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Castle Rock, CO 80104
Attn: Town Attorney

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**HECKENDORF RANCH FILING NO. 2
SUBDIVISION IMPROVEMENTS AGREEMENT**

DATE: March 15, 2006.

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

CASTLE STAR INVESTMENT CO., LLC, a Colorado limited liability company, 8310 S. Valley Highway, Suite 100 Englewood, Colorado 80111 (Subdivider).

MORTGAGEES: **Castle Springs Land Company, LLC**
Crystal Valley Ranch Development Co., LLC
Hearthstone Fund, Inc.

RECITALS:

A. Subdivider desires to plat and subdivide certain property known as Heckendorf Ranch Filing No. 2 (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 certain public improvements necessary to provide municipal utilities and services to the Subdivision in accordance with Town public works 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 no representation is made by Town 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.

D. Mortgagees are a party 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:

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 Heckendorf Ranch Filing No. 2 Subdivision Improvements Agreement.

Code: the Castle Rock Municipal Code, as amended.

DCRA: The Development and Cost Reimbursement Agreement dated November 11, 2005, between the District, the Crystal Valley Ranch Metropolitan District No. 1 and the Lanterns Metropolitan District.

Development Agreement: the Annexation and Development Contract between the Town of Castle Rock and Heckendorf Ranch dated June 18, 1985, recorded June 27, 1985, beginning in Book 581 at Page 785 of the Records.

Development Impact Fees: the fees currently imposed under Chapter 3.16 of the Code.

Director: the Town's Director of Development Services, or designee.

District: the Crystal Crossing Metropolitan District.

Filing 1: the property subject to the final plat for Heckendorf Ranch Filing No. 1 as recorded in the Records on January 28, 2005 at Reception No. 2005008723.

Filing 1 SIA: the Heckendorf Ranch Filing No. 1 Subdivision Improvements Agreement dated December 15, 2004, recorded January 28, 2005 at Reception No. 2005008724 in the Records.

Final Site Plan: the final PD site plan for the Subdivision as approved by the Town and recorded on August 5, 2005 at Reception No. 2005073487 in the Records.

Improvements: the water, wastewater, stormwater drainage, transportation, landscaping, street and safety protection, 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.

Phase: a distinct 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 Phase Landscaping.

Phase Landscaping: the landscaping required to be installed within a particular Phase.

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.

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

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

Preliminary Plat: the Heckendorf Ranch Filing No. 2 Preliminary Plat approved by the Town Council and recorded on August 5, 2005 at Reception No. 2005073487 in the Records.

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 Heckendorf Ranch Filing No. 2 subdivision.

Town Regulations: the Code, inclusive of the Town public works regulations, as the same may be amended from time to time.

Tri-party Agreement: the Agreement dated June 3, 1985, recorded June 27, 1985 beginning in Book 581 at Page 770 of the Records.

Certain other terms are defined elsewhere in this Agreement. To the extent the District undertakes construction of Improvements, or otherwise undertakes to perform the obligations of Subdivider hereunder, 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.

To the extent the District discharges the obligation of Subdivider, or independently assumes the obligations under this Agreement, the District shall have the same contractual rights and responsibilities as Subdivider under this Agreement with respect to such obligation.

Section 2. Construction of Improvements. The Improvements shall be constructed in strict 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.

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 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.

The requirements for completion of Landscaping are contained in section 6.

Section 3. Restrictions Pending Completion of Improvements. No Phase shall qualify for building permits until the Phase Improvements required by the Phasing Plan for such Phase are substantially completed, except when authorized by the Director, as further provided in this section. Substantial completion occurs when the Improvement is functional and operable in all material respects, although not completed to the standard required for formal acceptance by the Town for operation and maintenance. No Phase shall qualify for certificates of occupancy unless the Phase Improvements have been accepted by the Town as provided in section 4.

The Director, in his/her absolute discretion, may authorize issuance of one or more designated building permits prior to substantial completion, if unusual and unanticipated circumstances warrant granting a relaxation of the substantial completion requirement. In such event, the Director may impose the condition that all work must cease under such building permit if the Phase Improvements are not substantially completed by the date specified in the permit. Unless the underlying Security is a cash escrow, or letter of credit, Subdivider shall establish a separate cash escrow in the amount of 115% of the estimated cost of completion of the Improvements that are not substantially complete, which escrow shall be supplemental to the underlying Security. 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.

The requirements for completion of Landscaping are contained in section 6.

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.

The acceptance process for Landscaping is addressed in section 6.

Section 5. Improvements Security. In accordance with Town Regulations, Subdivider 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 period of time 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.

All construction cost estimates shall be submitted by Subdivider's (or as applicable, District'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 homebuilder for all or a portion of the Security provided by the Subdivider, subject to the further provisions of section 19.

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 or District 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 Subdivider or District furnishes a letter of credit or cash escrow, 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. The release of the Security applicable to Landscaping is subject to the further restrictions and requirements of section 6.

Provided further, to the extent District constructs Improvements, District may satisfy the Security requirements through establishment of an escrow in accordance with the Master Intergovernmental Agreement between the Town and District.

Section 6. Landscaping. Subdivider shall make best efforts to complete all Phase Landscaping in conjunction with completion of the Phase Improvements as provided in section 2. Inspection of Phase Landscaping by the Town shall be made in the same manner as prescribed for Phase Improvements under section 4.

With Town's acceptance of the Phase Landscaping concurrently with the Phase Improvements, the Security pertaining to the Phase Landscaping shall be reduced to 15% of the actual cost of the Phase Landscaping. In such event, the warranty Security pertaining to the Phase Landscaping shall be released in accordance with Town Regulations.

In the event that at the time the Town accepts the Phase Improvements, the Phase Landscaping is not sufficiently completed to allow the Town's acceptance, any portion of the Security pertaining to the Phase Landscaping shall be released and the following provisions shall apply:

- (a) Subdivider shall make a cash deposit to the Town in the amount of 115% of the estimated completion cost of the Phase Landscaping to be held by Town as security for completion of the Phase Landscaping (the "Landscape Deposit");
- (b) the amount of the Landscape Deposit shall be determined by the Town after review of the cost estimate of completion furnished by the Subdivider's landscape architect or contractor;
- (c) the Landscape Deposit must be made prior to and as a condition of the issuance of the first building permit within the Phase;
- (d) upon receipt of the Landscape Deposit the Town will release that portion of the Security applicable to the Phase Landscaping.
- (e) the Landscape Deposit shall not accrue interest;
- (f) Subdivider shall have 180 days from the date the Landscape Deposit is deposited with the Town to complete the Phase Landscaping;
- (g) within 10 days of completion of the Phase Landscaping and acceptance by the Town, Town shall return to Subdivider the Landscape Deposit, less a 15% warranty hold-back and the applicable warranty on the Phase Landscaping shall commence;
- (h) if at the end of such 180 day period the Phase Landscaping has not been completed and accepted by Town, Town may use the Landscape Deposit to the extent necessary to complete the Phase Landscaping, provided Town will not be obligated to spend any Town funds to complete the Phase Landscaping in the event the Landscape Deposit is insufficient to fund completion;
- (i) Town shall promptly return to Subdivider any portion of the Landscape Deposit which remains after the Town has completed the Phase Landscaping, less a 15% hold-back for the warranty period;
- (j) the Landscape Deposit held for the warranty shall promptly be released to Subdivider upon expiration of the Landscaping warranty and Town's final acceptance of the Landscaping.

Section 7. Water Rights. Subdivider is obligated to convey to the Town the rights to the ground water underlying the Property decreed in Case No. 84CW173 and otherwise provide Town with sufficient water resources to satisfy the water rights dedication requirements under the Town Regulations. Subdivider has also acquired additional rights adjudicated in 84CW173, which will be concurrently conveyed to Town. This interest in the water rights adjudicated in 84CW173 is referred to as the Water Rights. Concurrently with recordation of this Agreement, Subdivider shall convey the Water Rights to Town by special warranty deed, free of liens and encumbrances.

Post-conveyance, Subdivider shall execute such other reasonable and additional instruments of conveyance and other documents which Town reasonably determines necessary to grant to Town the exclusive ownership, management and control of the Water Rights. Should it be subsequently determined that marketable title to any portion of the Water Rights did not vest in Town with the conveyance, the Water Credit established in this section 7 shall be reduced accordingly.

With conveyance of the Water Rights, a credit of 200 SFE shall be established against the Town's water dedication requirements for the benefit of the Property. In addition to the Water Rights conveyance, concurrently with recordation of this Agreement:

- (a) Subdivider has purchased from Town 48 SFE for \$132,000, the rate established under the Code for residential development (Cash-in-lieu Credit);
- (b) Subdivider has transferred 13 SFE of the Water Credit from the Heckendorf Ranch Filing 1 Water Bank for the benefit of the Property; and
- (c) Subdivider has caused 18 SFE from the Woodlands Village Water Bank (Rowley Downs Land Co.) Water Bank to be transferred to Town for an additional Water Credit of 9 SFE.

Collectively, these three development credits are referred to as the Water Credit. The Water Credit of 270 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 current 200% 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.

In order to properly account for the Water Credit, Town shall administratively maintain an account designated the Heckendorf Filing No. 2 Water Bank (Water Bank).

The Water Bank shall periodically be debited or credited in accordance with this section 7. The Water Bank shall be formatted as follows:

HECKENDORF RANCH FILING NO. 2 WATER BANK					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Deed to Water Rights				200	200
Transfer from Filing 1 and Woodlands Bank				22	226
Cash-in-lieu Credit				48	270
Final Plat			XX		___ - XX

The Water Credit shall be reduced by the total SFE assigned to all approved development (private and public) on the Property, including irrigation. The reduction (debit) to the Water Bank shall be made at the time of approval of a Final Site Plan for any Subdivision lot and the issuance of any supplemental building/irrigation permits, which were not accounted for in the debit at the time of Plat. With any entry made by the Town, Subdivider shall receive notification in writing, and any objection not resolved to the satisfaction of the Subdivider 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.

The Water Credit may not be assigned or transferred for use on properties other than the Property, until full development of the Property, at which time, any unused portion of the Water Credit may be transferred by Subdivider for use on other properties within the Town, but not outside the Town limits. In the event the Water Bank is exhausted prior to full development of the Property (i.e. prior to all potable and irrigation connections), Subdivider 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. Because the Water Credit of 270 SFE is intended to address single-family residential and landscaping demand only, multi-family residential and commercial development on the Property will require additional water resources in accordance with the provisions of this section 7. Absent provision of such additional water resources, Town shall not be obligated to issue further development permits for the Property.

Section 8. Public Land Conveyance. Concurrently with and as a condition to recordation of this Agreement, Tracts A, B, C, and E shall be conveyed to the Town by special warranty deed free and clear of any liens, encumbrances or assessments that would impair the use of the property by the Town for its intended purposes as reasonably determined by Town. Subdivider shall furnish Town with an ALTA form policy of title insurance, issued by a title company licensed to do business in the State of Colorado, and which insures the Town's title in such dedicated tracts in the amount of \$10,000 per acre. Taxes for prior years shall be paid in full and current year taxes shall be prorated and paid to Town with recordation of the deed.

Section 9. Interchange Funding. Section 20.5 of the Development Agreement (DA) and Section 9 of the Filing 1 SIA obligate the Subdivider and/or District to participate in the funding of a new I-25 interchange proposed at Crystal Valley Parkway/Douglas Lane (Interchange). Town and Subdivider agree that this Section 9 shall supersede the provisions of Section 9 of the Filing 1 SIA and Section 20.5 of the DA in their entirety. Upon compliance with this Section, Developer's obligation to participate in the funding of the Interchange shall be fully satisfied irrespective of the eventual development cost of the Interchange. Compliance with this Section shall not relieve Filing 1 or the Subdivision (Heckendorf Ranch) from the obligation to pay Development Impact Fees.

Plans for construction of the Interchange are currently in review with Douglas County. As set forth in the funding study for the Interchange prepared by PBS&J and updated on August 4, 2005 (Funding Study), the costs for construction of the Interchange attributable to the Property assuming the most probable levels of development on other properties included within the Funding Study (Table 8) is \$1,271,200 (Interchange Assessment). The Interchange Assessment reflects the estimated development cost of the Interchange and the probable traffic impacts of various properties upon which development will materially and directly impact the Interchange. Other than the interest adjustment provided for below, the Interchange Assessment is fixed by this Agreement and is not subject to retroactive adjustment if the actual Interchange development costs vary from current cost estimates or if traffic impacts from full development of the Property varies from the projections in the Funding Study.

Prior to and as a condition to the issuance of the first building permit, Developer shall pay the entire Interchange Assessment (IA Due Date) in to an escrow (Escrow Funds) pursuant to the terms of the Escrow Agreement in the form attached as **Exhibit 4** (Escrow Agreement). In addition, if the Escrow Funds are deposited after June 30, 2006, Subdivider shall pay interest on the Interchanges Assessment at 5% per annum, accruing from June 30, 2006 through the date Escrow Funds are deposited. Escrow Funds may only be disbursed to pay for the cost of development of these future elements or phases of the Interchange (Qualifying Projects):

- (a) east side ramp or ramps and east frontage road relocation/reconstruction, inclusive of improvements to the east frontage road extending to the Plum

Creek Interchange, but excluding improvements which are temporary or interim in nature;

- (b) west side off-ramp with Interchange bridge;
- (c) Interchange bridge connecting east and west side frontage roads; or
- (d) any combination of 1,2 and 3.

Cost of development includes design, engineering, right of way, permitting, relocation, construction, construction management and related expenditures expended on any of these Qualifying Projects which under generally accepted construction accounting practices may be capitalized, but excluding any such costs which as of the date of this Agreement have already been incurred by Douglas County (Project Expenses). Subdivider acknowledges that the Qualifying Projects are of direct benefit to the Property and the development of the Qualifying Projects will facilitate development of the Property. Prior to the disbursement of any Escrow Funds, the escrow agent shall notify developer of the amount of the proposed disbursement and the purpose for which the Escrow Funds shall be used.

Interest on the Escrow Funds shall accrue to principal and shall be available for a qualifying disbursement. Escrow agent costs shall be paid from the escrow principal.

The Escrow Funds may be disbursed to pay to third parties any of the Project Expenses, or for disbursement to Douglas County or another political subdivision of the state, quasi-municipal corporation, or authority undertaking the Qualifying Project with the consent of Town, or to reimburse the Town if the Town has directly incurred a Project Expense. The Escrow Funds may be called in advance of the incurrence of the Project Expenses as necessary to fund a Project construction escrow with other funding sources. A written statement from a Town official that the terms of this Agreement authorize the disbursement of Escrow Funds shall be binding on Subdivider and the Escrow agent.

Town shall have no right to direct disbursement of Escrow Funds to Town for any purpose other than the Qualifying Projects prior to December 31, 2015. The Escrow Agreement shall terminate upon the entire disbursement of Escrow Funds, provided that any Escrow Funds remaining on December 31, 2015 shall be disbursed to Town to be used by the Town for transportation improvements and facilities that are intended to alleviate transportation impacts caused in part by development within the Subdivision, which may include the recovery by the Town of prior investment in transportation infrastructure such as the Plum Creek Interchange/frontage road reconstruction. Prior to disbursement of any of the monies that were previously Escrow Funds, the Town Council shall adopt a resolution stating that the proposed disbursement is in compliance with the terms of this Agreement.

The payment of the Interchange Assessment does not entitle Subdivider or the Property to any reduction or setoff against payment of Development Impact Fees for Heckendorf Ranch.

Section 10. Signalization Contribution. Traffic from the Subdivision will impact Crystal Valley Parkway at such time as Plum Creek Boulevard is completed south to Crystal Valley Parkway. The cumulative traffic impacts from development of Filing 1 and the Subdivision support a direct contribution to the cost of installing certain traffic signals on Crystal Valley Parkway. Accordingly, concurrently with and as a condition to recordation of this Agreement, Subdivider shall pay to Town the sum of \$180,000, representing the Subdivision's full contribution toward the signalization of Crystal Valley Parkway, including the deferred obligation under the Filing 1 SIA. Town shall install the traffic signal(s) when warranted. This payment does not entitle Subdivider to any credit or offset against Development Impact Fees for Heckendorf Ranch.

Section 11. East Plum Creek Sewer Line Construction. Subdivider acknowledges that the Property will not qualify for the issuance of certificates of occupancy until such time as the Upper East Plum Creek Interceptor sewer line is substantially complete and operational. The Upper East Plum Creek Interceptor is currently under construction by the Town with an anticipated substantial completion date of February 28, 2006. Town shall use its best efforts to complete the Upper East Plum Creek Interceptor not later than June 1, 2006.

Section 12. Tri-party Agreements. In addition, Subdivider has caused CVR and the Crystal Valley Ranch Metropolitan Districts Nos. 1 and 2 to issue Town notice that those parties have no claim on Town under the Tri-Party Agreement to obtain recoupment from Subdivider related to the Subdivision. However, Town will make reasonable efforts, at no cost to the Town, to assist District in collecting any recoupment or cost-sharing to which Subdivider may be entitled from the Crystal Valley Districts, CVR, or the Lanterns development interests and/or metropolitan district under the DCRA or other cost-sharing agreements.

Section 13. Restrictions Prior to Bridge Construction. District has entered into the DCRA under which cost-sharing for Crystal Valley Boulevard and the bridge to be constructed over Plum Creek and the UPRR track (Track Bridge Project) and the construction of Douglas Lane to connect the bridge and the east I-25 frontage road (Temporary Track Bridge Connection Project) are allocated between those parties. The DCRA provides remedies for the parties to enforce their respective financial obligations and is intended to supersede the Tri-Party Agreement. Douglas County has issued a notice to proceed and the Track Bridge Project is under construction. As of the date of this Agreement, Douglas County has not yet issued a notice to proceed applicable to the Temporary Track Bridge Connection Project, in deference to the fact that not all of the necessary right of way for the Temporary Track Bridge Connection Project has been acquired.

The Property shall not qualify for issuance of building permits (other than permits for construction of the Improvements) unless at the time of such request for permits either: (i) Douglas County has contracted for construction of the Temporary Track Bridge Connection Project and has issued a notice to proceed to the contractor that encompasses the Temporary Track Bridge Connection Project or (ii) Subdivider has caused to be constructed at its expense crossing gates and warning signals at the at-grade crossing of Crystal Valley Boulevard/Douglas Lane and the UPRR track in conformance with the requirements of the Public Utilities Commission, the Town and Douglas County, as applicable.

Section 14. System Looping. It is Subdivider's intent to develop the Property in Phases; therefore each Phase (excluding Phases that do not include habitable structures) shall provide for a looped water system and be independently sustainable for both water and sewer service prior to the issuance of the first building permit within each such respective Phase.

Section 15. Streetscape Maintenance. Subdivider, at its expense, shall have the responsibility for the maintenance of landscaping within any dedicated street right-of-way (including medians) within the Subdivision provided that this obligation may be assigned to and assumed by the District or a homeowner's association established for the Subdivision. The maintenance obligation includes payment of water service and maintenance of irrigation system, features, plantings, etc. Landscaping shall be maintained to the standard for maintenance established by Town for similar landscaping of Town facilities, including compliance with water conservation provisions in the Town Regulations.

Section 16. Construction Traffic. Subdivider shall take reasonable steps to prevent any construction traffic related to the Subdivision from using that portion of Plum Creek Boulevard located within the Plum Creek subdivision, and ensure that all construction traffic utilizes Crystal Valley Parkway to access the Property.

Section 17. Required Covenant Provisions. This Agreement shall constitute a declaration that in the event of a conflict between the restrictive covenants on the Property and the Town Regulations, the Town Regulations shall govern and control.

Section 18. Water Conservation Regulations. The landscaping of all lots shall conform to the Town's adopted water conservation requirements of the Town Regulations in effect at the time of the building permit application for such lot.

Section 19. 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 3**; 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. Accordingly, Town shall send any notice of default under section 24 to both Subdivider and Builder.

Section 20. Application of Development Agreement. The Development Agreement contains certain other conditions and requirements which apply to the development of the Property, however, in the event of a conflict between the Development Agreement and this Agreement, this Agreement shall govern and control.

Section 21. Construction Damage. Subdivider shall be responsible for any extraordinary damage to Town roads and/or public improvements, 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, provided Subdivider remains obligated to repair damage in the event the assignee fails to do so.

Section 22. 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 Heckendorf Ranch Filing No. 2 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 23. 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 Impact Fees is a completed building permit application as provided in the Code. Accordingly, the schedule of such Development Impact Fees in effect at the time of such building permit issuance establishes the level of Development Impact Fees payable with such permit.

Section 24. Subdivider's Default. The following occurrences constitute a default of this Agreement by Subdivider:

- (a) failure to 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) after commencing construction of such Phase Improvements, 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 (and Builder, as applicable) of the occurrence of an event of default. Subdivider (or Builder, as applicable) shall have 30 calendar days from the receipt of such notice to cure the default, unless such cure is necessarily delayed due to adverse weather conditions in which event the cure period shall be extended by a number of days equal to the number of days of the unavoidable delay. If timely cure of the noticed default(s) is

not accomplished, Town shall thereafter be entitled to pursue its remedies against Subdivider and/or Builder.

Sections 24 and 25 shall apply to Builder in the event that the provisions of section 19 are operative. In the event of a default by Builder, Town shall also give notice of default to Subdivider.

Section 25. 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, which license shall terminate upon completion of the Remedial Work;
- (b) if Phase Improvements have not been timely completed or as otherwise specifically authorized by this Agreement, withhold issuance of building permits within the affected Phase;
- (c) 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;
- (d) in the event of a default under section 6, exercise the specific remedies thereunder; and
- (e) bring suit against the defaulting party for money damages and/or equitable relief for breach of the Agreement.

Section 26. Town Default and Remedies. 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 27. Service Plan Compliance. Town acknowledges that the conditions and requirements of Article XIII.1. and 2. of the District Service Plan have been satisfied and are of no further force or effect.

Section 28. 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 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 Improvements by the Town.

Section 29. 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 30. 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 31. 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: Castle Star Investment Co., LLC
8310 S. Valley Highway, Suite 100
Englewood, CO 80111

with copy to: James Borgel
Holland & Hart LLP
555 17th Street, Suite 3200
Denver, CO 80202

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

Section 32. 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 Town issues a final certificate of occupancy for private improvements on such lot.

Section 33. Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity under any applicable state law.

Section 34. Assignment. Subdivider's obligations under this Agreement may be assigned to a homebuilder(s) in conjunction with the conveyance a portion of the Property, provided such assignee expressly assumes Subdivider's obligation insofar as it relates to assignee's interest in that portion of the Property so acquired. Thereafter Subdivider shall be released of any obligation so assumed by an assignee, and Town shall look solely to the assignee in the event of a default by assignee, provided Town may call any Security which was posted by Subdivider and secures the performance of an obligation of the assignee.

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EXHIBIT 1

Legal Description - Heckendorf Ranch, Filing No. 2

A parcel of land located in the Southwest quarter of Section 23 and the Southeast quarter of Section 22, Township 8 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, more particularly described as follows:

Commencing at the Northeast corner of the Southwest quarter of said Section 23;
thence S00E07'19"W along the East line of the Southwest quarter of said Section 23, 1248.37 feet to the Point of Beginning;
thence continuing S00E07'19"W along said East line, 1407.48 feet to the Southeast corner of the Southwest quarter of said Section 23;
thence N89E50'08"W along the South line of the Southwest quarter of said Section 23, 2627.37 feet to the Southwest corner of the Southwest quarter of said Section 23;
thence N00E09'41"E along the West line of the Southwest quarter of said Section 23, 1329.96 feet to the Southeast corner of the Northeast quarter of the Southeast quarter of said Section 22;
thence N89E05'49"W along the South line of the Northeast quarter of the Southeast quarter of said Section 22, 527.42 feet to the East right-of-way line of the Denver and Rio Grande Western Railroad;
thence N12E41'08"E along said East right-of-way line, 473.46 feet to the South line of Lot 12, Block 4 of the Town of Douglas as recorded in Book 1 at Page 4 of the Douglas County records;
thence S89E05'22"E along the South line of said Lot 12, 21.71 feet to the Southeast corner of said Lot 12;
thence N00E08'35"E along the East line of Lots 11 & 12 of said Block 4, 97.85 feet to the Northeast corner of said Lot 11 and the East right-of-way line of the Denver and Rio Grande Western Railroad;
thence along said right-of-way line the following three (3) courses:

1. thence N12E41'08"E, 212.72 feet,
 2. thence N77E18'52"W, 100.00 feet,
 3. thence N12E41'08"E, 268.79 feet to the Southwest corner of Heckendorf Ranch Filing No. 1 recorded at Reception No. 2005008723 of the Douglas County Records;
- thence along the South boundary of said subdivision the following twenty two (22) courses:

1. thence S80E30'42"E, 104.73 feet;
2. thence S40E07'05"E, 118.18 feet;
3. thence S05E12'41"E, 87.08 feet;
4. thence S75E22'06"E, 240.10 feet;
5. thence N43E05'22"E, 92.34 feet;
6. thence S46E54'38"E, 153.00 feet;
7. thence N71E09'35"E, 39.97 feet;
8. thence N42E42'47"E, 189.19 feet;
9. thence S56E32'16"E, 178.63 feet;
10. thence N60E01'52"E, 209.88 feet;
11. thence S78E08'03"E, 243.29 feet;

12. thence S50E05'28"E, 271.08 feet;
13. thence S89E36'05"E, 90.02 feet;
14. thence S74E52'16"E, 120.70 feet;
15. thence S43E40'17"E, 123.98 feet;
16. thence S70E01'42"E, 120.97 feet;
17. thence N68E19'35"E, 65.22 feet;
18. thence S75E05'50"E, 55.66 feet;
19. thence S52E22'27"E, 162.60 feet;
20. thence S85E48'32"E, 119.47 feet;
21. thence S57E18'48"E, 718.37 feet to a point on a curve;
22. thence along said curve to the right having a radius of 1066.00 feet, a central angle of 05E58'05" (the chord of which bears N80E51'56"E, 110.99 feet), 111.04 feet to the Point of Beginning,

(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 Heckendorf Ranch Filing No. 2. Town will assume the obligation for maintenance and operation of the Improvements, excepting drainage improvements which will remain the obligation of Transferor, 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 with 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:

Grading and Erosion	_____
Water	_____
Wastewater	_____
Stormwater	_____
Streets	_____
Parks and Recreation	_____
TOTAL	_____

- 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__, (excluding drainage facilities).

TOWN OF CASTLE ROCK

Engineering Division

(Exemplar – not for execution)

EXHIBIT 3
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 Heckendorf Filing No. 2 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; (d) the obligation to establish a cash escrow for the issuance of a building permit prior to substantial completion of Builder's Improvements pursuant to the Subdivision Improvements Agreement; and (e) 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 connection with any

default by Assignee under the Subdivision Improvements Agreement, including, without limitation, the right to receive notice from the Town in connection therewith, to cure any such default by Assignee and to perform the Remedial Work, and to utilize the Security in connection therewith. Assignee acknowledges that it constitutes a "Builder" as contemplated by Section 19 of the Subdivision Improvements Agreement.

5. Assignment. Assignor hereby assigns and transfers to Assignee all right, title and interest of Assignor as the Subdivider under and pursuant to the Subdivision Improvements insofar as such rights pertain to the Builder's Improvements, excluding, however, the Retained Rights, which Retained Rights are accepted and reserved to Assignor.

6. Delegation and Assumption. Assignor hereby delegates the Assumed Obligations to Assignee and Assignee hereby assumes and agrees to pay and perform all of the Assumed Obligations. Assignor shall have the right to obtain the agreement of the Town to release Assignor from any liability for the performance of the Assumed Obligations.

7. Binding Effect. The terms and provisions of this Assignment shall be binding upon, and inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment the day and year first above written.

ASSIGNOR: _____, a _____ corporation

By: _____
_____, President

ATTEST:

Secretary

ASSIGNEE:

_____, a _____

By: _____

Title: _____

STATE OF COLORADO)

CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ___ day of _____, 200___,
by _____ as President, and _____ as Secretary of _____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

ASSIGNEE:

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF)

The foregoing instrument was acknowledged before me this ___ day of _____, _____, by
_____ as _____ of _____, a
_____.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

**EXHIBIT 4
(EXEMPLAR – NOT FOR EXECUTION)**

ESCROW AGREEMENT

This Escrow Agreement is entered into by and between the **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, whose address is 100 Wilcox Street, Castle Rock, CO 80104 (Town), **CASTLE STAR INVESTMENT CO., LLC**, a Colorado limited liability company, whose address is 8310 S. Valley Highway, Suite 100, Englewood, Colorado 80111 (Subdivider), **CRYSTAL CROSSING METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado, whose address is c/o McGeady Sisneros, P.C., 1675 S. Broadway, Suite 2100, Denver, Colorado 80202 (District) and **LAND TITLE GUARANTEE COMPANY**, a corporation organized and existing under the laws of the State of Colorado, whose address is 3033 East First Avenue, Suite 600, Denver, CO 80206 (Escrow Agent).

RECITALS

A. Pursuant to the terms and conditions set forth the in the Heckendorf Ranch Filing No. 2 Subdivision Improvements Agreement dated _____, recorded in the Douglas County public records on _____ at Reception No. _____ (Filing 2 SIA), Subdivider and/or District is required to participate in the joint funding of the Douglas Lane Interchange (Interchange). Subdivider and/or District desire to establish an Escrow for such funding. The Escrow shall be disbursed at the time the a qualifying project (as defined in Section 9 of the Filing 2 SIA) for the Interchange is undertaken and in accordance with the terms set forth in the Filing 2 SIA.

B. This Escrow Agreement sets forth the terms and conditions by which the Escrow Agent shall hold and disburse the escrow funds.

COVENANTS

NOW, THEREFORE, in consideration of the matters described above, the mutual covenants contained in this Agreement, and other good and valuable consideration, the Town, DISTRICT and Escrow Agent agree as follows:

Section 1. Escrow Funds. Escrow Agent acknowledges receipt of \$_____ from the Subdivider/District (Escrow Funds) in compliance with the terms of the Filing 2 SIA, a fully executed copy of which is attached to this Escrow Agreement as *Exhibit A*.

Section 2. Disbursement of Escrow Funds. Escrow Agent shall disburse all or a portion of the funds that are in the escrow account within ten (10) days of receipt of a certificate of payment executed by the Town Manager or his designee that the requested disbursement of Escrow Funds is authorized under section 9 of the Filing 2 SIA. The Town shall simultaneously submit a copy of the certificate to Subdivider and District.

Escrow Agent shall make the required disbursements from the Escrow Funds as authorized by this Escrow Agreement within a reasonable time.

Section 3. Interest on the Escrow Funds shall accrue to principal. No interest or accrued earnings shall be paid to Subdivider or District.

Section 4. Termination of this Agreement. This Escrow Agreement shall terminate upon entire disbursement of the Escrow Funds, provided that any Escrow Funds remaining on December 31, 2015 shall be disbursed to Town upon receipt by Escrow Agent of a resolution adopted by the Town Council that the proposed disbursement is in compliance with the terms of Section 9 of the Filing 2 SIA.

Section 5. Duties of Escrow Agent. The Duties of Escrow Agent shall be as follows:

- A. During the term of this Escrow Agreement, Escrow Agent shall hold and disburse the Escrow Funds in accordance with the terms and provisions of this Agreement.
- B. The Town, Subdivider and District agree and acknowledge that Escrow Agent: (1) assumes no personal liability in connection with this Agreement for an act it may do or omit to do hereunder while acting in good faith; and (2) may seek advise from its own counsel, accountants, brokers or other persons reasonably believed by it, in good faith, to be an expert in the matters upon which they were consulted, and shall be fully protected in any action taken or suffered by it in good faith in accordance with such advice.
- C. If a dispute should develop concerning the Escrow Funds, then in any such event, Escrow Agent shall deliver the Escrow Funds in accordance with the joint written instructions received from the Town and District by Escrow Agent. If no such instructions are received within thirty (30) days after Escrow Agent has issued a written request for instructions from the Town, Subdivider and District, Escrow Agent shall have the right to pay the Escrow Funds into a court of competent jurisdiction and interplead the Town, Subdivider and District, and then Escrow Agent shall be discharged from any obligation in connection with this Agreement.
- D. Escrow Agent shall deposit and invest all Escrow Funds received under this Escrow Agreement in a Federal Deposit Insurance Corporation (FDIC) insured institution ("Institution"). All deposits shall earn interest at the rate paid by the Institution and such interest shall become part of the Escrow Funds and qualify for disbursement. Under no circumstances shall Escrow Agent be liable for loss of funds due to bank, savings and loan association, or other institutional failure, including employees or agents thereof, suspension or cessation of business, or any action or inaction of the part of the bank, savings and loan association, or other institution, or any delivery service transporting funds to and from such institution.

- E. Escrow Agent shall provide an accounting of all Escrow Funds to the Town, Subdivider and District upon written request.
- F. Escrow Agent may act in reliance upon any writing or signature, which Escrow Agent, in good faith, believes to be genuine, and may assume the validity and accuracy of any statement or assertion contained in such writing.
- G. Escrow Agent may act in reliance on any person purporting to give any writing, notice, advice, or instruction in connection with the provisions hereof, which it believes, in good faith, has been duly authorized to do so.
- H. Escrow Agent shall execute and deliver all forms required by Federal, State and other governmental agencies relative to the Escrow Funds.

Section 6. Compensation and Reimbursement of Escrow Agent. In consideration for the services to be rendered under and pursuant to this Agreement by Escrow Agent to the Town, Subdivider and District, Escrow Agent shall be entitled to receive \$200.00 out of the Escrow Funds at the execution of this Agreement. Thereafter, each disbursement of Escrow Funds shall be made at a charge of \$25.00 to be paid out of the Escrow Funds.

The Escrow Agent shall be entitled to reimbursement in full out of the Escrow Funds for all costs, expenses, charges, fees, or other payments ("Fees and Expenses") made or to be made by Escrow Agent in the performance of Escrow Agent's duties and obligations under this Agreement. Escrow Agent is hereby directed to disburse to itself in payment of Fees and Expenses from the Escrow Funds, at any time and from time to time, as to the same may be due and owing. Escrow Agent is authorized to withhold any Fees and Expenses due and owing from the Clerk of the Court upon interpleader.

Section 7. Assignment. The duties and obligations of the Town, Subdivider, District and Escrow Agent shall not be assigned or delegated without the prior written approval of all parties.

Section 8. Notice. Any instruction, notice or demand to, upon or by any part to this Agreement shall be in writing and may be delivered personally, by U.S. or private mail, courier, telefax, or telegram. Notice shall be deemed given on the first business date said notice is received by the party to whom notice is given, or two (2) business days after the date of deposit in the U.S. Mail. The respective addresses of the parties as set forth in this Agreement, as updated by the last notice of change of address filed with the Escrow Agent by the respective parties, shall be used by all the parties in mailing any notice, demand, or declaration to either party. Telephone or other oral instruction, notice, or demand shall not be accepted by or binding upon any party.

Section 9. Indemnification. The Town, Subdivider and District, to the extent permitted by law, agree to indemnify and hold Escrow Agent harmless from and against any and all claims, actions, causes of action, judgments, damages, injury, loss, liability, costs and expenses arising out of or in any way resulting from or under this Agreement, except for Escrow Agent's willful misconduct or gross negligence.

Section 10. Miscellaneous. Time is of the essence of this Escrow Agreement, and of each and every covenant, term, condition, and provision.

The captions appearing under the section number designations of this Escrow Agreement are for convenience only and are not a part of this Agreement and do not in any way limit or amplify the terms and provisions of this Agreement.

It is agreed that this Escrow Agreement shall be governed, construed, and enforced in accordance with the laws of the State of Colorado.

This Escrow Agreement shall constitute the entire agreement between the Parties. Any prior or contemporaneous understanding or representation of any kind preceding or on the date of the execution of this Escrow Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

Any modification of this Escrow Agreement or additional obligation assumed by any party in connection with this Escrow Agreement shall be binding only if evidenced in writing, signed by each party or any authorized representative of each party.

The parties agree to execute whatever papers and documents may be necessary to effectuate the terms of this Escrow Agreement.

The below signed individuals affirm that they have full authority of their respective organizations to enter into this agreement and that all of the actions and documentation required to bind their respective organizations to the terms of this Escrow Agreement have been authorized and completed.

If any term or provision of this Agreement shall be held illegal and unenforceable or inoperative as a matter of law, the remaining terms and provisions of this Agreement shall not be affected thereby, but each such term and provision shall be valid and shall remain in full force and effect.

The Town, Subdivider and District shall execute and deliver to Escrow Agent all forms required by Federal, State, and other governmental agencies relative to the Escrow Funds.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, each party to this Agreement has caused it to be executed on this _____ day of _____, 2006.

TOWN OF CASTLE ROCK:

BY: _____
Mark Stevens Town Manager

DATE: _____

APPROVED AS TO LEGAL FORM:

BY: _____
Robert Slentz, Town Attorney

DATE: _____

CASTLE STAR INVESTMENT CO., LLC, a Colorado limited liability company

BY: _____

Its: _____

CRYSTAL CROSSING METROPOLITAN DISTRICT

BY: _____

ATTEST: _____

DATE: _____

By signing below, LAND TITLE GUARANTEE COMPANY hereby acknowledges receipt of the funds identified herein and agrees to abide by all of the terms and conditions of this Agreement.

LAND TITLE GUARANTEE COMPANY

BY: _____

DATE: _____

ESCROW ACCOUNT NUMBER: _____