

## **PUBLIC FINANCE AGREEMENT**

This PUBLIC FINANCE AGREEMENT (the "**Agreement**") dated as of \_\_\_\_\_, 2013, is made by and among ALBERTA DEVELOPMENT PARTNERS, LLC a Colorado limited liability company ("**Developer**"), the TOWN OF CASTLE ROCK, a municipal corporation (the "**Town**"), and the Promenade at Castle Rock Metropolitan District No. 1 (the "**District**"). Developer, Town and District are sometimes collectively called the "**Parties**," and individually, a "**Party**."

### **RECITALS**

All capitalized terms used, but not defined, in these Recitals, have the meanings ascribed to them in this Agreement. The Recitals are incorporated into this Agreement as though fully set forth in the body of this Agreement.

WHEREAS, Developer is the contract purchaser of the real property described in *Exhibit A* (the "**Property**") and desires to develop the Property by constructing up to approximately 900,000 square feet of commercial development and up to 350 multifamily residential units, together with related amenities and uses on the Property (the "**Project**").

WHEREAS, Developer will engage the Town process for entitlement of the Project and accordingly the Parties will enter into a separate development agreement addressing land use and development of the Property and Project.

WHEREAS, the District will finance all or a portion of the costs of the Eligible Improvements through one or more series of District Bonds.

NOW THEREFORE, in consideration of the mutual covenants and promises of the Parties contained in this Agreement, and other valuable consideration, the receipt and adequacy of which are acknowledged, the Parties agree to the terms and conditions in this Agreement.

### **AGREEMENT**

**1. DEFINITIONS AND QUALIFICATIONS.** In this Agreement, unless a different meaning clearly appears from the context, capitalized terms mean:

"**Add-On PIF**" means the public improvement fee in the amount of not less than twenty-five one-hundredths percent (.25%) and not more than fifty one-hundredths percent (.50%) of PIF Sales as set forth in the Add-On PIF Covenant, which will be (i) collected in accordance with the terms of the Add-On PIF Covenant, (ii) in addition to the Credit PIF, and (iii) accounted for and spent in accordance with this Agreement.

"**Add-On PIF Covenant**" means a declaration of covenants by Developer imposing and implementing the Add-On PIF within the Property.

"**Agreement**" means this Public Finance Agreement, as it may be amended or supplemented in writing, from time to time. References to sections or exhibits are to this Agreement unless otherwise qualified. All Exhibits are incorporated to this Agreement.

**"Complete Construction"** or **"Completion of Construction"** means, for any Eligible Improvement, construction acceptance in accordance with the Town Requirements, applicable laws, ordinances, and regulations of the Town and any other governmental entity or public utility with jurisdiction, subject to any applicable conditions of maintenance and warranty, including, without limitation, the issuance of a certificate of occupancy by the Town so that the Eligible Improvement described in such certificate may open for permanent occupancy and utilization for its intended purposes.

**"Costs of Issuance"** means, collectively, the reasonable and necessary costs incurred in connection with the issuance of the District Bonds, including, without limitation, underwriter's compensation, financial consultant fees, fees and expenses of bond counsel, counsel to the underwriter, and counsel to any party or entity from which an opinion of counsel is required (other than the Town), fees and expenses of any provider of credit enhancement, bond insurance, or guaranty, fees and expenses of the District Bond Trustee, bond registrar, paying agent, and transfer agent and rating agency fees, provided that the Costs of Issuance that may be paid from the proceeds of the District Bonds shall not exceed the following maximum percentages of the principal amount of the applicable series of the District Bonds, depending on the par amount of the applicable series of the District Bonds, without the written consent of the Town: for District Bonds up to Fifteen Million (\$15,000,000), the maximum percentage shall be 4%; for District Bonds between Fifteen Million (\$15,000,000) and Twenty Five Million (\$25,000,000), the maximum percentage shall be 3.75%; and for District Bonds in excess of Twenty Five Million (\$25,000,000), the maximum percentage shall be 3.5%. Town Costs and Pre-Financing Costs may be paid from the proceeds of the District Bonds, but for purposes of calculating the maximum Costs of Issuance that are payable from proceeds of the District Bonds, Town Costs and Pre-Financing Costs shall not be included in the calculation of Costs of Issuance.

**"Credit PIF"** means the public improvement fee in the amount of one and ten one-hundredths percent (1.10%) of PIF Sales, as such term is defined in the Credit PIF Covenant, which will be collected in accordance with the terms of the Credit PIF Covenant and will be accounted for and spent in accordance with the terms of this Agreement.

**"Credit PIF Covenant"** means a declaration of covenants by Developer imposing and implementing the Credit PIF within the Property.

**"CRMC"** means the Castle Rock Municipal Code, as the same may be amended or supplemented.

**"CPCPD"** means the currently-approved Castle Pines Commercial PD (Planned Development).

**"Default"** or **"Event of Default"** means any of the events described in Section 14; provided, however, that such events will not give rise to any remedy until effect has been given to all grace periods, cure periods and periods of enforced delay provided for in this Agreement.

**"Designated Retailer"** means (i) a grocery/general retailer operating under the King Soopers or City Market brand or any future re-branding of the King Soopers stores in the metropolitan area of which two are located in the Town as of the Effective Date (**"King**

**Soopers**”), or (ii) Target Stores of which there is one located in the Town as of the Effective Date (“**Target**”).

"**Developer**" means Alberta Development Partners, LLC, a Colorado limited liability company, and any successors and assigns approved in accordance with this Agreement.

"**Developer Advances**" means, collectively, amounts advanced or incurred by Developer to pay any Eligible Costs. Developer Advances shall include, without limitation, (a) Eligible Costs paid directly or advanced by Developer, and (b) advances to the District for design and construction by the District of Eligible Improvements pursuant to a Reimbursement Agreement. Interest shall begin to accrue on Developer Advances on the date the Developer makes such Developer Advance.

"**District**" means the Promenade at Castle Rock Metropolitan District No. 1, formed pursuant to Sections 32-1-101, *et seq.*, C.R.S., and its successors and assigns.

"**District Bonds**" means collectively, one or more series of limited tax obligation bonds which are issued or incurred by the District to finance or refinance the Eligible Costs in accordance with the terms and provisions of this Agreement, including any bonds, other financial obligations or securities issued by the District to refund the District Bonds, but specifically exclusive of any Reimbursement Agreement entered into between the Developer and the District. Notwithstanding the foregoing, or any other provision to the contrary contained herein, District Bonds shall not be refinanced without the written consent of the Town.

"**District Bond Documents**" means, collectively, the District Bond Indenture and any other documents pursuant to which the District Bonds are issued.

"**District Bond Indenture**" means any indenture or similar documents pursuant to which the District Bonds are issued.

"**District Bond Trustee**" means the trustee in connection with the issuance of any District Bonds.

"**District Bond Requirements**" means the principal and interest due on the District Bonds, any amounts required to replenish any Reasonably Required Reserve, any amounts required to repay any bond insurer or other guarantor of the debt service on the District Bonds, fees and expenses of the District Bond Trustee, bond registrar, paying agent, authenticating agent, and any other amounts approved in writing by the Town.

"**District Debt Service Mill Levy**" means a property tax levy which will be levied by the District on the taxable property of the District. The District Debt Service Mill Levy allowable under the Service Plan shall not exceed fifty (50) mills, and the District Debt Service Mill Levy included in District Pledged Revenue under this Agreement shall not be less than forty (40) mills, unless a lower mill levy is approved by the Town; provided, however, that such rates may be adjusted to take into account legislative or constitutionally imposed adjustments in assessed values or their method of calculation so that, to the extent possible, the revenue produced by such District Debt Service Mill Levy is neither diminished nor enhanced as a result of such changes.

**"District Pledged Revenue"** means, collectively, the revenue produced by (a) the District Debt Service Mill Levy in an amount not less than forty (40) mills, (b) the District Specific Ownership Taxes, and (c) PIF Revenue.

**"District Operating Revenue"** means revenue produced by the District's imposition of a mill levy to pay the operations and maintenance expenses of the District.

**"District Specific Ownership Taxes"** means the specific ownership tax revenues received by the District in each year from the levy of the District Debt Service Mill Levy.

**"Effective Date"** means the first date after the occurrence of each of the following: (a) Ordinance 2013-\_\_ approving this Agreement and Ordinance 2013-\_\_ approving the Sales Tax Credit Ordinance are both effective under law and (b) the execution of this Agreement by the District.

**"Eligible Accrued Interest"** means interest accrued on Developer Advances as follows:

(a) If the Developer constructs or acquires Eligible Improvements or finances Eligible Costs from money it does not borrow, including any Developer Advances made to the District to acquire or construct Eligible Improvements from non-borrowed money, interest shall accrue at a rate equal to Prime plus 3%, and shall be simple per annum interest, and shall not compound.

(b) If the Developer constructs or acquires Eligible Improvements or finances Eligible Costs from money that it borrows, including any Developer Advances made to the District to acquire or construct Eligible Improvements from borrowed money, interest shall accrue at a rate equal to the rate of interest that the Developer is paying to the Developer's lender under the applicable loan documents.

**"Eligible Costs"** means, collectively, (a) the reasonable and customary expenditures for design and construction of Eligible Improvements, including necessary and reasonable soft costs, as certified and approved in accordance with Exhibit C, (b) Land Acquisition Costs, and (c) Eligible Accrued Interest. Eligible Costs also includes all reasonable and necessary costs related to the engineering and design work for the Eligible Improvements. To the extent that Town Costs exceed the amount set forth in 4.3(b)(iii) or Pre-Financing Costs exceed the amount set forth in Section 4.3(b)(iv), any such excess amounts shall be eligible to be paid or reimbursed from the Net Proceeds of the District Bonds, or from District Pledged Revenues on deposit with the Escrow Agent in accordance with Section 4.7, and shall constitute Eligible Costs.

**"Eligible Improvements"** means the improvements described in Exhibit B.

**"Escrow Agent"** means a state or national bank or trust company in good standing located in the State of Colorado that is authorized to exercise trust powers, which is selected by the Developer, with the prior written approval of the Town Manager, and is authorized pursuant to an escrow agreement, which shall also be subject to the prior written approval of the Town Manager, to undertake the duties of the Escrow Agent in accordance with Section 3.8.

**"Exhibits"** The following Exhibits are a part of this Agreement:

- Exhibit A:** Legal Description of the Property
- Exhibit B:** Eligible Improvements
- Exhibit C:** Procedure for Documenting, Certifying and Paying Eligible Costs
- Exhibit D:** Sales Tax Credit Ordinance
- Exhibit E:** Project Description
- Exhibit F:** Interchange Depiction

"**Existing Retailer**" means a retailer operating a retail store within the corporate boundaries of the Town of greater than 50,000 square feet of GLA as of the Effective Date, but excluding any Outlet Retailer, and excluding the Designated Retailers.

"**Force Majeure Event**" means any one or more of the following events or circumstances that, alone or in combination, directly or indirectly adversely affects the Project: fire, earthquake, storm or other casualty; strikes, lockouts, or other labor interruptions; war, rebellion, riots, acts of terrorism, or other civil unrest; acts of God or of any government (except that, as to any obligation of the Town, any acts of the Town itself shall not be considered Force Majeure Events); disruption to local, national or international transport services; shortages of materials, epidemics, or changes in general economic or other conditions affecting the Project, or any other event beyond the Parties' reasonable control.

"**GLA**" means gross leasable area for which a certificate of occupancy has been issued by the Town for a building constructed in the Project or elsewhere within the Town. GLA shall be measured in square feet in the usual and customary manner in commercial leasing. Residential uses are excluded from the definition of GLA.

"**Index Rate**" means Municipal Market Data rate (or, if the foregoing index is no longer published, then the Bond Buyer Revenue Bond index rate), for a term most closely related to the term of the District Bonds being issued, for bonds assigned the same credit rating as the District Bonds or if the District Bonds do not have a credit rating than the Baa investment grade bonds.

"**Interchange**" means the interchange to be constructed by the Town on the northeastern corner of the Property as depicted on **Exhibit F** as part of the North Meadows Drive Extension project.

"**Interchange Commencement Deadline**" means June 1, 2014. The Town agrees to provide Developer with written notice of its commencement of construction of the Interchange and evidence of such commencement within ten (10) days of its commencement. Commencement of construction of the Interchange means the commencement by the Town of actual physical work on the Interchange.

"**Interchange Completion Date**" means the first day the Interchange is open for use by the traveling public.

**"Interchange Deadline"** means December 31, 2016.

**"Interchange Force Majeure Event"** means any Force Majeure Event, or the inability of the Town, despite reasonable and diligent efforts, to obtain any state or federal permit or acquire right of way or easements required to commence construction of the Interchange.

**"Land Acquisition Costs"** means the reasonable and necessary costs incurred by Developer in connection with the acquisition of land required for the Eligible Improvements.

**"Legal Requirements"** means all laws, statutes, ordinances, orders, rules, regulations, permits, licenses, authorizations, directions and requirements of all government and governmental authorities applicable to the Project.

**"Master Intergovernmental Agreement"** means the Master Intergovernmental Agreement between the Town and District approved by Town concurrently with the Service Plan.

**"Net Proceeds"** means the net proceeds of the District Bonds in an amount not exceeding \$28,800,000, subject to adjustment as set forth in Section 4.7, that are to be used to pay or reimburse Eligible Costs.

**"Outlet Center"** means the shopping center commonly known as the Outlets at Castle Rock which is located adjacent to the Property.

**"Outlet Retailer"** means any of the manufacturer outlets operating at the Outlet Center as of December 31, 2014, but excluding any restaurants. Restaurants shall include establishments selling prepared food for consumption on the premises or take-out, including fast food. As of November 1, 2013 there are approximately 113 Outlet Retailers.

**"Party"** or **"Parties"** means one or all of the parties to this Agreement.

**"PD Amendment"** means a major amendment to the CPCPD affecting the Property which is authorized under Title 17 of the CRMC, which shall include a depiction of Developer's proposed stages of development for Phase 1, Phase 2 and Phase 3.

**"Permit Fee Reimbursement Cap"** means Four Million-Four Hundred Fifty Thousand Dollars (\$4,450,000), which is the maximum amount that the Town shall pay to the Developer to reimburse the Developer for Permit Fees, as further set forth in this Agreement.

**"Permit Fee Reimbursement Rate"** means the Permit Fee Reimbursement Cap divided by 700,000 square feet of GLA, yielding \$6.36/SF, subject to adjustment as provided in Section 3.3.

**"Permit Fees"** means any Town fee applicable to the Project, including any fee imposed as a condition to the issuance of a Town permit for public or private improvements, but excluding any tax.

**"Phase 1," "Phase 2," and "Phase 3"** means the three distinct stages of development of the Property anticipated as shown on the PD Plan Amendment.

**"PIF Collection Agent"** means an entity retained by Developer, as declarant under the PIF Covenants, for the purpose of collecting, accounting for, and disbursing the PIF Revenue in accordance with the PIF Covenants.

**"PIF Collection Agreement"** means an agreement related to the collection and remittance of the PIF Revenues between the Developer and the PIF Collection Agent.

**"PIF Covenants"** means, collectively, the Add-On PIF Covenant and the Credit PIF Covenant.

**"PIF Revenue"** means, collectively, the revenue derived from the imposition of the Add-On PIF and the Credit PIF in accordance with the PIF Covenants and this Agreement.

**"Plan of Finance"** means a plan approved by Town in accordance with the Service Plan which sets forth the sources and uses of District Bonds, the proposed District Bond Requirements, and the projected Pledged Revenues, including the assumptions supporting the plan.

**"Pledged Account"** means the fund or account created by the Town in the amount of Four Million-Four Hundred Forty Thousand Dollars (\$4,450,000) and irrevocably pledged to the payment or reimbursement of Permit Fees to the Developer pursuant to Section 5.6.

**"Pledged Revenue"** means the District Pledged Revenue and any other amounts remitted to the District Bond Trustee and pledged to the payment of District Bonds under this Agreement.

**"Pre-Financing Costs"** means the reasonable and necessary costs of the Developer and the District in forming the District and other related districts, drafting and negotiating this Agreement, and related documentation necessary or appropriate for the issuance of the District Bonds and the District's formation, such as the PIF Covenants and PIF Collection Agreement. Pre-Financing Costs may be paid or reimbursed from proceeds of the District Bonds or from District Pledged Revenues on deposit with the Escrow Agent, as set forth in Section 4.7.

**"Prime"** means the prime rate as published in the Wall Street Journal on the first business day of each calendar month, which shall be adjusted on a current monthly basis as of the first business day of each calendar month.

**"Property"** means the real property described in *Exhibit A*. Such Property is either owned by Developer or Developer otherwise has the right or will have the right to develop the Property.

**"Project"** means the development of the Property by constructing approximately 900,000 square feet of commercial or retail development and up to 350 multifamily residential units, together with related amenities and uses on the Property as more particularly described in *Exhibit E*.

**“Reasonably Required Reserve”** means any bond reserve fund held by the District Bond Trustee so long as the maximum amount permitted in such reserve fund does not exceed the lesser of: (a) 10% of the issuance price (as determined pursuant to the Internal Revenue Code of 1986, as amended) of the District Bonds, (b) 100% of the maximum annual debt service requirements of the District Bonds, or (c) 125% of the average annual debt service requirements of the District Bonds, or such other amount as agreed to in writing by the Town.

**“Reimbursement Agreement”** means, collectively, one or more agreements between the Developer and the District setting forth terms and conditions under which the District shall reimburse the Developer for Developer Advances made by the Developer to the District for construction or acquisition of the Eligible Improvements.

**"Sales Tax"** means the municipal sales tax of the Town on sales of goods and services that are subject to municipal sales taxes at such rate and on such terms as conditions as prescribed in the CRMC.

**“Sales Tax Credit”** means the credit against the Town’s Sales Tax in the amount of 1.10% on Taxable Transactions, as implemented pursuant to the Sales Tax Credit Ordinance.

**“Sales Tax Credit Ordinance”** means Ordinance 2013-\_\_approving the Sales Tax Credit.

**"Service Plan"** means the Consolidated Service Plan for Promenade at Castle Rock Metropolitan District Nos. 1-3 approved by the Town on \_\_\_\_\_, 2013; as such plan may be modified or amended from time to time, including any amendment required in connection with approving the Financing Plan.

**“Taxable Transactions”** means the sale or provision of goods or services within the Project that are subject to the Town’s Sales Tax, as amended from time to time.

**"Town"** means the Town of Castle Rock, Colorado, a home rule municipal corporation.

**“Town Costs”** means the Town’s reasonable and necessary third-party out of pocket fees, costs and expenses incurred in drafting, reviewing or negotiating this Agreement, the Service Plan, the Financing Plan, the Add-On PIF Covenant, the Credit PIF Covenant, the Sales Tax Credit Ordinance, the PIF Collection Agreement, and all other related documents, certificates or agreements, including without limitation legal fees and consultant fees. Town Costs may be paid or reimbursed from proceeds of the District Bonds or from District Pledged Revenues on deposit with the Escrow Agent, as set forth in Section 4.7

**"Town Requirements"** means, collectively, (i) the CRMC, (ii) Town regulations and (iii) obligations imposed through the CPCPD as modified by the PD Amendment and/or the applicable development agreement to allow for the uses, densities and site plans required for the Project.



**2. PROJECT, LAND USE APPROVALS.**

2.1 Project Attributes. Exhibit E contains a summary description of the conceptual land plan, architectural and landscaping themes and design aesthetic for the Project. Developer will incorporate these planning and design concepts into the Project applications for Town Approvals as provided in Section 2.2. The Parties intend for the Project to reflect a design and build quality that will maximize the ability of Developer to attract national retailers to the Project, similarly to the retailer mix of other regional shopping centers Developer has successfully completed in metropolitan Denver. However, Town acknowledges that Developer has not committed to secure any particular retailer mix as of the Effective Date.

2.2 Entitlement. The development of the Project requires a PD Amendment and development agreement amendment to allow the uses, densities and site layout necessary to accommodate the Project. The development of the Project also requires an amendment to the approved plat approval of site development plans, and public works and construction permits (collectively, “**Town Approvals**”). Developer will submit an application to the Town for the PD Amendment and will process a preliminary plat to subdivide the Property into superblocks that approximately correspond with the phases of the Project and a plat for the first phase of the Project. The Town agrees to review and expeditiously process and act on applications for Town Approvals.

**3. DEVELOPER.**

3.1 Construction of Eligible Improvements. Developer or District, as applicable, in accordance with the provisions of this Agreement, will be responsible for (i) financing and constructing all Eligible Improvements, (ii) compliance in all material respects with the Town Requirements, (iii) payment of Permit Fees related to development of the Property and (iv) commencing and developing the Project as required by this Agreement. Developer or the District agrees to commence construction or cause commencement of construction of the Eligible Improvements and to reasonably proceed with or require such construction until Completion of Construction of the Eligible Improvements. Developer may, in its sole discretion, elect to undertake all or only certain phases of the Project, subject to the further provisions of Sections 3.3 and 16. Developer or the District is only responsible pursuant to this Section 3.1 to finance and construct those Eligible Improvements required to serve the phase of the Project which Developer so elects to undertake.

3.2 Compliance with Design and Construction Regulations; Payment of Fees and Costs. The design and construction of all Eligible Improvements will comply in all material respects with all applicable codes and regulations of entities having jurisdiction, including the Town Requirements. As required by the CRMC and Town Requirements, Developer will enter into one or more development, subdivision improvements and/or public improvement agreement(s) with the Town. Also, Developer or the District will pay or cause to be paid all required fees and costs, including those imposed by the Town,

in connection with the design, construction, applicable warranty requirements, and use of the Eligible Improvements.

3.3 Progression and Completion of the Project. Developer shall complete within the Project (i) the initial 60,000 of GLA by July 1, 2015 (the “**First Development Deadline**”), (ii) an additional 140,000 (200,000 total) of GLA not later than one year after the Interchange Completion Date (the “**Second Development Deadline**”), and an additional 300,000 of GLA (500,000 total) not later than 2 years after the Interchange Completion Date (the “**Third Development Deadline**”). An uncured default of any of the three Development Deadlines will constitute an Event of Default under this Agreement with the remedies provided in Section 15. However, if the Third Development Deadline is not met, and in lieu of declaring an Event of Default and seeking remedies under Section 15, Town may reduce the Permit Fee Reimbursement Rate by a percentage equal to the ratio that the completed GLA as of the Third Development Deadline falls below 500,000. To illustrate, if Developer has completed 400,000 GLA on the Third Development Deadline, thereafter the Permit Fee Reimbursement Rate would be reduced by 20% (100,000/500,000) resulting in an adjusted Permit Fee Reimbursement Rate of \$5.09, which will then apply to all future development in the Project. Any such reduction in the Permit Fee Reimbursement Rate does not reduce the Permit Fee Reimbursement Cap.

In the event that Developer has met the First, Second and Third Development Deadlines and is otherwise not in default of this Agreement, Town shall refund to Developer \$750,000 of the Permit Fees that have been paid by Developer, if and to the extent Developer completes an additional 200,000 GLA in the Project (700,000 total) not later than three years after the Interchange Completion Date (the “Performance Incentive”). The Town shall set aside a portion of the Permit Fees paid for development within the Project in order to meet this contingent obligation, but payment of the Performance Incentive to the Developer shall be subject to annual appropriation. The Performance Incentive is supplementary to the right of Developer to reimbursement of Permit Fees under Section 5.6.

3.4 Outlet Retailer Restriction. The Outlet Center is a significant sales tax generator and regional shopping destination. The Outlet Center does not currently impose a public improvement fee on retail sales, capture any of the sales tax generated within the Outlet Center, or otherwise receive any economic development incentives or assistance from the Town. The Town does not intend to extend redevelopment or business attraction incentives to the Outlet Center in the future of the magnitude provided Developer under this Agreement. Accordingly, Developer shall not permit or allow the relocation of an Outlet Retailer to or within the Project, provided that this restriction shall expire on December 31, 2024 (the “**Outlet Retailer Restriction**”). Provided further, the Outlet Retailer Restriction may be earlier terminated, in whole or in part (i.e. as to a specific Outlet Retailer), by mutual agreement of Town and Developer. As used in this Section 3.4, a “relocation” occurs if the Outlet Retailer (i) opens an outlet store in the Project within 24 months after closing an outlet store at the Outlet Center, or (ii) opens an outlet store in the Project while maintaining its outlet store at the Outlet Center.

Developer shall impose and enforce the Outlet Retailer Restriction through a real property covenant and contractual encumbrance which shall be binding on its grantees, assigns, lessees and any other party with a possessory interest within the Project. Town shall be an intended beneficiary of such enforcement mechanism and shall have the right to intervene in any litigation concerning the efficacy of the Outlet Retailer Restriction. In addition the Outlet Retailer Restriction shall be noted on the PD Amendment. The Outlet Retailer Restriction prohibits the Outlet Retailer's proprietary manufacturer's brand (e.g., "Nike") from being replicated as a retail outlet within the Project, but it does not prohibit a non-outlet retail store of a manufacturer represented at the Outlet Center (e.g. "Niketown") from locating a store at the Project. Failure of Developer to comply with the Outlet Retailer Restriction or impose and/or enforce the Outlet Retailer Relocation on third parties shall constitute an Event of Default under Section 14. In addition to the remedies afforded Town under Section 15 for uncured Default, the Town may: (i) suspend reimbursements of Permit Fees under Section 5.6 until the Default is cured or Developer obtains a judicial determination that it is not in Default, and/or (ii) decline to issue Town permits and licenses for a non-compliant business.

3.5 Existing Retailer Restriction. This Agreement provides significant economic assistance to enable construction of the Eligible Improvements necessary for the opening and development of the Project. A material inducement for such assistance is the representation by Developer that it will attract to the Project national and regional stores not currently represented in Castle Rock. In addition to providing additional retail options for the community, these new retail and entertainment venues will significantly increase municipal revenues. However, if the Project simply relocates Existing Retailers, the public benefit and rationale for these economic incentives will be significantly undermined. Accordingly, Developer shall not permit or allow the relocation of any Existing Retailer to or within the Project, provided that this restriction shall expire on December 31, 2024 (the "**Existing Retailer Restriction**").

Provided further, the Existing Retailer Restriction may be earlier terminated, in whole or in part (i.e. as to a specific Existing Retailer), by mutual agreement of Town and Developer. Developer shall impose and enforce the Retailer Restriction in the same manner and to the same effect as the Outlet Retailer Restriction as provided in Section 3.4. Failure of Developer to comply with the Retailer Restriction or impose and/or enforce the Retailer Relocation on third parties shall constitute an Event of Default under Section 14. In addition to the remedies afforded Town under Section 15 for uncured Default, the Town may: (i) suspend reimbursements of Permit Fees under Section 5.6 until the Default is cured or Developer obtains a judicial determination that it is not in Default, and/or (ii) decline to issue Town permits and licenses for non-compliant business. As used in this Section 3.5, a "relocation" occurs if the Existing Retailer (i) opens a store in the Project within 24 months after closing a store elsewhere in the Town, or (ii) closes a store elsewhere in the Town within 24 months after opening a store in the Project. In the latter event, the Sales Tax Credit applicable to the new store shall cease with the closure of the other store.

3.6 Designated Retailer Location. In the event a Designated Retailer opens a store in the Project prior to January 1, 2025 (whether a relocation from another location

in Castle Rock or an additional store), the provisions of this Section 3.6 shall be operative as to such Designated Retailer, irrespective of any provision to the contrary elsewhere in this Agreement:

(a) King Soopers. The Sales Tax Credit shall not apply to any King Soopers that is opened in the Project and the Town shall collect and retain all Sales Tax from any such King Soopers, without deduction or offset.

(b) Target. The Sales Tax Credit shall not apply to any Target opened in the Project and the Town shall collect and retain all Sales Tax from any such Target, without deduction or offset. However, subject to annual appropriation by the Town, the Town shall share a portion of its Sales Tax generated from Taxable Sales at any such Target in the Project as hereinafter provided. The Town shall calculate the average annual Sales Taxes received by the Town from the Target located in the Town as of the Effective Date for the three full calendar years preceding the calendar year the Target opens in the Project (the “**Baseline Tax Revenue**”). Provided however, if the existing Target was closed 48 months or less prior to the date the Target in the Project opens, Baseline Tax Revenues shall be calculated on the average of the last three full calendar years the old store was open.

To the extent that the Sales Taxes received by the Town from the Target in the Project in any full calendar year exceed the Baseline Tax Revenue (the “Incremental Sales Tax”) and to the extent that there are District Bonds outstanding, the Town shall thereafter, subject to annual appropriation, remit Incremental Sales Tax received from the Town’s 1.10% Sales Tax on Taxable Sales to the District Bond Trustee (“Pledged Tax Revenue”). To illustrate, if the Target opens in the Project in October, 2016, the Baseline Tax Revenue will be computed on calendar year Target Sales Tax for 2013-2015, and compared with annual Sales Tax generated by the Project Target for calendar years 2017 and following. Notwithstanding the foregoing, the Town shall not remit any Pledged Tax Revenue to the Bond Trustee beyond the period the duration of the Sales Tax Credit within the Phase the Target is located as provided in Section 5.2. The District Bond Documents shall provide that any such Pledged Tax Revenue so remitted by the Town to the District Bond Trustee shall be pledged to the payment of the District Bond Requirements.

The Parties acknowledge that vendor Sales Tax information is proprietary and confidential and the Town is precluded by law from releasing such revenue and tax information to Developer. Consequently, as a condition to its receipt of Pledged Tax Revenue, Developer shall first obtain the express written consent of Target authorizing the Town to release Sales Tax records for those calendar years necessary to ascertain the Baseline Tax Revenue and Incremental Sales Tax calculations. Absent such written authorization this 3.6(b) shall be of no force or effect.

3.7 Credit PIF and Add-On PIF. Developer agrees to impose the Credit PIF and the Add-On PIF and to irrevocably assign the PIF Revenues to the District. Prior to the issuance of any District Bonds, the District agrees to cause the PIF Revenues to be remitted to the Escrow Agent in accordance with Section 3.8. Upon the issuance of any District Bonds, the District agrees to pledge the PIF Revenues exclusively to the District Bonds until the District Bonds are paid in full or defeased.

The Developer shall terminate the Credit PIF upon the earlier to occur of (a) payment in full or defeasance of all outstanding District Bonds, or (b) in the event that no District Bonds are issued, payment or reimbursement of the Eligible Costs to the Developer or District from amounts on deposit with Escrow Agent in an aggregate principal amount of \$28,800,000, plus the payment or reimbursement of all Town Costs and Pre-Financing Costs in amounts not exceeding the amounts set forth in Sections 4.3(b)(iii) and 4.3(b)(iv). The Developer, at its election, may discontinue, continue, increase or decrease the Add-On PIF following termination of this Agreement.

3.8 Disposition of District Pledged Revenues Prior to Issuance of District Bonds. To the extent that the District Pledged Revenues are being generated prior to the issuance of any District Bonds, the following provisions shall apply:

- (a) the Developer or District shall require that all PIF Revenues shall be remitted to the Escrow Agent;
- (b) the District shall remit the District Debt Service Mill Levy in an amount not less than forty (40) mills to the Escrow Agent; and
- (c) the District shall remit the District Specific Ownership Taxes to the Escrow Agent.

The Escrow Agent shall hold all District Pledged Revenues in a segregated account and shall invest all such amounts so held as directed by the District and in accordance with applicable law. The Escrow Agent shall keep accurate books and records of all deposits of District Pledged Revenues and investment earnings thereon, which books and records shall be available for inspection during regular business hours by the Developer, the District and the Town.

Upon the issuance of any District Bonds, all District Pledged Revenues on deposit with the Escrow Agent shall be remitted by the Escrow Agent to the District Bond Trustee and applied to one or more of the following purposes: (i) deposited in a capitalized interest fund for the District Bonds, (ii) deposited in a Reasonably Required Reserve fund or supplemental reserve fund for the District Bonds, (iii) applied to the payment of the Costs of Issuance, Pre-Financing Costs or Town Costs, or (iv) applied to the payment of District Bond Requirements. After the issuance of any District Bonds, all District Pledged Revenues shall thereafter be deposited with the District Bond Trustee in accordance with the terms and provisions of the District Bond Documents.

To the extent that no District Bonds have been issued and are outstanding, District Pledged Revenues on deposit with the Escrow Agent may be applied to the payment or reimbursement of Eligible Costs, Town Costs, and Pre-Financing Costs in accordance with Section 4.7 and Exhibit C.

3.9 PIF Collection Agreement. The Developer shall engage a PIF Collection Agent to collect, disburse and account for the Credit PIF Revenues pursuant to the PIF Collection Agreement. The Developer shall provide the PIF Collection Agreement to the Town and the Town shall have the right to review and approve the PIF Collection Agreement prior to its execution or amendment by the respective parties thereto in order to ensure that the Credit PIF revenues are being collected, remitted and applied as required pursuant to this Agreement. The Town shall not unreasonably withhold condition or delay such approval of the PIF Collection Agreement or any amendment thereto. Approval shall be deemed to be given if the Town does not provide written comments to the PIF Collection Agreement or a proposed amendment thereto within 30 days of the Developer's submittal thereof to the Town.

**4. THE DISTRICT**. The District agrees to comply with the following provisions:

4.1 Compliance with Service Plan and Applicable Law. At all times the District will comply with the requirements of the Service Plan, as it may be amended from time to time. The Service Plan (i) includes provisions for the District to have the flexibility required to implement this Agreement; (ii) caps the Debt Service mill levy that the District may impose for District Bonds and other District Obligations (as defined in the Service Plan) at fifty (50) mills, subject to adjustment for changes in the manner in which assessed valuation is calculated; and (iii) imposes no cap on the mill levy imposed for operations. To the extent authorized by its Service Plan, the District may design, construct, finance, own, acquire, maintain, and operate Eligible Improvements in accordance with all applicable laws, ordinances, standards, policies, and specifications of the State of Colorado, the Town, the Master Intergovernmental Agreement and any other entity with jurisdiction.

4.2 District Pledged Revenue. The District covenants to impose the District Debt Service Mill Levy in the amount of not less than 40 mills, as may be adjusted, for so long as any District Bonds remain outstanding, and further covenants to remit the revenues from such District Debt Service Mill Levy to the District Bond Trustee for such outstanding District Bonds. The Town shall be entitled to an order of mandamus to compel the District to certify such levy, as well as any other remedies of law or in equity. The District further covenants that so long as any District Bonds remain outstanding, that the District will remit all District Specific Ownership Taxes to the District Bond Trustee for such outstanding District Bonds. The District Pledged Revenue shall be pledged to the payment of the principal of, interest on, and any premium due in connection with the redemption of the District Bonds, and may also be pledged to the payment of any other District Bond Requirements.

4.3 District Bonds.

(a) The District may issue District Bonds to pay for Eligible Costs or reimburse the Developer for Eligible Costs and to apply the proceeds of the District Bonds as authorized under this Agreement. The District shall irrevocably pledge the District Pledged Revenue to the payment of such District Bonds. The Net Proceeds of such District Bonds will be subject to requisition by Developer to pay or reimburse Eligible Costs upon receipt of a requisition substantially in accordance with the requirements set forth in Exhibit C.

(b) The Net Proceeds of such District Bonds available to pay Eligible Costs shall not exceed Twenty Eight Million, Eight Hundred Thousand Dollars (\$28,800,000), subject to adjustment as provided in Section 4.7. The District Bonds shall be issued in an amount not exceeding:

(i) \$28,800,000 of Net Proceeds to pay Eligible Costs, subject to adjustment as provided in Section 4.7;

(ii) Costs of Issuance not exceeding the following maximum percentages of the applicable series of District Bonds: for District Bonds up to Fifteen Million (\$15,000,000), the maximum percentage shall be 4%; for District Bonds between Fifteen Million (\$15,000,000) and Twenty Five Million (\$25,000,000), the maximum percentage shall be 3.75%; and for District Bonds in excess of Twenty Five Million (\$25,000,000), the maximum percentage shall be 3.5%;

(iii) Town Costs in an amount not exceeding \$\_\_\_\_ in total aggregate principal amount for all series of District Bonds, subject to adjustment as provided in Section 4.7;

(iv) Pre-Financing Costs in an amount not exceeding Three Hundred Thousand (\$300,000) in total aggregate principal amount for all series District Bonds, subject to adjustment as provided in Section 4.7;

(v) Capitalized interest for not more than three years from the date of issuance of the applicable series of District Bonds;

(vi) A Reasonably Required Reserve; and

(vii) A supplemental reserve fund in an amount not exceeding the maximum annual principal and interest due on District Bonds, to the extent required by existing market conditions at the time of issuance of the applicable series of District Bonds.

(c) Unless authorized/approved by the Town in writing, District Bonds shall be issued:

(i) with a maturity no longer than twenty-five years from the date of issuance of the applicable series of District Bonds;

(ii) as fixed rate bonds with an interest rate not exceeding the Index Rate on the date of issuance of such District Bonds plus 80 basis points;

(iii) without the use of any interest rate swap, interest rate cap or collar, or any other derivative product;

(iv) as bonds the interest on which is excluded from gross income for federal income tax purposes (“tax-exempt bonds”) unless the District’s bond counsel delivers an opinion to the Town Attorney that the District Bonds may not be issued as tax-exempt bonds under the laws in effect at the time of the proposed issuance of the District Bonds; and

(v) to the extent that any District Bonds are sold or placed directly with an investor without being underwritten by an underwriter or investment banker, the District shall first obtain a written certification from an independent financial advisor, approved in writing by the Town Manager, that (1) the interest rate to be borne by such District Bonds does not exceed a reasonable current interest rate, using criteria deemed appropriate by such financial advisor and based upon an analysis of comparable securities; and (2) the structure of any such District Bonds, including without limitation maturities and early redemption provisions is reasonable considering the financial circumstances of the District.

(d) Prior to the issuance of any District Bonds, the District shall provide the District Bonds Documents to the Town. The District Bond Documents shall be accompanied by a Plan of Finance. The Town shall be permitted to review the District Bond Documents to confirm compliance with this Agreement, the Service Plan and related documents. The Town will have thirty (30) days after receipt of such District Bond Documents by the Town Attorney and the Town's bond counsel to notify the District in writing if it objects to any provisions set forth in such District Bond Documents setting forth its specific objections. If the Town does not object in writing to the District Bond Documents within such thirty (30) day period, then the Town will be deemed to have consented to the form and substance of such District Bond Documents. If the Town objects in writing to any provisions of the District Bond Documents, the District Bonds shall not be issued until Town approves the District Bond Documents.

(e) Unless the Town agrees otherwise in writing, the District Bond Documents shall provide that in each year the Pledged Revenues shall be used as follows: (i) first to pay the District Bond Requirements, (ii) second to pay any other administrative costs related to the District Bonds, including without limitation, payment of rebate consultants and analysts, the reasonable fees and



expenses of the PIF Collection Agent, and any rating maintenance fees, and (iii) any remaining Pledged Revenues shall be used to redeem as much principal of the District Bonds as possible in inverse order of maturity or if the District Bonds are not then subject to redemption, shall be irrevocably set aside for redemption of the District Bonds on the earliest redemption date .

4.4 Conditions Precedent to Issuance of District Bonds. The following conditions must be satisfied on or prior to the issuance of the District Bonds:

(a) Town approval of the PD Amendment for the Project and the Service Plan for the District;

(b) Town approval of the District Bond Documents as provided in Section 4.3,

(c) Approval of the Plan of Finance relating to the issuance of the District Bonds;

(d) Recording of the Add-On PIF Covenant and the Credit PIF Covenant against the Property in the real estate records of Douglas County, Colorado, and

(e) Adoption of the Sales Tax Credit Ordinance by the Town Council.

4.5 District Operating Revenue. The District will use the District Operating Revenue to pay its normal and reasonable operating and maintenance expenses or for any other lawful purpose.

4.6 No Impairment. The District will not enter into any agreement or transaction that impairs the rights of the Parties, including, without limitation, the right to receive and apply Pledged Revenue to payment of the District Bonds.

4.7 Application of District Pledged Revenues Prior to Issuance of District Bonds. To the extent no District Bonds have been issued, District Pledged Revenues on deposit with the Escrow Agent in accordance with Section 3.8 may be applied to the payment or reimbursement of Eligible Costs, including, without limitation, the payment or reimbursement of Developer Advances, plus Eligible Accrued Interest, in a maximum amount of \$28,800,000, upon receipt of a requisition substantially in accordance with the requirements set forth in Exhibit C. If District Pledged Revenues on deposit with the Escrow Agent are used to pay or reimburse Eligible Costs, the maximum Amount of Net Proceeds of District Bonds to pay Eligible Costs set forth in Section 4.3(b) (i) shall correspondingly be reduced by such amount so paid or reimbursed from District Pledged Revenues on deposit with Escrow Agent. In addition, to the extent that no District Bonds have been issued, District Pledged Revenue on deposit with Escrow Agent in accordance with Section 3.8 may be applied to the payment or reimbursement of Town Costs in the maximum amount set forth in Section 4.3(b) (iii) and Pre-Financing Costs in the maximum amount set forth in Section 4.3(b) (iv) upon receipt of a requisition substantially in accordance with the requirements set forth in Exhibit C. Upon any such

payment or reimbursement of such Town Costs or Pre-Financing Costs, the maximum amount of Town Costs or Pre-Financing Costs set forth in Section 4.3(b)(iii) or 4.3(b)(iv), as the case may be, shall be correspondingly reduced by such amount so paid or reimbursed from District Pledged Revenues on deposit with the Escrow Agent.

**5. THE TOWN.**

5.1 Cooperation. The Town agrees to cooperate with Developer and District in reviewing, scheduling hearings for, and approving the PD Amendment and amendment to the plat in a timely fashion. Approval of the PD Amendment and amendment to the plat will not be unreasonably withheld.

5.2 Sales Tax Credit Ordinance. In order to implement the Sales Tax Credit, and as a condition precedent to the effectiveness of this Agreement, the Town shall adopt an ordinance granting the Sales Tax Credit against the collection of Sales Tax on Taxable Transactions, in an amount equal to one and ten one-hundredths percent (1.10%) in substantially the form set forth as Exhibit D attached hereto (the “Sales Tax Credit Ordinance”). Upon adoption of the Sales Tax Credit Ordinance and provided this Agreement is in effect, the Town will authorize, grant and implement the Sales Tax Credit pursuant to the Sales Tax Credit Ordinance in order for the Credit PIF to be collected for payment of the District Bonds and payment and reimbursement of Eligible Costs in accordance with the PIF Covenant and this Agreement. Except as hereinafter provided, the Sales Tax Credit shall terminate upon payment in full or defeasance of all outstanding District Bonds. In the event that District Bonds are not issued and District Pledged Revenues are applied to the payment or reimbursement of Eligible Costs in accordance with Section 4.7, the Sales Tax Credit shall terminate upon payment or reimbursement of Eligible Costs in an aggregate principal amount of \$28,800,000 plus the payment or reimbursement of all Town Costs and Pre-Financing Costs in amounts not exceeding the amounts set forth in Sections 4.3(b) (iii) and 4.3(b) (iv).

(a) Post Credit PIF Period. Notwithstanding any language in any agreement to the contrary, if upon payment in full of the District Bonds, the Town determines that termination of the Sales Tax Credit may be precluded by or require a refund of the Sales Tax under Article X, Section 20 of the Colorado Constitution, the Town may submit a written request to Developer to continue to impose the Credit PIF. Upon receipt of such request, the Credit PIF shall remain in full force and effect and the full amount derived from imposition of the Credit PIF shall be paid to the Town as a substitute for the Sales Tax revenue it is unable to collect.

(b) Termination of Sales Tax Credit. In adopting the Sales Tax Credit Ordinance, the Town is agreeing that it will grant a credit of 1.10% against the Town’s Sales Tax collected on Taxable Transactions within the Project only to the extent that the Credit PIF is collected from each retailer within the Project. The Parties understand and acknowledge that the Project is likely to be built in one or more Phases. In order to ensure that the Developer has maximum flexibility in executing Phases to correspond to market demand, while still

providing the Town with certainty that the Sales Tax Credit will be granted only to the extent necessary to ensure implementation of the Project, the Parties agree that the Sales Tax Credit granted by the Sales Tax Credit Ordinance shall apply as follows:

(i) the Sales Tax Credit in Phase 1 shall be granted for no longer than twenty-five (25) years beginning on the date that the first retailer within Phase 1 collected the Credit PIF and the Sales Tax Credit was granted;

(ii) the Sales Tax Credit in Phase 2 shall be granted for no longer than twenty-five (25) years beginning on the date that the first retailer within Phase 2 collected the Credit PIF and the Sales Tax Credit was granted; and

(iii) the Sales Tax Credit in Phase 3 shall be granted for no longer than twenty-five (25) years beginning on the date that the first retailer within Phase 3 collected the Credit PIF and the Sales Tax Credit was granted.

Notwithstanding the foregoing, the Sales Tax Credit shall terminate with respect to all retail sales in the Project not later than thirty (30) years from the date that the first Credit PIF was collected and the first Sales Tax Credit was granted within the Project.

5.3 Interchange. The Town represents and warrants that (i) all required approvals from governmental authorities have been obtained or are being diligently pursued in connection with the construction of the Interchange, (ii) the Town has sufficient unencumbered funds to construct the Interchange based on current cost estimates, and (iii) the Town will construct in the Interchange in compliance with all applicable laws and requirements, and (iv) the Town does not intend to seek contribution from Developer for the costs of construction of the Interchange. The Town will commence construction of the Interchange on or before the Interchange Commencement Deadline, and will diligently pursue construction and complete construction on or before the Interchange Deadline, subject to an Interchange Force Majeure Event affecting either Deadline.

5.4 Water and Sewer Serving the Property. The Town represents and warrants that it provides water and sewer services to the Property and will provide water and service in connection with the Project upon compliance with Town Requirements.

5.5 Town Fees. As of the date of execution of this Agreement the Parties have confirmed in writing (a) the category of fees the Town is expected to impose and collect under the Town Requirement and which Developer will incur as it undertakes development and building of the Project under its own auspices (the “**Town Fees**”) and (b) the estimated total dollar amount of the Town Fees that will be collected from Developer through Project build out (the “**Project Fees**”). The Project Fees calculation

excludes development within the Project that will be undertaken by grantees and lessees of Developer and as a result will be paid to Town directly by such third parties. Developer will be responsible for payment of the first Six Million Dollars (\$6,000,000) of the Project Fees in connection with its development of the Property (the “**Fee Cap**”). The Town will be responsible for Town Fees in excess of the Fee Cap of Six Million Dollars (\$6,000,000), up to Eight Million Dollars (\$8,000,000), or a maximum amount of Two Million Dollars (\$2,000,000). Any Project Fees in excess of Eight Million Dollars (\$8,000,000) will be paid by Developer. In the event that the actual development and construction of the Project reflects a material variance from the assumptions and estimates relied upon by the Parties in determining either the Project Fees or Fee Cap, the Parties shall modify the Fee Cap in order to maintain their respective financial responsibilities consistent with the intent of this Section 5.5. Provided however, in no event shall the Town’s obligation under this Section 5.5 exceed \$2,000,000.

5.6 Reimbursement of Permit Fees. Subject to the express limitations provided in this Agreement including Sections 3.3 and 3.4, the Town covenants and agrees to reimburse Developer Permit Fees paid to Town but limited to the Permit Fee Reimbursement Cap of \$4,450,000 on the terms and conditions of this Section 5.6. Developer and all permittees shall pay all Permit Fees at the time of permit issuance or as otherwise prescribed by the Town Requirements. Irrespective of the actual amount of Permit Fees paid on any particular building within the Project, Developer shall be entitled to a reimbursement of Permit Fees at the Permit Fee Reimbursement Rate (as it may be adjusted pursuant to Section 3.3) upon issuance of the certificate of occupancy for such building or portion thereof. To illustrate, with issuance of certificate of occupancy for 60,000 GLA, Developer shall be entitled to a reimbursement of \$381,600 ( $\$6.36 \times 60,000$ ). Such right to reimbursement is vested exclusively in Developer and reimbursement shall be made directly to Developer, irrespective of whether Developer was the payor of the Permit Fees on the subject building. Such reimbursement of Permit Fees shall be made within fifteen (15) days after the issuance of the applicable certificate of occupancy. Developer shall indemnify and hold the Town harmless from any claims by third parties to such reimbursements made pursuant to this Section 5.6.

The Pledged Account is hereby irrevocably pledged and set aside to pay or reimburse the Developer for Permit Fees, up to the Permit Fee Reimbursement Cap, subject to the terms and conditions of this Agreement, until the first to occur of the following: (i) Developer has received reimbursement of Permit Fees in the amount of the Permit Fee Reimbursement Cap, or (ii) the Third Development Deadline. The Developer hereby acknowledges and agrees that the Town’s obligation to pay or reimburse the Developer for Permit Fees as set forth in this Agreement is expressly limited to the amounts on deposit in the Pledged Account.

5.7 Town Costs. The Town shall be entitled to be reimbursed for the Town Costs from the District Bond proceeds or from District Pledged Revenues on deposit with the Escrow Agent in accordance with Section 4.7 and Exhibit C.

5.8 Compliance with Law. Nothing set forth in this Agreement is intended or shall be construed to constitute or to require (a) an unlawful delegation of authority by

the Town; (b) an unlawful restraint on the legislative discretion of future Town Councils; or (c) the undertaking of any multiple fiscal year obligation by the Town except as permitted by applicable law. Except for the payment or reimbursement of Permit Fees payable solely from the Pledged Account pursuant to Section 5.6, nothing in this Agreement is intended to nor shall be construed to create any multiple-fiscal year direct or indirect debt or financial obligation on the part of the Town within the meaning of the Constitution or laws of the State of Colorado, and any such financial obligation of the Town created by this Agreement is expressly subject to annual appropriation by the Town.

**6. REIMBURSEMENT OF ELIGIBLE COSTS.** Upon compliance with the requisition process set forth in Exhibit C, Developer will be paid or reimbursed for Eligible Costs by the District in accordance with the terms of this Agreement. Any such payment or reimbursement of Eligible Costs pursuant to this Agreement shall be made: (a) from the Net Proceeds of the District Bonds, or (b) with District Pledged Revenue in accordance with Section 4.7 to the extent that no District Bonds have been issued. If such payment or reimbursement is to be made from the Net Proceeds of District Bonds, the Developer will not be subject to any additional conditions for payment or reimbursement of Eligible Costs except as provided in the District Bond Documents.

6.1 Reimbursement of Eligible Costs and Developer Advances. The Developer or District will be eligible to receive reimbursement for Eligible Costs upon the issuance of District Bonds in accordance with Section 4.3. The maximum amount of Net Proceeds of the District Bonds that shall be applied to the payment or reimbursement of Eligible Costs shall be \$28,800,000, as adjusted in accordance with Section 4.7. Prior to the issuance of any District Bonds, the Developer and District will also be eligible to receive reimbursement for Eligible Costs from District Pledged Revenues on deposit with the Escrow Agent in accordance with the terms and provisions set forth in Section 4.7 and Exhibit C.

6.2 Certification of Eligible Costs. All Eligible Costs shall be certified by the District or Developer in accordance with procedures set forth in Exhibit C or as otherwise approved in writing by the Parties. Cost savings in the line items listed in Exhibit B may be allocated to cost overruns in any other line item.

**7. BOOKS AND ACCOUNTS; FINANCIAL STATEMENTS.** The District shall keep proper and current itemized records, books, and accounts in which complete and accurate entries will be made of the receipt and use of all amounts of revenue received from any and all sources and such other calculations required by this Agreement, the District Bond Documents, and any applicable law or regulation. The District shall prepare, after the close of each fiscal year, a complete financial statement prepared in accordance with generally accepted accounting principles accepted in the United States of America for such year in reasonable detail covering the above information, and if required by statute, certified by a public accountant, and will furnish a copy of such statement to the other Parties within two hundred and ten (210) days after the close of each fiscal year of the District or upon such earlier date as may be required by the District Bond Documents.

All books, records and reports (except those allowed or required by applicable law to be kept confidential) in the possession of the Town and the District, including, without limitation, those relating to the Pledged Revenue, Eligible Improvements, Eligible Costs, District Pledged Revenue, District Operating Revenue, and District Bonds will at all reasonable times be open to inspection by such accountants or other agents as the respective Parties may from time to time designate.

**8. INDEMNIFICATION.** For each Eligible Improvement, from commencement of construction through Completion of Construction, Developer agrees to indemnify, defend and hold harmless the Town, its officers, agents and employees, from and against all liability, claims, demands, and expenses, including fines imposed by any applicable state or federal regulatory agency, court costs and attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with any of the work to be performed by Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer under this Agreement, if such injury, loss, or damage is caused in whole or in part by, the negligent act or omission, error, professional error, mistake, accident, or other fault of Developer, any subcontractor of Developer, or any officer, employee, agent, successor or assign of Developer, but excluding any injuries, losses or damages which are due to the negligence, breach of contract or willful misconduct of the Town. Developer's obligation to indemnify the Town pursuant to this Agreement terminates upon Completion of Construction of each Eligible Improvement.

**9. REPRESENTATIONS AND WARRANTIES.**

9.1 Representations and Warranties by the District. The District represents and warrants as follows:

(a) The District is a quasi-municipal corporation and political subdivision of the State of Colorado, organized and existing in accordance with Title 32, Article 1, C.R.S., and has the legal capacity and the authority to enter into and perform its obligations under this Agreement and the documents to be executed and delivered pursuant hereto.

(b) The execution and delivery of this Agreement and such documents and the performance and observance of their terms, conditions and obligations have been duly and validly authorized by all necessary action on its part, and such documents and such performance and observance are valid and binding upon the District.

(c) The execution and delivery of this Agreement and the documents required and the consummation of the transactions contemplated by this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to the District or to the District's governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the District is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such

agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the District.

(d) The District knows of no litigation, proceeding, initiative, referendum, or investigation or threat of any of the same contesting the powers of the Town, the District or any of its officials with respect to this Agreement that has not been disclosed in writing to the Parties.

(e) The District Pledged Revenue is not subject to any other or prior pledge or encumbrance, and the District will not pledge or encumber it except as specified herein or as may be provided in the District Bond Documents or the documents related to the issuance of the District Bonds.

(f) This Agreement constitutes a valid and binding obligation of the District, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

9.2 Representations and Warranties by Developer. Developer represents and warrants as follows:

(a) Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Colorado and in good standing and authorized to do business in the State of Colorado and has the power and the authority to enter into and perform in a timely manner its obligations under this Agreement.

(b) The execution and delivery of this Agreement have been duly and validly authorized by all necessary action on its part to make this Agreement and are valid and binding upon Developer.

(c) The execution and delivery of this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to Developer or to Developer's governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which Developer is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of Developer.

(d) Developer knows of no litigation, proceeding, initiative, referendum, or investigation or threat or any of the same contesting the powers of Developer or any of its principals or officials with respect to this Agreement that has not been disclosed in writing to the other Parties.

9.3 Representations and Warranties by the Town. The Town represents and warrants as follows:

(a) The Town is a body corporate and politic and a home rule municipality of the State of Colorado, and has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations under this Agreement.

(b) The Town knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the Town or its officials with respect to this Agreement that has not been disclosed in writing to the Parties.

(c) The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not: (i) conflict with or contravene any law, order, rule or regulation applicable to the Town or to its governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the Town is a party or by which it may be bound or affected, or (iii) permit any party to terminate any such agreement or instruments or to accelerate the maturity of any indebtedness or other obligation of the Town.

(d) This Agreement constitutes a valid and binding obligation of the Town, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.

**10. TERM.** The term of this Agreement ("Term") is the period commencing on the Effective Date and terminating on the date of payment in full of the District Bonds or the full performance of the covenants of this Agreement, whichever occurs later, unless earlier terminated pursuant to Section 16.

**11. CONFLICTS OF INTEREST.** None of the following will have any personal interest, direct or indirect, in this Agreement: a member of the governing body of the Town or an employee of the Town who exercises responsibility concerning the Town Requirements, or an individual or firm retained by the Town who has performed consulting services to the Town or this Agreement. None of the above persons or entities will participate in any decision relating to the Agreement that affects his or her personal interests or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested.

**12. ANTIDISCRIMINATION.** Developer, for itself and its successors and assigns, agrees that in the construction of the Eligible Improvements and in the use and occupancy of the Property and the Eligible Improvements, Developer will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual preference, disability, marital status, ancestry, or national origin.



**13. NOTICES.** Any notice required or permitted by this Agreement will be in writing and will be deemed to have been sufficiently given for all purposes if delivered in person, by prepaid overnight express mail or overnight courier service, by certified mail or registered mail, postage prepaid return receipt requested, addressed to the Party to whom such notice is to be given at the address set forth on the signature page below or at such other or additional addresses as may be furnished in writing to the other Parties. Additionally, the Parties agree to provide concurrent notice via electronic mail.

**14. EVENTS OF DEFAULT.** The following event shall constitute an Event of Default under this Agreement: any Party fails in the performance of any covenant in this Agreement, (except for those events allowing the termination of this Agreement as set forth herein) and such failure continues for thirty (30) days after written notice specifying such default and requiring the same to be remedied is given by a non-defaulting Party to the defaulting Party. If such default is not of a type which can be cured within such thirty (30) day period and the defaulting Party gives written notice to the non-defaulting Party or Parties within such thirty (30) day period that it is actively and diligently pursuing such cure, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such thirty (30) day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure in good faith.

**15. REMEDIES.** Upon the occurrence and continuation of an Event of Default, the non-defaulting Party's remedies will be limited to the right to enforce the defaulting Party's obligations by an action for injunction, specific performance, or other appropriate equitable remedy or for mandamus, or by an action to collect and enforce payment of sums owing hereunder, and no other remedy (unless otherwise expressly authorized by this Agreement), and no Party will be entitled to or claim damages for an Event of Default by the defaulting Party, including, without limitation, lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages. In the event of any litigation or other proceeding to enforce any of the terms, covenants or conditions of this Agreement, the prevailing party in such litigation or other proceeding will receive, as part of its judgment or award, its reasonable attorneys' fees and costs.

**16. TERMINATION FOR CONVENIENCE.** This Agreement may be terminated by the Developer at any time prior to the earlier to occur of (a) the issuance of any District Bonds, (b) the reimbursement or payment of any Eligible Costs or Pre-Financing Costs from District Pledged Revenues on deposit with the Escrow Agent, or (c) commencement of construction of any of the Eligible Improvements.

Prior to the issuance of any District Bonds, this Agreement may be terminated by the Town in the event that the Developer has not completed at least 60,000 of GLA within the Project by December 31, 2016.

To terminate this Agreement, a party shall provide written notice of such termination to the other Parties. Such termination will be effective thirty (30) days after the date of such notice unless prior to such time, the Parties are able to negotiate in good faith to reach an agreement to avoid such termination. Upon such termination, this Agreement will be null and void and of no effect, and no action, claim or demand may be based on any term or provision of this Agreement.

In addition the Parties agree to execute a mutual release or other instruments reasonably required to effectuate and give notice of such termination.

If this Agreement is terminated pursuant to the provisions of this Section 16, any Credit PIF Revenues on Deposit with the Escrow Agent shall be remitted to the Town.

**17. NONLIABILITY OF OFFICIALS, AGENTS, MEMBERS, AND EMPLOYEES.**

Except for willful or wanton actions, no trustee, board member, commissioner, official, employee, consultant, manager, member, shareholder, attorney or agent of any Party, nor any lender to any Party or to the Project, will be personally liable under the Agreement or in the event of any default or for any amount that may become due to any Party.

**18. ASSIGNMENT.** This Agreement will not be assigned in whole or in part by any Party without the prior written consent of the other Parties; provided, however, the following assignments and transfers will not require any such consent: (a) Developer may assign all or a portion of this Agreement to the District upon the District's approved Financing Plan; (b) subject to written notice to the Town from Developer containing the name and address of the lender or other party, Developer may pledge, collaterally assign or otherwise encumber all or any part of its rights under this Agreement, including its right to receive any payment or reimbursement, to any lender or other party that provides acquisition, construction, working capital, tenant improvement or other financing to Developer in connection with development of the Property, acquisition of the Property Interests, and/or construction of the Eligible Improvements. The Town recognizes that Developer may form, together with its investors, a separate, special purpose entity to develop, own and/or operate all or a portion of the Property or of the Eligible Improvements to be constructed thereon and that one or more assignments of this Agreement may be required in connection with such activities and such transfer(s) will not require any consent by the Parties.

**19. COOPERATION REGARDING DEFENSE.** In the event of any litigation or other legal challenge involving this Agreement, the District Bonds, or any other material part or provision of this Agreement or the ability of any Party to enter into this Agreement, the Parties will cooperate and jointly defend against such action or challenge, to the extent permitted by law.

**20. SECTION CAPTIONS.** The captions of the sections are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

**21. ADDITIONAL DOCUMENTS OR ACTION.** The Parties agree to execute any additional documents or take any additional action, including but not limited to estoppel documents requested or required by lenders, that is necessary to carry out this Agreement or is reasonably requested by any Party to confirm or clarify the intent of the provisions of this Agreement and to effectuate the agreements and the intent. If all or any portion of this Agreement, or other agreements approved in connection with this Agreement are asserted or determined to be invalid, illegal or are otherwise precluded, the Parties, within the scope of their powers and duties, will cooperate in the joint defense of such documents and, if such defense is unsuccessful, the Parties will use reasonable, diligent good faith efforts to amend, reform or

replace such precluded items to assure, to the extent legally permissible, that each Party substantially receives the benefits that it would have received under this Agreement.

**22. AMENDMENT.** This Agreement may be amended only by an instrument in writing signed by the Parties.

**23. WAIVER OF BREACH.** A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement must be in writing and will not operate or be construed as a waiver of any subsequent breach by any Party.

**24. GOVERNING LAW.** The laws of the State of Colorado govern this Agreement. The District Court of Douglas County will be the exclusive venue for any litigation.

**25. BINDING EFFECT, ENTIRE AGREEMENT.** This Agreement will inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that nothing in this paragraph permits the assignment of this Agreement except as set forth in Section 18. This Agreement represents the entire Agreement among the Parties and supercedes any prior written or oral agreements or understandings with regard to the Property or Project not specifically set forth in this Agreement.

**26. EXECUTION IN COUNTERPARTS.** This Agreement may be executed in several counterparts, each of which will be deemed an original and all of which will constitute but one and the same instrument.

**27. LIMITED THIRD-PARTY BENEFICIARIES.** This Agreement is intended to describe the rights and responsibilities only as to the Parties to this Agreement. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party to this Agreement, provided that the Bond Trustee shall be deemed to be a third party beneficiary hereunder.

**28. NO PRESUMPTION.** The Parties and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement will be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

**29. SEVERABILITY.** If any provision of this Agreement as applied to any Party or to any circumstance is adjudged by a court to be void or unenforceable, the same will in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

**30. MINOR CHANGES.** This Agreement has been approved in substantially the form submitted to the governing bodies of the Parties. The officers executing this Agreement are authorized to make and may have made, minor changes to this Agreement and attached exhibits as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement will constitute the approval of such changes by the respective Parties.

31. **DAYS**. If the day for any performance or event provided for herein is a Saturday, a Sunday, a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to Section 24-11-101(1), C.R.S., such day will be extended until the next day on which such banks and state offices are open for the transaction of business.

32. **RECORDING**. This Agreement will not be recorded in the real property records of Douglas County, Colorado.

33. **GOOD FAITH OF PARTIES**. In the performance of this Agreement or in considering any requested approval, consent, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

34. **PARTIES NOT PARTNERS**. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties will not be deemed to be partners or joint venturers, and no Party is responsible for any debt or liability of any other Party.

35. **NO WAIVER OF IMMUNITY**. Nothing contained in this Agreement constitutes a waiver of sovereign immunity or governmental immunity by any Party under applicable state law.

36. **SUBORDINATION**. Developer shall cause any mortgagee or deed of trust beneficiary to subordinate its interest in the Property to this Agreement.

**IN WITNESS WHEREOF**, this Agreement is executed by the Parties as of \_\_\_\_\_, 2013.

**ATTEST:**

**TOWN OF CASTLE ROCK**

\_\_\_\_\_  
Sally A. Misare, Town Clerk

\_\_\_\_\_  
Paul Donahue, Mayor

(SEAL)

**Approved as to form:**

Notice Address:  
Town of Castle Rock  
100 N. Wilcox Street  
Castle Rock, Colorado 80104  
Attention: Robert Slentz, Town Attorney  
Email: [BSlentz@CRgov.com](mailto:BSlentz@CRgov.com)  
Fax: 303-660-1028

\_\_\_\_\_  
Robert J. Slentz, Town Attorney

**PROMENADE AT CASTLE ROCK  
METROPOLITAN DISTRICT NO. 1**

**ATTEST:**

\_\_\_\_\_  
President

\_\_\_\_\_  
Secretary

Notice Address:  
White Bear and Ankele  
The Streets at Southglenn  
2154 E. Commons Avenue, Suite 2000  
Centennial, CO 80122  
Attention: Kristen Bear  
Email: kbear@wbapc.com

**ALBERTA DEVELOPMENT PARTNERS, LLC,**  
a Colorado limited liability company

By: \_\_\_\_\_  
a Colorado limited liability company

Its: Authorized Agent

By: \_\_\_\_\_  
Donald G. Provost  
Its: Manager

Notice Address:  
Alberta Development Partners, LLC  
5750 DTC Pkwy, Suite 210  
Greenwood Village, CO 80111  
Attention: Donald G. Provost  
Email: \_\_\_\_\_

With a copy to:  
Brownstein Hyatt Farber Schreck, LLP  
410 Seventeenth Street, Suite 2200  
Denver, CO 80202  
Attention: Carolynne C. White, Esq.  
Email: cwhite@bhfs.com

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY  
PINECREST 54

FOUR (4) PARCELS OF LAND LOCATED IN THE SOUTH HALF OF SECTION 22, AND NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22 AND THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 TO BEAR NORTH 89°06'54" WEST WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE NORTH 63°07'53" WEST, 2531 .64 FEET TO A POINT ON THE SOUTHEASTERLY LINE OF TRACT F, CASTLE PINES VILLAGE FILING 32-J, 1ST AMENDMENT AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 2004101128 AND THE POINT OF BEGINNING OF THIS DESCRIPTION; SAID POINT IS ALSO LOCATED ON THE NORTHERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE NORTH AT ITS EASTERN TERMINUS AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 2 AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9560841.

THENCE DEPARTING SAID CASTLEGATE DRIVE NORTH RIGHT-OF-WAY AND ALONG SAID TRACT F, NORTH 50°45'10" EAST. 270.25 FEET TO THE SOUTHERNMOST CORNER OF TRACT C-1 OF SAID CASTLE PINES VILLAGE FILING 32-J, 1ST AMENDMENT, THENCE ALONG SAID TRACT C-1 THE FOLLOWING TWO (2) COURSES:

- 1) NORTH 69°47'45" EAST, 607.42 FEET;
- 2) THENCE NORTH 80°24'48" EAST, 398.23 FEET

TO THE WESTERN-MOST CORNER OF THE PARCEL OF LAND DESCRIBED UNDER SPECIAL WARRANTY DEED AS RECORDED IN THE OFFICE OF THE

DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 2008035721,  
THENCE ALONG SAID PARCEL OF THE LAND THE FOLLOWING  
NINE (9) COURSES:

- 1) SOUTH 09°35'12" EAST, 325.68 FEET;
- 2) THENCE SOUTH 62°12'55" EAST, 228.23 FEET;
- 3) THENCE SOUTH 22°30'34" WEST, 298.61 FEET;
- 4) THENCE SOUTH 23°34'37" EAST, 212.60 FEET;
- 5) THENCE SOUTH 75°39'58" EAST, 161.47 FEET;
- 6) THENCE SOUTH 20°55'28" EAST, 243.00 FEET;
- 7) THENCE SOUTH 77°33'29" EAST, 283.66 FEET;
- 8) THENCE NORTH 12°26'31" EAST, 369.85 FEET;
- 9) THENCE SOUTH 77°33'29" EAST, 266.86 FEET;

TO A POINT ON THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 22, THENCE ALONG SAID EAST LINE, SOUTH 00°05'29" WEST, 223.16 FEET; THENCE DEPARTING SAID EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 22, 420.81 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, WHICH HAS A RADIUS OF 2020.00 FEET, A DELTA OF 11°56'09", AND A CHORD WHICH BEARS SOUTH 42°26'38" WEST, 420.04 FEET; THENCE 206.87 FEET ALONG A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 1896.00 FEET, A DELTA OF 6°15'04", AND A CHORD WHICH BEARS SOUTH 51°32'14" WEST, 206.77 FEET; TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 22, THENCE CONTINUING 677.10 FEET ALONG THE SAME CURVE TO THE RIGHT, HAVING A RADIUS OF 1896.00 FEET, A DELTA OF 20°27'38", AND A CHORD WHICH BEARS SOUTH 64°53'35" WEST, 673.51 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 6 AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9663942. THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, THE FOLLOWING SIX (6) COURSES:

- 1) 133.17 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 635.00 FEET, A DELTA OF 12°00'58", AND A CHORD WHICH BEARS NORTH 34°06'24" WEST, 132.93 FEET;
- 2) THENCE NORTH 40°06'53" WEST, 435.28 FEET;
- 3) THENCE 76.57 FEET ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 895.00 FEET; A DELTA OF 04°54'06", AND A CHORD WHICH BEARS NORTH 37°39'50" WEST, 76.54 FEET;
- 4) THENCE NORTH 35°12'47" WEST, 440.94 FEET;
- 5) THENCE 266.37 FEET ALONG A TANGENT CURVE TO THE LEFT,



HAVING A RADIUS OF 635.00 FEET; A DELTA OF 24°02'03", AND A CHORD WHICH BEARS NORTH 47°13'49" WEST, 264.42 FEET;  
6) THENCE NORTH 59°14'50" WEST, 18.50 FEET

TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST AS PLATTED WITH SAID CASTLE PINES COMMERCIAL FILING 2. THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, THE FOLLOWING THREE (3) COURSES:

1) NORTH 59°14'50" WEST, 86.50 FEET;

2) THENCE 160.57 FEET ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 460.00 FEET, A DELTA OF 20°00'00", AND A CHORD WHICH BEARS NORTH 49°14'50" WEST, 159.76 FEET;

3) THENCE NORTH 39°14'50" WEST, 171 .84 FEET;

THENCE DEPARTING SAID CASTLEGATE DRIVE WEST RIGHT-OF-WAY, NORTH 67°58'08" EAST, 300.37 FEET; THENCE SOUTH 77°42'25" EAST, 684.94 FEET; THENCE NORTH 83°16'42" EAST, 388.02 FEET; THENCE ALONG THE FOLLOWING THREE (3) COURSES, BEING PARALLEL TO AND 20 FEET WEST OF SAID PARCEL OF LAND DESCRIBED UNDER SPECIAL WARRANTY DEED RECORDED AT RECEPTION NUMBER 2008035721 :

1) NORTH 22°30'34" EAST, 93.94 FEET;

2) THENCE NORTH 62°12'55" WEST, 219.88 FEET;

3) THENCE NORTH 09°35'12" WEST, 274.96 FEET;

THENCE DEPARTING SAID PARALLEL COURSE, SOUTH 80°27'55" WEST, 371.83 FEET; THENCE SOUTH 69°50'52" WEST, 591.79 FEET; THENCE SOUTH 50°47'04" WEST, 260.93 FEET TO A POINT ON SAID EASTERN TERMINUS OF THE CASTLEGATE DRIVE NORTH RIGHT-OF-WAY, THENCE ALONG SAID RIGHT-OF-WAY, NORTH 39°14'50" WEST, 60.00 FEET TO THE POINT OF BEGINNING. PARCEL 1 CONTAINS 1,531,454 SQUARE FEET OR 35.157 ACRES OF LAND, MORE OR LESS.

## PARCEL 2

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 TO BEAR NORTH 89°06'54" WEST WITH ALL BEARINGS CONTAINED

HEREIN, RELATIVE THERETO; THENCE NORTH 63°41'36" WEST, 2476.90 FEET TO A POINT ON THE EASTERLY TERMINUS OF THE CASTLEGATE DRIVE NORTH RIGHT-OF-WAY AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 2 AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9560841 AND THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE DEPARTING SAID RIGHT-OF-WAY, NORTH 50°47'04" EAST, 260.93 FEET; THENCE NORTH 69°50'52" EAST, 591.79 FEET; THENCE NORTH 80°27'55" EAST, 371.83 FEET; THENCE SOUTH 09°35'12" EAST, 274.96 FEET; THENCE SOUTH 62°12'55" EAST, 219.88 FEET; THENCE SOUTH 22°30'34" WEST, 93.94 FEET; THENCE SOUTH 83°16'42" WEST, 388.02 FEET; THENCE NORTH 7r42'25" WEST, 684.94 FEET; THENCE SOUTH 67°58'08" WEST, 300.37 FEET; TO A POINT ON SAID CASTLEGATE DRIVE NORTH RIGHT-OF-WAY, THENCE 47.12 FEET ALONG SAID RIGHT-OF-WAY, ALONG A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 30.00 FEET, A DELTA OF 90°00'00" AND A CHORD WHICH BEARS NORTH 05°45'10" EAST, 42.43 FEET TO THE POINT OF BEGINNING. PARCEL 2 CONTAINS 363,727 SQUARE FEET OR 8.35 ACRES OF LAND, MORE OR LESS.

### PARCEL 3

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 22, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, DOUGLAS COUNTY, COLORADO, BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 TO BEAR NORTH 89 DEGREES 10 MINUTES 01 SECONDS WEST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE NORTH 43 DEGREES 09 MINUTES 35 SECONDS WEST, 497.88 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION.

THENCE NORTH 77 DEGREES 33 MINUTES 29 SECONDS WEST, 283.66 FEET; THENCE NORTH 20 DEGREES 55 MINUTES 28 SECONDS WEST, 243.00 FEET; THENCE NORTH 75 DEGREES 39 MINUTES 58 SECONDS WEST, 161.47 FEET; THENCE NORTH 23 DEGREES 34 MINUTES 37 SECONDS WEST, 212.60 FEET THENCE NORTH 22 DEGREES 30 MINUTES 34 SECONDS EAST, 298.61 FEET; THENCE NORTH 62 DEGREES 12 MINUTES 55 SECONDS WEST, 228.23 FEET; THENCE NORTH 09 DEGREES 35 MINUTES 12 SECONDS WEST, 325.68 FEET; THENCE NORTH 80 DEGREES 24 MINUTES 48 SECONDS EAST, 206.74 FEET; THENCE NORTH 64 DEGREES 25 MINUTES 51 SECONDS EAST, 334.25 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 87 DEGREES 51 MINUTES 25 SECONDS, A RADIUS OF 450.00 FEET, AND AN ARC OF 690.03 FEET; THENCE SOUTH 27 DEGREES 42 MINUTES 44 SECONDS EAST, 337.89 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 06

DEGREES 25 MINUTES 40 SECONDS, A RADIUS OF 1570.00 FEET, AND AN ARC OF 176.13 FEET; THENCE SOUTH 21 DEGREES 17 MINUTES 03 SECONDS EAST, 375.59.74 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF 04 DEGREES 48 MINUTES 02 SECONDS, A RADIUS OF 1430.00 FEET AND AN ARC OF 119.81 FEET;  
THENCE NORTH 89 DEGREES 57 MINUTES 04 SECONDS WEST, 361.61 FEET;  
THENCE NORTH 77 DEGREES 33 MINUTES 29 SECONDS WEST, 331 .94 FEET;  
THENCE SOUTH 12 DEGREES 26 MINUTES 31 SECONDS WEST, 369.85 FEET TO THE POINT OF BEGINNING. PARCEL 3 CONTAINS 1,318,841 SQUARE FEET OR 30.276 ACRES OF LAND, MORE OR LESS.

#### PARCEL 4

A PARCEL OF LAND LOCATED IN THE SOUTH ONE-HALF OF SECTION 22, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 TO BEAR NORTH 89°06'54" WEST WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE NORTH 21°53'12" WEST, 1851 .17 FEET TO THE SOUTHERN-MOST CORNER OF LOT 587, CASTLE PINES VILLAGE FILING 19B, ACCORDING TO THE RECORD PLAT THEREOF AS RECORDED AT RECEPTION NUMBER 199713794 IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER, THENCE ALONG THE SOUTH LINE OF SAID LOT 587, NORTH 64°25'51" EAST, 120.94 FEET TO THE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE ALONG THE SUBDIVISION BOUNDARY OF SAID CASTLE PINES VILLAGE FILING 19B THE FOLLOWING TWO (2) COURSES:

- 1) NORTH 64°25'51" EAST, 63.62 FEET
- 2) THENCE NORTH 50°08'45" EAST, 378.05 FEET

THENCE DEPARTING SAID CASTLE PINES VILLAGE FILING 19B SUBDIVISION BOUNDARY, SOUTH 27°42'44" EAST, 526.83 FEET TO THE NORTHEASTERLY CORNER OF A PARCEL OF LAND DESCRIBED UNDER SPECIAL WARRANTY DEED AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 2008035721, THENCE ALONG SAID PARCEL OF LAND 690.03 FEET ALONG A NON-TANGENT CURVE TO THE LEFT HAVING A RADIUS OF 450.00 FEET, A DELTA OF 87°51'25", AND A CHORD WHICH BEARS NORTH 71 °38'26" WEST, 606.38 FEET; TO THE POINT OF BEGINNING. PARCEL 4 CONTAINS 57,059 SQUARE FEET OR 1.310 ACRES OF LAND, MORE OR LESS.

**THE FOLLOWING PARCEL OF LAND SHOULD BE EXCEPTED FROM THE ABOVE DESCRIBED PARCELS OF LAND:**

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22 AND THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 TO BEAR NORTH 89°06'54" WEST WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE NORTH 64°37'04" WEST, 2462.32 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 2 AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9560841 AND THE POINT OF BEGINNING OF THIS DESCRIPTION.

THENCE DEPARTING SAID CASTLEGATE DRIVE WEST RIGHT-OF-WAY, NORTH 53°56'56" EAST, 159.05 FEET; THENCE NORTH 72°47'26" EAST, 71.76 FEET; THENCE NORTH 89°54'49" EAST, 162.12 FEET; THENCE SOUTH 76°53'10" EAST, 85.01 FEET; THENCE NORTH 53°20'58" WEST, 303.77 FEET; THENCE SOUTH 79°58'35" EAST, 85.92 FEET; THENCE NORTH 88°53'40" EAST, 169.21 FEET; THENCE NORTH 74°48'22" EAST, 132.70 FEET; THENCE NORTH 20°44'38" WEST, 315.52 FEET; THENCE NORTH 05°28'16" EAST, 387.93 FEET, THENCE SOUTH 40°35'24" EAST, 126.57 FEET; THENCE NORTH 88°55'14" WEST, 373.91 FEET, THENCE 307.75 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, WHICH HAS A RADIUS OF 695.00 FEET, A DELTA OF 25°22'14", AND A CHORD WHICH BEARS SOUTH 03°40'51 .. EAST, 305.24 FEET, THENCE 485.30 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, WHICH HAS A RADIUS OF 1869.00 FEET, A DELTA OF 14°39'53", AND A CHORD WHICH BEARS SOUTH 67°47'28" WEST, 483.98 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 6 AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9663942. THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, THE FOLLOWING SIX (6) COURSES:

- 1) 133.17 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 635.00 FEET, A DELTA OF 12°00'58 .. , AND A CHORD WHICH BEARS NORTH 34°06'24" WEST, 132.93 FEET;
- 2) THENCE NORTH 40°06'53" WEST, 435.28 FEET;
- 3) THENCE 76.57 FEET ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 895.00 FEET; A DELTA OF 04°54'06", AND A CHORD WHICH BEARS NORTH 3r39'50" WEST, 76.54 FEET;
- 4) THENCE NORTH 35°12'47" WEST, 440.94 FEET;

5) THENCE 266.37 FEET ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 635.00 FEET; A DELTA OF 24°02'03", AND A CHORD WHICH BEARS NORTH 47°13'49" WEST, 264.42 FEET;

6) THENCE NORTH 59°14'50" WEST, 18.50 FEET

TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST AS PLATTED WITH SAID CASTLE PINES COMMERCIAL FILING 2. THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, THE FOLLOWING THREE (3) COURSES:

1) NORTH 59°14'50" WEST, 86.50 FEET;

2) THENCE 160.57 FEET ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 460.00 FEET, A DELTA OF 20°00'00", AND A CHORD WHICH BEARS NORTH 49°14'50" WEST, 159.76 FEET;

3) THENCE NORTH 39°14'50" WEST, 171 .84 FEET;  
TO THE POINT OF BEGINNING, CONTAINING 885,475 SQUARE FEET OR 20.328 ACRES OF LAND, MORE OR LESS.

THE ABOVE DESCRIBED PROPERTY CONTAINS 2,385,606 SQUARE FEET OR 54.766 ACRES OF LAND, MORE OR LESS.

#### DEV-VIC

LOT 6-A, CASTLE PINES COMMERCIAL FILING 3, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO MORE PARTICULARLY DESCRIBED ON THE ATTACHED LOT LINE ADJUSTMENT CERTIFICATE.

LOT 1-A, CASTLE PINES COMMERCIAL FILING 4, 2ND AMENDMENT, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO AS RECORDED AT RECEPTION NO. 2003166451 ON NOVEMBER 20, 2003.

LOT 2, LOT 4, LOT 5 AND LOT 6, CASTLE PINES COMMERCIAL FILING 10-A, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO AS RECORDED AT RECEPTION NO. 2006058659 ON JULY 11, 2006.

LOT 2, LOT 3 AND LOT 4, CASTLE PINES COMMERCIAL FILING 12, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO AS RECORDED AT RECEPTION NO. 2006075520 ON SEPTEMBER 1, 2006.

TOGETHER WITH TWO (2) PARCELS OF LAND LOCATED IN THE SOUTH HALF OF SECTION 22, AND NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 7

SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

PARCEL 1

A PARCEL OF LAND LOCATED IN 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 EAST QUARTER CORNER OF SAID SECTION 27 AND CONSIDERING THE EAST LINE OF THE NORTHEAST QUARTER OF SAID SECTION 27 TO BEAR NORTH 00°28'54" EAST WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE NORTH 72°04'05" WEST, 2841.80 FEET TO THE WEST RIGHT-OF-WAY LINE OF FACTORY SHOPS BOULEVARD AS PLATTED IN CASTLE PINES COMMERCIAL FILING 6, ACCORDING TO THE RECORDED PLAT THEREOF, AND THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING THREE (3) COURSES:

1) ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 80°32'57", A RADIUS OF 40.00 FEET, AN ARC OF 56.23 FEET AND A CHORD WHICH BEARS SOUTH 89°37'55" EAST, 51.72 FEET;

2) THENCE SOUTH 49°21'27" EAST, 169.02 FEET;

3) THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A DELTA OF 29°06'54", A RADIUS OF 945.00 FEET, AN ARC OF 480.20 FEET AND A CHORD WHICH BEARS SOUTH 34°48'00" EAST, 475.05 FEET;

TO THE NORTH RIGHT-OF-WAY LINE OF NEW BEALE STREET AS PLATTED IN CASTLE PINES COMMERCIAL FILING 10-A, ACCORDING TO THE RECORDED PLAT THEREOF, THENCE DEPARTING SAID WEST RIGHT-OF-WAY LINE OF FACTORY SHOPS BOULEVARD AND ALONG SAID NORTH RIGHT-OF-WAY LINE OF NEW BEALE STREET THE FOLLOWING TWELVE (12) COURSES:

1) ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 90°31'25", A RADIUS OF 50.00 FEET, AN ARC OF 79.00 FEET AND A CHORD WHICH BEARS SOUTH 25°01'09" WEST, 71.03 FEET;

2) THENCE SOUTH 70°16'52" WEST, 28.91 FEET;

3) THENCE ALONG A TANGENT CURVE TO THE LEFT HAVING A DELTA OF 22°31'08", A RADIUS OF 287.50 FEET, AN ARC OF 113.00 FEET AND A

CHORD WHICH BEARS SOUTH 59°01'18" WEST, 112.27 FEET;

4) THENCE SOUTH 47°45'44" WEST, 210.89 FEET;

5) THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A DELTA OF 90°00'00", A RADIUS OF 60.00 FEET, AN ARC OF 94.25 FEET AND A CHORD WHICH BEARS NORTH 87°14'16" WEST, 84.85 FEET;

6) THENCE NORTH 42°14'16" WEST, 15.00 FEET;

7) THENCE SOUTH 47°45'44" WEST; 70.00 FEET;

8) THENCE SOUTH 42°14'16" EAST, 7.53 FEET;

9) THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A DELTA OF 52°01'12", A RADIUS OF 50.00 FEET, AN ARC OF 45.40 FEET AND A CHORD WHICH BEARS SOUTH 16°13'40" EAST, 43.85 FEET;

10) THENCE ALONG A REVERSE CURVE TO THE LEFT HAVING A DELTA OF 8°25'02", A RADIUS OF 80.00 FEET, AN ARC OF 11.75 FEET AND A CHORD WHICH BEARS SOUTH 05°34'25" WEST, 11.74 FEET;

11) THENCE ALONG A REVERSE CURVE TO THE RIGHT HAVING A DELTA OF 46°23'50", A RADIUS OF 65.00 FEET, AN ARC OF 52.64 FEET AND A CHORD WHICH BEARS SOUTH 24°33'49" WEST, 51.21 FEET;

12) THENCE SOUTH 47°45'44" WEST; 353.02 WEST

TO THE EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 85 AS DESCRIBED IN THAT DEED RECORDED AT BOOK 2002, PAGE 1292; THENCE DEPARTING SAID NORTH RIGHT-OF-WAY LINE OF NEW BEALE STREET AND ALONG SAID EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 85 THE FOLLOWING THREE (3) COURSES:

1) NORTH 40°54'21" WEST, 862.26 FEET;

2) THENCE ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 5°49'00", A RADIUS OF 2769.00 FEET, AN ARC OF 281.11 FEET AND A CHORD WHICH BEARS NORTH 37°59'51" WEST, 280.99 FEET;

3) THENCE NORTH 35°05'11 II WEST; 291.93 FEET;

TO THE SOUTH RIGHT-OF-WAY LINE OF ATRIUM WAY AS PLATTED IN CASTLE PINES COMMERCIAL FILING 12, ACCORDING TO THE RECORDED PLAT THEREOF, THENCE DEPARTING SAID EASTERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 85 AND ALONG SAID SOUTH RIGHT-OF-WAY LINE OF ATRIUM WAY

THE FOLLOWING THREE (3) COURSES:

- 1) NORTH  $54^{\circ}54'49''$  EAST, 133.99 FEET;
- 2) THENCE ALONG A TANGENT CURVE TO THE RIGHT HAVING A DELTA OF  $12^{\circ}34'01''$ , A RADIUS OF 955.00 FEET, AN ARC OF 209.47 FEET AND A CHORD WHICH BEARS NORTH  $61^{\circ}11'50''$  EAST, 209.05 FEET;
- 3) THENCE NORTH  $67^{\circ}28'50''$  EAST, 30.55 FEET;

TO THE WESTERLY RIGHT-OF-WAY LINE OF ATRIUM DRIVE, AS PLATTED IN SAID CASTLE PINES COMMERCIAL FILING 6, ACCORDING TO THE RECORDED PLAT THEREOF; THENCE DEPARTING SAID SOUTH RIGHT-OF-WAY LINE OF ATRIUM WAY AND ALONG SAID WESTERLY RIGHT-OF-WAY LINE OF ATRIUM DRIVE THE FOLLOWING TWO (2) COURSES:

- 1) ALONG A CURVE TO THE RIGHT HAVING A DELTA OF  $81^{\circ}32'37''$ , A RADIUS OF 40.00 FEET, AN ARC OF 56.93 FEET AND A CHORD WHICH BEARS SOUTH  $71^{\circ}44'52''$  EAST, 52.24 FEET;
- 2) THENCE ALONG A CURVE TO THE LEFT HAVING A DELTA OF  $98^{\circ}55'50''$ , A RADIUS OF 538.00 FEET, AN ARC OF 928.95 FEET AND A CHORD WHICH BEARS SOUTH  $80^{\circ}26'28''$  EAST, 817.77 FEET;

TO THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 1,045,524 SQUARE FEET OR 24.002 ACRES, MORE OR LESS.

PARCEL2

A PARCEL OF LAND LOCATED IN THE SOUTH HALF OF SECTION 22 AND THE NORTH HALF OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 TO BEAR NORTH  $89^{\circ}06'54''$  WEST WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE SOUTH  $33^{\circ}25'34''$  WEST, 1248.73 FEET TO A POINT ON THE INTERIOR CIRCULAR RIGHT-OF-WAY LINE OF ATRIUM DRIVE AS PLATTED IN CASTLE PINES COMMERCIAL FILING 6, AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9663942, AND THE POINT OF BEGINNING OF THIS DESCRIPTION;

THENCE ALONG SAID INTERIOR CIRCULAR RIGHT-OF-WAY LINE 1674.08 FEET ALONG A CURVE TO THE LEFT HAVING A DELTA OF  $204^{\circ}57'09''$ , A RADIUS OF 468.00 FEET AND A CHORD WHICH BEARS SOUTH  $46^{\circ}21'02''$  EAST, 913.90 FEET;



THENCE DEPARTING SAID RIGHT-OF-WAY AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 6 AND ALONG THE CIRCULAR RIGHT-OF-WAY AS PLATTED IN CASTLE PINES COMMERCIAL FILING 5, AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9664761, 358.58 FEET ALONG THE SAME CURVE TO LEFT, HAVING A DELTA OF 43°54'00", A RADIUS OF 468.00 FEET AND A CHORD WHICH BEARS NORTH 09°13'23" EAST, 349.88 FEET, THENCE DEPARTING SAID INTERIOR CIRCULAR RIGHT OF WAY, NORTH 77°17'24" EAST, 70.00 FEET TO THE NORTH LOT LINE OF LOT 2, OF SAID CASTLE PINES COMMERCIAL FILING 5, THENCE ALONG SAID NORTH LINE OF LOT 2, NORTH 62°14'06" EAST, 1206.12 FEET TO THE WESTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25, THENCE DEPARTING SAID LOT 2, AND ALONG SAID WESTERLY INTERSTATE 25 RIGHT-OF-WAY LINE THE FOLLOWING TWO {2} COURSES:

1) NORTH 27°45'54" WEST, 1545.17 FEET;

2) THENCE 41.94 FEET ALONG A CURVE TO RIGHT HAVING A DELTA OF 01 °40'49", A RADIUS OF 1430.00 FEET AND A CHORD WHICH BEARS NORTH 26°55'32" WEST, 41.94 FEET;

TO THE EASTERN-MOST CORNER OF THE PARCEL OF LAND DESCRIBED UNDER SPECIAL WARRANTY DEED AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 2008035721 , THENCE DEPARTING SAID WESTERLY INTERSTATE 25 RIGHT-OFWAY LINE AND ALONG SAID PARCEL OF LAND THE FOLLOWING TWO {2} COURSES:

1) NORTH 89°57'04" WEST, 361 .61 FEET;

2) THENCE NORTH 77°33'29" WEST, 65.07 FEET

TO A POINT ON THE EAST LINE OF SAID SOUTHWEST QUARTER OF SECTION 22, THENCE DEPARTING SAID PARCEL OF LAND AND ALONG

SAID EAST LINE, SOUTH 00°05'29" WEST, 223.16 FEET; THENCE DEPARTING SAID EAST LINE OF THE SOUTHWEST QUARTER OF SECTION 22, 420.81 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, WHICH HAS A RADIUS OF 2020.00 FEET, A DELTA OF 11°56'09", AND A CHORD WHICH BEARS SOUTH 42°26'38" WEST, 420.04 FEET; THENCE 206.87 FEET ALONG A COMPOUND CURVE TO THE RIGHT HAVING A RADIUS OF 1896.00 FEET, A DELTA OF 6°15'04", AND A CHORD WHICH BEARS SOUTH 51°32'14" WEST, 206.77 FEET; TO A POINT OF INTERSECTION WITH THE SOUTH LINE OF SAID SOUTHWEST QUARTER OF SECTION 22, THENCE CONTINUING 677.10 FEET ALONG THE SAME CURVE TO THE RIGHT, HAVING A RADIUS OF 1896.00 FEET, A DELTA OF 20°27'38", AND A CHORD WHICH BEARS SOUTH 64°53'35" WEST, 673.51 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE

WEST AS PLATTED WITH SAID CASTLE PINES COMMERCIAL FILING 6, THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, THE FOLLOWING FIVE (5) COURSES:

1) 238.74 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT HAVING A DELTA OF 21°32'28", A RADIUS OF 635.00 FEET AND A CHORD WHICH BEARS SOUTH 17°19'41" EAST, 237.33 FEET;

2) THENCE SOUTH 06°33'27" EAST, 100.00 FEET;

3) THENCE 342.90 FEET ALONG A TANGENT CURVE TO THE LEFT HAVING A DELTA OF 34°46'21", A RADIUS OF 565.00 FEET AND A CHORD WHICH BEARS SOUTH 23°56'37" EAST, 337.66 FEET;

4) THENCE SOUTH 41°19'48" EAST, 85.04 FEET;

5) THENCE 57.63 FEET ALONG A TANGENT CURVE TO THE LEFT HAVING A DELTA OF 82°32'40", A RADIUS OF 40.00 FEET AND A CHORD WHICH BEARS SOUTH 82°36'08" EAST, 52.77 FEET;

THENCE DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST, SOUTH 33°52'27" EAST, 70.00 FEET, TO A POINT ON THE INTERIOR CIRCULAR RIGHT-OF-WAY LINE OF ATRIUM DRIVE AND THE POINT OF BEGINNING OF THIS DESCRIPTION, CONTAINING 3,141,849 SQUARE FEET OR 72.127 ACRES, MORE OR LESS.

#### PINECREST 20

A PARCEL OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 22 AND THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 22 AND CONSIDERING THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 22 TO BEAR NORTH 89°06'54" WEST WITH ALL BEARINGS CONTAINED HEREIN, RELATIVE THERETO; THENCE NORTH 64°37'04" WEST, 2462.32 FEET TO A POINT ON THE NORTHERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 2 AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9560841 AND THE POINT OF BEGINNING OF THIS DESCRIPTION.

THENCE DEPARTING SAID CASTLEGATE DRIVE WEST RIGHT-OF-WAY, NORTH 53°56'56" EAST, 159.05 FEET; THENCE NORTH 72°47'26" EAST, 71 .76 FEET;

THENCE NORTH 89°54'49" EAST, 162.12 FEET; THENCE SOUTH 76°53'10" EAST, 85.01 FEET; THENCE NORTH 53°20'58" WEST, 303.77 FEET; THENCE SOUTH 79°58'35" EAST, 85.92 FEET; THENCE NORTH 88°53'40" EAST, 169.21 FEET; THENCE NORTH 74°48'22" EAST, 132.70 FEET; THENCE NORTH 20°44'38" WEST, 315.52 FEET; THENCE NORTH 05°28'16" EAST, 387.93 FEET, THENCE SOUTH 40°35'24" EAST, 126.57 FEET; THENCE NORTH 88°55'14" WEST, 373.91 FEET, THENCE 307.75 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, WHICH HAS A RADIUS OF 695.00 FEET, A DELTA OF 25°22'14", AND A CHORD WHICH BEARS SOUTH 03°40'51" EAST, 305.24 FEET, THENCE 485.30 FEET ALONG A NON-TANGENT CURVE TO THE RIGHT, WHICH HAS A RADIUS OF 1869.00 FEET, A DELTA OF 14°39'53", AND A CHORD WHICH BEARS SOUTH 67°47'28" WEST, 483.98 FEET TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST-AS PLATTED WITH CASTLE PINES COMMERCIAL FILING 6 AS RECORDED IN THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AT RECEPTION NUMBER 9663942. THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, THE FOLLOWING SIX (6) COURSES:

- 1) 133.17 FEET ALONG A NON-TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 635.00 FEET, A DELTA OF 12°00'58", AND A CHORD WHICH BEARS NORTH 34°06'24" WEST, 132.93 FEET;
- 2) THENCE NORTH 40°06'53" WEST, 435.28 FEET;
- 3) THENCE 76.57 FEET ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 895.00 FEET; A DELTA OF 04°54'06", AND A CHORD WHICH BEARS NORTH 37°39'50" WEST, 76.54 FEET;
- 4) THENCE NORTH 35°12'47" WEST, 440.94 FEET;
- 5) THENCE 266.37 FEET ALONG A TANGENT CURVE TO THE LEFT, HAVING A RADIUS OF 635.00 FEET; A DELTA OF 24°02'03", AND A CHORD WHICH BEARS NORTH 4r13'49" WEST, 264.42 FEET;
- 6) THENCE NORTH 59°14'50" WEST, 18.50 FEET

TO A POINT ON THE NORTHEASTERLY RIGHT-OF-WAY OF CASTLEGATE DRIVE WEST AS PLATTED WITH SAID CASTLE PINES COMMERCIAL FILING 2. THENCE ALONG SAID NORTHEASTERLY RIGHT-OF-WAY, THE FOLLOWING THREE (3) COURSES:

- 1) NORTH 59°14'50" WEST, 86.50 FEET;
- 2) THENCE 160.57 FEET ALONG A TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 460.00 FEET, A DELTA OF 20°00'00", AND A CHORD WHICH BEARS NORTH 49°14'50" WEST, 159.76 FEET;

3) THENCE NORTH 39°14'50" WEST, 171.84 FEET;  
TO THE POINT OF BEGINNING CONTAINING 885,475 SQUARE FEET OR 20.328  
ACRES OF LAND, MORE OR LESS.

EXHIBIT B

ELIGIBLE IMPROVEMENTS

<i>Public Improvement Cost Category</i>	<i>Estimated Cost</i>
<b>Roads/Streets</b>	\$ 3,210,785
<b>Trails/Sidewalks</b>	\$ 470,775
<b>Public Parking Areas</b>	\$10,904,293
<b>Water/Sewer</b>	\$ 4,001,447
<b>Landscaping</b>	\$ 6,425,976
<b>Grading</b>	\$ 4,291,377
<b>Retaining Walls</b>	\$ 3,091,334
<b>Site Amenities/FFA</b>	\$ 3,305,266
<b>Total</b>	\$35,701,252

## EXHIBIT C

### PROCEDURE FOR DOCUMENTING, CERTIFYING AND PAYING ELIGIBLE COSTS

1. Applicability. All capitalized terms that are not specifically defined in this Exhibit C will have the same meaning as defined in the Agreement. The Parties recognize and acknowledge that in connection with issuance and sale of District Bonds, the District Bond Documents related to such District Bonds may establish a different procedure for the requisition of District Bond proceeds, in which event that procedure shall be substituted for the procedure in this Exhibit C to the extent that they conflict with the procedures in this Exhibit C; provided, however, the Parties agree to cooperate so that the District Bond Documents or bond documents related to District Bonds will include a procedure for certifying the Eligible Costs payable under in-process construction and other contracts to permit District Bond proceeds to be applied to direct payments under such contracts.

2. Engineer. The District will select an independent licensed engineer experienced in the design and construction of public improvements in the Denver metropolitan area (the "**Engineer**"). The Engineer shall be responsible for reviewing, approving, and providing the certificate required by paragraph 3.

3. Documentation. The District or Developer will be responsible for documenting all Eligible Costs. Eligible Costs may be certified when a pay application has been submitted by a contractor that complies with the procedure set forth in this Exhibit C or upon Completion of Construction of an Eligible Improvement. All such submissions shall include a certification signed by both the Engineer and an authorized representative of the District or Developer, as applicable. The certificate shall state that the information contained therein is true and accurate to the best of each individual's information and belief and, to the best knowledge of such individual, qualifies as Eligible Costs. Such submissions will include copies of backup documentation supporting the listed cost items, including bills, statements, pay request forms from first-tier contractors and suppliers, conditional lien waivers, and copies of each check issued by the District or Developer for each item listed on the statement. Unless required by a District or Developer construction contract then being performed, statements for payment of Eligible Costs shall not include advance payments of any kind for unperformed work or materials not delivered and stored on the Property.

4. Verification, Submission, and Payment from District Bond Proceeds. To the extent that the Eligible Costs are to be paid from District Bond proceeds, each payment request will be submitted to the applicable District representative, and the District Bond Trustee, as applicable, for review within ten (10) business days. Such review is for the purpose of verifying that the work represented in each payment request and supporting documentation complies with the requirements of this Agreement. Upon the earlier of approval of such documentation or expiration of the ten (10) business day period, the District Bond Trustee, will allocate the Eligible Costs to the Eligible Improvements according to the category for each listed in this Exhibit C and compile an aggregate running total of the Eligible Costs in each category. Thereafter, the District Bond Trustee will make payments of Eligible Costs plus any accrued and unpaid interest to the District or Developer as provided in this Agreement. So long as the payment request is properly certified according to this procedure payment will be made within twenty (20) days of submission of the payment request.

5. Verification, Submission and Payment from District Pledged Revenues on Deposit with the Escrow Agent. To the extent that no District Bonds have been issued, Eligible Costs may be paid from District Pledged Revenues on deposit with the Escrow Agent in accordance with Section 4.7. In such event, each such payment request shall be submitted to the applicable District Representative, and the Escrow Agent, for review within ten (10) business days. Such review is for the purpose of verifying that the work represented in each payment request and supporting documentation complies with the requirements of this Agreement. Upon the earlier of approval of such documentation or expiration of the ten (10) business day period, the Escrow Agent will allocate the Eligible Costs to the Eligible Improvements according to the category for each listed in Exhibit C and compile an aggregate running total of Eligible Costs from District Pledged Revenues to the District or Developer as provided in this Agreement. So long as the payment request is properly certified according to this procedure, payment will be made within twenty (20) days of submission of the payment request.

To the extent that no District Bonds have been issued, Town Costs in the maximum amount set forth in Section 4.3(b)(iii) may be paid from District Pledge Revenues on deposit with the Escrow Agent in accordance with Section 4.7. In the case of Town Costs, the Town Representative may submit a request for the payment of Town Costs to the District Representative and the Escrow Agent, for review within ten (10) business days. Such payment request shall include supporting documentation verifying that the Town has submitted the required supporting documentation. Upon the earlier of approval of such documentation or expiration of the ten (10) business day period, the Escrow Agent will pay or reimburse the Town for Town Costs from District Pledged Revenues on deposit with the Escrow Agent.

To the extent that no District Bonds have been issued, Pre-Financing Costs in the maximum amount set forth in Section 4.3(b)(iv) may be paid from District Pledge Revenues on deposit with the Escrow Agent in accordance with Section 4.7. In the case of Pre-Financing Costs, the District or the Developer may submit a request for the payment of Pre-Financing Costs to the District Representative and the Escrow Agent, for review within ten (10) business days. Such payment request shall include supporting documentation verifying that the Developer or the District, as the case may be, has incurred such Pre-Financing Costs. Such review is for the purpose of verifying that the District or the Developer has submitted the required supporting documentation. Upon the earlier of approval of such documentation or the expiration of the ten (10) business day period, the Escrow Agent will pay or reimburse the District or the Developer, as the case may be, for Pre-Financing Costs from District Pledged Revenues on deposit with the Escrow Agent.

Notwithstanding the foregoing provisions, the Parties acknowledge and agree that District Pledged Revenues on deposit with the Escrow Agent may be insufficient to make the payments or reimbursements permitted by Section 4.7 and this Exhibit C. In the event that there are insufficient District Pledged Revenues to make such payments or reimbursements that have been requested by the Developer, the District or the Town, this shall not constitute an event of default under this Agreement any such payments or reimbursements shall be made only from available District Pledged Revenues and any unpaid request, or portion thereof, shall be made when District Pledged Revenues are thereafter received by the Escrow Agent. In the event that the Escrow Agent receives multiple requests for payment or reimbursement of Eligible Costs,

Town Costs or Pre-Financing Costs and the District Pledged Revenues are insufficient to make all such requested payments, the District Pledged Revenues shall be applied to the payment of such requisitions prorate based on the applicable amounts requested.



**ORDINANCE NO. 2013-36**

**AN ORDINANCE AMENDING CHAPTER 3.04 OF THE CASTLE ROCK MUNICIPAL CODE CONCERNING THE TOWN'S SALES TAX, BY PROVIDING FOR A SALES TAX CREDIT AGAINST CERTAIN PUBLIC IMPROVEMENT FEES PAID AT THE PROMENADE AT CASTLE ROCK**

**WHEREAS**, the Town of Castle Rock, Colorado (the "Town") has entered into a Public Finance Agreement (the "Public Finance Agreement") with Alberta Development Partners, LLC, a Colorado Limited Liability Company, and Castle Rock Metropolitan District No.1, concerning the finance and construction of certain public improvements in association with the development of a commercial and residential project known as the Promenade at Castle Rock (the "Property"); and

**WHEREAS**, all capitalized terms used herein and not otherwise defined herein shall have the meanings set forth in the Public Finance Agreement; and

**WHEREAS**, pursuant to Section 5.2 of the Public Finance Agreement, the Town Council of the Town has agreed to consider adoption of an ordinance granting a Sales Tax Credit in the amount of one and ten one-hundredths percent (1.10%) against the collection of Taxable Sales to the extent that a public improvement fee in the amount of one and ten one-hundredths percent (1.10%) (the "Credit PIF") has been collected on Taxable Sales occurring within the Property, subject to the terms and limitations set forth in the Public Finance Agreement; and

**WHEREAS**, providing for such Sales Tax Credit against the Credit PIF collected and paid on Taxable Sales occurring within the Property will substantially aid in the finance and development of necessary public improvements that will benefit the residents of the Town and patrons of the Property, and will protect and promote the public health, safety and general welfare of the residents of the Town.

**NOW, THEREFORE, IT IS ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:**

**Section 1. Amendment.** Chapter 3.04 of the Castle Rock Municipal Code, concerning the Town's sales tax, is hereby amended by the addition of a new Section 3.04.150 to read as follows:

**3.04.150 Tax Credit Against Payment of Public Improvement Fees in the Promenade at Castle Rock.**

Notwithstanding any other provisions of this Chapter to the contrary, and in order to implement the provisions of the Public Finance Agreement entered into by the Town of Castle Rock, Alberta Development Partners, LLC, and Castle Rock Metropolitan District No. 1 (the "Public Finance Agreement"), there is hereby granted to each person or entity obligated to pay, collect or remit the sales

tax on the sale or provision of goods or services which are subject to the Town's sales taxes described in this Chapter occurring within the property known as the Promenade at Castle Rock, and more particularly described in Exhibit "A" of the Public Finance Agreement (the "Property"), a tax credit against the collection of the sales taxes as hereinafter set forth. All capitalized terms used in this section and not otherwise defined herein shall have the meanings given to them in the Public Finance Agreement, as amended from time to time. Such tax credit shall be granted in the form of a reduction in the applicable sales tax rate in an amount equal to one and ten one-hundredths percent (1.10%), and shall attach to a particular transaction only to the extent that the Credit PIF revenues are collected and received by the PIF Collection Agent for such transaction. The tax credit shall be automatic and shall take effect immediately upon the occurrence of a Taxable Transaction, but shall be subject to the applicable retailer's remittance to and receipt by the PIF Collection Agent of the Credit PIF revenues in accordance with the Credit PIF Covenant and the Public Finance Agreement (as reflected on the retailer's periodic sales tax report).

Notwithstanding the foregoing, in the event that a Designated Retailer opens a store in the Property prior to January 1, 2025, no sales tax credit shall be granted against any Taxable Sales occurring at any such Designated Retailer.

The sales tax credit granted pursuant this Section shall remain in effect for the period set forth in the Public Finance Agreement and shall thereafter automatically terminate.

**Section 2. Invalidity.** In the event the sales tax credit established herein or the Credit PIF is determined by a final court decision to be unconstitutional, void or ineffective for any cause, retailers shall immediately be required to collect and remit the full Town sales tax as provided in Chapter 3.04 of the Castle Rock Municipal Code.

**Section 3. Change in Tax Rate.** Nothing contained in this Ordinance shall prohibit the Town, after complying with all requirements of law, from increasing or decreasing the Town's sales tax rate.

**Section 4. Effect of Credit, Applicability of TABOR.** The Town Council hereby determines that the creation or termination of this tax credit does not constitute a tax increase, the imposition of a new tax, or a tax policy change directly causing a net tax revenue gain to the Town, and that nothing herein creates a multiple fiscal year financial obligation or other indebtedness of the Town, nor does the tax credit established by this Ordinance and the termination of such credit meet any of the other criteria requiring approval by the electors pursuant to Article X, Section 20 of the Colorado Constitution, also known as the Taxpayer's Bill of Rights (TABOR).

**Section 5. Repealer.** Any bylaws, orders, resolutions, ordinances, or parts thereof, inconsistent with this Ordinance are hereby repealed to the extent only of such inconsistency.

This repealer shall not be constructed to revise any bylaw, order, resolution or ordinance or part thereof, heretofore repealed.

**Section 6. Effective Date.** The amendment to Chapter 3.04 of the Castle Rock Municipal Code shall become effective on the later of: (i) thirty (30) days following publication of this Ordinance, and (ii) the Effective Date of the Agreement.

**Section 7. Severability.** If any part or provision of this Ordinance or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provisions or application, and to this end the provisions of this Ordinance are declared to be severable.

**Section 8. Safety Clause.** The Town Council finds and declares that this Ordinance is promulgated and adopted for the public health, safety and welfare and this Ordinance bears a rational relation to the legislative object sought to be obtained.

**APPROVED ON FIRST READING** this \_\_\_\_ day of \_\_\_\_\_, 2013 by a vote of \_\_\_\_ for and \_\_\_\_ against, after publication in compliance with Section 2.02.100.C of the Castle Rock Municipal Code; and

**PASSED, APPROVED AND ADOPTED ON SECOND AND FINAL READING** this \_\_\_\_ of \_\_\_\_\_, 2013 by the Town Council of the Town of Castle Rock, Colorado, by a vote of \_\_\_\_ for and \_\_\_\_ against.

**ATTEST:**

**TOWN OF CASTLE ROCK**

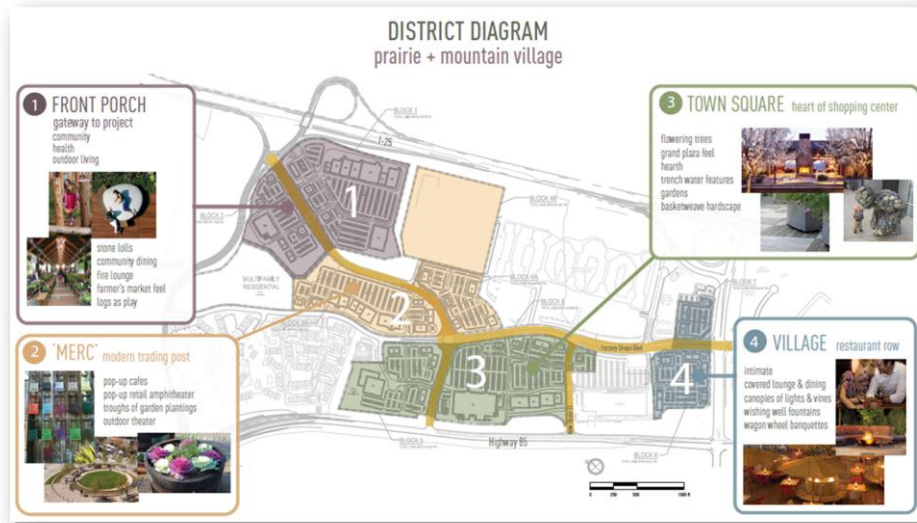
\_\_\_\_\_  
Sally Misare, Town Clerk

\_\_\_\_\_  
Paul Donahue, Mayor

**Approved as to form:**

\_\_\_\_\_  
Robert J. Slentz, Town Attorney

## Exhibit E – Project Description



This description summarizes the Castle Rock Vision Book presented to the Town Board on March 7, 2013.

The Developer's plans for The Promenade at Castle Rock propose a contemporary interpretation of prairie and mountain village features, creating a rustic, intimate and casual sense of place. The use of unique districts will aid in establishing the proposed development as a local gathering place as well as a shopping destination.

Proposed assemblages of retail concepts will attract crowds of visitors at all hours of the day. Distinctive architecture, evocative of the local heritage, and beautiful landscaping with native flowers, grasses & shade trees, will invite visitors to lounge, dine, and stroll.

The Development is proposed to include a natural grocer, service, entertainment, specialty and boutique shops, local and national restaurants and smaller anchor tenants. Districts are proposed to contain memorable public gathering spaces, signature amenities and native landscaping characteristic of Colorado.

The Development will have up to 900,000 square feet of retail space and approximately 350 for rent apartments on approximately 200-acres. The Developer estimates that the total project cost will be approximately \$180 million, although such estimates are subject to change based upon finalized construction pricing. Proposed architecture and design quality will be on par with Developer's previously completed projects including The Promenade at Denver West and Cornerstar.

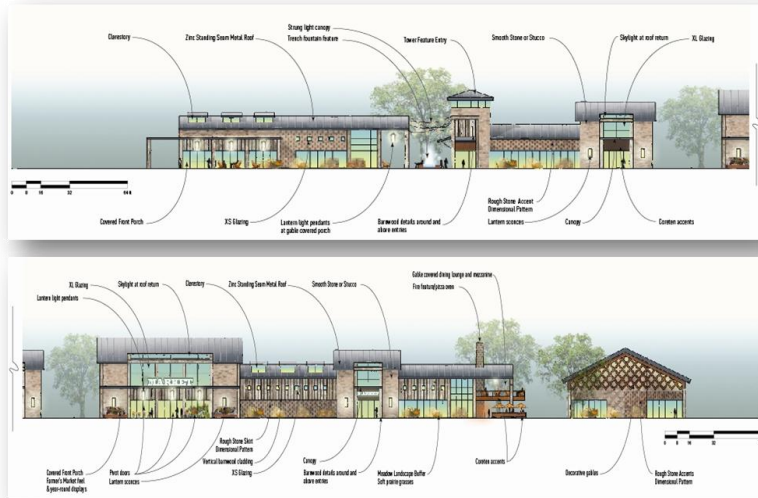


Exhibit F -- North Meadows Extension: New I-25 Interchange Concept

