

OFFICIAL RECORDS
DOUGLAS COUNTY CO
CAROLE R. MURRAY
CLERK & RECORDER
RECORDING FEE:

\$116.00
23 PGS

2002094310
09/16/2002 11:58 AM

**THE ARBORS ANNEXATION AND
DEVELOPMENT AGREEMENT**



2002094310 23 PGS

DATE: June 24, 2002.

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

23p
116-

BART RICE and SHERI RICE, c/o Bart Rice, P.C., 102 E. Pikes
Peak, 5th Floor, Colorado Springs, Colorado 80903 (collectively,
Owner).

23p

MORTGAGEE: **World Savings and Loan Association**

UNOFFICIAL COPY

RECITALS:

Owner has petitioned the annexation of the property described in the attached **Exhibit 1** (Property). The Property has previously been annexed to the Town, however the concurrent PD zoning of the Property was not finalized and has lapsed under the terms of Town regulations. This agreement is authorized by and is in conformance with the Municipal Annexation Act of 1965, as amended. Owner acknowledges that this agreement contains reasonable conditions and requirements to be imposed upon the development of the Property, and that these restrictions are imposed to protect and enhance the public health, safety and welfare of current and future residents of the Town, including those residents and occupants of the Property.

COVENANTS:

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

**ARTICLE I
DEFINITIONS**

1.01 Defined Terms. Unless the context expressly indicates to the contrary, the following words when capitalized in the text shall have the meanings indicated:

Agreement: this Arbors Annexation and Development Agreement and any amendments to this Agreement.

Charter: the Home Rule Charter of the Town, as amended.

Code: the Castle Rock Municipal Code, as amended.

Development Exactions: the fees and charges imposed by Town under the Town Regulations on development, including System Development Fees.

Development Plan: The Arbors Preliminary PD Zoning Regulations, Preliminary PD Site Plan, the underlying PD zoning ordinance in the Code, and the associated utilities and drainage and transportation master plans.

Facilities: the infrastructure prescribed by Town Regulations necessary to furnish Municipal Services and Public Utilities to the Property, including the infrastructure required to extend or connect the Facilities to complimentary infrastructure off-site of the Property.

Final Site Plan: a Final PD Site Plan subsequently approved by the Town for the Property through the zoning process.

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

Owner: the person(s) in title to any portion of the Property, according to the records of the Douglas County Clerk and Recorder. The use of the singular "Owner" shall refer to all Owners of the Property, unless the context of the Agreement otherwise limits the reference. As of the date of execution of this Agreement, the Owner of the Property is Bart Rice and Sheri Rice.

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

Plat: a final subdivision plat of the Property.

Preliminary Site Plan: the Arbors Preliminary PD Site Plan recorded at Reception No. 2002094309 of the public records of Douglas County, Colorado.

Property: the real property located in Douglas County, Colorado, described in the attached *Exhibit 1*.

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

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

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

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

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

Water Rights: the rights to all Denver Basin ground water underlying the Property, adjudicated in 96-CW-147, Water Division 1.

Certain other terms are defined in the text of the Agreement and shall have the meaning indicated.

1.02 Cross-reference. Any reference to a section or article number, without further description, shall mean such section or article in the Agreement.

UNOFFICIAL COPY
ARTICLE II
APPLICATION AND EFFECT

2.01 Binding Effect. The Agreement shall apply to the Property and its covenants shall be binding upon the successors and assigns of the parties in the same manner and to the same effect as if such successors were signatories to the Agreement. The parties acknowledge that the Property is both benefited and burdened by the mutual covenants of the Agreement, and such covenants shall constitute real covenants binding upon successors in interest to the Property.

2.02 Application to Mortgagee. A mortgagee or other lienholder who subordinates its record interest in the Property to this Agreement shall not be responsible for performance of any of the affirmative covenants placed on Owner under this Agreement, until and unless such mortgagee acquires title to the Property and commences development of the Property.

2.03 Owner Responsibility. The Owner shall have the ultimate responsibility for performance of this Agreement, irrespective of whether development activity on the Property is undertaken or pursued by a development entity, owned or controlled, in whole or in part, by the Owner, or by a third party undertaking the development activity on behalf of and/or with the authorization of the Owner. Town shall accept performance of the covenants of the Agreement from a developer on behalf of Owner, unless such performance requires the conveyance, encumbrance or security of the Owner's interest in the Property, in order to effectuate such performance or to

provide surety for the performance, in which event the express consent or joinder of the Owner shall be required.

2.04 Town Regulations. Town Regulations shall apply to the Property in the same manner and effect as within other areas of the municipality. Unless expressly stated to the contrary in the Agreement, the Agreement shall not in any manner restrict or impair the lawful exercise by the governing body of the Town of its legislative, quasi-legislative or administrative powers and responsibilities as applied to the Property, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of the Agreement. When the Agreement calls for compliance with an ordinance or other Town Regulations, the operative Town Regulations in effect at the time such compliance is required shall govern, unless the provisions of the Agreement expressly provide to the contrary. Any addition or modification to the Town Regulations with application to the Property, shall be applied and enforced by Town on a Town-wide basis, including other development areas of the Town, subject to such limitations on application and enforcement which are imposed under existing contractual arrangements between Town and third parties.

ARTICLE III GENERAL OBLIGATIONS

3.01 Municipal Services. Town shall provide the Property with Municipal Services at an equivalent service level as provided elsewhere within its municipal boundaries, provided that the portion of the Property for which Municipal Services are requested has been developed in substantial compliance with the Agreement and Town Regulations. Town reserves the right to contract with other governmental or private entities for delivery of Municipal Services to the Property, provided such service level is comparable to that provided by the Town in its proprietary capacity. The respective obligations of the parties for development of infrastructure necessary for provision of the Municipal Services to the Property is addressed in Article V.

3.02 Permitted Development. The development of the Property shall be in accordance with the Agreement and Town Regulations, and applicable state and federal law and regulations. Subject to the further provisions of 3.04 and Article VIII, Town shall allow and permit the development of the Property, upon submission of proper application, payment of fees, exactions and charges imposed by the Town

Regulations, including Development Exactions, and compliance with conditions precedent to permitting imposed by the Agreement or Town Regulations. Town shall not unduly delay or hinder the development of the Property (such as refusing to timely process, review and act upon development applications), nor shall Town unreasonably withhold its consent to or approval of a development request or permit. Town shall coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under this Agreement.

3.03 Disconnection from Fire District. Owner agrees to file a Petition for Disconnection from the Castle Rock Fire Protection District with the Douglas County District Court upon execution of this Agreement, as the Property shall then receive fire protection services based on its location within Town boundaries.

3.04 Growth Planning. The Town may be a signatory to the August 20, 2000 Mile High Compact, an agreement between metropolitan area local governments (Compact). The Compact endorses certain constraints and limitations on the extent of urban development in the metropolitan area and within specific local jurisdictions, which are contained in the Denver Regional Council of Government's Metro Vision 2020 (2020 Plan). The 2020 Plan allocates total square-mileage urban area to the Town, and through the Compact the Town will commit not to permit urban development in excess of the applicable limits in the Plan, as the Plan may be modified and adjusted from time to time.

Given the urban area allocation made to the Town under the 2020 Plan, the Town does not anticipate that the Compact or 2020 Plan will restrict development in the Town in the near-term. However, development of the Property could be deferred or otherwise constrained as a result of limitations on urban development imposed by the Compact, the 2020 Plan (as amended or supplemented in the future) or any other regional system restricting the area and/or extent of urban development (collectively, Growth Plans). In no event shall the Town's restriction of development of the Property as necessary to comply with applicable Growth Plans (as reasonably determined by Town) constitute a breach of this Agreement or otherwise give rise to a legal or equitable claim by Owner against Town. The unconditional acceptance by Owner of the Compact and 2020 Plan and the potential limitation on development of

the Property imposed by Growth Plans is a material inducement to the Town's annexation and zoning of the Property.

ARTICLE IV WATER RIGHTS

4.01 Owner Obligation. It is the obligation of Owner to acquire or develop water resources, sufficient to support Town's obligation to provide a municipal water supply to the Property in accordance with this Agreement and Town Regulations, as the same may be amended from time to time. Town shall have no obligation to issue land use approvals for the Property unless Owner is in compliance with the provisions of this Article IV.

4.02 Conveyance. Concurrently with recordation of this Agreement, Owner shall convey and transfer to Town the Water Rights, free and clear of any liens and encumbrances. Post-conveyance, Owner shall execute such additional instruments of conveyance and other documents which Town reasonably determines necessary to grant to the Town the exclusive ownership, management and control of the Water Rights. Should it subsequently be determined that marketable title to any portion of the Water Rights did not vest in Town with the conveyance, the Water Credit established in 4.04 shall be reduced accordingly.

4.03 Augmentation Plan. The Lower Dawson and Denver not-nontributary water will require an augmentation plan prior to its use by the Town (Augmentation Plan). Owner at their election and expense, may adjudicate the Augmentation Plan and Town, as legal owner of the Water Rights, will join in such application as a co-applicant. Town shall permit Owner's designation of return flows from the municipal use of the Water Rights as a replacements for depletion during pumping; however, it shall be the obligation of Owner to obtain a water resource (other than the Water Rights or any other Town water resource) for replacement of post-pumping depletions, as may be required in the decreed Augmentation Plan. Provided further, if Owner has not obtained a final decree for the Augmentation Plan by December 31, 2007, thereafter all right, title and interest in the rights to the Lower Dawson and Denver shall become the exclusive property and interest of the Town, and no development credit shall be given to the Property in the event Town should eventually obtain a decree for the Augmentation Plan.

4.04 Water Credit. The initial Water Credit of 3 SFE is established as

follows:

Water Source	Decreed Annual Withdrawal (AF)			Conversion to SFE
Lower Dawson	1.7			0
Denver	3.6			0
Arapahoe	2.4			2.18
Laramie-Fox Hills	1.2			1.09
Total				3 SFE

UNOFFICIAL COPY

An SFE is the measure of average annual wholesale water production which must be developed to meet the imputed demand from a single-family residence under the Town Regulations. Consequently, a Water Credit of 1 SFE represents that the holder has satisfied the Town's water dedication requirement for one single-family residence or the equivalent demand attributable to multifamily, commercial or irrigation uses under the Town Regulations.

4.05 Required Water Sources. If the Water Credit is exhausted prior to full development of the Property, Owner shall be required to provide additional water resources or pay cash-in-lieu of water rights (if then authorized under the Town Regulations), in accordance with Town Regulations then in effect. Absent compliance with Town Regulations on water rights dedication, Town shall not be obligated to approve further development within the Property after exhaustion of the Water Credit.

4.06 Application of Water Credit. The Water Credit established shall be reduced (i.e. debited):

- (a) at the time of Plat approval of the Property by the total SFE assigned to all uses identified within the Plat; and
- (b) at the time of Final PD Site Plan approval (if so identified on the final PD site plan), or otherwise at the issuance of the applicable permit, for any use not ascertained at Plat approval by the amount of the SFE assigned to such use under the Town Regulations.

In order to estimate the water demand at the time of final plat approval, Town may apply an empirical planning formula based upon platted area and debit the Water Bank accordingly. However, when all potable and irrigation tap sizes are known, the Water Bank shall be adjusted to reflect SFE assignment in accordance with Town ordinances.

4.07 Water Bank. In order to properly account for the Water Credit, Town shall administratively establish, maintain, and update an account, designated The Arbors Water Bank. The Arbors Water Bank shall be credited upon the conveyance of the Water Rights as provided in 4.02. The Arbors Water Bank shall be debited in accordance with 4.06. The Arbors Water Bank shall be formatted as follows:

UNOFFICIAL COPY

DATE	ENTRY	SFE DEMAND	SFE SUPPLY
	Conveyance of Water Rights		3
	Final Subdivision Plat (Final PD Site Plan)	XX	3-XX
	Net Water Credit		YY

With any entry made by Town, Owner shall receive notification in writing, and any objection to such entry shall be reviewed by the Town, and corrected as appropriate. Any objection not resolved to the satisfaction of Owner at the administrative level, shall be referred to a mutually acceptable independent water engineer whose determination made in accordance with this Agreement shall be final and binding.

4.08 Ownership and Transfer of Water Credit. The Water Credit shall be applied in accordance with the Agreement on a "first-come, first-served" basis to approved development within the Property. The Water Credit may not be assigned or transferred for use on other properties, in whole or in part, until the total water demand for the Property at full development is determined, the Water Credit has been applied to meet such demand, and a "surplus" Water Credit in the Water bank remains. Thereafter, the surplus Water Credit may be transferred by Owner, or its assignee of record (irrespective of whether Owner then has any interest in the

Property) to satisfy the Town's water dedication requirements on other properties, subject to the following terms and restrictions:

- (a) the property to which the Water Credit is assigned must be located within the corporate limits of the Town and such property can be legally and physically served through the Town's water system;
- (b) the yield of such Water Credit to satisfy the water dedication requirements of such property shall be determined by the applicable annexation or development contract and/or Town ordinance in effect at the time of transfer;
- (c) the transfer shall be evidenced by a duly acknowledged instrument executed by the transferor (and all mortgagees and lienholders, if any), specifying the number of SFE transferred, and the property to which the Water Credit is to be transferred. Such assignment shall be binding upon Town only upon receipt by Town of a recorded copy of an instrument substantially in conformance with these requirements. In the absence of compliance, Town may disregard a purported assignment. Upon written request, Town will confirm in writing whether a proposed transfer will be in substantial compliance and binding upon Town, in accordance with this section.

4.09 Limited Purpose. The Water Credit is applied to satisfy the Town's water rights dedication requirements. Capital recovery charges, such as System Development Fees, are separately imposed by the Town as a condition to the right to connect to the municipal water system.

ARTICLE V FACILITIES DEVELOPMENT

5.01 Responsibility. Development of the Facilities shall be the exclusive obligation of Owner, and Owner shall bear the cost of planning, design, construction and financing of the Facilities and all other related and incidental activities. Facilities shall be developed in strict accordance with Town Regulations and the specific provisions of this Agreement.

5.02 Subdivision Improvements Agreement. The Town Regulations require that a subdivider enter into a Subdivision Improvements Agreement (SIA) at the time of approval of a Final Plat. The SIA addresses with greater specificity the Facilities to be constructed or acquired to service the Plat and the financial guarantees to assure construction of the Facilities. Unless modified in the SIA, the

provisions of this Article V will apply to the development of such Facilities, irrespective of whether or not reference to this Article V is made in the SIA.

5.03 Water Main Extensions. Owner (at its cost) is required to connect to the water main currently in Wolfensberger Road.

5.04 Wastewater Collection. As a condition to connection to the Town's wastewater collection system, Owner (at its expense) shall construct a wastewater collection main of up to 12-inches in diameter (as specified by Town), from the west boundary of the Property, easterly in the Wolfensberger Road right-of-way to the point of connection to the existing Town line in Wolfensberger Road and Auburn/Red Hawk Drive (Main). In the event that an engineering analysis provided by Owner demonstrates that a wastewater collection main less than 12-inches in diameter is sufficient to serve the Property assuming the Property develops in the manner which would result in the maximum wastewater flows, then the Owner shall construct the Main at the smaller diameter.

Town shall not permit properties that are subsequently annexed to the Town to use the Main without such property owners reimbursing the Owner for an equitable and pro-rata share of the cost of construction of that portion of the Main extending east from the easterly Property line, as such share is reasonably determined by Town based upon recognized and established engineering criteria. The proportionate share shall be based on Owner's actual and bona fide cost of construction of the off-site portion of the Main without interest. In addition, Owner shall provide Town with an engineering analysis demonstrating that there will be sufficient capacity in the segment of the wastewater main between Auburn Drive and Prairie Hawk Drive, after taking into account the capacity reserved to the Castle Highlands development, which constructed such segment. In the event there is insufficient capacity, Owner shall be required to construct additional line capacity as reasonably determined by Town to remedy such insufficiency. Except as set forth in this Agreement, Owner shall not be required to participate in the cost of any other off-site Facilities, other than to connect the Property driveway access to Wolfensberger Road at Owner's expense.

**ARTICLE VI
TRANSPORTATION IMPROVEMENTS**

6.01 Right-of-Way Dedications. Concurrently with and as a condition to the Town approval and recordation of the Development Plan and this Agreement, Owner shall convey to Town by special warranty deed, free and clear of liens and encumbrances, the parcel necessary to provide 60 feet of right-of-way from the centerline of Wolfensberger Road northerly to the Property boundary, as described in the attached **Exhibit 2** (ROW Parcel). In addition, Owner shall convey to Town a permanent easement for roadway and/or other public purposes over the ten (10) feet of the Property adjacent to the ROW Parcel (Easement) concurrently with the first Plat of the Property. The legal description of the Easement is attached as

Exhibit 3.

The Town acknowledges that the ROW Parcel is greater than the dedication required under the Code to provide vehicular or pedestrian access to the Property. Although Owner shall not be compensated for the ROW Parcel, the Town acknowledges the voluntary dedication of the ROW Parcel and will execute an appropriate tax form (such a IRS Form 8283, noncash charitable contributions) acknowledging the receipt of the contribution by the Owner at the time the conveyance takes place. Town's execution of such tax form does not constitute any representation or warranty as to the tax treatment which may be given to the donation of the ROW Parcel, and should the conveyance of the ROW Parcel found not to be a qualifying charitable deduction, such determination shall not affect the finality of the conveyance of the ROW Parcel to the Town, at no cost to the Town.

6.02 Wolfensberger Access. The Property shall be entitled to a single, full movement access onto Wolfensberger Road, the location of which shall be designated by Town at the time of Final Site Plan approval. The Town reserves the right to modify the full movement nature of the access as necessary in the interest of the public health and safety, based on traffic flow on Wolfensberger Road and related driveway and intersecting street traffic and turning movements.

**ARTICLE VII
PUBLIC LANDS**

7.01 Cash-in-Lieu. No significant sites for Public Lands are designated on the Development Plan. Consequently, Owner shall pay to Town cash-in-lieu of public land dedication, at the time of and as a condition to recordation of the first Plat in accordance with the Town Regulations then in effect.

**ARTICLE VIII
LAND USE VESTING**

8.01 Vesting. Owner has demonstrated that the Development Plan meets the criteria under 15.24.070 of the Code for vesting of property rights by agreement for a term in excess of three years. The Development Plan for the Property shall constitute a "site specific development plan" as defined in C.R.S. §24-68-101, and Chapter 15.24 of the Code, and accordingly vested property rights are established with respect to the Development Plan in accordance with statute and applicable Code provisions, as modified by the specific terms of this Article. Such vesting shall become effective concurrently with the effective date of the ordinance authorizing this Agreement. Pursuant to Section 17.14.050 of the Code the following provision shall be placed on the Preliminary PD Site Plan:

This plan constitutes a site-specific development plan pursuant to Chapter 15.24 of the Castle Rock Municipal Code and §24-68-101, et. seq., C.R.S., and establishes vested property rights through December 31, 2007 (as further provided in the The Arbors Annexation and Development Agreement) from its effective date, to undertake and complete the development and use of the property in accordance with this plan.

8.02 Duration. Property rights in the Development Plan are vested pursuant to Chapter 15.24 of the Code until December 31, 2007 (Vesting Period). During the Vesting Period, the Town shall not take any zoning or land use action which would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay development or the use of the Property in accordance with the Development Plan, except the following actions shall not be precluded during the Vesting Period:

- (a) the enforcement and application of those Town Regulations (in effect at any time during the Vesting Period) which are general in nature and are applicable to all property subject to land use regulation by the Town,

including, but not limited to, Development Exactions, public works and sign regulations, building, fire, plumbing, electrical, and mechanical codes; or

- (b) regional, state or federal regulations and/or agreements including the application of the Grown Plans, as referenced in 3.04.

8.03 Reservation of Legal Challenge. Although Owner will not have a claim against the Town for violation of its vested property rights in the Development Plan as a result of the Town taking one of the actions enumerated in 8.02, Owner reserves the right to challenge the legality of such action on any basis other than contractual breach of this Article.

8.04 Rights in Development Plan. Prior to expiration of the Vesting Period, Owner shall have the right to undertake and complete the development and use of the Property in accordance with the Development. After expiration of the Vesting Period, the Development Plan shall remain valid and effective, as it exists on the date of lapse; however, the vested property rights in the Development Plan shall then terminate. The termination of the vested property rights in the Development Plan shall not affect any equitable right or entitlement, if any, Owner may have to complete the Development Plan under law.

8.05 Effective Date. The effective date of this vesting of property rights is the date the ordinance approving the Development Plan (Ordinance) is effective after its publication in accordance with the Code. The public notice of vesting required under C.R.S., §24-68-103 shall be included in the Ordinance publication. Town shall publish the Ordinance within 14 days of approval of the Ordinance on second reading.

8.06 Subdivision Vesting. Under 16.05.046 of the Code, Plats are deemed “site specific development plans” and may be vested for a period of three years, if so requested by subdivider and the applicable notice requirements of the Vesting Statute and the Code are met. Consequently, any portion of the Property for which a Plat has been approved and vested by Town shall remain vested until the expiration of the three-year Plat vesting period, or the expiration of the Term, whichever date is later.

**ARTICLE IX
DEFAULT, REMEDIES AND DISCONNECTION**

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

9.02 Remedies. In addition to specific remedies provided elsewhere in the Agreement (including Town's right to withhold development approvals), upon default, the non-defaulting party shall have the right to take whatever action at law or in equity appears necessary or desirable to enforce performance and observation of any obligation, agreement or covenant of the defaulting party under the Agreement, or to collect the monies then due and thereafter to become due. In any such legal action, the prevailing party shall be entitled to recover its reasonable attorney's fees and litigation costs from the other party.

9.03 Default Notice. In the event either party alleges that the other is in default, the non-defaulting party shall first notify the defaulting party in writing of such default, and specify the exact nature of the default in such notice. The defaulting party shall have twenty (20) working days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder, provided that (i) such default is capable of being cured; (ii) the defaulting party has commenced such cure within said 20-day period; (iii) the defaulting party diligently prosecutes such cure to completion. If such default is not of a nature that can be cured in such twenty (20) day period, corrective action must be commenced within such period by the defaulting party and thereafter diligently pursued.

**ARTICLE X
GENERAL PROVISIONS**

10.01 Applicable Law. This Agreement shall be construed in accordance with the laws of the State of Colorado.

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

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

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

10.04 Notice. The addresses of the parties to this Agreement are listed below. Any and all notices allowed or required to be given in accordance with this Agreement are deemed to have been given when delivered to the other parties or three (3) days following the date the same is deposited in the United States mail, registered or certified, postage prepaid, return receipt requested, addressed to the other parties at the addresses noted: or such address as is subsequently endorsed in writing, or in the event of transfer of the Property to the address of such grantee as indicated in the recorded instrument whereby such grantee acquired an interest in the Property.

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

OWNER: Bart and Sheri Rice
c/o Bart Rice, P. C.
102 E. Pikes Peak, 5th Floor
Colorado Springs, CO 80903

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

OWNER:

Bart Rice
Bart Rice

Sheri Rice
Sheri Rice

STATE OF COLORADO

)
)
)

ss.

COUNTY OF *El Paso*

The foregoing instrument was acknowledged before me this 13th day of August of 2002 by Bart Rice and Sheri Rice.

Witness my official hand and seal.

My commission expires: _____ My Commission Expires 11-12-2003

UNOFFICIAL

Quality
Notary Public

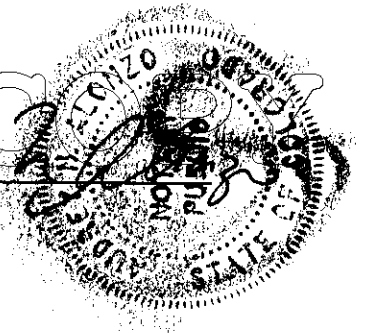


EXHIBIT 1

PROPERTY DESCRIPTION:

A tract of land situated in the Southeast 1/4 of the Southwest 1/4 of Section 3, Township 8 South, Range 67 West of the 6th. Principal Meridian, Douglas County,

Colorado, more particularly described as follows:

Commencing at the Northeast corner of said Southeast 1/4 of the Southwest 1/4 and considering the North line of said Southeast 1/4 of the Southwest 1/4 to bear S89°12'52"W with all bearings contained herein relative thereto;

Thence S89°12'52"W along said North line a distance of 325.00 feet;

Thence S44°12'52"W a distance of 34.60 feet to the point of beginning;

Thence S87°26'14"W a distance of 134.06 feet;

Thence S88°45'34"W a distance of 209.06 feet;

Thence S88°43'22"W a distance of 130.53 feet;

Thence N40°40'27"W a distance of 19.33 feet;

Thence S89°51'31"W a distance of 42.26 feet;

Thence N89°51'46"W a distance of 206.80 feet;

Thence S89°53'19"W a distance of 12.15 feet;

Thence S00°10'46"E a distance of 433.53 feet;

Thence N89°12'52"E a distance of 300.56 feet to the Northwestly

Right-of-Way fence of Wolfensberger Road;

Thence N51°17'34"E along said Right-of-Way fence a distance of 70.95 feet;

Thence N45°14'49"E along said Right-of-Way fence a distance of 154.60 feet;

Thence N47°05'51"E along said Right-of-Way fence a distance of 196.08 feet;

Thence N44°03'50"E a distance of 196.38 feet to the point of beginning;

Containing 5.15 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80401.

UNOFFICIAL COPY

EXHIBIT 2

January 8, 2002
Job No. 94-0946

PROPERTY DESCRIPTION: Right of Way

A tract of land situated in the Southeast ¼ of the Southwest ¼ of Section 3, Township 8 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Northeast corner of said Southeast ¼ of the Southwest ¼ and considering the North line of said Southeast ¼ of the Southwest ¼ to bear S 89°12'52"W with all bearings contained relative thereto;

Thence S 89°12'52"W along said North line a distance of 325.00 feet;

Thence S 44°12'52"W a distance of 34.60 feet;

Thence S 44°03'50"W a distance of 126.36 feet to the true point of beginning;

Thence S 44°03'50"W a distance of 70.02 feet;

Thence S 47°05'51"W a distance of 196.08 feet;

Thence S 45°14'49"W a distance of 154.60 feet;

Thence S 51°17'34"W a distance of 70.95 feet;

Thence S 89°12'52"W a distance of 52.48 feet;

Thence N 49°42'50"E a distance of 405.64 feet to a point of curve;

Thence Northeasterly along the arc of a curve to the right a distance of 125.76 feet, said curve has a radius of 1060.00 feet and a central angle of 6°47'52" to the point of beginning;

Containing 0.27 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.



DAVID E. ARCHER
& ASSOCIATES, INC.
REGISTERED LAND SURVEYOR
105 WILCOX ST.
CASTLE ROCK, CO 80104
PHONE 688-4642

SCALE: 1"=100'

DATE: 8-19-2002

REVISIONS



NE CORNER SE 1/4, SW 1/4, SECTION 3,
T8S, R67W OF 6TH, P.M., DOUGLAS
COUNTY, COLORADO

NORTH LINE SE 1/4, SW 1/4

UNOFFICIAL COPY

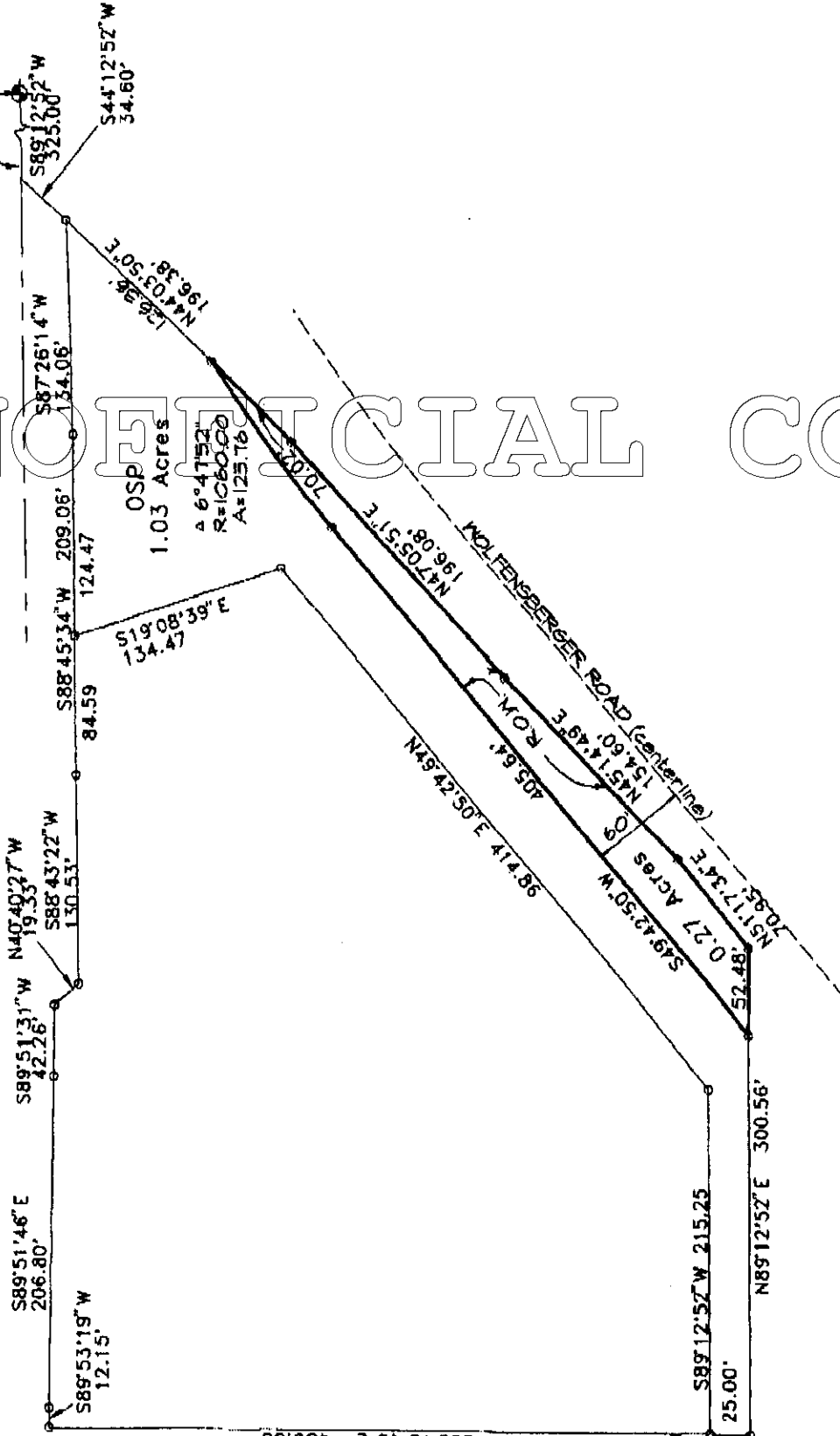


EXHIBIT 3



DAVID E. ARCHER & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS & ENGINEERS

105 Wilcox Street * Castle Rock, CO 80104
PHONE (303) 688-4642 * FAX (303) 688-4675 * darchsurv@aol.com

September 3, 2002
Job No. 94-0946

EASEMENT DESCRIPTION:

(THE ARBORS" 10 FOOT UTILITY & PUBLIC USE EASEMENT)

A tract of land situated in the Southeast ¼ of the Southwest ¼ of Section 3, Township 8 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado more particularly described as follows:

Commencing at the Northeast corner of said Southeast ¼ of the Southwest ¼ and

considering the North line of said Southeast ¼ of the Southwest ¼ to bear S 89°12'52"W with all bearings contained herein relative thereto;

Thence S 89°12'52"W along said North line a distance of 325.00 feet;

Thence S 44°12'52"W a distance of 34.60 feet to the point of beginning;

Thence S 44°03'50"W a distance of 126.36 feet to a point of curve;

Thence Southwesterly along the arc of a curve to the left a distance of 125.76 feet, said curve has a radius of 1060.00 feet, a central angle of 6°47'52" and a cord that bears S 53°06'46"W a distance of 125.69 feet;

Thence S 49°42'50"W a distance of 405.64 feet;

Thence S 89°12'52"W a distance of 15.72 feet;

Thence N 49°42'50"E a distance of 417.77 feet to a point of curve;

Thence Northeasterly along the arc of a curve to the right a distance of 125.84 feet, said curve has a radius of 1070.00 feet and a central angle of 6°44'19";

Thence N 44°03'50"E a distance of 114.69 feet;

Thence N 87°26'14"E a distance of 14.56 feet to the point of beginning;

Containing 0.15 acres, more or less.

This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.

SEP 03 2002

