

ANNEXATION AND DEVELOPMENT CONTRACT
 BETWEEN
 THE TOWN OF CASTLE ROCK,
 LINCOLN SAVINGS AND LOAN ASSOCIATION, AND
 MEADOWS METROPOLITAN DISTRICT NO. 1
 (MEADOWS PARKWAY ANNEXATION)

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ANNEXATION AND DEVELOPMENT CONTRACT

(MEADOWS PARKWAY ANNEXATION)

THIS AGREEMENT made this 20th day of November, 1986, by and between THE TOWN OF CASTLE ROCK, a Colorado municipal corporation, 318 Fourth Street, Castle Rock, Colorado 80104, hereinafter sometimes referred to as "TOWN" or "the TOWN", LINCOLN SAVINGS AND LOAN ASSOCIATION, 6060 South Willow Drive, Suite 2101, Englewood, Colorado 80111 and MEADOWS METROPOLITAN DISTRICT NO. 1, 6060 South Willow Drive, Suite 2101, Englewood, Colorado 80111, hereinafter sometimes referred to as "DEVELOPERS" or "the DEVELOPERS", is as follows:

WITNESSETH:

WHEREAS, DEVELOPERS desire to annex and develop certain lands within the TOWN, to be known as the Meadows Parkway parcel, more particularly described in Exhibit "A" (hereinafter "the LAND" or "LAND") attached hereto and made a part hereof; and

WHEREAS, the TOWN desires and is willing to allow the annexation and development of such LAND in accordance with the agreements and conditions hereinafter set forth; and

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WHEREAS, the parties hereto desire to set forth the respective duties and responsibilities of each with respect to the annexation and development of the LAND;

NOW THEREFORE, in consideration of the mutual promises herein contained, the parties agree as follows:

SECTION I.

PARTIES, ADDRESSES & NOTICE

1.1 TOWN. The TOWN OF CASTLE ROCK is a statutory municipal corporation organized and empowered in accordance with the statutory authority conferred upon it through the Colorado Revised Statutes.

1.2 DEVELOPERS. The DEVELOPERS are:

Lincoln Savings and Loan Association
6060 South Willow Drive, Suite 2101
Englewood, Colorado 80111

Meadows Metropolitan District No. 1
6060 South Willow Drive, Suite 2101
Englewood, Colorado 80111

1.3 OWNERS. The OWNERS of the LAND are:

Lincoln Savings and Loan Association
6060 South Willow Drive, Suite 2101
Englewood, Colorado 80111

Meadows Metropolitan District No. 1
6060 South Willow Drive, Suite 2101
Englewood, Colorado 80111

1.4 ADDRESSES, NOTICE. The parties' addresses are as listed below. Any and all notices required to be given in accordance with this Agreement are deemed to have been given

three (3) days following the date the same are deposited in the United States mail, first-class, postage prepaid, to the other parties hereto at the addresses hereinafter noted, or to such other party or address as any party may designate in writing.

TOWN:

Town of Castle Rock
318 Fourth Street
Castle Rock, Colorado 80104

DEVELOPERS AND OWNERS:

Lincoln Savings and Loan Association
6060 South Willow Drive, Suite 2101
Englewood, Colorado 80111

Meadows Metropolitan District No. 1
6060 South Willow Drive, Suite 2101
Englewood, Colorado 80111

SECTION II.

ANNEXATION PREMISES

2.1 CONTIGUITY. DEVELOPERS warrant to the TOWN that the LAND is contiguous, or can be lawfully brought into contiguity with the TOWN, and that all other further elements and conditions necessary for annexation have been met.

2.2 AUTHORITY. DEVELOPERS further warrant that they have full ownership or control over the LAND and have full authority and power to enter into the within Agreement. In support thereof, DEVELOPERS submit with their annexation

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petition, either a title commitment or an ownership and encumbrance certificate to the LAND.

SECTION III.

DEFINITIONS

3.1 ADMINISTRATIVE PROJECT AREA. The "ADMINISTRATIVE PROJECT AREA" shall mean a geographical area which has been agreed upon by the TOWN and DEVELOPERS as an appropriate area or phase for determining the amount of surety, if any, to be required to insure the completion of public improvements. ADMINISTRATIVE PROJECT AREAS may include all or any part of one or more areas described in any plat or site plan.

3.2 APPROVING DOCUMENTS. "APPROVING DOCUMENTS" shall mean and refer to those documents set forth in Section IV of this Contract.

3.3 DEVELOPMENT CONTROL. "DEVELOPMENT CONTROL" shall mean the comprehensive supervision of construction of all IMPROVEMENTS within an ADMINISTRATIVE PROJECT AREA as such supervision is necessary to insure conformity and compliance with the provisions of this Contract, the Planned Development Ordinance and Preliminary Site Plan adopted and approved contemporaneously with this Contract, together with all subsequent approved Final Plats, Final Site Plans and modifications. DEVELOPMENT CONTROL shall be exercised by

DEVELOPERS, their Successors, Representatives, Designees, Agents and Assigns.

3.4 OVERSIZING. "OVERSIZING" is that difference between the dimension or capacity reasonably required in any PUBLIC IMPROVEMENTS for the needs of the LAND to be served and that additional dimension or capacity which is required by the TOWN.

3.5 PUBLIC IMPROVEMENTS. "PUBLIC IMPROVEMENTS" shall mean streets and street striping, curbs, gutters, sidewalks, bike paths, bridges, culverts, drainage structures, water and sewer mains, transmission and service lines, manholes, fire hydrants, sewage lift stations, non-electric traffic and street signs, street lighting and such other improvements which are to be built by the DEVELOPERS and dedicated to the TOWN.

3.6 REQUIRED PRIVATE AMENITIES. "REQUIRED PRIVATE AMENITIES" shall mean those private improvements built by the DEVELOPERS and required by the TOWN as a condition of final plat or site approval and which are utilized as an offset on behalf of the DEVELOPERS against necessary public land dedication or as a credit against fees owed.

3.7 WARRANTY. "WARRANTY" shall mean the express promise made by the DEVELOPERS that such PUBLIC IMPROVEMENTS are and shall be free from defective materials and workmanship. The warranty period for streets, sidewalks, curbs,

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gutters and bikepaths shall be two (2) years and all other PUBLIC IMPROVEMENTS shall be for a period of one (1) year from and after the date of their initial acceptance by the TOWN (as used herein the term "initial acceptance" shall mean that acceptance by TOWN which will commence the one or two year warranty period). The WARRANTY extended by DEVELOPERS shall be the exclusive WARRANTY with respect to PUBLIC IMPROVEMENTS constructed hereunder and shall be in lieu of all other warranties thereon, express or implied.

3.8 WET WATER. "WET WATER" is defined as actual raw water available to the TOWN which is reasonably capable of treatment to State Health Department potable standards and which is further available for delivery to the TOWN's water system.

SECTION IV.

APPROVING DOCUMENTS

4.1 DOCUMENTS. Concurrently with the execution of this Agreement, the TOWN is approving the following:

(a) Resolution No. 86-65, a resolution approving the execution of this Contract;

(b) Resolution No. 86-64, stating TOWN's finding that the Petition for Annexation of the lands described in Exhibit "A" thereto substantially complies with

Section 31-12-107(1), C.R.S., and stating the TOWN's intent to annex said property.

(c) Ordinance No. 86-43, annexing the lands described in Exhibit "A" thereto.

(d) Ordinance No. 86-44, the Meadows Parkway PD Ordinance.

(e) Meadows Parkway Preliminary PD Site Plan, dated October 7, 1986.

4.2 COLLECTIVE TITLE. All of the above documents shall be collectively referred to herein as the APPROVING DOCUMENTS.

SECTION V.

GENERAL

TOWN OBLIGATIONS

5.1 UTILITY SERVICES, RATES. The TOWN shall provide water, sewer and irrigation service to the LAND at the same rates, charges and fees (including development fees, other authorized fees and exactions) as charged to other users, similarly situated in the TOWN, in accordance with this Agreement and Ordinances and Resolutions in effect at the time such charges are assessed. The TOWN shall insure that its utility service systems are adequate to provide necessary services to approved and developed areas within the LAND.

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5.2 INSPECTIONS, LIABILITY. The TOWN agrees to perform inspections in a timely manner as requested and required, and to provide appropriate assistance, in order to insure that all construction of public facilities and improvements and all construction of private improvements within the LAND meet all applicable TOWN minimum standards and design criteria. No such inspection or assistance shall pass or transfer any responsibility or liability from DEVELOPERS to TOWN for workmanship or quality of the materials, for compliance with engineering or regulation requirements, or for any other liability. In other words, the TOWN makes no warranties based upon its inspections and waives no DEVELOPER liabilities thereon.

5.3 ACCEPTANCE OF PUBLIC IMPROVEMENTS AND PUBLIC LAND DEDICATION. The TOWN agrees to accept and maintain all required PUBLIC IMPROVEMENTS following acceptable inspection thereof, and all dedicated public lands, parks and open space. Inspection, acceptance and maintenance thereafter of such PUBLIC IMPROVEMENTS shall in no way serve to relieve or mitigate DEVELOPERS' full warranty responsibility.

5.4 APPROVAL OF PRIVATE AMENITIES. The TOWN agrees to approve all REQUIRED PRIVATE IMPROVEMENTS and AMENITIES without acceptance of further responsibility thereon.

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5.5 POLICE, OTHER GOVERNMENTAL SERVICES. The TOWN agrees to provide to the LAND police protection and all other available government services to the same extent and degree as TOWN is providing to all others similarly situated in the community.

5.6 TOWN COOPERATION. The TOWN agrees to fully cooperate and assist DEVELOPERS in all applications, filings, permits and other actions necessary or appropriate to fulfill the conditions and requirements of this Agreement.

SECTION VI.

GENERAL DEVELOPER OBLIGATIONS

6.1 COMPLIANCE. The DEVELOPERS understand the benefits derived from annexation to the TOWN and are therefore desirous of fulfilling all the standard and additional provisions of this Agreement. Therefore the DEVELOPERS agree that they will develop the LAND in accordance with this Agreement, all ordinances, codes and regulations of the TOWN, the minimum standards and design criteria of the TOWN, and with the Approving Documents submitted and made a part hereof.

6.2 FIRE DISTRICT. DEVELOPERS shall have the responsibility of making and diligently pursuing, at DEVELOPERS' expense, an application for exclusion of the LAND from

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the fire district in which it is now situated. TOWN will fully cooperate in this application.

SECTION VII.

WATER

7.1 WET WATER POLICY. Notwithstanding any provisions within this Agreement which may imply to the contrary, the TOWN does not own or control water or water sources for production of WET WATER for the development of the LAND. The parties therefore understand that any and all development of the LAND is absolutely dependent upon DEVELOPERS providing adequate water and water sources. DEVELOPERS must prove, prior to the approval of each and every plat within the LAND, that necessary WET WATER is available to the platted area through production or distribution. Except as otherwise provided herein, DEVELOPERS, at the time of final platting shall deed to the TOWN and dedicate upon each final plat free and clear of all liens and encumbrances such water and water rights as are sufficient to provide a WET WATER supply to the platted property.

7.2 WATER NEEDS OF LAND.

(a) The needs of the proposed uses within the LAND shall be determined by utilizing TOWN ordinances and resolutions where applicable and as in effect at the time of

plattting. Where a particular use is not addressed by ordinance or resolution, the TOWN shall make an administrative determination based upon available information.

(b) The DEVELOPERS shall receive appropriate credit against the determined water needs based upon conservation practices which appear as final site plan and plat restrictions. The amount of said credit shall initially be an assumed amount agreed upon by TOWN and DEVELOPERS. Said credit shall be subject to subsequent modification as agreed upon by TOWN and DEVELOPERS based upon actual consumption rates over time.

(c) No water availability requirement shall be necessary for the LAND to the extent that an approved effluent irrigation system has been installed by DEVELOPERS for use thereon.

(d) Credit in the amount approved by the office of the State Engineer and/or District Water Court shall be given to the DEVELOPERS against water supply requirements of the TOWN for that portion of the water produced through a TOWN approved water supply augmentation plan when the water produced can be used by the TOWN for the purpose for which it is intended under applicable regulations of the State Department of Health, as such portion directly relates to effluent and return flow water produced from the LAND and utilized in the plan. The TOWN shall diligently pursue

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approval of such a plan by the State Engineer and/or the District Water Court.

(e) Production of WET WATER shall be as granted by the office of the State Engineer and credit against water availability requirements shall be in the same amount as granted by the office of the State Engineer and/or the District Water Court.

7.3 WATER DOCUMENTS. The TOWN may require any and all documentation deemed appropriate to provide availability and delivery of water, including, but not limited to, title work, drilling permits, well test reports, other available engineering data, water decrees, etc.

7.4 INFRASTRUCTURE, CAPITAL IMPROVEMENTS, OVER-SIZING. The TOWN shall retain the ultimate responsibility, in consideration for development fees charged and collected, to complete necessary capital plant improvements for the municipal water system, including wells, pumps, treatment facilities, reservoirs and transmission lines. The DEVELOPERS shall be solely responsible to build and construct, in accordance with TOWN minimum standards and design criteria, potable water delivery system infrastructure required for the LAND and to meet the needs of the LAND. Such infrastructure shall include all mains, service lines, fire hydrants, valves and connections, pump stations and any

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other necessary facilities for the delivery of water throughout the LAND.

In the event water mains are required to be engineered and constructed which exceed 12" in diameter it shall be presumed that the first 12" shall service the LAND and shall accordingly be paid for by the DEVELOPERS and that the oversizing shall be the responsibility of the TOWN. However, if the TOWN engineers determine that the oversized main has been engineered and constructed substantially to service the LAND only, then the DEVELOPERS shall pay the entire cost of such line. Prior to the construction of any such line for which the TOWN is to be responsible for a portion of the cost thereof, the DEVELOPERS shall secure written bids from no less than two (2) contractors for the placement of such line. Such bids are to include a breakdown of material and labor for such line in a 12" mode and in its oversized mode in order that the TOWN may determine its proportioned cost for the increased sizing, which shall be determined by calculating the actual cost difference in labor and material between a 12" line and the oversized line. Such bids are to be submitted to the TOWN for analysis and approval prior to the construction of the line. Should the TOWN fail to approve or disapprove any bid in writing within fifteen (15) days of submittal, then the DEVELOPERS may proceed with the bid which it deems most appropriate under the circumstances. The TOWN

shall pay its portion after final inspection and acceptance of the line upon completion thereof, and within thirty (30) days following the date of submission of an appropriate statement to the TOWN from the DEVELOPERS which shall include invoices and contractor billings.

7.5 CONNECTION, OWNERSHIP. Based upon appropriate engineering criteria, the TOWN shall advise DEVELOPERS where DEVELOPERS' infrastructure is to be attached to the TOWN's system. Once such infrastructure is engineered, constructed, inspected, approved and accepted, and connected to the TOWN's water system, it shall become solely owned by the TOWN, subject to the WARRANTY.

7.6 SEVERANCE. To the extent that the LAND, at the time of the last final plat or after ninety percent (90%) build-out, whichever occurs later, has an agreed-upon surplus of water (total appurtenant non-tributary and/or tributary sources plus augmentation credits based upon effluent and return flows less total water requirements based upon approved uses as adjusted for irrigation reuse and conservation system implementation), the DEVELOPERS shall be allowed to transfer such surplus water to other lands owned by DEVELOPERS within the corporate limits of the Town of Castle Rock. DEVELOPERS may transfer such surplus water to other lands not owned by them within the corporate limits of the Town of Castle Rock, but only after offering said surplus water to

the Town of Castle Rock at the cash-in-lieu of water rate in effect by TOWN Resolution or Ordinance at the time of the offer. DEVELOPERS shall, pursuant to the notification requirements set forth in this contract, give thirty (30) days written notice to the TOWN of their intention to sell said surplus water. In the event TOWN desires to purchase such water, it shall give written notification to DEVELOPERS of its intention to do so within such thirty (30) day period. Payment shall be made by applying credit against Development Fees to the extent of the value of such surplus water. If insufficient credits exist to pay in full for such surplus water, the TOWN shall pay the balance due, after applying such credits, to the DEVELOPERS in cash within sixty (60) days of the date of said notice.

7.7 CASH IN LIEU OF WATER, CREDITS. Understanding their rights and obligations contained hereinabove, the parties further agree, that under appropriate circumstances the TOWN may accept cash in lieu of WET WATER, or the parties may also make arrangements for DEVELOPERS to construct capital plant improvements as an offset against WET WATER requirements or certain development fees.

SECTION VIII.

IRRIGATION

8.1 IRRIGATION POLICY. The TOWN has adopted a policy requiring all developers to utilize a three-pipe infrastructure system (water, sewer and irrigation). Such three-pipe system shall be utilized in all use areas other than residential areas. In residential areas, with TOWN approval, DEVELOPERS may utilize such three-pipe system. In the event DEVELOPERS deem installation of said three-pipe system within any non-residential area to be technically infeasible and/or not economically justifiable, DEVELOPERS shall present evidence of such infeasibility or lack of economic justification to TOWN. TOWN shall review the evidence submitted by DEVELOPERS and the Board of Trustees shall make a determination either requiring or not requiring the installation of said three-pipe system.

8.2 INFRASTRUCTURE, OVERSIZING. The TOWN shall construct and maintain such capital plant facilities as are necessary to provide effluent to the LAND for irrigation purposes. Such capital plant facilities shall include the necessary transmission line to transport such effluent to the boundary of the LAND. Such effluent shall be provided to users within the LAND at the same rates and connection charges as are then applicable and charged to other users similarly situated within the TOWN pursuant to ordinance or

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resolution of the TOWN. DEVELOPERS shall be solely responsible to build and construct, in accordance with TOWN minimum standards and design criteria, all irrigation delivery system infrastructure required upon the LAND to meet the needs of those portions of the LAND which are served by an irrigation system. Such infrastructure shall include all mains, service lines, valves and connections and other necessary facilities for the delivery of irrigation effluent throughout the LAND. In the event irrigation mains are required to be engineered and constructed which exceed 12" in diameter, it shall be presumed that the first 12" shall service the LAND and shall accordingly be paid for by the DEVELOPERS and that the oversizing shall be the responsibility of TOWN. However, if the TOWN engineers determine that the oversized main has been engineered and constructed to service the LAND only, then the DEVELOPERS shall pay the entire cost of such line. Prior to the construction of any such line for which the TOWN is to be responsible for a portion of the cost thereof, the DEVELOPERS shall follow the procedures set forth in Paragraph 7.4 with regard to bids and their submission to the TOWN.

8.3 CONNECTION, OWNERSHIP. It shall be the responsibility of the DEVELOPERS to connect to the TOWN's irrigation water system at the point at which the TOWN's system abuts the LAND. Once the irrigation infrastructure to be constructed by DEVELOPERS is engineered, constructed,

inspected, approved and accepted, and connected to the TOWN's irrigation system, it shall become solely owned by the TOWN.

8.4 IRRIGATION OF PUBLIC DEDICATED LANDS. DEVELOPERS agree that DEVELOPERS will make such provisions as are reasonably necessary to facilitate TOWN's connection to such system for the purposes of irrigation of dedicated lands. The costs of such connection and of the internal irrigation system for the dedicated lands shall be TOWN's responsibility.

8.5 TOWN RESPONSIBILITY FOR IRRIGATION SYSTEM. The TOWN's responsibility to provide a reuse irrigation system and extension, and all costs associated with such system and extension, shall not result in any development fee being charged upon the LAND, either to users of the reuse irrigation system or users of the potable irrigation system, that is not being charged TOWN-wide.

8.6 CREDITS. Understanding their rights and obligations contained hereinabove, the parties further agree that under appropriate circumstances the TOWN and DEVELOPERS may enter into an agreement whereby the DEVELOPERS will construct capital plant improvements and offset certain development fees.

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SECTION IX.

SEWER

9.1 SEWER POLICY, INFRASTRUCTURE, OVERSIZING. The TOWN shall provide and maintain such capital plant facilities as are necessary to provide sanitary sewer service to the LAND. The DEVELOPERS shall be solely responsible to build and construct, in accordance with TOWN minimum standards and design criteria, all sewage collection system infrastructure required for the LAND and to meet the needs of the LAND. Such infrastructure shall include all mains, service lines, valves and connections, pump stations and other necessary facilities for the recovery of sewage from the LAND. In the event sewer mains are required to be engineered and constructed which exceed 12" in diameter it shall be presumed that the first 12" shall service the LAND and shall accordingly be paid for by the DEVELOPERS and that the oversizing shall be the responsibility of TOWN. However, if the TOWN engineers determine that the oversized main has been engineered and constructed substantially to service the LAND only, then the DEVELOPERS shall pay the entire cost of such line. Prior to the construction of any such line for which the TOWN is to be responsible for a portion of the cost thereof, the DEVELOPERS shall follow the procedures set forth in Paragraph 7.4 with regard to bids and their submission to the TOWN.

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9.2 CONNECTION, OWNERSHIP. Based upon appropriate engineering criteria, the TOWN shall advise DEVELOPERS where DEVELOPERS' infrastructure is to be attached to the TOWN's system. Once such infrastructure is engineered, constructed, inspected, approved and accepted, and connected to the TOWN's sewer system, it shall be solely owned by the TOWN.

9.3 CREDITS. Understanding their rights and obligations contained hereinabove, the parties further agree that under appropriate circumstances the TOWN and DEVELOPERS may enter into an agreement whereby the DEVELOPERS will construct capital plant improvements and offset certain development fees.

SECTION X.

DRAINAGE

10.1 DRAINAGE POLICY. The DEVELOPERS understand their legal responsibilities with respect to storm water drainage on the LAND. In this regard, DEVELOPERS shall submit drainage plans to the TOWN as required by the TOWN Subdivision Regulations and Standard Construction Specifications and shall build all necessary drainage structures including, but not limited to, storm sewers, detention ponds, dams, curbs and gutters, storm drains and other appurtenant structures as may be necessary to meet their obligations hereunder.

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SECTION XI.

STREETS

11.1 GENERAL STREET POLICY. Unless otherwise specifically agreed upon in the additional provisions of this Agreement, or, at the time of approval of any Final Plat, all streets within the LAND shall be engineered and constructed in accordance with the TOWN's minimum standards and design criteria.

11.2 PRIVATE STREETS. In the event that TOWN approves certain local private streets, the requirement of sidewalks, curbs and gutters may be waived along said private streets, so long as reasonable pedestrian access is provided by a system of pedestrian and/or bike paths. Other specifications required for publicly dedicated streets may be modified or waived in TOWN's discretion.

SECTION XII.

PUBLIC LAND DEDICATION

12.1 PUBLIC LAND DEDICATION POLICY. It is recognized by the parties that any annexation to and development within the TOWN not only increases the burden upon public utilities and services, but also creates a substantial need for additional public lands for open space, parks, schools and other public facilities. In this regard, DEVELOPERS agree to dedicate to the TOWN at the time of final platting

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certain parcels of property as shown on the Preliminary Planned Development Site Plan approved contemporaneously with this Agreement. Credit for all water and water rights appurtenant to such dedicated parcels shall be reserved to the DEVELOPERS subject to a reduction for the WET WATER needs of the dedicated parcels.

12.2 PUBLIC IMPROVEMENT EXTENSION. Except as provided in Paragraph 8.4 above, DEVELOPERS shall bear the responsibility for extending utilities, streets, sidewalks, curbs, gutters, and bike paths through and adjacent to such dedicated lands as the same are located upon approved final site development plans or plats, and, where appropriate, DEVELOPERS may seek recoupment in accordance with applicable TOWN Recoupment Ordinances.

12.3 SOLE REQUIREMENT. Except as otherwise provided herein, any and all requirements for public lands within THE LAND made by TOWN, any school district or other public entity, shall be met solely from the public lands to be dedicated pursuant to this Section.

12.4 TITLE DOCUMENTS. Prior to the acceptance by the TOWN of any tract or parcel of ground to be utilized for public purposes, other than streets, easements and rights-of-way, DEVELOPERS shall provide TOWN with sufficient title work to show that the property is free and clear of all liens and

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encumbrances which might preclude the LAND from being utilized for the purposes intended by the TOWN. Upon acceptance of the conditions of title, such public property shall be deeded to TOWN by Special Warranty Deed. DEVELOPERS shall retain such rights-of-way and easements as may be necessary for DEVELOPERS to have access to construct utility lines, detention areas or other required PUBLIC IMPROVEMENTS under this Agreement.

SECTION XIII.

PUBLIC IMPROVEMENTS &
REQUIRED PRIVATE AMENITIES

13.1 ENGINEERING, CONSTRUCTION. Except as required in any other provision of this Agreement or in the APPROVING DOCUMENTS, all PUBLIC IMPROVEMENTS shall be engineered and constructed in accordance with TOWN minimum standards and design criteria and shall be properly dedicated upon each plat or deeded to the TOWN.

13.2 SURETY. The completion of all PUBLIC IMPROVEMENTS shall be insured by appropriate means as set forth by TOWN Ordinance. The TOWN may also require and/or accept performance protection upon REQUIRED PRIVATE AMENITIES.

13.3 FAILURE TO COMPLETE. Where certain PUBLIC IMPROVEMENTS and REQUIRED PRIVATE AMENITIES have been required by the TOWN, until they are satisfactorily completed,

the TOWN may withhold further pending permits and certificates of occupancy from the DEVELOPERS. However, certificates of occupancy may be withheld only if the development of the LAND is in the last final plat or last 15% of the entire developable area.

13.4 ACCEPTANCE, WARRANTY. Acceptance of all PUBLIC IMPROVEMENTS by the TOWN shall be in accordance with TOWN Ordinance and all PUBLIC IMPROVEMENTS shall thereafter be subject to a one or two year WARRANTY as set forth in Paragraph 3.7 and/or by TOWN Ordinance.

SECTION XIV.

PERFORMANCE OF OBLIGATIONS - REMEDIES

14.1 DEVELOPER RELIANCE. DEVELOPERS are entering into this Agreement and undertaking the obligations imposed upon DEVELOPERS herein in reliance upon the TOWN's concurrent approval of the DEVELOPERS' Preliminary Planned Development Site Plan and Planned Development Ordinance. Performance of DEVELOPERS' obligations hereunder is expressly conditioned upon DEVELOPERS being permitted by TOWN to develop the LAND in substantial conformity with said approved Site Plan and Ordinance.

14.2 SUBSTANTIAL CHANGE, DISCONNECTION. If an initiative or referendum is passed at any time which substantially amends or alters this Contract and/or any of the

APPROVING DOCUMENTS, or if the TOWN through its legislative powers unilaterally substantially amends or alters the approved Preliminary Planned Development Site Plan or the Planned Development Ordinance, the TOWN covenants that it will not object to the OWNERS disconnecting a portion or all of the LAND from the TOWN under any applicable provisions of Colorado Law. If TOWN has taken action in reliance hereon to its detriment, disconnection of all or any part of the LAND shall occur upon DEVELOPERS' election, and the damages, if any, associated with the TOWN'S detrimental reliance shall be agreed upon by TOWN and DEVELOPERS. If TOWN and DEVELOPERS are unable to agree, the damages shall be determined by a court of competent jurisdiction.

14.3 DEVELOPER DEFAULT. In the event of default by DEVELOPERS under the provisions of this Agreement, for which no surety has been posted with TOWN by DEVELOPERS, TOWN reserves the right to withhold building permits, Certificates of Occupancy, or any other permits and approvals within the LAND. However, Certificates of Occupancy may be withheld only if the development of the LAND is in the last final plat or the last fifteen percent (15%) of the entire developable area.

14.4 NON-EXCLUSIVE REMEDY. It is understood and agreed by the parties hereto that the specific remedies provided in this Agreement are not exclusive and that the

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parties hereto shall have all available remedies in law or equity including, but not limited to, specific performance and injunctive relief.

SECTION XV.

DEVELOPERS' AGREEMENT TO PAY CERTAIN TOWN FEES

15.1 TOWN FEES. DEVELOPERS agree to pay street oversizing fees as established pursuant to the Castle Rock Municipal Code, Chapter 3.12, and the capital plant investment fees as established pursuant to Castle Rock Municipal Code, Chapter 3.16, as said chapters may be amended. Said Chapters 3.12 and 3.16 as amended are incorporated herein by this reference. If for any reason these chapters are held by a court of competent jurisdiction to be invalid or unenforceable, DEVELOPERS agree that the terms of such ordinances shall remain as terms of this Agreement (pursuant to the most recent amendment thereof), and that such fees may continue to be charged by TOWN as an exaction upon the LAND pursuant to the terms of this Agreement. Further, any and all fees recovered prior to such ruling shall also be deemed to have been properly received by TOWN as an exaction under this Agreement. However, it is further agreed that DEVELOPERS, their heirs, successors or assigns shall not be required to pay such fees pursuant to this Agreement unless this provi-

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sion is incorporated in all annexation contracts entered into by the TOWN subsequent to the date hereof.

SECTION XVI.

DISTRICTS

16.1 DISTRICTS. TOWN agrees to cooperate with DEVELOPERS in the approval of such Districts as may be deemed by TOWN and DEVELOPERS to be reasonably necessary to construct or maintain PUBLIC IMPROVEMENTS, utilities or other improvements of a quasi-public nature which are not to be dedicated to TOWN.

SECTION XVII.

COLORADO LAW

17.1 APPLICABLE LAW. This Agreement shall be construed in accordance with the laws of the State of Colorado.

SECTION XVIII.

BINDING EFFECT

18.1 PARTIES BOUND. This Agreement shall be binding upon and inure to the benefit of the parties hereto, the LAND, and all successors, representatives, designees, agents and assigns of the parties, whether designated herein

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or otherwise as developers or sub-developers of all or any portion of the LAND.

SECTION XIX.

CHANGES & ADDITIONAL PROVISIONS

19.1 CHANGES ONLY IN WRITING. 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 parties hereto or their respective heirs, successors or assigns.

19.2 ADDITIONAL SPECIFIC CONDITION CONTROLS.

Additional provisions are attached hereto. Whenever the terms of said additional provisions are contrary to the provisions contained above in this Agreement, the terms contained in said additional provisions shall control.

SECTION XX

ADDITIONAL PROVISIONS

20.1 RECOUPMENT. DEVELOPERS shall be entitled to recoupment of off-site costs including:

(a) Costs of easements and rights-of-way (costs of easement or fee title procurement, administrative and legal costs).

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(b) Costs of roadway and drainage structure construction. Such recoupment, insofar as it relates to private persons, shall be for a period of ten years.

(c) TOWN shall provide that recoupment will be due from the owners of all lands annexed subsequent to the date of the annexation of the LAND on an "ability-to-serve" basis, rather than at the time of actual connection to, or utilization of, said improvements, with said amounts being payable, in full, at the time the first final plat is approved for any such owner. DEVELOPERS shall comply with the administrative provisions of any recoupment provisions in effect in order to ensure that the costs expended are properly approved by TOWN for recoupment at the time of expenditure.

(d) To the extent TOWN by ordinance provides for recoupment of off-site costs for which this Section 20.1 allows recoupment, the provisions of such ordinance shall control to the extent they conflict with this Section 20.1.

20.2 DISTRICTS. The TOWN understands that Castleton Center Water and Sanitation District is presently responsible for providing water, sewer, and irrigation service to that portion of the LAND described in Exhibit "B" attached hereto and incorporated herein by this reference. Following annexation, Castleton Center Water and Sanitation District shall continue to provide all water, sewer, and

irrigation service necessary to serve the property described in Exhibit "B". Therefore, except as otherwise provided below, no TOWN water, sewer or irrigation development fees shall be charged within the property described in Exhibit "B".

Within five years of the execution of this Agreement, DEVELOPERS agree to request exclusion from the Castleton Center Water and Sanitation District for the property described in Exhibit "B". Should such exclusion be gained, TOWN shall provide water, sewer, and irrigation service to the property described in Exhibit "B" and Castleton Center Water and Sanitation District shall have no further responsibility to provide such service. As long as Castleton Center Water and Sanitation District continues to be responsible for providing water, sewer, and irrigation service to the property described in Exhibit "B", TOWN shall attempt to negotiate a service contract with Castleton Center Water and Sanitation District which would enable TOWN to provide such utility service to the property described in Exhibit "B." In the event TOWN assumes responsibility for providing water, sewer, and irrigation service to the property described in Exhibit "B" as a result of exclusion of such property or negotiation of a service contract as described above, DEVELOPERS shall then comply with all TOWN policies and regulations related to the provision of water,

sewer and irrigation service, including, but not limited to, the payment of all water, sewer, and irrigation development fees and the demonstration and provision of an adequate water supply to serve such property.

TOWN acknowledges that there is uncertainty at the present time concerning the appropriate entity to provide water, sewer, and irrigation service to the property described in Exhibit "C", which exhibit is attached hereto and incorporated herein by this reference. Therefore, TOWN and DEVELOPERS agree that water, sewer, and irrigation service shall be provided to the property described in Exhibit "C" by an entity to be agreed upon by the parties at a later date. Should the entity providing service be an entity other than TOWN, TOWN shall not charge water, sewer or irrigation development fees within the property described in Exhibit "C", and DEVELOPERS shall not be required to demonstrate or provide to the TOWN an adequate water supply to serve such property. However should the entity providing such service be the TOWN, DEVELOPERS shall then comply with all TOWN policies and regulations related to the provision of water, sewer, and irrigation service, including, but not limited to, the payment of all water, sewer, and irrigation development fees and the demonstration and provision of an adequate water supply to serve such property.

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20.3 INTEGRATED WATER SYSTEM. DEVELOPERS may use any water associated with the LAND to meet the water needs of The Meadows proper. "The Meadows proper" means that land described in Exhibit "A" of Castle Rock Ordinance No. 84-48, The Meadows Planned Unit Development Ordinance, as amended.

20.4 PUBLIC LAND DEDICATION. Recognizing that there will be no residential development within the LAND, that the existing Meadows Planned Unit Development contains a substantially greater amount of land designated for dedication to the public than required by TOWN regulations, and that the developable areas within the LAND were previously platted in Douglas County and that any land dedication requirements of Douglas County have previously been met, the TOWN agrees that no public land dedication shall be required within the LAND.

Notwithstanding the foregoing, by December 1, 1986 Meadows Metropolitan District No. 1 shall pay TOWN or see that TOWN is paid in lieu of public land dedication an amount equal to the amount Meadows Metropolitan District Nos. 1 through 8 would otherwise be obligated to pay TOWN on May 1, 1987 under their Intergovernmental Agreements with TOWN for the construction of one or more recreation facilities within TOWN. TOWN shall consider such payment a prepayment of said Districts' collective recreation facility obligation under the Intergovernmental Agreements, and shall grant said

Districts full credit against such obligation. Said Districts shall receive no credit for the discount value associated with such prepayment.

20.5 FIRE DISTRICT. Since the Castle Rock Fire Protection District has been dissolved, DEVELOPERS are not required to seek exclusion from such District pursuant to Section 6.2 of this Agreement.

20.6 LIMITATION OF OBLIGATIONS. TOWN understands that Meadows Metropolitan District No. 1 ("District") is only entering into this Agreement to ensure annexation of those portions of the LAND owned by District which will be used by District to construct roadway improvements. Those portions of the LAND owned by District are described in Exhibit "D" attached hereto and incorporated herein by this reference. Except as provided in Section 20.4 of this Agreement, District shall only be subject to the responsibilities and obligations of this Agreement when such responsibilities and obligations apply to portions of the LAND described in Exhibit "D" and then only to the extent District uses the property described in Exhibit "D" for purposes not authorized by District's service plan. Lincoln Savings and Loan Association ("Lincoln") shall have no liability under this Agreement for responsibilities or obligations which apply to those portions of the LAND described in Exhibit "D".

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20.7 ASSIGNABILITY. The rights and obligations under this Agreement may be assigned to the successors, representatives, designees, agents and assigns of the parties. Notice of any assignment shall be provided to the other party within ten (10) days of the assignment.

APPROVAL OF THE BOARD OF TRUSTEES

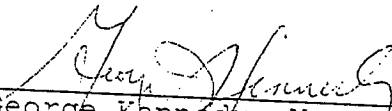
This Agreement was considered by the Board of Trustees of the Town of Castle Rock, Colorado, at their regular public meeting held on November 20, 1986, and a Resolution, No. 86-65, was passed by a vote of 6 for and 0 against approving this Agreement and directing the Mayor of the Town of Castle Rock and the Town Clerk to execute such Agreement.

APPROVAL BY THE DEVELOPERS

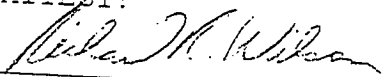
This Agreement has been considered and approved by the DEVELOPERS as evidenced by the DEVELOPERS' signatures hereon as of the date hereof.

TOWN OF CASTLE ROCK

By:


George Kennedy, Mayor
Town of Castle Rock

ATTEST:


Richard Wilson, Town Clerk

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STATE OF COLORADO

COUNTY OF DOUGLAS

)
) ss.
)

The foregoing instrument was acknowledged before me this 21st day of November, 1986, by George J. Kennedy, as Mayor and Richard Wilson as Town Clerk of the Town of Castle Rock, Colorado, a municipal corporation.

Witness my hand and official seal.

My commission expires: 10-22-88

Phyllis L Brown
Notary Public

318 Fourth Street
Address
Castle Rock, CO 80104

(SEAL)

DEVELOPERS

LINCOLN SAVINGS AND LOAN ASSOCIATION

By:

P. Joseph Knopinski
P. Joseph Knopinski, Attorney-in-Fact

MEADOWS METROPOLITAN DISTRICT NO. 1

By:

P. Joseph Knopinski
P. Joseph Knopinski, President

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STATE OF Colorado)
COUNTY OF Douglas) ss.

The foregoing instrument was acknowledged before me this 26th day of November 1986, by P. Joseph Knopinski as attorney-in-fact for Lincoln Savings and Loan Association and as President of Meadows Metropolitan District No. 1.

Witness my hand and official seal.

My commission expires: 10-22-88

Phyllis L. Brown
Notary Public
318 Fourth St.
Address
Castle Rock, Co. 80104

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EXHIBIT "A"

Parcel A

A portion of Castleton Center Filing No. 1 and Castleton Center Filing No. 1, First Amendment, according to the recorded plats thereof and a parcel of land in the North 1/2 of the Southeast 1/4 of Section 27, Township 7 South, Range 67 West of the 6th Principal Meridian, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the East 1/4 Corner of Section 27 as monumented by an aluminum pipe with cap, LS 14166 and considering the east line of the Northeast 1/4 of said Section 27 to bear North 00°28'54" East to an iron pin at the Northeast corner thereof, with all bearings contained herein relative thereto; thence South 47°55'38" West, 1142.88 feet to a point on a curve, the POINT OF BEGINNING; thence along a non-tangent curve to left having a central angle of 05°39'59", a radius of 2900.00 feet, an arc length of 281.74 feet and a chord that bears South 53°09'04" West, 281.63 feet; thence South 41°00'54" East, 419.97 feet; thence South 65°00'54" East, 118.46 feet to a point on the south line of the North 1/2 of the Southeast 1/4 of Section 27, said point being also a point on the north right-of-way line of West Castleton Road as platted on said Castleton Center Filing No. 2; thence along said north right-of-way as platted on Castleton Center Filings No.1, First Amendment and Filing No.2, North 88°56'45" West, 698.07 feet; thence departing said south line of the North 1/2 of the Southeast 1/4 and continuing along said north right-of-way, South 49°05'56" West, 278.43 feet to the point of intersection with the said north right-of-way of West Castleton Road and west right-of-way of North Industrial Way as platted on said Castleton Center Filing No.1, First Amendment; thence departing said north right-of-way and along said west right-of-way the following courses: South 40°54'04" East, 196.23 feet to a point of curvature; thence along a curve to the right having a central angle of 13°36'34", a radius of 8215.00 feet, and an arc length of 763.66 feet to a point of compound curvature; thence along a curve to the right having a central angle of 105°34'19", a radius of 90.00 feet, and an arc length of 165.83 feet, and a chord that bears South 25°29'40" West to a point on the north right-of-way of South Castleton Drive as platted on the above described plat; thence along said north right-of-way and along a line parallel with the south line of Castleton Center No.1, First Amendment, South 78°16'49" West, 173.54 feet to a point of curvature; thence along a curve to the right having a central angle of 73°46'07", a radius of 25.00 feet and an arc length of 82.19 feet to a point on the east right-of-way of U.S. Highway 85; thence departing the said north right-of-way and along the east right-of-way of U.S. Highway 85 the following courses: North 27°57'04" West, 49.87 feet to a point of curvature; thence along a curve to the left

having a central angle of $12^{\circ}57'00''$, a radius of 2915.00 feet and an arc length of 658.85 feet; thence North $40^{\circ}54'04''$ West, 716.23 feet to a point on the south line of the North 1/2 of the Southeast 1/4 of Section 27; thence along said south line North $88^{\circ}56'45''$ West, 29.73 feet; thence departing said south line, North $40^{\circ}55'41''$ West, 1220.22 feet; thence departing said east right-of-way of U.S. Highway 85, North $48^{\circ}55'01''$ East, 76.03 feet; thence South $42^{\circ}14'39''$ East, 405.23 feet; thence South $42^{\circ}05'36''$ East, 95.17 feet; thence South $51^{\circ}14'42''$ East, 507.75 feet; thence South $53^{\circ}49'17''$ East, 410.00 feet; thence South $67^{\circ}38'26''$ East, 112.03 feet; thence North $61^{\circ}05'41''$ East, 1054.92 feet to the POINT OF BEGINNING, containing 19.20 acres, more or less.

Parcel B

A parcel of land in Section 27, Township 7 South, Range 67 West of the 6th Principal Meridian, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the East 1/4 Corner of Section 27 as monumented by an aluminum pipe with cap, marked LS 14166 and considering the east line of the Northeast 1/4 of said Section 27 to bear North $00^{\circ}28'54''$ East to an iron pin at the Northeast corner thereof, with bearings contained herein relative thereto; thence South $30^{\circ}35'14''$ West, 598.18 feet to a point on the west right-of-way of the Interstate Highway 25, the POINT OF BEGINNING; thence departing said west right-of-way, North $88^{\circ}33'51''$ West, 109.51 feet; thence South $60^{\circ}50'13''$ West, 183.95 feet to a point of curvature; thence along the curve to the left having a central angle of $06^{\circ}18'35''$, a radius of 2900.00 feet and an arc length of 319.36 feet; thence departing said curve on a non-tangent line, South $61^{\circ}05'41''$ West, 1054.92 feet; thence North $48^{\circ}59'06''$ East, 680.57 feet to a point of curvature; thence along a curve to the right having a central angle of $11^{\circ}51'55''$, a radius of 3100.00 feet and an arc length of 641.98 feet; thence departing said curve on a non-radial line, North $25^{\circ}40'18''$ West, 333.26 feet; thence North $09^{\circ}02'18''$ East, 802.61 feet to a point on the west right-of-way of Interstate Highway 25; thence along said west right-of-way the following courses: South $17^{\circ}54'09''$ East, 1051.50 feet; thence South $40^{\circ}21'57''$ East, 192.39 feet to the POINT OF BEGINNING, containing 10.68 acres, more or less.

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EXHIBIT "B"

Lots GI-1, GI-2, GI-3 and GI-4 as described and shown on the plat of Castleton Center Filing No. 1 recorded under Reception No. 215114 with the Douglas County Clerk and Recorder and Lot GI-5 as described and shown on the plat of Castleton Center Filing No. 1, First Amendment, recorded under Reception No. _____ with the Douglas County Clerk and Recorder.

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EXHIBIT "C"

A parcel of land in Section 27, Township 7 South, Range 67 West of the 6th Principal Meridian, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the East 1/4 Corner of Section 27 as monumented by an aluminum pipe with cap, marked LS 14166 and considering the East line of the Northeast 1/4 of said Section 27 to bear North 00 Degrees 28 Minutes 54 Seconds East to an iron pin at the Northeast corner thereof, with all bearings contained herein relative thereto; thence South 30 Degrees 35 Minutes 14 Seconds West, 598.18 feet to a point on the Westerly right-of-way of U.S. Interstate 25, and the POINT OF BEGINNING; thence departing said Westerly right-of-way, North 88 Degrees 33 Minutes 51 Seconds West, 109.51 feet; thence South 60 Degrees 50 Minutes 13 Seconds West, 183.95 feet to a point of curvature; thence along a curve to the left having a central angle of 11 Degrees 52 Minutes 34 Seconds, a radius of 2900.00 feet and an arc length of 601.10 feet; thence departing said curve on a non-tangent line, South 41 Degrees 00 Minutes 54 Seconds East, 419.97 feet; thence South 65 Degrees 00 Minutes 54 Seconds East, 118.46 feet to the South line of the North 1/2 of the Southeast 1/4 of said Section 27; thence along said South line, North 88 Degrees 56 Minutes 45 Seconds West, 1505.61 feet to the Easterly right-of-way line of U.S. Highway 85; thence along said Easterly right-of-way line, North 40 Degrees 55 Minutes 41 Seconds West, 1220.22 feet; thence departing said Easterly right-of-way line, North 48 Degrees 55 Minutes 01 Seconds East, 76.03 feet; thence South 42 Degrees 14 Minutes 33 Seconds East, 405.23 feet; thence South 42 Degrees 05 Minutes 36 Seconds East, 95.17 feet; thence South 51 Degrees 14 Minutes 42 Seconds East, 507.75 feet; thence South 53 Degrees 43 Minutes 17 Seconds East, 410.00 feet; thence South 67 Degrees 38 Minutes 26 Seconds East, 112.03 feet; thence North 48 Degrees 59 Minutes 06 Seconds East, 680.57 feet to a point of curvature; thence along a curve to the right having a central angle of 11 Degrees 51 Minutes 55 Seconds, a radius of 3100.00 feet and an arc length of 641.98 feet; thence departing said curve on a non-radial line, North 25 Degrees 40 Minutes 18 Seconds West, 333.26 feet; thence North 09 Degrees 02 Minutes 18 Seconds East, 802.61 feet to the Westerly right-of-way line of U.S. Interstate 25; thence along said Westerly right-of-way line the following courses: South 17 Degrees 54 Minutes 09 Seconds East, 1051.50 feet; thence South 40 Degrees 21 Minutes 57 Seconds East, 192.39 feet to the POINT OF BEGINNING, containing 19.62 acres, more or less.

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EXHIBIT "D"

1. A parcel of land in Section 27, Township 7 South, Range 67 West of the 6th Principal Meridian, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the East 1/4 Corner of Section 27 as monumented by an aluminum pipe with cap, marked LS 14166 and considering the East line of the Northeast 1/4 of said Section 27 to bear North 00 Degrees 28 Minutes 54 Seconds East to an iron pin at the Northeast corner thereof, with all bearings contained herein relative thereto; thence South 30 Degrees 35 Minutes 14 Seconds West, 598.18 feet to a point on the Westerly right-of-way of U.S. Interstate 25, and the POINT OF BEGINNING; thence departing said Westerly right-of-way, North 88 Degrees 33 Minutes 51 Seconds West, 109.51 feet; thence South 60 Degrees 50 Minutes 13 Seconds West, 183.95 feet to a point of curvature; thence along a curve to the left having a central angle of 11 Degrees 52 Minutes 34 Seconds, a radius of 2900.00 feet and an arc length of 601.10 feet; thence departing said curve on a non-tangent line, South 41 Degrees 00 Minutes 54 Seconds East, 419.97 feet; thence South 65 Degrees 00 Minutes 54 Seconds East, 118.46 feet to the South line of the North 1/2 of the Southeast 1/4 of said Section 27; thence along said South line, North 88 Degrees 56 Minutes 45 Seconds West, 1505.61 feet to the Easterly right-of-way line of U.S. Highway 85; thence along said Easterly right-of-way line, North 40 Degrees 55 Minutes 41 Seconds West, 1220.22 feet; thence departing said Easterly right-of-way line, North 48 Degrees 55 Minutes 01 Seconds East, 76.03 feet; thence South 42 Degrees 14 Minutes 33 Seconds East, 405.23 feet; thence South 42 Degrees 05 Minutes 36 Seconds East, 95.17 feet; thence South 51 Degrees 14 Minutes 42 Seconds East, 507.75 feet; thence South 53 Degrees 43 Minutes 17 Seconds East, 410.00 feet; thence South 67 Degrees 38 Minutes 26 Seconds East, 112.03 feet; thence North 48 Degrees 59 Minutes 06 Seconds East, 680.57 feet to a point of curvature; thence along a curve to the right having a central angle of 11 Degrees 51 Minutes 55 Seconds, a radius of 3100.00 feet and an arc length of 641.98 feet; thence departing said curve on a non-radial line, North 25 Degrees 40 Minutes 18 Seconds West, 333.26 feet; thence North 09 Degrees 02 Minutes 18 Seconds East, 802.61 feet to the Westerly right-of-way line of U.S. Interstate 25; thence along said Westerly right-of-way line the following courses: South 17 Degrees 54 Minutes 09 Seconds East, 1051.50 feet; thence South 40 Degrees 21 Minutes 57 Seconds East, 192.39 feet to the POINT OF BEGINNING, containing 19.62 acres, more or less.

2. Lots GI-1 and GI-2 as described and shown on the plat for Castleton Center Filing No. 1, recorded under Reception No. 215114 with the Douglas County Clerk and Recorder's Office.

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AGREEMENT

(Amendment to Annexation and Development Contracts
Re: Meadows Annexation - Third Addendum
Re: South Meadows Annexation - First Addendum
Re: Meadows Parkway Annexation - First Addendum)

DATE: April 25, 1991

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

CASTLE MEADOWS, INC. ("CMI"), a California corporation, c/o 51
Meadows Boulevard, Castle Rock, Colorado, 80104.

MEADOWS METROPOLITAN DISTRICT NO. 4 (the "District"), a quasi-
municipal corporation and political subdivision of the State of Colorado, 51
Meadows Boulevard, Castle Rock, Colorado, 80104.

RECITALS:

A. Town and Lincoln Meadows Limited Partnership ("Lincoln Meadows") entered into an Annexation and Development Contract (The Meadows Annexation), referred to herein as the "Meadows Contract" dated December 6, 1984, and recorded on December 12, 1984 at Reception No. 342954 in the records of Douglas County, Colorado. The Meadows Contract sets forth the terms and conditions under which the Town annexed certain real property known as the "Meadows P.U.D.", and permitted development of that property by Lincoln Meadows as developer. The Meadows Contract has previously been modified by a First Addendum dated September 12, 1985, and a Second Addendum dated November 13, 1986.

B. Town and Lincoln Savings and Loan Association ("Lincoln Savings") entered into an Annexation and Development Contract (South Meadows Annexation) referred to herein as the "South Meadows Contract" dated September 26, 1985, and recorded on October 9, 1985 at Reception No. 364371 in the records of Douglas County, Colorado. The Meadows South Contract sets forth the terms and conditions under which the Town annexed certain real property known as the "South Meadows P.U.D." and permitted development of that property by Lincoln Savings as developer.

C. Town and Lincoln Savings entered into an Annexation and Development Contract (Meadows Parkway Annexation) referred to herein as the "Parkway Contract", dated November 20, 1986, and recorded on January 30, 1987 at Reception No. 8703293 in the records of Douglas County, Colorado. The Parkway Contract sets forth the terms and conditions under which the Town annexed certain real property for construction of the arterial street denominated as Meadows Parkway and permitted development of certain commercial properties.

D. The rights and obligations pursuant to the Meadows Contract, as amended, were transferred by Lincoln Meadows' successors to CMI pursuant to an Assignment Agreement dated August 26, 1987. The rights and obligations pursuant to the South Meadows Contract and Parkway Contract were transferred by Lincoln Savings to CMI pursuant to an Assignment Agreement dated August 26, 1987. Collectively, the Meadows Contract, South Meadows Contract and Parkway Contract are referred to herein as the "Development Contracts". The properties annexed pursuant to the several Development Contracts are collectively referred to herein as the "Meadows P.U.D."

E. Subsequent to annexation of the Meadows P.U.D., Town annexed property as the Castle Pines Commercial Annexation. The property annexed thereby is described in the Annexation and Development Contract between the Town and CP Commercial Properties, Inc. recorded as document number 8728920 on October 8, 1987 (the "CP Property"). The CP Property is generally located north and south of Meadows Parkway between Interstate 25 and U.S. Highway 85, immediately east of the Meadows P.U.D.

F. Under Section 20.1 of the Development Contracts (the "Recoupment Provision"), Town is to effect the recoupment for the benefit of the developer thereunder, of a portion of the cost incurred in developing certain offsite transportation and drainage improvements. Such recoupment is to reflect the relative benefit of the infrastructure to properties annexed to the Town, including the CP Property.

G. Pursuant to intergovernmental agreement with the Town, District and/or the Meadows Metropolitan District No. 1 have constructed certain transportation improvements, including Meadows Parkway between I-25 and U.S. Highway 85 (the "Roadway"). District, in its own right, and on behalf of the Meadows Metropolitan District No. 1 has a direct financial interest in the performance by the Town of the Town's obligation under the Recoupment Provision. In addition, CMI and/or District have developed other major transportation improvements, including the Meadows Parkway overpass spanning Plum Creek, U.S. Highway 85/Meadows Parkway intersection, Meadows Parkway through the P.U.D., and financial participation in the Wolfensberger Road grade separated rail crossing, (collectively, the "Transportation Improvements").

H. Under the Recoupment Provision, recoupment is due for the Roadway based upon the impact thereon from full development of the CP Property, with Town's approval of the first final subdivision plat within the CP Property. The Recoupment Provision further provides that the developer's right to recoupment expires if development within the CP Property has not commenced by a date certain. Acknowledging that these provisions could work a hardship on Town or District depending on future events, the parties to this Agreement desire to substitute an alternative mechanism, by which CMI and District may recover a portion of the cost of the Transportation Improvements and Roadway.

I. Pursuant to Chapter 3.12 of the Castle Rock Municipal Code, the Town imposes a street oversizing fee on all new development within the Town (the "Street Fee"). The Transportation Improvements were designed and constructed to partially serve traffic impacts that the Street Fee is intended to address. Consequently, it is appropriate for the

Meadows P.U.D., through the Districts, to capture a portion of the Street Fees imposed on development within the Meadows.

J. For these reasons, Town, CMI and District have agreed to substitute the right of District to capture a portion of the Street Fees within the Meadows P.U.D. in satisfaction of any claim that CMI or District may have to reimbursement to Town for the oversizing of transportation improvements within the Meadows P.U.D., as well as their claims under the Recoupment Provision for the cost of development of the Transportation Improvements and the Roadway.

K. District No. 4 has legal authority to act on behalf of, and contractually bind the sister Meadows metropolitan districts. Any reference in this Agreement to District, is intended to include the right, claim and interest of such other metropolitan districts.

COVENANTS:

THEREFORE, IN CONSIDERATION OF THESE MUTUAL PROMISES, THE PARTIES COVENANT AS FOLLOWS:

1. Modification of Recoupment Rights. Section 20.1 of each of the Development Contracts is modified to read as follows:

20.1 RECOUPMENT. DEVELOPER shall be entitled to recoupment of off-site costs, exclusive of transportation and drainage costs, including:

a. Costs of easements and rights-of-way for water and sanitary sewer utilities only (costs of easement or fee title procurement, administrative and legal costs).

b. (Deleted).

c. TOWN shall provide that recoupment will be due from the owners of all lands annexed subsequent to the date of the annexation of the LAND on an "ability-to-serve" basis, rather than at the time of actual connection to, or utilization of, said improvements, with said amounts being payable, in full, at the time the first final plat is approved for any such owner. DEVELOPER shall comply with the administrative provisions of any recoupment provisions in effect in order to ensure that the costs expended are properly approved by TOWN for recoupment at the time of expenditure.

CMI and/or District's right to recoupment for infrastructure other than transportation or drainage under Section 20.1, or the right to credits for oversizing infrastructure as provided elsewhere in the Development Contracts, shall not be impaired by this modification.

2. Capture of Street Oversizing Fees. Effective with the Commencement Date, as defined below, District in its own behalf, and on behalf of the Meadows Metropolitan

Districts 1, 2, 3, 5, 6 and 7 shall be entitled to capture a portion of the Street Fee (the "Capture"), from all development within the Meadows P.U.D. The amount of the Capture shall be fifty percent (50%) of the Street Fee, as the same may be adjusted from time to time, subject to the following limitations:

- (a) with respect to residential development, the Capture shall be limited to not more than three hundred dollars (\$300.00) per dwelling unit. "Dwelling unit" is defined as a single unit providing complete, independent facilities for one or more persons, including permanent provisions for living, eating, sleeping, and sanitation;
- (b) with respect to non-residential use, the Capture shall be limited to not more than eight dollars (\$8.00) per one hundred (100) square feet, or fractions thereof, of gross floor area of the structure. "Gross floor area" is defined as the sum of the gross horizontal areas of the several floors of a building measuring all horizontal dimensions by the exterior faces of the walls of each such floor.

It is the understanding and intention of the parties that such limitations, or cap, shall apply to the Capture, irrespective of the subsequent legislative or administrative amendment to the method, basis, or amount of the Street Fee. The Capture shall apply only to the real property currently subject to the Development Contracts.

The Commencement Date for the Capture shall be the first day of the month occurring after the recordation of the first final subdivision plat within the CP Property. Prior to the Commencement Date, neither District or CMI shall have any claim or entitlement to any portion of the Street Fees generated from the Meadows P.U.D.

3. Administration. Quarterly, Town shall remit to District the District's portion of the Street Fees collected by Town on residential development within the Meadows P.U.D. in accordance with the provisions of this Agreement. Such quarterly disbursement shall be made by Town no later than the 15th of the month after the end of the calendar quarter, and any amounts not paid by such date shall thereafter bear interest at one percent (1%) per month until paid. Upon reasonable prior written notice, District shall have the right to inspect the books and records of the Town, to determine that Town has made a proper accounting to District of the portion of the Street Fees to which the District is entitled.

4. Release of Claims. CMI and District in its own behalf and on behalf of the other Meadows Metropolitan Districts, accepts performance under this Agreement by Town, in full satisfaction of any right, entitlement or claim that such entities may have to the Street Fees, arising from development of the Transportation Improvements and Roadway. The parties acknowledge that the foregone Street Fee revenue by Town, and the receipt of revenue by District under this Agreement, is wholly dependent on the Commencement Date, and the pace of development within the Meadows P.U.D. Therefore, the net present value of the cost to Town and benefit to District of the capture of Street Fee, is difficult to quantify with any degree of certainty. The parties further acknowledge that each has

completed its own analysis of the financial impact of this Agreement, and has determined that this Agreement is in each party's respective best interest.

5. Pledge. Town irrevocably pledges that portion of the Street Fee subject to the Capture received from development within the Meadows P.U.D. for application in accordance with the provisions of this Agreement. Town shall not pledge or apply the Street Fee for any other purpose, including the repayment of any debt or obligation, such that the entitlement of District to the Street Fee is impaired thereby. In the event Town shall subsequently terminate or reduce the rate of the Street Fee below the rate imposed as of the date of this Agreement (See Exhibit 1), Town shall establish, impose and collect an alternate fee or exaction and pledge a portion of the revenue received therefrom, on new development within the Meadows P.U.D., sufficient to provide District with a revenue stream in parity with the Capture, in both timing and amount.

6. Utilization of Water Facilities. District acknowledges that Town has expressed its intention to extend water and wastewater service to the CP Property, and that, at least initially, water service will be supplied through production facilities constructed by District and dedicated to Town. District authorizes the utilization of such water facilities to Town to provide a municipal water supply to the CP Property, notwithstanding any limitation in the intergovernmental agreement between Town and District, or between Town and the other Meadows Metropolitan Districts 1, 2, 3, 6 and 7, all such intergovernmental agreements dated July, 1985, and all amendments thereto.

7. Authorization. CMI represents to Town that its approval and execution of this Agreement, constitutes approval of same by the Resolution Trust Corporation.

8. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns. Specifically, District shall have an absolute right to assign its interest and entitlement to capture the Street Fees to one or more of the Meadows Metropolitan Districts, or third parties, upon ten (10) days prior written notice to Town.

9. Limited Purpose. Except as specifically provided herein, this Agreement is not intended and shall not constitute a modification, in any manner, of the parties pre-existing contractual rights under the terms of the Meadows Contracts or any other agreement or intergovernmental agreement presently in effect. This Agreement shall constitute a Third Addendum to the Meadows Contract and a First Addendum to the South Meadows Contract and Meadows Parkway Contract.

10. Additional Enactments. Nothing contained herein shall preclude the Town's adoption and imposition within the Meadows P.U.D. of any municipal fee or exaction to address development impacts, including transportation and drainage, provided that such fee or exaction is adopted pursuant to the Town's general police and ordinance powers, and is applicable to development within the entire municipality. Further, this Agreement shall not restrict the Town from application of a municipal ordinance implementing a system of

recoupment to the Town and/or private parties for the cost of development of public infrastructure, provided that the contract rights of CMI and District are not impaired thereby.

11. **Notices.** All notices, certifications or demands required to be given under this Agreement shall be in writing and delivered or sent by nationally recognized overnight delivery, to the following addresses or as otherwise noticed in writing by the parties from time to time:

Town of Castle Rock
Attn: Town Attorney
680 N. Wilcox Street
Castle Rock, Colorado 80104

Meadows Metropolitan Districts
51 Meadows Boulevard
Castle Rock, Colorado 80104

Castle Meadows, Inc.
51 Meadows Boulevard
Castle Rock, Colorado 80104

12. **Default and Remedies.** In the event that either party shall fail to fully and timely perform the covenants of this Agreement, the non-defaulting party shall give written notice of such default to the defaulting party. The defaulting party shall have thirty (30) days from receipt of such notice to cure the default. If timely cure is not effected, the non-defaulting party shall have the right to enforce this Agreement in law or in equity, by decree of specific performance or damages, or such other legal or equitable relief as may be available under the provisions of the laws of the State of Colorado. In such proceeding, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs. The subsequent legislative action by Town to terminate or reduce the Street Fee below the rate imposed as of the date of this Agreement, (see Exhibit 1), shall constitute an event of default, unless an alternative revenue pledge is then in effect, as authorized by Section 5, above.

13. **Entirety.** This Agreement constitutes the entire contract between the parties and all prior negotiations, representations, understandings, or agreements pertaining to such matters are merged into and superseded by this Agreement.

Executed by the lawful representatives of the parties effective as of the date indicated above.

ATTEST:

Gary R. Higbee Acting
Gary R. Higbee, Town Clerk

TOWN OF CASTLE ROCK

Steven A. Board
Steven A. Board, Mayor

APPROVED AS TO FORM:

Robert J. Slentz
Robert J. Slentz, Town Attorney

MEADOWS METROPOLITAN DISTRICT
NO. 4, quasi-municipal
corporation

By: [Signature]
Attest: [Signature]

CASTLE MEADOWS, INC.
a California corporation

By: Steven C. [Signature]
President

EXHIBIT 1

A. Residential Uses. Hereafter no building permit shall be issued for any dwelling unit until a fee of four hundred forty-five dollars (\$445.00) per dwelling unit has been paid to the Town. For the purposes of this subsection, any remodeling activity which results in the creation of an additional dwelling unit shall be subject to the payment of the fee as specified in this subsection. All such payments shall be deposited into the capital improvements fund.

B. Commercial, Business and Industrial Uses. No building permit shall be issued for the occupancy of any structure to be used primarily for commercial, business or industrial use until a fee in the amount of twelve dollars (\$12.00) per one hundred square feet, or portion thereof, of gross floor area of the structure has been paid to the Town. Any structure located in a business zone, whether intended for commercial business or industrial use, shall be assessed at the rate indicated in this paragraph for commercial, business or industrial uses. All such payment shall be deposited into the capital improvements fund.

RESOLUTION NO. 93-61

A RESOLUTION APPROVING AN
OMNIBUS AMENDMENT TO THE MEADOWS
ANNEXATION AND DEVELOPMENT CONTRACTS

WHEREAS, the Town and Yale Investments, Inc. have identified the need to make certain modifications to the annexation and development contracts pertaining to the Meadows.


NOW THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO, AS FOLLOWS:


SECTION 1. Approval and Authorization. The "Omnibus Amendment to Annexation Contracts (Meadows)" in the form attached as Exhibit 1 is approved and the Mayor and other proper Town officials are authorized to execute the document by and on behalf of the Town of Castle Rock.

PASSED, APPROVED AND ADOPTED this 9th day of September, 1993, by the Town Council of the Town of Castle Rock, Colorado on first and final reading, by a vote of 7 for and 0 against.

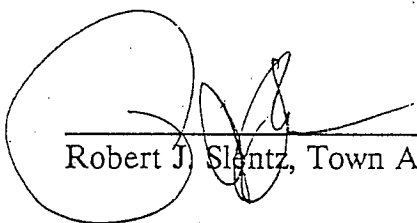
ATTEST:

TOWN OF CASTLE ROCK


Sally Misare, Town Clerk


~~Mark C. Williams, Mayor~~

Approved as to form:


Robert J. Slentz, Town Attorney