

198
\$95.00

CONOCO ANNEXATION AND DEVELOPMENT AGREEMENT

DATE: September 25, 1997.

PARTIES: **TOWN OF CASTLE ROCK**, a home rule municipal corporation, 680 North Wilcox, Castle Rock, Colorado 80104 ("Town").

CONOCO, INC., 600 North Dairy Ashford, Houston, Texas 77029 (the "Owner").

RECITALS:

Owner has petitioned the annexation of the property described in the attached *Exhibit 1* ("Property"). 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 of the Property.

COVENANTS:

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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: The Conoco 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.

C.R.S.: Colorado Revised Statutes, as amended.

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

Development Plan: the Zoning Ordinance, Site Plan, the underlying PD zoning ordinance in the Code, and the utilities and drainage master plans which may

subsequently be approved for the Property.

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 or off-site of a particular Plat.

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

Oversizing: the difference between the dimension or capacity reasonably required in any public improvements for the needs of the portion of the Property to be served and the additional dimension or capacity which is required by the Town. For water and wastewater lines the first 12-inches of capacity is presumed to be necessary to service the Property, therefore, no water or wastewater line 12-inches or less in diameter has any Oversizing component.

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 Conoco, Inc.

Petition: the Petition for Annexation filed by Conoco, Inc. with the Town on January 2, 1996.

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

Plat: a final subdivision plat of the Property.

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.

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

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 the 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 groundwater underlying the Property, whether or not adjudicated.

Wholesale Facilities: those Facilities developed by the Town for which the Town imposes System Development Fees, such as water production, treatment and storage, and wastewater treatment and water and wastewater transmission and collection lines and mains in excess of 12 inches in diameter.

Zoning Ordinance: Ordinance No. 97-33 of the Town establishing the zoning classifications for the Property.

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.

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 benefitted and burdened by the mutual covenants of the Agreement, and such covenants shall constitute real covenants binding upon successors in interest to the Property, including any mortgagees or lienholders, irrespective of whether specific reference to the Agreement or its covenants is made in any instrument affecting title to the Property.

2.02 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.

2.03 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 developing 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 the 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. 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 the Agreement or to allow development of the Property, in accordance with the 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.

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. 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 its interest in the unadjudicated Water Rights, including the consent to withdraw all of the groundwater underlying the Property. The title conveyed shall be free and clear of any liens and encumbrances. 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 unadjudicated Water Rights conveyed to Town pursuant to this Agreement. Concurrently with recordation of this Agreement, Owner shall tender to Town the sum of \$10,000 to defray Town's expenses in adjudicating the Water rights, obtaining the Denver aquifer augmentation plan and to compensate the Town for utilization of Town water resources for post-pumping replacements which may be required in a plan for augmentation for the Denver aquifer not non-tributary water. The initial Water Credit shall be computed as follows:

Water Source	Decreed Annual Withdrawal (AF)	Qualified for Credit (%)	Creditable Annual Withdrawal (AF)	Conversion to SFE (.55 AF/SFE)
Denver	3.1	x 100%	= 3.1	5
Laramie-Fox Hills	1.4	x 34%	= .48	1

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 multi-family, commercial or irrigation uses under the Town Regulations.

4.03 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, reasonably acceptable to the Town, which may include water rights associated with other properties within the Town, (provided that the water rights so offered to the

Town will support withdrawal through water production and distribution facilities of the Town then in service). If, after good faith efforts, Owner is unable to obtain such additional water resources, Owner shall pay to Town and Town shall accept the sum of \$8,250 per SFE for the additional Water Credit needed to support development on the Property which SFE, upon payment, shall be credited to the Water Bank (as provided in 4.05). Absent provision of such additional water resources, Town shall not be obligated to approve further development within the Property after exhaustion of the Water Credit.

4.04 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 residential and irrigation 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 issuance of a building permit, for any use not ascertained at final subdivision plat approval by the amount of the SFE assigned to such use.

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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.

4.05 Water Bank. In order to properly account for the Water Credit, Town shall administratively establish, maintain, and update an account, designated the Conoco Water Bank. The Conoco Water Bank shall be credited for the Water Rights as provided in 4.02 and when applicable under 4.03. The Conoco Water Bank shall be debited in accordance with 4.04. The Conoco Water Bank shall be formatted as follows:

CONOCO WATER BANK

DATE	ENTRY	SFE DEMAND	SFE SUPPLY
	Conveyance of Water Rights		6
	Final Subdivision Plat (Final PD Site Plan)		
	Net Water Credit		6

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.

4.06 Ownership and Transfer of Water Credit. The Water Credit constitutes a property interest, held and administered by the Town for the benefit of the Property. 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. Any surplus Water Credit remaining in the Water Bank at full development of the Property shall accrue to the Town.

4.07 Limited Purpose. The Water Credit is applied to satisfy the Town's water rights dedication requirements. The respective rights and obligations of the parties as to the provision of Facilities to withdraw, treat, store and distribute potable water to the property, and the imposition of capital recovery charges by the Town, such as System Development Fees, as a condition to the right to connect to the municipal water system are addressed elsewhere in this Agreement.

4.08 Unified System. Owner acknowledges that the Town will manage the water resources conveyed pursuant to the Agreement as part of its unified municipal water

system, and Town is not restricted by the Agreement, from distributing the potable water produced from the Water Rights to any area of the Town, provided that the water supply available to serve existing and/or proposed development in the Property is not jeopardized by such diversion.

ARTICLE V FACILITIES DEVELOPMENT

5.01 Responsibility. Except for the Wholesale Facilities, 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, the Development Plan, this Agreement and the applicable Plat. Town shall have the obligation to develop Wholesale Facilities necessary to serve approved development on the Property in consideration of payment of the System Development Fees in accordance with Town Regulations.

5.02 Review Process. Prior to the commencement of construction of any Facilities, Plans shall be submitted and approved by the Town. Prior to the submittal of any Plans, Owner shall request a pre-design meeting at which time the scope of the proposed project shall be discussed. Town shall complete the initial review of plans within 60 days of the date of receipt of a complete submittal. Failure of the Town to review the Plans and to respond in writing to the submittal within such time period shall constitute approval by the Town of the Plans as submitted. With re-submittal of complete Plans by Owner, based upon Town critique, Town shall have an additional 30 days to approve, disapprove or make further comment on the submittal. Once the Plans are finally approved by the Town, the Plans shall not be amended except by written change orders, pursuant to consent of Owner and Town, which consent shall not be unreasonably withheld. Town's approval (express or by default) of Plans shall not constitute a waiver or relaxation of the requirements that all Facilities shall be developed in accordance with Town Regulations. Owner shall not undertake the development of Facilities, unless the Plans for the Facilities have been approved in accordance with provisions of this section. Prior to the bidding of any project, Owner shall provide the

Town with all contract documents for the purpose of determining that the documents are consistent with Town Regulations and the terms of this Agreement. Owner shall furnish the Town with all documents relevant to this Section, including but not limited to test results, schedules, change orders and "as-built" drawings, of all Facilities prior to and as a condition of Town's acceptance.

5.03 Acceptance. Upon final completion of the Facilities, Owner shall so notify Town in writing and request inspection and acceptance of the completed Facilities. Written acceptance or rejection of the Facilities shall be given by Town to the Owner within 60 days after the written request for acceptance, provided such inspection may be reasonably accomplished within such period. If such inspection cannot be so accomplished, Town shall, within 60 days after the written request for acceptance, notify Owner in writing as to the additional time required, but in no event to exceed an additional 30 days after the written request for acceptance. Failure of Town to respond to a written request for inspection and acceptance within such 30 day period (or failure to accept or reject the Facilities within the additional time period provided for above) shall constitute acceptance of the Facilities tendered for acceptance. Should acceptance of the Facilities be denied, the nature of rejection shall describe specifically the defects which preclude acceptance. Should Owner or Town desire that the Facilities be placed into service prior to the correction of all deficiencies, responsibilities for maintenance, warranty, operation and correction of deficiencies must be clearly defined by written agreement. In the event Town and Owner are unable to agree as to the modifications needed to be made to any Facility or other public improvement to secure its acceptance by Town, or whether Owner has reasonably completed the cure of any defects or need for modification identified by Town, then such dispute shall be resolved through private arbitration by one qualified independent engineer selected by mutual agreement, or in the event agreement cannot be reached as to one engineer, each party shall select a qualified engineer who shall select a third engineer, in which case the majority decision shall be binding upon the parties. In the event the result of such arbitration is in Owner's favor, the warranty period shall be deemed to have commenced thirty (30) days after the date upon which the Facility was completed. The costs of such arbitration shall be paid by

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the non-prevailing party or the party deemed in error at the conclusion of such arbitration.

5.04 Warranty. Owner shall provide a warranty on the Facilities against defects in materials and workmanship as required under applicable Town Regulations. Town shall not be obligated to accept any Facilities for maintenance until compliance with the applicable acceptance procedure of the Town Regulations is made. Facilities developed in accordance with Town Regulations and the Agreement shall be accepted by Town for perpetual maintenance, unless such maintenance obligation is assumed by a public utility.

5.05 Conveyance. Concurrently with acceptance of the Facilities in accordance with the provisions of 5.03, Owner shall convey to Town his entire interest in the Facilities. If the Facilities have been constructed on properties previously conveyed to the Town, Owner shall convey his interest in the Facilities by warranty bill of sale, and the underlying property by quit claim deed. If the underlying property upon which the Facilities are located has not been previously dedicated or conveyed to the Town, Owner shall convey (or cause to be conveyed by the record owner) such property interest by warranty deed, in addition to the tender of the required warranty bill of sale. The conveyance by deed or by bill of sale shall include Owner's warranties as to marketable title to the property interest conveyed, and the obligation to warrant and defend the title against claims of any and all third parties. The conveyance of the Facilities and associated property shall be free and clear of any liens, encumbrances, easements or rights-of-way which materially interfere with the use and enjoyment of the Facilities by Town. To the extent Owner is required under this section to convey title to the underlying real property in conjunction with transfer of Facilities, Owner shall furnish Town with an ALTA approved standard coverage title insurance commitment at the time of, and as a condition of conveyance, evidencing the ability of the grantor to convey good and marketable title to such property, in accordance with the title standards set forth in this section. Owner shall cause to be paid the premium for such title insurance. The policy shall be in an amount reasonably approximating the fair market value of the property conveyed (exclusive of the development cost of the Facilities located thereon), and Owner shall deliver such policy of insurance to the Town within 30 days after conveyance. Failure to properly convey property interests, in accordance with this

section shall be grounds for denial of acceptance by the Town.

5.06 Cooperation in Facilities Development. Town and Owner shall cooperate in obtaining necessary permits and approvals required by other governmental agencies in order to develop the Facilities. Town shall apply for any such permits or approvals in its name or in the joint names of the Town and Owner, if so required by the governmental agencies.

5.07 Signage. Notwithstanding the provisions of the Town Regulations governing signage, signage on the Property shall be further limited as follows:

- (a) no signage of any nature shall be placed on the north side of buildings; and
- (b) free-standing signs (other than directional signs) shall be limited to two monument signs of not more than eight-feet in height located adjacent to Founders Parkway within 350 feet of the east boundary of the Property.

5.08 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.

ARTICLE VI TRANSPORTATION IMPROVEMENTS

6.01 Financial Participation. Development of the Property will impact the Silver Heights Interchange. Based upon the traffic impact study as provided by Owner, the Property shall participate in the funding of existing and planned improvements to this transportation infrastructure in the amount of \$90,000, which shall be payable concurrently with recordation of this Agreement. The Property shall additionally participate in the funding of planned improvements related to the eventual extension of Allen Street to the east of its current boundary in the amount of \$50,000, which amount shall be payable concurrently with recordation of the first Plat.

6.02 Right-of-Way Dedication. Owner shall convey to Town free and clear of any liens and encumbrances, an approximately .5 acre parcel for the Meadows Boulevard-Founders Parkway Interchange Expansion and .7 acres of right-of-way for Allen Street expansion. The Interchange Expansion parcel shall be conveyed by deed thirty (30) days after notification from Town that the Colorado Department of Transportation ("CDOT") has requested the conveyance or dedicated at the time of first Plat, if that Plat precedes the CDOT request. The Allen Street parcel shall be dedicated on the first Plat.

6.03 Allen Street. At the time of the first Plat and the final PD site plan, Owner shall propose a traffic turnaround or other traffic "calming" feature on Allen Street to encourage destination traffic to the Property to return to Founders Parkway without entering the adjacent residential subdivision.

ARTICLE VII PUBLIC LANDS

7.01 Cash-in-Lieu. Owner shall pay to Town cash-in-lieu of public land dedication, at the time of recordation of the first Plat, the sum of \$82,770 together with interest accruing from January 1, 1999 compounding annually at five percent (5%) per annum thereafter.

ARTICLE VIII DEFAULT, REMEDIES AND DISCONNECTION

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

8.02 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.

8.03 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.

8.04 Referendum and Disconnection. In the event that the annexation of the Property is voided by final action of any court (such action not being associated with a referendum or initiative action), Town and Owner shall cooperate to cure the legal defect which resulted in disconnection of the Property, and upon such cure this Agreement shall be deemed to be an agreement to annex the Property to the Town pursuant to the Municipal Annexation Act. Any such agreement to annex shall be subject to the terms of this Agreement, the Development Plan, and all other documents referenced herein. Owner shall reapply for annexation as and when the Property becomes eligible for annexation as determined by the Town. No right or remedy of Owner for disconnection of the Property from the Town accrues from this Agreement, other than that provided by Section 31-12-119, C.R.S. In the event the Property or any portion thereof is disconnected at Owner's request or by judicial decree, the Town shall have no obligation to serve the disconnected portion of the Property and this Agreement shall be void and of no further force and effect as to the Property and the disposition of Development Exactions paid by Owner to date, and the other payments required to be made by Owner to Town with annexation shall be governed by the Agreement for disconnection or by such judicial decree. If the annexation of the Property or any portion thereof is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended, pending the outcome of the referendum election. If the referendum challenge to the annexation results in

disconnection of the Property from the Town, then this Agreement and all provisions contained herein shall be null and void and of no further effect as applied to the Property only. In such event Town shall return to Owner any Development Exactions, impact fees and fees paid pursuant to this Agreement as paid with annexation, but excluding only filing and review fees paid pursuant to the Town Regulations. If the referendum challenge fails, then Owner and Town shall continue to be bound by all terms and provisions of this Agreement.

ARTICLE IX GENERAL PROVISIONS

9.01 Conditions. This Agreement and the annexation of the Property shall be conditioned upon the performance of requirements contained in Section 4.03. This Agreement shall have no force and effect, and the Town shall have no obligation to complete the ministerial acts required by statute to complete the annexation of the Property, until satisfaction of the Section 4.03 requirements.

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

9.03 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 representative, heirs, successors or assigns.

9.04 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 of 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.

9.05 Notice. The addresses of the parties to this Agreement are as 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 mail, 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
680 N. Wilcox Street
Castle Rock, CO 80104

OWNER: Conoco, Inc.
600 North Dairy Ashford
Houston, Texas 77029

9.06 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.

9.07 Conflicts. If the terms and provisions of this Agreement are in conflict with any other agreement between the Town and the Owner, the terms and provisions of the latest Agreement shall control.

9.08 Verification. The Town and the Owner shall provide the other written verification regarding the status, performance or completion of any action required of the Town or the Owner under the Agreement or by the terms of any other agreement.

9.09 Entire Agreement. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written.

ATTEST:

TOWN OF CASTLE ROCK

Sally A. Misare
Sally A. Misare, Town Clerk

Donald K. Jones
Donald K. Jones, Mayor

Approved as to form:

Robert L. Slentz, Town Attorney

STATE OF COLORADO)

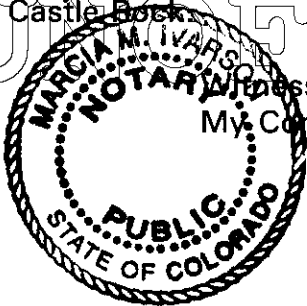
ss.

COUNTY OF)

§ The foregoing instrument was acknowledged before me this 23rd day of JANUARY, 1997 by Sally A. Misare as Town Clerk and Donald K. Jones as Mayor of the Town of Castle Rock.

Witness my official hand and seal.

My Commission expires: 5/8/99



Marcia M. Ivar
Notary Public

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EXHIBIT 1

CONOCO, INC. – Interstate 25 & Founders Parkway, Castle Rock, Colorado

LEGAL DESCRIPTION:

A PARCEL OF LAND SITUATED IN THE NW1/4 OF SECTION 26, T.7S., R.67W., OF THE 6TH P.M., DOUGLAS COUNTY, COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE W1/4 CORNER OF SAID SECTION 26; THENCE S89°48'39"E ALONG THE SOUTH LINE OF THE NORTH1/2 OF SAID SECTION 26 A DISTANCE OF 246.30 FEET TO THE SOUTHEASTERLY CORNER OF THAT PARCEL OF LAND DESCRIBED IN BOOK 156 AT PAGE 360, SAID POINT BEING THE POINT OF BEGINNING; THENCE CONTINUING S89°48'39"E ALONG THE LAST DESCRIBED COURSE A DISTANCE OF 609.21 FEET TO THE SOUTHEASTERLY CORNER OF THAT PARCEL OF LAND DESCRIBED IN BOOK 893 AT PAGE 1066; (THENCE ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 893 AT PAGE 1066 THE FOLLOWING THREE COURSES) THENCE N22°36'26"E A DISTANCE OF 11.51 FEET TO A POINT OF CURVE; THENCE ALONG A CURVE TO THE LEFT WHOSE CHORD BEARS N11°35'47"E A DISTANCE OF 158.53 FEET TO A POINT OF TANGENT; THENCE N00°35'08"E A DISTANCE OF 167.69 FEET TO THE NORTHEASTERLY CORNER OF SAID PARCEL DESCRIBED IN BOOK 893 AT PAGE 1066, SAID POINT LYING ON THE NORTH LINE OF THE S1/2 OF THE S1/2 OF THE S1/2 OF THE N1/2 OF SAID SECTION 26; THENCE N89°43'06"W ALONG THE NORTHERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 893 AT PAGE 1066 AND ALONG SAID NORTH LINE A DISTANCE OF 734.33 FEET TO THE NORTHWESTERLY CORNER OF SAID PARCEL DESCRIBED IN BOOK 893 AT PAGE 1066, SAID POINT BEING THE NORTHEASTERLY CORNER OF THAT PARCEL OF LAND DESCRIBED IN BOOK 536 AT PAGE 470; THENCE S57°46'08"W ALONG THE SOUTHEASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 536 AT PAGE 470 A DISTANCE OF 105.09 FEET TO THE SOUTHERLY CORNER OF SAID PARCEL DESCRIBED IN BOOK 536 AT PAGE 470 LYING ON THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 156 AT PAGE 360; THENCE S32°13'52"E ALONG THE EASTERLY LINE OF SAID PARCEL DESCRIBED IN BOOK 156 AT PAGE 360 A DISTANCE OF 330.00 FEET TO THE POINT OF BEGINNING;

EXCEPT THOSE PORTIONS DEEDED AS STREET R.O.W. BY QUIT CLAIM DEED RECORDED IN BOOK 881 AT PAGE 617 AND BY SPECIAL WARRANTY DEED RECORDED IN BOOK 1168 AT PAGE 375 AND BOOK 893 AT PAGE 1066

AND BOOK 1168 AT PAGE 377.