

MILESTONE COMMERCIAL
DEVELOPMENT AGREEMENT

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DATE: December 28, 1994

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

N-ONE LTD., a Colorado limited partnership, and CROWFOOT CASTLE ROCK, LTD., a Colorado limited partnership, c/o Park Land Company, 7600 E. Arapahoe Road, Suite 211, Englewood, CO 80112 (collectively "Owner").

RECITALS:

A. Owner has record title to approximately 85 acres of vacant land within the Town of Castle Rock described in the attached *Exhibit 1* (the "Property"). The Property, (together with other properties) was annexed to the Town as part of the "Metzler Ranch Annexations" in November, 1984. The Property is zoned Planned Development as part of the "Milestone P.U.D."

B. In order for Owner to develop the Property, it is necessary for utilities, streets and other infrastructure to be extended or upgraded in order that municipal services may be provided to the Property in accordance with Town standards. By this agreement, the parties intend to allocate the burden of development of such infrastructure between Town and Owner, and to provide a mechanism by which Owner may recover a portion of its infrastructure development costs. Under the terms of existing development agreements affecting the Property, Owner has the right to obtain such recovery from certain municipal revenues generated from development on the Property.

C. Owner acknowledges that this agreement places reasonable conditions and requirements on development of the Property, and that development in accordance with this agreement will protect the public health, safety and welfare of the citizens of the Town of Castle Rock.

COVENANTS:

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

Section 1. Defined Terms. Unless the context expressly indicates to the contrary, the following words when capitalized in the text shall have the meanings indicated:

Agreement - This Milestone Commercial Development Agreement, and any amendments to the

Agreement.

Annexation Contract - The Annexation and Development Contract between the Town of Castle Rock and Park Funding Corp. (Metzler Ranch Annexations) dated November 15, 1984, recorded on December 26, 1984 beginning in Book 555 at Page 522, and re-recorded on February 20, 1985 beginning in Book 562 at Page 517.

Charter - The Home Rule Charter of the Town, as amended.

Code - The Castle Rock Municipal Code, as amended.

Development Exactions - The fees and charges imposed by Town under the Town Regulations on development, including per unit charges for capital plant investment, such as water and wastewater system development fees currently imposed under 13.12.080 of the Code, but excluding the renewable water fee imposed under 13.12.085 of the Code.

Facilities - The infrastructure required to be constructed by and dedicated to Town for maintenance under the Town Regulations in order to extend 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.

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.

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 proposed development; or (ii) the minimum size or capacity 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.

Plat - A final subdivision plat of any portion of the Property.

Property - The real property described in the attached *Exhibit 1*.

Public Utilities - The infrastructure necessary to extend services (other than Municipal Services) to the Property, which are provided by a public or quasi-public utilities including natural gas, electricity and cable television.

P.U.D. Ordinance - Ordinance No. 84-26 of the Town of Castle Rock (Metzler Ranch P.U.D.)

finally approved on November 15, 1984 and recorded on December 26, 1984 in Book 555 at page 509.

Site Plan - The Metzler Ranch P.U.D. preliminary site plan recorded August 7, 1987 at reception no. 873298.

Termination Agreement - The Agreement to Terminate Intergovernmental Agreement between the Town of Castle Rock, the Villages at Castle Rock Metropolitan District No. 8, Owner, and certain other third party property owners dated December 15, 1988 and recorded beginning in Book 833 at Page 1034 of the public records of Douglas County, Colorado.

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 and ordinances and resolutions imposing Development Exactions, as the same may be amended from time to time and applied uniformly throughout the Town. Reference to Town Regulations shall mean the Town Regulations in effect at the time of application.

Water Rights - The legal rights to groundwater associated with the Property described with particularity in the attached *Exhibit 2*.

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

Section 2. Applicability. This Agreement shall supersede any conflicting provisions in the Annexation Contract or the Termination Agreement, as applicable to the Property. Subject to the further conditions and provisions of section 11, below, this Agreement supersedes sections 4.3 and 4.4 of the Termination Agreement in their entirety. Development of the Property shall be governed by this Agreement, the P.U.D. Ordinance, land use approvals subsequently given the Property, (including specifically any terms and conditions to subdivision plat approval and the terms of any applicable subdivision improvements agreement), Town Regulations and any applicable state or federal laws and regulations.

Section 3. Facilities Development. The parties have identified the Facilities which must be developed to service commercial development on the Property. "Facilities", as that term is used in this Agreement, refers to that infrastructure classified as "wholesale facilities" in the Termination Agreement (as to water and wastewater improvements), generally defined as those improvements which, in addition to serving the Property, may service other properties or developments within the Town. Owner acknowledges that in addition to the Facilities, public improvements will be required by Town to be constructed as part of site specific development approvals for the Property, consisting principally of on-site public improvements.

The Facilities and cost estimates are described in the attached *Exhibit 3*. The parties acknowledge that the Facilities description in *Exhibit 3* is subject to revision and refinement as the specific improvements are designed and constructed, and such modifications which are mutually acceptable to the parties shall not impair the applicability and enforceability of this Agreement.

The provisions of this Agreement concerning Facilities development may be invoked by Owner by giving written notice to Town that Owner has obtained *bona fide* commitments towards development of at least 50,000 square feet of retail space on the Property and that Owner intends to proceed with Facilities development (the "Development Notice"). With the Development Notice, Owner shall permit Town to inspect and review the development commitments and financial information from the developer(s) demonstrating the financial ability of the developer to meet its obligations. Town shall acknowledge in writing its acceptance of the Development Notice within 30 days of receipt unless the information presented does not establish, to a reasonable degree, the *bona fide* nature of the development commitments. With such notice Town shall certify to what extent its financial commitment to Facilities development (determined in accordance with Section 4, below) is supported by then current budget authorization. Thereafter, Town and Owner shall endeavor to complete the designated Facilities in accordance with this Agreement within 240 days of Town's acceptance of the Development Notice, subject to extension or delays due to circumstances beyond the control of the parties.

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Provided further, if Town notifies Owner that Town does not have current budget authorization to participate in funding of the street improvements identified in *Exhibit 3*, Owner, at its option may defer development of such street improvements in accordance with and subject to the following:

- A. The deferred development will not create a public health or safety concern from traffic flows, as reasonably determined by Town based upon traffic projection and engineering;
- B. Owner share of deferred participation is secured with adequate financial surety such as a letter of credit, escrow, or development restrictions, as reasonably determined by Town; and
- C. With respect to the northern 1500 feet of Front Street improvements Owner may satisfy its obligations by constructing the northwest one half of the full arterial section, in which event Town shall retain the obligation to construct the southeast section, and the requirements of A. and B. above shall be inapplicable.

Section 4. Allocation of Development Cost. Based upon the projected utilization of specific Facilities by development on the Property, the parties have allocated financial responsibility for development of the Facilities in accordance with the attached *Exhibit 4*. The estimated cost given for the Facilities in *Exhibit 3* is based upon current preliminary estimates, and the parties' respective financial contribution to Facilities development shall be determined based upon the designated percentage applied against the actual development cost of the Facilities. The anticipated phasing of development of the Facilities is set forth in *Exhibit 5*. A graphic depiction of the location of the Facilities is set forth in *Exhibit 6*.

Town anticipates that its financial participation in the development of the Facilities in accordance with *Exhibit 4* will be met from 1995, 1996 or 1997 year budget and appropriation authority granted by its governing body. Town shall make good faith efforts to make such financial participation, however, the availability of such funds is dependent on subsequent legislative action by the governing body of the Town appropriating such expenditures for the designated purposes. In the event, for whatever reason, Town should fail to budget, appropriate and authorize such expenditures in fiscal years 1995, 1996 or 1997, or any subsequent year to which the development of the Facilities is deferred by unilateral action of Owner or by mutual agreement with Town, this Agreement shall not create any remedy of Owner against Town. In the event of the failure of the Town to budget, appropriate and authorize the expenditure of such funds for Facilities development in fiscal year 1995 and thereafter, Owner, at its option and as its sole recourse may assume Town's financial participation and recover its investment in accordance with section 6, below, subject to Town's satisfaction of or requirements to such recovery, if any, under Article X, Section 20 of the Colorado Constitution which may apply to Facilities other than water and wastewater. Owner shall have no obligation under the Agreement to provide financial surety for development of Town's portion of the Facilities.

Section 5. Development Responsibility. It shall be the responsibility of Owner to construct the Facilities in accordance with Town Regulations provided Town may independently undertake development of the I-25 water loop as designated in *Exhibit 3*. Town shall exercise its power of eminent domain to acquire necessary easements and rights of way, and the associated survey, appraisal, legal and condemnation award (or valuation paid in lieu of condemnation) shall be considered a cost of the respective Facility, subject to the provisions of 6A, below. Provided however, Town, at its expense, shall acquire and pay the applicable condemnation award for relocation of Front Street as graphically depicted on *Exhibit 7*, as reasonably necessary to accommodate development of the Property. The design and specifications of the Facilities must be approved by Town through the public works permitting process. With respect to any Facilities for which Town is obligated to share in the development cost, or to which Owner is entitled to recover a portion of its development cost pursuant to section 6, below, Owner shall submit to Town the proposed construction contracts for the Facilities, and all accompanying exhibits and schedules, prior to final approval and execution by Owner. Should the total payment due contractor under the proposed contract(s), including contingencies, exceed by 10% or more the estimated cost on *Exhibit 3*, Owner, if so requested by Town, shall either submit evidence reasonably satisfactory to Town, that the contract(s) was awarded pursuant to a competitive sealed bid process among three or more qualified bidders, or alternately, thereafter submit the proposal for such competitive bidding. Upon satisfaction

of either of these conditions, Owner shall be authorized to proceed with execution of a final construction contract for the Facilities.

With respect to such Facilities which Town is obligated to fund entirely or share in the development cost as designated "Town Responsibility" in *Exhibit 4*, Town shall reimburse to Owner, Town's percentage of the development cost of the Facilities concurrently with the initial acceptance of the Facilities for maintenance by Town, subject to the conditions and provisions of section 4, above.

Section 6. Recoverable Costs. Owner shall be solely responsible for the development cost of that portion of the Facilities designated in *Exhibit 4* as "Owner Funds with No Recovery". Owner shall also be responsible for the initial funding of the improvements designated "Owner Funds and Recovers" in *Exhibit 4*. The latter classification of costs incurred by Owner together with Owner's cost of development of that portion of the Facilities Town is obligated to fund (designated "Town Responsibility" in *Exhibit 4*) but fails to do so, may be recovered by Owner through Town (subject to the satisfaction of the constitutional requirements referenced in section 4, above) in accordance with section 7, below, subject to the following terms and restrictions:

- A. The development costs of the Facilities shall be the actual construction cost, together with construction loan interest and financing charges, easement acquisition, design, engineering, and other "soft costs", typically capitalized to a public works facility under generally accepted accounting principles (collectively the "Capital Costs") incurred by Owner provided that the soft costs shall not exceed 15% of construction cost. The Capital Costs shall be certified by the Owner or its representatives to the Town, from time to time as incurred, and upon request of Town, reasonable supporting documentation demonstrating the incurrence of the expenditure shall be so provided to Town. Town shall approve or state its objection to the Capital Costs within thirty (30) days of receipt of a complete submission by Owner. Any disputes as to the amount or appropriateness of the inclusion of the line item in the summary of Capital Costs shall be resolved informally between Town administrative staff and its advisors and representatives and consultants of Owner. If thereafter the parties are unable to come to a satisfactory resolution of the dispute, it shall be submitted for binding arbitration in accordance with the Construction Industry Arbitration Rules of the American Arbitration Association;
- B. The Capital Costs of the Facilities designated "Owner Funds and Recovers" in *Exhibit 4*, together with that percentage of the Capital Costs of the Facilities attributed to Town in *Exhibit 4* shall be recoverable by Owner (the "Qualifying Capital Costs").

- C. Owner shall be entitled to interest accrual on the Qualifying Capital Costs at the rate equal to the prime rate charged by Norwest Bank of Denver, Colorado plus two points, as the same may be periodically adjusted by the bank, from time to time with interest commencing accrual with Town's acceptance of the Facilities, which acceptance shall be made in accordance with Town Regulations. The total of the Qualifying Capital Costs and the accrued interest thereon shall constitute the "Recoverable Costs" of Owner subject to recovery in accordance with this section 7, below.

Section 7. Pledged Revenues. Under the Termination Agreement, Owner has the right to undertake development of water and wastewater Facilities, in the event Town declines such responsibility. Town is not able to allocate sufficient financial resources to such capital development, with the return of its investment dependent on the receipt of Development Exactions from Property development. The Termination Agreement provides that Owner may recover its investment in the water and wastewater Facilities from certain of the Development Exactions. The parties desire to expand the category of incremental municipal revenues generated from development on the Property which may be utilized to repay Owner's investment in the Facilities, so that Owner has an opportunity to recover its investment in the Facilities in a reasonable period of time. Accordingly, recoverable Costs shall be paid from the following revenues received by the Town prior to December 31, 2009 from development on the Property only ("Pledged Revenues"):

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- A. Water and wastewater system development fees imposed pursuant to 13.12.080 of the Code;
- B. Street oversizing fees currently imposed pursuant to chapter 3.12 of the Code, and/or any transportation fee subsequently adopted by the Town as an additional Development Exaction;
- C. Capital plant investment fees imposed pursuant to chapter 3.16 of the Code;
- D. The use tax on construction materials on improvements permitted on the Property imposed under chapter 3.04 of the Code; and
- E. One cent of the general fund municipal sales tax on each one dollar of retail sales, provided that these revenues shall first be available for repayment of any sales tax revenue bond for which municipal general fund sales tax dollars are made a pledged revenue, whether such bond or pledge exists as of the date of this Agreement, or is subsequently authorized by the Town Council.

No other municipal revenues are pledged or encumbered by this Agreement as a source of repayment of the Recoverable Costs. Owner acknowledges that the receipt by Town of Pledged Revenues is entirely dependent upon the timing and extent of development on the Property, over which the Town has no control.

Town shall pay to Owner the Pledged Revenues received, if any, to be applied first to accrued interest, and then to the Qualifying Capital Costs by the 10th of the month following each calendar quarter until such time as the Recoverable Costs have been paid in full from Pledged Revenues. Payment of Pledged Revenues shall resume with incurrence of additional Recoverable Costs should Owner have previously received payment in full of Recoverable Costs through Pledged Revenues, provided payment of Pledged Revenues is limited to payment from Pledged Revenues received prior to December 31, 2009.

Town shall have the right to "prepay" the Recoverable Costs, in whole or in part, at any time, at the discretion of the Town. Such prepayment shall be applied first to the outstanding interest accrual, and then to the Qualifying Capital Costs.

The application of Pledged Revenues to Recoverable Costs shall be the exclusive method for Owner to obtain recoupment of its investment in the Facilities. Owner shall not be entitled to recoupment for oversizing of Facilities from any other property benefitting from the Facilities.

Section 8. Interchange Development. Under 20.4 of the Annexation Contract the Property may be assessed a proportionate share of the projected redevelopment cost of the Exit 184 Interchange, based upon the projected traffic generation from development on the Property. In lieu of making a financial commitment to the Interchange redevelopment, Owner shall convey to Town approximately 2.14 acres of the Property, described in the attached *Exhibit 8* (the "Interchange Parcel") concurrently with recordation of the first Plat. The Interchange Parcel shall be conveyed by Owner to Town by general warranty deed, free and clear of liens and encumbrances. With acceptance by Town of title to the Interchange Parcel, the obligation set forth in 20.4 of the Annexation Contract shall be considered satisfied in full. Should Town, in conjunction with the Colorado Department of Transportation, determine that any portion of the Interchange Parcel is not needed for the full redevelopment of the Exit 184 Interchange and related landscaping and site improvements, Owner shall have the right to repurchase from Town (or CDOT) such surplus portion of the Interchange Parcel (the "Repurchase Parcel") for the purchase price of \$3.84 per square foot of the gross area of the Repurchase Parcel. Town shall notify Owner in writing within 30 days of the date it is determined that the Repurchase Parcel is available and its legal description. Owner shall have 30 days from the date of such notice from Town to notify Town of its election to acquire the Repurchase Parcel, and the date of closing which shall be not more than 120 days from the date of the election notice to Town or 30 days after any required final subdivision plat creating the Repurchase Parcel is approved by Town, whichever date occurs last. Provided further, Owner's rights to the Interchange Parcel shall expire on December 31, 1999, if Town and/or CDOT have not been able in good faith to make a determination that any portion of the Interchange Parcel is surplus. Prior to utilization of the Interchange Parcel for Interchange redevelopment, Town and Owner shall explore the feasibility of Owner making interim use of the Interchange Parcel.

Section 9. Reserved Legislative Powers. Owner acknowledges that this Agreement does

not impair or restrict, in any manner, the legislative power of the Town Council to modify (including repeal) the imposition of any of municipal fee, tax or other revenue (including the Development Exactions and the sales and use tax) which constitutes a Pledged Revenue under this Agreement.

Section 10. Water Rights. The Water Rights associated with that portion of the Property made subject to a Plat shall be conveyed to Town concurrently with recordation of the Plat. The Water Rights so conveyed shall be converted into development entitlements in accordance with Town Regulations in effect at the time of conveyance. The water policy of the Town as articulated in the Town Regulations shall supersede any conflicting provisions of section 7.2 of the Annexation Contract. Inasmuch as current Town water policy does not recognize return flows from Denver Basin groundwater as creating additional development entitlements, subsection 7.2 (d) of the Annexation Contract shall have no further force or effect.

Section 11. Constitutional Compliance. Under the Termination Agreement, Owner has the right to develop water and wastewater infrastructure and obtain recovery of its investment from certain Development Exactions on the Property. This contractual right and corresponding Town obligations, are incorporated and merged into this Agreement, with certain modifications. Due to the fact that these contractual rights and obligations predate the adoption of Article X, Section 20 of the Colorado Constitution, the pledge of municipal revenues is not subject to the referendum provisions of such constitutional provisions applicable to multiple fiscal year obligations. However, should final judicial determination be made that such pledge is subject to such constitutional referendum requirements, (and the pledge is not subsequently ratified by referendum), section 4.3 and 4.4 of the Termination Agreement shall then be enforceable in lieu of the corresponding provisions of this Agreement. In such event, the Town shall not be considered in default of this Agreement or otherwise incur any liability to Owner, other than the obligation to fully perform section 4.3 and 4.4 of the Termination Agreement.

Section 12. Binding Effect. This Agreement shall apply to the Property and its covenants shall be binding upon the successors and assigns of the Owner in the same manner and to the same effect as if such successors and assigns 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 a specific reference to the Agreement or its covenants is made in any document of conveyance to the Property. The obligations and responsibilities placed on Owner under this Agreement are enforceable by Town against N-ONE Ltd. and Crowfoot Castle Rock Ltd., jointly and severally.

Section 13. Default Notice. In the event either party alleges the other party has breached an obligation or covenant of the Agreement, the non-defaulting party shall first notify the defaulting party in writing of such default, and specify the exact nature of the default in such notice. The defaulting party shall have twenty (20) working days from receipt of such notice within which to cure such default before the non-defaulting party may exercise any of its

CROWFOOT CASTLE ROCK, LTD.
c/o Park Land Company
7600 E. Arapahoe Road, Suite 211
Englewood, CO 80112

Section 17. Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is held by the courts to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision held to be invalid.

Section 18. 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.

Section 19. 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.

Section 20. 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.

EXECUTED by the lawful representatives of the parties, as of the date indicated above.

ATTEST:

TOWN OF CASTLE ROCK


Sally Misage, Town Clerk


Mark C. Williams, Mayor

Approved as to form:


Robert W. Slentz, Town Attorney

STATE OF COLORADO)
)
COUNTY OF) ss.

The foregoing instrument was acknowledged before me this 21st day of August, 1994, by Mark C. Williams, as Mayor and Sally Misare as Town Clerk of the Town of Castle Rock.

Witness my official hand and seal.

My Commission expires: 9-16-95.

Jennifer L. King
Notary Public

ATTEST:

N-ONE LTD., a Colorado limited partnership by Nightengale Investments, Inc as general partner

Mr. Vones
VP/SEC
UNOFFICIAL COPY
by Patrick Vaughn Vice President of Nightengale Investments, Inc.

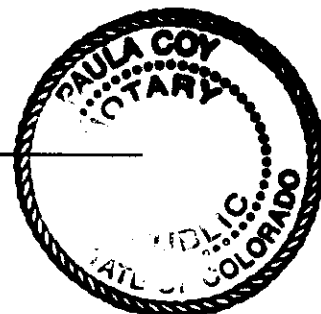
STATE OF COLORADO)
)
COUNTY OF Aspen) ss.

The foregoing instrument was acknowledged before me this 14th day of August, 1994, by Patrick Vaughn as Vice President of N-ONE LTD. by Nightengale Investments, Inc as general partner

Witness my official hand and seal.

My Commission expires: 8/17/96.

Paula Coy
Notary Public



ATTEST:

CROWFOOT CASTLE ROCK, LTD.

a Colorado limited partnership
by: Crowfoot Valley Corp as
general partner

by: [Signature]
Patrick Vaughn, Vice President
of Crowfoot Valley Corp.

[Signature]
VP/Sec

STATE OF COLORADO)

ss.

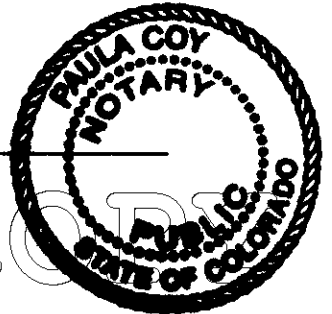
COUNTY OF Ouray)

The foregoing instrument was acknowledged before me this 14th day of August, 1994, by Patrick Vaughn as Vice President of Crowfoot Castle Rock, Ltd. by Crowfoot Valley Corp as general partner

Witness my official hand and seal.

My Commission expires: 8/17/96.

Paula Coy
Notary Public



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ATTACHMENT TO DEVELOPMENT AGREEMENT

EXHIBIT LIST

EXHIBIT 1: Legal Description of Property

EXHIBIT 2: Water Rights

EXHIBIT 3: Facilities Description

EXHIBIT 4: Financing Plan for Facilities

EXHIBIT 5: Phasing Plan of Facilities Development

EXHIBIT 6: Graphic Depiction of Facilities Location

EXHIBIT 7: Depiction of Front Street Relocation

EXHIBIT 8: Legal Description of Interchange Parcel

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EXHIBIT 1

LEGAL DESCRIPTION

A parcel of land located in the South One-half of Section 26 and in the North One-half of Section 35 all in Township 7 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the West Quarter corner of said Section 26, whence the Southwest corner of said Section 26 bears South 00°23'28" West, said line forming the basis of bearings for this description; Thence South 89°49'01" East, along the North line of the Southwest Quarter of said Section 26, a distance of 246.69 feet to a point on the Easterly line of that parcel of land described in Book 157 at Page 116 of the records of said Douglas County; Thence along said Easterly line South 32°27'41" East, a distance of 101.15 feet to a point on a curve, whence the radius point bears South 16°39'58" East, a distance of 695.00 feet, said point being on the Southerly right-of-way line of Miller Boulevard as described on the final plat of Miller Boulevard Filing No. 2 recorded at reception no. 8603133 of said Douglas County records, said point being the TRUE POINT OF BEGINNING.

Thence along said Southerly right-of-way line the following three (3) courses:

- 1) along said curve to the right having a central angle of 68°26'32" an arc distance of 830.21 feet, a radius of 695.00 feet and a chord bearing South 72°26'42" East a distance of 781.72 feet to a point of tangent;
- 2) Thence South 38°13'26" East, along said tangent, a distance of 516.69 feet to a point of curve;
- 3) Thence along said curve to the right having a central angle of 90°00'00" an arc distance of 39.27 feet, a radius of 25.00 feet and a chord bearing South 06°46'34" West a distance of 35.36 feet to a point on the Northerly right-of-way line of High School Road as described on said final plat of Miller Boulevard Filing No. 2;

Thence South 51°46'34" West, along said Northerly right-of-way line, a distance of 275.00 feet; Thence South 38°13'26" East, a distance of 235.00 feet; Thence North 51°46'34" East, a distance of 300.00 feet to point on said Southerly right-of-way line of Miller Boulevard; Thence along said Southerly right-of-way line the following two (2) courses:

- 1) South 38°13'26" East, a distance of 930.71 feet to a point of curve;
- 2) Thence along said curve to the left having a central angle of 33°24'59" an arc distance of 1211.76 feet, a radius of 2077.69 feet and a chord bearing South 54°55'56" East a distance of 1194.66 feet to a point;

Thence departing said Southerly right-of-way line South 00°00'23" East, a distance of 622.52 feet; Thence South 81°21'08" West, a

distance of 1670.03 feet to a point on the Easterly right-of-way line of Interstate Highway 25; Thence along said Easterly right-of-way line the following six (6) courses:

- 1) North $18^{\circ}40'16''$ West, a distance of 778.18 feet;
- 2) Thence North $39^{\circ}10'51''$ East, a distance of 0.26 feet;
- 3) Thence North $18^{\circ}40'34''$ West, a distance of 113.01 feet to a point of curve;
- 4) Thence along said curve to the left having a central angle of $08^{\circ}09'05''$ an arc distance of 1656.00 feet, a radius of 11640.00 feet and a chord bearing North $22^{\circ}47'05''$ West a distance of 1654.61 feet;
- 5) Thence North $14^{\circ}18'56''$ West, a distance of 773.10 feet;
- 6) Thence North $32^{\circ}27'41''$ West, a distance of 21.42 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 86.529 acres, more or less.

EXCEPT that portion of High School Road, as described on said final plat of Miller Boulevard Filing No. 2, being more particularly described as follows:

Commencing at the West Quarter corner of said Section 26, Thence South $50^{\circ}50'27''$ East, a distance of 1477.66 feet to a point on the Northerly right-of-way line of said High School Road, said point being the TRUE POINT OF BEGINNING.

Thence South $38^{\circ}13'26''$ East, a distance of 85.00 feet to a point on the Southerly right-of-way line of said High School Road; Thence along said Southerly right-of-way line the following three (3) courses:

- 1) South $51^{\circ}46'34''$ West, a distance of 27.23 feet to a point of curve;
- 2) Thence along said curve to the left having a central angle of $73^{\circ}14'24''$, an arc distance of 917.16 feet, a radius of 717.50 feet and a chord bearing South $15^{\circ}09'22''$ West a distance of 855.98 feet;
- 3) Thence South $68^{\circ}32'10''$ West, a distance of 4.65 feet to a point on a curve, whence the radius point bears South $68^{\circ}29'26''$ West, a distance of 11640.00 feet, said point being on said Easterly line of that parcel of land described in Book 157 at Page 116;

Thence along said curve to the left having a central angle of $01^{\circ}40'09''$ an arc distance of 339.11 feet, a radius of 11640.00 feet and a chord bearing North $22^{\circ}20'39''$ West a distance of 339.09 feet to a point on said Northerly right-of-way line of High School Road and a point on a curve, whence the radius point bears South $86^{\circ}28'27''$ East, a distance of 802.50 feet; Thence along said Northerly right-of-way line the following two (2) courses:

- 1) along said curve to the right having a central angle of $48^{\circ}14'54''$, an arc distance of 675.78 feet, a radius of 802.50 feet and a chord bearing North $27^{\circ}38'59''$ East a

- distance of 655.98 feet;
- 2) Thence North 51°46'34" East, a distance of 27.23 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 1.529 acres, more or less.

The resulting net acreage is 85.000 acres, more or less.

This legal description is based on a boundary survey prepared by JR ENGINEERING, LTD. dated Nov. 1988, job no. 2449-35, and a boundary survey prepared by David E. Archer & Associates, Inc. dated Aug. 3, 1994, job no. 94-892.

DUWAYNE M. PHILLIPS PLS 9329
FOR AND ON BEHALF OF
ROCKY MOUNTAIN CONSULTANTS, INC.

DATE: _____

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ROCKY MOUNTAIN CONSULTANTS, INC.
8301 E. PRENTICE AVE, STE. 101
ENGLEWOOD, CO. 80111

milestone property
85 acre boundary
RMC JOB NO. 2195.033.00
Sept. 26, 1994 JW

Exhibit 2

All water and water rights to the property described in Exhibit 1, including the right, conditional or absolute, to withdraw Denver Basin Groundwater (nontributary and not-tributary) under the terms of the following described water decrees:

85CW274, 85CW275 and 85CW28, District Court, Water Division No. 1, Colorado.

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B1283 - P2114 - \$125.00 - 18/ 25

Exhibit 3 - Description of Facilities (7/11/95)

Description of Facilities	Estimated Cost
A. Water System Improvements	
1. System "loop" connection, 16" waterline	\$548,800
a. 16" extension from Scott Road to I-25 bore (4,800' +/-)	
b. I-25 bore (300' +/-)	
c. Justice Center extension (2,000' +/-)	
2. Front Street extension, 16" waterline from system "loop" (I-25 bore) to Founders Parkway (3,100' +/-)	\$155,700
3. Founders Parkway - Allen to Front	\$60,000
4. Western Drive loop, 12" and 16" waterline (3,700 +/-)	\$177,000
Subtotal	<u>\$941,500</u>
B. Sanitary Sewer System Improvements	
1. Front Street 8" sanitary sewer from Founders	\$118,000
2. I-25 Bore (300' +/-)	\$135,000
3. Justice Center extension, 18" line (1,300' +/-)	\$69,400
Subtotal	<u>\$322,400</u>
C. Street Improvements	
1. Founders Parkway widening on south/west side, east end of Silver Heights interchange to Front Street	\$106,800
2. Founders Parkway widening on south/west side, Front Street to southern property line and left turn bay at intersection	\$231,200
3. Founders Parkway / Allen Street Signalization	\$150,000
4. Founders Parkway / Front Street Signalization	\$150,000
5. Front Street Improvements (north 1,500')	\$370,600
a. Relocate to new ROW, south of existing ROW	
b. Widen cross section to 100' ROW, full width arterial section	
c. Landscape median	
d. Street lights	
6. Front Street Improvements (south 1,300')	\$165,500
a. Cross section at 80' ROW	
b. Transition to existing Front Street southerly property line	
c. Street lights	
d. Grade full section, 3 lanes, drainage ditches and sidewalk on east side	
7. Signal, 500+/- west of Founders Parkway	\$150,000
Subtotal	<u>\$1,324,100</u>
D. Unrecoverable IREA Costs	\$71,000
Total	\$2,659,000

Exhibit 4 - Allocation of Facilities Development Cost (7/11/95)

Allocation of Facilities Development Cost - Designated Percentages			
Description of Facilities	Town Responsibility	N-One Funds With No Recovery	N-One Funds and Recovers
A-1 Water System "loop"	100%		
A-2 Front Street extension			100%
A-3 Founders Parkway			100%
A-4 Western Drive loop			100%
B Sanitary Sewer System Improvements			100%
C-1 Founders Parkway widening, interchange to Front Street	50%	50%	
C-2 Founders Parkway widening, Front Street to southern PL	50%	50%	
C-3 Founders Parkway / Allen Street Signalization	47%	53%	
C-4 Founders Parkway / Front Street Signalization	40%	60%	
C-5 Front Street Improvement (north 1,500')	50%	50%	
C-6 Front Street Improvement (south 1,300')		100%*	
C-7 Front Street Signal	11%	89%	
D Unrecoverable IREA Costs	50%	50%	

*Town is responsible for expansion to full width arterial (outside lane each side, curb & gutter and storm sewer) if warranted in the future.

Exhibit 5 - Projected Facilities Phasing (7/11/95)

Projected Facilities Phasing			
Description of Facilities	Year 1	Year 2	Year 3
A-1 Water System "loop"	Year 1		
A-2 Front Street extension	Year 1		
A-3 Founders Parkway	Year 1		
A-4 Western Drive loop			Year 3
B Sanitary Sewer System Improvements	Year 1		
C-1 Founders Parkway widening, interchange to Front Street	Year 1		
C-2 Founders Parkway widening, Front Street to southern PL			Year 3
C-3 Founders Parkway / Allen Street Signalization		Year 2	
C-4 Founders Parkway / Front Street Signalization		Year 2	
C-5 Front Street Improvement (north 1,500')	Year 1		
C-6 Front Street Improvement (south 1,300')			Year 3
C-7 Front Street Signal		Year 2	
D Unrecoverable IREA Costs	Year 1		

EXHIBIT 7

APPROXIMATE LOCATION OF
ROW. FOR PROPOSED
INTERSTATE OFF-RAMP

FOUNDERS PARKWAY

EXISTING FRONT STREET

PROPOSED FRONT STREET

INTERSTATE 25

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EXHIBIT "7"

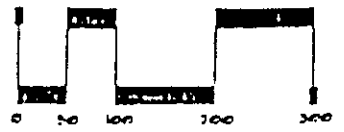


EXHIBIT F

LEGAL DESCRIPTION

A parcel of land located in the South One-half of Section 26, Township 7 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado being more particularly described as follows:

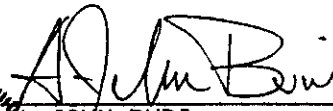
Commencing at the West Quarter corner of said Section 26, whence the Southwest corner of said Section 26 bears South 00°23'28" West, said line forming the basis of bearings for this description; Thence South 89°49'01" East, along the North line of the Southwest Quarter of said Section 26, a distance of 246.69 feet; Thence South 32°27'41" East, a distance of 101.15 feet to a point on the Southerly right-of-way line of Miller Boulevard (a.k.a. Founder's Parkway) as described on the final plat of Miller Boulevard Filing No. 2 recorded at reception no. 8603133 of the Douglas County records, said point being the TRUE POINT OF BEGINNING.


Thence along said Southerly right-of-way line along the arc of a curve to the right having a central angle of 23°21'36" an arc distance of 283.36 feet, a radius of 695.00 feet and a chord bearing North 85°00'50" East, a distance of 281.40 feet to a point; Thence South 06°25'01" West, a distance of 292.46 feet; Thence South 15°35'18" West, a distance of 335.93 feet to a point on the Easterly right-of-way line of Interstate Highway 25; Thence along said Easterly right-of-way line the following two (2) courses:

- 1) North 14°18'56" West, a distance of 590.00 feet;
- 2) Thence North 32°26'55" West, a distance of 21.42 feet to the TRUE POINT OF BEGINNING.

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Said parcel of land contains 2.139 acres (93,157 square feet), more or less.


 A. JOHN BURI PLS 24302
 FOR AND ON BEHALF OF
 ROCKY MOUNTAIN CONSULTANTS, INC.
 DATE: 6/29/95

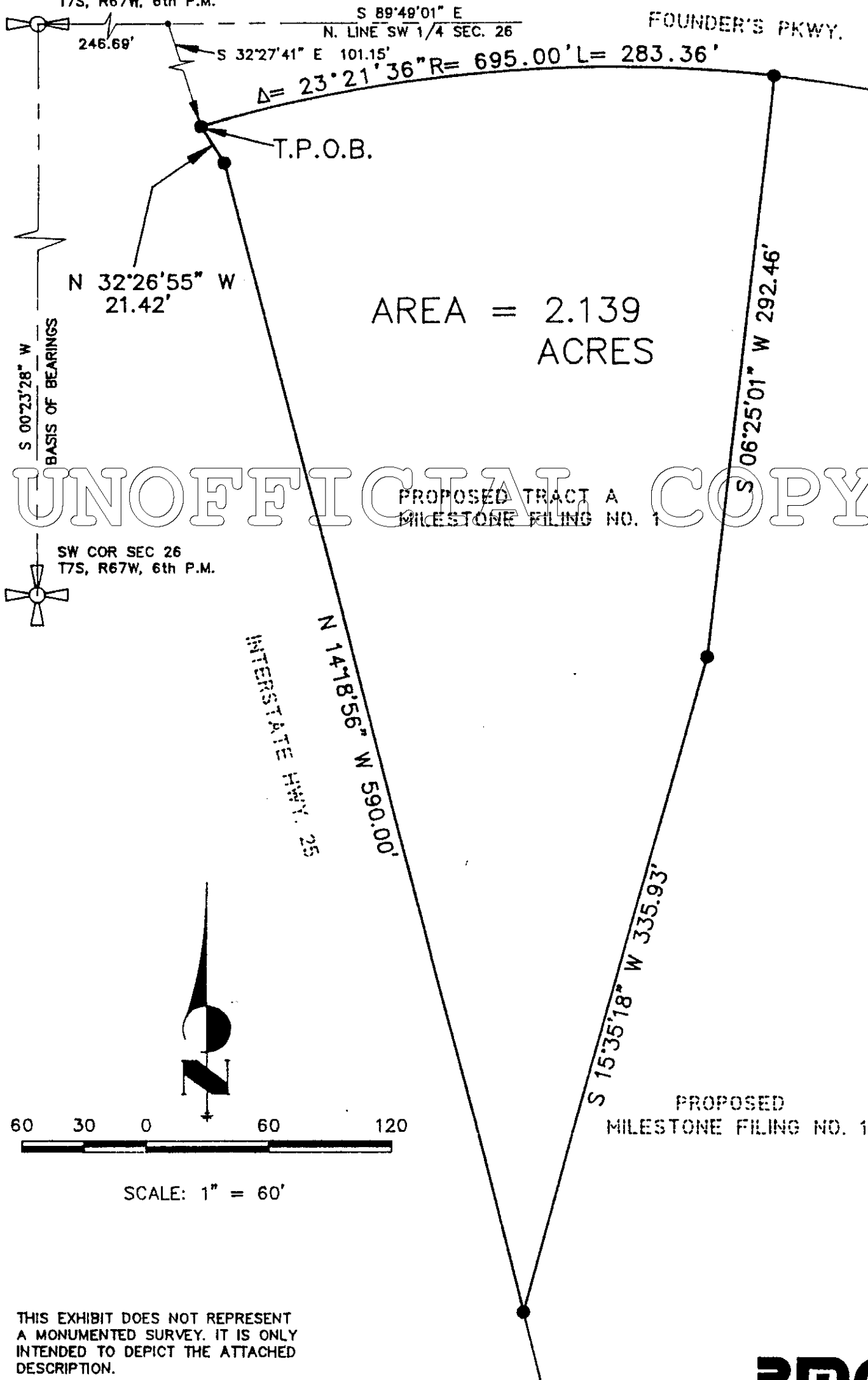


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 B1283 - P2120 - \$125.00 - 24/ 25

milestone property
 tract "A" bndy.
 DOC - TRACTA.LEG
 RMC JOB NO. 2195.022.00
 JUNE 29, 1995 JW

EXHIBIT 8

POINT OF COMMENCEMENT
W 1/4 COR SEC 26
T7S, R67W, 6th P.M.



AREA = 2.139
ACRES

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PROPOSED TRACT A
MILESTONE FILING NO. 1

SW COR SEC 26
T7S, R67W, 6th P.M.



SCALE: 1" = 60'

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B1283 - P2121 - \$125.00 - 25/ 25

PROPOSED
MILESTONE FILING NO. 1

THIS EXHIBIT DOES NOT REPRESENT
A MONUMENTED SURVEY. IT IS ONLY
INTENDED TO DEPICT THE ATTACHED
DESCRIPTION.

ROCKY MOUNTAIN CONSULTANTS, INC.

SHEET 2 OF 2



8301 E. Prentice Ave. Suite 101 Englewood, CO 80111 (303) 741-6000 FAX (303) 741-6106		
JOB NO. 2195.022.00	DATE 06/29/95 JW	REVISED

**FIRST AMENDMENT TO
MILESTONE COMMERCIAL DEVELOPMENT AGREEMENT**

DATE: October 2, 1995

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

N-ONE LTD., a Colorado limited partnership, and **CROWFOOT CASTLE ROCK, LTD.**, a Colorado limited partnership, c/o Park Land Company, 7600 E. Arapahoe Road, Suite 211, Englewood, CO 80112 (collectively, "Owner").

RECITALS

The parties desire to amend the Milestone Commercial Development Agreement, dated December 28, 1994, recorded August 24, 1995 at Reception No. 9539504 of the public records of Douglas County, Colorado ("Agreement"), to clarify that the right to recover certain infrastructure development costs is retained by N-One, Ltd., irrespective of its ownership in the properties subject to the Agreement.

COVENANTS:

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

Section 1. Amendment. Notwithstanding any provision in the Agreement to the contrary, the right to receive Pledged Revenues (as defined in section 7) to be applied to Recoverable Costs (as defined in section 6), shall be considered a personal contract right of N-One Ltd. As such, N-One Ltd. shall be exclusively entitled to receive the Pledged Revenues from Town in accordance with the Agreement, irrespective of N-One Ltd.'s retention of interest in ownership of the property described in *Exhibit 1* to the Agreement. Accordingly, no vendee or grantee from N-One Ltd. or Crowfoot Castle Rock, Ltd. shall acquire any right to the Pledged Revenues.

EXECUTED by the lawful representatives of the parties, as of the date indicated above.

ATTEST:

TOWN OF CASTLE ROCK

Sally A. Misre
Sally A. Misre, Town Clerk

Mark C. Williams
Mark C. Williams, Mayor

ATTEST:

CROWFOOT CASTLE ROCK, LTD.
a Colorado limited partnership
by Crowfoot Valley Corp as
General partner

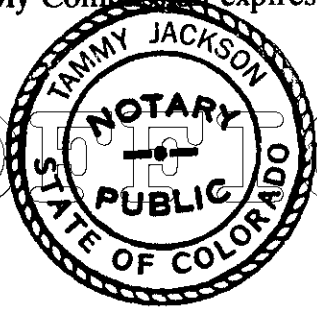
by: [Signature]
Patrick Vaughn
VICE PRESIDENT

STATE OF COLORADO)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 3rd day of October, 1995 by Patrick Vaughn as Vice President for Crowfoot Castle Rock, Ltd.

Witness my official hand and seal.

My Commission expires: 6/7/99



Tammy Jackson
Notary Public

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legal\mileston\amenddev.agr
September 22, 1995