ANNEXATION AND DEVELOPMENT CONTRACT

BETWEEN

THE TOWN OF CASTLE ROCK

AND

PARK FUNDING CORP.

(MEMMEN YOUNG PORTION-
THE VILLAGES AT CASTLE ROCK INFILL)

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ANNEXATION AND DEVELOPMENT CONTRACT

(MEMMEN-YOUNG ANNEXATION)

THIS AGREEMENT made this 16th day of May, 19 85, by and between THE TOWN OF CASTLE ROCK, a Colorado municipal corporation, 318 Fourth Street, Castle Rock, CO 80104, hereinafter sometimes referred to as "TOWN", and PARK FUNDING CORP., a Colorado corporation DTC, Bldg. 30, Suite 305, 8301 E. Prentice Ave., Englewood, CO 80111 hereinafter sometimes referred to as "DEVELOPER", is as follows:

WITNESSETH:

WHEREAS, DEVELOPER desires to annex and develop certain lands within the TOWN of Castle Rock, to be known as MEMMEN-YOUNG PORTION-THE VILLAGES AT CASTLE ROCK INFILL, 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

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 DEVELOPER The DEVELOPER is: PARK FUNDING CORP., a Colorado corporation

1.3 OWNER The OWNERS of the LAND are: Hickory Partners, Ltd., a Colorado limited partnership

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 is deposited in the United States mail, first-class, postage prepaid, to the other party hereto at the addresses hereinafter noted, or to such other party or address as either party may designate in writing.

TOWN:

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

DEVELOPER:

PARK FUNDING CORP., a Colorado corporation
DTC, Bldg. 30, Suite 305
8301 E. Prentice Ave., Englewood, CO 80111

OWNERS: Hickory Partners Ltd., a Colorado limited partnership
DTC, Bldg. 30, Suite 305
8301 E. Prentice Ave., Englewood, CO 80111

SECTION II

ANNEXATION PREMISES

2.1 CONTIGUITY DEVELOPER warrants 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 DEVELOPER further warrants that it has full ownership or control over the LAND and has full authority and power to enter into the within Agreement. In support thereof, DEVELOPER submits with its annexation 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 TOWN and DEVELOPER 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 Unit 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 DEVELOPER, its 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 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 DEVELOPER and dedicated to TOWN.

3.6 REQUIRED PRIVATE AMENITIES "REQUIRED PRIVATE AMENITIES" shall mean those private improvements built by the Developer and required by the TOWN as a condition of

final plat or site approval and which are utilized as an offset in behalf of the DEVELOPER against necessary public land dedication or as a credit against fees owed.

3.7 WARRANTY "WARRANTY" shall mean the express promise made by the DEVELOPER that such PUBLIC IMPROVEMENTS are and shall be free from defective materials and workmanship. The warranty period for streets, sidewalks, curbs, 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 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 DEVELOPER 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) Ordinance No. 85-24 annexing the lands described in Exhibit "A" hereto;

(b) Resolution No. 85-27, A resolution approving the execution of this Contract;

(c) Ordinance No. 85-25, the Planned Unit Development Ordinance;

(d) Preliminary Site Plan, dated March 22, 1985, revised April 25, 1985

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 to the LAND, water, sewer and irrigation services at the same rates, charges and fees (including development fees, other authorized fees and exactions) as charged to other users, similarly situated in 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.

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 meets all applicable TOWN minimum standards and design criteria. No such inspection or assistance shall pass or transfer any responsibility or liability from DEVELOPER 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 DEVELOPER's full warranty responsibility.

5.4 APPROVAL OF PRIVATE AMENITIES The TOWN agrees to approve all required private improvements and ammenities without acceptance of further responsibility thereon.

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 DEVELOPER 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 DEVELOPER understands the benefits derived from annexation to the TOWN and is therefore desirous of fulfilling all the standard and additional provisions of this Agreement. Therefore the DEVELOPER agrees that it will develope 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 DEVELOPER shall have the responsibility of making and diligently pursuing, at DEVELOPER's expense, an application for exclusion of THE LAND from 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 DEVELOPER providing adequate water and water sources. DEVELOPER 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, DEVELOPER, 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 platting. Where a particular use is not addressed by ordinance or resolution, the TOWN shall make an administrative determination based upon available information.

(b) The DEVELOPER 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 DEVELOPER. Said credit shall be subject to subsequent modification as agreed upon by TOWN and DEVELOPER based upon actual consumption rates over time.

(c) No water availability requirement shall be be necessary for the LAND to the extent that an approved effluent irrigation system has been installed by DEVELOPER 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 DEVELOPER 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 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 prove 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, OVERSIZING 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 DEVELOPER 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 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER which shall include invoices and contractor billings.

7.5 CONNECTION, OWNERSHIP Based upon appropriate engineering criteria, the TOWN shall advise DEVELOPER where DEVELOPER'S 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 (90%) percent 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 DEVELOPER shall be allowed to transfer such surplus water to other lands owned by DEVELOPER within the corporate limits of the Town of Castle Rock. DEVELOPER may transfer such surplus water to other lands not owned by him 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. DEVELOPER shall, pursuant to the notification requirements set forth in this contract, give thirty (30) days written notice to the TOWN of his intention to sell said surplus water. In

the event TOWN desires to purchase such water, it shall give written notification to DEVELOPER 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 DEVELOPER 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 DEVELOPER 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, DEVELOPER may utilize such three-pipe system. In the event DEVELOPER

deems installation of said three-pipe system within any non-residential area to be technically infeasible and/or not economically justifiable, DEVELOPER shall present evidence of such infeasibility or lack of economic justification to TOWN. TOWN shall review the evidence submitted by DEVELOPER 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 similarily situated within the TOWN pursuant to ordinance or resolution of the TOWN. DEVELOPER 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER agrees that DEVELOPER 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 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 DEVELOPER may enter into an agreement whereby the DEVELOPER will construct capital plant improvements and offset certain development fees.

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 DEVELOPER 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 DEVELOPER 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 DEVELOPER 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 DEVELOPER shall follow the procedures set forth in Paragraph 7.4 with regard to bids and their submission to the TOWN.

9.2 CONNECTION, OWNERSHIP Based upon appropriate engineering criteria, the TOWN shall advise DEVELOPER where DEVELOPER'S 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 become 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 DEVELOPER may enter into an agreement whereby the DEVELOPER will construct capital plant improvements and offset certain development fees.

SECTION X

DRAINAGE

10.1 DRAINAGE POLICY The DEVELOPER understands its legal responsibilities with respect to storm water drainage on the LAND. In this regard, DEVELOPER 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 its obligations hereunder.

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 the 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 and development to 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, DEVELOPER agrees to dedicate to the TOWN at the time of final platting certain parcels of property as shown on the Preliminary Site Plan approved contemporaneously with this Agreement. Credit for all water and water rights appurtenant to such dedicated parcels shallbe reserved to the DEVELOPER 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, DEVELOPER 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, DEVELOPER may seek recoupment in accordance with applicable TOWN Recoupment Ordinances.

12.3 SOLE REQUIREMENT Except as may be 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, DEVELOPER shall provide TOWN with sufficient title work to show that the property is free and clear of all liens and 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. DEVELOPER shall retain such rights-of-way and easements as may be necessary for DEVELOPER 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 DEVELOPER. 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 DEVELOPER is entering into this Agreement and undertaking the obligations imposed upon DEVELOPER herein in reliance upon the TOWN's concurrent approval of the DEVELOPER's Preliminary Site Plan and Planned Unit Development Ordinance. Performance of DEVELOPER's obligations hereunder is expressly conditioned upon DEVELOPER being permitted by TOWN to develop the LAND in substantial conformity with said approved Site Plan and Ordinance.

14.2 FAILURE TO APPROVE, DISCONNECTION If TOWN fails to approve the APPROVING DOCUMENTS by appropriate ordinance

or Resolution or if an initiative or referendum is passed at any time which substantially amends or alters this contract and/or any of the APPROVING DOCUMENTS, of if the TOWN through its legislative powers unilaterally substantially amends or alters the approved Preliminary Site Plan or the Planned Unit Development Ordinance, the TOWN covenants that it will not object to the OWNER disconnecting a portion or all of the LAND from the TOWN under any applicable provisions of Colorado Law, providing the TOWN has not taken action in reliance hereon to its detriment.

14.3 DEVELOPER DEFAULT In the event of default by DEVELOPER under the provisions of this Agreement, for which no surety has been posted with TOWN by DEVELOPER, 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 last fifteen (15%) percent 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 parties hereto shall have all available remedies in law or equity including but not limited to, specific performance and injunctive relief.

SECTION XV

DEVELOPER'S AGREEMENT TO PAY CERTAIN TOWN FEES

15.1 TOWN FEES DEVELOPER agrees to pay street oversizing fees as established pursuant to 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 unenforcible, DEVELOPER agrees 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 the TOWN as an exaction under this Agreement. It is further agreed however, that DEVELOPER, its heirs, successors or assigns shall not be required to pay such fees pursuant to this Agreement unless this provision 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 DEVELOPER in the approval of such Districts as may be deemed by TOWN

and DEVELOPER 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 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.

(Additional Conditions commence on page 28)

SECTION XX

ADDITIONAL PROVISIONS

20.1 RECOUPMENT. TOWN shall provide for DEVELOPER 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).

(b) Costs of roadway and drainage structure construction.

Time for such such recoupment, insofar as it relates to private persons, shall be for a period of ten years.

Recoupment will be due, from the owners of all lands annexed subsequent to the date of such amendment, 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.

20.2 WELL PERMIT APPLICATIONS. While it is understood and agreed that water and water rights are to be dedicated to TOWN at time of final plat approval pursuant to the provisions of Section VII hereof, DEVELOPER agrees, that upon request of TOWN, DEVELOPER will fully cooperate with TOWN in the filing of any necessary applications for well permits to facilitate the production of such water.

20.3 WELL SITES. In the event TOWN determines that a well site or sites are required upon the LAND in locations other than

those areas designated upon the approved preliminary P.U.D. Site Plan for public dedication TOWN agrees to administratively adjust the boundaries of the such designated public land dedication areas so that an equivalent amount of land will be released from the requirement of public land dedication at a mutually agreed location.

20.4 METROPOLITAN DISTRICTS. It is the intention of the DEVELOPER to, within ninety (90) days, present petitions of the owners of the LAND for organization of metropolitan districts, pursuant to and in accordance with Title 32, Article 1, Colorado Revised Statutes 1973, as amended. (Failure of DEVELOPER to present such petitions within said ninety (90) day period shall not prevent consideration and approval of the same, but may, in the TOWN'S discretion, terminate DEVELOPER'S right to disconnect as set forth in Sub-paragraph (k) hereof.) It is the intention of TOWN to consider such petitions pursuant to statute and approve metropolitan districts in conformity with the following provisions.

(a) Said districts shall be permitted to provide water improvements, sewer improvements, street improvements, drainage improvements, safety control improvements, park and recreation improvements and transportation services.

(b) TOWN agrees to approve multiple districts, but not to exceed, without further agreement of the Board of Trustees, ten (10) in number.

(c) Each resolution approving said districts shall incorporate by reference a facilities plan and form of Intergovernmental Agreement which shall be in substantial conformity with facilities plans and intergovernmental agreements previously approved by the TOWN.

(d) Whenever, under the provisions of this Contract, DEVELOPER has the duty to engineer, furnish material for, install, construct, warrant, maintain, repair or otherwise provide or maintain any public improvement as defined in this Contract or any Facility of Facilities or other public improvement as defined in the district's organizational documents that duty may be delegated by DEVELOPER to the metropolitan districts provided the provision or maintenance thereof is within the scope of authority of the metropolitan districts.

(e) For such period of time as the metropolitan districts are providing the water, sewer and irrigation water facilities as described in the metropolitan district organizational documents TOWN shall collect water, sewer and irrigation development fees on behalf of such districts within the LAND, and TOWN shall not collect said fees on its own behalf except as otherwise provided in the Intergovernmental Agreements. Other fees now in existence (tap fee, street oversizing fee and capital plan investment fee) shall be charged by and for TOWN, subject to the provisions contained in the Intergovernmental Agreements.

(f) For such period of time as the metropolitan districts are providing water, sewer, and irrigation water facilities, and as a consequence of the metropolitan districts' provision of such Facilities, DEVELOPER will not be entitled to credits against future development fees as provided in this Contract. Nothing contained in this Contract shall in any way effect the

granting of such credits for any public improvement to be constructed by DEVELOPER in the futhure pursuant to the applicable provisions of the Contract.

(g) In the event the metropolitan districts shall fail or refuse to provide the public improvements or Facilities that DEVELOPER is responsible to construct, operate or maintain pursuant to the provisions of this Contract, DEVELOPER shall construct, operate and maintain such public improvements or Facilities pursuant to the provisions of this Contract, and receive such credits against development fees as are provided for in this Contract.

(h) In the event the metropolitan districts shall fail or refuse to provide the public improvements or Facilities that TOWN is responsible to construct, operate or maintain pursuant to the provisions of this Contract, TOWN shall construct, operate and maintain such public improvements or Facilities pursuant to the provisions of Contract, and charge such development fees as are then charged for provision of the public improvements so contructed. In such event DEVELOPER, its successors or assigns, shall reimburse the TOWN for the actual and reasonable expenses incurred by TOWN in re-assuming TOWN'S responsibilities under Contract.

(i) Whenever any metropolitan district conveys land to TOWN which was previously conveyed to metropolitan district by DEVELOPER, TOWN shall credit said land as against the public land dedication requirement of DEVELOPER.

(j) DEVELOPER and TOWN agree that at the time for recording of each final plat with the lands described in Contract, DEVELOPER and TOWN shall cause a "Statement of Information" in substantially similar form to that attached as Exhibit B hereto to be executed and placed of public record at the time of filing of said final plat.

(k) Failure of the TOWN to approve metropolitan districts in substantial conformity with the provisions of this section shall give rise to a right of disconnection of the LAND pursuant to Paragraph 14.2 of this Agreement.

(l) In those areas of the LAND utilizing potable water for irrigation and served by a metropolitan district, the TOWN will collect the water and sewer development fees on behalf of the district. Fees would be determined by the district, subject to the provisions of the intergovernmental agreement between the TOWN and district. In such cases the metropolitan district providing such service would not be entitled to any irrigation water development fee, but a fee in lieu of the irrigation water development fee, and in an equal amount to the irrigation water development fee which would be ordinarily be charged within such district, shall instead be retained by the TOWN for the purpose of having alternate water resources. In those areas of the LAND utilizing irrigation (re-use) systems, water, sewer and irrigation development fees will be collected by the TOWN on behalf of the district and paid to the district.

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 May 16, 1985, and a Resolution No. 85-27 was passed by a vote of 5 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 DEVELOPER

This Agreement has been considered and approved by the DEVELOPER as evidenced by the DEVELOPER'S signature hereon as of the date thereof.

TOWN OF CASTLE ROCK

By: George Kennedy (Date)
George Kennedy, Mayor
Town of Castle Rock

ATTEST:

Phyllis L. Brown, Deputy (Date)
Richard Wilson,
Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 16th day of May, 1985, by _____

George T. Kennedy, as Mayor and Phyllis L. Brown as Deputy Town Clerk of the Town of Castle Rock, Colorado, a municipal corporation.

Witness my hand and official seal.

My commission expires: 10/8/86

Karen E. Schubert
Notary Public
316 Wilcox St.
Address
Castle Rock, CO 80104

(S E A L)

DEVELOPER

(Date)

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 16th day of May, 1985, by Kenneth E. Ask.

Witness my hand and official seal.

My commission expires: 10-22-88

Phyllis L Brown
Notary Public

1324 South St.
Address
Castle Rock, Co. 80104

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

January 18, 1985
Job No. 81-176

PROPERTY DESCRIPTION: YOUNG-MEMMEN SOUTHEAST ANNEXATION

A tract of land situated in the North ½ of the Southwest ¼ of Section 7, Township 8 South, Range 66 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Northeast corner of the Northwest ¼ of the Southeast ¼ of said Section 7 and considering the East-West centerline of said Section 7 to bear S 89°31'08"W with all bearings contained herein relative thereto;

Thence S 89°31'08"W along said East-West centerline a distance of 1486.37 feet to the West Right of Way line of Ridge Road;

Thence S 39°19'46"E along said West Right of Way line a distance of 240.97 feet to the East line of the North ½ of the Southwest ¼ of said Section 7;

Thence S 1°33'59"W along said East line a distance of 335.12 feet to the true point of beginning;

Thence N 90°00'00"W a distance of 1386.72 feet;

Thence S 58°19'57"E a distance of 279.92 feet;

Thence S 27°17'54"E a distance of 198.25 feet;

Thence S 15°17'14"W a distance of 148.35 feet;

Thence S 0°08'14"W a distance of 268.00 feet;

Thence S 89°59'14"W a distance of 118.10 feet;

Thence S 11°27'14"W a distance of 28.33 feet;

Thence N 89°46'00"E a distance of 411.91 feet;

Thence S 1°07'00"W a distance of 50.68 feet to the South line of the North ½ of the Southwest ¼ of said Section 7;

Thence N 89°25'50"E along said South line a distance of 12.85 feet;

Thence N 1°26'57"E a distance of 75.08 feet;

Thence S 89°35'01"E a distance of 775.12 feet to the East line of said North ½ of the Southwest ¼;

Thence N 1°33'59"E along said East line a distance of 741.74 feet to the point of beginning.

Containing 19.211 acres, more or less.

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

January 21, 1985
Job No. 81-176

PROPERTY DESCRIPTION: YOUNG-MEMMEN SOUTHWEST ANNEXATION

A tract of land situated in the North ½ of the Southwest ¼ of Section 7, Township 8 South, Range 66 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:
Beginning at the Southwest corner of said North ½ of the Southwest ¼ and considering the West line of said North ½ of the Southwest ¼ to bear N 1°58'20"E with all bearings contained herein relative thereto;
Thence N 1°58'20"E along said West line a distance of 109.20 feet;
Thence N 54°15'16"E a distance of 373.08 feet;
Thence N 0°00'00"E a distance of 500.00 feet;
Thence N 90°00'00"E a distance of 498.79 feet;
Thence S 51°11'01"W a distance of 56.35 feet;
Thence S 24°55'37"E a distance of 453.59 feet;
Thence S 21°24'44"W a distance of 363.60 feet;
Thence N 89°10'14"E a distance of 380.42 feet;
Thence S 11°42'00"W a distance of 28.29 feet;
Thence S 89°25'00"W a distance of 67.30 feet;
Thence S 1°07'10"W a distance of 7.83 feet to the South line of said North ½ of the Southwest ¼;
Thence S 89°25'50"W along said South line a distance of 1127.13 feet to the point of beginning.
Containing 12.315 acres, more or less.

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

January 22, 1985
Job No. 81-176

PROPERTY DESCRIPTION: HEUSSMAN PARCEL

A tract of land situated in the West ½ of Section 7, Township 8 South, Range 66 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southwest corner of the North ½ of the Southwest ¼ of said Section 7 and considering the West line of said North ½ of the Southwest ¼ to bear N 1°58'20"E with all bearings contained herein relative thereto;

Thence N 1°58'20"E along said West line a distance of 109.20 feet;
Thence N 54°15'16"E a distance of 373.08 feet;
Thence N 0°00'00"E a distance of 500.00 feet;
Thence N 90°00'00"E a distance of 498.79 feet;
Thence N 51°11'00"E a distance of 15.75 feet to the true point of beginning;
Thence N 38°49'00"W a distance of 354.50 feet;
Thence N 51°11'00"E a distance of 740.00 feet;
Thence S 38°49'00"E a distance of 354.50 feet;
Thence S 51°11'00"W a distance of 740.00 feet to the point of beginning.

Containing 6.022 acres, more or less.

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

January 21, 1985
Job No. 81-176

PROPERTY DESCRIPTION: YOUNG-MEMMEN NORTH ANNEXATION

A tract of land situated in the Northwest ¼ of Section 7, Township 8 South, Range 66 West of the 6th Principal Meridian, and in the Northeast ¼ of Section 12, Township 8 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:
Commencing at the Northwest corner of said Section 7 and considering the West line of said Section 7 to bear S 1°58'20"W with all bearings contained herein relative thereto;
Thence S 29°07'55"E a distance of 1868.32 feet to the true point of beginning;
Thence N 90°00'00"W a distance of 1160.34 feet;
Thence N 0°00'00"E a distance of 450.00 feet;
Thence N 89°59'20"W a distance of 1198.53 feet to the East boundary of Memmen's 3rd Addition to Castle Rock;
Thence N 6°14'05"W along said East boundary a distance of 119.75 feet;
Thence N 89°39'30"E a distance of 196.96 feet;
Thence N 39°39'30"E a distance of 355.00 feet;
Thence N 56°50'26"E a distance of 151.87 feet;
Thence N 10°09'30"E a distance of 199.90 feet;
Thence N 83°56'12"E a distance of 363.00 feet;
Thence N 89°39'30"E a distance of 398.28 feet;
Thence S 86°59'44"W a distance of 237.11 feet;
Thence S 51°44'42"E a distance of 1460.02 feet;
Thence S 50°49'54"W a distance of 68.17 feet;
Thence S 39°40'06"E a distance of 265.09 feet to the point of beginning.
Containing 29.486 acres, more or less.

EXHIBIT "B"

STATEMENT OF INFORMATION REGARDING

_____

METROPOLITAN DISTRICT

BE ADVISED THAT _____ SUBDIVISION is located in the _____ Metropolitan District.

The _____ Metropolitan District is a special district, formed pursuant to the laws of the State of Colorado by Order of the District Court in the County of Douglas, State of Colorado, for the purpose of constructing public improvements. Those improvements have been and are to be paid for from moneys raised from bond issues. The bond issues, are to be paid by certain fees and charges and a property tax levied on all the real property lying within the boundaries of the Metropolitan District. The mill levy may vary from year to year in the future as needs for payments of principal and interest on said bonds, and for administrative costs, require. When the bonds or other obligations of the District, or any refunding of the same has been accomplished, the Metropolitan District may be dissolved.

The _____ Metropolitan District is in the city limits of Castle Rock but is not a part of the town government of Castle Rock. However, its powers and activities are controlled substantially by an Intergovernmental Agreement between the Metropolitan District and the Town of Castle Rock, a copy of which can be obtained from the Town Clerk of the Town of Castle Rock. The intergovernmental agreement, among other things, provides that the Metropolitan District may not engage in any activity, purpose, service or function except to construct the improvements described therein, nor will it add any additional territory to its boundaries, nor permit any territory now included within its boundaries to be excluded, without the written approval of the Board of Trustees of the Town of Castle Rock, except minor inclusions and exclusions as permitted pursuant to the Intergovernmental Agreement.

The above statement is approved by the President of _____ Metropolitan District and by the Board of Trustees of the Town of Castle Rock, Colorado.

_____
President, _____ _____ Metropolitan District

_____
Mayor, Town of Castle Rock