

**FIRST AMENDMENT TO THE RIDGE ESTATES ANNEXATION
AND DEVELOPMENT AGREEMENT**

DATE: _____, 2021.

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

MAPLE GROVE LAND LIMITED PARTNERSHIP, a Minnesota limited partnership, **RICHARD PUTNAM**, and **WAYNE E BROWN FAMILY, LLC**, a Minnesota limited liability company, and **ROCK CLIFF II, LLC**, a Minnesota limited liability company, 1175 Crystal Valley Parkway, Castle Rock, CO 80104 (collectively, “Owner”).

RECITALS:

A. Town and Owner are parties to the Ridge Estates Annexation and Development Agreement dated June 16, 2020 and recorded in the public records of Douglas County on June 29, 2020, at Reception No. 2020056847 (the “Development Agreement”).

B. The Parties desire to amend the Development Agreement regarding the design and construction of the Enhanced Water Improvements to serve and benefit the Ridge at Crystal Valley and Bell Mountain Ranch developments.

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

Section 1. Amendment. Article VI of the Development Agreement is amended in its entirety to read as follows:

**ARTICLE VI
WATER AND WASTEWATER**

6.01 Water System Improvements. This Section 6.01 shall govern unless the Town proceeds under Section 6.02. If this Section 6.01 is in full force and effect, Owner, at its sole expense, may design and construct the necessary Tan Zone and Green Zone water system improvements (“Water System Improvements”) required to serve (i) the Property, and (ii) Parcel PA15E, Crystal Valley Ranch PD (the “CV Parcel”). These improvements are referred to as the “Base Water Improvements.” The Base Water Improvements include, but are not limited to, a water storage tank, pump station (“Pump Station”), back-up power source, distribution pipes, valves and related appurtenances. Owner has an interest in the CV Parcel. Consequently, it is benefited by sizing the Base Water Improvements of sufficient capacity to also serve the CV Parcel. The Town will not be obligated to review or approve construction plans for Base Water

Improvements unless and until the Town's option to require the "Enhanced Water Improvements" under Section 6.02 lapses by its terms. If Owner designs and constructs the Base Water Improvements, and thereafter any party desires to design and construct the Enhanced Water Improvements (as defined below) or if the Base Water Improvements are used to provide water service to the Bell Mountain Ranch Filings 1-A and 1-B and Bell Mountain Ranch Filing No. 2, Douglas County, Colorado (collectively, "BMR"), then, prior to the commencement of such construction, the Town shall pay Owner an amount equal to seventy percent (70%) of the cost of only those Base Water Improvements that are actually used to provide water service to BMR.

6.02 Enhanced Water Improvements. This Section 6.02 shall apply in lieu of Section 6.01, if the Town enters into the BMR Water Service Agreement (as defined below) prior to December 31, 2021 (the "Election"). The Town shall be deemed to have entered into the BMR Water Service Agreement upon final approval thereof by the Town Council. If the Election fails to occur, this Section 6.02 shall be of no force or effect and the Parties will proceed under Section 6.01.

The Town anticipates entering into an Intergovernmental Agreement (the "BMR Water Service Agreement") with the Consolidated Bell Mountain Ranch Metropolitan District ("CBMRMD") to provide water service to the BMR. Upon the Election, certain of the Base Water Improvements will need to be enlarged or modified to accommodate the additional components and/or hydraulic capacity required to service BMR. The Water System Improvements necessary to serve (i) the Property, (ii) the CV Parcel, and (iii) BMR are referred to as the "Enhanced Water Improvements." Except in the event of a Termination Event (defined below), the Enhanced Water Improvements will be constructed by the Town after design by Owner. The Town covenants that the BMR Water Service Agreement, once approved by the Town Council, will bind the Town to the obligations described in this Section 6.02, subject only to the occurrence of either of the following on or before June 30, 2022 (a "Termination Event") (i) BMR terminates the BMR Water Service Agreement because the portion of the Lowest Qualified Bid (defined below) related to Enhanced Water Improvements used to provide water service to BMR exceeds \$2,500,000.00, or (ii) if the Douglas County District Court has not issued a Dissolution Order dissolving the existing Bell Mountain Ranch Metropolitan District to facilitate the consolidation. If a Termination Event occurs, this Section 6.02 will no longer be of any force and effect and the design and construction of the Base Water Improvements will proceed in accordance with Section 6.01. Should this occur, the Town will reimburse Owner for the design costs associated with the Enhanced Water Improvements in accordance with the allocation between the Town/BMR and the Property/CV Parcel as shown in the attached *Exhibit 6*. Notwithstanding any provision of this Agreement to the contrary, on or before June 30, 2022, Owner may elect, in its sole and absolute discretion, to proceed under Section 6.01 with written notice to Town, in which event this Section 6.02 will be of no force or effect. If Owner elects to proceed under Section 6.01 prior to June 30, 2022, Town will be under no obligation to reimburse Owner in the event that any Base Water Improvements are used in the future to provide water service to BMR.

The design and construction costs of the Enhanced Water Improvements and any costs incurred in the acquisition of any easements associated therewith shall be allocated between Owner and Town in accordance with the attached ***Exhibit 6***. Owner shall retain a professional engineer licensed in the State of Colorado to design the Enhanced Water Improvements (the “Design”). Upon completion, the Design shall be submitted to the Town and any other governmental agencies with jurisdiction over the Enhanced Water Improvements for approval in accordance with Section 6.04. Following such approval, the Town shall proceed with the bidding and construction of the Enhanced Water Improvements. Construction of the Enhanced Water Improvements shall be competitively bid by the Town, using the Town’s normal bidding processes. Town shall select the “Lowest Qualified Bid” in accordance with the Town’s normal contracting procedures.

Prior to the commencement of construction of the Enhanced Water Improvements, pursuant to an escrow agreement containing customary terms and conditions, Town and Owner shall jointly fund into escrow their respective shares of the construction and easement acquisition costs in accordance with the cost allocation percentages set forth in ***Exhibit 6***. With funding of the construction escrow, Town shall pay to Owner the Town’s share of the Design costs. Disbursements from the construction escrow to the contractor shall require joint approval of Town and Owner.

6.03 Construction and Maintenance Easements. If the Election occurs, and Section 6.02 is in full force and effect, within a reasonable time after July 1, 2022, Owner shall dedicate to the Town such interests in the Property as may be sufficient to construct the Enhanced Water Improvements in accordance with the Design. Town shall obtain all other easements located outside of the Property as may be necessary to construct the Enhanced Water Improvements; provided that any third-party costs incurred by the Town in obtaining such easements shall be reimbursed by Owner from the escrow in accordance with ***Exhibit 6***, but in no event shall such reimbursement exceed \$200,000.00. If Owner’s portion of easement costs exceed \$200,000, and Owner determines not to pay the additional costs, the Town may, at its sole option, abandon construction of the Enhanced Water Improvements, in which case, any additional easements deeded to the Town by Owner for construction of the Enhanced Water Improvements shall be quitclaimed back to Owner with the exception of the Waterline Easement described in the attached ***Exhibit 4***. Should the construction of the Enhanced Water Improvements proceed in accordance with Section 6.02, the Town shall quitclaim to Owner its interest in the Waterline Easement within a reasonable time after July 1, 2022.

6.04 Governmental Approvals. Construction of the Tan Zone Improvements must be approved by governmental agencies other than the Town. Owner and Town shall cooperate to make application and obtain approval of such governmental agencies for the Tan Zone Improvements. The Property will not qualify for the issuance of building permits until (i) all necessary approvals by other governmental agencies have been issued, and (ii) the Tan Zone Improvements have been constructed by Town. In the event approval for the Tan Zone Improvements are denied and all reasonable appeals from such adverse decision are exhausted, which appeals shall be at the joint expense of Owner and the Town in accordance with ***Exhibit 6***,

Owner shall grade and revegetate the Property pursuant to an erosion control plan approved by the Town. Any subdivision development which otherwise may be undertaken under the Town Regulations prior to approval of the Tan Zone Improvements is entirely at the risk of Owner.

6.05 Tan Zone Pump Station Operational Subsidy. The costs the Town will incur in the operation and maintenance of the Pump Station are supplemental to the usual and customary costs incurred by the Town to serve areas within its existing service area. In order to defray such supplemental costs, Owner shall pay to Town \$188,657, which represents the agreed present value of the future operation and maintenance costs of the Pump Station (“Operational Subsidy”). Concurrently with and as a condition to recordation of the first Plat, Owner shall pay the Operational Subsidy to Town.

6.06 Green Zone Water System Improvements. The Property must be served by the Green Zone water supply system. Owner, at its sole expense, shall be responsible for the design and construction of the necessary water supply improvements to deliver Green Zone water to the Pump Station.

Section 2. Easement Termination. If Section 6.02 is in full force and effect or if Owner elects to proceed under Section 6.01 on or before June 30, 2022, then Exhibit 4 to the Development Agreement, the Temporary Easement Agreement dated June 16, 2020, by and between Owner and Town, and the Easement Agreement dated June 16, 2020, by and between Owner and Town, will be automatically deleted in their entirety and any rights created by such easements will be terminated; provided that, as a condition of such termination, Owner shall ensure that the Town will have access to the Base Water Improvements of sufficient nature as would allow the Town to provide water service to BMR in the event it should decide to undertake such service at a future date.

Section 3. Removal of Platting Restrictions. Section 7.02 of the Development Agreement is hereby deleted in its entirety.

Section 4. Ratification. In all other respects, the Development Agreement shall remain in full force and effect.

Section 5. Recordation. This First Amendment to the Ridge Estates Annexation and Development Agreement shall be recorded in the public records of Douglas County, Colorado.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGES TO FOLLOW]**

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Michael J. Hyman, Town Attorney

COUNTY OF)
) ss.
 STATE OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Lisa Anderson as Town Clerk and Jason Gray as Mayor for the Town of Castle Rock, Colorado.

Witness my official hand and seal.
My commission expires: _____.

(S E A L)

Notary Public

MAPLE GROVE LAND LIMITED PARTNERSHIP
a Minnesota limited partnership

By: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2021 by _____ as _____ for Maple Grove Land Limited Partnership, a Minnesota limited partnership.

Witness my official hand and seal.
My commission expires: _____

(S E A L)

Notary Public

RICHARD PUTNAM

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by Richard Putnam.

Witness my official hand and seal.
My commission expires: _____

(S E A L)

Notary Public

WAYNE E. BROWN FAMILY, LLC, a
Minnesota limited liability company

By: _____

Its: _____

STATE OF _____)
) ss.
COUNTY OF _____)

The foregoing instrument was acknowledged before me this _____ day of _____, 2019 by _____ as _____ for Wayne E. Brown Family, LLC, a Minnesota limited liability company.

Witness my official hand and seal.
My commission expires: _____

(S E A L)

Notary Public

ROCK CLIFF II, LLC, a Minnesota limited liability company

By: _____

Its: _____

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, 2021 by _____ as _____ for **ROCK CLIFF II, LLC**, a Minnesota limited liability company.

Witness my official hand and seal.
My commission expires: _____

(S E A L)

Notary Public