

RESOLUTION NO. 2019 -133

A RESOLUTION APPROVING THE FIRST AMENDMENT TO THE LANTERNS AMENDED AND RESTATED DEVELOPMENT AGREEMENT

WHEREAS, Speer Equities LLC, a Colorado limited liability company, CC Erie Farms, LLC, a Colorado limited liability company, SC Erie Farms, LLC, a Colorado limited liability company, KC Erie Farms, LLC, a Colorado limited liability company, Lanterns CFC LLC, a Colorado limited liability company, Lanterns SLC LLC, a Colorado limited liability company, Lanterns KDC LLC, a Colorado limited liability company, Lanterns RLC LLC, a Colorado limited liability company, Heckendorf Holdings LLC, a Colorado limited liability company, Jeannie D McDonald Carlson, J.P.S. Land Source, LLC, a Colorado limited liability company, who acquired title as JPS Land Source LLC, a Colorado limited liability company, Taylor Carlson, Kristen Carlson Penwell, Delaney D Carlson, Teagan Jo Carlson, Abigaile L Carlson, Corinne R Carlson, Cory J Thornton, Jennifer Trail, Traci A Thornton, the Town of Castle Rock, a Colorado municipal corporation, and Toll Southwest LLC, a Colorado limited liability company, all as their interests appear of record have requested approval of the Lanterns Planned Development Zoning Regulations First Amendment Development Agreement, ("Development Agreement"); and

WHEREAS, the Development Agreement complies with the Lanterns Planned Development Zoning Regulations; and

WHEREAS, the Development Agreement substantially meets the criteria for approval set forth in 17.38.040 of the Castle Rock Municipal Code; and

WHEREAS, public hearings on the Development Plan have been held before the Planning Commission and Town Council in accordance with the applicable provisions of the Castle Rock Municipal Code.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Approval.

The First Amendment to the Lanterns Amended and Restated Development Agreement in the form attached as *Exhibit 1* is hereby approved. The Mayor and other proper Town officials are hereby authorized to execute the Agreement by and on behalf of the Town of Castle Rock.


PASSED, APPROVED AND ADOPTED on first and final reading this 17th day of December, 2019, by the Town Council of the Town of Castle Rock by a vote of 6 for and 0 against.

ATTEST:

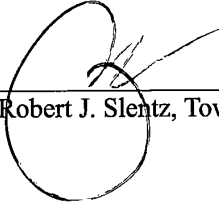
TOWN OF CASTLE ROCK


Lisa Anderson, Town Clerk




Jason Gray, Mayor

Approved as to form:



Robert J. Slentz, Town Attorney

Approved as to content:



Bill Detweiler, Development Services Director

Unofficial Copy

**FIRST AMENDMENT TO
THE LANTERNS AMENDED AND RESTATED
DEVELOPMENT AGREEMENT**

DATE: December 17, 2019.

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

SPEER EQUITIES LLC, a Colorado limited liability company, **CC ERIE FARMS, LLC**, a Colorado limited liability company, **SC ERIE FARMS, LLC**, a Colorado limited liability company, **KC ERIE FARMS, LLC**, a Colorado limited liability company, **LANTERNS CFC LLC**, a Colorado limited liability company, **LANTERNS KDC LLC**, a Colorado limited liability company, **LANTERNS RLC LLC**, a Colorado limited liability company, **LANTERNS SLC LLC**, a Colorado limited liability company, **HECKENDORF HOLDINGS LLC**, a Colorado limited liability company, **JEANNE D. MCDONALD CARLSON, J.P.S. LAND SOURCE, LLC a/k/a JPS Land Source, LLC**, a Colorado limited liability company, **TAYLOR CARLSON, KRISTEN CARLSON PENWELL, DELANEY D CARLSON, TEAGAN JO CARLSON, ABIGAIL L CARLSON, CORINNE R CARLSON, COREY J THORNTON, JENNIFER TRAIL, TRACI A THORNTON**, PO Box 247 Eastlake, Colorado 80614-0247, and **TOLL SOUTHWEST, LLC**, a Colorado limited liability company, (collectively, “Owner”).

RECITALS:

A. Initially capitalized words and phrases used in this Agreement have the meanings stated in Article I, or as indicated elsewhere in the Agreement.

B. Town and Owner’s predecessors-in-title were parties to The Lanterns Amended and Restated Development Agreement dated October 31, 2014, recorded in the Records December 8, 2014 at Reception No. 2014071296 (“Development Agreement”).

C. The Property is currently zoned for 1200 residential units (725 age-restricted residential units and 475 non-age restricted residential units). Section 3 of the Lanterns Planned Development Zoning Regulations 4th Amendment allows for the transfer of units from one planning area to another designated on the Planned Development Plan for residential use, provided (i) the overall total permitted number of dwelling units for the Lanterns will not thereby be increased; and

(ii) that the height criteria set forth elsewhere in the Ordinance will not thereby be violated. Owner has requested the transfer of 61 units from the age-restricted planning areas to the non-age restricted planning areas (the "Unit Transfer").

D. The parties have determined that it is in their mutual interest to amend the Development Agreement in order to (i) govern the development of the Heckendorf Parcel by the terms of the Development Agreement in conjunction with the rezoning of the Property and the Heckendorf Parcel; (ii) address the water efficiency plan requirements for the Heckendorf Parcel and Church Parcel; and (ii) address the traffic impacts resulting from the Unit Transfer and development of the Church Parcel.

E. Mortgagees are parties to this Agreement solely for the purpose of subordinating their 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:

Section 1. Amendment. 1.01 of the Development Agreement is amended as follows:

A. The addition of the following defined terms:

Heckendorf Parcel: Lot 2, Block 2, Heckendorf Ranch Filing No. 2,

Church Parcel: that portion of the Property identified on the PDP, as amended by the 4th Amendment, designated "Church."

B. The definition of Property is amended to include the Heckendorf Parcel, as further described on the attached *Exhibit 1*.

Section 2. Amendment. Article V of the Development Agreement is amended to add a new section 5.09, entitled Additional Water Efficiency Plans Required, to read as follows.

5.09 Additional Water Efficiency Plans Required. A new Water Efficiency Plan shall be required as a condition to approval of each site development Plan within the Heckendorf Property or the Church Parcel that includes a residential use.

Section 3. Amendment. 6.07 of the Development Agreement is amended to include the following additional provisions:

6.07 Interchange Development.

I. Notwithstanding the foregoing, as a condition to approval of the first building permit with any portion of the Heckendorf Parcel, Owner shall pay to Town \$16,184.38 as the Heckendorf Parcel's pro rata share of the cost to construct the Interchange.

J. Concurrently with and as a condition to recordation of this First Amendment to the Lanterns Amended and Restated Development Agreement, Owner shall pay to Town (i) \$79,603 as the pro-rata contribution toward the cost to construct the Interchange based on traffic impacts from the Unit Transfer, and (ii) \$56,859 as the pro-rata contribution toward the cost to construct the Interchange based on traffic impact from development of the Church Parcel. Provided, however, such contribution amounts shall be adjusted based on the Interchange cost estimate at the time such payment is made.

Section 4. Ratification. Except to the extent expressly modified by this First Amendment, the Development Agreement is in full force and effect. To the extent of any inconsistency between this First Amendment and the Development Agreement, the terms and conditions of this First Amendment shall control.

(Signature pages to follow)

EXHIBIT 1**LANTERNS PDP AMENDMENT-04 LEGAL DESCRIPTION**

Section 26, that portion of Section 27 lying east of the east right-of-way line of the Denver & Rio Grande Western Railroad and that portion of the southeast quarter of the southeast quarter of section 22 lying east of the east right-of-way line of the Denver & Rio Grande Western Railroad, Township 8 south, Range 67 west of the sixth Principal Meridian, County of Douglas, State of Colorado. More particularly described as follows:

Beginning at the southeast corner of said Section 27; thence N88°57'18"W along the south line of the southeast quarter of said Section 27, 2345.92 feet to the east right-of-way line of the Denver & Rio Grande Western Railroad; thence along said east right-of-way line the following thirteen (13) courses:

1. Thence N24°18'40"E, 1080.09 feet to a point of curve;
2. Thence along said curve to the left having a radius of 6027.22 feet, a central angle of 03°21'51", 353.89 feet to the north line of the south half of the southeast quarter of said Section 27;
3. Thence N89°04'00"W along said line, 53.24 feet to a point on a curve;
4. Thence along said curve to the left having a radius of 5977.22 feet, a central angle of 10°28'41" (the chord of which bears N15°52'57"E, 1091.57 feet), 1093.09 feet to a point of tangent;
5. Thence N10°38'37"E along said tangent, 1158.08 feet to the west line of the southeast quarter of the northeast quarter of said Section 27;
6. Thence S00°33'47"E along said line, 257.26 feet;
7. Thence N10°38'37"E, 719.23 feet to the south line of the northeast quarter of the northeast quarter of said Section 27;
8. Thence N89°08'38"W along said line, 50.75 feet;
9. Thence N10°38'37"E, 122.51 feet to a point of curve;
10. Thence along said curve to the right having a radius of 11409.21 feet, a central angle of 02°02'31", 406.61 feet to a point of tangent;
11. Thence N12°41'08"E along said tangent, 1634.70 feet;
12. Thence S77°18'52"E, 100.00 feet;
13. Thence N12°41'08"E, 567.51 feet to the north line of the southeast quarter of the southeast quarter of said Section 22;

Thence S89°05'49"E along said line, 527.42 feet to the northeast corner of the southeast quarter of the southeast quarter of said Section 22;

Thence S00°09'41"W along the east line of the southeast quarter of the southeast quarter of said Section 22, 1329.96 feet to the northwest corner of said Section 26;

Thence S89°50'08"E along the north line of the northwest quarter of the northwest quarter of said Section 26, 1313.69 feet to the northwest corner of the northeast quarter of the northwest quarter of said Section 26;

Thence S89°50'08"E along the north line of said northeast quarter of the northwest quarter, 1313.69 feet to the north quarter corner of said Section 26;

Thence S89°49'35"E along the north line of the northwest quarter of the northeast quarter of said Section 26, 1313.47 feet to the northwest corner of the northeast quarter of the northeast quarter of said Section 26;

Thence S89°49'35"E along the north line of the northeast quarter of the northeast quarter of said Section 26, 1313.47 feet to the northeast corner of said Section 26;

Thence S00°31'15"E along the east line of the northeast quarter of the northeast quarter of said Section 26, 1325.20 feet to the northeast corner of the southeast quarter of the northeast quarter of said Section 26;

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Thence S00°31'15"E along the east line of said southeast quarter of the northeast quarter, 1325.39 feet to the east quarter corner of said Section 26;

Thence S00°29'22"E along the east line of the southeast quarter of said Section 26, 2651.16 feet to the southeast corner of said Section 26;

Thence N89°48'30"W along the south line of the southeast quarter of said Section 26, 2644.79 feet to the south quarter corner of said Section 26;

Thence N89°49'05"W along the south line of the southwest quarter of said Section 26, 2645.18 feet to the point of beginning containing 847.991 acres, more or less.

Additional acreage includes:

Lot 2, Block 2 Heckendorf Ranch Filing No. 2

Unofficial Copy

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THE LANTERNS AMENDED AND RESTATED DEVELOPMENT AGREEMENT

DATE: October 31, 2014, 2014.

PARTIES: **TOWN OF CASTLE ROCK**, a home rule municipal corporation,
100 Wilcox Street, Castle Rock, Colorado 80104 (Town),
JEFFERSON 500, LLC, a Colorado limited liability company,
AUSTEN HOLDINGS, LLC, a Colorado limited liability company,
and **ALCOTT HOLDINGS, LLC**, a Colorado limited liability
company, 12460 1st Street, P.O. Box 247, Eastlake, Colorado
80614-0247 (collectively, Owner).

RECITALS:

The parties have determined that it is in their mutual interest to make certain changes to the Lanterns Annexation and Development Agreement, as previously amended ("Prior Development Agreement"), in conjunction with the concurrent approval of The Lanterns Planned Development Plan, Amendment No. 3 Plan ("Planned Development Plan").

B. In order to preserve the original intent and partial performance of the parties to date, certain terms and provisions are restated in this Agreement, even though such terms or provisions may already have been performed or satisfied by the parties.

C. 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 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 Amended and Restated Lanterns 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.

Colorado Construction Cost Index: the Composite Index (2012 Quarter 1 and earlier) and Fisher Ideal Index (2012 Quarter 1, to present) as calculated and published quarterly by the Colorado Department of Transportation – Contracts and Market Analysis Branch.

C.R.S.: the 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 PD Zoning Regulations, Planned Development Plan (inclusive of the Phasing Plan), the utilities, drainage and open space and park master plans approved for the Property with the Planned Development Plan.

District: the Lanterns Metropolitan District.

District Agreements: the service plan for the District approved by the Town by Resolution No. 2002-117 on October 14, 2002, the Master Intergovernmental Agreement between the Town and District dated November, 2002 and any amendment to the service plans and such agreements entered into by the parties after the date of this Agreement.

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 complementary infrastructure off-site of the Property and to serve Public Lands.

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

Owner: the person(s) in title to any portion of the Property, according to the records of the Douglas County Clerk and Recorder. The use of the singular "Owner" shall refer to

all owners of the Property, unless the context of the Agreement otherwise limits the reference. As of the date of execution of this Agreement, the Owners of the Property are Jefferson 500 LLC, Austen Holdings, LLC, and Alcott Holdings, LLC.

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

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

Planned Development Plan or PDP: the Lanterns Planned Development Plan, Amendment No. 3 recorded at Reception No. 2014071295 in the public records of Douglas County, Colorado.

Prior Development Agreement: the Lanterns Annexation and Development Agreement dated October 14, 2002, recorded in the Records at Reception No. 2003094057, as amended by the First Amendment to Lanterns Annexation and Development Agreement dated December 16, 2008 recorded in the Records at Reception No. 2009006041.

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

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

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

Site Development Plan: the zoning document prescribed under Title 17 of the Code.

SIA: a Subdivision Improvements Agreement entered into between the Town and subdivider of a Plat, as required under the Code.

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

Tri-Party Agreement: the agreement dated June 3, 1985 between the Town, the owners of the property annexed to the Town as the Heckendorf Ranch, and Environmental Developers, Inc. (a prior owner of the Property) recorded June 27, 1985 at Reception No. 356317, beginning in Book 581 at Page 770 of the public records of Douglas County, Colorado.

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

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

Water Rights: the right and interest to all Denver basin ground water underlying the Property as decreed in 84CW252 and 2000CW146, Water Division No. 1.

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 this Agreement.

**ARTICLE II
APPLICATION AND EFFECT**

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2.01 Binding Effect. 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 is made in any instrument affecting title 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.

2.02 Supersession. This Agreement supersedes the Prior Development Agreement insofar as that document affects the Property. Accordingly, the Prior Development Agreement 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. However, Town shall accept performance of the covenants of the Agreement from a developer on behalf of the Owner, unless such performance requires the conveyance, encumbrance or security of the Owner's interest in the Property, in which event the express consent or joinder of the Owner shall be required.

2.04 Town Regulations. Town Regulations shall apply to the Property in the same manner and effect as within other areas of the municipality. Unless expressly stated to the contrary in the Agreement, the Agreement shall not in any manner restrict or impair the lawful exercise by the governing body of the Town of its legislative or police powers as applied to the Property, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of the Agreement.

When the Agreement calls for compliance with the Town Regulations, the operative Town Regulations in effect at the time such compliance is required shall govern unless the provisions of this Agreement expressly provide to the contrary.

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

ARTICLE III DISTRICT PARTICIPATION

3.01 Authorization. The parties anticipate that the District will finance and construct a significant portion of the Facilities, as set forth in the capital plan in the District Agreements, as the same may be amended from time to time. Town shall accept the performance by the District of the obligations imposed on Owner under this Agreement, provided the District is so authorized under the District Agreements. When undertaking development of Facilities, reference in this Agreement to "Owner" shall mean "District" unless the context clearly indicates otherwise. Nothing in this Agreement shall relieve the District from obtaining Town approval of service plan amendments, required under the Special District Act and the Code.

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

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

In lieu of establishing an Escrow, the District may, at its discretion, post any other form of financial surety authorized under the Town Regulations.

3.03 Performance. The applicable SIA (as to such Facilities not addressed by the Phasing Plan) shall designate those Facilities for which District is to develop and post surety. With District's assumption of these obligations under the SIA, Owner shall have no financial or other legal obligation to Town to develop such Facilities. However, in the event of a default by District in its obligations under the SIA to develop such Facilities, Town shall have the right to withhold approvals and permits for the subdivision until the default is cured, all as more particularly provided in the SIA.

3.04 Limited Effect. This Article III is intended and shall be construed to enable the performance by the District of the Article VI obligations of the Owner under this Agreement and for no other purpose.

**ARTICLE IV
GENERAL OBLIGATIONS**

4.01 Municipal Services. Town shall provide the Property with Municipal Services at an equivalent service level and on the same terms and conditions as provided elsewhere within its municipal boundaries, provided that the portion of the Property for which Municipal Services are requested have 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 is comparable to that provided by the Town in its proprietary capacity and services are provided on the same terms and conditions as provided in other portions of the Town. The respective obligations of the parties for development of the infrastructure necessary for provision of Municipal Services to the Property are addressed in Article VI.

4.02 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 Town Regulations, 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 this Agreement or Town Regulations.

Town shall not unduly delay or hinder the processing of development requests for the Property (such as refusing to timely process, review and act upon development applications), nor shall Town unreasonably withhold 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 or to allow development of the Property, in accordance with this Agreement.

ARTICLE V WATER RIGHTS

5.01 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 V.

5.02 Conveyance. Owner has conveyed to Town by special warranty deed, free and clear of all liens and encumbrances, marketable title to 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. However, should it be determined that marketable title to any portion of the Water Rights did not vest in the Town with the conveyance of same, the Water Credit established in 5.03 shall be reduced accordingly.

5.03 Water Credit. With conveyance of the Water Rights, a credit of 979 SFE has been established against the Town's water dedication requirements for the benefit of the Property (Water Credit). The Water Credit of 979 SFE 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 non-renewable dedication requirement under the Town Regulations.

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.

5.04 Application of Water Credit. The Water Credit established under 5.03 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 Site Development Plan approval or at building/irrigation permit issuance for those uses not accounted for at the time of Plat approval.

5.05 Water Bank. In order to properly account for the Water Credit, Town shall administratively maintain an account designated the Lanterns Water Bank. The Lanterns Water Bank shall periodically be debited or credited in accordance with this Article V. The Water Bank shall be formatted as follows:

THE LANTERNS WATER BANK					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Deeds to				979	979
Water Rights					
Final Plat			XX		979-XX

With any entry made by the Town, the Owner of the Water Bank (see 5.06) 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.

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

The Water Credit may not be assigned or transferred for use on properties other than the Property. Any unused portion of the Water Credit remaining after full development of the Property shall revert to the Town, at no cost or obligation to Town.

5.07 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 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.

5.08 Water Efficiency Plan. Owner shall implement the Water Efficiency Plan attached as *Exhibit 2* ("Water Efficiency Plan") for all development within the Property.

The Water Efficiency Plan shall be incorporated into all conveyance documents for the Property and private covenants and restrictions. Homebuilders constructing homes on the Property shall be required to implement and follow all requirements of the Water Efficiency Plan.

Minor modifications and clarifications to the Water Efficiency Plan may be made administratively as determined by the Town. In the event that more restrictive water use conservation measures than are contained in the Water Efficiency Plan are subsequently adopted through the Town Regulations, the more restrictive provisions shall govern.

ARTICLE VI FACILITIES DEVELOPMENT

6.01 Generally. Except for the Town Facilities defined in 6.04, 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, including off-site property or easement acquisition. Town shall exercise its eminent domain powers to acquire such off-site property interests if Owner or District reasonably determine that they are unable to secure them, provided that Owner bears all costs of condemnation including appraisal, expert witness and attorney's fees and just compensation for the property acquired, if compensation is required.

The Facilities shall be developed in strict accordance with Town Regulations, the Development Plan, this Agreement, the Phasing Plan and the applicable Plat and SIA. Except as otherwise expressly provided in this Agreement, Town shall have no obligation to develop Facilities.

6.02 Oversizing. In the event Owner independently develops Facilities which are sized to serve, or otherwise directly benefit adjacent developments, Town and Owner shall prescribe in the applicable SIA the method by which Owner may recover a fair and equitable portion of the cost of development of such Facilities from such third-party developments. Town shall make diligent and best efforts to obtain such recoupment, subject to applicable legal limitations on its authority to effect such recoupment and contractual provisions with such other development interests, including the Tri-Party Agreement.

6.03 Cooperation in Facilities Development. Town and Owner shall cooperate in obtaining necessary permits and approvals required by other governmental agencies in order to develop the 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. Town shall incur no liability to Owner if such governmental agencies do not issue necessary permits and approvals, despite the concerted, good faith efforts of the Town.

6.04 Town Facilities. Town has the obligation to construct, acquire or otherwise develop water supply, treatment and storage and wastewater treatment (Town Facilities). Unless a portion of the cost of the Town Facilities is allocated to Owner, Town shall have the exclusive obligation to design, engineer and construct the particular component of the Town Facilities such that the Town Facility is available for service to development in the first Plat. Town's development obligation includes the cost of acquisition of property off-site of the Property. If Owner has the obligation to jointly fund a Town Facility, Town's obligation to develop such Town Facility is dependent on Owner providing financial guarantees and tendering funds when reasonably required by the Town.

The refusal of Town to approve Plats or other land use approvals to the Property due to the lack of available capacities in Town Facilities shall constitute an event of default under Article VIII provided however, Town shall have 180 days from the date of

the default notice under 8.03 to effect cure of the default by acquiring or developing the needed Town Facilities and granting the requested land use approvals.

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

6.06 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 the engineering requirements for 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 VI will apply to the development of such Facilities, irrespective of whether or not reference to this Article VI is made in the SIA.

6.07 Interchange Development.

A. A new I-25 interchange for Crystal Valley Ranch Parkway/Douglas Lane (the "Interchange") will be necessary to meet the traffic impacts from regional development, inclusive of the Lanterns. As used in this Agreement, the term Interchange means a project with a grade-separated crossing with I-25 and the BNSF track, four ramps, east and west frontage roads realignment/improvement and related elements/tasks such as right of way acquisition, design and engineering and construction management.

A partial or phased Interchange project may include one or more of these transportation elements. As of the date of this Agreement, it is not known whether the Interchange will be constructed in phases, and if so, the exact nature and sequence of the phasing.

B. In July 2006 the development cost of the Interchange was estimated at \$38.57 million. When the Colorado Cost Construction Index is applied through 2013 the total development cost of the Interchange is estimated to be \$41,424,180 ("2014 Interchange Cost"). Pursuant to the Douglas Lane Interchange Funding Study prepared by PBS&J dated May 2002, the private contribution for the total cost of the Interchange was calculated at 78%. Applying the 78% to the 2014 Interchange Cost equates to a private interchange funding cost of \$32,310,860 ("Net Interchange Cost").

C. In order to determine the relative impacts on the Interchange from development of various properties/use areas within proximity to the Interchange, Town commissioned the transportation planning firm PBS&J to prepare the Crystal Valley/Dawson Ridge Interchange Updated Funding Analysis dated August 4, 2005, an update/supplementation to the Douglas Lane Interchange Funding Study prepared by PBS&J dated May 2002 (as so updated, the 'TIA'). Town and Owner acknowledge that Table 8 in the TIA establishes a fair and equitable *pro rata* allocation of 2.8% of Net Interchange Cost to Lanterns (inclusive of the Property), considering the probable traffic impacts on the Interchange from full development of Lanterns based on the previous Lanterns PD Plan. Pursuant to the 2014 Plan Development Plan and associated traffic impact analysis, the pro rata allocation is increased to 4.2% as a result of the additional traffic generated by the increase in housing units. Accordingly, the Property is allocated, and the Owner assumes 4.2% of Net Interchange Cost, payable as provided in this Section 6.07. This financial obligation calculated for the Property based on 4.2% of Net Interchange Cost is referred to as the "Interchange Assessment." Owner acknowledges that the Interchange Assessment calculated under the methodology prescribed by this Agreement is fair and proportional to the benefit the Interchange affords Lanterns, inclusive of the Property.

D. Applying the 4.2% share to the Net Interchange Cost results in an Interchange Assessment of \$1,357,056 as of the date of this Agreement. The Interchange Assessment shall be adjusted based on any change in the Colorado Construction Index ("Adjusted Interchange Assessment")

E. Upon recordation of the first Plat which contains developable lots, Owner shall deposit into the Interchange Escrow fifty percent of the Adjusted Interchange Assessment. Provided however, in the event the first Plat creates in excess of 300 developable lots, the total Adjusted Interchange Assessment shall be paid upon recordation of the first Plat. Unless sooner paid, upon recordation of the second Plat for the Property which contains developable lots, Owner shall deposit into the Interchange Escrow the balance of the Adjusted Interchange Assessment. "Developable lots" shall mean any plat with residential lots that require a building permit for construction.

F. All monies paid into the Interchange Escrow pursuant to the terms of this Agreement are referred to as "Escrow Funds". All interest earned on Escrow Funds shall compound to principal and shall be disbursed with principal pursuant to this Agreement. The Escrow Funds shall be disbursed at direction of the Town to fund the Interchange construction in compliance with the terms of this Section 6.07 and the Escrow Agreement. The entirety of the Escrow Funds may be applied by Town consistent with the preceding terms and conditions, even though the disbursement of Escrow Funds results in the Property funding more than the Property Percentage as a result of a phased Interchange construction.

G. Owner acknowledges that timing of the construction of one or more phases of Interchange remains dependent on multiple variables, including the availability of sufficient public funds and other private funding and state and federal approvals, and accordingly the payment of the Interchange Assessment does not

assure the construction of any of the phases of Interchange within any specific timeframe. Subject to that limitation however, Town will make good faith efforts to timely develop the Interchange when sufficient funds from all sources are available.

H. The Town, in its discretion, may accept the conveyance of real property and/or other good and valuable consideration satisfactory to the Town in satisfaction of Owner's obligation to fund the Interchange Assessment. Any such arrangement shall be memorialized and agreed to in a written agreement between the Town and Owner.

6.08 Intersection Control Improvements. Owner shall be responsible for one-half of the cost of the intersection control improvements at Crystal Valley Parkway and Plum Creek Boulevard (\$112,500), and the intersection of Crystal Valley Parkway and Old Lanterns Road (\$112,500).

Owner shall be responsible for the total cost (\$100,000) of the interim intersection control improvements at Crystal Valley Parkway and the I-25 Frontage Road. This intersection will be relocated with the frontage road at the time the I-25 interchange is constructed.

Accordingly, Owner shall pay to Town \$325,000 concurrently with and as a condition to recordation of the first Plat on the Property. Town shall construct the designated intersection control improvements when warranted, as determined by an approved traffic analysis.

6.09 Off-site Street Improvements. Off-site street improvement recommendations provided in the 2013 traffic impact analysis will be further addressed in future traffic impact analysis or required, as necessary, for phases of the project as site planning occurs.

ARTICLE VII PUBLIC LANDS AND FACILITIES

7.01 Required Dedication. All Public Land shall be conveyed to Town, at no cost to Town, in accordance with the conveyance schedule attached as *Exhibit 3*. In addition, those tracts designated as Open Space (OS) on the PDP shall be conveyed to the Town, at no cost to Town, (i) with the first plat the open space tract lies within, or (ii) with the first Plat adjacent to the open space tract, whichever occurs first. All conveyances shall be in accordance with Section 7.03, below.

7.02 Development Costs. Owner, at its expense, shall extend water, wastewater and storm water utilities and streets to Public Lands as part of the applicable Phase Improvements. Owner shall pay to Town the applicable water and wastewater System Development Fees and tap connection charges utilized by the Town to provide potable and irrigation water for parks development on Public Lands (Tap Fees). The Tap Fees shall be paid to Town with the Plat which includes the applicable Public Land, or if the number and size of the Water Tap Fees for the platted Public land is not known at the time of Plat recordation, then 60 days after notice from Town that the Park Tap Fees have been determined based on the Town's development plan for the Public Land. Owner shall not be required to fund any portion of the Town's on-site park development cost, nor shall Owner be required to pay any System Development Fees or tap connection charges for water service exclusively benefiting school development on Public Lands.

7.03 Conveyance. All Public Lands shall be conveyed to Town by special warranty deed, subject to matters of record but free and clear of liens, or other title impediments that would preclude Town from utilizing the property for its intended purposes, as reasonably determined by Town. Unless otherwise provided in the Town Regulations to the contrary, the grantor shall furnish the Town with a policy of title insurance, issued by a title company licensed to do business in the State of Colorado, in an amount reasonably approximating market value of the Public Land in its undeveloped condition and reflecting its current zoning as the highest and best use. If so requested by Town or required by the Town Regulations, Owner shall complete a Phase 1 environmental audit of all Public Lands prior to conveyance and acceptance by Town, and shall be solely responsible for any remedial environmental measures of hazards identified in the audit.

7.04 Exclusion of Covenants. Owner shall exclude all Public Lands from application and effect of restrictive covenants, which may otherwise be imposed on the Property. If any Public Lands are inadvertently made subject to such covenants, this Agreement shall constitute the irrevocable consent of the Owner and the Board of Directors of any homeowners association to the exclusion of the Public Lands from the application of such covenants. However, prior to constructing or placing any structures on Public Land, Town shall give Owner and the applicable homeowner's association a

reasonable opportunity to review and comment on the design and plans for any such improvements, but Town shall retain the ultimate authority to determine what improvements are placed on Public Lands.

7.05 Landscape Maintenance. Notwithstanding the provisions of 4.01, Owner shall have the responsibility for the maintenance of landscaping within any public street right-of-way dedicated to the Town, including water, irrigation system, features, plantings, etc., for the landscaping between the right-of-way and street curbing, as well as within street medians. Such maintenance shall be at the sole expense of Owner and to the standard for maintenance established by Town of Castle Rick Landscape and Irrigation Performance Standards and Criteria Section 4.3. Owner's maintenance obligation includes procurement of water services from the Town and payment of applicable water service charges under the Town Regulations. Owner may delegate its maintenance obligation to a community association or to the District.

ARTICLE VIII AGE RESTRICTED DEVELOPMENT

8.01 Residential Restrictions and Covenants. The areas identified on the Planned Development Plan as PA-12 and PA-13 are required to be age-restricted housing as defined by the Housing for Older Persons Act (HOPA). Restrictions and covenants shall be established and recorded simultaneously with each Site Development Plan in PA-12 and PA-13. Such restrictions and covenants shall require occupancy of the residential units in accordance with HOPA, such that 80% of the residential units are occupied by at least one person who is 55 years of age or older.

ARTICLE IX DEFAULT AND REMEDIES

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

9.02 Remedies. In addition to specific remedies provided elsewhere in this 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,

which appears necessary or desirable to enforce performance and observation of any obligation, agreement or covenant of the defaulting party under this 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.

9.03 Default Notice. In the event either party alleges that the other is in default, the non-defaulting party shall first notify the defaulting party in writing of such default, and specify the exact nature of the default in such notice. Except as otherwise provided in 6.04, 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.

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ARTICLE X GENERAL PROVISIONS

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

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

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

10.03 Notice. The addresses of the parties to this Agreement are 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.

If to Town: Town Attorney
Town of Castle Rock
100 Wilcox Street
Castle Rock, CO 80104

If to Owner: Jefferson 500, LLC
Austen Holdings, LLC
Alcott Holdings, LLC
12460 1st Street
P.O. Box 247
Eastlake, Colorado 80614-0247

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

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

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

10.07 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

Paul Donahue
Paul Donahue, Mayor

Approved as to form:

Robert J. Slentz
Robert J. Slentz, Town Attorney

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

The foregoing instrument was acknowledged before me this 5th day of December, 2014, by Sally A. Misare as Town Clerk and Paul Donahue as Mayor for the Town of Castle Rock, Colorado.

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

(SEAL)

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

Jennifer L. King
Notary Public

LEGAL DESCRIPTION

SECTION 26, THAT PORTION OF SECTION 27 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF THE DENVER & RIO GRANDE WESTERN RAILROAD AND THAT PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 22 LYING EAST OF THE EAST RIGHT-OF-WAY LINE OF THE DENVER & RIO GRANDE WESTERN RAILROAD, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO. MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 27; THENCE N88°57'18"W ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 27, 2345.92 FEET TO THE EAST RIGHT-OF-WAY LINE OF THE DENVER & RIO GRANDE WESTERN RAILROAD; THENCE ALONG SAID EAST RIGHT—OF—WAY LINE THE FOLLOWING THIRTEEN (13) COURSES:

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1. THENCE N24°18'40"E, 1080.09 FEET TO A POINT OF CURVE;
2. THENCE ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 6027.22 FEET, A CENTRAL ANGLE OF 03°21'51", 353.89 FEET TO THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SAID SECTION 27;
3. THENCE N89°04'00"W ALONG SAID LINE, 53.24 FEET TO A POINT ON A CURVE;
4. THENCE ALONG SAID CURVE TO THE LEFT HAVING A RADIUS OF 5977.22 FEET, A CENTRAL ANGLE OF 10°28'41" (THE CHORD OF WHICH BEARS N15°52'57"E, 1091.57 FEET), 1093.09 FEET TO A POINT OF TANGENT;
5. THENCE N10°38'37"E ALONG SAID TANGENT, 1158.08 FEET TO THE WEST LINE OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
6. THENCE S00°33'47"E ALONG SAID LINE, 257.26 FEET;
7. THENCE N10°38'37"E, 719.23 FEET TO THE SOUTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 27;
8. THENCE N89°08'38"W ALONG SAID LINE, 50.75 FEET;
9. THENCE N10°38'37"E, 122.51 FEET TO A POINT OF CURVE;
10. THENCE ALONG SAID CURVE TO THE RIGHT HAVING A RADIUS OF 11409.21 FEET, A CENTRAL ANGLE OF 02°02'31", 406.61 FEET TO A POINT OF TANGENT;
11. THENCE N12°41'08"E ALONG SAID TANGENT, 1634.70 FEET;
12. THENCE S77°18'52"E, 100.00 FEET;
13. THENCE N12°41'08"E, 567.51 FEET TO THE NORTH LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 22;

THENCE S89°05'49"E ALONG SAID LINE, 527.42 FEET TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 22;

THENCE S00°09'41"W ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SAID SECTION 22, 1329.96 FEET TO THE NORTHWEST CORNER OF SAID SECTION 26;

THENCE S89°50'08"E ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 26, 1313.69 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 26;

THENCE S89°50'08"E ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHWEST QUARTER, 1313.69 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 26;

THENCE S89°49'35"E ALONG THE NORTH LINE OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26, 1313.47 FEET TO THE NORTHWEST CORNER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26;

THENCE S89°49'35"E ALONG THE NORTH LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26, 1313.47 FEET TO THE NORTHEAST CORNER OF SAID SECTION 26;

THENCE S00°31'15"E ALONG THE EAST LINE OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26, 1325.20 TO THE NORTHEAST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 26;

THENCE S00°31'15"E ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER OF THE NORTHEAST QUARTER, 1325.39 FEET TO THE EAST QUARTER CORNER OF SAID SECTION 26;

THENCE S00°29'22"E ALONG THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 26, 2651.16 FEET TO THE SOUTHEAST CORNER OF SAID SECTION 26;

THENCE N89°48'30"W ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 26, 2644.79 FEET TO THE SOUTH QUARTER CORNER OF SAID SECTION 26;

THENCE N89°49'05"W ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 26, 2645.18 FEET TO THE POINT OF BEGINNING CONTAINING 847.991 ACRES, MORE OR LESS.

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**The Lanterns
Castle Rock, Colorado**

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Water Efficiency Plan

May 9, 2014

Owner:

Castle Lanterns, LLC
Attn: Scott Carlson
12460 1st St.
Eastlake, CO 80614
(303) 457-2966
scottcarlson@carlsonland.net

Consultant Team:

Element Water Consulting
Attn: Beorn Courtney, P.E.
P.O. Box 140785
Denver, CO 80214
303.918.5096
bcourtney@elementwaterinc.com

Norris Design
Attn: Sean Malone, P.L.A.
1101 Bannock St.
Denver, CO 80204
303.892.1166
smalone@norris-design.com

EXECUTIVE SUMMARY

The Lanterns is a planned residential development located in the Town of Castle Rock, Colorado (Town), south of Crystal Valley Parkway, east of the Union Pacific Railroad tracks, and west of Lions Paw Street. The planned development will be predominantly residential, and approximately 60% of units are expected to be age-restricted, resulting in fewer residents per unit. The development will also include a school, two community/recreation centers, and common areas with minimal irrigation. The Lanterns recognizes the interrelationship between water resources and land use planning, and has worked closely with the Town's Utility Department to develop an innovative Water Efficiency¹ Plan to manage water demands and extend the Town's water supplies by implementing aggressive design standards for the entire development.

The Lanterns' Water Efficiency Plan will significantly reduce water demands relative to typical existing developments and as compared to the Town's current Municipal Code for new construction. There are four key elements of the Water Efficiency Plan:

- A. Design Guidelines & Education
 - B. Verification
 - C. Third-Party Certification
 - D. Monitoring and Enforcement
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The Water Efficiency Plan will be a component of the codes, covenants, and restrictions of the development, and participation by all builders and residents is required. This document provides a framework for the Water Efficiency Plan.

A. Design Guidelines

A comprehensive set of mandatory indoor and outdoor water efficiency standards are included in the development Design Guidelines to ensure residential units are constructed to achieve lower water demand. The *indoor* standards are largely based on the U.S. Environmental Protection Agency's WaterSense New Home Specification (Version 1.1). The *outdoor* standards build upon the Town's existing regulations, which are already some of the most progressive and stringent landscape and irrigation regulations in Colorado. The Lanterns results in lower outdoor water demand, relative to the Town's current regulations, by reducing the maximum allowable turf areas, using lower-water demand turf varieties, promoting the use of low-water demand plant materials, and requiring "smart" irrigation controllers with rain sensors and high efficiency sprinkler heads. Residential education programs will be incorporated to communicate with the citizens about the importance of these features, as well as the economic relationship between each residential unit's water budget and the associated water bill.

The average annual residential water demand is projected to be 0.22 acre-feet per year per unit (ac-ft/yr/unit) in age-restricted homes and 0.28 ac-ft/yr/unit in standard homes. The Town's planning standard for single-family residences is 0.55 ac-ft/yr/unit, which means that The Lanterns' Design Guidelines are expected to reduce water demands by about 50% to 60% relative to the Town's planning value.

Furthermore, the total project water demand is significantly lower than the dedicated water supply for this project. Approximately 1,077 acre-feet of groundwater has been dedicated for this project. Based on the Town's code requirement for providing 2 acre-feet of groundwater rights per every 1 acre-foot of demand, the dedicated supply is sufficient to support a demand of up to 538.5 acre-feet. The current project concept has a total demand of 370 acre-feet, resulting in a 45% surplus relative to the estimated demands.

¹ The terms water efficiency and water conservation are used interchangeably throughout this document, although efficiency is a more appropriate term for a new development where water demand reductions will be realized from inception.

B. Verification

The Lanterns' Water Efficiency Plan requires each builder as well as the landscape and irrigation contractors to verify, through a certification process, that all homes are being constructed in compliance with the standards outlined in the Design Guidelines. As part of the building permit application, builders will be required to submit detailed information regarding the specific high-efficiency fixtures and appliances being installed in each unit and information about the landscape and irrigation plan for each residential unit. Each submittal will be compared to the Design Guidelines to ensure compliance with The Lanterns' water efficiency standards.

C. Third-Party Certification

The Lanterns' Water Efficiency Plan requires that 100% of homes be inspected and certified by a qualified third party, at the expense of the developer/builder. The inspection and certification process will be developed in cooperation with Town staff, and the inspectors will be specifically trained to assess compliance with The Lanterns' water efficiency standards. The third-party certification must be provided to the Town prior to the issuance of a Certificate of Occupancy.

D. Monitoring and Enforcement

The Lanterns residential units will have customized water budgets that provide a sufficient water supply and that are used with the Town's tiered billing rate structure to assist with the implementation of the Water Efficiency Plan. With homes designed and constructed to use less water, residential customers in The Lanterns will have a stricter water budget relative to elsewhere in the Town. The indoor water budget will be based on the Town's current methodology, and the outdoor water budget will be customized for each residential unit, based on the lot size and the specific landscape and irrigation plan with more stringent limitations on irrigated turf and the use of lower water demanding turf varieties. The customized water budget rate structure will be used as a tool for monitoring compliance with the water efficiency standards and reduced water demands. A tiered approach will continue to be used to financially incentivize customers to manage water use within the unit's water budget, and to charge a higher tier for excessive water use. The rates for each tier of The Lanterns' water budget rate structure will be consistent with the Town's standard rates; however, the thresholds for the various tiers will be unique to a specific unit, and will be much more restrictive than the Town's standard thresholds. The Town shall reserve the right to adjust the water budget rate structure consistent with changes to the Town Municipal Code, as applicable town wide.

A. DESIGN GUIDELINES

The following Design Guidelines provide mandated standards for all homes within The Lanterns development.

1. Indoor Water Efficiency

Single-family detached homes will be constructed according to the following indoor criteria. The standards listed below are largely based on the U.S. Environmental Protection Agency's WaterSense Version 1.1 New Home Specification; however, the values may be adjusted to reflect new technologies and updates to the WaterSense program.

- 1.1. Service Pressure
 - 1.1.1. Limited to 60 pounds per square inch (psi) at the point of service.
- 1.2. Toilets
 - 1.2.1. WaterSense labeled, less than or equal to 1.28 gallons per flush (gpf).
- 1.3. Urinals
 - 1.3.1. WaterSense labeled, less than or equal to 0.5 gpf.
- 1.4. Kitchen Faucets
 - 1.4.1. Less than or equal to 2.2 gallons per minute (gpm).
- 1.5. Bathroom Faucets
 - 1.5.1. WaterSense labeled, less than or equal to 1.5 gpm.
- 1.6. Showerheads
 - 1.6.1. WaterSense labeled, less than or equal to 2.0 gpm per showerhead.
- 1.7. Clothes Washers
 - 1.7.1. Energy Star labeled, less than or equal to 6.0 gallons/cycle/cubic foot. Required if financed, installed, or sold as upgrades through the homebuilder.
- 1.8. Dishwashers
 - 1.8.1. Energy Star labeled, less than or equal to 4.25 gallons/cycle.
- 1.9. Any installed recirculation systems will be demand-initiated.
- 1.10. Leak Detection
 - 1.10.1. Verified through pressure-loss testing and visual inspection.
- 1.11. Resident Education
 - 1.11.1. Residents shall be educated regarding installed indoor and outdoor water efficiency measures, including the relationships with water budgets and billing rates. Education will include personal training and community training as described in Section 2 below.

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2. Outdoor Water Efficiency

2.1. Landscape Design

2.1.1. All front and rear yards will be designed and installed by the builder.

2.1.2. The following requirements shall apply to all residential landscapes:

2.1.2.1. Turf types shall not include Kentucky Bluegrass varieties. Allowable turf type shall include turf species that can survive on 19" or less of supplemental irrigation per year. Allowable turf species shall be approved by the Town.

2.1.2.2. Maximum turf areas shall not exceed the following for the listed lot size in square feet (sf):

2.1.2.2.1. Lots up to 5,500 sf: 19%.

2.1.2.2.2. Lots between 5,501 sf and 6,900 sf: 20%.

2.1.2.2.3. Lots between 6,901 and 9,000 sf: 30%.

2.1.2.2.4. Lots over 9,001 sf: 32%

2.1.2.2.5. Note - Maximum turf areas for lot sizes which do not meet these specific sizes shall be adjusted based on a % ratio of similar lot sizes with Town approval.

2.1.2.2.6. In no case shall maximum turf areas exceed the limits of this Water Efficiency Plan or the maximum allowed under the Town's Landscape Performance and Irrigation Criteria.

2.1.2.3. 100% Xeriscape landscapes are allowed but must provide a minimum coverage of plant materials of 75% at 5 year maturity in front yards and side yards when adjacent to streets. Rear yards shall have a minimum of 40% plant coverage at 5 year maturity. The remainder of yard coverage can be composed of mulches, aggregate surfacing, artificial turfs or hardscape.

2.2. Irrigation Design

2.2.1. Residential Irrigation designs shall follow the Town of Castle Rock Landscape and Irrigation Performance Standards and Criteria Manual. Refer to Sections 4 and 6 for specific requirements.

Additional requirements shall include:

2.2.1.1. Controllers: Automatic irrigation system controllers shall be Town Approved weather based (ET) or soil-moisture based, that automatically adjust irrigation in response to changes in plants' needs as weather conditions change.

2.2.1.1.1. Automatic irrigation system controllers shall be approved by the Town.

2.2.1.1.2. Weather-based (ET) controllers without integral rain sensors or communication systems that account for local rainfall shall have a separate wired or wireless rain sensor which connects or communicates with the controller.

2.2.1.1.3. Soil-moisture based controllers are not required to have rain sensors.

2.2.1.1.4. Controllers shall have a minimum of 3 programs or schedules and minimum of 3 start times per each schedule or program.

2.2.1.2. Sprinkler Heads: Pop-up or rotor heads that utilizes high efficiently spray nozzles designed with head to head coverages. This may include conventional rotors, stream rotators or high efficiency pop-up spray nozzles. The DU must be verified by third-party tests.

2.2.1.2.1. Minimum pop-up height must = 6"

2.2.1.2.2. Sprinkler bodies shall have built-in pressure regulating stems and check valves.

2.2.1.2.3. Maximum spacing for the sprinkler heads to be head-to-head at 90% of max. spray radius.

2.2.1.2.4. The turf may use a combination of pop-up sprays on areas 25' or less and short to medium range rotors in areas greater than 25'.

2.2.1.2.5. Traditional fixed and variable arc spray nozzles are not allowed.

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- 2.2.1.2.6. Pop-up heads cannot be zoned together with rotator or rotor heads.
- 2.2.1.3. Drip Irrigation: the use of a drip system will be used in all shrub bed areas, no spray type irrigation will be allowed. Minimum requirements are:
 - 2.2.1.3.1. Pressure compensating emitters.
 - 2.2.1.3.2. Pressure regulation at the control valve assembly (min. of 30 PSI, max. 40 PSI).
 - 2.2.1.4. Filtration at the control valve assembly (min. 200 mesh).

2.3. Resident Education

- 2.3.1. The developer/builder shall create educational materials to be provided to residents. Educational program will be approved by the Town and will contain information pertinent to the Water Efficiency Plan, water budget rate structure, and specific water conservation measures including, but not limited to, soil preparation appropriate for existing conditions and selected plant materials, smart irrigation controllers, and high efficiency sprinkler heads and nozzles.
- 2.3.2. Residents shall receive personal training on the care and operation of the irrigation system and plant material by the installing contractor. This shall include controller operations and programming, locations of shut off valves, winterization need, watering days as determined by address, and expected plant material watering needs.
- 2.3.3. Residents shall be provided seasonal education by the community for spring, summer, fall, and winter maintenance, care and waterwise conservation. This shall include presentations supplemented by written materials.
- 2.3.4. Residents shall be educated regarding installed indoor and outdoor water efficiency measures, including relationships with water budgets and billing rates. Education will be accomplished through the personal training and community training described above.
- 2.3.5. All financial costs and responsibility for implementation of the educational components shall be borne by the developer/builders.

B. VERIFICATION

The Lanterns' Water Efficiency Plan requires each builder, as well as the landscape and irrigation contractors, to certify that all homes are being constructed in compliance with the standards outlined in the Design Guidelines.

1. Indoor Water Efficiency Standards

As part of the building permit application, builders will be required to submit detailed information regarding the specific high-efficiency fixtures and appliances being installed in each unit and to verify that they meet or exceed the indoor Design Guidelines. A sample verification checklist is provided below.

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The Lanterns Water Efficiency Verification Checklist Indoor Standards

Lot Number/Address: _____

All indoor fixtures and appliances must comply with standards listed in the current version of The Lanterns' Water Efficiency Plan.

Summary of Proposed Fixtures and Appliances.

Complete the information on water demand and the make/model for each fixture and appliance that will be installed.

Room	Fixture/Appliance	Water Demand	Make/Model
Kitchen	Sink Faucet	___ gal/minute	_____
	Dishwasher	___ gal/cycle	_____
Bathroom 1	Toilet	___ gal/flush	_____
	Sink Faucet(s)	___ gal/minute	_____
	Showerhead	___ gal/minute	_____
Bathroom 2	Toilet	___ gal/flush	_____
	Sink Faucet(s)	___ gal/minute	_____
	Showerhead	___ gal/minute	_____
Bathroom 3	Toilet	___ gal/flush	_____
	Sink Faucet(s)	___ gal/minute	_____
	Showerhead	___ gal/minute	_____
Laundry	Sink Faucet	___ gal/minute	_____
	Clothes Washer	___ gal/cycle/cubic foot	_____
Other			

Is a 5/8-inch tap being requested (Yes/No): _____

CERTIFICATION

I hereby certify that the above information is true and accurate. I understand that the falsification of any information on this submittal may disqualify me from completing or performing future work related to The Lanterns development in Castle Rock, CO.

Builder Signature: _____ **Date:** _____

Printed Name/Company: _____

2. Outdoor Water Efficiency Standards

In accordance with the Town's existing Landscape and Irrigation Performance Standards and Criteria Manual, a landscape and irrigation plan must be completed for each residential unit. Each submittal will be compared to the Design Guidelines to ensure compliance with The Lanterns' water efficiency standards. Each submittal will be compared to the irrigated turf restrictions to ensure compliance with The Lanterns' standards. The submittal shall include the name of the Town-registered landscape and irrigation contractors. A sample verification checklist is provided below.

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The Lanterns Water Efficiency Verification Checklist Outdoor Standards

Lot Number/Address: _____

Lot Size: _____

Landscape Design

The Lanterns' Design Guidelines for outdoor uses were developed to limit the use of irrigated turf and reduce overall outdoor water demands. The maximum turf area is restricted based on lot size in square feet (sf) as shown in **Table 1** below. Maximum turf areas for lot sizes which do not meet these specific sizes shall be adjusted based on a % ratio of similar lot sizes with Town approval. In no case shall maximum turf areas exceed the limits of this Water Efficiency Plan or the maximum allowed under the Town's Landscape Performance and Irrigation Criteria.

Table 1. Turf Limitations by Lot Size.

Lot Size	Turf Limitation (% of lot)
less than 5,000 sf	19
5,001 to 6,900 sf	20
6,901 to 9,000 sf	30
over 9,001 sf	32

Proposed landscape plans must be summarized as specified in Table 2 below. The Town of Castle Rock approved plant list shall be used to classify selected plants into the appropriate Irrigated Water Use Zone. Landscapes plans must be submitted to document compliance with the turf limitations from Table 1.

Table 2. Landscape Irrigation Demands.

Irrigated Water Use Zone	Size of Zone
High (turf)	_____ sf
Moderate	_____ sf
Low	_____ sf
Total	_____ sf

Does landscape plan comply with turf limitation (Yes/No): _____

Irrigation System Design

Automatic irrigation system controllers shall be approved by the Town, and be weather based (ET) or soil-moisture based, that automatically adjust irrigation in response to changes in the plants' needs as weather conditions change. All equipment must comply with the standards listed in the current version of The Lanterns' Water Efficiency Plan.

Table 3. Proposed Irrigation System Equipment.

Device	Make/Model
Smart Controller	
Fixed Spray Heads	
Rotor Heads	
Drip Emitters	

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CERTIFICATION

I hereby certify that the above information is true and accurate. I understand that the falsification of any information on this submittal may disqualify me from completing or performing future work related to The Lanterns development in Castle Rock, CO.

Builder Signature: _____ **Date:** _____

Printed Name/Company: _____

Landscape Designer Signature: _____ **Date:** _____

Printed Name/Company: _____

Irrigation Designer Signature: _____ **Date:** _____

Printed Name/Company: _____

C. THIRD-PARTY CERTIFICATION

The Lanterns' Water Efficiency Plan requires that 100% of homes be inspected and certified by a third-party, at the expense of the developer/builder. The inspection and certification process will be developed in cooperation with Town staff, and the inspectors will be specifically trained to assess compliance with The Lanterns' Water Efficiency Plan.

The third-party inspection will be completed at the expense of the developer or builder, and at a minimum, shall include the following:

1. Indoor Standards

- i. Fixtures and appliances are consistent with approved verification submittal.
- ii. Results of leak detection pressure loss test.

2. Outdoor Standards

- i. Verification that pressure within the home and irrigation system does not exceed 60 psi.
- ii. Landscaping plant material is consistent with approved design.
- iii. Irrigated square footage for turf and planting/mulched areas.
- iv. Visual inspection/audit of irrigation system to ensure installation is consistent with approved design.
- v. Correct heads and nozzles.
- vi. Correct clock with appropriate weather or soil-moisture sensor. Ensure that it is connected and operational.
- vii. Rain sensor installed and operational, if separate from weather sensor.
- viii. Check sprinkler head spacing to ensure head-to-head coverage, as determined by running the system.
- ix. Check sprinkler adjustment to ensure no overspray onto impervious surfaces.

The third-party certification must be provided to the Town prior to the issuance of a Certificate of Occupancy.

D. MONITORING AND ENFORCEMENT

Residential customers in The Lanterns will have a custom water budget rate structure where the indoor budget is based on the Town's current methodology (wintertime use) and the outdoor budget is based on the lot size and the specific landscape and irrigation plan. The custom water budget rate structure will be used as a tool for monitoring compliance with the water efficiency standards and reduced water demands. A tiered approach will continue to be used to financially incentivize customers to manage water use within the unit's water budget, and to charge a higher tier for excessive water use.

The Town shall reserve the right to adjust the water budget rate structure consistent with changes to the Town Municipal Code. The Town shall reserve the right to adjust the water budget allocation based on new technology and scientific data consistent with revisions to the Town's Municipal Code. The Town's surcharge tier may be adjusted consistent with intent of this reduced water usage development and may be modified by the Town Municipal Code.

The Lanterns' water budget rate structure will initially be based as follows:

Tier 1 – Indoor Use. Based on Town's current methodology.

Tier 2 – Outdoor Use. Amount of water required to meet outdoor demands. The outdoor water budget for each residential unit will be customized according to the lot size and the specific landscape and irrigation plan, based on the verification submittal.

Tier 3 – Excessive Use. Amount of water used in excess of indoor and outdoor water budget. Residents whose water use falls in this tier will be charged a higher rate for excessive water use.

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REFERENCES

Castle Rock, 2012. Town of Castle Rock Landscape and Irrigation Performance Standards and Criteria Manual, dated September 2012. <http://www.crgov.com/DocumentCenter/Home/View/1527>

EPA, 2012(a). Environmental Protection Agency (EPA) WaterSense Version 1.1 New Home Specification, dated August 30, 2012 and effective July 1, 2013. http://www.epa.gov/WaterSense/docs/home_finalspec508.pdf.

EPA, 2012(b). Resource Manual for Building WaterSense Labeled New Homes Version 1.1, dated August 30, 2012. http://www.epa.gov/watersense/docs/newhome_builder_resource_manual508.pdf.

GreenCO, 2008. Green Industry Best Management Practices (BMPs) for the Conservation and Protection of Water Resources in Colorado: Moving Toward Sustainability. 3rd Release dated May 2008. http://www.greenco.org/images/downloadables/BMP_Manual_2008.pdf.

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Exhibit 3

Public Land Dedication Conveyance Schedule

The 40.4 acre Public Land Dedication (PLD) shall be dedicated to the Town in its entirety at the time of first Plat in Planning Areas 1, 11 or 12, or with the first plat of the collector road identified on the Planned Development Plan as Plum Creek Boulevard or by June 30, 2016, whichever occurs first.

The 16.6 acre Public Land Dedication shall be dedicated to the Town in its entirety at the time of the first Plat in Planning Areas 1, 2, 7, 10 or 11, or with the first plat of the collector road identified on the Planned Development Plan as Old Lanterns Road, or by June 30, 2016, whichever occurs first.

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