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LIBERTY VILLAGE DEVELOPMENT AGREEMENT

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2004085670
08/17/2004 09:05 AM

DATE: April 27, 2004

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

M.D.C. LAND CORPORATION, a Colorado corporation, 3600 S.
Yosemite Street, Suite 1000, Denver, Colorado 80237 (Owner).

UNOFFICIAL COPY

RECITALS:

A. The parties have determined that it is in their mutual interest to enter into a revised development contract for the property described in the attached *Exhibit 1* (Property), in conjunction with the concurrent rezoning of the Property.

B. The parties acknowledge 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.

C. In accordance with Chapter 15.24 of the Castle Rock Municipal Code and Article 68 of Title 24 of the Colorado Revised Statutes, the Town has determined the vesting of the Development Plan is justified due to the size and scale of the development, the length of the usual development and market cycle, the manner of the recovery of the landowners' capital investment over the development cycle, and other relevant circumstances.

D. Directors (as defined in 1.01) have ownership interest in a portion of the Property (Directors Tracts) as members of the Board of Directors of the Villages at Castle Rock Metropolitan District No. 6, but do not intend to participate in the development of the Property, which will be undertaken solely by Owner. Owner is the beneficiary of a lien against the Directors Tract. Consequently, Directors join this Agreement for the purposes set forth in this Recital and subject to the exculpation provisions in 12.05, below, and Owner subordinates its interests in the Directors Tract to this Agreement.

Ordinance No. 2004-09
April 27, 2004
Final Form

75163537



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\$ 371.00

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 Liberty Village Development Agreement and any amendments to this Agreement.

Annexation Agreement: the Villages at Castle Rock Annexation Contract dated August 4, 1981, recorded August 11, 1981 in Book 419 at Page 88, as amended by the First Amendment to Annexation Contract dated April 5, 1984, recorded August 12, 1985 at Reception No. 339123, Second Amendment to Annexation Contract dated October 23, 1986, recorded January 29, 1987 at Reception No. 8703066, Third Amendment to Annexation Contract dated January 8, 1987, recorded May 27, 1987 at Reception No. 87185393, and Fourth Amendment to Annexation Contract dated December 10, 1987, recorded January 21, 1988 at Reception No. 8801513; and the Annexation and Development Contract between the Town of Castle Rock and Park Funding Corp. dated December 12, 1985, recorded April 25, 1986 at Reception No. 8605573 of the Records (as it applies to the Property).

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

Code: the Castle Rock Municipal Code, as amended.

Contemporaneous Agreements:

- (1) the First Amendment to Wastewater IGA as referenced in Article VII;
- (2) the Richmond/Pinery Agreement as referenced in 7.04; and
- (3) the District Agreements.

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

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

Development Impact Fees: capital recovery charges imposed under Chapter 3.16 of the Code.

Development Plan: the Liberty Village PD Zoning Regulations, Preliminary Site Plan, the Phasing Plan, the underlying PD zoning ordinance in the Code, the utilities, drainage and open space and park master plans approved for the Property with the Preliminary Site Plan.

Directors: Thomas A. Zieske, James L. Yates, Jerry B. Richmond, John H. Heaney, Theresa Kistner.

District: the Villages at Castle Rock Metropolitan District No. 6.

District Agreements: the Second Amended and Restated Service Plan for the District approved by the Town Council on April 27, 2004, and the Master Intergovernmental Agreement and Intergovernmental Agreement (re: Fire and Emergency Medical Services) between the Town and District dated April 27, 2004.

Effective Date: the date upon which this fully executed Agreement is recorded in the Records.

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 complementary infrastructure off-site of the Property and to serve Public Lands.

Final Site Plan: the zoning document prescribed under 17.60.220 of the Code.

Liberty Village PD Zoning Regulations: the documents entitled "Zoning Regulations for Liberty Village (An Amendment to the Villages at Castle Rock PUD)" as approved the Town Council on April 27, 2004 by Ordinance No. 2004-09.

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

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 (excluding the Directors) is M.D.C. Land Corporation. For the purpose of this Agreement, Richmond American Homes of Colorado, Inc., a Delaware corporation (Richmond) is acting on behalf of Owner.

Park Tract: the 124-acre tract described in the attached *Exhibit 2*.

Phase: the nine (I-IX) distinct development phases for the Property as depicted on the Preliminary Site Plan.

Phasing Plan: the matrix attached as *Exhibit 3*, designating which of the Facilities must be developed and the Public Lands which must be dedicated with each of the several Phases.

Pinery District: the Denver Southeast Suburban Water and Sanitation District d/b/a Pinery Water and Wastewater District.

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 a portion of the Property.

Preliminary Site Plan: the Liberty Village Portion P.U.D/ The Villages of Castle Rock – Infill/ 2nd Amendment Preliminary PD Site Plan approved by the Town Council on April 27, 2004 by Ordinance No. 2004-09, recorded at Reception No. 2004085669 of the public records of Douglas County, Colorado, which permits a maximum of 1245 residential units and 9.6 acres of commercial development, a school site, well sites, a water tank site, park sites and a regional park site.

Property: the real property described in *Exhibit 1*, which includes two parcels concurrently annexed to the Town.

Public Lands: those portions of the Property designated on the Preliminary Site Plan for dedication to the Town or other public entities for parks, recreational areas, public open space, well sites, utilities, public safety and other public purposes, or to the Douglas County School District for educational facilities, given the use designation PLD, OSD and UD, excluding the Park Tract.

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.

Sewer Enterprise: the Town of Castle Rock Sewer Enterprise, established as a government owned business under Ordinance No. 2000-26.

SIA: a Subdivision Improvements Agreement entered into between the Town and subdivider of a Plat, as required by 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 public works regulations, and the provisions of all zoning, subdivision and building codes, as the same may be amended from time to time.

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

Wastewater IGA: the Intergovernmental Agreement between the Town of Castle Rock and the Pinery District dated July 23, 2000

Water Enterprise: the Town of Castle Rock Water Enterprise, established as a government-owned business under Ordinance No. 2000-25.

Water Rights: the right and interest to all Denver Basin ground water underlying the Property, whether adjudicated in 79 CW 365 (Decreed Rights) or unadjudicated (Undecreed Rights). The Decreed Rights are described in the attached *Exhibit 4*, and the Undecreed Rights pertain to that portion of the Property described in the attached *Exhibit 5*.

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 this Agreement.

**ARTICLE II
APPLICATION AND EFFECT**

2.01 Binding Effect. The Property is both benefited and burdened by the mutual covenants of this Agreement, and such covenants shall constitute real covenants running with the land and shall be binding upon successors in interest to the Property, including any mortgagees or lienholders, irrespective of whether specific reference to this Agreement is made in any instrument affecting title to the Property. Provided further however, this Agreement shall be of no effect or application and shall no longer constitute an encumbrance upon a platted lot, at such time as a certificate of occupancy for improvements on such lot is issued by the Town.

Upon conveyance of all, or a portion of the Property, the grantor shall be relieved of all obligations imposed by this Agreement applicable to the portion of the Property conveyed, provided that the grantor shall not be relieved of any default under this Agreement attributable to the action or inaction of the grantor while the grantor was in title to such portion of the Property, nor shall such divestiture relieve the grantor of any obligations under separate agreement(s) with the Town.

2.02 Supersession. Except to the extent provisions of the Annexation Agreements are restated in this Agreement, this Agreement supersedes the Annexation Agreement in its entirety as it pertains to the Property and subsequent to the Effective Date, the Annexation Agreement shall be void and no force and effect with respect to the Property. The Annexation Agreement shall remain in effect as to any property that does not constitute a portion of the Property. The parties acknowledge that as of the Effective Date neither party is in default of the Annexation Agreement, nor does either party have any claims or causes of action against the other party under the Annexation Agreement.

2.03 Owner Responsibility. Subject to the further provisions of Article III, the owner of the Property upon which development approval is requested

shall have the ultimate responsibility for performance of the covenants and obligations assumed by Owner under this Agreement, irrespective of whether development activity on the Property is undertaken by Owner, a third party on behalf of and/or with the authorization of the Owner, or the District. Owner may assign its rights and obligations under this Agreement, in whole or in part, either to a subsequent owner of all or a portion of the Property pursuant to 2.01, or to a third party without an ownership interest in the Property.

Town shall accept performance of the covenants of the Agreement from a developer on behalf of Owner, a homebuilder, or from the District, and Owner shall be released from such performance unless such performance requires the conveyance, encumbrance or pledge of a security interest in the Property, in which event the express consent or joinder of the Owner shall be required. Such release of Owner shall not relieve Owner of the consequences from its assignee's non-performance, insofar as such non-performance affects the development of other portions of the Property retained by Owner. As of the Effective Date, Owner intends that Richmond undertake the development obligations assigned to Owner under this Agreement, and in this context, reference to Owner shall mean Richmond.

2.04 Town Regulations. Unless otherwise expressly provided to the contrary in Article X or elsewhere in this Agreement, Town Regulations shall apply to the Property in the same manner and effect as within other areas of the Town. Unless expressly stated to the contrary in Article X or elsewhere in this Agreement, this 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 other police powers, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of this Agreement. When this Agreement calls for compliance with the Town Regulations, the operative Town Regulations in effect at the time of the relevant application shall govern, unless the provisions of this Agreement expressly provide to the contrary.

Owner acknowledges that under the Town Regulations Development Exactions are imposed at the time of building or construction permit, and that the application for such permit(s) triggers application of C.R.S. §29-20-104.5, rather than the application (or approval) of a prior land use entitlement, such as the Development Plan, Plat or Final PD Site Plan. Accordingly, Development Exactions shall be based on the applicable fee imposed under the Town Regulations in effect at the time of issuance of the applicable building or construction permit, except where the provisions of this Agreement expressly provide to the contrary.

2.05 District's Interest. To the extent the District discharges the obligation of Owner under this Agreement, as further provided in Article III, it shall have the same contractual rights and responsibilities as Owner under this Agreement with respect to such obligation.

Under the terms of the District Agreements, District will submit to its electorate on May 5, 2004 the question of authorization of a 10 mill property tax pledge by the District to the Town, all as more specifically provided in the District Agreements (Property Tax Pledge). The revenue to be generated from the Property Tax Pledge is a material inducement to the Town's approval of the Development Plan and this Agreement.

2.06 Contemporaneous Agreements and Actions. This Agreement is conditioned upon the following:

- (a) the final approvals and execution of the Contemporaneous Agreements in accordance with any terms or conditions prescribed in this Agreement:
- (b) the concurrent performance of the parties of their respective obligations under 5.02 and 9.08 related to the conveyance of the Water Rights and the Park Tract; and
- (c) voter approval of the Property Tax Pledge on May 5, 2004

Accordingly, this Agreement shall not be recorded nor effective until these conditions are met. In the event these conditions are not timely met, but in no

event later than June 30, 2004, this Agreement and the associated land use approvals shall be of no further force or effect, in which event the Annexation Agreement shall remain in effect as it pertains to the Property.

ARTICLE III DISTRICT PARTICIPATION

3.01 Authorization. As more specifically set forth in the District Agreements, the District may from time to time perform certain obligations of Owner under this Agreement. In such event, Town shall accept the performance by the District of the obligations imposed on Owner under this Agreement consistent with the terms and provisions of the District Agreements and the Town Regulations. In such case, reference in this Agreement to "Owner" shall mean "District", unless the context clearly indicates otherwise. Nothing in this Agreement shall relieve the District from the obligation to obtain Town approval of service plan amendments required under the Special District Act and the Code.

3.02 Performance. The applicable SIA shall designate those Facilities for which District is to develop and post surety in accordance with 6.03. With District's assumption of these obligations under the SIA, Owner shall have no financial or other legal obligation to Town to develop such Facilities. However, in the event of a default by the District in its obligations under the SIA to develop such Facilities, Town shall have the right to withhold approvals and permits for the subdivision until the default is cured, all as more particularly provided in the SIA.

3.03 Limited Effect. This Article III is intended and shall be construed to enable the performance by the District of the obligations of the Owner under this Agreement and does not constitute an amendment to the District Agreements.

**ARTICLE IV
GENERAL OBLIGATIONS**

4.01 Municipal Services. Town shall provide the Property with Municipal Services, subject to the express terms and conditions of this Agreement. 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 Municipal Services to the Property are addressed in Articles VI, VII and VIII.

4.02 Permitted Development. Owner shall have the right, but not the obligation, to develop the Property, provided that Owner's rights under Article X are subject to lapse, depending on the pace of development of the Property as further provided in Article X.

Owner shall comply with this Agreement, Town Regulations, and applicable state and federal law and regulations in developing the Property. Town shall allow and permit the development of the Property in accordance with the Development Plan, this Agreement and the Town Regulations, upon submission of proper application, payment of fees, exactions and charges lawfully imposed by the Town Regulations, including Development Exactions, and compliance with conditions imposed by this Agreement or Town Regulations that are not inconsistent with the rights granted to Owner under this Agreement. The development of Facilities by Owner shall not relieve Owner from the obligation to pay Development Impact Fees, unless otherwise expressly provided to the contrary in this Agreement.

Town shall coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under this Agreement or to allow development of the Property, in accordance with this Agreement.

4.03 Development Application Review. Owner and Town agree that the submittal of complete and thorough applications for preliminary plats, Plats, and Final Site Plans for the Property, together with all related documentation and approval processes, including public improvement plans, subdivision improvement plans, construction drawings and subdivision improvement agreements (together, Development Applications) will contribute to the quality and the pace of development within the Property.

Town and Owner shall each comply with the terms and conditions of sections 4.04 through 4.06 (Review Provisions) regarding the preparation, submittal and review of Development Applications. Nothing in this Agreement shall be interpreted to guarantee to Owner an approval of any particular Development Application. Town shall coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under this Agreement or to allow development of the Property in accordance with this Agreement.

4.04 Owner Responsibilities. Owner shall prepare all Development Applications in a manner that is consistent with this Agreement, the Development Plan and applicable Town Regulations. Before submitting a Development Application to Town, Owner and Town shall each designate a person or persons responsible for processing that Development Application (Project Team). The Project Team shall establish a regular meeting schedule and shall meet regularly and as often as the parties deem necessary and appropriate to meet requirements under the Town Regulations for preapplication meetings and to meet the applicable timelines for review of the Development Application as set forth in these Review Provisions.

Once a Development Application is deemed Complete (see below), the Project Team shall reasonably agree upon a schedule of intermediate reviews of the Development Application at predetermined stages of design and shall thereafter meet on a regular basis as reasonably agreed by Town and Owner to be necessary and appropriate to monitor and expedite the progress of the

Development Application, to attempt to informally resolve any issues that may arise in the course of the review, and to provide additional or supplementary information as necessary to meet the timelines set in these Review Provisions.

Upon receipt of formal comments from the Town on any Development Application, Owner shall respond to such comments according to the following schedule:

- (a) Owner shall respond to the first set of Town comments on a Development Application within 30 days of receipt of a complete set of comments from Town;
- (b) Owner shall respond to the second set of Town comments on a Development Application within 21 days of receipt of a complete set of comments from Town, provided that the Owner shall have 30 days in which to respond to any new comments relating to the initial submittal that were not included in the first set of Town comments;
- (c) Owner shall respond to the third set of Town comments on a Development Application within 14 days of receipt of a complete set of comments from Town, provided that Owner shall have 30 days in which to respond any new comments relating to the initial submittal or any subsequent submittals that were not included in any of the previous Town comments; and
- (d) although it is not anticipated that a fourth round of comments will generally be necessary, Owner shall respond to a fourth set of Town comments within 14 days of the receipt of a complete set of comments from Town, provided that Owner shall have 30 days in which to respond to any new comments relating to the initial submittal or any subsequent submittals that were not included in any of the previous Town comments.

The Owner shall pay all applicable land application and related fees to the Town in accordance with then current published fee standards. Initial fees paid by Owner to Town are for the first and second reviews. Additional fees shall be assessed for subsequent reviews in accordance with the standard fee chart.

In addition, Town shall pay the first \$75,000 in outside consultant fees incurred by Town in the review of any land use application for the Property, inclusive of the fees incurred by Town commencing December 1, 2003. Owner

shall be responsible for all outside consultant fees incurred reviewing any and all land use applications for the Property in excess of \$75,000. Owner shall pay such fees directly to the consultant within 30 days of receipt of each invoice therefor.

4.05 Town Responsibilities. Upon submittal of any Development Application, Town shall have ten business days in which to notify Owner with particularity of any incomplete items in the Development Application. Owner shall promptly rectify the incompleteness of the Development Application as reasonably determined by Town. The Development Application shall be deemed complete (Complete) when Owner has addressed Town's objections, or if Town does not give the notice within the required ten day period.

Town shall complete its review and decision process, except for any required public hearings (Staff Review), for each Complete Development Application submitted by Owner as soon as practicable, but in any event, within the following time periods (Review Timetable):

- (a) **Preliminary Plat and Final PD Site Plan.** For Preliminary Plats and Final PD Site Plans, within six months of the submittal of the Complete Development Application. Preliminary Plats and Final PD Site Plans may be reviewed simultaneously with a Plat at the request of Owner and at the discretion of the Town.
- (b) **Final Plats.** For Plats within the area of a previously approved preliminary plat, within six months of the submittal of the Complete Development Application;
- (c) **Amended Plats.** For an amended Plat encompassing an area that is entirely subject to a previously approved Final Plat, within three months of the submittal of the Complete Development Application; provided that the time for Owner response to Town comments set forth in 4.04(a) through (d) shall be shortened to 10 days, 5 days, 5 days and 5 days respectively;
- (d) **Residential Final PD Site Plans.** For a Final Site Plan encompassing an area that is entirely subject to a previously approved preliminary or Final Plat, within six months of the submittal of the Complete Development Application; and

- (e) **Commercial Final PD Site Plans.** For each Development Application, which may consist of a combined preliminary plat, Plat, Final Site Plan and construction drawings, related to a proposed commercial use, within three months of the submittal of the Complete Development Application for such use; provided that the time for Owner response to Town comments set forth in 4.04(a) through (d) shall be shortened to 10 days, 5 days, 5 days and 5 days respectively.

The time periods set forth in the Review Timetable shall apply to all reviews and decisions that are required in connection with a specific Development Application (for example, Staff Review of associated SIA and construction drawings shall also be completed within the time period specified for Staff Review of a Plat). Town shall furnish formal comments to Owner in a sufficiently timely manner to enable Owner to respond according to the Review Timetable and achieve Staff Review within the appropriate time periods.

In the event that Owner fails to respond to Town comments on a Development Application in accordance with 4.04 or if Owner's responses to Town comments necessitate a set of Town comments with no new comments presented (either constituting Owner Delay), the time periods set forth in the Review Timetable for that Development Application shall be extended by a time period equal to 2 days for each day of Owner Delay, up to a maximum of 120 days. In the event that a public hearing is not required for a Development Application, Town and Owner shall cooperate to take any final administrative steps needed pursuant to Town Regulations and policies to indicate the Town's final and formal approval of a Development Application and to allow the issuance of public works and building permits within the area subject to the Development Application (including, by way of example, but not by way of limitation, execution of Mylar copies and recordation of final plats and the SIA) within the time permitted for completion of Staff Review.

Town shall use best efforts to hold any required public hearings on a Development Application before the Planning Commission as soon as possible.

Owner acknowledges that the scheduling of public hearings must be in conformance with the public noticing requirements of the Code. Failure of the Owner, other applicant or other outside agency to properly complete the required public noticing shall not constitute a default by the Town, provided that such failure is not caused by Town error.

4.06 Monthly Review. Town and Owner acknowledge that the effective administration of the terms and provisions of this Agreement require effective communication and coordination between the parties. Accordingly, representatives of Owner and Town shall make best efforts to meet on a monthly basis with the Town Manager, Town Attorney and Director of Development Services to review the status of development within the Property, the performance of both Town and Owner under this Agreement, the timing of staff comments, and such other matters relating to this Agreement as the parties shall determine. These monthly meetings are in addition to the regular Project Team meetings required above.

ARTICLE V WATER RIGHTS

5.01 Requirement. It is the obligation of Owner to convey to Town the Water Rights 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 additional development on the Property unless Owner is in compliance with the provisions of this Article V.

5.02 Conveyance. Concurrently with recordation of this Agreement, Owner shall convey to Town by special warranty deed, free and clear of all liens and encumbrances, marketable title to the Water Rights (Water Deed). The Water Deed shall transfer to Town the right to use, reuse, lease or sell the water withdrawn under the Water Rights, subject only to the terms and conditions of the applicable decree(s) as to the Decreed Rights.. Owner, at its expense, shall

obtain a title commitment to the Water Rights in which Stewart Water shall propose to insure the Town's interest in the Water Rights in the amount of \$500,000 (Water Commitment). The title policy to the Water Rights shall be issued contemporaneously with the recording and delivery of the Water Deed. Owner shall pay the premium for the Water Policy.

Town shall have 10 days from receipt of the Water Commitment to give notice of objection to the quality of title indicated in the Water Commitment (Objections). Any Objections not timely noticed by Town are waived. Owner shall make best efforts to resolve any Objections to the reasonable satisfaction of Town prior to the Effective Date, which resolution shall be a condition to the recording of this Agreement. If Town does not accept the title to the Water Rights despite Owner's efforts to satisfactorily address the Objections, then this Agreement shall be no further force or effect, pursuant to 2.06.

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.

Town, at its option and expense, may adjudicate the Undeclared Rights. Owner retains no interest or entitlement in the Undeclared Rights, since the value of the Undeclared Rights is accounted for in the purchase price of the Park Tract, as further provided in 9.08.

5.03 Water Credit. With conveyance of the Water Rights, a credit shall be established against the Town's water dedication requirements for the benefit of the Property in the amount of 1500 SFE (Water Credit). The Water Credit is expressed as a single-family equivalent. An SFE is the measure of average annual wholesale water production that must be developed to meet the imputed demand from a single-family residence under the Town Regulations. Consequently, 1 SFE of Water Credit represents that the holder has satisfied the Town's water dedication requirement for one single-family residence or the

equivalent demand attributable to multi-family or irrigation uses under the Town Regulations.

The Water Credit of 1500 SFE shall not be affected by any changes in the Town's water rights dedication policies in the Town Regulations, which may be subsequently adopted by the Town, including any changes in the current 200% non-renewable dedication requirement under the Town Regulations.

5.04 Application of Water Credit. The Water Credit is applied to satisfy the water rights dedication requirement under the Town Regulations for all approved uses on the Property, including all projected irrigation and service to Public Lands and the Park Tract.

The Water Credit established under 5.03 shall be reduced (i.e. debited):

- (a) at the time of Plat approval by the total SFE assigned to all approved development inclusive of the irrigation water demand for Public Lands and the Park Tract to the extent the water demand for such use can be determined at the time of Plat approval; and
- (b) at the time of Final Site Plan approval or at building permit issuance for those uses not accounted for at the time of Plat approval.

Town may estimate the water demand at the time of Plat approval based on established criteria, if the actual water demand cannot be calculated at that time. However, when all potable and irrigation tap sizes are known, the Water Credit balance in the Water Bank (see 5.05) shall be adjusted to reflect SFE assignment in accordance with Town Regulations. The demand attributed to development shall be reduced to reflect the substitution of treated effluent for potable water for irrigation by retroactive adjustment to the Bank.

5.05 Water Bank. In order to properly account for the Water Credit, Town shall administratively maintain an account designated the Liberty Village Water Bank (Bank). The Bank shall periodically be debited or credited in accordance with this Article V. The Water Bank shall be formatted as follows:

THE LIBERTY VILLAGE WATER BANK					
Entry	Date Recorded	Recording Info	SFE Demand	SFE Supply	Net
Initial Water Credit				1500	1500
Final Plat			X		1500-X

With any entry made by the Town, the Owner of the Water Bank (see 5.06) shall receive notification in writing, and any objection not resolved to the satisfaction of the 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.

5.07 Required Additional Water Sources. Only in the event that the 1500 SFE Water Credit is exhausted prior to full development of the Property as a result of a subsequent amendment of the Development Plan, resulting in an increase in the aggregate water demand from development of the Property, as compared to the water demand to serve the Development Plan approved concurrently with this Agreement, Owner shall be required to provide additional water resources or pay cash-in-lieu of water rights dedication in compliance with applicable Town Regulations then in effect. Absent provision of such additional water resources, Town shall not be obligated to approve further development approvals for the Property.

5.08 Unified System. Owner acknowledges that the Town will manage the Water Rights as part of its unified municipal water system, and Town is not restricted by this 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 on the Property is not jeopardized by such diversion.

**ARTICLE VI
FACILITIES DEVELOPMENT**

6.01 Generally. Except for the Town Facilities (see 6.05), development of the Facilities shall be the exclusive obligation of Owner, and Owner shall bear the entire cost of planning, design, construction and financing of the Facilities and all other related and incidental activities, including off-site property or easement acquisition. Town shall exercise its eminent domain powers to acquire such off-site property interests if Owner or District is unable to secure them, provided that Owner bears all costs of condemnation including appraisal, expert witness and attorney's fees and just compensation for the property acquired. Town shall settle any condemnation proceeding only with the consent of the Owner or District, as appropriate.

The Facilities shall be developed in strict accordance with Town Regulations, the Development Plan, this Agreement and the applicable Plat and SIA, subject to the exemption from posting construction surety as provided in 6.03.

6.02 Phasing of Facilities. The Facilities required to be developed under the Town Regulations to serve each respective Phase (Phase Facilities) are listed on the Phasing Plan. The applicable Phase Facilities must be developed in conjunction with the first Plat within such Phase, unless development of one or more of the Phase Facilities is deferred pursuant to a sub-phasing plan proposed by Owner and approved by Town concurrently with such Plat. The Phasing Plan prescribes the Facilities that must be constructed with each Phase, irrespective of whether Phases are developed in numeric sequence.

Town shall have the absolute right to withhold further development approvals for any development within the Property which utilizes or benefits from the Phase Facilities which are not developed by Owner when required by the Phasing Plan. Similarly, Town may withhold development approvals if the

required Public Land dedications are not made. If development approvals are withheld by Town under this provision, Town shall have no liability for any loss incurred to Owner, as a result of diminution in value of the Property, loss of development rights, or deprivation of any property interest. Town shall have no right to withhold development approvals if the delay in completion of the Phase Facilities is solely the result of the Town failing to timely develop Town Facilities.

6.03 Financial Guarantees. Owner and District are not required to post construction performance surety for Facilities, which otherwise would be required under the Town Regulations. However, Owner and District are required to post the warranty surety on such Facilities in accordance with Town Regulations. The Property will not qualify for building permits within a Phase, prior to the substantial completion of the public improvements required for that Phase.

6.04 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. With respect to all Facilities for which Owner is obligated to construct under this Agreement, Owner shall apply for any such permits or approvals in the Town's name or in the joint names of the Town and Owner, if so required by the governmental agencies. Town shall incur no liability to Owner if such governmental agencies do not issue necessary permits and approvals, despite the concerted, good faith efforts of the Town. Town shall be responsible for obtaining such permits and other governmental approvals for the Town Facilities.

6.05 Town Facilities. Town has the obligation to construct, acquire or otherwise develop the following Facilities in a timely manner so as to provide adequate Municipal Services to the Property to coincide with development of the Property by Owner (Town Facilities):

- (a) water supply, treatment and storage necessary to meet the service demand from development of the Property in accordance with the Development Plan, including the Tank Project as provided in 7.02;

- (b) wastewater treatment, subject to the terms and conditions of the Wastewater IGA and 7.03-7.05; and
- (c) the Cherry Creek bridge improvements as provided in 8.02.

With respect to any Town Facility for which Owner has a cost-sharing obligation pursuant to this Agreement, Town's obligation to develop such Town Facility is dependent on Owner providing financial guarantees and tendering funds when reasonably required by the Town and in accordance with applicable provisions of this Agreement. Unless the provisions of 10.03(c) is operative, the refusal of Town to approve Plats or other land use approvals to the Property due to the lack of available capacities in Town Facilities shall constitute an event of default under Article XI; provided however, Town shall have 180 days from the date of the default notice under 11.03 to effect cure of the default by acquiring or developing the needed Town Facilities and granting the requested land use approvals, provided that Town has not been notified of a default under this section within the previous 24 months, in which event the cure period shall be as prescribed in 11.03.

6.06 Facilities Control. Upon dedication of Facilities by Owner and acceptance by Town, Town shall have the exclusive management and control of the Facilities. Town may use or allow others to use the capacities in the Facilities, provided that the capacities developed by Owner at Owner's cost shall be reserved for the benefit of the Property, or if used by Town to serve other properties, Town shall provide replacement or alternative capacities in such a manner as to not impede development on the Property.

6.07 Subdivision Improvements Agreement. The Town Regulations require that a subdivider enter into a SIA at the time of approval of a Plat. The SIA addresses with greater specificity the Facilities to be constructed to serve the Plat and other development issues particular to the Plat. Unless modified in the SIA, the provisions of this Article VI will apply to the development of such Facilities, irrespective of whether or not reference to this Article VI is made in the SIA.

6.08 Environmental Regulations. Owner, at its expense, shall be responsible for compliance with any requirements for endangered species habitat protection and/or mitigation measures under federal environmental laws, FEMA floodplain requirements, Cherry Creek Basin Water Quality Authority requirements, and Corps of Engineer wetland requirements (collectively Governmental Regulations) triggered by construction of Facilities or the Park Tract grading by Owner. Town, at its expense, shall be responsible for Governmental Regulation compliance and mitigation measures directly attributable to construction of the Bridge (see 8.02) or other Town Facilities.

6.09 Drainageway Improvements. Owner, at its expense, shall be responsible for all necessary improvements to the McMurdo Gulch drainageway within the 100-year floodplain due to development of the Property. Owner is responsible for determining base elevations in accordance with FEMA guidelines.

ARTICLE VII WATER AND WASTEWATER

7.01 Water Infrastructure. As provided further in the Development Plan, Owner shall be responsible for construction of all onsite water transmission and distribution. In addition, Owner shall bear the cost of constructing the water main from the Property to the Town main in the adjacent Castle Oaks development. Any recoupment or cost sharing between Owner and the Castle Oaks developer related to Owner's construction of the main within the Castle Oaks development shall be effected by separate agreement between such parties.

To account for the wholesale component of the offsite water transmission main, Owner shall receive a credit of \$250 per SFE against the water component of the System Development Fees imposed and collected by the Town on water connections on the Property (Water Tap Credit). The Water Tap Credit shall be realized by the Town discounting the building or irrigation fees by \$250 per SFE. No certificate or other documentation shall be required of the permittee to receive

the Water Tap Credit. The Water Tap Credit of \$250 per SFE not be affected by subsequent changes in the amount of the System Development Fees imposed by Town through the Town Regulations.

In order to fully integrate the water system constructed by Owner with the Town's municipal water system, Town intends to construct a storage tank on the Property and related infrastructure of sufficient capacity to serve the Property at its full buildout (Tank Project). The Tank Project will be financed and constructed by Town, in reliance on the commitment of Owner to purchase water System Development Fees as provided in 7.02. Provided further, should Town subsequently determine that equivalent water service may be provided the Property with offsite infrastructure in lieu of development of the Water Tank, the Town shall then apply such revenues from the Property to construct such infrastructure.

7.02 Purchase Commitment. Whether the Town undertakes development of the Water Tank (or alternative offsite infrastructure) Owner shall purchase, and Town shall make available for purchase, a total of 230 SFE of the water system component of the System Development Fees (Water Taps) by either obtaining building permits on the Property and/or the advance purchase of Water Taps on the following terms and conditions:

- (a) the purchase price of each Water Tap shall be the water component of the System Development Fee established under the Town Regulations as of the date of purchase, less the Water Tap Credit of \$250 per Water Tap;
- (b) with recordation of the first Plat, Owner shall purchase 30 Water Taps.
- (c) by the first anniversary date of the recordation of the first Plat, Owner shall purchase an additional 50 Water Taps
- (d) by the second anniversary date of recordation of the first Plat, Owner shall purchase an additional 100 Water Taps:

- (e) by the third anniversary date of recordation of the first Plat, Owner shall purchase an additional 50 Water Taps, concluding the Water Tap commitment;
- (f) Owner shall be obligated to purchase the prescribed minimum of Water Taps, irrespective of whether it actually does or can utilize the Water Taps so purchased;
- (g) once purchased (either in conjunction with building permit issuance or in advance as necessary to meet the above commitment), the Water Taps shall have no expiration date, and shall not be affected by subsequent changes in the level of water component of the System Development Fees imposed through the Town Regulations; and

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(h) the Water Taps may only be used on the Property, and will not be honored by Town on building permits for improvements elsewhere in the Town.

This section outlines Owner's minimum "take or pay" commitment, and does not preclude Owner from purchasing additional Water Taps as dictated by the pace of development on the Property. The purchased Water Taps shall be evidenced by a certificate issued by the Town to the payor, and each certificate shall be cancelled when presented in lieu of payment of the water component of the System Development Fee at building permit. Except as expressly provided above, this section 7.02 has no affect on the level of Development Exactions that are imposed and collected on the Property, from time to time, under the Town Regulations.

Concurrently with recordation of the first Plat and payment for the first installment of Water Taps, Owner shall provide Town with a renewable letter of credit to secure Owner's commitment to purchase Water Taps (LOC). The LOC shall be established in an amount equal to 110% of the then current Water Tap price, multiplied by 200. The LOC shall be automatically renewable in an amount equal to Owner's outstanding obligation to purchase Water Taps as of the date of renewal. Town may call the LOC in the event of Owner's uncured default in

making the Water Tap purchase required under this section 7.02. The LOC shall be issued by HomeAmerican Mortgage Corporation, a Colorado corporation.

7.03 Connection to Pinery Wastewater. As part of the Initial Facilities, Owner shall be responsible for construction of the "Town Interceptor" referenced in section 1.01 of the Wastewater IGA as well as the "Flow Metering System" referenced in 2.02 of the Wastewater IGA. Town will assist Owner in obtaining any necessary permits and approvals from the Pinery District for construction of the Town Interceptor and Flow Metering System, including obtaining performance by the Pinery District of its property acquisition obligations under section 1.01. If the Flow Metering System is located on the Property, Owner shall provide the "Site" required under section 2.02. Town shall operate and maintain the Town portion of the Town Interceptor, after completion and acceptance by Town and the Pinery District. The Flow Metering System shall be maintained by the Pinery District.

7.04 Plant Expansion. Under the terms of the Wastewater IGA, the Town is responsible for funding a designated portion of the design and construction cost of expansion of the wastewater treatment plant necessary to serve the Property on the terms and conditions provided in the Wastewater IGA (Plant Expansion). The Pinery District has commenced the initial phase of the Plant Expansion and has planned for improvements sufficient to meet the service needs of the Property. Town, Owner and the Pinery District have mutually agreed to proceed to negotiate definitive agreements, that will provide for Owner's assumption of the entire financial obligation to pay for the needed capacity in the Plant Expansion and furnish associated financial surety and guarantees (Richmond/Pinery Agreement), and the Town will remain responsible for the ongoing wastewater service to the Property and collection of standby charges imposed by the Pinery District (First Amendment to IGA).

The approval and execution of both the Richmond/Pinery Agreement and the First Amendment to Wastewater IGA, and the consent of Town to the terms of the Richmond/Pinery Agreement and the consent of Richmond to the First

Amendment to the First Amendment to Wastewater IGA, all to occur not later than June 30, 2004, are conditions to this Agreement, as provided in 2.06.

7.05 Basin Wastewater Fees. The Town has adopted through the Town Regulations a schedule of System Development Fees and wastewater service charges which reflect the cost of acquisition and development of capacity and the wastewater treatment costs the Town will incur under the Wastewater IGA, as the same may be amended from time to time (Cherry Creek Basin Fees). Owner acknowledges that the Cherry Creek Basin Fees (as the same are adjusted from time to time under the Town Regulations and pursuant to 7.05) will be higher than the equivalent fees in the portion of the Town served by the Plum Creek Wastewater Authority

7.06 Commercial Development. Owner, at its expense, shall obtain all third-party governmental permits and approvals and construct, own and maintain the lift station and force main necessary to provide wastewater service to the Commercial use area.

ARTICLE VIII TRANSPORTATION

8.01 Castle Oaks Drive. The Phasing Plan prescribes phased improvements to Castle Oaks Drive through the Property, and improvements to the offsite segments of Castle Oaks Drive, Autumn Sage Street and Rising Sun Drive in order that the Property will have a second paved connection to Founders Parkway, in the event that these streets have not been improved in conjunction with prior development. The incremental roadway improvements required by the Phasing Plan are tied to development on the Property and/or traffic counts, and include intersection improvements at State Highway 83, as prescribed in the access permit issued by the Colorado Department of Transportation.

The Town is not required to financially participate in on-site or off-site roadway improvements (other than improvements to Castle Oaks Drive adjacent to the Park Tract attributable to the impact from the regional park development

on the Park Tract), nor to facilitate or implement any cost-sharing or recoument between the District and the Castle Oaks PD or the Castle Oaks Metropolitan District, which may be addressed by Owner in separate recoument or cost-sharing agreements.

8.02 Cherry Creek Bridge. Town assumes the obligation to improve the existing bridge over Cherry Creek (Bridge) as traffic warrants, but subject to Town's ability to obtain necessary environmental approvals as provided in 6.08, which the Town will make commercially reasonable efforts to obtain. Owner is responsible for dedication of all right-of-way and construction easements over the Property, and contributing \$300,000 to the funding of the initial Bridge improvements that will be completed by Town. Initially, the Town may undertake interim improvements to the Bridge necessary to maintain the structural integrity of the Bridge, while planning for the reconstruction of the Bridge in the future. The Town shall construct the new Bridge to meet approved roadway configuration and necessary drainage requirements.

The Town will make only functional improvements to the Bridge. Owner must fund any enhancements to the Bridge desired by Owner at the time of construction of such enhancements. Any Bridge costs in excess of Owner's \$300,000 contribution, inclusive of the interim improvements and future reconstruction of the Bridge, but excepting the enhancements desired by Owner, shall be the responsibility of the Town. All roadway construction costs for Castle Oaks Drive on either side of the Bridge necessary to accomplish either the interim or future Bridge improvements shall be the responsibility of the Owner.

Owner's \$300,000 payment to Town shall be made concurrently with recordation of this Agreement, and Town shall then immediately undertake design of the initial phase of the Bridge improvement, and complete such design within 180 days thereafter.

8.03 Interchange Participation. Development of the Property will impact the Exit 184/I-25 Interchange (Interchange). Town has required other developments utilizing the Interchange to participate in the funding of the

reconstruction and enhancement of the Interchange. Town has accepted a transportation impact analysis that addresses the impact of development of the Property on the Interchange. Accordingly, Owner shall pay to Town the sum of \$6,380 with the first Plat, as the proportionate financial share of the Interchange Improvements for the Property, prior to and as a condition to the recordation of the first Plat.

8.04 Signalization. Owner shall pay for all costs associated with the signalization of the intersection of Castle Oaks Drive and SH 83, and for any improvements to SH 83 as required by the Colorado Department of Transportation. Owner shall also be responsible for all costs associated with the signalization of any intersections internal to the Property.

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**ARTICLE IX
PUBLIC LANDS
AND PUBLIC SAFETY**

9.01 Required Dedication. All Public Lands shall be conveyed or dedicated to Town concurrently with the first Plat. The provisions in this Agreement and the Preliminary Site Plan for dedication of Public Lands shall supersede the requirements in the Town Regulations, which would otherwise require the dedication of a portion of the area of each Plat for Public Lands. Conveyance of the Park Tract is separately addressed in 9.08. In the event any PLD tract does not have access to a Platted street, Owner shall concurrently grant Town temporary access and utility easements as necessary and reasonable to allow Town to develop such PLD tract. These temporary use rights shall expire when Owner makes the permanent street and utility dedications.

9.02 Conveyance. All Public Lands shall be conveyed to Town by special warranty deed, subject matters of record but free and clear of liens, or other title impediments that would preclude Town from utilizing the property for its intended purposes, as reasonably determined by Town. Unless otherwise provided in the Town Regulations to the contrary, the grantor shall furnish the

Town with an ALTA form policy of title insurance, issued by a title company licensed to do business in the State of Colorado, and which insures the Town's title amount of \$10,000 per acre of the subject parcel.

9.03 Environmental Conditions. Prior to conveyance of Public Lands designated for parks, open space or Facilities development (but excluding street rights-of-way and utility easements), Owner shall furnish Town with a Phase 1 environmental audit of the subject property. Town will not require any additional environmental testing or reports prior to acceptance of such Public Lands, unless adverse environmental conditions are disclosed in the environmental audit, in which event Town may require Owner to perform additional inspection and testing, and if warranted, as reasonably determined by Town, completion of necessary remedial measures related to Town's intended use of such portion of the Public Lands affected by such adverse environmental condition, prior to conveyance to and acceptance by Town of such Public Lands.

9.04 Exclusion of Covenants. Owner shall exclude all Public Lands and the Park Tract from application and effect of restrictive covenants, which may otherwise be imposed on the Property. If any Public Lands are inadvertently made subject to such covenants, this Agreement shall constitute the irrevocable consent of the Owner and the Board of Directors of any homeowners association to the exclusion of the Public Lands from the application of such covenants. However, prior to constructing or placing any structures on Public Lands, Town shall give Owner and the applicable homeowner's association, if any, a reasonable opportunity to review and comment on the design and plans for any such improvements, but Town shall retain the ultimate authority to determine what improvements are placed on Public Lands.

Any declaration creating a scheme of restrictive covenants on the Property shall contain a provision which provides that in the event of a conflict between such covenants and the Town Regulations, the Town Regulations shall govern and control. In the absence of inclusion of such provision, this Agreement shall constitute such declaration of supremacy of the Town Regulations.

9.05 Street Landscape Maintenance. Owner shall have the responsibility for the maintenance of landscaping within any public street right-of-way dedicated to the Town, including water, irrigation system, features, plantings, etc., for the landscaping between the right-of-way and street curbing, as well as within street medians. Such maintenance shall be at the sole expense of Owner and to the standard for maintenance established by Town for similar Facilities. Owner's maintenance obligation includes procurement of water services from the Town and payment of applicable water service charges under the Town Regulations. Owner may delegate its maintenance obligation to a community association or to the District.

9.06 Trail Development. The internal trail system and offsite connection to the Town's trail system shall be constructed by Owner and phased as provided in the Phasing Plan. Provided further, should the Town commence park development which necessitates the construction of the McMurdo gulch segment of the trail prior to its scheduled completion by Owner in Phase VI, it shall give notice to Owner. Owner, at its election, shall either construct this trail segment within 180 days of receipt of such notice, or pay to Town the cost of the Town's construction of such trail segment, based on contract cost incurred by Town in construction, which payment shall be due 30 days after Town enters into the construction contract.

9.07 Park Development. As part of the grading of the first Plat, Owner, at its cost, shall establish the rough grade for the Park Tract as part of the planned regional park site, in accordance with a grading plan approved by the Town. Town shall pay for one-half of the cost incurred by Owner in developing a regional park conceptual master plan for the Town's approval, provided that the Town's contribution shall not exceed \$11,000.

Owner shall pay the water System Development Fees and tap connection charges for a 2-inch water tap to be applied by Town towards development of either the Park Tract or Public Lands, at the Town's election. This payment shall be made within 30 days of the date upon which construction of the park facilities

on the PLD tracts are commenced. Owner's obligation is limited to a 2-inch tap cost, irrespective of the actual size and number of taps necessary for PLD or Park Tract development.

9.08 Park Tract Contract. Under a separate Contract to Buy and Sell Vacant Property dated April 27, 2004, Town has contracted with Owner to purchase the Park Tract and the surplus Water Rights (see Article V) from Owner for \$2,000,000 (Park Tract Contract). The closing of the Park Tract Contract, the recordation of the deed to the Park Tract and the Water Deed, and the approval, execution and recordation of this Agreement, the Preliminary Site Plan, and the Liberty Village PD Zoning Regulations (collectively, Land Use Documents) are mutually dependent obligations and conditions, and accordingly there shall be a concurrent closing of the Park Tract Contract and recordation of the Land Use Documents (Closing).

Subject to the further provisions of 2.06, the Closing shall take place on the 10th business day after expiration of the 30-day referendum and appeals periods on the Town ordinance approving the Development Plan and this Agreement (Authorization Ordinance) provided no such referendum or appeal is initiated. If a timely and lawful referendum on the Authorization Ordinance is perfected, or an appeal is filed, the Closing shall be deferred until the referendum is held, provided that the final disposition on the referendum is to validate the Authorization Ordinance or until the appeal is favorably resolved affirming the Authorization Ordinance. If the final disposition of the referendum or appeal is to invalidate the Authorization Ordinance, then this Agreement and the approvals of the Development Plan shall thereafter be of no further force or effect.

In the event that closing of the Park Tract Contract does not take place as a result of any action of the parties or occurrence of any condition, other than the breach of the Park Tract Contract by the Town, then this Agreement shall be of no further force or effect, and the Land Use Documents thereafter shall be void and the zoning of the Property shall revert to the zoning in effect prior to the PD amendment effected by the Land Use Documents. In the event the closing of the

Park Tract Contract does not take place as a result of a breach of the Park Contract by Town and the conditions of 2.06 have otherwise been met, then, Owner, at its election, may void the Land Use Documents, or proceed to finalize and record the Land Use Documents in which event Owner may subsequently seek to rezone the Park Tract as integral part of the Development Plan in accordance with applicable Town Regulations. The Park Tract Contract contains additional provisions and specific contract remedies of the parties in the event of breach.

As provided in the Park Tract Contract, Owner has retained certain rights to repurchase the Park Tract in the event that the Town should seek to transfer any portion of the Park Tract to a private entity. In the event of the repurchase of all, or a portion, Owner may seek to rezone the portion reacquired as an integral part of the Development Plan in accordance with applicable Town Regulations.

9.09 Emergency Access. Owner, at its expense, shall construct the emergency service access to the adjacent County development to the north of the Property at the location indicated on the Preliminary Site Plan as part of the Facilities for the first Plat. The specifications for the emergency access are as follows: a 24-foot asphalt or concrete surface capable of supporting a minimum of 75,000 pound vehicle shall be provided with an opticom controlled access gate across the access.

9.10 Public Safety Payment. In order to defray, in part, the Town's cost of providing public safety to the Property, which is not in proximity to existing Town public safety facilities, the District has committed in the District Agreements to impose a 10 mill levy (as adjusted to take into account legislative or constitutionally imposed adjustments in assessed values or the method of their calculation, so that to the extent possible, the actual tax revenue generated by the mill levy, as adjusted is neither diminished nor enhanced as a result of such adjustment).

**ARTICLE X
LAND USE VESTING**

10.01 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. §24-8-101, 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 specific terms of this Article (Vesting). The Vesting shall become effective as more particularly provided in 10.08. Pursuant to 15.24.080 of the Code, the following provision shall be placed on the Development Plan:

This plan constitutes a site-specific development plan pursuant to Chapter 15.24 of the Castle Rock Municipal Code and C.R.S. §24-68-101, et seq., and establishes vested property rights for a period not to extend beyond December 31, 2019 (as further provided in The Liberty Village Development Agreement) to undertake and complete the development and use of the property in accordance with this plan.

10.02 Duration. Due to the term and scale of development proposed on the Property, and the fact that the cost of Facilities development is recovered sequentially over time, property rights in the Development Plan are vested pursuant to Chapter 15.24 of the Code and Article 68 of Title 24 of the Colorado Revised Statutes until December 31, 2012 (Primary Term), subject to the automatic extension of the vesting period for an additional term of seven (7) years (Extended Term) ending on December 31, 2019 (Extended Term), on the conditions detailed below. The Primary Term and Extended Term (when and if it become effective) are collectively referred to as the "Vesting Period." The Vesting Period may be adjusted in accordance with the terms and provisions of 10.12.

If as of the date of expiration of the Primary Term on December 31, 2012, the Town has issued building permits for either at least 250 dwelling units on the Property (Extended Term Trigger), the Vesting Period shall automatically extend through the Extended Term, ending on December 31, 2019. If however, the Extended Term Trigger is not met, the vesting rights under this Article X shall terminate as of December 31, 2012.

10.03 Primary Term Restrictions. During the Primary Term, the Town shall not take any zoning or land use action (whether by action of the Town Council or pursuant to an initiated measure), that would alter, impair, prevent, diminish, impose a moratorium on development, or otherwise delay development of the use of the Property in accordance with the Development Plan, nor shall Town unilaterally amend the Development Plan, except the following actions are not precluded during the Primary Term:

- (a) the enforcement and application of the Town Regulations in effect as of the date of recordation of this Agreement;
- (b) the enforcement and application of those Town Regulations adopted or modified after the date of this Agreement, that are general in nature and are applicable to all property subject to land use regulation by the Town, including, but not limited to, lawfully imposed Development Exactions, public works and sign regulations, building, fire, plumbing, electrical, and mechanical codes;
- (c) the imposition by governmental entities other than the Town of regional, state or federal regulations including mandated growth control measures beyond the control of the Town as reasonably determined by Town;
- (d) the subsequent adoption through the Town Regulations of regulations and restrictions on development and building due to environmental constraints and protection (including hillside and slope conditions), design guidelines, water conservation and landscaping or the provision of affordable housing (New Regulations), provided that such New Regulations are applied to similarly situated planned developments (other than those properties for which application is precluded as the result of vested property rights pre-existing this Agreement) and provided further

that the New Regulations do not include any moratorium on building permits or water or wastewater taps; or

- (e) the application of restrictions under Growth Plans (see 10.11).

10.04 Extended Term Restrictions. During the Extended Term the Town shall not take any zoning or land use action (whether by action of the Town Council or pursuant to an initiated measure) that 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 nor shall Town unilaterally amend the Development Plan, except the following are not precluded during the Extended Terms:

- (a) all Town Regulations in effect as of the date of commencement of the Extended Term; or

- (b) any action that is permitted under 10.03 during the Primary Term.

The cumulative effect of any restrictions or limitations upon development set forth in 10.03(b) or (d), together with the effect of any restrictions or limitations on development set forth in 10.04(a) or (b), excluding from 10.04(b), 10.03(c) (together, Restrictions) during the Primary Term and the Extended Term shall not reduce the total Development Plan residential density by more than 60 dwelling units, in comparison to the total residential density that could have been developed in the absence of the application of the Restrictions. If the application of the Restrictions would exceed the preceding limitations, they may only be applied against the Property up to their maximum permitted effect.

10.05 Reservation of Legal Challenge to Town Regulations. Although Owner will not have a claim against the Town for violation of its Vesting as a result of the actions or occurrences authorized by sections 10.03 or 10.04, Owner reserves the right to challenge the legality of such action on any other basis, subject to the limitations on remedies under 10.06.

10.06 Limitation of Remedies. During the Vesting Period, and provided that Town is not in breach of its obligations under X of this Agreement, Owner

shall not assert estoppel or "common law vesting", or any other legal or equitable cause of action or claim against the Town as a result of Owner's investment in Facilities or other expenditures in furtherance of development of the Property under the Development Plan, that would result in the Owner acquiring the right to develop the Property on terms different than provided in this Article X, provided that such limitation on remedies shall not apply to a Plat under which the subdivider has completed at least one phase of the Facilities required under the applicable SIA. This limitation on remedies shall not be construed to preclude a cause of action by the Owner for a breach of this Agreement.

Upon expiration of the Vesting Period, or in the event Town is in breach of Article X of this Agreement, (i.e. Town has failed to timely cure a noticed default) this section shall no longer restrict Owner's legal remedies. Owner acknowledges that the limitation of its remedies during the Vesting Period is a material factor and inducement to the Town in vesting the Development Plan for the Vesting Period.

10.07 Rights in Development Plan after Vesting. After expiration of the Vesting Period, the Development Plan shall remain valid and effective, as it exists on the date of lapse; however, Vesting granted by this Article X shall then terminate. The termination of, or any limitations on, the Vesting set forth in this Article X shall not affect any equitable or common law right or entitlement, if any, Owner may have to complete the Development Plan under law.

10.08 Effective Date. The effective date of the Vesting granted by this Article X is the date the ordinance approving the Development Plan (Ordinance) is effective after its publication in accordance with the Code, subject to the concurrent closing of the Park Tract Contract as provided in 9.08. 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.

10.09 Plat Vesting. Upon its approval and recordation, a Plat shall constitute a site-specific development plan, provided applicable notice

requirements for Plat vesting under the Town Regulations are met. Any vesting of the Plat shall supersede the vesting of the Development Plan only insofar as the Plat modifies the Development Plan. A Plat shall be vested for the duration of the Vesting Period, or three years from the effective date of the Plat vesting, whichever period is longer. Provided however, the Vesting of the Plat in accordance with this section shall not affect the application of Town Regulations and/or the SIA, that lapse approval of Plats in the event active development of the subdivision is not commenced or completed within the prescribed timeframes. In the event of such Plat lapse, the underlying Vesting granted under this Article X shall remain in effect for the duration of the Vesting Period.

10.10 ~~Natural and Manmade Hazards~~. Nothing in this Agreement or otherwise shall require the Town to approve development or use of any portion of the Property where there exists natural or manmade hazards on or in the immediate vicinity of the proposed area of use, provided that such natural or manmade hazards could not reasonably have been discovered at the time of approval of the Development Plan but such hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare.

10.11 Growth Planning. The Town is 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, that are contained in the Denver Regional Council of Government's Metro Vision 2020 (2020 Plan). The 2020 Plan allocates a 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 or the 2020 Plan (collectively, Growth Plans). In no event shall the Town's restriction of development of the Property as necessary to comply with the Growth Plans as they exist on the Effective Date (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, provided that the Town imposes constraints and limitations on development of the Property in order to comply with the Growth Plans, pursuant to a Town-wide regulatory plan (excluding areas for which the application is precluded by vested property rights pre-existing this Agreement), in which similarly situated properties are given similar and non-discriminatory treatment Amendments to the Growth Plans after the Effective Date may not be applied to the Property to the extent that such application would result in a greater restriction or limitation on development of the Property or the exercise of Owner's Vested rights under this Article X, than is imposed by application of the Growth Plans as they are constituted on the Effective Date.

10.12 Extension of Vesting Period. In the event that development approvals for the Property are suspended or delayed as a result of application of the provisions of 10.03, 10.04 or 10.11 or through Town's invocation of the cure period provided in Sections 6.05 or 11.03 (Suspension), the provisions of Article X shall be modified as follows:

- (a) if the Suspension occurs during the Primary Term and at the end of the Primary Term the applicable threshold for qualification for the Extended Term (see 10.02) has not been met, the Primary Term shall be extended for the same period the Suspension was in effect, and the prescribed threshold shall be applied on the adjusted expiration date of the Primary Term, in which event the expiration date of the Extended Term shall be extended for a like period of time; and
- (b) in no event shall the application of this section extend the Vesting Period beyond December 31, 2028.

**ARTICLE XI
DEFAULT AND REMEDIES**

11.01 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.

11.02 Remedies. In addition to specific remedies provided elsewhere in this 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, which appears necessary or desirable to enforce performance and observation of any obligation, agreement or covenant of the defaulting party under this Agreement, or to collect the monies then due and thereafter to become due, subject however, to the limitation on remedies for breach by Town of Article X as provided in C.R.S., §24-68-105(c). 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.

11.03 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. Except as otherwise provided in 6.05 or 7.04, the defaulting party shall have twenty (20) business 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 diligently prosecutes such cure to completion¹. 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.

¹ Subject to the 180-day cure period for a default under 6.05.

**ARTICLE XII
GENERAL PROVISIONS**

12.01 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.

12.02 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 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.

12.03 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 five (5) 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.

If to Town:	Town Attorney Town of Castle Rock 100 Wilcox Street Castle Rock, CO 80104
-------------	--

If to Owner: M.D.C. Land Corporation
3600 S. Yosemite Street, Suite 1000
Denver, CO 80237

12.04 Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by the Courts 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, unless the unlawful provision constitutes material consideration for this Agreement, in which case the party for whose benefit the provision was drafted shall have such equitable remedies including reformation and rescission as may be available.

12.05 Directors Liability. Directors are signatories to this Agreement solely to subordinate their interest in the Directors Tract to this Agreement. Directors assume no obligation to undertake or perform any obligation of Owner under this Agreement, and Directors shall have no liability to Town of any nature, in the event of a default of this Agreement by Owner.

12.06 Conflicts. If the terms and provisions of this Agreement are in conflict with any prior agreement between the Town and the Owner or the Town Regulations, the terms and provisions of this Agreement, as it may be amended from time to time, shall control.

12.07 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.

12.08 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.

[Remainder of page intentionally left blank]

UNOFFICIAL COPY

ATTEST:

TOWN OF CASTLE ROCK/
TOWN OF CASTLE ROCK
WATER ENTERPRISE/TOWN
OF CASTLE ROCK SEWER
ENTERPRISE

Sally A. Misare
Sally A. Misare, Town Clerk

Ray Waterman
Ray Waterman, Mayor

Approved as to form:

Robert J. Slentz, Town Attorney

UNOFFICIAL COPY
COUNTY OF Douglas)
STATE OF Colorado) ss.

The foregoing instrument was acknowledged before me this 5th day of August, 2004, by Sally A. Misare as Town Clerk and Ray Waterman as Mayor for the Town of Castle Rock, Colorado.

Witness my official hand and seal.

My commission expires: 9-21-04.



J. L. King
Notary Public

OWNER:

M.D.C. LAND CORPORATION, a
Colorado corporation

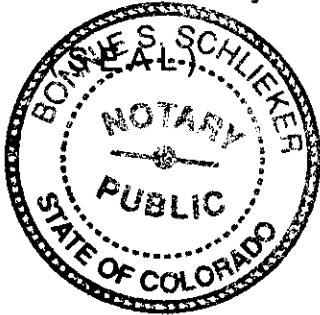
By: Michael Touff
Michael Touff
Its: Vice President

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

UNOFFICIAL COPY
The foregoing instrument was acknowledged before me this 9th
day of August, 2004 by

Michael Touff as Vice President for
M.D.C. Land Corporation, a Colorado corporation.

Witness my official hand and seal.
My commission expires: 11/13/06



Bonnie S. Schlieker
Notary Public

BOARD DIRECTORS JOINDER

By execution of this Agreement, the undersigned Board Directors hereby join this Agreement for the purposes set forth in Recital ~~X~~ and subject to the exculpation provisions of 12.08⁰⁵ hereof. ~~D~~

BOARD DIRECTORS:



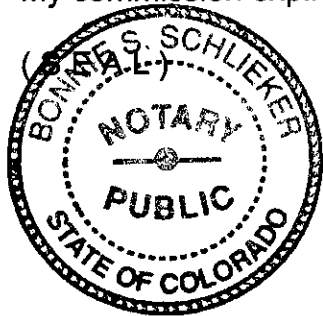
Thomas A. Zieske

UNOFFICIAL COPY
State of Colorado)
) ss.
County of Denver)

The foregoing instrument was acknowledged before me this 9th day of August, 2004 by Thomas A. Zieske.

Witness my official hand and seal.

My commission expires: 11/13/06



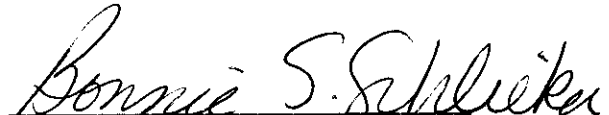

Notary Public

Exhibit 1

LEGAL DESCRIPTION

Parcel of land located in Sections 20, 21, 22, 27, 28, and 29, also being a portion of Castle Oaks Filing No. 1 and located in Township 7 South, Range 66 West of the 6th Principal Meridian, County of Douglas, State of Colorado, more particularly described as follows:

Beginning at the Northwest corner of said Section 29;
Thence North $89^{\circ}36'13''$ East along the North line of the Northwest quarter of said Section 29, 1317.11 feet to the Southwest corner of of the Southeast quarter of the Southwest quarter of said Section 20;
Thence North $00^{\circ}02'28''$ West along the West line of the Southeast quarter of the Southwest quarter of said Section 20, 1324.69 feet to the Northwest corner of the Southeast quarter of the Southwest quarter of said Section 20;
Thence North $89^{\circ}33'52''$ East along the North line of the South Half of the South Half of said Section 20, 2637.52 feet to the Southwest corner of the Northeast quarter of the Southeast quarter of said Section 20;
Thence North $00^{\circ}02'30''$ East along the West line of the Northeast quarter of the Southeast quarter of said Section 20, 1326.56 feet to the Northwest corner of the Northeast quarter of the Southeast quarter of said Section 20;
Thence North $89^{\circ}31'28''$ East along the North line of the Northeast quarter of the Southeast quarter of said Section 20, 1316.72 feet to the Northwest corner of the Northwest quarter of the Southwest quarter of said Section 21;
Thence North $89^{\circ}41'42''$ East along the North line of the South half of said Section 21, 1318.99 feet to the Northwest corner of the Northeast quarter of the Southwest quarter of said Section 21;
Thence continuing North $89^{\circ}41'42''$ East along the North line of the South half of said Section 21, 3957.01 feet to the Southwest corner of the Southwest quarter of the Northwest quarter of Section 22;
Thence North $00^{\circ}16'22''$ East along the West line of the Southwest quarter of the Northwest quarter of said Section 22, 1325.60 feet to the Northwest corner of the Southwest quarter of the Northwest quarter of said Section 22;
Thence South $89^{\circ}53'21''$ East along the North line of the Southwest quarter of the Northwest quarter of said Section 22, 1323.73 feet to the Northeast corner of the Southwest quarter of the Northwest quarter of said Section 22;
Thence South $00^{\circ}14'49''$ West along the East line of the Southwest quarter of the Northwest quarter of said Section 22, 1325.20 feet to the Northeast corner of the West half of the Southwest quarter of said Section 22;
Thence South $00^{\circ}13'43''$ West along the East line of the West half of the Southwest quarter of said Section 22, 2654.84 feet to the Northeast corner of the Northwest quarter of the Northwest quarter of said Section 27;
thence South $00^{\circ}06'30''$ West along the East line of the Northwest quarter of the Northwest quarter of said Section 27, 834.81 feet to a line 493.48 feet North of and parallel with the South line of the North half of the North half of said Section 27;
Thence South $89^{\circ}57'52''$ East along said line, 2562.58 feet to the West right-of-way line of Colorado Highway No. 83;

Continued on next page

Thence South $02^{\circ}13'33''$ West along said West right-of-way line, 398.12 feet to a point of curve;

Thence along said West right-of-way line and along said curve to the left having a radius of 11530.00 feet, a central angle of $00^{\circ}28'32''$, 95.71 feet to the South line of the North half of the North half of said Section 27;

Thence North $89^{\circ}57'52''$ West along the South line of the North half of the North half of said Section 27, 2544.73 feet to the Southwest corner of the Northeast quarter of the Northwest quarter of said Section 27;

Thence continuing North $89^{\circ}57'52''$ West along the South line of the North half of the North half of said Section 27, 1324.29 feet to the Southeast corner of the Northeast quarter of the Northeast quarter of said Section 28;

Thence South $89^{\circ}28'47''$ West along the South line of the North half of the Northeast quarter of said Section 28, 2634.25 feet to the Southeast corner of the Northeast quarter of the Northwest quarter of said Section 28;

Thence South $89^{\circ}49'02''$ West along the South line of the Northeast quarter of the Northwest quarter of said Section 28, 1315.83 feet to the Southwest corner of the Northeast quarter of the Northwest quarter of said Section 28;

Thence North $00^{\circ}05'13''$ East along the West line of the Northeast quarter of the Northwest quarter of said Section 28 and the East line of Outlot D of said Castle Oaks Filing No. 1, 1645.40 feet to the South right-of-way line of Pleasant View Drive as platted in said Castle Oaks Filing No. 1;

Thence along the South right-of-way line of Pleasant View Drive the following seven (7) courses:

1. Thence South $50^{\circ}38'08''$ West, 161.73 feet to a point of curve;
2. Thence along said curve to the left having a radius of 210.00 feet, a central angle of $54^{\circ}00'00''$, 197.92 feet to a point of reverse curve;
3. Thence along said curve to the right having a radius of 270.00 feet, a central angle of $90^{\circ}00'00''$, 424.12 feet to a point of reverse curve;
4. Thence along said curve to the left having a radius of 370.00 feet, a central angle of $56^{\circ}00'00''$, 361.63 feet to a point of tangent;
5. Thence South $30^{\circ}38'08''$ West along said tangent, 260.00 feet to a point of curve;
6. Thence along said curve to the right having a radius 430.00 feet, a central angle of $57^{\circ}48'57''$, 433.90 feet to a point of tangent;
7. Thence South $88^{\circ}27'05''$ West along said tangent, 303.87 feet to the Northwest corner of said Outlot D;

Thence South $26^{\circ}25'07''$ East along the West line of said Outlot D, 511.10 feet to the East line of the Northeast quarter of said Section 29;

Thence South $00^{\circ}04'53''$ West along the East line of said Northeast quarter, 5.76 feet to the Southwest corner of the Northwest quarter of the Northwest

Continued on next page

quarter of said Section 28;

~~Thence South 00°04'53" West along the East line of the Northeast quarter of
of said Section 29, 1333.14 feet to the East quarter corner of said Section
29;~~

Thence South 00°04'53" West along the East line of the Southeast quarter of
said Section 29, 2666.28 feet to the Southeast corner of said Section 29;

~~Thence South 89°49'31" West along the South line of the Southeast quarter of
said Section 29, 782.02 feet;~~

Thence North 00°10'29" West, 14.90 feet to the Southwest corner of Lot 4,
Block 8 of said Castle Oaks Filing No. 1;

Thence North 19°56'15" West along the West line of said Lot 4, 1299.64 feet
to a point on a curve on the right-of-way line of the Antelope Place as
platted in said Castle Oaks Filing No. 1;

Thence along the Southerly right-of-way line of said Antelope Place the
following four (4) courses:

1. Thence along said curve to the right having a radius of 92.50 feet, a
central angle of 126°37'54" (the chord of which bears North 46°36'57" West,
165.30 feet), 204.45 feet;
2. Thence North 54°22'31" West, 141.04 feet to a point of curve;
3. Thence along said curve to the left having a radius of 370.00 feet, a
central angle of 11°34'22", 74.73 feet to a point of tangent;
4. Thence North 65°56'53" West along said tangent, 145.32 feet to the East
right-of-way line of Pleasant View Drive;

Thence along the East right-of-way line of said Pleasant View Drive the
following three (3) courses:

1. Thence South 25°57'43" West, 95.82 feet to a point of curve;
2. Thence along said curve to the right having a radius of 430.00 feet, a
central angle of 30°59'00", 232.53 feet to a point of tangent;
3. Thence South 56°56'43" West along said tangent, 156.72 feet;

Thence North 67°32'40" West, 70.54 feet to the Southeast corner of Lot 11,
Block 7 of said Castle Oaks Filing No. 1;

Thence along the boundary of Lots 2, 3, 4, 8, 9, 10 and 11, Block 7, Castle
Oaks Filing No. 1 the following seven (7) courses:

1. Thence North 53°04'08" West along the Southerly line of said Lot 11,
380.75 feet to the Southwest corner of said Lot 11;
2. Thence North 25°29'33" East along the West line of said Lot 11, 720.00
feet to the Southwest corner of Lot 10;

Continued on next page

3. Thence North 19°29'33" East along the West line of said Lot 10, 1165.00 feet to the Southwest corner of Lot 9;

4. Thence North 21°49'56" West along the West line of said Lot 9, 672.52 feet to the corner common to Lots 3, 4, 8, 9, 18 and 19 of Block 7;

5. Thence South 87°12'33" West along the South line of said Lot 3, 649.13 feet to the Southwest corner of said Lot 3;

~~6. Thence South 57°23'50" West along the Southwesterly line of Lot 2, 799.94 feet to the Southernmost corner of said Lot 2;~~

7. Thence North 50°33'52" West along the Southwesterly line of said Lot 2, 275.47 feet to the Southwest corner of said Lot 2;

Thence South 28°23'19" West along the East right-of-way line of Castle Oaks Drive, as platted in said Castle Oaks Filing No. 1, 1180.45 feet to the Northwest corner of Lot 14, Block 6 of said Castle Oaks Filing No. 1; Thence along the boundary of Lots 12, 13 and 14, Block 6 of said Castle Oaks Filing No. 1 the following five (5) courses:

1. Thence South 80°13'43" East along the North line of Lot 14, 808.48 feet to the Northeast corner of said Lot 14;

2. Thence South 00°31'41" West along the East line of said Lot 14, 674.61 feet to the Northeast corner of Lot 13;

3. Thence South 29°23'28" West along the East line of said Lot 13, 1040.00 feet to the Northeast corner of Lot 12;

4. Thence South 45°23'28" West along the East line of said Lot 12, 592.53 feet to the Southeast corner of said Lot 12;

5. Thence South 87°35'55" West along the South line of said Lot 12, 721.94 feet to the East right-of-way line of said Castle Oaks Drive;

Thence North 26°31'56" East along said East right-of-way line of said Castle Oaks Drive, 457.48 feet;

Thence North 17°31'51" West, 112.01 feet to the Southeast corner of Lot 16, Block 2 of said Castle Oaks Filing No. 1;

Thence North 50°35'12" West along the Southerly line of said Lot 16, 771.72 feet to the Northwest corner of the Southwest quarter of the Southeast quarter of said Section 29;

Thence North 00°23'10" East along the West line of the Northwest quarter of the Southwest quarter of said Section 29, 1323.73 feet to the West quarter corner of said Section 29;

thence North 00°23'12" East along the West line of the Northwest quarter of said Section 29, 2646.55 feet to the point of beginning,

County of Douglas,
State of Colorado.



LEGAL DESCRIPTION
EMK CONSULTANTS, INC.
7006 SOUTH ALTON WAY, BUILDING F, CENTENNIAL, COLORADO 80112-2019 (303) 694-1520

SHEET 1 OF 6

ENGINEERING & SURVEYING

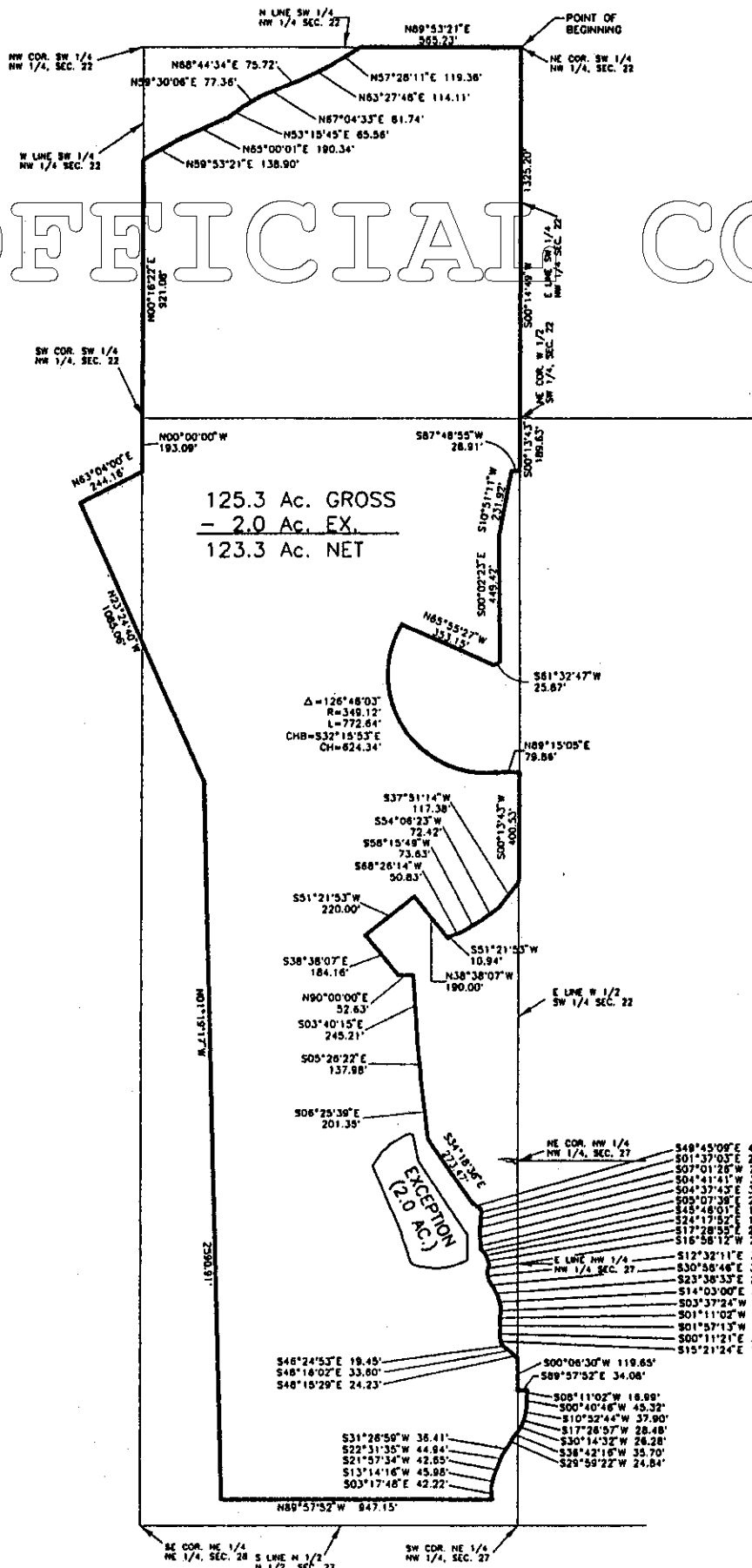
7006 SOUTH ALTON WAY, BUILDING F, CENTENNIAL, COLORADO 80112-2019 (303) 694-1520

NOTICE: This drawing does not represent a monumented survey and is only intended to depict the accompanying legal description.

Date 04/02/04 Job No. 11948.02
Scale N/A Drawn By DSN

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within 3 years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

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LEGAL DESCRIPTION
EMK CONSULTANTS, INC.

ENGINEERING & SURVEYING

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Date 04/02/04 Job No. 11948.02
Scale N/A Drawn By DSN

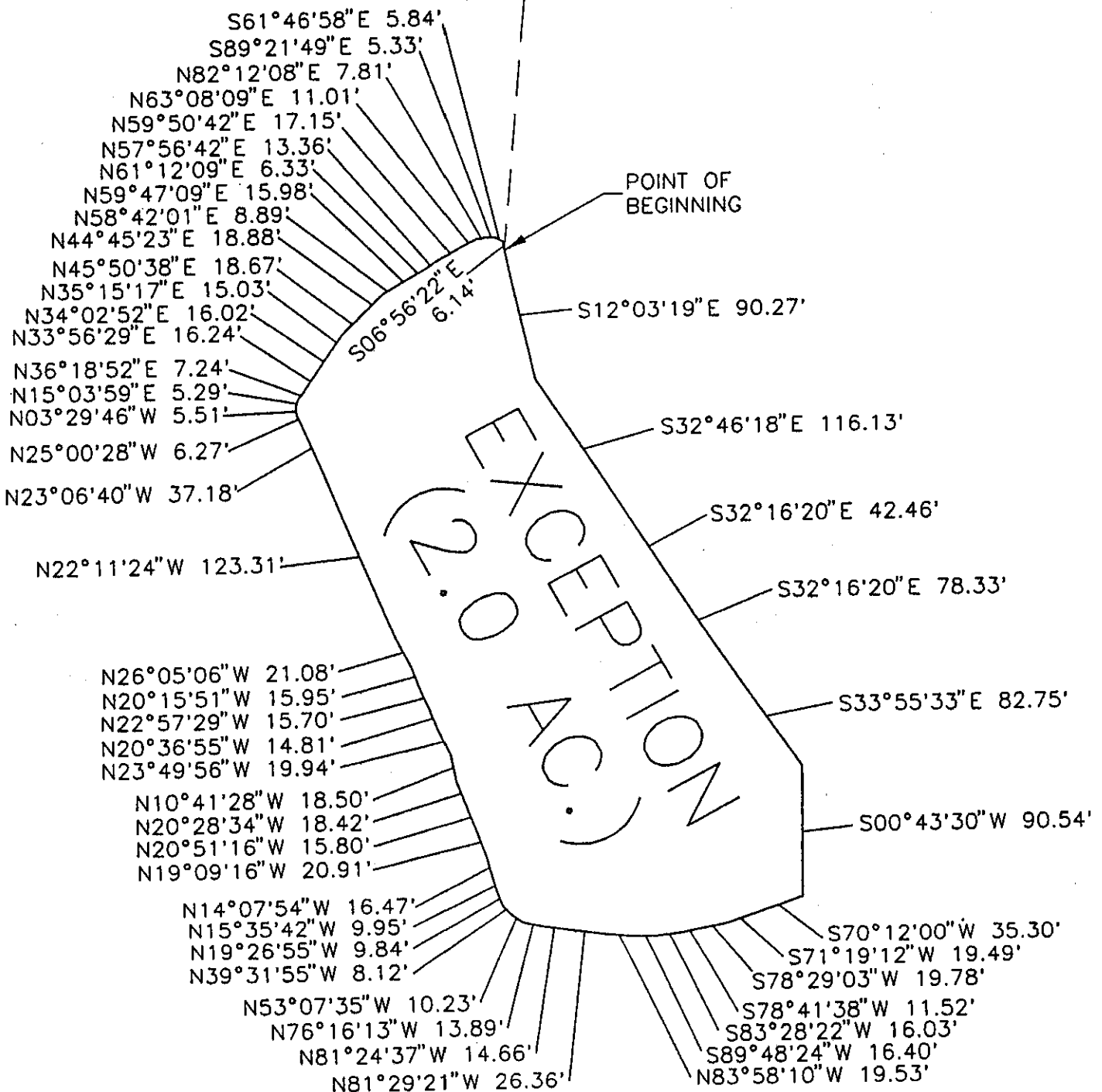
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NE COR. SW 1/4
NW 1/4, SEC. 22

POINT OF BEGINNING

NO EXCEPTION





LEGAL DESCRIPTION

SHEET 3 OF 6

EMK CONSULTANTS, INC. ENGINEERING & SURVEYING
 7006 SOUTH ALTON WAY, BUILDING F, CENTENNIAL, COLORADO 80112-2019 (303) 694-1520

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Date 04/02/04 Job No. 11948.02
 Scale N/A Drawn By DSN

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LEGAL DESCRIPTION

AN IRREGULAR PARCEL OF LAND LYING IN THE SOUTHEAST QUARTER OF SECTION 21, THE SOUTHWEST QUARTER OF SECTION 22, THE NORTHWEST QUARTER OF SECTION 27, AND THE NORTHEAST QUARTER OF SECTION 28, TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22;
 THENCE ALONG THE EAST LINE OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22 S00°14'49"W, 1325.20 FEET TO THE NORTHEAST CORNER OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 22;
 THENCE ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 22 S00°13'43"W, 189.63 FEET;
 THENCE S87°48'55"W, 28.91 FEET;
 THENCE S10°51'11"W, 231.92 FEET;
 THENCE S00°02'23"E, 449.42 FEET;
 THENCE S61°32'47"W, 25.87 FEET;
 THENCE N65°55'27"W, 353.15 FEET TO A POINT ON A CURVE;
 THENCE ALONG THE ARC OF SAID CURVE TO THE LEFT HAVING A RADIUS OF 349.12 FEET AND A CENTRAL ANGLE OF 126°48'03" (THE CHORD OF WHICH BEARS S32°15'53"E, 624.34 FEET), 772.64 FEET;
 THENCE N89°15'05"E, 79.86 FEET TO THE EAST LINE OF THE THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 22;
 THENCE ALONG THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SAID SECTION 22 S00°13'43"W, 400.53 FEET;
 THENCE S37°51'14"W, 117.38 FEET;
 THENCE S54°06'23"W, 72.42 FEET;
 THENCE S58°15'49"W, 73.63 FEET;
 THENCE S68°26'14"W, 50.83 FEET;
 THENCE S51°21'53"W, 10.94 FEET;
 THENCE N38°38'07"W, 190.00 FEET;
 THENCE S51°21'53"W, 220.00 FEET;
 THENCE S38°38'07"E, 184.16 FEET;
 THENCE N90°00'00"E, 52.63 FEET;
 THENCE S03°40'15"E, 245.21 FEET;
 THENCE S05°26'22"E, 137.98 FEET;
 THENCE S06°25'39"E, 201.35 FEET;
 THENCE S34°18'36"E, 273.47 FEET;
 THENCE S49°45'09"E, 44.04 FEET;
 THENCE S01°37'03"E, 20.85 FEET;
 THENCE S07°01'26"W, 27.44 FEET;
 THENCE S04°41'41"W, 32.57 FEET;
 THENCE S04°37'43"E, 35.45 FEET;
 THENCE S05°07'39"E, 25.40 FEET;
 THENCE S45°46'01"E, 17.47 FEET;
 THENCE S24°17'52"E, 19.47 FEET;
 THENCE S17°28'55"E, 26.17 FEET;
 THENCE S16°58'12"W, 27.78 FEET;

Exhibit 2 (continued)



LEGAL DESCRIPTION
EMK CONSULTANTS, INC.
7006 SOUTH ALTON WAY, BUILDING F, CENTENNIAL, COLORADO 80112-2019 (303) 694-1520

SHEET 4 OF 6

ENGINEERING & SURVEYING

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Date 04/02/04 Job No. 11948.02
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THENCE S12°32'11"E, 31.58 FEET;
 THENCE S30°58'46"E, 39.96 FEET;
 THENCE S23°38'33"E, 29.92 FEET;
 THENCE S14°03'00"E, 36.97 FEET;
 THENCE S03°37'24"W, 28.11 FEET;
 THENCE S01°11'02"W, 24.87 FEET;
 THENCE S01°57'13"W, 29.69 FEET;
 THENCE S00°11'21"E, 33.30 FEET;
 THENCE S15°21'24"E, 19.62 FEET;
 THENCE S46°24'53"E, 19.45 FEET;
 THENCE S48°16'02"E, 33.60 FEET;
 THENCE S48°15'29"E, 24.23 FEET TO THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27;
 THENCE ALONG THE EAST LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 27 S00°06'30"W, 119.65 FEET;
 THENCE S89°57'52"E, 34.08 FEET;
 THENCE S08°11'02"W, 16.99 FEET;
 THENCE S00°40'46"W, 45.32 FEET;
 THENCE S10°52'44"W, 37.90 FEET;
 THENCE S17°26'57"W, 28.48 FEET;
 THENCE S30°14'32"W, 26.28 FEET;
 THENCE S36°42'16"W, 35.70 FEET;
 THENCE S29°59'22"W, 24.84 FEET;
 THENCE S31°26'59"W, 36.41 FEET;
 THENCE S22°31'35"W, 44.94 FEET;
 THENCE S21°57'34"W, 42.65 FEET;
 THENCE S13°14'16"W, 45.98 FEET;
 THENCE S03°17'48"E, 42.22 FEET;
 THENCE N89°57'52"W, 947.15 FEET;
 THENCE N01°19'17"W, 2590.91 FEET;
 THENCE N23°24'40"W, 1085.06 FEET;
 THENCE N63°04'00"E, 244.16 FEET;
 THENCE N00°00'00"E, 193.09 FEET;
 THENCE N00°16'23"E, 921.08 FEET;
 THENCE N59°53'21"E, 138.90 FEET;
 THENCE N65°00'01"E, 190.34 FEET;
 THENCE N53°15'45"E, 65.56 FEET;
 THENCE N59°30'06"E, 77.36 FEET;
 THENCE N67°04'33"E, 81.74 FEET;
 THENCE N68°44'34"E, 75.72 FEET;
 THENCE N63°27'48"E, 114.11 FEET;
 THENCE N57°28'11"E, 119.36 FEET;
 THENCE N89°53'21"E, 565.23 FEET TO THE POINT OF BEGINNING, CONTAINING 125.3 ACRES, MORE OR LESS.

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LEGAL DESCRIPTION
EMK CONSULTANTS, INC.
 7006 SOUTH ALTON WAY, BUILDING F, CENTENNIAL, COLORADO 80112-2019

SHEET 5 OF 6
ENGINEERING & SURVEYING
 (303) 694-1520

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Date 04/02/04 Job No. 11948.02
 Scale N/A Drawn By DSN

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within 3 years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

EXCEPTING THEREFROM:

AN IRREGULAR PARCEL OF LAND LYING IN THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 22 AND IN THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 27, TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE 6TH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING NORTHEAST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 22, FROM WHICH THE ; THENCE S05°39'06"W, 3911.54 FEET TO THE POINT OF BEGINNING;

- THENCE S12°03'19"E, 90.27 FEET;
- THENCE S32°46'18"E, 116.13 FEET;
- THENCE S32°16'20"E, 42.46 FEET;
- THENCE CONTINUING ALONG SAID LINE S32°16'20"E, 78.33 FEET;
- THENCE S33°55'33"E, 82.75 FEET;
- THENCE S00°43'30"W, 90.54 FEET;
- THENCE S70°12'00"W, 35.30 FEET;
- THENCE S71°19'12"W, 19.49 FEET;
- THENCE S78°29'03"W, 19.78 FEET;
- THENCE S78°41'38"W, 11.52 FEET;
- THENCE S83°28'22"W, 16.03 FEET;
- THENCE S89°48'24"W, 16.40 FEET;
- THENCE N83°58'10"W, 19.53 FEET;
- THENCE N81°29'21"W, 26.36 FEET;
- THENCE N81°24'37"W, 14.66 FEET;
- THENCE N76°16'13"W, 13.89 FEET;
- THENCE N53°07'35"W, 10.23 FEET;
- THENCE N39°31'55"W, 8.12 FEET;
- THENCE N19°26'55"W, 9.84 FEET;
- THENCE N15°35'42"W, 9.95 FEET;
- THENCE N14°07'54"W, 16.47 FEET;
- THENCE N19°09'16"W, 20.91 FEET;
- THENCE N20°51'16"W, 15.80 FEET;
- THENCE N20°28'34"W, 18.42 FEET;
- THENCE N10°41'28"W, 18.50 FEET;
- THENCE N23°49'56"W, 19.94 FEET;
- THENCE N20°36'55"W, 14.81 FEET;
- THENCE N22°57'29"W, 15.70 FEET;
- THENCE N20°15'51"W, 15.95 FEET;
- THENCE N26°05'06"W, 21.08 FEET;
- THENCE N22°11'24"W, 123.31 FEET;
- THENCE N23°06'40"W, 37.18 FEET;
- THENCE N25°00'28"W, 6.27 FEET;
- THENCE N03°29'46"W, 5.51 FEET;
- THENCE N15°03'59"E, 5.29 FEET;
- THENCE N36°18'52"E, 7.24 FEET;
- THENCE N33°56'29"E, 16.24 FEET;
- THENCE N34°02'52"E, 16.02 FEET;
- THENCE N35°15'17"E, 15.03 FEET;



LEGAL DESCRIPTION
EMK CONSULTANTS, INC.

SHEET 6 OF 6

ENGINEERING & SURVEYING

7006 SOUTH ALTON WAY, BUILDING F, CENTENNIAL, COLORADO 80112-2019 (303) 694-1520

NOTICE: This drawing does not represent a monumented survey and is only intended to depict the accompanying legal description.

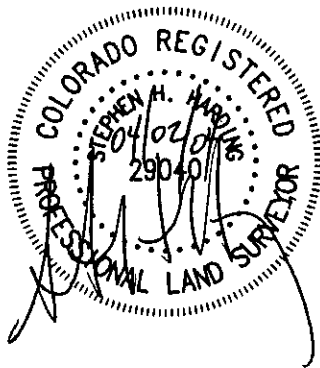
Date 04/02/04 Job No. 11948.02
Scale N/A Drawn By DSN

NOTICE: According to Colorado law you must commence any legal action based upon any defect in this survey within 3 years after you first discover such defect. In no event, may any action based upon any defect in this survey be commenced more than ten years from the date of the certification shown hereon.

THENCE N35°15'17"E, 15.03 FEET;
THENCE N45°50'38"E, 18.67 FEET;
THENCE N44°45'23"E, 18.88 FEET;
THENCE N58°42'01"E, 8.89 FEET;
THENCE N59°47'09"E, 15.98 FEET;
THENCE N61°12'09"E, 6.33 FEET;
THENCE N57°56'42"E, 13.36 FEET;
THENCE N59°50'42"E, 17.15 FEET;
THENCE N63°08'09"E, 11.01 FEET;
THENCE N82°12'08"E, 7.81 FEET;
THENCE S89°21'49"E, 5.33 FEET;
THENCE S61°46'58"E, 5.84 FEET;
THENCE S06°56'22"E, 6.14 FEET TO THE POINT OF BEGINNING, CONTAINING 2.0 ACRES, MORE OR LESS;

RESULTING IN A NET ACREAGE OF 123.3 ACRES.

PREPARED BY:
STEPHEN H. HARDING, PLS
FOR AND ON BEHALF OF
EMK CONSULTANTS, INC.



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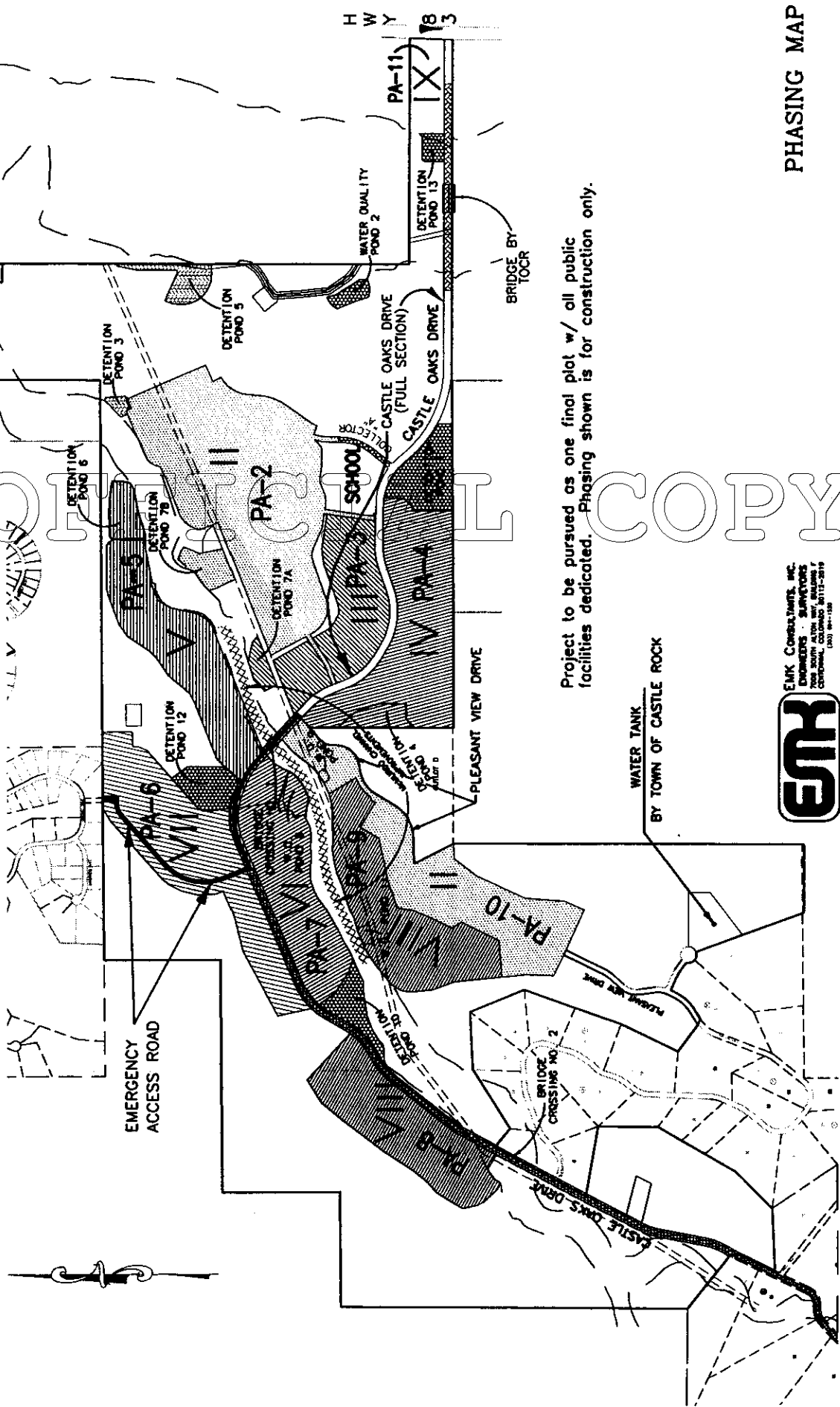
JMS

Exhibit 3

**LIBERTY VILLAGE PORTION P.U.D.
THE VILLAGES OF CASTLE ROCK - INFILL
2ND AMENDMENT**

A PARCEL OF LAND LOCATED IN SECTIONS 20, 21, 22, 27, 28 & 29, ALSO BEING A PORTION OF CASTLE OAKS TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE 6TH E.M. TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO

Preliminary PD Site Plan
CONCEPT PHASE MAP



Project to be pursued as one final plot w/ all public facilities dedicated. Phasing shown is for construction only.

EMK

EMK CONSULTANTS, INC.
ENGINEERS - SURVEYORS
700 SOUTH ALTON WAY, SUITE 100
CASTLE ROCK, CO 80108-2819

PHASING MAP

H W Y 18 3

LIBERTY VILLAGE PORTION P.U.D.
PHASING PLAN
GENERAL NOTES

FINAL

COPY

NOTES:

- 1) ALL IMPROVEMENTS AS LISTED ARE THE RESPONSIBILITY OF EITHER THE VILLAGES OF CASTLE ROCK METROPOLITAN DISTRICT NO. 6 OR THE DEVELOPER. THE TOWN OF CASTLE ROCK IS RESPONSIBLE FOR THE CASTLE OAKS DRIVE BRIDGE IMPROVEMENTS OVER CHERRY CREEK AND THE WATER TANK IMPROVEMENTS.
- 2) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 3) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMurdo CROSSING IMPROVEMENTS AS NECESSARY.
- 4) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIOR PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

Exhibit 3 (continued)

ms

SMB

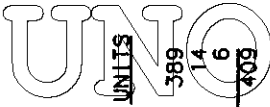
UNO

PHASE I

	DESCRIPTION
	ALL OVERLAY GRADING FOR LIBERTY VILLAGE TO BE DONE WITH PHASE I AND TO INCLUDE ROUGH GRADING FOR ALL DETERMINED AND WATER QUALITY PONDS
STREETS	
	CASTLE OAKS DRIVE -
	-COMPLETE INTERSECTION IMPROVEMENTS WITH HIGHWAY 83 WIDENING PER STATE ACCESS CODE.
	-COMPLETE FULL CASTLE OAKS DRIVE SECTION IMPROVEMENTS ALONG COMMERCIAL FRONTAGE FROM S.H. 83 TO A LOCATION TO BE DETERMINED.
	TEMPORARY TRANSITION TO EXISTING ROADWAY ALIGNMENT WITH TEMPORARY SECTION THROUGH CHERRY CREEK FLOODPLAIN
	-COMPLETE FULL CASTLE OAKS DRIVE SECTION FROM SECONDARY REGIONAL PARK ACCESS (±300 FEET OFF CHERRY CREEK WEST FLOODPLAIN LIMITS) THROUGH THE INTERSECTION OF PLEASANT VIEW DRIVE, EAST OF MCMURDO GULCH.
	-PROVIDE ALL WEATHER* SURFACE UTILIZING EXISTING MCMURDO BRIDGE CROSSING NO. 1 ALONG CASTLE OAKS DRIVE AND THROUGH PA-6 FOR CONTIGUOUS EMERGENCY ACCESS ROAD CONNECTION INTO PINERY WEST PRIOR TO ISSUANCE OF 1ST BUILDING PERMIT.
	-CONSTRUCT INTERIM GRAVEL ROADWAY FOR CASTLE OAKS DRIVE ALIGNMENT FROM EMERGENCY ACCESS ROAD CONNECTION SOUTHWEST THROUGH THE REMAINDER OF LIBERTY VILLAGE PROJECT AND CONNECT TO EXISTING CASTLE OAKS DRIVE GRAVEL ROADWAY AT BOUNDARY WITH CASTLE OAKS, EXISTING MCMURDO BRIDGE CROSSING NO. 2 TO BE UTILIZED.
	COLLECTOR "A" ON EAST BOUNDARY OF SCHOOL SITE AND TWO (2) OTHER CASTLE OAKS ENTRANCE CONNECTIONS
DRAINAGE	
	DETENTION PONDS 1, 2 (ROUGH GRADE ONLY)
	COMPLETE POND IMPROVEMENTS FOR PONDS 3, 5, 10, 12 AND 13
	MCMURDO CHANNEL IMPROVEMENTS WITH EXISTING CASTLE OAKS DRIVE CROSSING NO. 1 TO REMAIN.
SANITARY SEWER	
	15" TRUNK LINE CONNECTION IN PINERY WEST TO THE NORTH AND TRUNK EXTENSION TO METERING STATION
	12" TRUNK LINE EXTENSION THROUGH REGIONAL PARK AND INTO PA 2 WITH APPROPRIATE STUB LOCATIONS ACROSS CASTLE OAKS DRIVE
	FORCE MAIN TO SERVE COMMERCIAL SITE TO BE INSTALLED WITH FULL ROADWAY IMPROVEMENTS IN CONJUNCTION WITH WATER LINE EXTENSION. (SEE BELOW)
WATER	
	COMPLETE RED ZONE LINE EXTENSION WITHIN CASTLE OAKS SUBDIVISION IF NOT IN PLACE. INSTALL PRV AND EXTEND BLUE ZONE LINE IN CASTLE OAKS DRIVE THROUGH CASTLE OAKS SUBDIVISION PAST PLEASANT VIEW DRIVE WITHIN LIBERTY VILLAGE. INSTALL PRV AND EXTEND YELLOW ZONE LINE TO WATER TANK SITE.
	COMPLETE YELLOW ZONE LINE WITHIN CASTLE OAKS DRIVE
	COMPLETE LINE EXTENSION AND LOOP IN CASTLE OAKS DRIVE TO APPROXIMATELY THE WEST FLOODPLAIN LIMIT OF CHERRY CREEK. DEFER WATER LINE EXTENSION TO THE COMMERCIAL SITE UNTIL TEMPORARY SECTION OF CASTLE OAKS DRIVE TO ACCOMMODATE BRIDGE REPLACEMENT BY THE TOWN IS COMPLETED AND FULL ROADWAY IMPROVEMENT IS PURSUED.

* ALL-WEATHER = ASPHALT OR CONCRETE, CAPABLE OF SUPPORTING 75,000 LBS. EMERGENCY VEHICLE.
 -EMERGENCY ACCESS ROAD MUST INCLUDE GATE AND OPTICOM SYSTEM

OPY



PHASE II

PHASE	PLANNING AREA	UNITS
11	PA 2	389
	PA 9	14
	PA 10	6
	TOTAL	409

DESCRIPTION
STREETS
COMPLETE INTERNAL SYSTEM WITHIN PA 2 & PLEASANT VIEW DRIVE WITHIN PA 9 & PA 10
ALL INTERNAL ROADWAYS
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)
COMPLETE INTERNAL SYSTEM WITHIN PA 2, PA 9 AND PA 10
COMPLETE POND IMPROVEMENTS FOR PONDS 7B & 9
SANITARY SEWER
COMPLETE INTERNAL SYSTEM WITHIN PA 2 WITH STUBS ACROSS CASTLE OAKS DRIVE AND OTHER APPROPRIATE LOCATIONS FOR FUTURE PHASING CONNECTIONS.
COMPLETE INTERNAL SYSTEM WITHIN PA 10 & PORTION OF PA 9
WATER
COMPLETE INTERNAL SYSTEM OF PA 2 AND EXTENSION TO PA 9 AND PA 10
McMURDO TRAIL
COMPLETE TRAIL FROM CASTLE OAKS DRIVE TO THE NORTH PROJECT BOUNDARY

NOTES:

1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.

2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.

3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIOR PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

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PHASE III

PHASE 111 PLANNING AREA PA 3 UNITS 157

DESCRIPTION
STREETS
COMPLETE INTERNAL SYSTEM WITHIN PA 3
ALL INTERNAL ROADWAYS
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)
COMPLETE INTERNAL SYSTEM WITHIN PA 3
COMPLETE POND IMPROVEMENTS FOR POND 7A
INTERNAL DRAINAGE/STORM SEWER SYSTEM
SANITARY SEWER
COMPLETE INTERNAL SYSTEM WITHIN PA 3
WATER
COMPLETE INTERNAL SYSTEM WITHIN PA3

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIOR PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

msb

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PHASE IV
 PHASE PLANNING AREA
 IV PA 4

UNITS 209

DESCRIPTION
STREETS
COMPLETE INTERNAL SYSTEM WITHIN PA 4
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)
COMPLETE INTERNAL SYSTEM WITHIN PA 4
COMPLETE POND IMPROVEMENTS FOR PONDS 1 & 4
SANITARY SEWER
COMPLETE INTERNAL SYSTEM WITHIN PA 4
WATER
COMPLETE INTERNAL SYSTEM WITHIN PA 4

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIOR PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE-OUT-OF SEQUENCE PHASE

Sub

gmb

PHASE V

PHASE PLANNING UNITS
 AREA PA 5 149

DESCRIPTION
STREETS
CASTLE OAKS DRIVE -
-COMPLETE McMURDO BRIDGE CROSSING NO. 1 REPLACEMENT.
-COMPLETE FULL CASTLE OAKS DRIVE SECTION IMPROVEMENTS THROUGH PA 6 AND PA 7 FRONTAGE.
-TRANSITION BACK TO EXISTING GRAVEL ROADWAY SECTION TO WEST IN PLACE FROM PHASE 1.
COMPLETE INTERNAL SYSTEM WITHIN PA 5
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE 1)
COMPLETE INTERNAL SYSTEM WITHIN PA 5
COMPLETE POND IMPROVEMENTS FOR POND 6
SANITARY SEWER
COMPLETE INTERNAL SYSTEM WITHIN PA 5
COMPLETE CONNECTION ACROSS McMURDO GULCH TO PA 2
WATER
COMPLETE INTERNAL SYSTEM WITHIN PA 5
COMPLETE LOOP ACROSS McMURDO GULCH TO PA 2

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIORITY PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

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PHASE VI

PHASE VI
 PLANNING AREA PA 7
 UNITS 121

DESCRIPTION
STREETS
COMPLETE INTERNAL SYSTEM WITHIN PA 7
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)
COMPLETE INTERNAL SYSTEM WITHIN PA 7
COMPLETE POND IMPROVEMENTS FOR POND 8
SANITARY SEWER
COMPLETE INTERNAL SYSTEM WITHIN PA 7
WATER
COMPLETE INTERNAL SYSTEM WITHIN PA 7
McMURDO TRAIL (REFER TO DEVELOPMENT AGREEMENT FOR ALTERNATIVES ON TIMING & ARRANGEMENTS)
COMPLETE TRAIL FROM CASTLE OAKS DRIVE TO THE SOUTH PROJECT BOUNDARY

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIOR PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

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PHASE VII
 PHASE PLANNING AREA
 PA 6

VII UNITS 159

DESCRIPTION
STREETS
COMPLETE INTERNAL SYSTEM WITHIN PA 6
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)
COMPLETE INTERNAL SYSTEM WITHIN PA 6
SANITARY SEWER
COMPLETE INTERNAL SYSTEM WITHIN PA 6
WATER
COMPLETE INTERNAL SYSTEM WITHIN PA 6

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIORITY PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

Sub

PHASE VIII

PHASE	PLANNING AREA	UNITS
VIII	PA 9	22
VIII	PA 8	19
TOTAL		41

STREETS	DESCRIPTION
CASTLE OAKS DRIVE	- (NOTE: WORK ON THIS PHASE OF CASTLE OAKS DRIVE TO COMMENCE WITH ISSUANCE OF THE 1,000th BUILDING PERMIT OR 2012. WHICHEVER IS FIRST.) -COMPLETE MCMURDO BRIDGE CROSSING NO. 2 REPLACEMENT -COMPLETE FULL CASTLE OAKS DRIVE SECTION IMPROVEMENTS FROM PHASE V LIMIT TO PROJECT BOUNDARY. -AN INTERIM PAVED ACCESS ROAD (22' ASPHALT) THROUGH TO FOUNDERS PARKWAY SHALL BE COMPLETED WITH PHASE VIII OF LIBERTY VILLAGE IF CASTLE OAKS ESTATES, L.L.C. (ITS SUCCESSORS OR ASSIGNS) HAS NOT COMPLETED NECESSARY IMPROVEMENTS TO CASTLE OAKS DRIVE/AUTUMN SAGE STREET/ RISING SUN DRIVE.
	-COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8.
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)	
	COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8
	COMPLETE IMPROVEMENTS FOR WATER QUALITY POND 11
SANITARY SEWER	
	COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8
WATER	
	COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE MCMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIORITY PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

COPY

gmb

PHASE IX
 PHASE PLANNING AREA
 UNITS
 IX PA 11 COMM.

DESCRIPTION
STREETS
ADD TURN LANES TO CASTLE OAKS DRIVE AT ENTRANCES INTO COMMERCIAL AREA
COMPLETION OF PRIVATE INTERNAL ROADWAY
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE 1)
POND 13 COMPLETE IN PLACE WITH PHASE 1
SANITARY SEWER
LIFT STATION AND FORCE MAIN CONSTRUCTED & FORCE MAIN CONNECTED
COMPLETE INTERNAL SYSTEM
WATER
COMPLETE INTERNAL SYSTEM

NOTE: WATER QUALITY POND 2 TO BE COMPLETED WITH REGIONAL PARK IMPROVEMENTS

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE 1 MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMurdo CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIORITY PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

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EXHIBIT 4

The right and interest to all Denver basin ground water underlying the property described in the attached Exhibit A, as decreed in Case No. 79CW365, Water Division No. 1, State of Colorado, and further described as follows:

<u>Aquifer</u>	<u>AF/Yr.</u>	<u>Proportionate Interest in Decree¹</u>
Lower Dawson	508.2	508.2/1002.1
Denver	641.2	641.2/1250.7
Arapahoe	568.6	568.6/1105.2
Laramie Fox-Hills	350.9	350.9/ 691.5

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¹ The numerator of each fraction above is the number of acre feet per year herein conveyed and the denominator of each such fraction is the total number of acre feet per year presently adjudicated in the Water Court decree.

Exhibit A

Parcel of land located in Sections 20, 21, 22, 27, 28, and 29, also being a portion of Castle Oaks Filing No. 1 and located in Township 7 South, Range 66 West of the 6th Principal Meridian, County of Douglas, State of Colorado, more particularly described as follows:

Beginning at the Northwest corner of said Section 29;

Thence North $89^{\circ}36'13''$ East along the North line of the Northwest quarter of said Section 29, 1317.11 feet to the Southwest corner of the Southeast quarter of the Southwest quarter of said Section 20;

Thence North $00^{\circ}42'28''$ West along the West line of the Southeast quarter of the Southwest quarter of said Section 20, 1324.69 feet to the Northwest corner of the Southeast quarter of the Southwest quarter of said Section 20;

Thence North $89^{\circ}33'52''$ East along the North line of the South Half of the South Half of said Section 20, 2637.52 feet to the Southwest corner of the Northeast quarter of the Southeast quarter of said Section 20;

Thence North $00^{\circ}02'30''$ East along the West line of the Northeast quarter of the Southeast quarter of said Section 20, 1326.36 feet to the Northwest corner of the Northeast quarter of the Southeast quarter of said Section 20;

Thence North $89^{\circ}31'28''$ East along the North line of the Northeast quarter of the Southeast quarter of said Section 20, 1316.72 feet to the Northwest corner of the Northwest quarter of the Southwest quarter of said Section 21; Thence North $89^{\circ}41'42''$ East along the North line of the South half of said Section 21, 1318.99 feet to the Northwest corner of the Northeast quarter of the Southwest quarter of said Section 21;

Thence continuing North $89^{\circ}41'42''$ East along the North line of the South half of said Section 21, 3957.01 feet to the Southwest corner of the Southwest quarter of the Northwest quarter of Section 22;

Thence North $00^{\circ}16'22''$ East along the West line of the Southwest quarter of the Northwest quarter of said Section 22, 1325.60 feet to the Northwest corner of the Southwest quarter of the Northwest quarter of said Section 22;

Thence South $89^{\circ}53'21''$ East along the North line of the Southwest quarter of the Northwest quarter of said Section 22, 1323.73 feet to the Northeast corner of the Southwest quarter of the Northwest quarter of said Section 22;

Thence South $00^{\circ}14'49''$ West along the East line of the Southwest quarter of the Northwest quarter of said Section 22, 1325.20 feet to the Northeast corner of the West half of the Southwest quarter of said Section 22;

Thence South $00^{\circ}13'43''$ West along the East line of the West half of the Southwest quarter of said Section 22, 2654.84 feet to the Northeast corner of the Northwest quarter of the Northwest quarter of said Section 27;

Thence South $00^{\circ}06'30''$ West along the East line of the Northwest quarter of the Northwest quarter of said Section 27, 834.81 feet to a line 493.48 feet North of and parallel with the South line of the North half of the North half of said Section 27;

Thence South $89^{\circ}57'52''$ East along said line, 2562.58 feet to the West right-of-way line of Colorado Highway No. 83;

Thence South $02^{\circ}13'33''$ West along said West right-of-way line, 398.12 feet to a point of curve;

Thence along said West right-of-way line and along said curve to the left having a radius of 11530.00 feet, a central angle of $00^{\circ}28'32''$, 95.71 feet to the South line of the North half of the North half of said Section 27;

Thence North $89^{\circ}57'52''$ West along the South line of the North half of the North half of said Section 27, 2544.73 feet to the Southwest corner of the Northeast quarter of the Northwest quarter of said Section 27;

Thence continuing North $89^{\circ}57'52''$ West along the South line of the North half of the North half of said Section 27, 1324.29 feet to the Southeast corner of the Northeast quarter of the Northeast quarter of said Section 28;

Thence South $89^{\circ}28'47''$ West along the South line of the North half of the Northeast quarter of said Section 28, 2634.25 feet to the Southeast corner of the Northeast quarter of the Northwest quarter of said Section 28;

Thence South $89^{\circ}49'02''$ West along the South line of the Northeast quarter of the Northwest quarter of said Section 28, 1315.83 feet to the Southwest corner of the Northeast quarter of the Northwest quarter of said Section 28;

Exhibit A
(continued)

Thence North $00^{\circ}05'13''$ East along the West line of the Northeast quarter of the Northwest quarter of said Section 28 and the East line of Outlet D of said Castle Oaks Filing No. 1, 1645.40 feet to the South right-of-way line of Pleasant View Drive as platted in said Castle Oaks Filing No. 1;

Thence along the South right-of-way line of Pleasant View Drive the following seven (7) courses:

1. Thence South $50^{\circ}38'08''$ West, 161.73 feet to a point of curve;
2. Thence along said curve to the left having a radius of 210.00 feet, a central angle of $54^{\circ}00'00''$, 197.92 feet to a point of reverse curve;
3. Thence along said curve to the right having a radius of 270.00 feet, a central angle of $90^{\circ}00'00''$, 424.12 feet to a point of reverse curve;
4. Thence along said curve to the left having a radius of 370.00 feet, a central angle of $56^{\circ}00'00''$, 361.63 feet to a point of tangent;
5. Thence South $30^{\circ}38'08''$ West along said tangent, 260.00 feet to a point of curve;
6. Thence along said curve to the right having a radius 430.00 feet, a central angle of $57^{\circ}48'57''$, 433.90 feet to a point of tangent;
7. Thence South $88^{\circ}27'05''$ West along said tangent, 303.87 feet to the Northwest corner of said Outlet D;

Thence South $26^{\circ}25'07''$ East along the West line of said Outlet D, 511.10 feet to the East line of the Northeast quarter of said Section 29;

Thence South $00^{\circ}04'53''$ West along the East line of said Northeast quarter, 5.76 feet to the Southwest corner of the Northwest quarter of the Northwest quarter of said Section 28;

Thence South $00^{\circ}04'53''$ West along the East line of the Northeast quarter of said Section 29, 1333.14 feet to the East quarter corner of said Section 29;

Thence South $00^{\circ}04'53''$ West along the East line of the Southeast quarter of said Section 29, 2666.28 feet to the Southeast corner of said Section 29; Thence South $89^{\circ}49'31''$ West along the South line of the Southeast quarter of said Section 29, 782.02 feet;

Thence North $00^{\circ}10'29''$ West, 14.90 feet to the Southwest corner of Lot 4, Block 8 of said Castle Oaks Filing No. 1;

Thence North $19^{\circ}56'15''$ West along the West line of said Lot 4, 1299.64 feet to a point on a curve on the right-of-way line of the Antelope Place as platted in said Castle Oaks Filing No. 1;

Thence along the Southerly right-of-way line of said Antelope Place the following four (4) courses:

1. Thence along said curve to the right having a radius of 92.50 feet, a central angle of $126^{\circ}37'54''$ (the chord of which bears North $46^{\circ}36'57''$ West, 165.30 feet), 204.45 feet;
2. Thence North $54^{\circ}22'31''$ West, 141.04 feet to a point of curve;
3. Thence along said curve to the left having a radius of 370.00 feet, a central angle of $11^{\circ}34'22''$, 74.73 feet to a point of tangent;
4. Thence North $65^{\circ}56'53''$ West along said tangent, 145.32 feet to the East right-of-way line of Pleasant View Drive;

Thence along the East right-of-way line of said Pleasant View Drive the following three (3) courses:

1. Thence South $25^{\circ}57'43''$ West, 95.82 feet to a point of curve;
2. Thence along said curve to the right having a radius of 430.00 feet, a central angle of $30^{\circ}59'00''$, 232.53 feet to a point of tangent;
3. Thence South $56^{\circ}56'43''$ West along said tangent, 156.72 feet;

Exhibit A
(continued)

Thence North 67°32'40" West, 70.54 feet to the Southeast corner of Lot 11, Block 7 of said Castle Oaks Filing No. 1;
Thence along the boundary of Lots 2, 3, 4, 8, 9, 10 and 11, Block 7, Castle Oaks Filing No. 1 the following seven (7) courses:

1. Thence North 53°04'08" West along the Southerly line of said Lot 11, 330.75 feet to the Southwest corner of said Lot 11;
2. Thence North 25°29'33" East along the West line of said Lot 11, 720.00 feet to the Southwest corner of Lot 10;
3. Thence North 19°29'33" East along the West line of said Lot 10, 1165.00 feet to the Southwest corner of Lot 9;
4. Thence North 21°49'56" West along the West line of said Lot 9, 672.52 feet to the corner common to Lots 3, 4, 8, 9, 18, and 19 of Block 7;
5. Thence South 87°12'33" West along the South line of said Lot 3, 649.13 feet to the Southwest corner of said Lot 3;
6. Thence South 57°23'50" West along the Southwesterly line of Lot 2, 799.94 feet to the Southernmost corner of said Lot 2;
7. Thence North 50°33'52" West along the Southwesterly line of said Lot 2, 275.47 feet to the Southwest corner of said Lot 2;

Thence South 28°23'19" West along the East right-of-way line of Castle Oaks Drive, as platted in said Castle Oaks Filing No. 1, 1180.45 feet to the Northwest corner of Lot 14, Block 6 of said Castle Oaks Filing No. 1;
Thence along the boundary of Lots 12, 13 and 14, Block 6 of said Castle Oaks Filing No. 1 the following five (5) courses:

1. Thence South 80°13'43" East along the North line of Lot 14, 808.48 feet to the Northeast corner of said Lot 14;
2. Thence South 00°31'41" West along the East line of said Lot 14, 674.61 feet to the Northeast corner of Lot 13;
3. Thence South 29°23'28" West along the East line of said Lot 13, 1040.00 feet to the Northeast corner of Lot 12;
4. Thence South 45°23'28" West along the East line of said Lot 12, 592.53 feet to the Southeast corner of said Lot 12;
5. Thence South 87°35'55" West along the South line of said Lot 12, 721.94 feet to the East right-of-way line of said Castle Oaks Drive;

Thence North 26°31'56" East along said East right-of-way line of said Castle Oaks Drive, 457.48 feet;
Thence North 17°31'51" West, 112.01 feet to the Southeast corner of Lot 16, Block 2 of said Castle Oaks Filing No. 1;
Thence North 50°35'12" West along the Southerly line of said Lot 16, 771.72 feet to the Northwest corner of the Southwest quarter of the Southeast quarter of said Section 29;
Thence North 40°23'10" East along the West line of the Northwest quarter of the Southwest quarter of said Section 29, 1323.73 feet to the West quarter corner of said Section 29;
Thence North 00°23'12" East along the West line of the Northwest quarter of said Section 29, 2646.55 feet to the point of beginning.

Exhibit A
(continued)

EXCEPT the following described parcels:

Parcel 1

A parcel of land located in Section 27, Township 7 South, Range 66 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, more particularly described as follows:

Beginning at the Southwest corner of the Northeast quarter of the Northwest quarter of said section 27;
Thence North $00^{\circ}06'30''$ East along the West line of the Northeast quarter of the Northwest quarter of said Section 27, 493.48 feet to a line North of and parallel with the South line of the North half of the North half of said Section 27;

Thence South $89^{\circ}57'52''$ East along said line, 2562.58 feet to the West right-of-way line of State Highway No. 83;

Thence South $02^{\circ}13'33''$ West along said West right-of-way line, 493.50 feet;

Thence North $89^{\circ}57'52''$ West along said line, 2561.36 feet to the Point of Beginning.

Parcel 2

Lot 21, Block 2, Castle Oaks Subdivision, Filing No. 1.

Parcel 3

Lot 2, Block 7, Castle Oaks Subdivision, Filing No. 1.

Exhibit 5

Parcel 1

A parcel of land located in Section 27, Township 7 South, Range 66 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, more particularly described as follows:

Beginning at the Southwest corner of the Northeast quarter of the Northwest quarter of said section 27;
Thence North $00^{\circ}06'30''$ East along the West line of the Northeast quarter of the Northwest quarter of said Section 27, 493.48 feet to a line North of and parallel with the South line of the North half of the North half of said Section 27;

Thence South $89^{\circ}57'52''$ East along said line, 2562.58 feet to the West right-of-way line of State Highway No. 83;

Thence South $02^{\circ}13'33''$ West along said West right-of-way line, 493.50 feet;

Thence North $89^{\circ}57'52''$ West along said line, 2561.36 feet to the Point of Beginning.

Parcel 2

Lot 21, Block 2, Castle Oaks Subdivision, Filing No. 1.

Parcel 3

Lot 2, Block 7, Castle Oaks Subdivision, Filing No. 1.

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**FIRST AMENDMENT TO THE
LIBERTY VILLAGE DEVELOPMENT AGREEMENT**

DATE: September 2, 2014.

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

M.D.C. LAND CORPORATION, a Colorado corporation, 3600 S. Yosemite Street, Suite 1000, Denver, Colorado 80238 (“Owner”).

RECITALS:

A. The Town and Owner are parties to the Liberty Village Development Agreement dated April 27, 2004, recorded in the Records on August 17, 2004 at Reception No. 2004085670 (“Agreement”).

B. The Agreement provides for certain transportation improvements to Castle Oaks Drive, and the parties have determined it is necessary to amend the Agreement to address the timing of construction and maintenance of those improvements.

COVENANTS:

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

Section 1. Amendment. Section 8.01 of the Agreement is amended in its entirety to read as follows:

8.01 Castle Oaks Drive. The Phasing Plan prescribes phased improvements to Castle Oaks Drive through the Property, and Improvements to the offsite segments of Castle Oaks Drive, Autumn Sage Street and Rising Sun Drive in order that the Property will have a second paved connection to Founders Parkway, in the event that these streets have not been improved in conjunction with prior development. The incremental roadway improvements required by the Phase Plan are tied to development on the Property and/or traffic counts.

However, irrespective of any other provision of this Agreement or the Phasing Plan to the contrary, Castle Oaks Drive shall be improved as follows:

A. Owner shall construct a temporary paved street section, in accordance with the specifications set forth on the attached *Exhibit 6*, from the point where the paved portion of Castle Oaks Drive within the Property terminates near Pueblo Alta Way to the intersection of Autumn Sage Drive and Castle Oaks Drive (“Temporary Road Improvements”).

B. Owner shall obtain all necessary permits for the Temporary Road Improvements and commence construction of the Temporary Road Improvements no later than September 30, 2014 and substantially complete the Temporary Road Improvements no later than November 30, 2014 such that the Temporary Road Improvements may be opened to the motoring public. Provided however, in the event construction is delayed due to adverse weather or material unavailability, the substantial completion date shall be extended by the same number of days the construction is delayed by such event. Upon completion of the Temporary Road Improvements, Owner shall convey the Temporary Road Improvements to the Town for acceptance in accordance with the Town Regulations.

C. Upon conveyance to the Town, Town at its sole expense, shall be responsible for snow removal and maintenance of signage and pavement marking for the Temporary Road Improvements.

Town shall maintain the pavement for the Temporary Road Improvements, including but not limited to pavement repair, crack sealing and surface treatment, provided however, the costs associated with the pavement maintenance shall be subject to the cost sharing provisions set forth in subparagraph D, below. ("TRI Maintenance").

D. The annual TRI Maintenance costs shall be allocated between the Town and Owner as follows:

1. Town's financial obligation to the TRI Maintenance shall be 25% of the annual TRI maintenance costs; provided however, such financial obligation shall not to exceed \$20,000 per year ("Town Financial Obligation"). Owner shall be financially responsible for all TRI Maintenance costs that exceed the Town Financial Obligation.

2. Not later than January 31st of each year, Town shall provide Owner with an accounting of its annual TRI Maintenance expenditures for the previous year. Owner shall reimburse Town for all costs that exceed the Town Financial Obligation as set forth above not later than February 15th of the same year. The Town may withhold acceptance of street and/or subdivision improvements for the Property in the event Owner fails to pay its share of the TRI Maintenance costs.

E. The Temporary Road Improvements shall be maintained to a similar standard as other public streets within the Town of Castle Rock, including scheduled maintenance treatments as determined by the Town's Pavement Maintenance Program.

F. With progression of development of the Property, the Phasing Plan provides Castle Oaks Drive to be reconstructed to a permanent road section (paved travel lanes, turn lanes, curb, gutter and sidewalk) in accordance with Town Regulations. Provided, however, irrespective of development progression, Owner shall complete reconstruction of Castle Oaks Drive internal to the Property not later than December 31, 2021.

G. The Town is not required to financially participate in on-site or off-site roadway improvements (other than improvements to Castle Oaks Drive adjacent to the Park Tract

attributable to the impact from the regional park development on the Park Tract), nor to facilitate or implement any cost-sharing or recoupment between the District and the Castle Oaks PD or the Castle Oaks Metropolitan District, which may be addressed by Owner in separate recoupment or cost-sharing agreements.

Section 2. Amendment. Phases II and VIII of the Phasing Plan attached as *Exhibit 3* to the Agreement are amended and replaced with the attached *Exhibit 3-Amended Phases*.

Section 3. Ratification. In all other respects, the Agreement shall remain in full force and effect.

Section 4. Recordation. This First Amendment to the Liberty Village Development Agreement shall be recorded in the Records.

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ATTEST: TOWN OF CASTLE ROCK

Sally A. Misare Paul Donahue
 Sally A. Misare, Town Clerk Paul Donahue, Mayor

Approved as to form:

Robert J. Stentz
 Robert J. Stentz, Town Attorney

STATE OF COLORADO)
) ss.
 COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 11th day of September, 2014 by Sally A. Misare as Town Clerk and Paul Donahue as Mayor of the Town of Castle Rock, Colorado.

Witness my official hand and seal.

My commission expires: 5/24/2015

(SEAL)

Lisa M. Anderson
 Notary Public

LISA M. ANDERSON
 NOTARY PUBLIC
 STATE OF COLORADO
 Notary ID: #19994014878
 My Commission Expires: May 24, 2015

OWNER:

M.D.C. LAND CORPORATION

By: Michael Touff

Its: VICE PRESIDENT

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

The foregoing instrument was acknowledged before me this 5th day of September, 2014 by Michael Touff as VICE PRESIDENT for M.D.C. Land Corporation, a Colorado corporation.

UNOFFICIAL COPY

Witness my official hand and seal.

My commission expires: 6/16/16

(SEAL)

Holly S. Hoxeng
Notary Public

HOLLY S. HOXENG
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19924007917
My Commission Expires June 16, 2016

Exhibit 3 (continued)

Exhibit 3 - Amended Phases

PHASE II

PHASE	PLANNING AREA	UNITS
11	PA 2	389
	PA 9	14
	PA 10	6
	TOTAL	409

DESCRIPTION
STREETS
COMPLETE INTERNAL SYSTEM WITHIN PA 2 & PLEASANT VIEW DRIVE WITH PA 9 & PA 10 IMPROVEMENTS ALL INTERNAL ROADWAYS
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)
COMPLETE INTERNAL SYSTEM WITHIN PA 2, PA 9 AND PA 10
COMPLETE POND IMPROVEMENTS FOR PONDS 7B & 9
SANITARY SEWER
COMPLETE INTERNAL SYSTEM WITHIN PA 2 WITH STUBS ACROSS CASTLE OAKS DRIVE AND OTHER APPROPRIATE LOCATIONS FOR FUTURE PHASING CONNECTIONS.
COMPLETE INTERNAL SYSTEM WITHIN PA 10 & PORTION OF PA 9
WATER
COMPLETE INTERNAL SYSTEM OF PA 2 AND EXTENSION TO PA 9 AND PA 10
McMURDO TRAIL
COMPLETE TRAIL FROM CASTLE OAKS DRIVE TO THE NORTH PROJECT BOUNDARY

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIOR PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

gmb

Exhibit 3 (continued)

PHASE VIII

PHASE	PLANNING AREA	UNITS
VIII	PA 9	22
VIII	PA 8	19
TOTAL		41

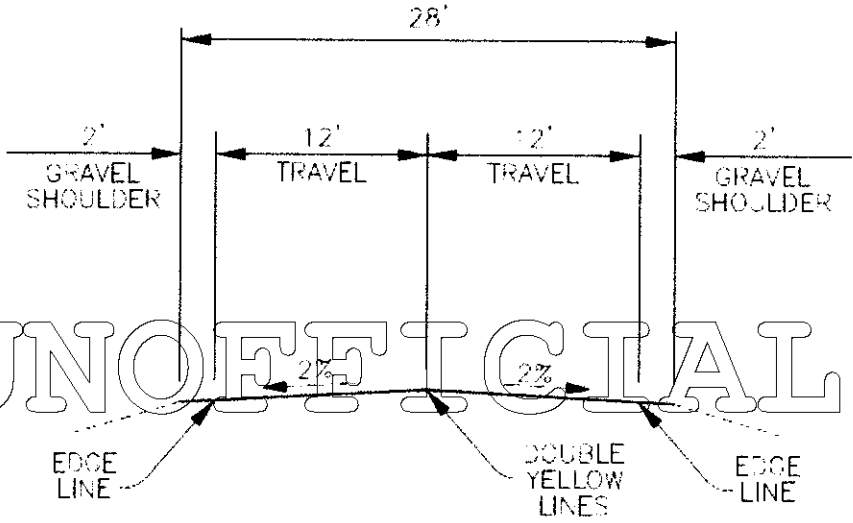
STREETS	DESCRIPTION
CASTLE OAKS DRIVE	Note: Work on this phase of Castle Oaks Drive shall be completed with issuance of the 1,000th building permit or December 31, 2021, whichever is first. -COMPLETE McMURDO BRIDGE CROSSING NO. 2 REPLACEMENT. -COMPLETE FULL CASTLE OAKS DRIVE SECTION IMPROVEMENTS FROM PHASE V LIMIT TO PROJECT BOUNDARY. -AN INTERIM PAVED ACCESS ROAD (22' ASPHALT) THROUGH TO FOUNDERS PARKWAY SHALL BE COMPLETED WITH PHASE VIII OF LIBERTY VILLAGE IF CASTLE OAKS ESTATES, L.L.C. (ITS SUCCESSORS OR ASSIGNS) HAS NOT COMPLETED NECESSARY IMPROVEMENTS TO CASTLE OAKS DRIVE/AUTUMN SAGE STREET/ RISING SUN DRIVE. -COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8.
DRAINAGE (NOTE: PONDS PREVIOUSLY GRADED WITH PHASE I)	
COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8	
COMPLETE IMPROVEMENTS FOR WATER QUALITY POND 11	
SANITARY SEWER	
COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8	
WATER	
COMPLETE INTERNAL SYSTEM WITHIN PA 9 & COMPLETE INTERNAL SYSTEM WITHIN PA 8	

NOTES:

- 1) PUBLIC IMPROVEMENTS IN PHASE I MUST BE CONSTRUCTED FIRST.
- 2) ROADWAY IMPROVEMENTS FOR THE FULL SECTION OF CASTLE OAKS DRIVE SHALL BE COMPLETED IN ACCORDANCE WITH THE NUMERICAL ORDER OF THE PHASING PLAN. IN THE EVENT THE DEVELOPMENT PROCEEDS OUT OF NUMERICAL ORDER, THE FULL CASTLE OAKS DRIVE ROADWAY SECTION SHALL BE CONSTRUCTED SO THAT A CONTIGUOUS COMPLETED ROADWAY SECTION EXISTS FROM STATE HIGHWAY NO. 83 THROUGH TO THE WESTERN BOUNDARY OF THE PHASE UNDER CONSTRUCTION. THIS WOULD INCLUDE THE McMURDO CROSSING IMPROVEMENTS AS NECESSARY.
- 3) IN THE EVENT PHASING PROCEEDS OUT OF NUMERICAL ORDER, ALL NECESSARY PUBLIC IMPROVEMENTS INCLUDING ROADWAY SYSTEMS, WATER DISTRIBUTION LINES, SANITARY SEWER MAINS AND STORM WATER SYSTEMS FROM EACH PRIORITY PHASE NECESSARY TO SERVE THE OUT-OF-SEQUENCE PHASE MUST BE CONSTRUCTED AND FUNCTIONAL PRIOR TO ISSUANCE OF BUILDING PERMITS FOR THE OUT-OF-SEQUENCE PHASE.

ms

Exhibit 6



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CASTLE OAKS DRIVE
TYPICAL SECTION