


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

DATE: February 5, 2015, 201⁵. 

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

WOLFENSBERGER PROPERTY GROUP, LLC, a Colorado limited liability company, 9116 West Bowles Avenue, Unit 15, Littleton, CO 80123 (Owner).

MORTGAGEES: **Mile High Banks, N.A.**

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 of the Property and the concurrent approval by the Town of the zoning and 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.

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 Hillside 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, including System Development Fees.

Development Plan: the Hillside PD Zoning Regulations and Preliminary PD Site Plan approved by the Town Council on October 20, 2009 by Ordinance No. 2009-31 (inclusive of the applicable Phasing 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.

Municipal Services: police and fire protection, storm water drainage, 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 Wolfensberger Property Group, 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 final subdivision plat of the Property.

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.

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



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 right and interest to all Denver basin ground water underlying the Property, adjudicated in Case Nos. 84CW197, 93CW148, 84CW196, 86CW281, 84CW195, and 84CW194

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.

Upon conveyance of all, or a portion of the Property, the grantor shall be relieved of all obligations imposed by this Agreement applicable to the portion of the Property conveyed, provided that the grantor shall not be relieved of any default under this Agreement attributable to the action or inaction of the grantor while the grantor was in title to such portion of the Property, nor shall such divestiture relieve the grantor of any obligations under separate agreement(s) with the Town.

2.02 Application to Mortgagee. A mortgagee or other lienholder who subordinates its record interest in the Property to this Agreement shall not be responsible for performance of any of the affirmative covenants placed on Owner under this Agreement, until and unless such mortgagee acquires title to the Property and commences development of the Property.

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 as applied to the Property, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of the Agreement. The development and use of the Property shall be subject to all Development Exactions, fees and taxes imposed by the Town through the Town Regulations.

When the Agreement calls for compliance with Town Regulations, the operative Town Regulations in effect at the time that such compliance is required shall govern, unless the provisions of this 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 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 this Agreement and Town Regulations, and applicable state and

federal law and regulations and the Development Plan. Subject to the further provisions of Article VI, 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 coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under this Agreement.

3.03 Disconnection from Fire District. Owner agrees to file a Motion for Exclusion from the Castle Rock Fire Protection District with the Douglas County District Court and diligently pursue such exclusion to conclusion. The disconnection shall be completed prior to and as a condition of Town's approval of the first preliminary subdivision plat for the Property.

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, shall obtain a title commitment to the Water Rights in which Stewart Water shall propose to insure the Town's interest in the Water Rights in the amount of \$232,250 (Water Commitment). Owner shall pay the premium for the Water Policy with recordation of the special warranty deed to the Water Rights. 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.

In addition, prior to and as a condition to recordation of this Agreement, Owner has transferred 40 SFE from the Metzler Ranch Water Bank 1 to the Hillside Water Bank, (see 4.05, below), as evidenced by the SFE Assignments attached as **Exhibit 2**.

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 4.06) 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 200% 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):

- (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/irrigation permit issuance for those uses not accounted for at the time of Plat approval.

4.05 Water Bank. In order to properly account for the Water Credit, Town shall administratively maintain an account designated the Hillside Water Bank. The Hillside

Water Bank shall periodically be debited or credited in accordance with this Article IV. The Hillside Water Bank shall be formatted as follows:

HILLSIDE WATER BANK					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Deeds to Water Rights				77	77
SFE Transfer				40	117

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 (residential or non-residential) 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. 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 Property, in which event the Owner may reallocate the surplus for use on portions 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.

The Water Credit may not be assigned or transferred for use on properties other than the Property. After Town and Owner have agreed that full development has

occurred, 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, any unused portion of the Water Credit remaining and any unadjudicated water shall revert to the Town, at no cost or obligation to Town.

4.07 Required Water Sources. If the Water Bank is exhausted prior to full development of the Property, the Owner shall be required to provide additional water resources or pay to Town cash-in-lieu of water rights in accordance with (and is so authorized by) the Town Regulations then in effect. Absent provision of such additional water resources, Town shall not be obligated to approve further development approvals for the Property.

**ARTICLE V
FACILITIES DEVELOPMENT**

5.01 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.

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 by Owner. Such surety shall be posted at the time of issuance of the applicable public works permit.

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 and the financial guarantees to assure construction of the Facilities.

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 all off-site Facilities. 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 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. Any off-site Facilities necessary to serve the Property shall be at the sole expense and obligation of Owner, except those Facilities set forth in section 5.07, below.

5.06 Off-site Sanitary Sewer. As part of development of the Facilities, Owner, at its sole expense, shall install a sanitary sewer main from the west Property boundary on Wolfensberger Road, northeast along Wolfensberger Road to the existing manhole located at the intersection of Auburn Drive, as depicted on the Preliminary PD Site Plan. Town will make reasonable efforts to obtain recoupment, in whole or in part, for Owner of the cost of that portion of the sanitary sewer main which benefits neighboring properties. The segment subject to such recoupment is depicted on the attached **Exhibit 3**.

5.07 Sanitary Sewer Upgrade. The Town anticipates the the construction of an upsized sanitary sewer main along Malibu Street that will service the Property. Prior to and as a condition to recordation of this Agreement, Owner shall pay to Town \$3,300 which represents Owner's pro rata share of the cost of upsizing the sanitary sewer main. Upon receipt of such payment, Owner shall have no further obligation toward the construction of the upsized sewer main.



5.08 Transportation Improvements.

A. Concurrently with and as a condition to recordation of this Agreement and at no cost to Town, Owner shall dedicate the right-of-way necessary for the expansion of Wolfensberger Road, more specifically described in the attached **Exhibit 4**. Such conveyance shall be by special warranty deed free and clear of any liens, encumbrances or assessments that would impair the use of the property by the Town for intended purpose as reasonably determined by Town. Subdivider shall furnish Town with an ALTA form policy of title insurance, issued by a title company licensed to do business in the State of Colorado, and which insures the Town's title in the amount of \$10,000 per acre, for each Dedicated Tract. Owner shall pay the premium for such title insurance. Taxes for prior years shall be paid in full and current year taxes shall be prorated and paid to Town with recordation of the deed.

B. Concurrently with and as a condition to recordation of the first Plat on the Property, Owner shall:

1. Convey the necessary right of way, at no cost to Town, for Wolfensberger Road improvements along the Property boundary and all necessary auxiliary lanes serving the Property off of Wolfensberger Road and Coachline Road. The dimensions of the improvements to Wolfensberger Road shall be in accordance with the Wolfensberger Road – Coachline Road to Prairie Hawk Road Access Management Plan dated September 2007 & Addendum of said plan dated March 19, 2008. Locations and dimensions of auxiliary lanes will be determined by a traffic impact study completed by Owner and approved by the Town;

2. Pay to Town cash-in-lieu for the following improvements to Wolfensberger Road (Wolfensberger Improvements):

a. Design and construction of all curb and gutter on the northerly side of Wolfensberger Road, including curb and gutter adjacent to any auxiliary lanes., provided however, in the event Owner undertakes the design and construction of the Wolfensberger Improvements as part of the first phase of development on the Property, then Owner's obligation to participate in the Wolfensberger Improvements will have been satisfied. In the event Owner designs and constructs only a portion of the Wolfensberger Improvements, Owner shall pay cash-in-lieu for the design and construction of the remaining Wolfensberger Improvements concurrently with and as a condition to recordation of the first Plat on the Property.

b. Storm sewer improvements necessitated by (a), above

c. Design and construction of the north half of the proposed Wolfensberger medians adjacent to the Property.

3. Pay to Town \$25,000 as the Property's pro rata share of the intersection control improvements (signalization and/or roundabout) at the intersection of Wolfensberger and Coachline Road.

4. Install traffic signal conduit and pull boxes along the Property frontage. The specifications for the conduit will be provided by Town at the time of development.

All such cash-in-lieu payments shall be based upon an engineers cost estimate approved by Town. The specifications for all design and construction of the Wolfensberger Improvements shall be based on the Town Regulations in effect at the time of Plat approval.

C. Owner acknowledges that additional traffic will be generated by development of the Property, which will cause deterioration to Wolfensberger Road at a faster rate. Therefore, as a condition to recordation of the first Plat on the Property, Owner shall deposit with the Town the cost of constructing a structural overlay (2-inches) for one-half of Wolfensberger Road that abuts the Property. Owner shall provide Town with the cost-estimate for such improvements, which shall be a condition to approval of the Plat. Town shall not unduly delay the review and approval of the cost estimate. In the event Owner undertakes the pavement overlay (or other approved paving or repair) concurrently with the first phase of development on the Property, Owner shall have no further obligation to participate in the cost of constructing the structural overlay improvements. Owner shall coordinate with the Town for the design of the pavement overlay.

D. At the time of development of the Property, Owner shall provide adequate access to the Beaver property adjacent to the Property's northeast boundary in accordance with the Wolfensberger Access Plan dated September 2007 and Addendum #1 of said plan dated March 19, 2008.

E. The traffic impact study for the Property does not require the secondary access to Coachline Road. However, should Owner desire to construct such access, it shall be done at Owner's sole expense, inclusive of any any costs associated with acquiring the necessary right-of-way for such access.

**ARTICLE VI
PUBLIC LANDS AND OPEN SPACE**

6.01 Public Land Dedication. Concurrently with and as a condition to recordation of the first Plat on the Property, Owner shall pay to Town cash-in-lieu of public land dedication. The cash-in-lieu amount shall be based on 5.11 acres of land dedication for Town Facilities and 1.86 acres of land dedication for schools, as required by the Code at the rate in effect at the time of Plat approval.

6.02 Public Trail Access. Concurrently with and as a condition to recordation of the first Plat on the Property, Owner shall dedicate to the Town an area for public parking for the public open space portion of the Property.

**ARTICLE VII
AGE RESTRICTED DEVELOPMENT**

7.01 Residential Restrictions and Covenants. The Property is to be developed as an adult oriented community. Restrictions and covenants shall be established that contain the following provisions shall be recorded simultaneously with this Agreement:

A. No person under the age of 55 may reside on the Property for a continuous period in excess of four (4) weeks, unless they are age nineteen or older and live in a dwelling unit occupied by a Qualified Person, as defined in subparagraph B below.

B. Qualified Person shall mean: (i) an person who is at least fifty-five (55) years of age, or (ii) a person who is a widow or widower, whose spouse resided in a dwelling unit on the Property and was at least fifty-five (55) years of age at the time of his or her death, or (iii) a person who is at least thirty (30) years of age if such person or person's spouse purchased the dwelling unit on the Property from the developer and, at the time of such purchase, at least 80% of all occupied dwelling units on the Property were occupied by at least one person fifty-five (55) years of age or older per dwelling unit.



**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 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 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 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: Wolfensberger Property Group, LLC
9116 West Bowles Avenue, Unit 15
Littleton, CO 80123

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

9.05 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.

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

9.07 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.

9.08 Vesting. Vesting may be requested at the time of subsequent land use approvals in accordance with Town Regulations.

ATTEST

TOWN OF CASTLE ROCK

Sally A. Misare
Sally A. Misare, Town Clerk

Paul Donahue
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 5th day of February 2015, ~~2017~~ 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

JENNIFER L KING
NOTARY PUBLIC
STATE OF COLORADO
Notary ID: #19954015018
My Commission Expires: September 21, 2015

Jennifer King
Notary Public

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MORTGAGEE JOINDER

By execution of this Agreement, Mortgagee subordinates its lien and interest in the Property created by Deed of Trust recorded December 19, 2007 at Reception No. 2007097649, 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:

MILE HIGH BANKS, N.A.

By: Richard R. Kinney

Its: VP

STATE OF Colorado)

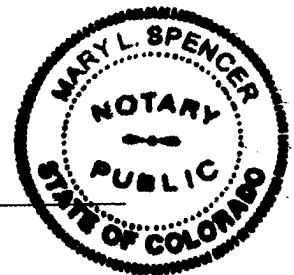
COUNTY OF Denver) ss.

The foregoing instrument was acknowledged before me this 24 day of July, 2013, by Richard R. Kinney as Vice President for Mile High Banks, N.A.

Witness my official hand and seal. My Commission Expires
My commission expires: 11/03/2013

(SEAL)

Mary L. Spencer
Notary Public



LEGAL DESCRIPTION – BASED ON SURVEY

Exhibit 1

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 3 AND THE SOUTHEAST 1/4 OF SECTION 4, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 3, WHENCE THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 4 BEARS N. 89°26'32" W., A DISTANCE OF 1286.69 FEET, SAID LINE FORMING THE BASIS OF BEARING FOR THIS DESCRIPTION; THENCE N. 89°16'41" E., A DISTANCE OF 533.53 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE N. 49°02'26" W., A DISTANCE OF 100.00 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 24°21'57" AND A RADIUS OF 1500.00 FEET, AN ARC DISTANCE OF 637.90 FEET (CHORD BEARS N. 61°13'25" W., A DISTANCE OF 633.10 FEET) TO THE SOUTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED BY DEED RECORDED IN BOOK 591 AT PAGE 379 OF THE DOUGLAS COUNTY RECORDS;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL OF LAND, ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 43°07'18" AND A RADIUS OF 635.00 FEET, AN ARC DISTANCE OF 477.91 FEET (CHORD BEARS N. 39°12'48" W., A DISTANCE OF 466.71 FEET) TO A POINT;

THENCE N. 53°24'19" E., A DISTANCE OF 2129.08 FEET TO THE EAST LINE OF THE WEST 1/2 OF THE SOUTHWEST 1/4 OF SAID SECTION 3;

THENCE S. 00°11'15" W., A DISTANCE OF 668.18 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SAID SECTION 3;

THENCE N. 89°33'04" E., ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, A DISTANCE OF 257.97 FEET TO A POINT;

THENCE S. 00°09'26" W., A DISTANCE OF 13.38 FEET TO THE NORTHEAST CORNER OF A PARCEL OF LAND DESCRIBED BY DEED RECORDED IN BOOK 1394 AT PAGE 1605 OF THE DOUGLAS COUNTY RECORDS;

THENCE ALONG THE NORTHERLY, WESTERLY AND SOUTHERLY LINES OF SAID PARCEL OF LAND THE FOLLOWING FOUR (4) COURSES:

THENCE N. 89°31'34" W., A DISTANCE OF 38.13 FEET TO A POINT;

THENCE N. 89°46'29" W., A DISTANCE OF 12.15 FEET TO A POINT;

THENCE S. 00°09'26" W., A DISTANCE OF 433.53 FEET TO POINT;

THENCE N. 89°33'04" E., PARALLEL WITH SAID NORTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 3, A DISTANCE OF 50.28 FEET TO A POINT;

THENCE CONTINUING PARALLEL WITH SAID NORTH LINE, N. 89°33'04" E., A DISTANCE OF 250.24 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD THE FOLLOWING FOUR (4) COURSE:

THENCE S. 51°32'57" W., A DISTANCE OF 649.93 FEET TO A POINT;

THENCE S. 51°35'58" W., A DISTANCE OF 173.87 FEET TO A POINT;

THENCE S. 50°14'24" W., A DISTANCE OF 80.36 FEET TO A POINT;

THENCE S. 60°38'02" W., A DISTANCE OF 667.40 FEET TO THE TRUE POINT OF BEGINNING;

SAID TRACT OF LAND CONTAINS 2,035,214 SQUARE FEET OR 46.72 ACRES, MORE OR LESS.

ASSIGNMENT OF WATER BANK CREDITS

WHEREAS, the Town of Castle Rock, Colorado (the "Town") and Wintergreen Homes Limited Liability Company, a Colorado limited liability company ("Wintergreen"), have established certain water bank credits from the Metzler Ranch Water Bank 1 ("Water Credits") for the development of various properties within the Town.

WHEREAS Wolfensberger Property Group, LLC, a Colorado limited liability company ("WPG"), upon annexation of its project known as Hillside at Castle Rock ("Project") into the Town, will establish a water bank with the Town ("Project Water Bank"); and

WHEREAS, the Town is willing to acknowledge and consent to the allocation of Thirty-six (36) Water Credits to WPG.

NOW, THEREFORE, Wintergreen hereby assigns and dedicates Thirty-six (36) Water Credits to WPG.

DATED this 5 day of April, 2011.

WINTERGREEN HOMES LLC, a Colorado limited liability company
By [Signature]
Arthur Kleinstein, Manager

STATE OF COLORADO)
COUNTY OF Garfield) ss.

The foregoing instrument was acknowledged before me this 5 day of April, 2011 by Arthur Kleinstein, Manager of Wintergreen Homes Limited Liability Company, a Colorado limited liability company.

Elizabeth Spanel
NOTARY PUBLIC
STATE OF COLORADO

[Signature]
Notary Public
My Commission expires: 1/22/2013

ACKNOWLEDGMENT AND CONSENT:

The Wolfensberger Property Group, LLC, by its authorized officer, acknowledges and consents to this Assignment of Water Bank Credit.

WOLFENBERGER PROPERTY GROUP, LLC, a
Colorado limited liability company

By: [Signature]

Name: Miles Grant

Title: Manager's Rep

STATE OF COLORADO)

COUNTY OF Harrison) ss.

The foregoing instrument was acknowledged before me this 21st day of April, 2011 by Miles Grant, as Manager's Rep of Wolfensberger Property Group, LLC, a Colorado limited liability company.

[Signature]
Notary Public
My Commission expires: 3/26/2013

Unofficial Copy

ACKNOWLEDGMENT AND CONSENT:

The Town of Castle Rock by its authorized officer, acknowledges and consents to this Assignment of Water Bank Credit.

TOWN OF CASTLE ROCK

By: *Mark J. Stevens*

STATE OF COLORADO)

COUNTY OF *Douglas*) ss.

The foregoing instrument was acknowledged before me this *21st* day of April, 2011 by *Mark J. Stevens* as *Manager* for the Town of Castle Rock, Colorado.

**JANET M TURBETT
NOTARY PUBLIC
STATE OF COLORADO**

Janet M Turbett
Notary Public

My Commission expires: *4-3-2012*

Unofficial Copy

ASSIGNMENT OF WATER BANK CREDITS

WHEREAS, the Town of Castle Rock, Colorado (the "Town") and Wintergreen Homes Limited Liability Company, a Colorado limited liability company ("Wintergreen"), have established certain water bank credits from the Metzler Ranch Water Bank 1 ("Water Credits") for the development of various properties within the Town.

WHEREAS Wolfensberger Property Group, LLC, a Colorado limited liability company ("WPG"), upon annexation of its project known as Hillside at Castle Rock ("Project") into the Town, will establish a water bank with the Town ("Project Water Bank"); and

WHEREAS, the Town is willing to acknowledge and consent to the allocation of four (4) Water Credits to WPG.

NOW, THEREFORE, Wintergreen hereby assigns and dedicates four (4) Water Credits to WPG.

DATED this 15 day of March, 2010.

WINTERGREEN HOMES LLC, a Colorado limited liability company

By [Signature]
Arthur Kleinstein, Manager

STATE OF COLORADO)
COUNTY OF Eagle) ss.

The foregoing instrument was acknowledged before me this 15 day of March, 2010 by Arthur Kleinstein, Manager of Wintergreen Homes Limited Liability Company, a Colorado limited liability company.

[Signature]
Notary Public
Elizabeth Spanel
NOTARY PUBLIC
STATE OF COLORADO
My Commission expires: 1/22/2013

ACKNOWLEDGMENT AND CONSENT:

The Wolfensberger Property Group, LLC, by its authorized officer, acknowledges and consents to this Assignment of Water Bank Credit.

WOLFENSBERGER PROPERTY GROUP, LLC, a
Colorado limited liability company

By: [Signature]

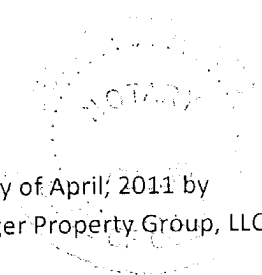
Name: Miles Grant

Title: Manager's Rep.

STATE OF COLORADO)

COUNTY OF Jefferson) ss.

The foregoing instrument was acknowledged before me this 19th day of April, 2011 by Miles Grant, as Manager's Rep of Wolfensberger Property Group, LLC, a Colorado limited liability company.



Jean M. Dominguez

Notary Public

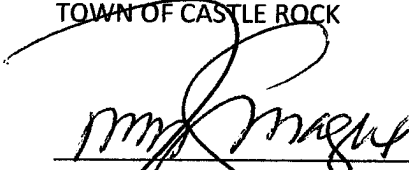
My Commission expires: 12/31/13

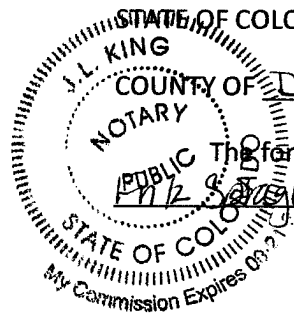
Unofficial Copy

ACKNOWLEDGMENT AND CONSENT:

The Town of Castle Rock by its authorized officer, acknowledges and consents to this Assignment of Water Bank Credit.

TOWN OF CASTLE ROCK

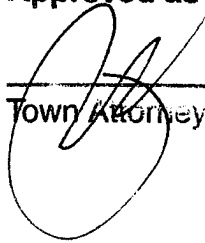

By: Fritz Sprague
Deputy Town manager



STATE OF COLORADO)
COUNTY OF DOUGLAS) ss.

The foregoing instrument was acknowledged before me this 19TH day of March, 2010 by Fritz Sprague, as Deputy Town manager for the Town of Castle Rock, Colorado.

Approved as to form:


Town Attorney



Notary Public
My Commission expires: 9-21-2011

Exhibit 3

Sanitary
Sewer
Main

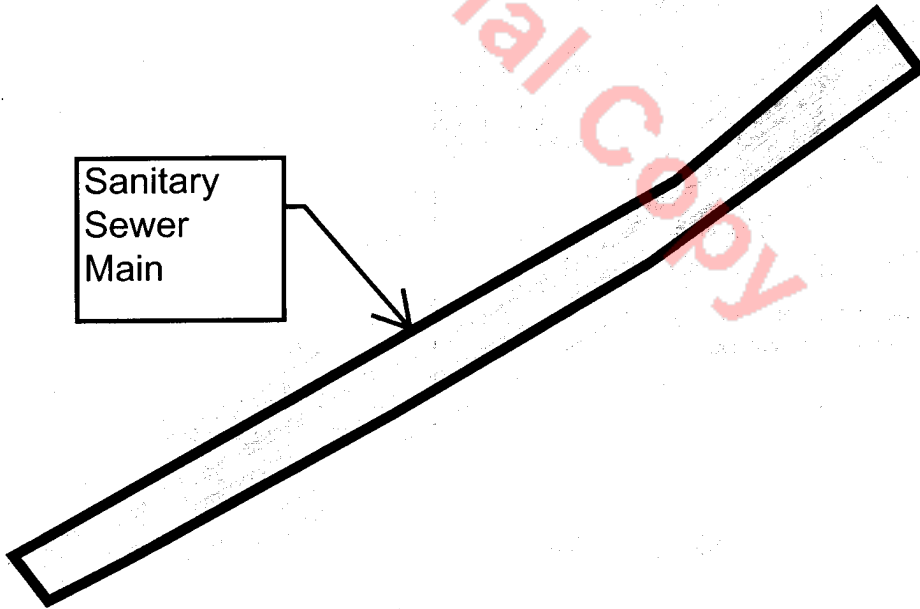
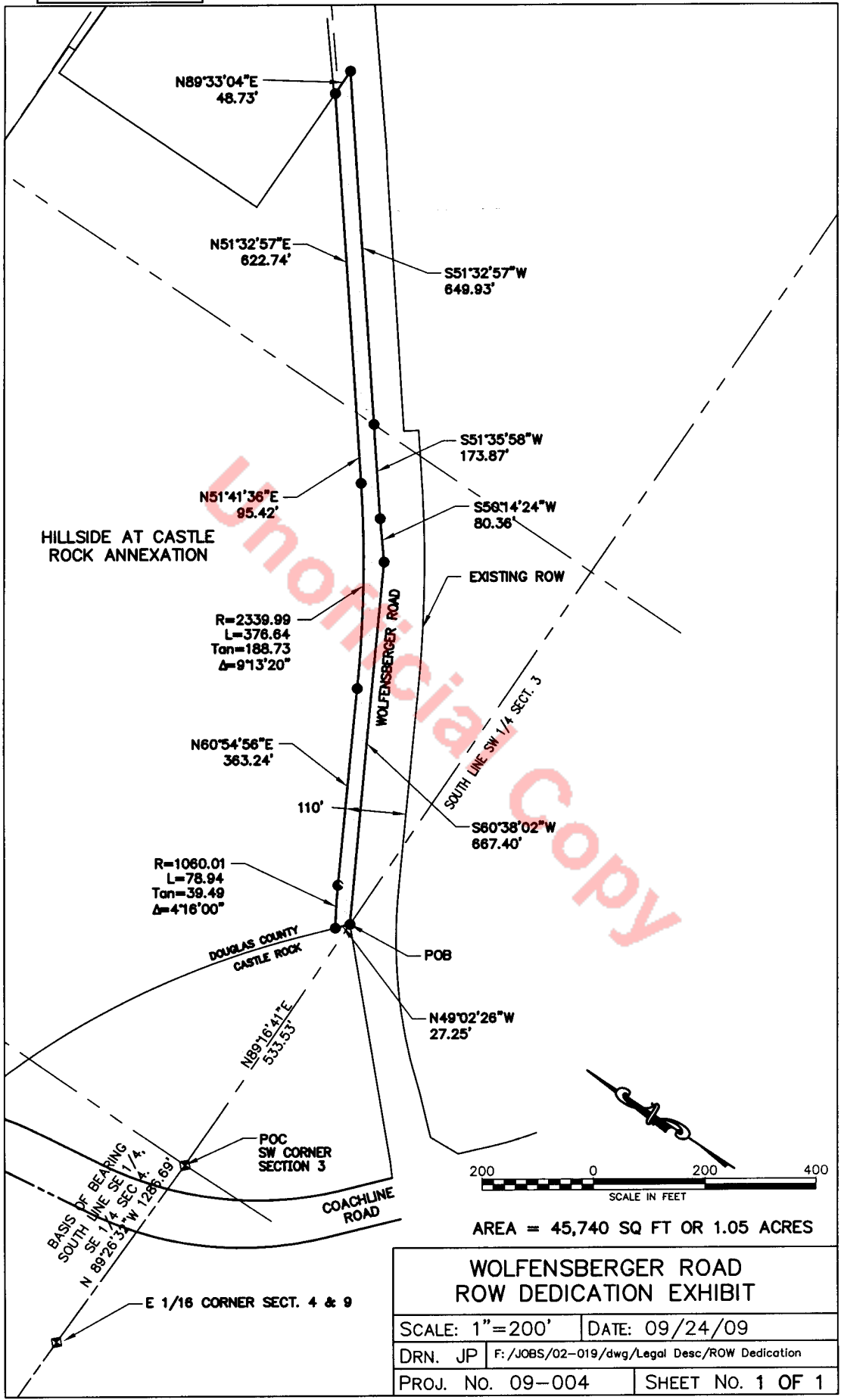


Exhibit 4



WOLFENSBERGER ROAD ROW DEDICATION EXHIBIT	
SCALE: 1"=200'	DATE: 09/24/09
DRN. JP	F: /JOBS/02-019/dwg/Legal Desc/ROW Dedication
PROJ. NO. 09-004	SHEET NO. 1 OF 1

Exhibit 4

ADDITIONAL RIGHT OF WAY FOR WOLFENSBERGER ROAD

A TRACT OF LAND LOCATED IN THE SOUTHWEST 1/4 OF SECTION 3, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE 6TH P.M., COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID SECTION 3, WHENCE THE SOUTH LINE OF THE SOUTHEAST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 4 BEARS N. 89°26'32" W., A DISTANCE OF 1286.69 FEET, SAID LINE FORMING THE BASIS OF BEARING FOR THIS DESCRIPTION; THENCE N. 89°16'41" E., A DISTANCE OF 533.53 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE N 49°02'26" W, A DISTANCE OF 27.25 FEET TO A NON-TANGENT POINT OF CURVATURE; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 4°16'00" AND A RADIUS OF 1,060.01 FEET, AN ARC DISTANCE OF 78.94 FEET (CHORD BEARS N58°46'56"E, A DISTANCE OF 78.92 FEET) TO A POINT OF TANGENCY;

THENCE N 60°54'56" E, A DISTANCE OF 363.24 FEET TO A POINT OF CURVATURE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 9°13'20" AND A RADIUS OF 2,339.99 FEET, AN ARC DISTANCE OF 376.64 FEET TO A POINT OF TANGENCY;

THENCE N 51°41'36" E, A DISTANCE OF 95.42 FEET TO A POINT;

THENCE N 51°32'57" E, A DISTANCE OF 622.74 FEET TO A POINT;

THENCE N 89°33'04" E, A DISTANCE OF 48.73 FEET TO A POINT ON THE NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD;

THENCE ALONG SAID NORTHWESTERLY RIGHT-OF-WAY LINE OF WOLFENSBURGER ROAD THE FOLLOWING FOUR (4) COURSES:

THENCE S 51°32'57" W, A DISTANCE OF 649.93 FEET TO A POINT;

THENCE S 51°35'58" W, A DISTANCE OF 173.87 FEET TO A POINT;

THENCE S 50°14'24" W, A DISTANCE OF 80.36 FEET TO A POINT;

THENCE S 60°38'02" W, A DISTANCE OF 667.40 FEET TO THE TRUE POINT OF BEGINNING;

SAID TRACT OF LAND CONTAINS 45,740 SQUARE FEET OR 1.05 ACRES, MORE OR LESS.