect.

4.05 Water Bank. In order to properly account for the Water Credit, Town shall administratively maintain an account designated the Hazen/Moore Water Banks – Parcel A and Parcel B, respectively. These Water Banks shall periodically be debited or credited in accordance with this Article IV. The Water Banks shall be formatted as follows:

HAZEN/MOORE WATER BANK – PARCEL A					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Subdivision Water Rights Deed	00/00/00			30	31
Net Credit					31

HAZEN/MOORE WATER BANK – PARCEL B					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Subdivision Water Rights Deed	00/00/00			43	42
Net Credit					42

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 Parcel A and Parcel B Water Credits constitute private property interests for the benefit of the respective Parcels. The Water Credit applicable to each Parcel shall be applied in accordance with the Agreement per each individual water bank on a "first-come, first-served" basis to approved development within that Parcel on a per unit basis, unless the Parcel Owner directs the Town in writing to allocate a certain portion of the Parcel Water Credit for use on a specific portion of the Parcel (the "Allocated Water Credit"). In the event of such allocation, the Allocated Water Credit may be used exclusively for the designated portion of the Parcel. The Allocated Water Credit may be transferred only after it is determined that the Allocated Water Credit exceeds the demand for the designated portion of the Parcel, in which event the Parcel Owner may reallocate the surplus for use on other portions of that Owner's Parcel.

The Water Credit on either Parcel may not be transferred for use on the other Parcel at any time without prior written agreement of both Parcel Owners. However, no portion of the Parcel Water Credit may be assigned or transferred for use on properties other than the particular Parcel until the total water demand for that Parcel at full development has been determined, the Parcel Water Credit has been applied to meet such demand, and a surplus in the Parcel Water Bank remains. Thereafter, the surplus Parcel Water Credit may be transferred by the Parcel Owner to satisfy the Town's water dedication requirements on other properties, subject to the following terms and restrictions:

- (A) the property to which the Parcel Water Credit is assigned must be located within the corporate limits of the Town;
- (B) the yield of such Parcel Water Credit to satisfy the water dedication requirements of such property shall be determined by the applicable annexation or development contract and/or Town ordinance in effect at the time of transfer;
- (C) the transfer shall be evidenced by a duly acknowledged instrument executed by the transferor (and all mortgagees and lienholders, if any) specifying the

number of SFE transferred, and the property to which the Parcel Water Credit is to be transferred. Such assignment shall be binding upon Town only upon receipt by Town of a recorded copy of an instrument substantially in conformance with these requirements. In the absence of compliance, Town may disregard a purported assignment. Upon written request, Town will confirm in writing whether a proposed transfer will be in substantial compliance and binding upon Town, in accordance with this section.

4.07 Required Water Sources. If either Parcel Water Bank is exhausted prior to full development of that Parcel, that Parcel 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 then in effect. Absent provision of such additional water resources, Town shall not be obligated to approve further development approvals for that Parcel.

4.08 Unified System. Owner acknowledges that the Town will manage the Water Rights as part of its unified municipal water system, and Town is not restricted by this Agreement from distributing the potable water produced from the 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.

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**ARTICLE V
FACILITIES DEVELOPMENT**

5.01 General 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 the Parcel Owner performing the work, and such Parcel Owner shall bear the cost of planning, design, construction and financing of the Facilities and all other related and incidental activities. 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. The issuance of public works permit for the Facilities, and the inspection, conveyance and acceptance of Facilities constructed by Parcel Owner shall be governed by the Town's public works regulations.

5.02 Cooperation in Facilities Development. Town and each Parcel 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 each Parcel Owner, if so required by the governmental agencies.

5.03 Water and Wastewater. Town shall collect all System Development Fees on the Property and provide the water and wastewater capital improvements necessary to provide water and wastewater service to the Property, excluding those Facilities to be constructed by each Parcel Owner pursuant to the Development Plan. Town, at its expense, will extend a wastewater interceptor to the northwest corner of the Property, which will be completed not later than the date the first building permit on the Property is issued.

Town will reimburse the Parcel Owner performing the work the cost of oversizing the water main across the Property. The oversizing reimbursement shall be the incremental cost of increasing the water line size above 12 inches and shall be paid by Town with initial acceptance of such water line. To establish the oversizing cost, the Parcel Owner performing the work shall obtain an alternate bid for a 12 inch line and the excess of the bid for the larger sized line prescribed by the Town over the alternate bid shall be the amount Town pays to the Parcel Owner performing the work for the oversizing.

5.04 Woodlands Boulevard. As part of the Facilities, Owner will extend the full four lane section, median, sidewalks, landscaping, storm sewer and street lighting of Woodlands Boulevard from its current terminus just south of its intersection with Black Feather Trail in Metzler Ranch to the southerly boundary of the Property as provided more specifically in the Plans (the "Woodlands Extension"), as described in the attached **Exhibit 3**. The Woodlands Extension must be constructed with the first Plat of the Property, whether in Parcel A or B. Any cost sharing of recoupment for the Woodlands Extension as between the Owners of Parcels A and B shall be subject to separate agreements between the Owners of Parcels A and B, if any, and the Town shall have no obligation to facilitate or administer such private agreements.

Because the majority of the ultimate traffic flow generated on the Woodlands Extension is unrelated to the development of the Property, Town shall reimburse the Parcel Owner which constructs the Woodlands Extension in accordance with the following.

- (A) Concurrently with Town's initial acceptance of the Woodlands Extension, Town

shall pay to such Parcel Owner 100% of Parcel Owner's Recoverable Cost (as that term is defined below) of constructing the off site portion of the roadway (i.e. the portion north of the northerly boundary of the Property).

- (B) Such Parcel Owner performing the work shall be entitled to recover 50% of its Recoverable Cost for the on-site portion of the Woodlands Extension (the "Onsite Cost").
- (C) If constructed by the Parcel B Owner (as the parties currently envision), the street oversizing (transportation) fees imposed under Chapter 3.12 of the Code which is projected to be collected by Town from full development of Parcel B shall be projected, and if such amount is less than the Onsite Cost, Town will not impose or collect the transportation fee on development on the Parcel. In such event, Town shall also pay to the Parcel B Owner the excess of the Onsite Cost over the transportation fee waiver, concurrently with initial acceptance of the Woodlands Extension. If the Onsite Cost is less than the amount of the transportation fees the Town is projected to collect on the Parcel, the transportation fees shall be waived for the number of dwelling units obtained by dividing the Onsite Cost by the applicable transportation fee per unit. Town shall collect the transportation fee after building permits have been issued for the total number of units subject to the waiver.
- (D) If constructed by the Parcel A Owner, the Onsite Cost shall be reimbursed to the Parcel A Owner concurrently with initial acceptance of the Woodlands Extension. Town shall collect all transportation fees on the Parcel A property.
- (E) Parcel Owner's Recoverable Cost includes actual construction cost, plus 15% of construction cost for "soft" costs. Upon completion of the Woodlands Extension, the Parcel Owner shall certify the Recoverable Cost to Town, and shall furnish Town with a project cost accounting and reasonable supporting documentation. Town shall approve or detail its objection to the submission of the Recoverable Cost certification within 30 days of receipt. Any disputes as to the amount or appropriateness of the Recoverable Cost shall be resolved informally between the Director of Public Works and representatives of the Parcel Owner. If the parties are unable to informally resolve the dispute, it shall be submitted for binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association, with the parties sharing equally in the cost of such arbitration.

5.05 Facilities Control. Upon dedication of Facilities by Parcel 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 each Parcel Owner at that Parcel Owner's cost shall be reserved for the benefit of the Parcel, 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.

5.06 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.

5.07 Temporary Construction Easement. The Parcel A Owner shall grant to Town reasonable temporary construction easements as necessary to permit the Town to construct the widening and improvement of Front Street adjacent to Parcel A. Such grant shall be at no cost to Town, provided Town shall pay the incidental costs of preparation and recording of the necessary real estate documents.

ARTICLE VI PUBLIC LANDS

6.01 Cash-in-lieu. A portion of the public land dedication requirement for the Property was accounted for through the public land dedication on the Metzler Ranch PD, since both Metzler Ranch and the Property were previously subject to the same zoning plan. The adjusted public land dedication requirement for the Property is five acres, however the Town does not intend to develop a public park on the Property. Consequently, Owner shall pay cash-in-lieu of public land dedication in the amount of \$25,000 concurrently with recordation of the first Plat. No public land dedication is required within any Plat of the Property, and the requirements in the Town Regulations for such dedication shall be inapplicable to the Property. Private open space requirements contained in the Development Plan or the Town Regulations are not changed by this provision, which addresses solely public land dedication.

6.02 Pocket Park. Owner shall develop and install a pocket park in Parcel B. Such Pocket Park shall include, at a minimum, playground and any other associated improvements, including picnic tables, shelter and necessary landscaping. Such improvements shall be owned and maintained by the homeowners association.

ARTICLE VII DEFAULT AND REMEDIES

7.01 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.

7.02 Remedies. In addition to specific remedies provided elsewhere in the Agreement, 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 to any express limitations on remedies provided elsewhere in this Agreement. 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.

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

**ARTICLE VIII
GENERAL PROVISIONS**

8.01 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.

8.02 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.

8.03 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) 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: Sir Thomas, LLC
c/o Park Land Company
Attn: Glen R. Smith
7600 E. Arapahoe Road, #211
Englewood, CO 80112

Castle One, LLC
6000 Greenwood Plaza Boulevard, Suite 200
Englewood, CO 80111

SIR THOMAS, LLC, a Colorado limited liability company.

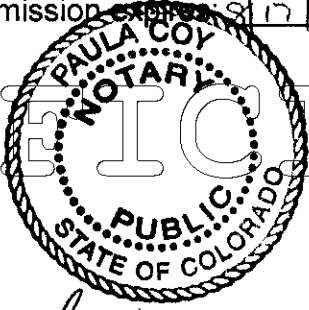
By: John R. Smith

Its: Manager

STATE OF COLORADO)
) ss.
COUNTY OF Archuleta)

+ The foregoing instrument was acknowledged before me this 21st day of July, 2000 by John R. Smith as manager for Sir Thomas, LLC, a Colorado limited liability company.

Witness my official hand and seal.
My commission expires: 8/17/02.

(SEAL)  Paula Coy
Notary Public

CASTLE ONE, LLC

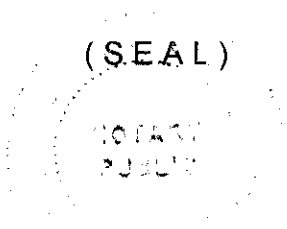
By: John Smith

Its: Mgr.

COUNTY OF _____)
) ss.
STATE OF _____)

The foregoing instrument was acknowledged before me this 10th day of August, 2000, by John Coy as MANAGER for Castle One, LLC.

Witness my official hand and seal.
My commission expires: 12/17/03.

(SEAL) 

Brenda Torrey
Notary Public

MORTGAGEE JOINDER

By execution of this Agreement, Mortgagee subordinates its lien and interest in the Property created by Deed of Trust recorded August 31, 2000, beginning in Book 1889 at Page 394, to the real covenants and restrictions of this Agreement. Mortgagee shall have no affirmative obligation hereunder, nor shall Town have the right to seek performance of this Agreement from Mortgagee except in the event Mortgagee acquires legal title to the Property, in which event Mortgagee shall be bound by the terms, conditions and restrictions of this Agreement.

MORTGAGEE:

First American State Bank

By: *R. Jorgensen*

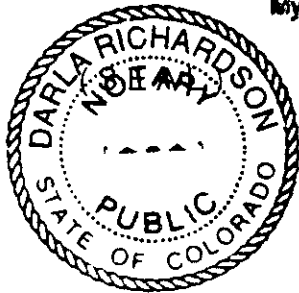
Its: *President*

STATE OF COLORADO)
UNOFFICIAL COPY) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 22nd day of September, 2000 by R Jorgensen as President First American State Bank.

Witness my official hand and seal.
My commission expires: _____

My Commission Expires 11/05/2002



Darla Richardson
Notary Public

MORTGAGEE JOINDER

By execution of this Agreement, Mortgagee subordinates its lien and interest in the Property created by Deed of Trust recorded May 4, 2000, beginning in Book 1840 at Page 1850, to the real covenants and restrictions of this Agreement. Mortgagee shall have no affirmative obligation hereunder, nor shall Town have the right to seek performance of this Agreement from Mortgagee except in the event Mortgagee acquires legal title to the Property, in which event Mortgagee shall be bound by the terms, conditions and restrictions of this Agreement.

MORTGAGEE:

WELLINGTON MORTGAGE FUND, LLC

By: [Signature]

Its: [Signature]

COUNTY OF MARICOPA)

STATE OF ARIZONA) ss.

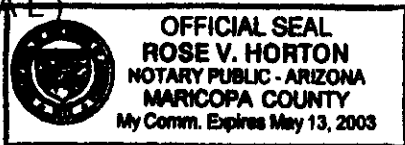
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The foregoing instrument was acknowledged before me this, 23rd day of August, 2000, by Blair J. Portner as Mortgage Member for Wellington Mortgage Fund, LLC.

Witness my official hand and seal.

My commission expires: 5/13/2003

(SEAL)



[Signature]
Notary Public

MORTGAGEE JOINDER

By execution of this Agreement, Mortgagee subordinates its lien and interest in the Property created by Deed of Trust recorded May 18, 2001, beginning in Book 2040 at Page 2124, to the real covenants and restrictions of this Agreement. Mortgagee shall have no affirmative obligation hereunder, nor shall Town have the right to seek performance of this Agreement from Mortgagee except in the event Mortgagee acquires legal title to the Property, in which event Mortgagee shall be bound by the terms, conditions and restrictions of this Agreement.

MORTGAGEE:

COVENANT MORTGAGE, L.L.C.

By: Dewey Haberman
Dewey HABERMAN

Its: Manager

COUNTY OF)

STATE OF) ss.

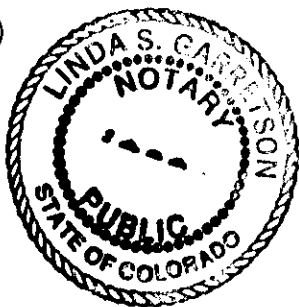
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The foregoing instrument was acknowledged before me this 15th day of OCTOBER, 2001, by Dewey HABERMAN as MANAGER for Covenant Mortgage, L.L.C.

Witness my official hand and seal.

My commission expires: 1/14/2004.

(SEAL)



Linda S. Carrington
Notary Public

EXHIBIT LIST

Exhibit 1	Property Description
Exhibit 2	Parcels A and B Descriptions
Exhibit 3	Water Rights Description

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Exhibit 1

A PARCEL OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTH ONE-HALF OF SECTION 35, TOWNSHIP 7 SOUTH, RANGE 67 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 35, THENCE ALONG THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 35, SOUTH 89 DEGREES 09 MINUTES 20 SECONDS EAST, A DISTANCE OF 2647.74 FEET TO THE EAST ONE-QUARTER CORNER OF SAID SECTION 35; THENCE ALONG THE EAST LINE OF SAID SOUTHEAST ONE-QUARTER SOUTH 01 DEGREES 16 MINUTES 13 SECONDS EAST, A DISTANCE OF 744.12 FEET; THENCE NORTH 89 DEGREES 09 MINUTES 22 SECONDS WEST, A DISTANCE OF 2915.16 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 25 AS DESCRIBED RECEPTION NO. 102116 OF THE RECORDS OF SAID DOUGLAS COUNTY; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH 03 DEGREES 16 MINUTES 54 SECONDS WEST, A DISTANCE OF 745.57 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 35; THENCE ALONG SAID NORTH LINE SOUTH 89 DEGREES 09 MINUTES 19 SECONDS EAST, A DISTANCE OF 293.61 FEET TO THE POINT OF BEGINNING.

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EXHIBIT 2
IDENTIFICATION
OF
PARCELS A & B



LEGAL DESCRIPTION

A parcel of land, located in the South Half of Section 35, Township 7 South, Range 67 West, of the Sixth Principal Meridian, County of Douglas, State of Colorado, more particularly described as follows:

Beginning at the Center of said Section 35; Thence South $89^{\circ}09'20''$ East, along the North line of the Southeast Quarter of said Section 35, non-tangent to the following described curve, a distance of 789.81 feet;

Thence along the West Right-of-Way of the Proposed Woodlands Boulevard, the following two (2) courses:

- 1.) Along a curve to the left, having a central angle of $03^{\circ}54'45''$, a radius of 1,050.00 feet, an arc length of 71.70 feet, a chord bearing of South $24^{\circ}33'23''$ East and a chord distance of 71.69 feet;
- 2.) South $26^{\circ}30'45''$ East, tangent to the last described curve, a distance of 764.35 feet;

Thence North $89^{\circ}09'22''$ West, a distance of 1411.77 feet to a point on the Easterly right-of-way line of Interstate Highway 25 described at Reception No. 102116 of the records of said Douglas County; Thence, along said Easterly right-of-way line, North $03^{\circ}16'54''$ West, a distance of 745.57 feet to a point on the North line of the Southwest One-quarter of said Section 35; Thence, along said North, South $89^{\circ}09'19''$ East, a distance of 293.61 feet to the Point of Beginning.

Containing 926,780 square feet or 21.276 acres, more or less.

Bearings are based on the North line of the Southeast Quarter of said Section 35, being South $89^{\circ}09'20''$ East.

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SECTION 35, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SAID SECTION 35, THENCE ALONG THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 35, SOUTH 89 DEGREES 09 MINUTES 20 SECONDS EAST, A DISTANCE OF 789.81 FEET TO THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID NORTH LINE, SOUTH 89 DEGREES 09 MINUTES 20 SECONDS EAST, A DISTANCE OF 1857.93 FEET TO THE EAST ONE-QUARTER CORNER OF SAID SECTION 35; THENCE ALONG THE EAST LINE OF SAID SOUTHEAST ONE-QUARTER OF SECTION 35, SOUTH 01 DEGREES 16 MINUTES 13 SECONDS EAST, A DISTANCE OF 744.12 FEET; THENCE NORTH 89 DEGREES 09 MINUTES 22 SECONDS WEST, A DISTANCE OF 1503.39 FEET; THENCE NORTH 26 DEGREES 30 MINUTES 45 SECONDS WEST, A DISTANCE OF 764.35 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF SAID CURVE TO THE RIGHT THROUGH A CENTRAL ANGLE OF 03 DEGREES 54 MINUTES 45 SECONDS AN ARC DISTANCE OF 71.70 FEET, HAVING A RADIUS OF 1050.00 FEET AND A CHORD BEARING NORTH 24 DEGREES 33 MINUTES 23 SECONDS WEST, A DISTANCE OF 71.69 FEET TO THE TRUE POINT OF BEGINNING.

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Exhibit 3

The right to withdraw and use to extinction the nontributary and not-nontributary ground water, underlying the real property described in the attached **Exhibit A**, including, but not limited to the water rights further described as follows with reference to the applicable Water Court decree, Water Division 1, (subject to all terms of such decree) as follows:

<u>Aquifer</u>	<u>Case No.</u>	<u>AF/Yr.¹</u>
Lower Dawson	98CW370	18.2
Denver	98CW370	27.9
Arapahoe	98CW370	22.0
Laramie Fox-Hills	98CW370	12.4
TOTAL		80.5

The numerator of each fraction above is the number of acre-feet per year to be conveyed and the denominator of such fraction is the total number of acre-feet per year presently adjudicated in each Water Court decree. The conveyance of ground water rights will include Grantee's proportionate share of water "banked" since entry of such decree.

¹ The amount to be conveyed represents one percent of the adjudicated ground water underlying the land described in **Exhibit A** hereto.

EXHIBIT A

A PARCEL OF LAND LOCATED IN THE NORTH ONE-HALF OF THE SOUTH ONE-HALF OF SECTION 35, TOWNSHIP 7 SOUTH, RANGE 67 WEST, OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE CENTER OF SAID SECTION 35, THENCE ALONG THE NORTH LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 35, SOUTH 89 DEGREES 09 MINUTES 20 SECONDS EAST, A DISTANCE OF 2647.74 FEET TO THE EAST ONE-QUARTER CORNER OF SAID SECTION 35; THENCE ALONG THE EAST LINE OF SAID SOUTHEAST ONE-QUARTER SOUTH 01 DEGREES 16 MINUTES 13 SECONDS EAST, A DISTANCE OF 744.12 FEET; THENCE NORTH 89 DEGREES 09 MINUTES 22 SECONDS WEST, A DISTANCE OF 2915.16 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF INTERSTATE HIGHWAY 25 AS DESCRIBED RECEPTION NO. 102116 OF THE RECORDS OF SAID DOUGLAS COUNTY; THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE NORTH 03 DEGREES 16 MINUTES 54 SECONDS WEST, A DISTANCE OF 745.57 FEET TO A POINT ON THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 35; THENCE ALONG SAID NORTH LINE SOUTH 89 DEGREES 09 MINUTES 19 SECONDS EAST, A DISTANCE OF 293.61 FEET TO THE POINT OF BEGINNING.

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