

METZLER RANCH DEVELOPMENT AGREEMENT

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DATE: October 24, 1996. DC9672147

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

ROBERT F. METZLER and ROSEMARY M. METZLER, P.O. Box 85, Castle Rock, Colorado 80104 (jointly, the "Metzlers").

VISTA VILLAGE LLC , a Colorado limited liability company, 305 Madison Street, Denver, Colorado 80206 ("Vista").

RECITALS:

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

B. The parties acknowledge that this agreement contains reasonable conditions and requirements to be imposed upon the development of the property, and that these restrictions are imposed to protect and enhance the public health, safety and welfare of current and future residents of the Town, including those residents of the Metzler Ranch.

COVENANTS:

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

**ARTICLE I
DEFINITIONS**

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

Agreement: the Metzler Ranch Development Agreement and any amendments to this Agreement.

Annexation Agreement: The Annexation and Development Contract between the Town and Park Funding Corp. (Metzler Ranch Annexations) dated November 14, 1984, recorded on December 26, 1984 in Book 555 at Page 522 and re-recorded on February 20, 1985 in Book 562 at Page 517 of the public records of Douglas County, Colorado.

CDOT: the Colorado Department of Transportation.

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

Code: the Castle Rock Municipal Code, as amended.

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

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

Development Plan: the PD Zoning Regulations, Preliminary Site Plan, the underlying PD zoning ordinance in the Code, the utilities, drainage and open space and park master plans approved for the Property with the Preliminary Site Plan and the Phasing Plan attached as *Exhibit 4* and referenced in 5.10.

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

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

Loan and Settlement Agreement: the Loan and Settlement Agreement dated December 9, 1996, between Robert F. Metzler and Rosemary M. Metzler, RMZ Corp. and the Town of Castle Rock.

Local Facilities: Facilities which are developed and intended for utilization primarily to serve development on the Property, although other areas of the Town may incidentally benefit from such Facilities, including all water distribution mains, all wastewater collection lines and lift stations, local and regional stormwater drainage and detention, private parks and arterial, collector and local streets, but excluding on-site infrastructure servicing improvements on Public Lands.

Metzler Property: Parcels A and B as described in *Exhibit 2*.

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

Note: the first promissory note made by Vista payable to the Town pursuant to the Loan and Settlement Agreement.

Oversizing: that portion of the total dimension or capacity of a Facility which is

in excess of: (i) the dimension or capacity reasonably required to serve the needs of that portion of the Property constituting the intended service area; or (ii) the minimum size or capacity prescribed by Town Regulations, whichever is larger.

Owner: the person(s) in title to any portion of the Property, according to the records of the Douglas County Clerk and Recorder. The use of the singular "Owner" shall refer to all Owners of the Property, unless the context of the Agreement otherwise limits the reference. As of the date of execution of this Agreement the Owners of the Property are Vista Village LLC and Robert F. Metzler and Rosemary M. Metzler.

Parcel A: the 22.5 acre tract described in *Exhibit 2*.

Parcel B: the 80 acre tract described in *Exhibit 2*.

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

Plat: a final subdivision plat of the Property.

Preliminary Site Plan: the Metzler Ranch Preliminary PD Site Plan recorded at Reception No. 96-12-131 of the public records of Douglas County, Colorado.

Property: the real property described in the attached *Exhibit 1*.

Public Lands: those portions of the Property designated on the Development Plan for dedication to the Town or other public entities for parks, recreational areas, public open space, well sites, utilities, public safety and other public purposes, or to the Douglas County School District for educational facilities.

Public Utilities: the infrastructure necessary to extend services (other than Municipal Services) to the Property, which are provided by a public or quasi-public utilities including natural gas, electricity and cable television, provided that any Public Utility shall thereafter be considered a Municipal Service upon Town's assumption of such utility obligation.

RMZ: RMZ Corp. a closely held corporation, the stock of which is owned by the Metzlers.

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

Town Regulations: the Charter, ordinances, resolutions, rules and regulations of

the Town, including the Code, and the provisions of all zoning, subdivision and building codes, as the same may be amended from time to time and applied uniformly throughout the Town.

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

Vista Property: the Property, excluding the Metzler Property.

Water Rights: the right and interest to all Denver Basin groundwater underlying the Property and certain other properties, as described in the attached *Exhibit 3* but excluding the two (2) existing domestic wells on Parcel B (Permit #45120). *including*

Wholesale Facilities: Facilities typically developed by the Town in exchange for imposition of System Development Fees such as water production, treatment and storage and wastewater treatment, but excluding all Local Facilities.

Zoning Regulations: Ordinance No. 96-42 of the Town establishing the zoning regulations for the Property.

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

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

ARTICLE II APPLICATION AND EFFECT

2.01 Binding Effect. The Agreement shall apply to the Property and its covenants shall be binding upon the successors and assigns of the parties in the same manner and to the same effect as if such successors were signatories to the Agreement. The parties acknowledge that the Property is both benefitted and burdened by the mutual covenants of the Agreement, and such covenants shall constitute real covenants binding upon successors in interest to the Property, including any mortgagees or lienholders, irrespective of whether specific reference to the Agreement or its covenants is made in any instrument affecting title to the Property.

2.02 Owner Responsibility. The Owner of the Property upon which development approval is requested shall have the ultimate responsibility for performance of this Agreement, irrespective of whether development activity on the Property is undertaken

or pursued by a development entity, owned or controlled, in whole or in part, by the Owner, or by a third party undertaking the development activity on behalf of and/or with the authorization of the Owner. Town shall accept performance of the covenants of the Agreement from a developer on behalf of Owner, unless such performance requires the conveyance, encumbrance or security of the Owner's interest in the Property, in order to effectuate such performance or to provide surety for the performance, in which event the express consent or joinder of the Owner shall be required.

2.03 Vista Obligations. Vista shall have no obligation to perform covenants imposed on Metzler as a condition to development approvals granted on the Metzler Property other than to dedicate easements or rights-of-way to Town or to the Public Utilities required for development of the Facilities. The fact that performance of an obligation or covenant of the Agreement imposes a disproportionate burden on the obligor, as compared to other obligors, shall not excuse performance of the Agreement by such obligor, it being the understanding of the parties that the responsibility of apportioning the cost and burden of performance of this Agreement shall rest solely with the several Owners of the Vista Property. Accordingly, Town shall have the right to obtain performance solely from the Owner of the portion of the Vista Property whose development activity invokes the Town's right to performance under the Agreement.

2.04 Metzler Obligations. The Metzlers shall have no obligation to perform covenants imposed on Vista as a condition to development approvals granted on the Vista Property other than to dedicate easements or rights-of-way to Town or to the Public Utilities required for development of Facilities. The fact that performance of an obligation or covenant of the Agreement imposes a disproportionate burden on the obligor, as compared to other obligors, shall not excuse performance of the Agreement by such obligor, it being the understanding of the parties that the responsibility of apportioning the cost and burden of performance of this Agreement shall rest solely with the several Owners of the Metzler Property. Accordingly, Town shall have the right to obtain performance solely from the Owner of the portion of the Metzler Property whose development activity invokes the Town's right to performance under the Agreement.

2.05 Town Regulations. Town Regulations shall apply to the Property in the same

manner and effect as within other areas of the municipality. Unless expressly stated to the contrary in the Agreement, the Agreement shall not in any manner restrict or impair the lawful exercise by the governing body of the Town of its legislative, quasi-legislative or administrative powers and responsibilities as applied to the Property, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of the Agreement. Except as otherwise authorized in this Agreement or as may be subsequently accepted by Owner pursuant to a statutory assessment process, no exaction, fee or assessment shall be imposed by Town against the Property, which is not imposed in other areas of the Town pursuant to the Town Regulations. When the Agreement calls for compliance with the Town Regulations, the operative Town Regulations in effect at the time such compliance is required shall govern, unless the provisions of the Agreement expressly provide to the contrary. Any addition or modification to the Town Regulations with application to the Property, shall be applied and enforced by Town on a Town-wide basis, including other developing areas of the Town, subject to such limitations on application and enforcement which are imposed under existing contractual arrangements between Town and third parties.

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**ARTICLE III
GENERAL OBLIGATIONS**

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

3.02 Permitted Development. Owner shall develop the Property in accordance with the Agreement and Town Regulations, and applicable state and federal law and regulations. Town shall allow and permit the development of the Property, upon

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

ARTICLE IV WATER RIGHTS

4.01 Conveyance. It is the obligation of Owner to acquire or develop water rights sufficient to support Town's obligation to provide a municipal water supply to the Property in accordance with this Agreement and Town Regulations. Town shall have no obligation to issue land use approvals for the Property unless Owner is in compliance with the provisions of this Article IV. The Town Regulations require the dedication of all adjudicated water rights concurrently with rezoning. Accordingly, concurrently with recordation of this Agreement, the Water Rights associated with the Vista Property shall be conveyed from Metzlers and RMZ to Vista and then Vista to the Town and the Water Rights associated with the Metzler Property shall be conveyed from Metzler to Town directly by special warranty deeds free and clear of liens and encumbrances as evidenced by an opinion of legal counsel, qualified to make such opinion as reasonably determined by Town, which shall be furnished to Town by Owner, prior to Town's acceptance of title. Provided, however, with regard to Parcel B, the conveyance shall not include or affect the Metzler's rights to withdraw water without cost for domestic purposes from the existing well on Parcel B (Permit #45120) or any replacement well. Any well permits associated with the Water Rights shall be assigned to the Town with conveyance of the Water Rights.

The conveyance of the Water Rights shall transfer to Town the right to use, reuse, lease or sell the water withdrawn under the Water Rights, subject to the terms and

conditions of the applicable decrees. Metzlers, RMZ and/or Vista shall execute such further reasonable and additional instruments of conveyance and other documents which Town reasonably determines necessary to grant to the Town the exclusive ownership, management and control of the Water Rights. Should it subsequently be determined that title to any portion of the Water Rights was not vested in Town at the time of conveyance in accordance with the aforementioned title opinion, the Water Credit established in 4.04 shall be reduced accordingly.

4.02 Augmentation Plans. Owner has made application in Water Court Division 1 for approval of a plan for augmentation in Case No. 95CW197, Water Division No. 1, seeking to have the Water Court adjudicate a plan for augmentation pursuant to C.R.S. §37-90-137(9)(c) for the not-nontributary Denver aquifer groundwater underlying the Property, requiring only the replacement of four percent of withdrawals during pumping. In providing water to replace depletions during pumping pursuant to any such court-approved plan(s) for augmentation, the applicants may designate return flows from the water being adjudicated which is to be discharged through municipal wastewater treatment plants and/or originating from lawn irrigation and other outdoor uses, provided that, to the extent required by the Court, such irrigation return flows have first been quantified (or a method for such quantification is approved) by the Court decree or administrative action by the State Engineer and that Owner has obtained a decree consistent with those of the Town for such replacements during pumping of the affected aquifer(s). Owner shall continue to diligently pursue approval for the Denver augmentation plan and Town shall cooperate with Owner in such adjudication. Until and unless such augmentation plan is decreed, or other such relief obtained, the Water Banks established under 4.06 shall not be credited for such Denver aquifer groundwater. If the Denver plan for augmentation requires replacement of post-pumping depletions and Owner commits to implement such augmentation plan, Owner shall have the right to exercise the option to tributary water rights in accordance with 4.03. Except as authorized in 4.03, no Town water resources (including any portion of the Water Rights conveyed to Town) shall be used to replace post-pumping depletions in any augmentation plan for the Denver or Lower Dawson aquifers.

Any decree for a plan for augmentation utilizing the tributary water rights of the Town as provided in 4.03 shall, if acceptable to the Court and opposers in the case, contain the following provisions if such decree requires the augmentation of post-pumping depletions:

Applicant shall replace post-pumping depletions for the shortest of the following periods: (i) the period provided by the Colorado Legislature, should it eventually specify one and if the Applicant obtains water court approval for such modification; (ii) the period determined by the State Engineer, should the State Engineer lawfully establish such a period; (iii) the period established through rulings of the Colorado Supreme Court on relevant cases; or (iv) until Applicant or the Town of Castle Rock petitions the water court and after notice to parties in the case proves that all statutory requirements have been complied with. The court finds that the provisions of this paragraph are adequate to comply with existing law and to prevent injury to others.

Owner shall have the right, but not the obligation, to seek approval of an augmentation plan or other relief to allow the use and withdrawal of the not-nontributary Lower Dawson if necessary to meet the water needs of the Property provided such application shall be filed with the Water Court not later than December 31, 2006 and a final decree obtained within 2 years thereafter. Until and unless such augmentation plan is decreed, or other such relief obtained, the Water Banks established under 4.06 shall not be credited for such Lower Dawson aquifer groundwater. In the event Owner does not obtain approval of a Lower Dawson augmentation plan within the aforementioned time constraints, Town shall have the exclusive rights to the Lower Dawson thereafter. The Metzler Ranch Water Bank 1 shall be credited when the respective augmentation plans for the Lower Dawson or Denver aquifers are approved.

4.03 Option for Tributary Water Rights. Vista shall have the option to acquire up to 4.0 acre-feet of fully consumable water per year from the Town's portfolio of tributary water rights, which may include return flows from the fully consumable portion of any of the Town's tributary water rights, as decreed in Case Nos. 87CW240 and 87CW309, Water Division No. 1 (the "Option"). Vista may exercise the Option if there does not then exist a default under the Note and if necessary to meet requirements that may be imposed as a condition of a plan for augmentation or as may be required as a condition

of settlement of the objections to the augmentation plan to replace depletions from the use of the not-nontributary Denver aquifer groundwater underlying the Property. The Town in its discretion shall designate which of its tributary water rights may be acquired under the Option so long as the choice does not prejudice Vista's ability to successfully adjudicate a plan for augmentation or unduly prolong or increase the costs of such efforts. The terms of the Option are as follows:

- (a) **Notice.** Vista shall give written notice to Town of the quantity of water rights to be purchased and the date of closing, which shall be not less than 30 nor more than 60 days from the date of the notice.
- (b) **Payment.** At the closing Vista shall make a one time payment to the Town in cash in the amount of \$15,000 per annual acre-foot of fully consumable tributary water per year to be conveyed to Vista. The conveyance shall be by special warranty deed. If permissible under the plan for augmentation, the Town will retain the right to use the tributary water rights conveyed until such time as their use for augmentation is required.
- (c) **Right of Repurchase.** The Town shall have the right to repurchase its tributary water rights acquired by Vista pursuant to this option only in the event that (i) it is later determined by Court decree that such rights are not needed for augmentation of depletions from the use of the subject not-nontributary Denver groundwater; and (ii) the Town pays to Vista the original sum that was paid to the Town.
- (d) **Termination of Option.** The Option shall terminate and be of no further force and effect at the earlier of: (i) the entry of a decree for a plan for augmentation which does not require the replacement of depletions resulting from the use of the not-nontributary Denver groundwater, and the issuance by the Town of water credits for the full amount of not-nontributary Denver groundwater conveyed to it under this Agreement; or (ii) five years from the date of this Agreement.
- (e) **Assignability.** Vista may assign the Option to any other Owner and shall provide written notice to the Town of any such assignment, but the water rights that are the subject of the Option shall be used exclusively for augmentation of the Water Rights.

4.04 Water Credit. With conveyance of the Water Rights, a credit shall be established against the Town's water dedication requirements for the benefit of the

Property (the "Water Credit")¹. The amount of the Water Credit expressed in SFE shall be computed for each aquifer in accordance with the following:

Water Source	Decreed Annual Withdrawal (AF)	Qualified for Credit (%)	Creditable Annual Withdrawal (AF)	Conversion to SFE (.55 AF/SFE)
Dawson ² Nontributary	67.6	x 100%	= 67.6	123
Denver ² Nontributary	75.0	x 100%	= 75.0	136
Arapahoe	295.9	x 100%	= 295.4	537
Laramie Fox-Hills	164.4	x 34%	= 55.9	102
TOTAL			= 494.9	898
Dawson Not-Nontributary ³	212.4	x 100%	212.4	386
Denver Not-Nontributary ³	200.5	x 100%	200.5	365

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The conversion rate of acre feet into SFE at .55 AF/SFE shall not be affected by changes in Town Regulations. The Water Credit is expressed in a single family equivalent. An SFE is the measure of average annual wholesale water production which must be developed to meet the imputed demand from a single family residence under the Town Regulations. Consequently, a Water Credit of 1 SFE represents that the holder has satisfied the Town's water dedication requirement for one single family residence or the equivalent demand attributable to multi-family, commercial or irrigation uses under the Town Regulations. The SFE entitlements in the Water Banks shall not be affected by subsequent changes in the conversion rate of acre-feet to SFE implemented through modifications to the Town Regulations.

¹ The Water Credit is allocated to the Vista Property and the Metzler Property as provided in 4.07.

² Nontributary portion of aquifers.

³ Not-nontributary portion of aquifers. Credit to Metzler Ranch Water Bank 1 shall be made in these quantities when augmentation plans are approved in accordance with Article IV.

The Water Credit shall also reflect the purchase by Owner from Town of 182 SFE in consideration of the payment to Town of \$125,000 made by Owner concurrently with the recordation of this Agreement.

4.05 Application of Water Credit. The Water Credit established pursuant to 4.04 shall be reduced (i.e. debited):

- (a) at the time of Plat approval by the total SFE assigned to all uses identified within the Plat excluding public uses such as parks and schools⁴; and
- (b) at the time of Final Site Plan approval (if so identified on the Final Site Plan), or otherwise at issuance of a building permit, for any use not ascertained at Plat approval by the amount of the SFE assigned to such use.

In order to estimate the water demand at the time of Plat approval, Town may apply an empirical planning formula based upon platted area and debit the applicable Water Bank. However, when all potable and irrigation tap sizes are known, the applicable Water Bank shall be adjusted to reflect SFE assignment in accordance with Town Regulations. The demand attributed to development shall be reduced to reflect the substitution of treated effluent for potable water for irrigation by retroactive adjustment to the Water Bank.

4.06 Water Banks. In order to properly account for the Water Credit, Town shall administratively establish, maintain, and update three separate accounts, designated the Metzler Ranch Water Banks 1, 2 and 3. The Metzler Ranch Water Banks shall periodically be debited or credited, in accordance with this Article IV. The debits required to be made by 4.05 shall be made exclusively against the respective Water Bank within which the Plat is located. The Metzler Ranch Water Banks shall be formatted as follows:

⁴ Provided however the water demand for such public uses on Public Lands shall be taken into account prior to determining the remaining Water Credit which may be transferred pursuant to 4.06.

METZLER RANCH WATER BANK 1 (Vista)					
ENTRY	DATE RECORDED	RECORDING INFO	SFE DEMAND	SFE SUPPLY	NET
Deeds to Water Rights	00/00/00	0000/0000		730	730
Water Purchase				182	912
METZLER RANCH WATER BANK 2 (Parcel A)					
ENTRY	DATE RECORDED	RECORDING INFO	SFE DEMAND	SFE SUPPLY	NET
Deeds to Water Rights	00/00/00	0000/0000		68	68
METZLER RANCH WATER BANK 3 (Parcel B)					
ENTRY	DATE RECORDED	RECORDING INFO	SFE DEMAND	SFE SUPPLY	NET
Deeds to Water Rights	00/00/00	0000/0000		100	100

With any entry made by Town, the Owner of the Water Bank as specified in 4.08 shall receive notification in writing, and any objection to such entry shall be reviewed by the Town, and corrected as appropriate. Any objection not resolved to the satisfaction of such Owner at the administrative level, shall be referred to a mutually acceptable independent water engineer whose determination made in accordance with this Agreement shall be final and binding.

4.07 Required Water Sources. If any of the three Water Banks is exhausted prior to full development of the respective portion of the Property to which such Water Bank applies (the "Affected Property"), the Owner of the Affected Property shall be required

to provide additional water resources, reasonably acceptable to the Town, which may include transfer of SFE from one of the other Metzler Ranch Water Banks in accordance with 4.08 or transfer of water rights from other properties within the Town, provided that the water rights so offered to the Town will support withdrawal through water production and distribution facilities of the Town then in service. Absent provision of such additional water resources, Town shall not be obligated to approve further development within the Affected Property after exhaustion of its Water Bank.

The Town hereby grants Vista the right to exercise the Option granted to the Town to acquire up to 100 acre-feet per year of nontributary groundwater rights pursuant to section 4.07 of the Castle Rock Estates Annexation and Development Agreement, dated October 16, 1995, recorded December 28, 1995 in Book 1309 at Page 0002 of the public records of Douglas County, Colorado (the "CRE Option"); provided that there does not then exist a default under the Note and provided further that Vista must exercise the CRE Option by December 31, 1999⁵. If Vista desires to exercise the CRE Option, it shall deliver to the Town written notice identifying the number of acre-feet per year of groundwater which Vista desires to purchase conforming with the terms of the CRE Option. Within ten days from receipt of such notice, the Town shall notify the optionor of its intent to exercise the CRE Option. At the closing of said purchase, Vista shall deliver the purchase price to the seller in cash or certified funds for the optioned rights. As contemplated in section 4.07 of the CRE Option, Vista may cause the Town to purchase the rights incrementally so long as the minimum increment consists of 20 acre-feet or more. Upon the conveyance of such optioned rights to the Town, the Town shall allocate Water Credits to the respective Water Banks in accordance with the written instruction of Vista. Vista may freely assign the option granted under this section 4.07 and shall provide written notice to the Town of any such assignment, provided such option may be utilized for credit to the Metzler Ranch Water Banks only. Town shall make best efforts to obtain performance by the optionor under the CRE Option, including maintenance of legal action if necessary. However, Town does not warrant or guarantee

⁵ Thereafter, the Town may exercise the CRE Option to any remaining water rights.

to Owner that the CRE Option will be fully performed. Town shall not be liable to Owner in the event performance of the CRE Option is not made, unless Town fails to make full and good faith efforts to obtain such performance. In the event that litigation is commenced by Town to obtain specific performance of the CRE Option, Vista shall pay all litigation costs, including attorney's fees, as a condition to the Town's obligation to commence and maintain such litigation.

4.08 Ownership and Transfer of Water Credit. The Water Credit in the respective Water Banks constitutes a personal property interest, held and administered by the Town for the benefit of the three separate parcels of the Property. Vista is the owner of the Water Credit in the Metzler Ranch Water Bank 1; Metzlers are the owner of the Water Credit in the Metzler Ranch Water Banks 2 and 3. The Water Credit in each Water Bank shall be applied in accordance with the Agreement on a "first-come, first-served" basis to approved development within the respective portion of the Property subject to the Water Bank provided that Town shall not make application of the Water Credit until and unless the respective owner of the Water Bank (Vista or Metzlers) has executed a written consent to the land use application in which the SFE application is made. No purported assignment or allocation of the Water Credit as between the owner(s) of the Property shall be effective or binding upon the Town except that Vista or Metzlers may transfer SFE from one Water Bank to another by executing the instrument prescribed below. The Water Credit in each respective Water Bank may not be assigned or transferred for use on properties other than the Property until the total water demand for the Property at full development is determined, the Water Credit has been applied to meet such demand the water demand attributable to the development of Public Lands deducted, and a "surplus" Water Credit in one or more of the Water Banks remains. Thereafter, the surplus Water Credit may be transferred by the Owner of the Water Bank, or its assignee (irrespective of whether the Water Bank owner then has any interest in the Property) to satisfy the Town's water dedication requirements on other properties, subject to the following terms and restrictions:

- (a) the property to which the Water Credit is assigned must be located within the corporate limits of the Town and such property can be legally and

physically served through the Town's water system;

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

Repayment of the Note is secured by 730 SFE in the Metzler Ranch Water Bank 1 ("Bank 1"). The remaining 182 SFE in Bank 1, together with any additional Water Credit obtained by Vista's exercise of the CRE Option (collectively, the "Purchased Credit") shall not be subject to such security interest. Debits to Bank 1 shall be made first to the 730 SFE, then to the Purchased Credit. Vista shall retain its interest in the Purchased Credit (subject to the restriction on transfer provided in this section) in the event of a default under the Note and foreclosure of the Vista Property pursuant to the underlying deed of trust. As a result, no party, other than an assignee or purchaser from Vista, shall have the right to utilize the Purchased Credit on the Vista Property. Metzler Ranch Water Banks 2 and 3 are not in any manner subject to the Town's security interest.

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

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

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

4.11 Merger. Section 2 of the Loan and Settlement Agreement is merged into the provisions of this Article IV and the provisions of section 2 shall no longer be of independent force or effect. Concurrently, Metzlers have caused RMZ to tender its written consent to the merger of the Loan and Settlement Agreement. Accordingly, the provisions of this Article IV shall supersede any conflicting provisions of section 2.

ARTICLE V FACILITIES DEVELOPMENT

5.01 Responsibility. Development of the Local Facilities shall be the exclusive obligation of Owner, and Owner shall bear the cost of planning, design, construction and financing of the Local Facilities and all other related and incidental activities provided however Town shall be obligated to pay for the Oversizing of any water or wastewater transmission mains at the time such Facilities are accepted by Town for maintenance pursuant to 5.03. Prior to construction of Oversized Facilities and in conjunction with the applicable SIA, the parties shall specify the method of determining the Oversizing cost. The Local Facilities shall be developed in strict accordance with Town Regulations, the Development Plan, this Agreement and the applicable Plat. Except as otherwise expressly provided in this Agreement, Town, at its cost, shall have the obligation to develop the Wholesale Facilities to serve development on the Property.

5.02 Review Process. Prior to the commencement of construction of any Local Facilities, Plans shall be submitted to and approved by the Town. Prior to the submittal of any Plans, Owner shall request a pre-design meeting at which time the scope of the proposed project shall be discussed. Town shall complete the initial review of Plans within 45 days of the date of receipt of a complete submittal. Failure of the Town to review the Plans and to respond in writing to the submittal within such time period shall constitute approval by the Town of the Plans as submitted. With re-submittal of complete Plans by Owner, based upon Town critique, Town shall have an additional 15

days to approve, disapprove or make further comment on the submittal. Disapproval of the Plans shall be accompanied by a specific explanation of the reasons for such disapproval. Once the Plans are finally approved by the Town, the Plans shall not be amended except by written change orders, pursuant to consent of Owner and Town, which consent shall not be unreasonably withheld. Town's approval (express or by default) of Plans shall not constitute a waiver or relaxation of the requirements that all Local Facilities shall be developed in accordance with Town Regulations. Owner shall not undertake the development of Local Facilities, unless the Plans for the Local Facilities have been approved in accordance with provisions of this section. Prior to the bidding of any project, Owner shall provide the Town with all contract documents for the purpose of determining that the documents are consistent with Town Regulations and the terms of this Agreement. Owner shall furnish the Town with a continuous complete record, including but not limited to test results, schedules, change orders and "as-built" drawings, of all Local Facilities prior to and as a condition of Town's acceptance.

5.03 Acceptance. Upon final completion of the Local Facilities, Owner shall so notify Town in writing and request inspection and acceptance of the completed Local Facilities. Written acceptance or rejection of the Local Facilities shall be given by Town to the Owner within 30 days after the written request for acceptance, provided such inspection may be reasonably accomplished within such period. If such inspection cannot be so accomplished, Town shall, within 30 days after the written request for acceptance, notify Owner in writing as to the additional time required, but in no event to exceed an additional 30 days after the written request for acceptance. Failure of Town to respond to a written request for inspection and acceptance within such 30 day period (or failure to accept or reject the Local Facilities within the additional time period provided for above) shall constitute acceptance of the Local Facilities tendered for acceptance. Should acceptance of the Local Facilities be denied, the nature of rejection shall describe specifically the defects which preclude acceptance. Should Owner or Town desire that the Local Facilities be placed into service prior to the correction of all deficiencies, responsibilities for maintenance, warranty, operation and correction of deficiencies must be clearly defined by written agreement. In the event Town and Owner are unable to

agree to the modifications that need to be made to any Facility or other public improvement to secure its acceptance by Town, or whether Owner has reasonably completed the cure of any defects or need for modification identified by Town, then such dispute shall be resolved through private arbitration by one qualified independent engineer selected by mutual agreement, or in the event agreement cannot be reached as to one engineer, each party shall select a qualified engineer who shall select a third engineer, in which case the majority decision shall be binding upon the parties. In the event the result of such arbitration is in Owner's favor, the warranty period shall be deemed to have commenced thirty (30) days after the date upon which the Facility was completed. The costs of such arbitration shall be paid by the party deemed in error at the conclusion of such arbitration, or the arbitrators may award costs on any basis deemed equitable.

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

5.05 Conveyance. Concurrently with acceptance of the Local Facilities in accordance with the provisions of 5.03, Owner shall convey to Town its entire interest in the Local Facilities. If the Local Facilities have been constructed on properties (or within easements) previously conveyed to the Town, Owner shall convey its interest in the Local Facilities by warranty bill of sale. If the underlying property upon which the Local Facilities are located has not been previously dedicated or conveyed to the Town (or an easement for same previously conveyed to Town), Owner shall convey (or cause to be conveyed by the record owner) such property interest by special warranty deed, in addition to the tender of the required warranty bill of sale unless the facilities are located entirely underground in which event an appropriate easement shall be conveyed to Town. The conveyance by deed of the fee interest or by bill of sale, as applicable, shall include Owner's warranties as to marketable title to the property interest conveyed. The

conveyance of the Local Facilities and associated property interests shall be free and clear of any liens, encumbrances, easements or rights-of-way except those which do not materially interfere with the use and enjoyment of the Local Facilities by Town. As part of the transfer of Public Lands, Owner shall furnish Town with an ALTA approved standard coverage title insurance commitment at the time of, and as a condition of conveyance, evidencing the ability of the grantor to convey good and marketable title to the Public Lands, in accordance with the title standards set forth in this section. Owner shall cause to be paid the premium for such title insurance. The policy shall be in an amount reasonably approximating the market value of the property conveyed in its undeveloped condition and reflecting its current zoning as the highest and best use, and Owner shall deliver such policy of insurance to the Town within 30 days after conveyance. Failure to properly convey property interests in accordance with this section shall be grounds for denial of acceptance by the Town.

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

5.07 Wholesale Facilities. In consideration of the payment of System Development Fees in accordance with Town Regulations, and the prepayments provided in 5.08, Town shall have the exclusive obligation to construct or acquire sufficient Wholesale Facilities to serve approved development on the Property. Owner shall have no obligation to develop Wholesale Facilities, provided Vista shall make the financial investment in Wholesale Facilities prescribed in 5.08 and 5.09. Town shall not withhold development approvals on account of current or projected deficiencies in Wholesale Facilities. The refusal of Town to approve Plats or other land use approvals to the Property due to the lack of available capacities in Wholesale Facilities shall constitute an event of default under Article IX; provided however, Town shall have 180 days from the date of the default notice under 9.03 to effect cure of the default by acquiring or developing the needed facilities and granting the requested land use approvals.

5.08 Water Fee Prepayment. In order to provide Town with working capital to develop water production, treatment and storage to serve initial development on the Property, Vista shall pay to Town the sum of \$1,000,000 concurrently with, and as a condition to, recordation of the first Plat (the "Advance"). The Advance shall accrue interest at 9% per annum, compounded annually, commencing on the date the Advance is made to the Town as required by this section. The Advance, together with interest, shall be recovered by Vista as follows:

- (a) Effective with the issuance by Town of building permits on the Property (excluding water demand on Public Lands) with an aggregate water usage of 350 SFE (the "Start Date"), Town shall remit to Vista on a quarterly basis, the water component of the System Development Fees (the "Water Fees") collected by Town on development on the Property (excluding Public Lands)⁶.
- (b) Such reimbursement shall continue until the Advance, together with interest, has been recovered with the Water Fees applied first to interest, then principal.

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Town irrevocably assigns to Vista the Water Fees insofar as authorized by this section (the "Assigned Water Fees"). The parties acknowledge that the Town is serving as collection agent only for the Assigned Water Fees, and Vista has acquired ownership of the Assigned Water Fees pledged for repayment of the Advance. No Owner, developer or builder (other than Vista) shall have any claim to the Assigned Water Fees unless Vista assigns, in whole or in part, the Advance, in which event Vista shall furnish Town with a copy of the assignment. Vista shall have no claim on any Town revenues should the Assigned Water Fees be insufficient to allow Vista recovery of the Advance. The Advance is subject to setoff in the event of Vista's default of this Agreement in the payments required under 5.09, 5.11, 6.01, 6.03 or 7.05 by the amount of the default. The setoff shall be considered as a payment of the Advance in the same manner as a payment by Town of the Assigned Fees. Setoff against the Advance shall be considered payment of the defaulted obligation, dollar for dollar.

⁶ Currently, \$6,100 per SFE. Excludes renewable water fee imposed under 13.12.085 of the Code.

5.09 Waterline Extension. Concurrently with the Start Date (as defined in 5.08), Vista shall pay to Town \$250,000 towards construction of the offsite portion of the Woodlands Boulevard waterline extension. Owner shall have no other financial or development obligation towards the offsite portion of the Woodlands Boulevard waterline, provided Vista shall produce a preliminary design for the alignment of the Woodlands Boulevard extension south of the Property to Scott Road.

5.10 Phasing of Facilities. As part of the Preliminary Site Plan, nine development phases are defined (the "Phases"). The Facilities required to be developed under the Town Regulations to serve each respective Phase (the "Phase Facilities") and the required Public Lands dedications are listed on the phasing plan attached as *Exhibit 4* (the "Phasing Plan"). The Phase Facilities must be developed in conjunction with the first Plat within such Phase, unless development of one or more of the Phase Facilities is deferred pursuant to a sub-phasing plan proposed by Owner and approved by Town concurrently with such Plat. Development of the Property in numerical sequence corresponding with the Phase designations is not required, however, the required Public Lands dedications and all of the Facilities designated on the Phasing Plan for each respective Phase must be developed (subject to sub-phasing) even though one or more of such Facilities may be required to serve one or more of the other Phases. Development of the required Phase Facilities within a particular Phase shall be assured by the provision of financial guarantees at the time of first Plat approval within such Phase in accordance with the provisions of 5.12. Allocation and apportionment of the cost of development of Phase Facilities shall be the exclusive obligation of the respective Owners of such Phase. Irrespective of such cost allocation or private recoupment arrangements which may be in place, Town shall have the absolute right to withhold further development approvals for any development within the Property which utilizes or benefits from the Phase Facilities which are not developed when required by the Phasing Plan. Similarly, Town may withhold development approvals within the applicable Phase if the required Public Lands dedications for that Phase are not made in accordance with the Phasing Plan. In the event of the invocation of such development approval withholding, Town shall have no liability for any loss or injury incurred to any Owner, as a result of diminution in value

of the Property, loss of development rights (whether vested or not), or deprivation of any property interest.

5.11 Park Drainage. The stormwater drainage channel crossing the regional park site will need to be placed underground in order for the Town to fully develop and utilize the park. In lieu of making such improvements to this regional stormwater feature, Vista shall pay to Town the sum of \$300,000 as follows:

- (a) \$100,000 shall be paid concurrently with recordation of each of the first Plats in the Purple, White and Cyan Phases;
- (b) provided however, the unpaid balance of the \$300,000 shall be paid within 60 days of the date Town notifies Vista that park development is commencing which necessitates placing the drainage channel underground, in which event Town thereafter shall proceed to expeditiously complete such drainage channel improvements.

Vista retains the obligation to make interim drainage improvements as provided in the Phasing Plan.

5.12 Subdivision Improvements Agreement. The Town Regulations require that a subdivider enter into a Subdivision Improvements Agreement ("SIA") at the time of approval of a Plat. The SIA addresses with greater specificity the Facilities to be constructed to serve the Plat and the financial guarantees to assure construction of the Facilities. Financial guarantee may take the form of a letter of credit or cash deposits. Unless modified in the SIA, the provisions of this Article V will apply to the development of such Facilities, irrespective of whether or not reference to this Article V is made in the SIA. The SIA shall provide that the amount of the financial guarantee shall be equal to the estimated construction cost of the Facilities (unless a lesser amount is authorized under the Town Regulations) and shall be reduced periodically during the course of construction of the Facilities by 85% of the amount disbursed by Owner to the contractor under the terms of the Facilities development contract; provided however, Town shall first approve the supporting documentation for the partial payment to the contractor. The amount of the financial guarantee required during the warranty period shall be 15% of the Facilities construction cost, which amount shall be released to the subdivider (less any amounts retained by Town to cure any breach of warranty) upon expiration of the

one year warranty period. Town shall act on Owner's request to reduce the amount of the financial guarantee within 15 days of the date Town receives the necessary documentation.

5.13 Stormwater Detention Pond. As part of the drainage Facilities, Vista shall create capacity in the regional stormwater detention pond sufficient to detain the stormwater flows from adjacent properties to the north of the Property known as the Milestone commercial development (but excluding that portion of Milestone currently platted as Milestone Filing No. 1). Town shall remit to Vista the sum of \$27,384, within 60 days of the date the Town accepts for maintenance the stormwater detention system on the Milestone property utilizing the regional detention pond. In addition, Town shall remit to Vista a pro rata portion of the cost of the regional drainage pipe network adjacent to the Milestone development based upon drainage flows in the event the Milestone properties utilize such network. The reimbursement shall take place within 60 days of the date the connection to the network is inspected and approved by Town.

**ARTICLE VI
TRANSPORTATION IMPROVEMENTS**

6.01 Exit 184 Interchange Participation. Traffic from development on the Property will impact the Exit 184 I-25 Interchange (the "Interchange"). Based upon traffic impact assessments of the Property undertaken by the Town's transportation consultants, the Property is allocated \$300,000 of the cost of the projected improvements to the Interchange (the "Interchange Assessments"). The Interchange Assessments are allocated to the nine (9) Phases (the "Phase Assessment") as follows:

<u>Development Parcel</u>		<u>Assessment</u>
Pink		\$ 7,000
Orange	Metzler - Parcel A	10,000 ⁷
	Vista	40,000
Green		33,000
Purple		35,000
White		35,000
Cyan		35,000
Yellow		35,000
Blue		35,000
Red		<u>35,000</u>
		\$ 300,000

The Phase Assessment shall be payable in full at the time the first Plat within such Phase, or portion thereof, is approved by Town. Receipt by Town of the required Phase Assessment shall be a condition precedent to the obligation of the Town's authorized representatives to execute and approve the Plat and to record or authorize its recordation in the public records of Douglas County, Colorado. Any Phase Assessment may be released by prepayment at any time. Upon the payment of the Phase Assessment, the Town shall execute and record such documents as are necessary to release such Phase from the Phase Assessment. The Interchange Assessments shall not constitute a personal or direct obligation of the Owners, and Town shall have no remedy or right of action against Owners for monetary damages in the event of non-compliance of the provision of this section 6.01. In the event that a Plat is recorded, inadvertently or otherwise, prior to the receipt by the Town of full payment of the applicable Phase Assessment, the Town may withhold the issuance of any subsequent land use or construction approvals, including grading or building permits, until the required payment for such Plat is paid in full. To the extent that the Interchange Assessments have not been previously paid, the entire unpaid balance of the Interchange Assessments may be called due, at the option of Town, thirty (30) days after receipt of notification from the Town that a contract has been let by CDOT for construction of the Phase B

⁷ The designated amounts shall be due with the first Plat within the respective areas of the Phase.

improvements to the Interchange consisting of reconfiguration of the northwest and southwest Interchange ramps and/or rebuilding the existing Meadows Parkway/Founders Parkway overpass. Although the term "assessment" is used in this section 6.01 to describe the financial obligation imposed against the Property, the parties acknowledge that the assessment provided herein is a contractual exaction, and that the provisions of the Town Regulations and state law applicable to the imposition of assessments under a local or special improvement district are inapplicable.

6.02 Founders Parkway. Where Founders Parkway abuts a commercial area, it shall be upgraded to urban standards by adding curb, gutter, sidewalk, landscaping and stormwater drainage incrementally from the centerline of the roadway to the abutting Property. The balance of Founders Parkway shall not require improvements as a condition to adjacent platting other than construction of the adjacent regional trail in accordance with the Phasing Plan. As the Property adjacent to Founders Parkway is made subject to a Plat, right-of-way for maintenance of existing cut and fill slopes shall be dedicated to Town on such Plat. If required by CDOT as a condition to CDOT's acceptance of Founders Parkway into the State Highway system, Owner shall convey by deed to Town or CDOT such additional right-of-way for maintenance of existing cut and fill slopes for all of the Property not then subject to the Plat. Town shall notify Owner of the CDOT request, and dedication shall be made not later than 30 days thereafter. The survey cost of the additional right-of-way conveyed by deed shall be divided equally between Owner and Town. All such dedications and conveyances shall be subject to matters of record but free of liens.

6.03 Crowfoot Valley Road Dedication. Owner shall convey incrementally to Town, subject to matters of record but free of liens, additional right-of-way for Crowfoot Valley Road as it bisects the Property north of Founders Parkway creating a 100-foot wide total right-of-way and pay to Town \$75,000 in lieu of the obligation to make urban improvements to Crowfoot Valley Road as follows:

- (a) With recordation of the first Plat adjacent to Crowfoot Valley Road within each of the three use areas abutting the roadway, 20-feet of additional right-of-way shall be dedicated to Town along the entire boundary of such use area with Crowfoot Valley Road.

- (b) Concurrently with recordation of the first Plat on the use area west of Crowfoot Valley Road, the cash-in-lieu sum of \$37,500 shall be paid to Town; the sum of \$18,750 shall be paid with each of the first Plats, within the two use areas east of Crowfoot Valley Road.

6.04 Signalization. Town assumes responsibility for signalization of the Woodlands Boulevard/Founders Parkway; SH85 Extension/Front Street and SH85 Extension/Woodlands Boulevard intersections.

6.05 Existing Access. Town shall not restrict existing driveway access to Founders Parkway and Crowfoot Valley Road prior to development. At such time as the portions of the Property utilizing such existing driveways are Platted, alternative access to Founders Parkway and Crowfoot Valley Road shall be permitted.

6.06 Woodlands Boulevard. Improvements to Woodlands Boulevard shall be made in accordance with the Phasing Plan. Except as otherwise provided in this section, Vista's obligation shall be to establish the rough grade for the entire arterial section and to construct 2 lanes, curb, gutter and sidewalk on one side. Until 2 lanes of Woodlands Boulevard from Founders Parkway to Front Street is completed, Town may require secondary access to the Property. Until June 1, 1999, secondary access may be provided via the existing Crowfoot Valley Road. After June 1, 1999, Town may require the abandonment of Crowfoot in conjunction with development of the school/park site, at which time Vista shall be required to provide alternative secondary access by adding an additional paved two lanes to the then constructed portion of Woodlands Boulevard ("Woodlands widening"). If and when Vista elects to utilize Crowfoot as a secondary access, Vista shall provide financial guarantees in the estimated construction cost of the Woodlands widening to assure its timely construction in conjunction with the Crowfoot abandonment. The Woodlands widening financial guarantees shall be released to Vista upon the receipt by Town of financial guarantees from Vista to assure construction of the Woodlands extension to Front Street, or upon the construction of the Woodlands Widening, whichever occurs first. As a condition to utilization of Crowfoot, Vista shall make the improvements to Crowfoot prescribed in the Phasing Plan. All improvements to Woodlands Boulevard not required of Owner, shall be completed by Town.

**ARTICLE VII
PUBLIC LANDS**

7.01 Required Dedication. As set forth in the Phasing Plan, Public Lands shall be dedicated to Town concurrently with the first Plat within the respective Phase, except for the water tank site and well sites which shall be conveyed as provided in 7.02 and 7.03 and the 46.5 acre regional park site shall be conveyed concurrently with recordation of this Agreement. The areas designated "OSD", "PLD" and "UD" are Public Lands. The provisions in this Agreement and the Preliminary Site Plan for dedication of Public Lands shall supersede the requirements in the Town Regulations for dedication of a portion of the area of each Plat for Public Lands.

7.02 Water Storage Tank. Concurrently with execution of this Agreement, Vista shall convey to Town by special warranty deed, subject to matters of record but free and clear of liens, encumbrances and assessments, the 3.073 acre parcel described in the attached *Exhibit 5* ("the Tank Site"). The conveyance shall be at no cost to Town; however, the conveyance of the Tank Site shall be in partial satisfaction of the Public Lands dedication requirement of this Agreement. Prior to construction of any permanent improvements on the Tank Site, Town shall submit to Vista a site plan depicting the proposed improvements, existing and proposed contours, landscaping, tank color and fencing.

The water tanks and buildings shall be painted and landscaped to minimize the visibility of such improvements from other proposed development on the Property. Vista shall have thirty days from receipt of the site plan to submit to Town in writing comments or objections to the proposed improvements. Within twenty days of receipt of the comments and/or objections of Vista, Town shall respond in writing indicating any modifications to the design of the improvements made in response to the written comments and/or objections of Vista. If Vista is not satisfied with the response of Town, Vista shall have the right to petition the Town Council for modification to the design and site of the proposed improvements. The Town Council shall consider the adverse impacts of the Tank Site development on adjacent development proposed by Vista, the cost impact of redesign and reconfiguration to accommodate Vista's concerns and any other

relevant matters. The Town Council shall either approve the site plan as submitted or direct modifications to the site plan in response to Vista's input. The decision of the Town Council shall be final and binding.

7.03 Well Sites. Four well sites are designated on the Preliminary Site Plan for dedication to the Town of which one site is located within the regional park site to be conveyed to Town with recordation of this Agreement. The well sites and related easements shall be maintained by and at the expense of the Town. The other three well sites shall be conveyed to Town concurrently with recordation of the first Plat of the Phase within which the respective well site is located; provided, at the option of Town, Owner shall convey to Town these well sites within 60 days of the date Town notifies Owner of Town's request for immediate dedication. The conveyance of the well sites shall be in conformance with 7.04.

Owner shall abandon the existing wells on the Property (excluding the two (2) existing domestic wells on Parcel B, or any replacement well(s)) and physically render such non-domestic wells inoperable if required by the State Engineer as a condition of issuance of well permits to Town for development of the Water Rights.

Developed well sites shall be landscaped so as to reduce the visual impact of the improvements to the adjacent private developments on the Property. In the event the Town should determine one or more well sites are not needed for well development, Town may utilize such parcel(s) for any permitted purpose of Public Lands.

7.04 Conveyance. All Public Lands shall be conveyed to Town by special warranty deed, subject to matters of record but free and clear of liens, or other title impediments, and such conveyance shall be in compliance with applicable Town Regulations. Unless otherwise provided in the Town Regulations to the contrary, the grantor shall furnish the Town with a policy of title insurance, issued by a title company licensed to do business in the State of Colorado, in an amount reasonably approximating market value of the Public Land in its undeveloped conditioned and reflecting its current zoning as the highest and best use. If so requested by Town or required by the Town Regulations, Owner shall complete a Phase I environmental audit of all Public Lands prior to conveyance and acceptance by Town, and shall be solely responsible for any remedial

environmental measures of hazards identified in the audit.

7.05 Park Development. Concurrently with conveyance of the 3.4-acre parcel within the Orange Phase, Vista shall pay to Town the sum of \$140,000 to be utilized by Town exclusively for development of such park. All other improvements constructed on the Public Lands shall be constructed at the Town's cost.

7.06 Exclusion from Covenants. Owner shall exclude all Public Lands from the application and effect of restrictive covenants which may otherwise be imposed on the Property. If any Public Lands are inadvertently made subject to such covenants, this Agreement shall constitute the irrevocable consent of the Owner and the Board of Directors of any homeowners association to the exclusion of the Public Lands from the application of such covenants.

7.07 Utility Relocation. In the event the Public Utilities must be relocated from the regional park site in order to accommodate its development by the Town, Vista shall pay to Town \$5,000 to partially defray the cost of such relocation. This payment shall be made within 30 days of the date the construction of the relocation commences.

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ARTICLE VIII
LAND USE VESTING

8.01 Vesting. The Development Plan for the Property shall constitute a "site specific development plan" as defined in C.R.S. § 24-68-101 and Chapter 15.24 of the Code, and accordingly vested property rights are established with respect to the Development Plan in accordance with statute and applicable Code provisions. Such vesting shall become effective concurrently with the effective date of the ordinance authorizing this Agreement.

8.02 Duration. Due to the scale of development proposed on the Property and that the cost of Facilities development is recovered sequentially through the development cycle, property rights in the Development Plan are vested until December 31, 2011 pursuant to the provisions of Chapter 15.24 of the Code. After December 31, 2011 the Development Plan shall remain valid and effective as it exists on the date of lapse; however, the Development Plan shall then be subject to amendment pursuant to a rezoning, in accordance with the law.

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

8.04 Compliance with General Regulations. The establishment of the rights vested under this Agreement shall not preclude the application of Town Regulations of general applicability including, but not limited to, Development Exaction, building, fire, plumbing, engineering, electrical and mechanical codes, or the application of regional, state or federal regulations.

8.05 No Monetary Liability of Town. Although C.R.S. § 24-68-101, et seq., allows for monetary damages in the event of breach or default by the Town, the sole remedies hereunder shall be equitable remedies of specific performance or mandatory or prohibitory injunction. Owners hereby waive any rights to money damages either may have under the Constitution and laws of the United States or the State of Colorado for any such breach or default.

ARTICLE IX DEFAULT AND REMEDIES

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

9.02 Remedies. In addition to specific remedies provided elsewhere in the Agreement (including Town's right to withhold development approvals), upon default, the non defaulting party shall have the right to take whatever action at law or in equity appears necessary or desirable to enforce performance and observation of any obligation, agreement or covenant of the defaulting party under the Agreement, or to collect the monies then due and thereafter to become due, subject however, to the limitation on remedies of 8.05. In any such legal action, the prevailing party shall be entitled to

recover its reasonable attorney's fees and litigation costs from the other party.

9.03 Default Notice. In the event either party alleges that the other is in default, the non-defaulting party shall first notify the defaulting party in writing of such default, and specify the exact nature of the default in such notice. Except as otherwise provided in 5.07, the defaulting party shall have twenty (20) business days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its remedies hereunder; provided that (i) such default is capable of being cured, (ii) the defaulting party has commenced such cure within said 20-day period, (iii) the defaulting party diligently prosecutes such cure to completion⁸. If such default is not of a nature that can be cured in such twenty (20) day period, corrective action must be commenced within such period by the defaulting party and thereafter diligently pursued.

ARTICLE X GENERAL PROVISIONS

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

10.02 Interpretation. In this Agreement unless the context otherwise requires:

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

10.03 Notice. The addresses of the parties to this Agreement are as listed below. Any and all notices allowed or required to be given in accordance with this Agreement are deemed to have been given when delivered to the other parties or five (5) days

⁸ Subject to the 180 day cure period for a default under 5.07.

following the date the same is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested addressed to the other parties at the addresses noted: or such address as is subsequently endorsed in writing, or in the event of transfer of the Property to the address of such grantee as indicated in the recorded instrument whereby such grantee acquired an interest in the Property.

TOWN: Town Attorney
Town of Castle Rock
6 80 N. Wilcox Street
Castle Rock, CO 80104

METZLER: Robert F. Metzler
Rosemary M. Metzler
P.O. Box 95
Castle Rock, CO 80104

VISTA: Vista Village Liability Company
305 Madison Street
Denver, CO 80206

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

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

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

10.07 Supersession. This Agreement supersedes the following documents in their entirety and such documents shall be of no further force or effect with respect to the Property:

- Annexation Agreement
- Final Improvement District Waiver Agreement recorded February 24, 1989 in Book 841 at Page 232
- Agreement to Terminate Intergovernmental Agreement recorded December 23, 1988 in Book 833 at Page 1033
- Metzler Ranch P.U.D. recorded December 26, 1984 at Reception No. 343761
- Milestone Office Campus P.U.D. recorded August 7, 1987 at Reception No. 8723298.

This Agreement shall supersede any conflicting provisions in the Loan and Settlement Agreement.

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

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ATTEST:

TOWN OF CASTLE ROCK



Sally A. Misera

 Sally A. Misera, Town Clerk

Donald K. Jones

 Donald K. Jones, Mayor

Approved as to form:

Robert J. Slentz

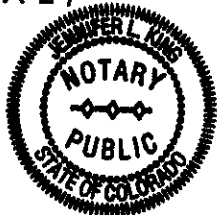
 Robert J. Slentz, Town Attorney

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 12th
day of December, 1996 by Sally A. Misare as Town Clerk and Donald K.
Jones as Mayor.

Witness my official hand and seal.
My commission expires: 9-21-99.

(SEAL)



MY COMMISSION EXPIRES:
SEPTEMBER 21, 1999

Jennifer L. King
Notary Public

VISTA VILLAGE LIMITED COMPANY LLC

By: [Signature]
Manager

Its: Manager

UNOFFICIAL COPY
By: Wintersgreen Homes Limited Liability Company

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 12th
day of December, 1996 by Arthur Kleinstan as Manager of
for Vista Village Limited Company. Wintersgreen Homes Limited Liability
LLC Company, Manager

Witness my official hand and seal.
My commission expires: 10/31/98

(SEAL)

Judith K. Hostette
Notary Public

LEGAL DESCRIPTION (PARCEL 1)

EXHIBIT 1

A parcel of land situated in the Southwest one-quarter of Section 25 and in the South one-half of Section 26, Township 7 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, Douglas County, Colorado more particularly described as follows:

Beginning at the one-quarter corner common to Sections 25 and 26 and considering the North line of the South one-half of said Section 26 to bear South 89° 38' 29" East with all bearings contained herein relative thereto; thence South 89° 24' 11" East along the North line of the Southwest one-quarter of Section 25, a distance of 1807.96 feet; to a point on the West Right of Way line of Crowfoot Valley Road; thence South 43° 07' 24" West along said West Right of Way line, a distance of 865.31 feet to a point of curve; thence Southerly along the arc of a curve to the left and along said West Right of Way line, a distance of 231.50 feet, said curve has a radius of 280.00 feet and a central angle of 47° 22' 18" to a point of tangent; thence South 04° 14' 54" East along said West Right of Way line and along said tangent, a distance of 125.00 feet to a point of curve, being a point on the North Right of Way line of Miller Boulevard, also known as Founders Parkway, per the Final Plat of Miller Boulevard, Filing No. 2 as recorded in the office of the Douglas County Clerk and Recorder under Reception No 8603133; thence Southwesterly along the arc of a curve to the right a distance of 39.27 feet, said curve has a radius of 25.00 feet and a central angle of 90° 00' 00" to a point of tangent; thence South 85° 45' 06" West along said North Right of Way line and along said tangent, a distance of 25.00 feet to a point of curve; thence Westerly along the arc of a curve to the left and along said North Right of Way line, a distance of 278.80 feet, said curve has a radius of 1005.00 feet and a central angle of 15° 53' 41"; thence leaving said North Right of Way line North 84° 24' 12" West, a distance of 101.41 feet; thence South 76° 27' 03" West, a distance of 179.90 feet; thence South 19° 41' 38" West, a distance of 170.81 feet to a point on the North Right of Way line of aforesaid Miller Boulevard; thence Westerly along said North Right of Way line for the next twelve (12) courses:

1. thence South 54° 45' 06" West, a distance of 1185.69 feet to a point of curve;
2. thence Westerly along the arc of a curve to the right a distance of 688.19 feet, said curve has a radius of 1967.69 feet and a central angle of 20° 02' 20" to a point of compound curve;
3. thence Westerly along the arc of a curve to the right a distance of 39.98 feet, said curve has a radius of 25.00 feet and a central angle of 91° 36' 50" to a point of nontangency;
4. thence South 76° 24' 46" West a distance of 60.00 feet
5. thence Southwesterly along the arc of a curve to the right a distance of 39.98 feet, said curve has a radius of 25.00 feet and a central angle of 91° 37' 20" and a chord that bears South 32° 13' 26" West, a distance of 35.85 feet to a point of compound curve;
6. thence Westerly along the arc of a curve to the right a distance of 2189.23 feet, said curve has a radius of 1967.69 feet, a central angle of 63° 44' 48" and a chord that bears North 70° 05' 30" West, a distance of 2078.05 feet;
7. thence North 38° 13' 06" West along said tangent a distance of 1055.71 feet to a point of curve;
8. thence Northerly along the arc of a Curve to the right a distance of 39.27 feet, said curve has a radius of 25.00 feet and a central angle of 90° 00' 00" to a point of nontangency;
9. thence North 38° 13' 06" West a distance of 85.00 feet;
10. thence Westerly along the arc of a curve to the right a distance of 39.27 feet, said curve has a radius of 25.00 feet and a central angle of 90° 00' 00", and a chord that bears North 83° 13' 06" West, a distance of 35.36 feet;
11. thence North 38° 13' 06" West, a distance of 516.69 feet to a point of curve;
12. thence Northwesterly along the arc of a curve to the left, a distance of 421.02 feet, said curve has a radius of 805.00 feet and a central angle of 29° 57' 58" to the North line of the South one-half of Section 26 and a point of nontangency;

thence South 89° 38' 29" East along said North line a distance of 4541.80 feet to the point of beginning.

Said parcel of land contains 211.816 acres. more or less

Excluding from said parcel that portion deeded to the Town of Castle Rock in Book 893 at Page 1064 of the Records of the Douglas County Clerk and Recorder.

Prepared by:
Inter-Mountain Engineering, Ltd.
1420 Vance Street, Suite 101
Lakewood, Colorado 80215

Andrew K. Cornelius

Project No. 95-0598
December 5, 1996.



Andrew K. Cornelius, Colo. P.E. & P.L.S. 26043

LEGAL DESCRIPTION: (PARCEL 2)

A parcel of land situated in the South one-half of Section 25, Township 7 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, Douglas County, Colorado, more particularly described as follows:

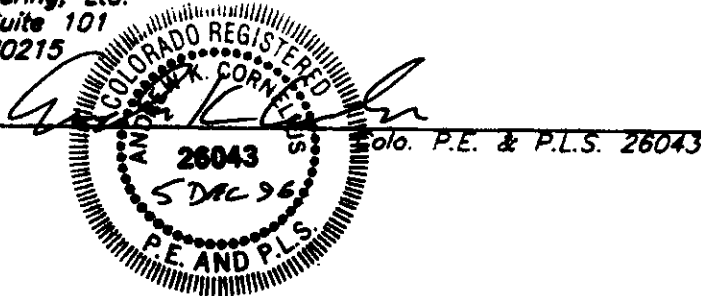
Beginning at the center one-quarter corner of said Section 25 and considering the North line of the Southwest one-quarter of said Section 25 to bear North 89° 24' 11" West with all bearings contained herein relative thereto; thence North 89° 24' 11" West along said North line a distance of 714.19 feet to the East Right of Way line of Crowfoot Valley Road; thence South 43° 07' 24" West along said East Right of Way line a distance of 920.36 feet to a point of curve; thence Southerly along the arc of a curve to the left, a distance of 181.89 feet, said curve has a radius of 220.00 feet and a central angle of 47° 22' 18" to a point of tangent; thence South 04° 14' 54" East along said tangent and along said East Right of Way line, a distance of 125.00 feet to a point of curve, also being on the North Right of Way line of Miller Boulevard, also known as Founders Parkway, per the Final Plat of Miller Boulevard, Filing No. 2 as recorded in the office of the Douglas County Clerk and Recorder under Reception No 8603133; thence Southeasterly along the arc of a curve to the left, along said North Right of way line, a distance of 39.27 feet, said curve has a radius of 25.00 feet and a central angle of 90° 00' 00" to a point of tangent; thence North 85° 45' 06" East along said tangent and along said North Right of Way line, a distance of 322.83 feet to a point of curve; thence Southeasterly along the arc of a curve to the right and along said North Right of Way line, a distance of 1052.43 feet, said curve has a radius of 1005.00 feet and a central angle of 60° 00' 00" to a point of tangent; thence South 34° 14' 54" East along said North Right of Way line along said tangent, a distance of 1039.10 feet to a point of curve; thence Southeasterly along said North Right of Way line along the arc of a curve to the left, a distance of 297.82 feet, said curve has a radius of 895.00 feet and a central angle of 19° 03' 59"; thence North 06° 35' 49" East, a distance of 748.61 feet; thence North 09° 05' 49" East, a distance of 720.00 feet; thence North 28° 54' 11" West, a distance of 1150.00 feet to the North line of the Southeast one-quarter of Section 25; thence North 89° 24' 11" West along said North line, a distance of 295.00 feet to the point of beginning.

Said parcel of land contains 61.400 acres, more or less.

Excluding from said parcel the Right-of-Way for Ridge Road as it encroaches on the parcel.

UNOFFICIAL COPY

Prepared by:
Inter-Mountain Engineering, Ltd.
1420 Vance Street, Suite 101
Lakewood, Colorado 80215



Andrew K. Cornelius

Colo. P.E. & P.L.S. 28043

Project No. 95-0598
December 5, 1996.

LEGAL DESCRIPTION: (PARCEL 3)

A parcel of land situated in the South one-half of Section 25 and the Southeast one-quarter of Section 26, and in the North one-half of Section 35, Township 7 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, Douglas County, Colorado, more particularly described as follows:

Beginning at the Northeast corner of the North one-half of said Section 35 and considering the East line of said North one-half to bear South 00° 24' 12" West with all bearings contained herein relative thereto; thence South 00° 24' 12" West along the East line of said North one-half, a distance of 2679.50 feet to the Southeast corner of said North one-half; thence North 89° 09' 06" West along the South line of said North one-half, a distance of 2942.26 feet to the East Right of Way line of Interstate Highway No. 25; thence North 03° 20' 56" West along said East Right of Way line, a distance of 568.44 feet; thence North 39° 09' 34" East along said East Right of Way line, a distance of 231.80 feet; thence North 44° 08' 04" East along said East Right of Way line, a distance of 282.00 feet; thence North 45° 51' 56" West along said East Right of Way line, a distance 50.00 feet; thence North 44° 11' 15" East, a distance of 2183.06 feet to a point of curve; thence Northerly along the arc of a curve to the left, a distance of 322.67 feet, said curve has a radius of 320.00 feet and a central angle of 57° 46' 29" to a point of tangent; thence North 13° 35' 14" West along said tangent, a distance of 75.70 feet to the South line of Miller Boulevard, also known as Founders Parkway, per the Final Plat of Miller Boulevard, Filing No. 2 as recorded in the Office of the Douglas County Clerk and Recorder under Reception No. 8603133; thence Easterly along said South Right of Way line for the next thirteen (13) courses:

1. thence North 76° 24' 46" East, a distance of 42.50 feet to a point of nontangency;
 2. thence Northeasterly along the arc of a curve to the right a distance of 38.47 feet, said curve has radius of 25.00 feet, a central angle of 88° 09' 37", and a chord that bears North 30° 29' 36" East, a distance of 34.78 feet to a point of reverse curve;
 3. thence Northeasterly along the arc of a curve to the left, a distance of 718.78 feet, said curve has radius of 2077.69 feet and a central angle of 19° 49' 18" to a point of tangent;
 4. thence North 54° 45' 06" East along said tangent, a distance of 1307.48 feet to a point of curve;
 5. thence Northeasterly along the arc of a curve to the right, a distance of 484.24 feet, said curve has radius of 895.00 feet and a central angle of 31° 00' 00" to a point of tangent;
 6. thence North 85° 45' 06" East along said tangent, a distance of 25.00 feet to a point of curve;
 7. thence Southeasterly along the arc of a curve to the right, a distance of 39.27 feet, said curve has radius of 25.00 feet and a central angle of 90° 00' 00", to a point of nontangency;
 8. thence North 85° 45' 06" East a distance of 60.00 feet, to a point of nontangency;
 9. thence Northeasterly along the arc of a curve to the right a distance of 39.27 feet, said curve has radius of 25.00 feet, a central angle of 90° 00' 00", and a chord that bears North 40° 45' 06" East, a distance of 35.36 feet to a point of tangent;
 10. thence North 85° 45' 06" East along said tangent, a distance of 322.83 feet to a point of curve;
 11. thence Southeasterly along the arc of a curve to the right, a distance of 937.24 feet, said curve has a radius of 895.00 feet and a central angle of 60° 00' 00" to a point of tangent;
 12. thence South 34° 14' 54" East along said tangent a distance of 1039.10 feet to a point of curve;
 13. thence Southeasterly along the arc of a curve to the left, a distance of 397.08 feet, said curve has radius of 1005.00 feet and a central angle of 22° 38' 16";
- thence South 06° 35' 49" West, a distance of 97.61 feet to the South line of Section 25;
thence North 89° 18' 35" West, a distance of 3239.81 feet to the point of beginning;

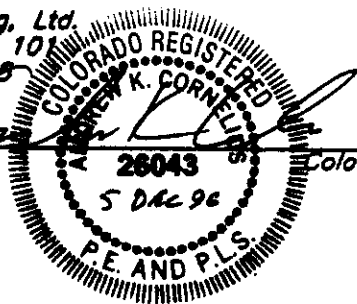
Said parcel of land contains 241.872 acres, more or less.

Excluding from said parcel the Right-of-Way for Crowfoot Valley Road as it encroaches on the parcel.

Prepared by:
Inter-Mountain Engineering, Ltd.
1420 Vance Street, Suite 101
Lakewood, Colorado 80218

Andrew K. Cornelius

Project No. 95-0598
December 5, 1996.



Colo. P.E. & P.L.S. 26043

LEGAL DESCRIPTION: (PARCEL 4)

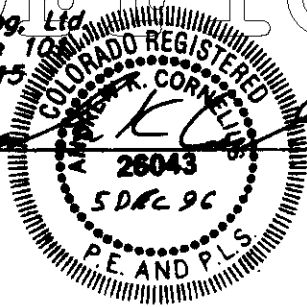
A parcel of land situated in the Northwest one-quarter of Section 35, Township 7 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, Douglas County, Colorado, more particularly described as follows:

Commencing at the Southwest corner of said Northwest one-quarter and considering the South line of said Northwest one-quarter to bear South 89° 09' 06" East with all bearings contained herein relative thereto; thence South 89° 09' 06" East along said South line, a distance of 275.67 feet to the East Right of Way line of old U.S. Highway No. 85 as described in the records of the Douglas County Clerk and Recorder, in Book 79 at page 402, also being the Point of Beginning; thence continuing South 89° 09' 06" East along said South line, a distance of 1533.13 feet to the West Right of Way line of U.S. Highway No. 85; thence Northwesterly along the arc of a curve to the left being the West Right of Way line of U.S. Highway No. 85, a distance of 843.26 feet, said curve has a radius of 1061.00 feet, a central angle of 45° 32' 15" and a chord that bears North 55° 23' 27" West, a distance of 821.24 feet to a point of compound curvature; thence Westerly along the arc of a curve to the left, continuing along the West Right of Way line of U.S. Highway No. 85, a distance of 125.93 feet, said curve has a radius of 1443.10 feet, a central angle of 05° 00' 00" and a chord that bears North 80° 39' 56" West, a distance of 125.90 feet; thence North 83° 09' 56" West, continuing along the West Right of Way line of U.S. Highway No. 85, a distance of 608.60 feet; thence North 79° 24' 56" West, continuing along the West Right of Way line of U.S. Highway No. 85, a distance of 177.70 feet; thence Westerly along the arc of a curve to the right, continuing along the West Right of Way line of U.S. Highway No. 85, a distance of 238.20 feet, said curve has a radius of 1040.00 feet, a central angle of 13° 07' 23" and a chord that bears North 69° 06' 08" West, a distance of 237.68 feet to the West line of Northwest one-quarter; thence South 00° 39' 25" West, along said West line, a distance of 149.48 feet to the East Right of Way line of said old U.S. Highway No. 85; thence South 28° 08' 38" East along said East Right of Way line, a distance of 572.19 feet to the point of beginning.

Said parcel of land contains 16.722 acres, more or less.

UNOFFICIAL COPY

Prepared by:
Inter-Mountain Engineering, Ltd.
1420 Vance Street, Suite 1000
Lakewood, Colorado 80215



Andrew K. Cornelius Colo. P.E. & P.L.S. 26043

Project No. 95-0598
December 5, 1996.

LEGAL DESCRIPTION: (PARCEL 5)

A parcel of land situated in the South one-half of Section 26 and in the North one-half of Section 35, Township 7 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, Douglas County, Colorado, more particularly described as follows:

Commencing at the Northeast corner of the North of one-half of said Section 35 and considering the East line of said North one-half to bear South 00° 24' 12" West with all bearings contained herein relative thereto; thence South 00° 24' 12" West along the East line of said North one-half, a distance of 2679.50 feet to the Southeast corner of said North one-half; thence North 89° 09' 06" West along the South line of said North one-half, a distance of 2942.26 feet to the East Right of Way line of Interstate Highway No. 25; thence North 03° 20' 56" West along said East Right of Way line, a distance of 568.44 feet; thence North 39° 09' 34" East along said East Right of Way line, a distance of 231.80 feet; thence North 44° 08' 04" East along said East Right of Way line, a distance of 282.00 feet; thence North 45° 51' 56" West along said East Right of Way line, a distance 50.00 feet, said point being South 58° 25' 11" West, a distance of 3153.96 feet from the point of commencement, and being the Point of Beginning; thence Northerly continuing along said East Right of Way line the following seven (7) courses:

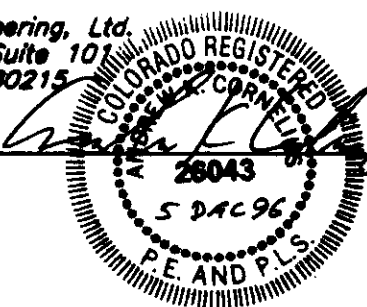
1. thence North 45° 51' 56" West, a distance of 50.00 feet;
2. thence Westerly along the arc of a nontangent curve to the right, a distance of 309.14 feet, said curve has a radius of 236.50 feet, a central angle of 74° 53' 42" and a chord that bears South 81° 35' 04" West, a distance of 287.60 feet;
3. thence North 60° 57' 56" West, a distance of 572.30 feet;
4. thence North 82° 39' 26" West, a distance of 50.50 feet, to a point of nontangent curve;
5. thence Northerly along the arc of a curve to the right, a distance of 229.92 feet, said curve has a radius of 905.00 feet, a central angle of 14° 33' 22" and a chord that bears North 30° 26' 41" West, a distance of 229.30 feet, to a point of nontangency;
6. thence North 20° 08' 41" West, a distance of 146.00 feet;
7. thence North 18° 39' 56" West, a distance of 552.00 feet;

thence North 81° 21' 28" East, a distance of 1670.03 feet; thence North 00° 00' 00" East, a distance of 622.52 feet to the South line of Miller Boulevard, also known as Founders Parkway, per the Final Plat of Miller Boulevard, Filing No. 2 as recorded in the Office of the Douglas County Clerk and Recorder under Reception No. 8603133; thence Southeasterly along the arc of a nontangent curve to the left, along said South Right of way line, a distance of 1091.96 feet, said curve has a radius of 2077.69 feet, a central angle of 30° 06' 46" and a chord that bears South 86° 41' 28" East, a distance of 1079.44 feet, to a point of reverse curvature; thence Southeasterly along the arc of a curve to the right, continuing along said South Right of way line, a distance of 38.47 feet, said curve has a radius of 25.00 feet, a central angle of 88° 09' 37" and a chord that bears South 57° 40' 02" East, a distance of 34.78 feet, to a point of nontangency; thence North 76° 24' 46" East, continuing along said South Right of way line, a distance of 42.50 feet; thence South 13° 35' 14" East, a distance of 75.70 feet, to a point of curve; thence Southerly along the arc of a curve to the right, a distance of 322.67 feet, said curve has a radius of 320.00 feet, and a central angle of 57° 46' 29", to a point of tangency; thence South 44° 11' 15" West, a distance of 2183.06 feet to the point of beginning.

Said parcel of land contains 62.93 acres, more or less.

Excluding from said parcel the Right-of-Way for Crowfoot Valley Road as it encroaches on the parcel.

Prepared by:
Inter-Mountain Engineering, Ltd.
1420 Vance Street, Suite 107
Lakewood, Colorado 80215



Andrew K. Cornelius Colo. P.E. & P.L.S. 26043

Project No. 95-0598
December 5, 1996.

EXHIBIT 2

PROPERTY DESCRIPTION: (PARCEL A)

A tract of land situated in the South 1/2 of Section 26, Township 7 South, Range 67 West of the 6th Principal Meridian. Town of Castle Rock, Douglas County, Colorado, more particularly described as follows:

Commencing at the Northwest corner of said South 1/2 and considering the North line of said South 1/2 to bear S 89° 38' 29" E with all bearings contained herein relative thereto;

Thence S 89° 38' 29" E along said North line a distance of 799.40 feet to the East Right of Way line of Miller Boulevard as shown on the plat of Miller Boulevard Filing No. 2, Recorded March 27, 1986, per Reception No. 8603133 in the office of the Douglas County Clerk & Recorder;

Thence Southeasterly along the Northeasterly Right of Way line of Miller Boulevard along the arc of a curve to the right a distance of 421.02 feet, said curve has a radius of 805.00 feet and a central angle of 29° 57' 57" to a point of tangent;

Thence S 38° 13' 06" E along said Northeasterly Right of Way line and along said tangent a distance of 184.19 feet to the true point of beginning;

Thence continuing Southeasterly along the Northeasterly Right of Way line of said Miller Boulevard of the next six (6) courses.

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1. Thence S 38° 13' 06" E a distance of 332.50 feet to a point of curve;
2. Thence Easterly along the arc of a curve to the left a distance of 39.27 feet, said curve has a radius of 25.00 feet and a central angle of 90° 00' 00";
3. Thence S 38° 13' 06" E a distance of 85.00 feet;
4. Thence Southerly along the arc of a curve to the left a distance of 39.27 feet, said curve has a radius of 25.00 feet and a central angle of 90° 00' 00" to a point of tangent;
5. Thence S 38° 13' 06" E along said tangent a distance of 1055.71 feet to a point of curve;
6. Thence Southeasterly along the arc of a curve to the left a distance of 1038.60 feet, said curve has a radius of 1967.69 feet and a central angle of 30° 14' 32";

Thence departing said Northeasterly Right of Way line N 21° 32' 22" E a distance of 400.00 feet;

Thence Northwesterly along the arc of a curve to the right a distance of 827.47 feet, said curve has a radius of 1567.69 feet and a central angle of 30° 14' 32" to a point of tangent;

Thence N 38° 13' 06" W along said tangent a distance of 1523.21 feet;

Thence S 51° 46' 54" W a distance of 400.00 feet to the point of beginning.

Containing 22.5000 acres, more or less.

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

EXHIBIT 2

PROPERTY DESCRIPTION: (PARCEL B)

A tract of land situated in the Southwest 1/4 of Section 25 and in the Southeast 1/4 of Section 26, Township 7 South, Range 67 West of the 6th Principal Meridian. Town of Castle Rock. Douglas County, Colorado, more particularly described as follows:

Commencing at the Northeast corner of the Southwest 1/4 of said Section 25 and considering the North line of said Southwest 1/4 to bear N 89° 24' 11" W with all bearings contained herein relative thereto;

Thence N 89° 24' 11" W along said North line a distance of 795.60 feet to a point on the West Right of Way line of Crowfoot Valley Road and to the true point of beginning;

Thence S 43° 07' 24" W along said West Right of Way line a distance of 865.33 feet to a point of curve;

Thence Southerly along the arc of a curve to the left and along said West Right of Way line a distance of 231.50 feet. said curve has a radius of 280.00 feet and a central angle of 47° 22' 18" to a point of tangent;

Thence S 04° 14' 54" E along said West Right of Way line and along said tangent a distance of 125.00 feet to a point of curve;

Thence Southwesterly along the arc of a curve to the right a distance of 39.27 feet. said curve has a radius of 25.00 feet and a central angle of 90° 00' 00" to a point of tangent and to a point on the North Right of Way line of Miller Boulevard;

Thence S 85° 45' 06" W along said North Right of Way line and along said tangent a distance of 25.00 feet to a point of curve;

Thence Westerly along the arc of a curve to the left and along said North Right of Way line a distance of 278.80 feet, said curve has a radius of 1005.00 feet and a central angle of 15° 53' 41";

Thence leaving said North Right of Way line N 84° 24' 12" W a distance of 101.41 feet; Thence S 76° 27' 03" W a distance of 179.90 feet;

Thence S 19° 41' 38" W a distance of 170.81 feet to a point on the North Right of Way line of aforesaid Miller Boulevard;

Thence S 54° 45' 06" W along said North Right of Way line a distance of 1185.69 feet to a point of curve;

Thence Westerly along the said North Right of Way line along the arc of a curve to the right a distance of 688.19 feet, said curve has a radius of 1967.69 feet and a central angle of 20° 02' 20" to a point of compound curve;

Thence Westerly along the arc of a curve to His right a distance of 39.98 feet, said curve has a radius of 25.00 feet and a central angle of 91° 37' 20" to a point of tangent;

Thence N 13° 35' 14" W along said tangent a distance of 100.00 feet to a point of curve; Thence Northwesterly along the arc of a curve to the left a distance of 439.62 feet, said curve has a radius of 530.00 feet and a central angle of 47° 31' 32";

Thence N 28° 53' 14" E a distance of 441.41 feet;

Thence S 68° 03' 38" E a distance of 256.76 feet;

Thence N 29° 31' 29" E a distance of 500.00 feet;

Thence S 90° 00' 00" E a distance of 77.00 feet;

Thence N 32° 24' 25" E a distance of 668.62 feet-;

Thence S 90° 00' 00" E a distance of 385.59 feet;

Thence N 45° 48' 04" E a distance of 710.64 feet to a point on the North line of the Southwest 1/4 of said Section 25;

Thence S 89° 24' 11" E along said North line a distance of 1174.83 feet to the point of beginning;

Containing 62.2200 acres, more or less.

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

EXHIBIT 2

PROPERTY DESCRIPTION: (PARCEL B-1)

A tract of land situated in the South 1/2 of Section 25, Township 7 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Commencing at the Northeast corner of the Southwest 1/4 of said Section 25 and considering the North line of said Southwest 1/4 to bear N 89° 24' 11" W with all bearings contained herein relative thereto;
Thence N 89° 24' 11" W along said North line a distance of 714.19 feet to the East Right of Way line of Crowfoot Valley Road;
Thence S 43° 07' 24" W along said East Right of Way line a distance of 617.02 feet to the true point of beginning;
Thence S 43° 07' 24" W along said East Right of Way line a distance of 303.34 feet to a point of curve;
Thence Southerly along the arc of a curve to the left a distance of 181.89 feet, said curve has a radius of 220.00 feet and a central angle of 47° 22' 18" to a point of tangent;
Thence S 04° 14' 54" E along said tangent and along said East Right of Way line a distance of 125.00 feet to a point of curve;
Thence Southeasterly along the arc of a curve to the left a distance of 39.27 feet, said curve has a radius of 25.00 feet and a central angle of 90° 00' 00" to a point of tangent and on the North Right of Way line of Miller Boulevard;
Thence N 85° 45' 06" E along said tangent and along said North Right of Way line a distance of 322.83 feet to a point of curve;
Thence Southeasterly along the arc of a curve to the right and along said North Right of Way line a distance of 977.15 feet, said curve has a radius of 1005.00 feet and a central angle of 55° 42' 28";
Thence N 76° 28' 28" E a distance of 471.80 feet;
Thence N 41° 08' 20" W a distance of 517.64 feet;
Thence N 47° 14' 17" W a distance of 550.00 feet;
Thence N 88° 46' 01" W a distance of 666.85 feet to the point of beginning;
Containing 17.7800 acres, more or less.
This property description was prepared under the direct supervision of David E. Archer (P.L.S. 6935), 105 Wilcox Street, Castle Rock, CO 80104.

EXHIBIT 3

The right to withdraw and use all Denver Basin groundwater underlying the real property described immediately following, in accordance with the decree of the District Court for Water Division No. 1, State of Colorado, dated October 26, 1987 in Case Nos. 85CW274, 85CW275 and 86CW28, all situated in the County of Douglas, State of Colorado, consisting of the following decreed quantities:

Lower Dawson Aquifer	
Nontributary	67.6 AF
Not-nontributary	212.4 AF
Denver Aquifer	
Nontributary	75.0 AF
Not-nontributary	200.5 AF
Arapahoe Aquifer	295.4 AF
Laramie Fox-Hills Aquifer	<u>164.4 AF</u>
	1015.3 AF

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EXHIBIT 4

SHEET INDEX

- CORNER SHEET..... 1 OF 10
- PURPLE PHASE..... 2 OF 10
- WHITE PHASE..... 3 OF 10
- CYAN PHASE..... 4 OF 10
- PINK PHASE..... 5 OF 10
- ORANGE PHASE..... 6 OF 10
- GREEN PHASE..... 7 OF 10
- BLUE PHASE..... 8 OF 10
- YELLOW PHASE..... 9 OF 10
- RED PHASE..... 10 OF 10



GRAPHIC SCALE



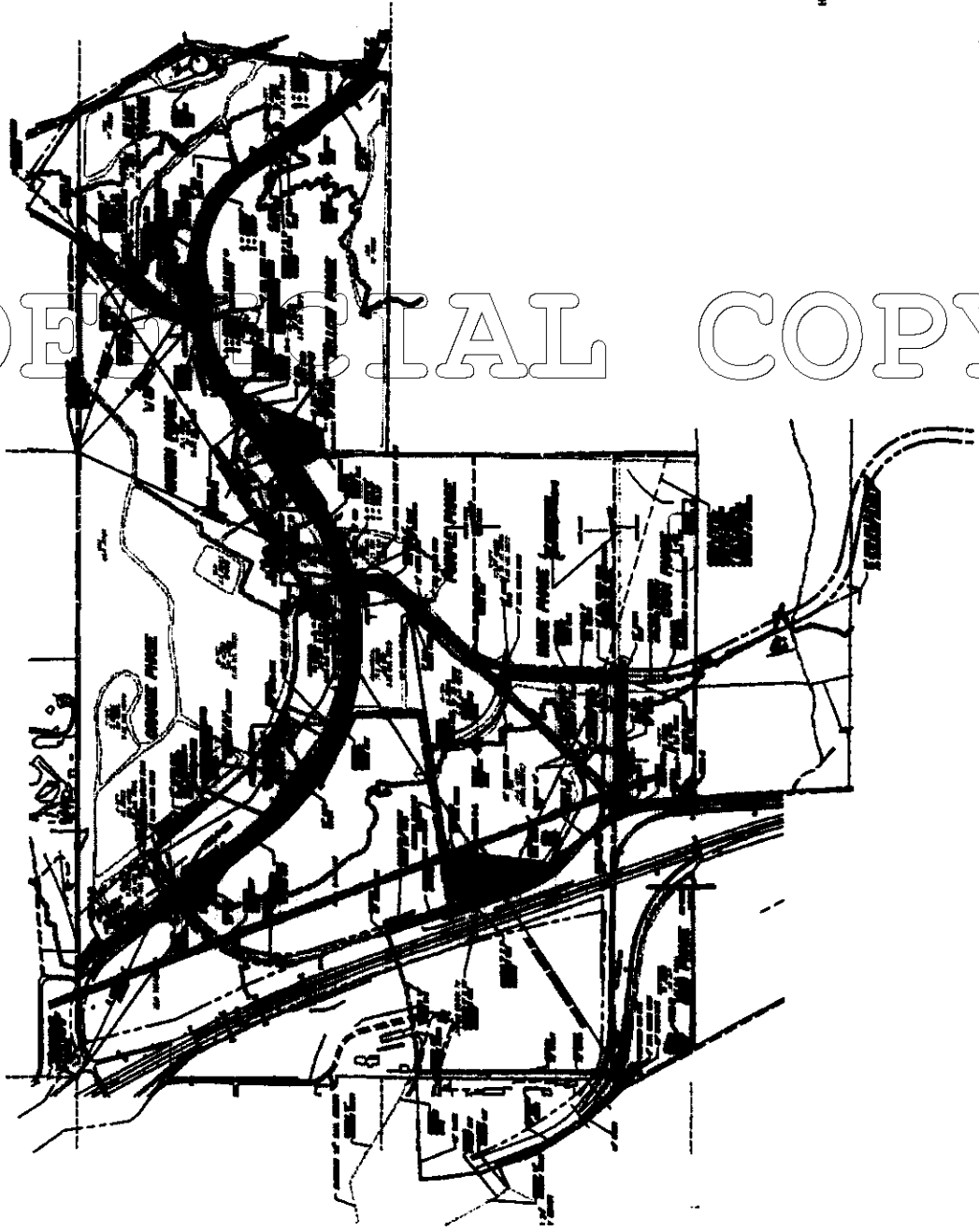
(IN FEET)
1 inch = 1000 ft.

PHASING PLAN	
DATE	12/24/96
PROJECT	RETA A CRAIN DOUGLAS CO. COLO.
SCALE	AS SHOWN
BY	RETAINING ENGINEERING
CHECKED	RETAINING ENGINEERING
DATE	12/24/96
PROJECT	RETA A CRAIN DOUGLAS CO. COLO.
SCALE	AS SHOWN
BY	RETAINING ENGINEERING
CHECKED	RETAINING ENGINEERING
DATE	12/24/96

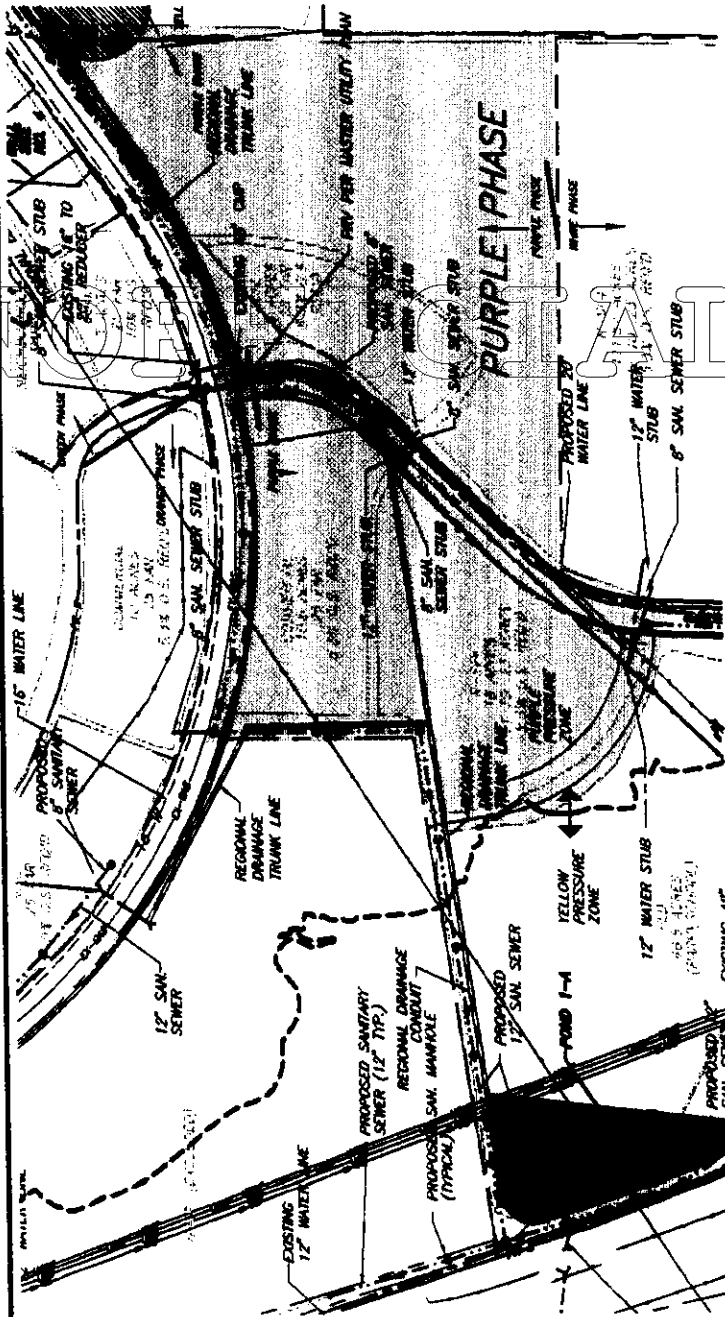
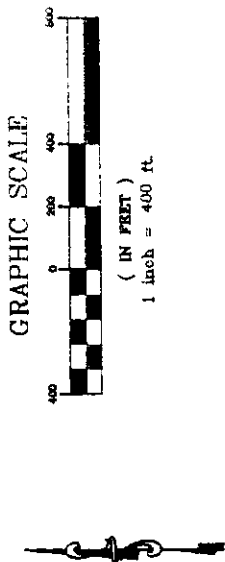
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B1396 - P1787 -

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MASTER PHASING PLAN



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5. GAS AND OTHER SHALLOW UTILITIES.
6. PLAT DEDICATIONS
 - A. OSD DISPERSED THROUGHOUT PHASE
 - B. UTILITY AND DRAINAGE EASEMENTS AS REQUIRED TO MEET TOWN OF CASTLE ROCK STANDARDS. THIS INCLUDES BOTH ON PHASE AND OFF-LOCATED ALONG THE SUBMITTED PLAT.
 - C. 100 FEET OF R.O.W. FOR THE LENGTH OF WOODLANDS BOULEVARD AS LOCATED ALONG THE SUBMITTED PLAT.
7. P.D. DEDICATIONS
 - A. 46.5 ACRE SITE SHOWN AS "SCHOOL/PARK SITE" AND WELL NO. 1 SITE AS REQUIRED WITHIN THE DEVELOPMENT AGREEMENT. (DO NOT UNDER SEPARATE DOCUMENT)
 - B. 3.2 ACRES FOR WATER STORAGE TANK SITE. (BY SEPARATE DOCUMENT)

3. SANITARY SEWER
 - A. 8" SANITARY SEWER TRUNK LINE WITHIN WOODLANDS BOULEVARD FROM FIRST ACCESS POINT, WITH MANHOLES, FLOWS NORTH TO FOUNDERS PARKWAY.
 - B. 12" SANITARY SEWER TRUNK LINE WEST ALONG FOUNDERS PARKWAY FOR APPROXIMATELY 1500 FEET TO THE PARKLAND PROPERTY BOUNDARY THEN SOUTH ALONG THE PROPERTY BOUNDARY FOR A DISTANCE OF APPROXIMATELY 900 FEET TO THE SCOPY WEST ALONG THE PROPERTY LINE FOR A DISTANCE OF APPROXIMATELY 2,200 FEET, THEN NORTH ALONG THE EAST SIDE OF FRONT STREET A DISTANCE OF APPROXIMATELY 800 FEET TO THE EXISTING 12" LINE THAT PASSES UNDER I-25.
4. WATER SERVICE LINES
 - A. INSTALL TRUNK LINE
 - i) INSTALL 20" LINE FROM EXISTING LINE ON NORTH SIDE OF FOUNDERS PARKWAY SOUTH ALONG WOODLANDS BOULEVARD FOR A DISTANCE OF APPROXIMATELY 900 FEET, INCLUDES 20" MANHOLES.
 - ii) INSTALL 12" LINE FROM 20" WITHIN WOODLANDS, EAST TO NEAR EASTERN PROPERTY BOUNDARY, THEN NORTH TO THE INTO EXISTING 20" LINE ON THE NORTH SIDE OF FOUNDERS. THIS LINE IS TO COMPLETE THE LOOP FROM WOODLANDS BACK TO THE EXISTING LINE LOCATED ON THE NORTH SIDE OF FOUNDERS.
 - B. IF THE RESPONSIBILITY OF THE DEVELOPER TO ENSURE THAT ALL WATER MAINS ARE DESIGNED AND CONSTRUCTED TO CREATE A LOOP SYSTEM, THIS ALLOWING FOR BI-DIRECTIONAL SUPPLY OF WATER IN THE EVENT A LOOP IS NOT CONSTRUCTED, A MINIMUM OF 40 SFE WILL BE ALLOWED TO BE SERVICE FROM THAT DEAD END LINE.

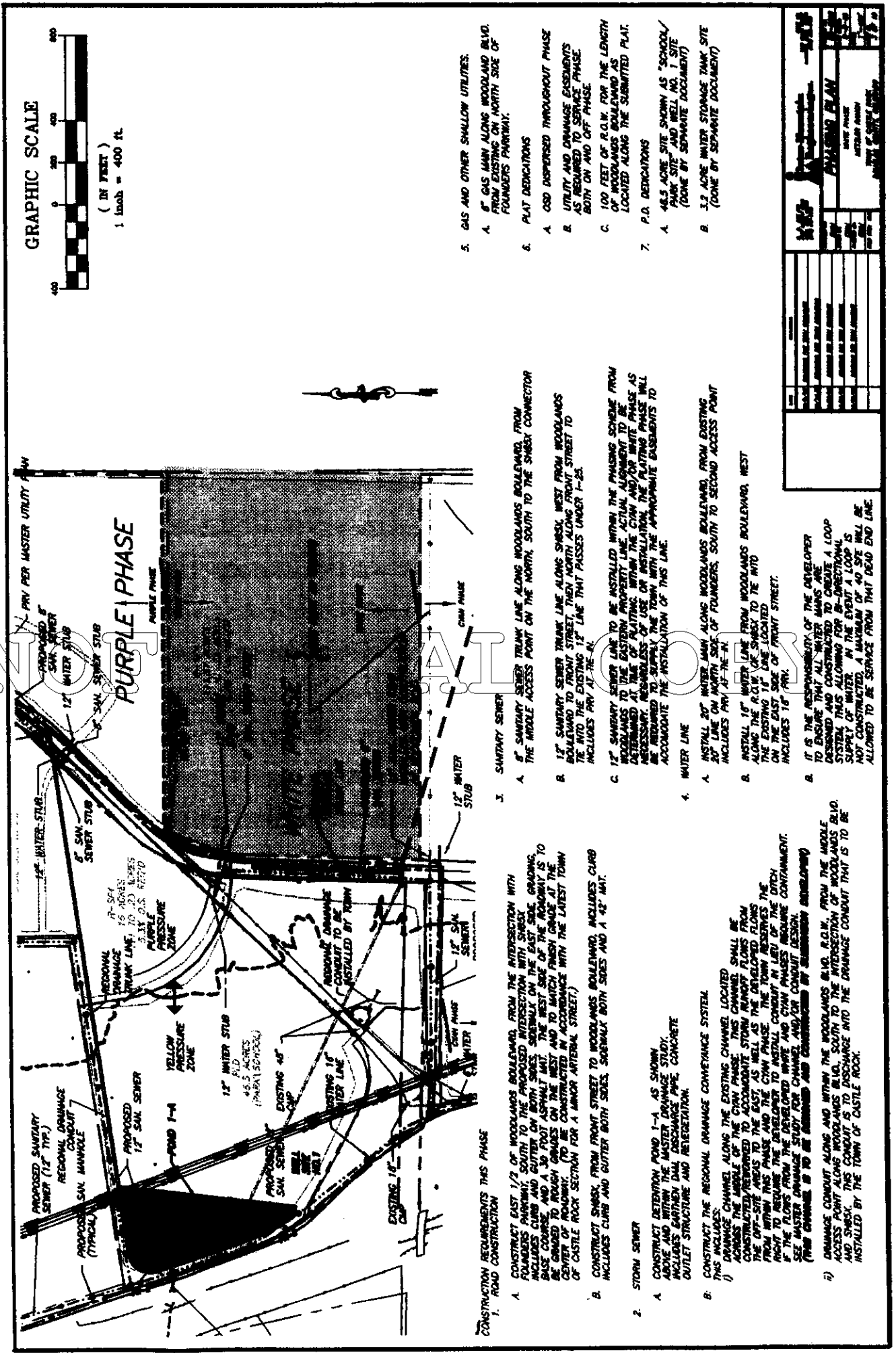
- CONSTRUCTION REQUIREMENTS THIS PHASE
1. ROAD CONSTRUCTION
 - A. CONSTRUCT THE EAST HALF OF WOODLANDS BOULEVARD FROM THE INTERSECTION OF WOODLANDS BLVD AND FOUNDERS PARKWAY SOUTH TO WOODLANDS BLVD AS REQUIRED BY THE TOWN AT THE TIME OF THIS PLATTING AGREEMENT TO THE WOODLANDS BOULEVARD R.O.W. THIS WORK INCLUDES THE GRADING, BASE COURSE, ASPHALT PAVEMENT, CURBS AND GUTTER ON BOTH SIDES OF THE EAST HALF AND SIDEWALK ALONG THE EAST SIDE OF THE ROADWAY. THE WEST SIDE OF THE ROADWAY IS TO BE GRADED TO ROUGH GRADES ON THE WEST AND TO MATCH FINISH GRADE AT CENTER OF ROADWAY. (TO BE CONSTRUCTED IN ACCORDANCE WITH THE LATEST TOWN SPECIFICATIONS FOR MINOR ARTERIAL STREET.)
 - B. OVERLAY EXISTING CROWFOOT VALLEY ROAD SOUTH FROM WOODLANDS BOULEVARD CONSTRUCTED IN 'A' ABOVE, TO THE INTERSECTION WITH FRONT STREET. OVERLAY IS TO BE 3" MINIMUM OF ASPHALT PAVEMENT. PAVEMENT WIDTH IS TO BE 24 FEET EDGE TO EDGE.
 2. STORM SEWER
 - A. CONSTRUCT DETENTION POND (1-A) AS SHOWN ABOVE AND WITHIN THE MASTER DRAINAGE STUDY. INCLUDES EARTHEN DAM, DISCHARGE PIPE AND CONCRETE OUTLET STRUCTURE.
 - B. CONSTRUCT THE REGIONAL DRAINAGE CONVEYANCE SYSTEM
 - i) 12" DRAINAGE PIPE TRUNK LINE, FROM NORTHEAST CORNER OF THE PURPLE PHASE WEST ALONG THE SOUTH SIDE OF FOUNDERS PARKWAY TO WOODLANDS BLVD; THEN SOUTH ALONG AND WITHIN THE WOODLANDS BLVD. R.O.W. TO THE FIRST ACCESS POINT SOUTH OF FOUNDERS PARKWAY; THEN WEST TO BE INTO THE DETENTION POND DESCRIBED IN (A) ABOVE.

NO.	DESCRIPTION	DATE	BY	CHECKED
1	PREPARED FOR THE CITY			
2	APPROVED BY THE CITY			
3	APPROVED BY THE ENGINEER			
4	APPROVED BY THE OWNER			

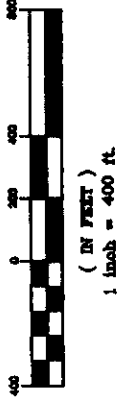
PHASING PLAN

OWNER: **RETNA A CRAIN DOUGLAS CO.**
 PROJECT: **WOODLANDS BOULEVARD**
 SHEET: **PHASING PLAN**
 DRAWN BY: **RETNA A CRAIN DOUGLAS CO.**
 CHECKED BY: **RETNA A CRAIN DOUGLAS CO.**
 DATE: **12/24/96**

9672147 - 12/24/96 11:41 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
 B1396 - P1789 - \$280.00 - 48/ 56



GRAPHIC SCALE

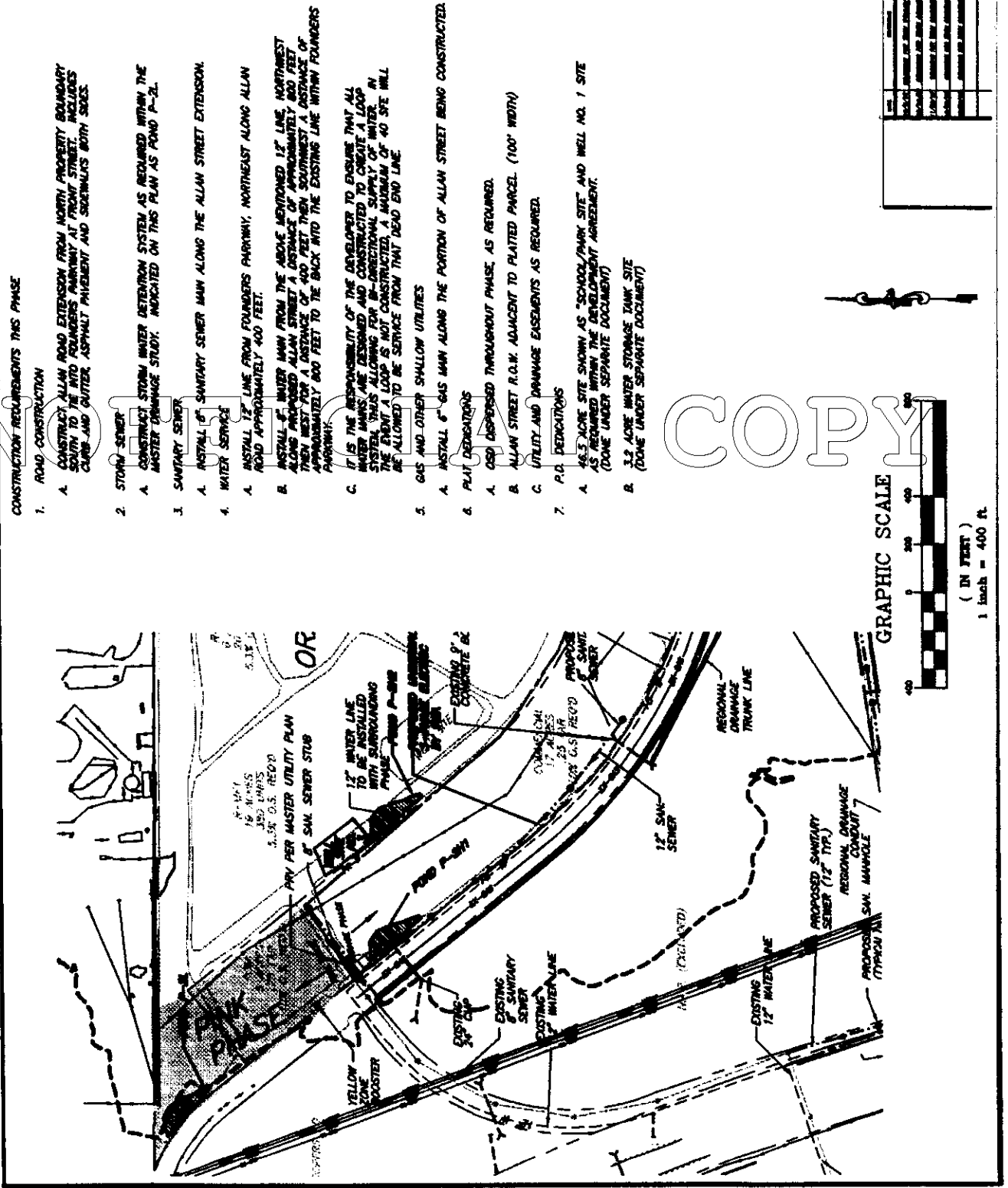


5. GAS AND OTHER SHALLOW UTILITIES.
 - A. 8" GAS MAIN ALONG WOODLAND BLVD. FROM EXISTING ON NORTH SIDE OF FOUNDERS PARKWAY.
6. PLAT DEDICATIONS
 - A. OSD DISPENSED THROUGHOUT PHASE
 - B. UTILITY AND ORNAMENT EASEMENTS AS REQUIRED TO SERVICE PHASE BOTH ON AND OFF PHASE.
 - C. 100 FEET OF R.O.W. FOR THE LENGTH OF WOODLANDS BOULEVARD AS LOCATED ALONG THE SUBMITTED PLAT.
7. P.D. DEDICATIONS
 - A. 46.5 ACRE SITE SHOWN AS "SCHOOL/ PARK SITE" AND WELL NO. 1 SITE (DONE BY SEPARATE DOCUMENT)
 - B. 3.2 ACRE WATER STORAGE TANK SITE (DONE BY SEPARATE DOCUMENT)

- CONSTRUCTION REQUIREMENTS THIS PHASE**
1. ROAD CONSTRUCTION
 - A. CONSTRUCT EAST 1/2 OF WOODLANDS BOULEVARD FROM THE INTERSECTION WITH FOUNDERS PARKWAY SOUTH TO THE PROPOSED INTERSECTION WITH SHESBY. INCLUDES CURB AND GUTTER ON BOTH SIDES, SIDEWALK ON THE EAST SIDE, GRADING TO 10% CROSS SLOPE AND A 10' FOOT ASPHALT MAT. THE WEST SIDE OF THE ROADWAY IS TO BE GRADED TO MATCH GRADES ON THE WEST AND TO MATCH FINISH GRADE AT THE CENTER OF ROADWAY. (TO BE CONSTRUCTED IN ACCORDANCE WITH THE LATEST TOWN OF CASTLE ROCK SECTION FOR A MINOR ARTERIAL STREET.)
 - B. CONSTRUCT SHESBY FROM FRONT STREET TO WOODLANDS BOULEVARD, INCLUDES CURB AND GUTTER BOTH SIDES, SIDEWALK BOTH SIDES AND A 4' MAT.
 2. STORM SEWER
 - A. CONSTRUCT DETENTION POND 1-4 AS SHOWN ABOVE AND WITHIN THE MASTER DRAINAGE STUDY. INCLUDES EARTHEN WALL DISCHARGE PIPE, CONCRETE OUTLET STRUCTURE AND VEGETATION.
 - B. CONSTRUCT THE REGIONAL DRAINAGE CONVEYANCE SYSTEM. THIS INCLUDES:
 - 1) DRAINAGE CHANNEL ALONG THE EXISTING CHANNEL LOCATED ABOVE THE MIDDLE OF THE CRAIN PHASE. THIS CHANNEL SHALL BE CONSTRUCTED/RETAINED TO ACCOMMODATE STORM RUNOFF FLOWS FROM THE OFF-SITE AREAS TO THE EAST, AS WELL AS THE DEVELOPED FLOWS FROM WITHIN THIS PHASE AND THE CRAIN PHASE. THE TOWN RESERVES THE RIGHT TO REQUIRE THE DEVELOPER TO INSTALL CONDUIT IN LIEU OF THE DITCH IF THE FLOWS FROM THE DEVELOPED WARE AND CRAIN PHASES REQUIRE CONTAINMENT. SEE MASTER DRAINAGE STUDY FOR CHANNEL AND/OR CONDUIT DESIGN. (THIS CHANNEL IS TO BE ABANDONED AND CONSTRUCTED BY SUBSEQUENT DEVELOPER)
 - 2) DRAINAGE CONDUIT ALONG AND WITHIN THE WOODLANDS BLVD. R.O.W. FROM THE MIDDLE ACCESS POINT ALONG WOODLANDS BLVD. SOUTH TO THE INTERSECTION OF WOODLANDS BLVD. AND SHESBY. THIS CONDUIT IS TO BE BURIED INTO THE DRAINAGE CONDUIT THAT IS TO BE INSTALLED BY THE TOWN OF CASTLE ROCK.
 3. SANITARY SEWER
 - A. 8" SANITARY SEWER TRUNK LINE ALONG WOODLANDS BOULEVARD, FROM THE MIDDLE ACCESS POINT ON THE NORTH, SOUTH TO THE SHESBY CONNECTOR
 - B. 12" SANITARY SEWER TRUNK LINE ALONG SHESBY, WEST FROM WOODLANDS BOULEVARD TO FRONT STREET, THEN NORTH ALONG FRONT STREET TO THE EXISTING 12" LINE THAT PASSES UNDER I-24. INCLUDES P.V. AT THE N.
 - C. 12" SANITARY SEWER LINE TO BE INSTALLED WITHIN THE FINISHING SCHEME FROM WOODLANDS TO THE EASTERN PROPERTY LINE. ACTUAL ALIGNMENT TO BE DETERMINED AT TIME OF PLATING. WITHIN THE CHAIN AND/OR WHITE PHASE AS NECESSARY, REGARDLESS OF USE OR INSTALLATION, THE FINISHING PHASE WILL BE REQUIRED TO SUPPLY THE TOWN WITH THE APPROPRIATE EASEMENTS TO ACCOMMODATE THE INSTALLATION OF THIS LINE.
 4. WATER LINE
 - A. INSTALL 20" WATER MAIN ALONG WOODLANDS BOULEVARD, FROM EXISTING 20" LINE ON NORTH SIDE OF FOUNDERS, SOUTH TO SECOND ACCESS POINT INCLUDES P.V. AT THE N.
 - B. INSTALL 18" WATER LINE FROM WOODLANDS BOULEVARD, WEST ALONG THE R.O.W. OF SHESBY TO THE INTO THE EXISTING 18" LINE LOCATED ON THE EAST SIDE OF FRONT STREET. INCLUDES 18" P.V.
 - C. IT IS THE RESPONSIBILITY OF THE DEVELOPER TO ENSURE THAT ALL WATER MAINS ARE DESIGNED AND CONSTRUCTED TO CREATE A LOOP SYSTEM THAT ALLOWING FOR BI-DIRECTIONAL SUPPLY OF WATER. IN THE EVENT A LOOP IS NOT CONSTRUCTED, A MAINLINE OF 40" SIZE WILL BE ALLOWED TO BE SERVICE FROM THAT DEAD END LINE.

DATE	12/24/96
BY	RET A CRAIN
CHECKED BY	RET A CRAIN
SCALE	AS SHOWN
TITLE	PHASING PLAN
PROJECT NO.	1789
SHEET NO.	48
TOTAL SHEETS	56

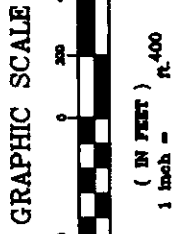
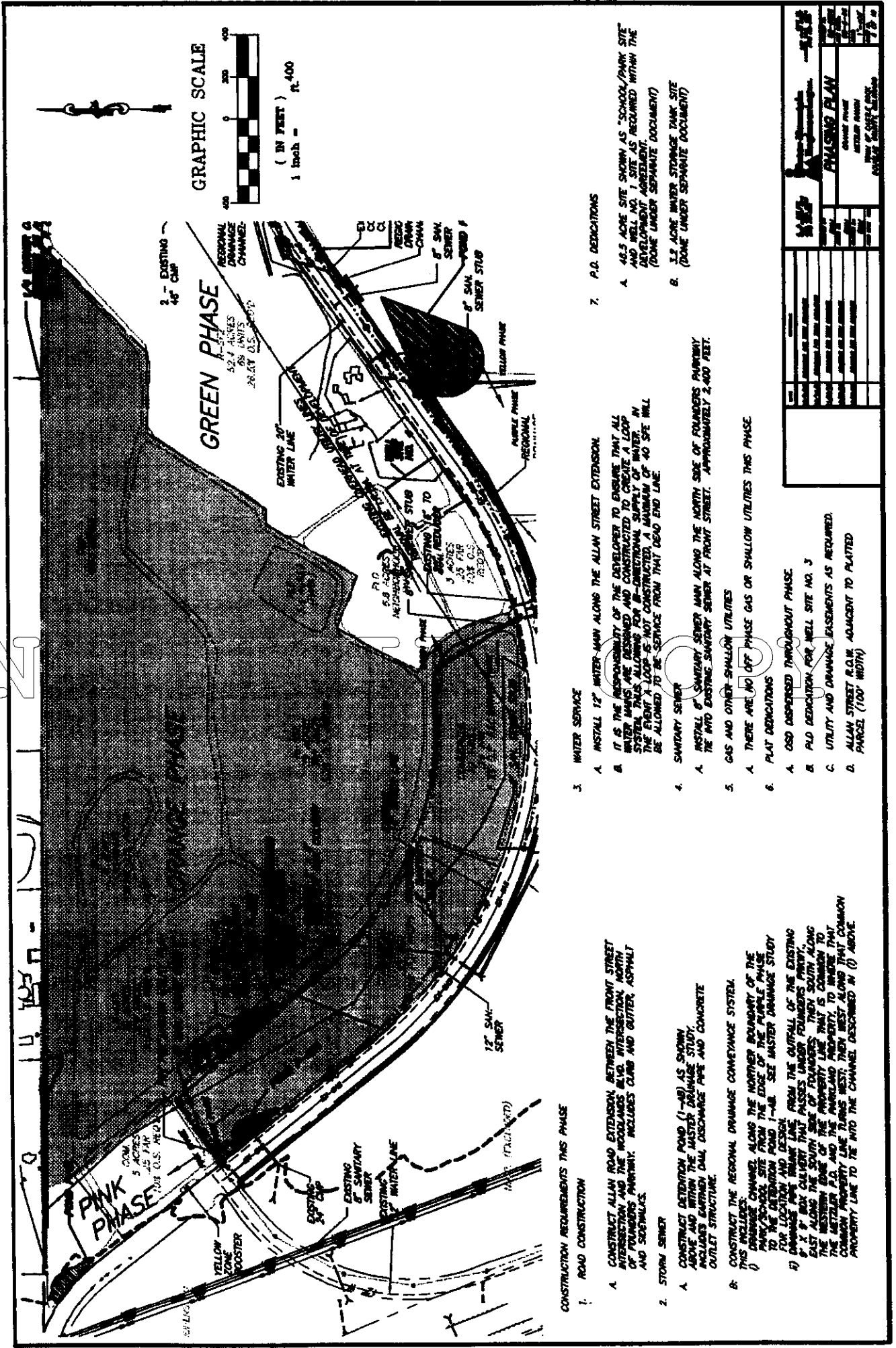
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UN



CONSTRUCTION REQUIREMENTS THIS PHASE

1. ROAD CONSTRUCTION
 - A. CONSTRUCT ALLAN ROAD EXTENSION BETWEEN THE FRONT STREET INTERSECTION AND THE WOODLANDS BLVD. INTERSECTION, NORTH OF FOUNDERS PARKWAY. INCLUDES CURB AND GUTTER, ASPHALT AND SIDEWALKS.
2. STORM SEWER
 - A. CONSTRUCT DETENTION POND (1-48) AS SHOWN ABOVE AND WITHIN THE MASTER DRAINAGE STUDY. INCLUDES EARTHEN DAM, DISCHARGE PIPE AND CONCRETE OUTLET STRUCTURE.
 - B. CONSTRUCT THE REGIONAL DRAINAGE CONVEYANCE SYSTEM. THIS INCLUDES:
 - (1) CONSTRUCT CHANNEL ALONG THE NORTHER BOUNDARY OF THE PINK PHASE SITE FROM THE EDGE OF THE PINK PHASE TO THE INTERSECTION POND 1-48. SEE MASTER DRAINAGE STUDY FOR LOCATION AND DESIGN.
 - (2) CONSTRUCT 8" X 8" BOX CULVERT THAT PASSES UNDER FOUNDERS PARKWAY, EAST ALONG THE SOUTH SIDE OF THE PROPERTY LINE THAT IS COMMON TO THE HETZLER P.D. AND THE MARSHLAND PROPERTY, TO WHERE THAT COMMON PROPERTY LINE TURNS WEST; THEN WEST ALONG THAT COMMON PROPERTY LINE TO THE INTO THE CHANNEL DESCRIBED IN (1) ABOVE.

3. WATER SERVICE

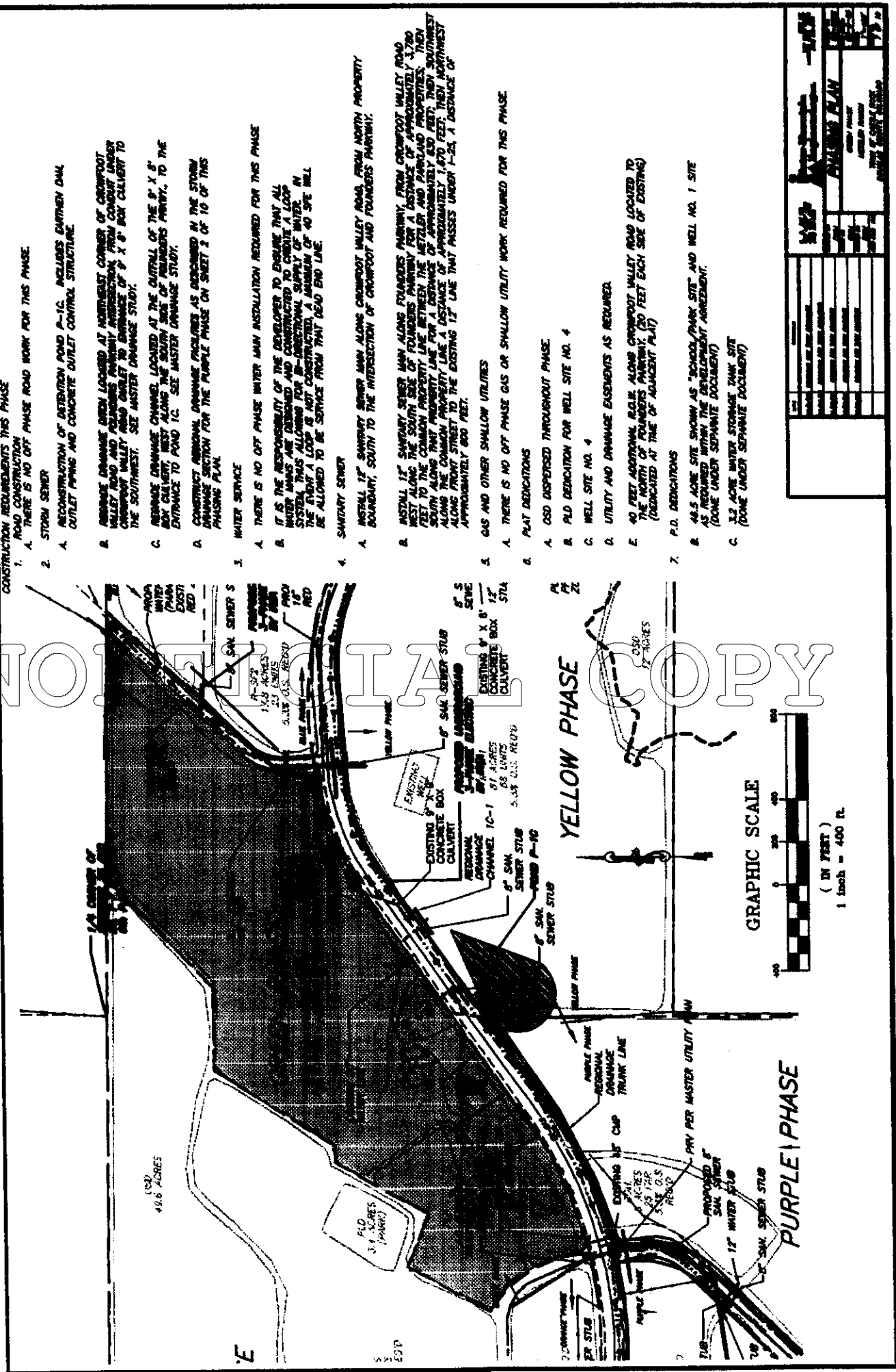
- A. INSTALL 12" WATER MAIN ALONG THE ALLAN STREET EXTENSION.
 - B. IT IS THE RESPONSIBILITY OF THE DEVELOPER TO ENSURE THAT ALL WATER MAINS ARE DESIGNED AND CONSTRUCTED TO CREATE A LOOP SYSTEM THAT ALLOWING FOR B-CONSTRUCTION SUPPLY OF WATER. THE FRONT A LOOP IS NOT CONSTRUCTED, A MINIMUM OF 40 SFE WILL BE ALLOWED TO BE SERVICE FROM THAT DEAD END LINE.
4. SANITARY SEWER
 - A. INSTALL 8" SANITARY SEWER MAIN ALONG THE NORTH SIDE OF FOUNDERS PARKWAY TO THE INTO EXISTING SANITARY SEWER AT FRONT STREET. APPROXIMATELY 2,400 FEET.
 5. GAS AND OTHER SHALLOW UTILITIES
 - A. THERE ARE NO OFF PHASE GAS OR SHALLOW UTILITIES THIS PHASE.
 6. PLAT DEDICATIONS
 - A. OSD DISPERSED THROUGHOUT PHASE.
 - B. P.D. DEDICATION FOR WELL SITE NO. 3
 - C. UTILITY AND DRAINAGE EASEMENTS AS REQUIRED.
 - D. ALLAN STREET R.O.W. ADJACENT TO PLATTED PARCEL (100' WIDTH)

7. P.D. DEDICATIONS

- A. 48.5 ACRE SITE SHOWN AS "SCHOOL/PARK SITE" AND WELL NO. 1 SITE AS REQUIRED WITHIN THE DEVELOPMENT AGREEMENT. (DONE UNDER SEPARATE DOCUMENT)
- B. 3.2 ACRE WATER STORAGE TANK SITE (DONE UNDER SEPARATE DOCUMENT)

NO.	DESCRIPTION	DATE	BY
1	PRELIMINARY PLAN		
2	FINAL PLAN		
3	CONTRACT PLAN		
4	AS-BUILT PLAN		
5	REVISION		
6	REVISION		
7	REVISION		
8	REVISION		
9	REVISION		
10	REVISION		

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 B1396 - P1793 - \$280.00 - 52/ 56

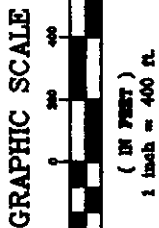
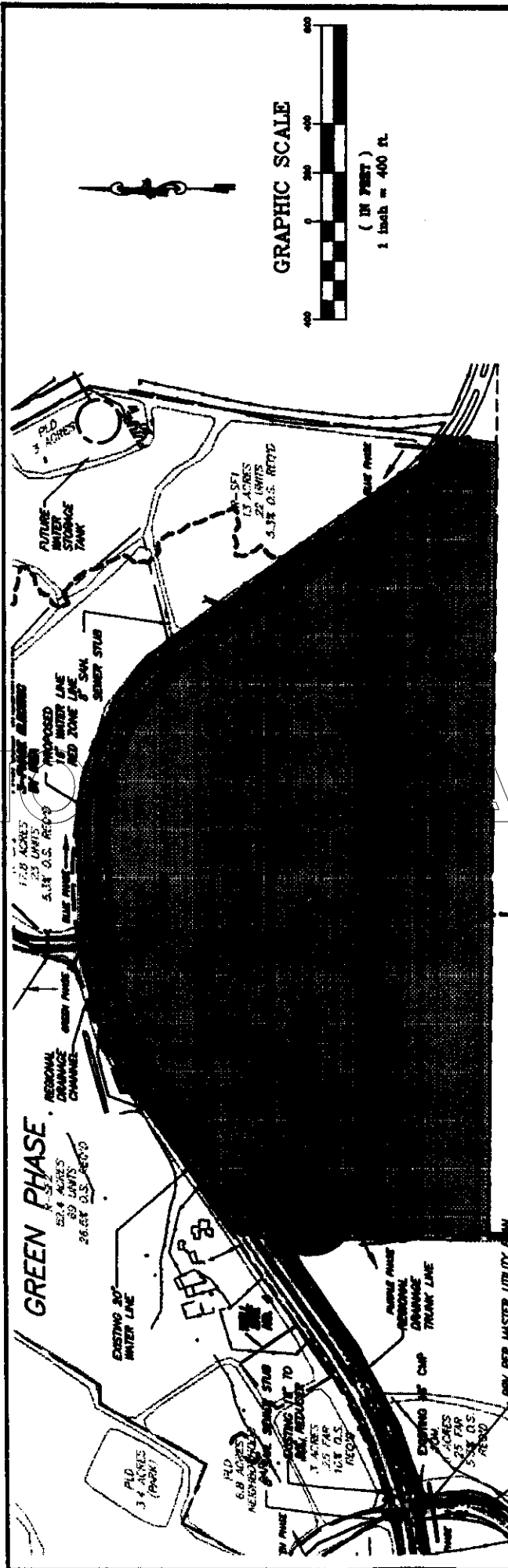


CONSTRUCTION REQUIREMENTS THIS PHASE

1. ROAD RECONSTRUCTION
 - A. THERE IS NO OFF PHASE ROAD WORK FOR THIS PHASE.
2. STORM SEWER
 - A. RECONSTRUCTION OF DETENTION POND P-1C, INCLUDES EARTHEN DAM, OUTLET PILING AND CONCRETE OUTLET CONTROL STRUCTURE.
 - B. REVERSE DRAINAGE DITCH LOCATED AT NORTHEAST CORNER OF CROWFOOT VALLEY ROAD AND FOUNDERS PARKWAY INTERSECTION FROM CONDUIT UNDER CROWFOOT VALLEY ROAD DUCT TO SURFACE OF 8' X 8' BOX CULVERT TO THE SOUTHWEST. SEE MASTER DRAINAGE STUDY.
 - C. REVERSE DRAINAGE CHANNEL LOCATED AT THE OUTFALL OF THE 8' X 8' BOX CULVERT, WEST ALONG THE SOUTH SIDE OF FOUNDERS PARKWAY, TO THE ENTRANCE TO POND 1C. SEE MASTER DRAINAGE STUDY.
 - D. CONSTRUCT REMOVAL DRAINAGE CHANNELS AS DESCRIBED IN THE STORM DRAINAGE SECTION FOR THE PURPLE PHASE ON SHEET 2 OF 10 OF THIS PHASING PLAN.
3. WATER SERVICE
 - A. THERE IS NO OFF PHASE WATER MAIN INSTALLATION REQUIRED FOR THIS PHASE.
 - B. IT IS THE RESPONSIBILITY OF THE DEVELOPER TO ENSURE THAT ALL WATER MAINS ARE DESIGNED AND CONSTRUCTED TO CREATE A LOOP SYSTEM, THIS ALLOWING FOR BI-DIRECTIONAL SUPPLY OF WATER. IN THE EVENT A LOOP IS NOT CONSTRUCTED, A MAXIMUM OF 40 SFE WILL BE ALLOWED TO BE SERVICE FROM THAT DEAD END LINE.
4. SANITARY SEWER
 - A. INSTALL 12" SANITARY SEWER MAIN ALONG CROWFOOT VALLEY ROAD FROM NORTH PROPERTY BOUNDARY, SOUTH TO THE INTERSECTION OF CROWFOOT AND FOUNDERS PARKWAY.
 - B. INSTALL 12" SANITARY SEWER MAIN ALONG FOUNDERS PARKWAY FROM CROWFOOT VALLEY ROAD WEST TO THE SOUTH SIDE OF FOUNDERS PARKWAY FOR A DISTANCE OF APPROXIMATELY 1,700 FEET TO THE COMMON PROPERTY LINE BETWEEN THE METZLER AND PARKLAND PROPERTIES. THEN TURN EAST TO THE COMMON PROPERTY LINE FOR A DISTANCE OF APPROXIMATELY 630 FEET, THEN SOUTHWEST ALONG THE COMMON PROPERTY LINE A DISTANCE OF APPROXIMATELY 1,470 FEET, THEN NORTHWEST ALONG FRONT STREET TO THE EXISTING 12" LINE THAT PASSES UNDER I-25, A DISTANCE OF APPROXIMATELY 600 FEET.
5. GAS AND OTHER SHALLOW UTILITIES
 - A. THERE IS NO OFF PHASE GAS OR SHALLOW UTILITY WORK REQUIRED FOR THIS PHASE.
6. PLAT DEDICATIONS
 - A. OSD DISPERSED THROUGHOUT PHASE.
 - B. PLD DEDICATION FOR WELL SITE NO. 4
 - C. WELL SITE NO. 4
 - D. UTILITY AND DRAINAGE EASEMENTS AS REQUIRED.
 - E. 40 FEET ADDITIONAL ROW ALONG CROWFOOT VALLEY ROAD LOCATED TO THE NORTH OF FOUNDERS PARKWAY, 100 FEET EACH SIDE OF EXISTING (DEDICATED AT TIME OF ADJACENT PLAT)
7. P.D. DEDICATIONS
 - A. 46.5 ACRE SITE SHOWN AS "SCHOOL/PARK SITE" AND WELL NO. 1 SITE AS REQUIRED WITHIN THE DEVELOPMENT AGREEMENT. (DONE UNDER SEPARATE DOCUMENT)
 - B. 3.2 ACRE WATER STORAGE TANK SITE (DONE UNDER SEPARATE DOCUMENT)

PHASING PLAN	
DATE	12/24/96
PROJECT	RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
SCALE	1" = 400'
BY	[Signature]
CHECKED BY	[Signature]
DATE	12/24/96

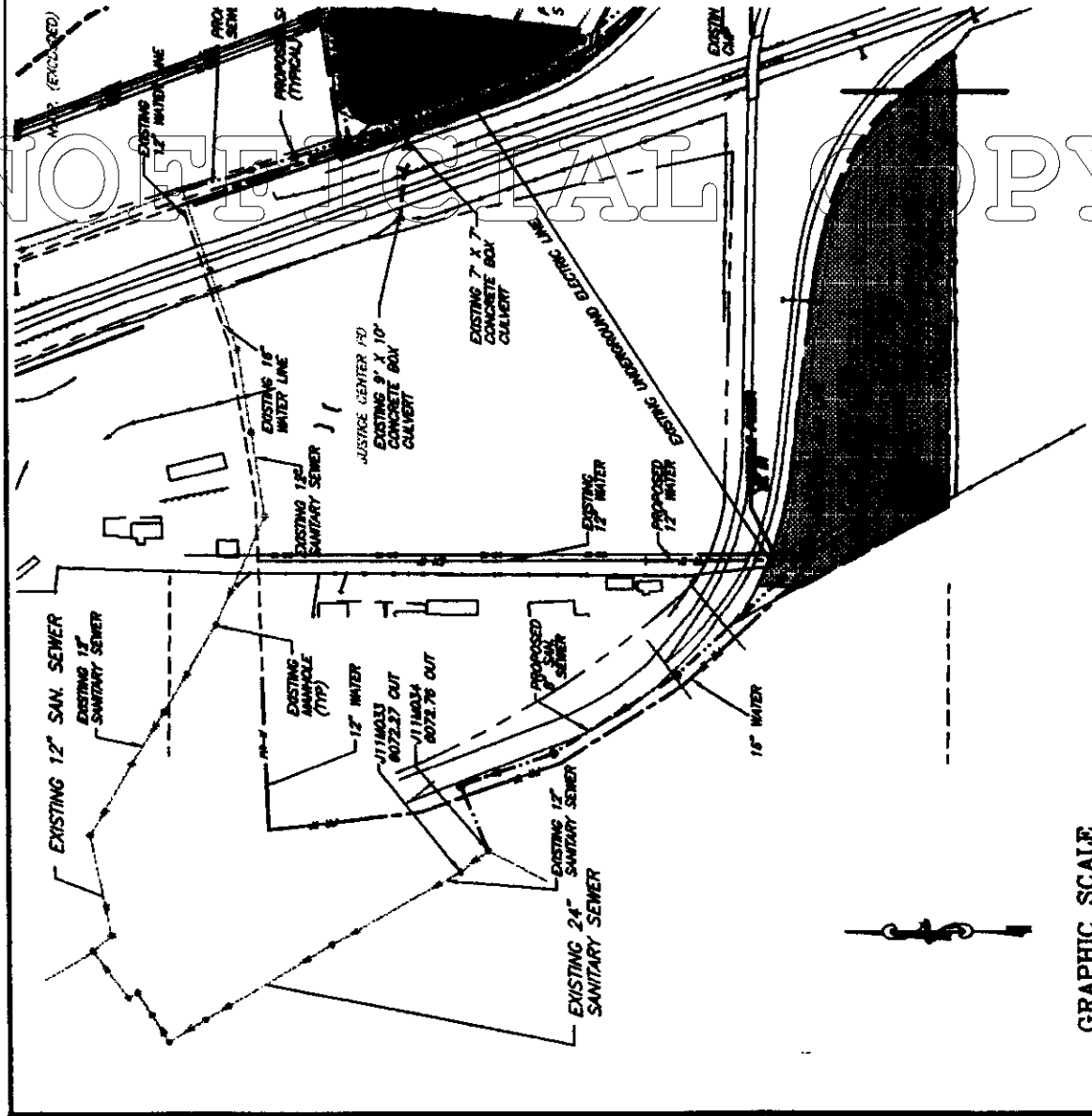
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 B1396 - P1795 - \$280.00 - 54/ 56



- CONSTRUCTION REQUIREMENTS THIS PHASE**
- ROAD CONSTRUCTION
 - THERE ARE NO ROAD IMPROVEMENTS REQUIRED THIS PHASE
 - STORM SEWER
 - RECONSTRUCTION OF DETENTION ROAD R-1C, INCLUDES EXISTING DAM, OUTLET PIPING AND CONCRETE OUTLET CONTROL STRUCTURE.
 - REARAGE DRAINAGE DITCH LOCATED AT NORTHEAST CORNER OF CROWFOOT VALLEY ROAD AND FOUNDERS PARKWAY INTERSECTION, FROM CONDUIT UNDER CROWFOOT VALLEY ROAD OUTLET TO ENTRANCE OF 8' X 8' BOX CULVERT TO THE SOUTHWEST. SEE MASTER DRAINAGE STUDY.
 - REARAGE DRAINAGE CHANNEL LOCATED AT THE OUTFALL OF THE 8' X 8' BOX CULVERT, WEST ALONG THE SOUTH SIDE OF FOUNDERS PARKWAY, TO THE ENTRANCE TO POND 1C. SEE MASTER DRAINAGE STUDY.
 - CONSTRUCT REGIONAL DRAINAGE FACILITIES AS DESCRIBED IN THE STORM DRAINAGE SECTION FOR THE PURPLE PHASE ON SHEET 2 OF 10 OF THIS PHASING PLAN.
 - WATER SERVICE
 - INSTALL 12" WATER MAIN FROM THE NORTH PROPERTY LINE, SOUTH ALONG CROWFOOT VALLEY ROAD PARALLEL TO THE EXISTING 30" WATER MAIN TO THE INTERSECTION OF CROWFOOT VALLEY ROAD AND FOUNDERS PARKWAY, THEN EAST SOUTHWEST ALONG FOUNDERS PARKWAY TO THE EAST PROPERTY BOUNDARY. 18" LINE IS TO BE TIED TO THE EXISTING 30" LINE ALONG CROWFOOT VALLEY ROAD, NEAR THE NORTH PROPERTY BOUNDARY. THIS IS THE RED ZONE FEEDER LINE.
 - IT IS THE RESPONSIBILITY OF THE DEVELOPER TO ENSURE THAT ALL WATER MAINS ARE DESIGNED AND CONSTRUCTED TO CREATE A LOOP SYSTEM, THUS ALLOWING FOR BI-DIRECTIONAL SUPPLY OF WATER. IN THE EVENT A LOOP IS NOT CONSTRUCTED, A MAXIMUM OF 40 FEET WILL BE ALLOWED TO BE SERVICE FROM THAT DEAD END LINE.
 - SANITARY SEWER SERVICE
 - INSTALL 12" SANITARY SEWER MAIN ALONG FOUNDERS PARKWAY, FROM EAST PROPERTY BOUNDARY WEST ALONG THE SOUTH SIDE OF FOUNDERS PARKWAY FOR A DISTANCE OF APPROXIMATELY 600 FEET TO THE COMMON PROPERTY LINE BETWEEN THE METZLER AND FRANKLAND PROPERTIES, THEN SOUTH ALONG THAT PROPERTY LINE FOR A DISTANCE OF APPROXIMATELY 800 FEET, THEN SOUTHWEST ALONG THE COMMON PROPERTY LINE FOR A DISTANCE OF APPROXIMATELY 1,400 FEET, THEN NORTHWEST ALONG FRONT STREET TO THE EXISTING 12" LINE THAT PASSES UNDER I-25, A DISTANCE OF APPROXIMATELY 800 FEET.
 - GAS AND OTHER SHALLOW UTILITIES
 - THERE ARE NO OFF PHASE GAS OR SHALLOW UTILITIES THIS PHASE
 - PLAT DEDICATIONS
 - OSD DISPERSED THROUGHOUT PHASE.
 - UTILITY AND DRAINAGE EASEMENTS AS REQUIRED
 - P.D. DEDICATIONS
 - 46.5 ACRE SITE SHOWN AS "SCHOOL/PARK SITE" AND WELL NO. 1 SITE THE NORTH OF FOUNDERS PARKWAY, (30 FEET EACH SIDE OF EXISTING) (DONE UNDER SEPARATE DOCUMENT)
 - 3.0 ACRE SITE FOR THE WATER STORAGE TANK AS REQUIRED WITHIN THE OSRD GRANT AGREEMENT. (DONE UNDER SEPARATE DOCUMENT)

PHASING PLAN	
NO.	DESCRIPTION
1	GREEN PHASE
2	PURPLE PHASE
3	ORANGE PHASE
4	YELLOW PHASE
5	BLUE PHASE
6	PINK PHASE
7	BROWN PHASE
8	WHITE PHASE
9	GREY PHASE
10	BLACK PHASE

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 B1396 - P1796 - \$280.00 - 55/ 56



CONSTRUCTION REQUIREMENTS THIS PHASE

1. ROAD CONSTRUCTION
 - A. ROAD IMPROVEMENTS TO BE DETERMINED BY TOWN AT TIME OF PLATING.
2. STORM SEWER
 - A. INTERNAL STORM SEWER NETWORK: INCLUDES DRAINAGE SWALES, STORM INLETS, PIPE NETWORKS AND DETENTION PONDS. MUST BE DESIGNED AND CONSTRUCTED IN ACCORDANCE WITH THE TOWN OF CASTLE ROCK CRITERIA.
3. WATER SERVICE
 - A. INSTALL 12" MAIN FROM EXISTING 12" LOCATED NORTH OF PROPERTY WITHIN THE JUSTICE CENTER DEVELOPMENT, SOUTH UNDER STATE HIGHWAY 85 ONTO THIS PHASE BY OWNER AT TIME OF PLAT. INCLUDES BORE UNDER STATE HIGHWAY 85.
 - B. INSTALL 12" MAIN FROM THE 12" LINE DESCRIBED ABOVE, NORTH ALONG STATE HIGHWAY 85 FOR A DISTANCE OF APPROXIMATELY 2,000 FEET, THEN INSTALL A 12" LINE FROM THAT 12" LINE TO THE EAST ALONG JUSTICE WAY FOR A DISTANCE OF APPROXIMATELY 800 FEET TO BE INTO THE EXISTING 12" WATER LINE LOCATED AT OR NEAR THAT POINT.
 - C. IT IS THE RESPONSIBILITY OF THE DEVELOPER TO ENSURE THAT ALL WATER MAINS ARE DESIGNED AND CONSTRUCTED TO CREATE A LOOP SYSTEM, THUS ALLOWING FOR BI-DIRECTIONAL SUPPLY OF WATER. IN THE EVENT A LOOP IS NOT CONSTRUCTED, A MAXIMUM OF 40 FEET WILL BE ALLOWED TO BE SERVICE FROM THAT DEAD END LINE.
4. SANITARY SEWER
 - A. INSTALL 12" SANITARY SEWER MAIN FROM NORTHWEST PROPERTY CORNER, NORTH ALONG STATE HIGHWAY 85, A DISTANCE OF APPROXIMATELY 1,000 FEET, THEN TO SANITARY SEWER DISTANCE APPROXIMATELY 1,000 FEET TO THE EAST OF JUSTICE WAY, TO SANITARY SEWER AS-BUILT DRAWINGS FOR MANHOLE LOCATION AND INVERT ELEVATIONS.
5. GAS AND SHALLOW UTILITIES
 - A. INSTALL 6" GAS MAIN FROM EXISTING GAS LINE LOCATED TO THE NORTH WITHIN THE JUSTICE CENTER DEVELOPMENT, SOUTH UNDER STATE HIGHWAY 85 ONTO THIS PHASE BY OWNER AT TIME OF PLAT. INCLUDES BORE UNDER STATE HIGHWAY 85.
6. PLAT DEDICATIONS
 - A. OGD DISPERSED THROUGHOUT SITE.
 - B. UTILITY AND DRAINAGE EASEMENTS AS REQUIRED.
7. P.D. DEDICATIONS
 - A. 44.5 ACRE SITE SHOWN AS "SCHOOL/PARK SITE" AND WELL NO. 1 SITE AS REQUIRED WITHIN THE DEVELOPMENT AGREEMENT. (DONE UNDER SEPARATE DOCUMENT)
 - B. 3.2 ACRE SITE FOR WATER STORAGE TANK. (DONE UNDER SEPARATE DOCUMENT)

GRAPHIC SCALE



(IN FEET)
 1 inch = 400 ft.

PHASING PLAN	
NO.	DATE
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LEGAL DESCRIPTION - PROPOSED WATER TANK SITE

A TRACT OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER (SE 1/4) OF SECTION 25, TOWNSHIP 7 SOUTH, RANGE 67 WEST OF THE 6TH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO AND BEING A PART OF THAT PARCEL DESCRIBED IN THE INSTRUMENT RECORDED IN BOOK 903 AT PAGE 1006 OF THE OFFICIAL RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER'S OFFICE, SAID TRACT BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SE 1/4 OF SECTION 25, THENCE S 89°24'11" E, ALONG THE NORTH LINE OF SAID SE 1/4, A DISTANCE OF 295.00 FEET TO THE EAST LINE OF SAID PARCEL DESCRIBED IN THE INSTRUMENT RECORDED IN BOOK 903 AT PAGE 1006 OF THE OFFICIAL RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER'S OFFICE; THENCE S 28°54'11" E, ALONG SAID EAST LINE, A DISTANCE OF 775.00 FEET TO THE POINT OF BEGINNING OF THE PARCEL DESCRIBED HEREIN:

- 1) THENCE, CONTINUING ALONG SAID EAST LINE, S 28°54'11" E, A DISTANCE OF 375.00 FEET TO AN EASTERLY CORNER OF SAID PARCEL DESCRIBED IN THE INSTRUMENT RECORDED IN BOOK 903 AT PAGE 1006 OF THE OFFICIAL RECORDS OF THE DOUGLAS COUNTY CLERK AND RECORDER'S OFFICE;
- 2) THENCE, CONTINUING ALONG THE EAST LINE OF SAID PARCEL, S 09°05'49" W, A DISTANCE OF 275.00 FEET;
- 3) THENCE, DEPARTING SAID EAST LINE, N 80°54'11" W, A DISTANCE OF 157.97 FEET;
- 4) THENCE N 19°01'09" W, A DISTANCE OF 501.90 FEET;
- 5) THENCE N 61°05'49" E, A DISTANCE OF 207.63 FEET TO THE POINT OF BEGINNING, CONTAINING 2.942 ACRES, MORE OR LESS.

BEARINGS USED IN THIS DESCRIPTION ARE BASED ON THE NORTH LINE OF SAID SE 1/4 SECTION 25 BEING S 89°24'11" E.

Prepared for: The TOWN OF CASTLE ROCK
680 WILCOX STREET
CASTLE ROCK, CO 80104

Prepared by: ENGINEERING SURVEYS, INC.
5564 S. PRINCE STREET
LITTLETON, CO 80120

SP

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**FIRST AMENDMENT TO METZLER RANCH
DEVELOPMENT AGREEMENT**

DC9836533

DATE: January 8, 1998.

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

ROBERT F. METZLER and **ROSEMARY M. METZLER**, P.O. Box 85, Castle Rock, Colorado 80104 ("Metzler"), and **VISTA VILLAGE LLC**, a Colorado limited liability company, 305 Madison Street, Denver, Colorado 80206 ("Vista").

RECITALS:

A. Whereas, Town and Developer are parties to the Metzler Ranch Development Agreement dated October 24, 1996, recorded on December 24, 1996 at Reception No. 9672147 in Book 1396 at Page 1742 of the public records of Douglas County, Colorado referred to herein as the "Development Agreement".

B. Vista has concurrently obtained from Town, Plat approval for Metzler Ranch Filing No. 1 and the Town and Vista have entered into the Metzler Ranch Filing No. 1 Subdivision Improvements Agreement dated December 11, 1997, recorded on 5-13-98, at Reception No. 9836531 in Book at Page of the public records of Douglas County, Colorado (the " Filing No. 1 SIA").

C. The Filing No. 1 SIA modifies development obligations previously set forth in the Development Agreement and the parties desire to harmonize the Development Agreement and Filing No. 1 SIA by this amendment.

COVENANTS:

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS CONTAINED HEREIN, THE PARTIES AGREE AS FOLLOWS:

Section 1. Amendment. Section 5.09 of the Development Agreement is amended in its entirety to read as follows:

5.09 Waterline Extension. Concurrently with the Start Date (as defined in 5.08), Vista shall pay to Town \$250,000 towards construction of the offsite portion of the Woodlands Boulevard waterline extension, provided that the sum of \$250,000 shall be reduced in accordance with section 12 of the Filing No. 1 SIA. Owner shall have no other financial or

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development obligation towards the offsite portion of the Woodlands Boulevard waterline, provided Vista shall produce a preliminary design for the alignment of the Woodlands Boulevard extension south of the Property to Scott Road.

Section 5.11 is superseded by section 11 of the Filing No. 1 SIA.

Section 6.01 is amended in its entirety to read as follows:

6.01 Exit 184 Interchange Participation. Traffic from development on the Property will impact the Exit 184 I-25 Interchange (the "Interchange"). Based upon traffic impact assessments of the Property undertaken by the Town's transportation consultants, the Property is allocated \$300,000 of the cost of the projected improvements to the Interchange (the "Interchange Assessments"). The Interchange Assessments are allocated to the nine (9) Phases (the "Phase Assessment") as follows:

<u>Development Parcel</u>	<u>Assessment</u>
Pink	\$ 7,000
Orange	Metzler - Parcel A 10,000 ¹
	Vista 40,000
Green	33,000
Purple	35,000
White	35,000
Cyan	35,000
Yellow	35,000
Blue	35,000
Red	<u>35,000</u>
	\$ 300,000

The Phase Assessment shall be payable in full at the time the first Plat within such Phase, or portion thereof, is approved by Town. Interest on the Phase Assessments shall accrue at 9% per annum, commencing May

¹ The designated amounts shall be due with the first Plat within the respective areas of the Phase.

1, 1998, and shall be payable with the Phase Assessment. Receipt by Town of the required Phase Assessment shall be a condition precedent to the obligation of the Town's authorized representatives to execute and approve the Plat and to record or authorize its recordation in the public records of Douglas County, Colorado. Any Phase Assessment may be released by prepayment at any time. Upon the payment of the Phase Assessment together with interest, the Town shall execute and record such documents as are necessary to release such Phase from the Phase Assessment. The Interchange Assessments shall not constitute a personal or direct obligation of the Owners, and Town shall have no remedy or right of action against Owners for monetary damages in the event of non-compliance of the provision of this section 6.01. In the event that a Plat is recorded, inadvertently or otherwise, prior to the receipt by the Town of full payment of the applicable Phase Assessment, the Town may withhold the issuance of any subsequent land use or construction approvals, including grading or building permits, until the required payment for such Plat is paid in full. To the extent that the Interchange Assessments together with interest have not been previously paid in accordance with the preceding provisions, the entire unpaid balance of the Interchange Assessments shall be paid by Vista and Metzlers (in accordance with their respective Phase ownerships) on April 1, 1999. Failure of Owners to make their respective payments on April 1, 1999 shall entitle Town to withhold any subsequent Plat approvals within that portion of the Property owned by the defaulting Owner. A default by one Owner shall not impair the Plat approvals for the non-defaulting Owner. Although the term "assessment" is used in this section 6.01 to describe the financial obligation imposed against the Property, the parties acknowledge that the assessment provided herein is a contractual exaction, and that the provisions of the Town Regulations and state law applicable to the imposition of assessments under a local or special improvement district are inapplicable.

UNOFFICIAL COPY

Robert F. Metzler
Robert F. Metzler

Rosemary M. Metzler
Rosemary M. Metzler

STATE OF COLORADO)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 3rd
day of March, 1997 by Robert F. Metzler and Rosemary M. Metzler.

Witness my official hand and seal.
My commission expires: 10-31-98.

(SEAL)

Judy Hostetler
Notary Public

VISTA VILLAGE LLC,
a Colorado limited liability company.

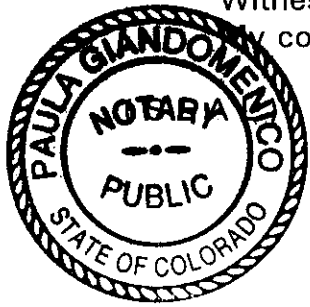
UNOFFICIAL COPY
By: [Signature] JUDY HOSTETLER
NOTARY PUBLIC
STATE OF COLORADO

Its: Manager

STATE OF COLORADO)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 9th
day of March, 1997 by Arthur Kleinsten as Manager
for Vista Village LLC, a Colorado limited liability company.

Witness my official hand and seal.
My commission expires: 12/24/2001



Paula Giandomenico
Notary Public