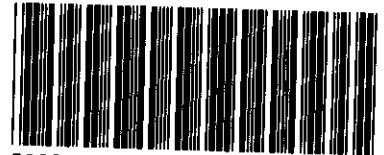


OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE: \$101.00
20 PGS

2006075521
09/01/2006 09:12 AM



2006075521 20 PGS

After recording return to:
Town of Castle Rock
100 N. Wilcox Street
Castle Rock, CO 80104
Attn: Town Attorney

**CASTLE PINES COMMERCIAL FILING NO. 12
SUBDIVISION IMPROVEMENTS AGREEMENT**

DATE: August 31, 2006.

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

DEV-VIC LTD. LIABILITY CO., a Colorado limited liability company,
(Subdivider) 900 W. Castleton Road, Suite 125, Castle Rock, Colorado
80104.

RECITALS:

A. Subdivider desires to plat and subdivide certain property as Castle Pines Commercial Filing No. 12 (Subdivision), more particularly described in the attached **Exhibit 1** (Property).

B. The subdivision regulations of the Castle Rock Municipal Code require that the Subdivider construct the public improvements necessary to provide municipal utilities and services to the Subdivision in accordance with Town regulations. By this Agreement, the parties address the conditions for construction of such improvements and certain other issues concerning development of the Subdivision.

C. This Agreement is intended to protect the Town from any liability or cost which may result from the failure of the Subdivider to complete construction of such public improvements to Town standards. This Agreement is not made for the benefit of any other party and Town makes no representation to any owner of a lot or tract within the Subdivision that all necessary Subdivision infrastructure will be completed by the Town in the event of a default by Subdivider.

COVENANTS:

NOW, THEREFORE, in consideration of these mutual promises, the parties agree and covenant as follows:

Section 1. Definitions. The following words when capitalized in the text shall have the meanings indicated:

Agreement: this Castle Pines Commercial Filing No. 12 Subdivision Improvement Agreement.

Code: the Castle Rock Municipal Code, as amended.

Development Agreement: the Amended and Restated Development Agreement (Castle Pines Commercial) dated August 17, 2000, recorded September 1, 2000 at Reception No. 00061558 in the Records

Director: the Director of Development Services, or designee.

District: the Castle Pines Commercial Metropolitan District No. 3.

Final Site Plan: a final PD site plan for any portion of the Subdivision as approved by the Town.

Improvements: the water, wastewater, stormwater drainage, transportation, Landscaping or other systems or infrastructure required to serve the Subdivision as identified and described in the Plans (whether on-site or off-site), which upon their completion are to be dedicated to the Town for operation and maintenance by the Town.

Landscaping: the landscaping required on public areas, streetscapes, or tracts as prescribed in the Final Site Plan, including any landscaping guidelines.

Phase: a contiguous geographical area of the Subdivision so designated in the Plans (or, if applicable, a sub-phase).

Phase Improvements: those Improvements required to be constructed with a particular Phase, as prescribed in the Phasing Plan, but excluding Landscaping.

Phase Landscaping: the Landscaping required to be installed within a particular Phase. Completion of certain elements of the initial Phase Landscaping may be deferred by mutual agreement of Town and Subdivider.

Phasing Plan: the depiction or description in the Plans of the Phases and the Improvements to be constructed with each Phase, as approved by the Director or designee.

Plans: the description of the Improvements on the Preliminary Plat and related documents as modified and supplemented by approved construction plans and drawings, together with the Landscaping.

Plat: the final subdivision plat for the Subdivision as approved by the Town.

Preliminary Plat: the Castle Pines Commercial Filing No. 12 preliminary subdivision plat approved by the Town Council on February 28, 2006 by Resolution No. 2006-21.

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

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

Subdivision: the Castle Pines Commercial Filing No. 12 subdivision.

Town Regulations: the Code, inclusive of the Town public works regulations and any other rules or regulations adopted by the Town, as the same may be in effect at the time of application,

Certain other terms are defined elsewhere in this Agreement. To the extent the District is authorized and undertakes the construction of Improvements, the references in this Agreement to Subdivider shall apply to the District. Subdivider and District shall determine which Improvements each shall construct, provided that the District is authorized under its service plan to develop the Improvements it is allocated. Section references are to the numbered sections of this Agreement.

Section 2. Construction of Improvements. The Improvements shall be constructed in substantial accordance with the Plans, or to the extent not otherwise provided in the Plans, in accordance with applicable Town ordinances, rules and regulations. The Improvements may be constructed by Phase, in accordance with the applicable Phasing Plan, if any. If so approved by the Director, a sub-Phasing plan may be implemented such that Phase Improvements are developed only as necessary to service specific sub-Phases.

In the event Subdivider has not obtained all necessary Town permits and approvals and commenced construction of at least one of the Phases within one year of the date of recordation of this Agreement, the Town's approval of the Subdivision shall lapse. As a condition to commencement of construction of any of the Improvements thereafter, Subdivider shall demonstrate to the Town Council good cause for the delay and its good faith intention and financial ability to proceed and complete development of the Subdivision; provided that Subdivider shall not be required to resubmit a land use application for the Subdivision. For the purposes of this section 2, Subdivider's compliance with section 5 of this Agreement shall presumptively demonstrate Subdivider's good faith intention and financial ability to proceed and complete development of the Subdivision.

Phase Improvements must be completed by either the date specified in the Town Regulations, or if no such date is prescribed, one year after the date of issuance of the first public works permit for such Phase Improvements (Completion Date), provided that the Completion Date shall be extended by the Director for up to 6 months if justified due to

adverse weather, material unavailability, or other unanticipated and unavoidable circumstances beyond the control of Subdivider, as reasonably determined by the Director. As a condition to such extension, the term of the required Security shall be extended so as to conform with the requirements of Section 5.

Section 3. Restrictions Pending Completion of Improvements. If a Subdivision lot abuts an existing public street and water service is available for public safety purposes in proximity to the lot, the lot will qualify for issuance of building permits prior to completion of the Phase Improvements, provided that an all-weather surface driveway to structures under construction which is suitable for use by emergency vehicles is established and maintained by Subdivider or the contractor. However, no certificates of occupancy shall be issued unless Town has initially accepted the Phase Improvements for maintenance in accordance with the process outlined in section 4.

In no event shall the Director authorize the issuance of a building permit unless there is adequate emergency access to the site and the water system is completed sufficiently to provide adequate fire flows for fire protection.

Section 4. Acceptance of Improvements. Upon substantial completion of the Phase Improvements, Subdivider may request inspection. Town shall make inspection within five (5) working days of the date Subdivider requests such inspection, and Town shall notify Subdivider of non-conforming work within five (5) working days after the inspection is made. Subdivider shall have 30 days from the date of receipt of Town's inspection report to remedy the non-conforming work unless the remedial work is delayed due to weather conditions, in which event the work shall be completed as soon as reasonably feasible thereafter.

With cure of non-conforming work, receipt of as-built plans and initial acceptance of the Phase Improvements by Town, Subdivider shall promptly convey its interest in the Phase Improvements by document in the form attached as **Exhibit 2**. On the date of conveyance of the Phase Improvements, the applicable warranty period commences.

Section 5. Improvements Security. In accordance with Town Regulations, the responsible party for construction of the Improvements (see section 10) shall provide Town with a letter of credit, cash escrow deposit or performance bond in the amount of 115% of the estimated construction cost of the Phase Improvements (Security). The form of the Security is subject to approval by the Director. The Security shall be irrevocable for a term extending 60 days beyond the Completion Date. The Security for each respective Phase shall be delivered to Town prior to and as a condition of the issuance of the first public works permit within such Phase. If the Security is a letter of credit, it may be drawn down by 90% of the contract payments made on the Improvements as certified by Subdivider and as approved by Town, which shall approval shall not be unreasonably withheld. Draw downs may not occur more frequently than monthly.

All construction cost estimates shall be submitted by Subdivider's registered civil

engineer and reviewed and approved by the Town's engineering division, which cost estimates shall be used to estimate the Security requirement. Subdivider shall have the right to substitute permitted equivalent Security from a builder for all or a portion of the Security provided by the Subdivider, subject to the further provisions of section 10.

The purpose of the Security is to provide Town with the financial resources to mitigate any public health and safety hazards and/or regrade and revegetate the Property and/or complete construction or installation of any of the Phase Improvements, should Subdivider default in its obligation to complete the Phase Improvements (Remedial Work). The Town retains the absolute discretion to determine what Remedial Work, if any, is undertaken by Town on the Phase Improvements, in the event of such default. Any portion of the Security not utilized in the Remedial Work shall be returned to the obligor on the Security, or in the event a letter of credit or cash escrow is furnished by Subdivider, to such party.

With Town's initial acceptance of the Phase Improvements, the Security shall be reduced to 15% of the actual construction cost of the Phase Improvements in accordance with Town Regulations. The warranty portion of the Security shall be released as authorized in the Town Regulations.

Section 6. Water Supply. The Property is subject to the Castle Pines Commercial Water Rights Dedication Agreement dated December 2, 1994, recorded in the Records on July 14, 1995 at Reception No. 9531415 in the Records, as amended by First Amendment to Castle Pines Commercial Water Rights Dedication Agreement dated October 8, 1998 and recorded in the Records October 30, 1998 at Reception No. 9886902 (Water Agreement). The water demand for the Subdivision has been calculated by Subdivider's engineer and reviewed and approved by the Town based upon the taps to the potable water systems set forth in **Exhibit 3**. Accordingly, 5 SFE of the "Water Credit" under the Water Agreement have been applied to meet the water supply requirements for Lot 1 of the Subdivision only, as requested by the Subdivider (Subdivision Water Credit). Town shall require additional Water Credit in a quantity sufficient to meet the water demand, as a condition to issuance of final PD site plan approvals for other lots within the Subdivision prior to issuance of building permits for improvements on such lots. If tap sizes increase from that indicated in **Exhibit 3**, additional entitlements under the Water Agreement must be allocated to the Property sufficient to meet the demand in excess of the initial Subdivision Water Credit. Subject to the foregoing provision, Town shall not require additional water rights or resources.

Absent compliance with this section, Town may withhold development approvals on the Property for any proposed use, which, after taking into account all previous development on the Property, will create an aggregate water demand in excess of the Subdivision Water Credit (as the same may be subsequently augmented in accordance with this section). Should the Subdivision Water Credit not be fully utilized after full development of the Subdivision, the remaining SFE shall revert to the Castle Pines Commercial Water Bank (as that term is defined in the Water Agreement).

Section 7. State Highway 85 Improvements. Pursuant to 9.1(d) of the Development Agreement, Subdivider is required to construct certain improvements on the northbound side of State Highway 85 (SH85 Sidewalk Improvements). Town has requested, and Subdivider has agreed, that Subdivider shall pay to Town \$61,770 as cash-in-lieu of constructing the SH85 Sidewalk Improvements. Such payment shall be made within 10 days from the date of recordation of this Agreement.

Section 8. Meadows Parkway Development Contribution. Pursuant to 9.4 of the Development Agreement, Subdivider shall pay to Town \$36,168 as its proportionate share of the Meadows Parkway improvement development costs. Such payment shall be made within 10 days from the date of recordation of this Agreement.

Section 9. Water Conservation Regulations. The landscaping of all lots shall conform to the Town's adopted water conservation requirements in effect at the time of the building permit application for such lot.

Section 10. Responsibility for Improvement Construction. Subdivider shall be obligated to perform the covenants of Subdivider under this Agreement, until and unless the obligations with respect to a designated Phase are assigned to and assumed by a third party (Builder) as follows:

- (a) the Builder acquires title to the Phase from Subdivider;
- (b) the Builder executes the Partial Assumption of Subdivision Improvements Agreement in the form attached as **Exhibit 4**; and
- (c) the Builder furnishes the Town with the Security and rights of entry to assure construction of the Phase Improvements as required by this Agreement.

Upon compliance with the above conditions, Builder shall be solely responsible for completion of the Phase Improvements. However, in the event the applicable Phase Improvements service other Phases and Builder defaults in its obligation to complete the Phase Improvements, Town shall have the right to withhold issuance of building permits and certificates of occupancy for the Subdivision (as further authorized in section 3, above) that may affect other portions of the Subdivision owned by Subdivider or other Builders. Similarly, if there is a default by Subdivider (or other Builders) in completion of Phase Improvements required to serve Builder's Phase, the right to withhold building permits and certificates of occupancy shall be applicable, even though Builder is not in default of this Agreement.

Subdivider and Builder shall have the right but not the obligation to cure a default by the other. When the provisions of this section are operative, references in this Agreement to Subdivider shall mean Builder, unless the context clearly indicates to the contrary.

Section 11. Design Guidelines. The Final Site Plan for the Subdivision contains

certain building and design restrictions and requirements, affecting design elements such as setbacks, building elevations (Design Guidelines). Town shall have the right, but not the obligation, to enforce the Design Guidelines through the withholding of building permits or certificates of occupancy for any structure which is not in compliance with the applicable Design Guidelines.

Section 12. Application of Development Agreement. The Development Agreement contains certain other conditions and requirements which apply to the development of the Property. The enumeration in this Agreement of certain of obligations triggered under the phasing plan of the Development Agreement is not inclusive of all such obligations. In the event of a conflict between the Development Agreement, and this Agreement, the Development Agreement shall govern and control.

Section 13. Construction Damage. Subdivider shall be responsible for any extraordinary damage to existing roadways or public improvements internal to the Subdivision, resulting from the gross negligence of contractors working on the Improvements or private improvements. Subdivider may assign responsibility and liability for such construction damage to the builders within the Subdivision. Town consents to such assignment, without relieving Subdivider of the obligation to repair damage, in the event the assignee fails to do so as a result of construction traffic from the Subdivision. Provided however, where a third party assumes the role of Subdivider by applying for a public works permit and constructing public works for dedication to the Town, such third party shall be considered to be the Subdivider for purposes of this section and shall be responsible to the Town for construction damage.

Section 14. Disclosure to Purchaser. Subdivider shall make the following disclosure in any contract for conveyance of any portion of the Property (excluding the sale of a lot to a retail purchaser):

Development of this Property is subject to the Castle Pines Commercial Filing No. 12 Subdivision Improvements Agreement with the Town of Castle Rock. Issuance of development approvals by the Town for your property may be dependent on the completion of certain off-site public improvements by Seller or other parties. Although the Town requires that financial security be provided for construction of public improvements in this subdivision, the Town may not have the financial, legal or practical ability to complete construction of public improvements in the event of a default by the responsible party. The Town regulations and the Subdivision Improvements Agreement address only municipally-owned utilities and therefore the provision of other public utilities such as electricity, natural gas and cable television are governed exclusively by separate contracts with such utilities over which the Town exercises no control.

Section 15. Statutory Impact Fee Compliance. For the purpose of interpreting and applying the provisions of CRS §29-20-104.5(6), the parties concur that the

"completed application" which triggers the Town's right to impose and collect Development Exactions, as that term is defined in the Development Agreement is a completed building permit application. Accordingly, the schedule of such Development Exactions in effect at the time of such building permit issuance establishes the level of Development Exactions.

Section 16. Default. The following occurrences constitute a default of this Agreement:

- (a) failure to commence or complete construction of the Phase Improvements within the time periods prescribed in this Agreement;
- (b) failure to cure the defective construction or installation of any Phase Improvement within the applicable cure period;
- (c) failure to perform work on the Phase Improvements required by this Agreement within the Subdivision for a period of more than 90 consecutive days except when such delay is due to adverse weather, material unavailability, or other circumstances beyond the control of Subdivider;
- (d) Subdivider's insolvency, the appointment of a receiver for the Subdivider or the filing of a voluntary or involuntary petition in bankruptcy respecting the Subdivider;
- (e) Subdivider has breached, or caused a breach of any other provision of this Agreement.

As a condition to Town's right to exercise its remedies for default, Town shall give written notice to Subdivider of the occurrence of an event of default. Subdivider shall have 30 calendar days from the receipt of such notice to cure the default. However, if Subdivider is unable to effect a cure a default under (a) above, solely due to adverse weather conditions, then the right to cure shall be extended for an additional 90 days provided Subdivider provided Subdivider extends the term of the Security to extend 60 days beyond the date of the extended cure period.

If timely cure of the noticed default(s) is not accomplished, Town shall thereafter be entitled to pursue its remedies against Subdivider. As applicable under section 10, Builder shall receive notice of a default and have the right to cure the default.

Section 17. Town's Rights Upon Default. When any event of default occurs and has not been timely cured, the Town may:

- (a) if the applicable Phase Improvements have not been timely completed, call the Security in accordance with its terms, and apply the Security for the Remedial Work. Subdivider grants to Town and, if applicable, the surety, and their

employees, agents and contractors, a non-exclusive right and easement to enter onto the Property after an uncured default for the purpose of undertaking the Remedial Work, provided such right of entry shall irrevocably terminate when all Improvements are completed and accepted by Town;

- (b) if Phase Improvements have not been timely completed, withhold issuance of building permits in the affected Phase until such time as the Phase Improvements have been completed;
- (d) record a notice of non-compliance with this Agreement in the public records to provide record notice of the default, which notice shall promptly be released by Town upon cure of the default; and
- (e) bring suit against the defaulting party for money damages and/or equitable relief for breach of the Agreement.

On such terms and conditions as are reasonably acceptable to Town, Town shall permit Subdivider, or as applicable, Builder, to undertake the Remedial Work and to utilize the Security for such purpose in the event of an uncured default by the other. In the event that Subdivider (or Builder) elects to undertake the Remedial Work, it shall so notify Town in writing, and Town shall have 30 days from receipt of such notice to specify the terms and conditions under which the Subdivider (or Builder) may perform the Remedial Work and access the Security to pay for the Remedial Work.

Section 18. Town Default. In the event Town should fail to timely perform its obligations under this Agreement, Subdivider shall give written notice to Town of such default and Town shall have 10 calendar days from the receipt of such notice to cure the default. If the default is not timely cured, Subdivider shall have the right to seek legal and/or equitable relief against the Town.

Section 19. Indemnification. Subdivider indemnifies and holds the Town harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the construction or repair of the Phase Improvements by Subdivider; provided however such indemnity shall only extend to claims for injury or damage occurring prior to the date of final acceptance of the Phase Improvements by the Town.

Section 20. No Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both Town and Subdivider, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Subdivider or the acceptance of any Improvement.

Section 21. Attorney's Fees. Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court awards relief to both parties, each will bear its own costs in their entirety.

Section 22. Notice. Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or by facsimile, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

if to Subdivider: Dev-Vic Ltd. Liability Co.
 900 W. Castleton Road, Suite 125
 Castle Rock, CO 80104

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

Section 23. Recordation and Binding Effect. This Agreement shall be recorded with the Clerk and Recorder's Office of Douglas County, Colorado and shall be binding upon the assigns, successors, and grantees of Subdivider in the same manner as if such third parties were signatories to this Agreement. Provided further however, this Agreement shall be of no effect or application and shall no longer constitute an encumbrance upon a platted lot, at such time as a final certificate of occupancy for private improvements is issued by the Town on such lot. The termination of the effect of this Agreement under this provision shall be self-executing, and shall require no further action or documentation by the parties.

Section 24. Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity under any applicable state law.

[Remainder of page intentionally left blank]

TOWN OF CASTLE ROCK



Mark Stevens, Town Manager

Approved as to form:

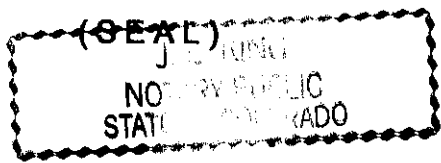



Robert J. Slentz, Town Attorney

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

The foregoing instrument was acknowledged before me this 1 day of September, 2006, by Mark Stevens as Town Manager the Town of Castle Rock.

Witness my official hand and seal.
My Commission expires: 9-2-07





Notary Public

LEGAL DESCRIPTION -- CASTLE PINES COMMERCIAL FILING 12

A TRACT OF LAND LOCATED IN THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, DOUGLAS COUNTY, COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 27, AND CONSIDERING THE NORTH LINE OF SAID NORTHWEST QUARTER TO BEAR SOUTH 89°10'01"EAST, WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE SOUTH 41°30'09"EAST, 1236.08 FEET TO THE MOST SOUTHERLY CORNER OF LOT 2 OF CASTLE PINES COMMERCIAL FILING 8, ACCORDING TO THE RECORDED PLAT THEREOF, AND THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG THE SOUTH LINE OF SAID LOT 2, NORTH 67°49'25"EAST, 864.10 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF CASTLEGATE DRIVE WEST AS PLATTED IN CASTLE PINES COMMERCIAL FILING 6, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING FOUR COURSES: (1) SOUTH 06°33'27"EAST, 53.85 FEET; (2) THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF 34°46'21", A RADIUS OF 635.00 FEET AND AN ARC OF 385.38 FEET; (3) THENCE SOUTH 41°19'48"EAST, 85.04 FEET; (4) THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 82°32'40", A RADIUS OF 40.00 FEET AND AN ARC OF 57.63 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF ATRIUM DRIVE, AS PLATTED IN SAID CASTLE PINES COMMERCIAL FILING 6; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING THREE COURSES: (1) ALONG A CURVE TO THE LEFT HAVING A DELTA OF 55°16'39", A RADIUS OF 538.00 FEET, AN ARC OF 519.05 FEET AND A CHORD WHICH BEARS SOUTH 13°34'33"WEST, 499.15 FEET; (2) THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 81°32'37", A RADIUS OF 40.00 FEET AND AN ARC OF 56.93 FEET; (3) THENCE SOUTH 22°31'10"EAST, 90.00 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE, SOUTH 67°28'50"WEST, 30.55 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF 12°34'01", A RADIUS OF 955.00 FEET AND AN ARC OF 209.47 FEET; THENCE SOUTH 54°54'49"WEST, 133.99 FEET TO THE EASTERLY RIGHT-OF-WAY LINE OF U.S HIGHWAY 85 AS DESCRIBED IN THAT DEED RECORDED IN BOOK 2002 AT PAGE 1292; THENCE ALONG SAID RIGHT-OF-WAY LINE THE FOLLOWING TWO COURSES: (1) NORTH 35°05'11"WEST, 1050.00 FEET; (2) THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF 2°28'32", A RADIUS OF 2388.00 FEET AND AN ARC OF 103.18 FEET TO THE SOUTHEASTERLY LINE OF THAT PARCEL DESCRIBED IN THE DEED RECORDED IN BOOK 1307 AT PAGE 1782; THENCE ALONG SAID SOUTHEASTERLY LINE, NORTH 54°54'50"EAST, 92.07 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 18.05 ACRES, MORE OR LESS.

(EXEMPLAR – NOT FOR EXECUTION)

**EXHIBIT 2
PUBLIC IMPROVEMENTS CONVEYANCE AND INITIAL ACCEPTANCE**

TRANSFEROR:

TRANSFeree: Town of Castle Rock, a municipal corporation ("Town")
100 Wilcox Street
Castle Rock, Colorado 80104

Transferor has caused to be constructed certain public improvements and facilities described in the attached **Exhibit A** (the "Improvements"), as required by Town to serve the Castle Pines Commercial Filing No. 12 subdivision. Town will assume the obligation for maintenance and operation of the Improvements, located in rights-of-way, easements or other real property owned by Town, upon the conveyance of the Improvements to Town.

THEREFORE, Transferor grants, conveys and transfers to Town all its interest (real or personal) and title to the Improvements subject to the following:

1. Transferor warrants to Town that Transferor has a good title to the Improvements, free and clear of any lien, claim or right of any third party in or to the Improvements, and Transferor will defend Town's title to the Improvements against the claim of any third party.
2. Transferor warrants that the Improvements are located within the easement, right-of-way or other real property interest designated by the Town for siting of the Improvements. Town acknowledges receipt of as-built drawings of the Improvements dated _____.
3. Transferor warrants that, as constructed, all Improvements are in conformance with the current Town of Castle Rock standards and the approved construction plans, and are free from defects in design, material or workmanship. This warranty is for the period prescribed by the Town's Public Works Regulations commencing on the date of acceptance made below.
4. Transferor represents that the approximate amount of direct costs of construction of the Improvements (excluding engineering, financing, insurance, etc.), as determined in accordance with usual and customary construction accounting practices is as follows:

(EXEMPLAR – NOT FOR EXECUTION)

Water	_____
Wastewater	_____
Stormwater	_____
Streets	_____
Parks and recreation	_____
TOTAL	_____

5. Transferor concurrently submits to Town the surety attached as **Exhibit B** in the amount of 15% of the above total to secure Transferor's warranty obligation on the Improvements.

TRANSFEROR:

By: _____

Its: _____

ACCORDINGLY, Town accepts for ownership and maintenance of the Improvements effective _____, 200__.

TOWN OF CASTLE ROCK

Engineering Division



August 31, 2006

Mr. Bob Slentz
Town of Castle Rock
680 North Wilcox St.
Castle Rock, CO 80104

RE: Castle Pines Commercial Filing 12, Lot 1

Dear Bob,

This letter is to update the Town on the water taps for Castle Pines Commercial Filing 12, Lot 1 which is being developed as a Primrose School facility. Based on the usages for the property, we have developed tap requirements for the parcel. The taps are summarized in the following table.

Occupancy	No. of Taps	Size (in.)	SFE/Tap	Total SFE	Acre-Feet
Primrose School	1	1 ½	4	4	2.2
Irrigation Tap	1	¾	1	1	.55
Totals	2			5	2.75

The above water rights requirements are based on .55 ac-ft per SFE. The SFE's have been assigned based on the proposed tap sizes in accordance with Section 4 - Application of Water Credit as agreed to between the Town of Castle Rock, Dev-Vic LTD, Liability CO., 95 LTD, Liability CO, and CORE Whitney Partnerships, L.L.C in the Castle Pines Commercial Water Rights Dedication Agreement recorded at Book 1274, Page 2057 in the office of the Douglas County Clerk and Recorded and attached hereto.

I hope that this information is sufficient for your use. If you should have any questions, please feel free to call.

Sincerely,

TST INC. OF DENVER

Taylor C. Goertz, P.E.

(EXEMPLAR – NOT FOR EXECUTION)
EXHIBIT 4
PARTIAL ASSIGNMENT AND ASSUMPTION
OF
SUBDIVISION IMPROVEMENTS AGREEMENT

This Assignment and Assumption (this "Assignment") is made this _____ day of _____, 200 ____, by and between _____ Assignor"), whose address is _____, Attention _____, and _____, a _____ ("Assignee") whose address _____.

The parties agree as follows:

1. Property. The "Property" shall mean the following described property located within the Town of Castle Rock, Douglas County, Colorado:

(See Attached Legal Description)

2. Subdivision Improvements Agreement. The "Subdivision Improvements Agreement" shall mean the Castle Pines Commercial Filing No. 12 Subdivision Improvements Agreement dated _____ between Assignor and the Town of Castle Rock, a Colorado municipal corporation (the "Town"), recorded _____ under Reception No. _____ of the Douglas County Records. Terms which are defined in the Subdivision Improvements Agreement shall have the same meaning in this Assignment as defined in the Subdivision Improvements Agreement unless otherwise provided herein or the context otherwise requires.

3. Assumed Obligations. The "Assumed Obligations" shall mean all of the liability and obligations of Assignor as the Subdivider under and pursuant to the Subdivision Improvements Agreement which shall arise or accrue, or be required to be paid or performed, on or after the Effective Date as they pertain to those Phase Improvements which are more particularly described on the attached Exhibit A to this Agreement ("Builder's Improvements") which Exhibit A is incorporated herein by reference, including, without limitation, the following obligations under the Subdivision Improvements Agreement: (a) the obligation to construct any and all Builders Improvements; (b) the obligation to deliver the Security to the Town pertaining to Builder's Improvements; (c) if required pursuant to the Subdivision Improvements Agreement, the obligation to deliver the Landscape Deposit, if any, pertaining to Builder's Improvements; and (d) the obligation to perform all warranty obligations pertaining to Builder's Improvements.

4. Retained Rights. The "Retained Rights" shall mean the rights and interests of Assignor under the Subdivision Improvements Agreement in

(EXEMPLAR – NOT FOR EXECUTION)
EXHIBIT A
TO
PARTIAL ASSIGNMENT AND ASSUMPTION
OF
SUBDIVISION IMPROVEMENTS AGREEMENT

Description of Phase Improvements to be constructed by Assignee