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ANNEXATION AND DEVELOPMENT CONTRACT

BETWEEN

THE TOWN OF CASTLE ROCK

AND

HECKENDORF RANCH

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ANNEXATION AND DEVELOPMENT CONTRACT

(HECKENDORF RANCH ANNEXATION)

THIS AGREEMENT made this 18th day of June,
985, by and between THE TOWN OF CASTLE ROCK, a Colorado
unicipal corporation, 318 Fourth Street, Castle Rock, CO
0104, hereinafter sometimes referred to as "TOWN",
nd FRANCIS A. HECKENDORF and DARLENE L. HECKENDORF
or their successors and assigns,

ereinafter sometimes referred to as "DEVELOPER", is as
ollows:

WITNESSETH:

WHEREAS, DEVELOPER desires to annex and develop certain
.ands within the TOWN of Castle Rock, to be known as
Heckendorf Ranch,
more particularly described in Exhibit "A", (hereinafter
"THE LAND" or "LAND") attached hereto and made a part hereof;
and

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

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

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

SECTION I.

PARTIES, ADDRESSES & NOTICE

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

1.2 DEVELOPER The DEVELOPER is Francis A. Heckendorf and Darlene L. Heckendorf.

1.3 OWNER The OWNERS of the LAND are:

Francis A. Heckendorf and Darlene L. Heckendorf.

1.4 ADDRESSES, NOTICE The parties' addresses are as listed below. Any and all notices required to be given in accordance with this Agreement are deemed to have been given three (3) days following the date the same is deposited in the United States mail, first-class, postage prepaid, to the other party hereto as the addresses hereinafter noted, or to such other party or address as either party may designate in writing.

TOWN:

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

DEVELOPER:

Francis A. Heckendorf and Darlene L. Heckendorf
Post Office Box 183
Castle Rock, Colorado 80104

OWNERS: Francis A. Heckendorf and Darlene L. Heckendorf
Post Office Box 183
Castle Rock, Colorado 80104

WITH COPIES TO:

Lawrence A. Wright, Jr.
Attorney at Law
Post Office Box 213
Kiowa, Colorado 80117

Paul Rolfe
Planning Research Corporation
Building 40 DTC West
7935 East Prentice Avenue
Englewood, Colorado 80111

s.c. 11/6/84

SECTION II

ANNEXATION PREMISES

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

2.2 AUTHORITY DEVELOPER further warrants that it has full ownership or control over the LAND and has full authority and power to enter into the within Agreement. In support thereof, DEVELOPER submits with its annexation petition, either a title commitment or an ownership and encumbrance certificate to the LAND.

SECTION III

DEFINITIONS

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

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

3.3 DEVELOPMENT CONTROL "DEVELOPMENT CONTROL" shall mean the comprehensive supervision of construction of

all IMPROVEMENTS within an ADMINISTRATIVE PROJECT AREA as such supervision is necessary to insure conformity and compliance with the provisions of this contract, the Planned Development Ordinance and Preliminary Site Plan adopted and approved contemporaneously with this contract, together with all subsequent approved Final Plats, Final Site Plans and modifications. DEVELOPMENT CONTROL shall be exercised by DEVELOPER, its Successors, Representatives, Designees, Agents and Assigns.

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

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

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

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

3.7 WARRANTY "WARRANTY" shall mean the express promise made by the DEVELOPER that such PUBLIC IMPROVEMENTS are and shall be free from defective materials and workmanship. The warranty period for streets, sidewalks, curb, gutter and bikepaths, shall be two (2) years and all other PUBLIC IMPROVEMENTS shall be for a period of one (1) year from and after the date of their initial acceptance by TOWN (as used herein the term initial acceptance shall mean that acceptance by TOWN which will commence the one or two year warranty period). The WARRANTY extended by DEVELOPER shall be the exclusive WARRANTY with respect to PUBLIC IMPROVEMENTS constructed hereunder and shall be in lieu of all other warranties thereon, express or implied.

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

SECTION IV

APPROVING DOCUMENTS

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

(a) Ordinance No. 84-27 annexing the lands described n Exhibit "A" hereto;

(b) Resolution No. 84-31, A resolution approving he execution of this Contract;

(c) Ordinance No. 84-28, the Planned Development rdinance;

(d) Preliminary Site Plan, dated June 18 1985.

4.2 COLLECTIVE TITLE All of the above documents hall be collectively referred to herein as the APPROVING)OCUMENTS.

SECTION V

GENERAL

TOWN OBLIGATIONS

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

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

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

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

5.5 POLICE, OTHER GOVERNMENTAL SERVICES The TOWN agrees to provide to the LAND police protection and all

other available government services to the same extent and degree as TOWN is providing to all others similarly situated in the community.

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

SECTION VI

GENERAL DEVELOPER OBLIGATIONS

6.1 COMPLIANCE The DEVELOPER understands the benefits derived from annexation to the TOWN and is therefore desirous of fulfilling all the standard and additional provisions of this Agreement. Therefore the DEVELOPER agrees that it will develope the LAND in accordance with this Agreement, all ordinances, codes and regulations of the TOWN, the minimum standards and design criteria of the TOWN, and in accordance with the Approving Documents submitted and made a part hereof.

6.2 FIRE DISTRICT DEVELOPER shall have the responsibility of making and diligently pursuing, at DEVELOPER's expense, an application for exclusion of THE LAND from the fire district in which it is now situated. TOWN will fully cooperate in this application.

SECTION VII

WATER

7.1 WET WATER POLICY Notwithstanding any provisions within this Agreement which may infer to the contrary, the

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

7.2 WATER NEEDS OF LAND

(a) The needs of the proposed uses within the LAND shall be determined by utilizing TOWN ordinances and resolutions where applicable and as in effect at the time of platting. Where a particular use is not addressed by ordinance or resolution, the TOWN shall make an administrative determination based upon available information.

(b) The DEVELOPER shall receive appropriate credit against the determined water needs based upon conservation practices which appear as final site plan and plat restrictions. The

amount of said credit shall initially be an assumed amount agreed upon by TOWN and DEVELOPER. Said credit shall be subject to subsequent modification as agreed upon by TOWN and DEVELOPER based upon actual consumption rates over time.

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

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

(e) Production of WET WATER shall be as granted by the office of the State Engineer and credit

against water availability requirements shall be in the same amount as granted by the office of the State Engineer and/or the District Water Court.

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

7.4 INFRASTRUCTION CAPITAL IMPROVEMENTS, OVERSIZING The TOWN shall retain the ultimate responsibility, in consideration for development fees charged and collected, to complete necessary capital plant improvements for the municipal water system including wells, pumps, treatment facilities, reservoirs and transmission lines. The DEVELOPER shall be solely responsible to build and construct, in accordance with TOWN minimum standards and design criteria, potable water delivery system infrastructure required for the LAND and to meet the needs of the LAND. Such infrastructure shall include all mains, service lines, fire hydrants, valves and connections, pump stations and any other necessary facilities for the delivery of water throughout the LAND. In the event water mains are required to be engineered and constructed which exceed 12" in diameter it shall be presumed that the first 12" shall service the LAND and shall accordingly be paid for by the DEVELOPER and that

he oversizing shall be the responsibility of TOWN. However, f the TOWN engineers determine that the oversized main has been engineered and constructed substantially to service the LAND only, then the DEVELOPER shall pay the entire cost of such line. Prior to the construction of any such line for which the TOWN is to be responsible for a cost thereof, the DEVELOPER shall secure written bids from no less than two (2) contractors for the placement of such line. Such bids are to include a breakdown of material and labor for such line in a 12" mode and in its oversized mode in order that the TOWN may determine its proportioned cost for the increased sizing which shall be determined by calculating the actual cost difference in labor and material between a 12" line and the oversized line. Such bids are to be submitted to the TOWN for analysis and approval prior to the construction of the line. Should the TOWN fail to approve or disapprove any bid in writing within fifteen (15) days of submittal, then the DEVELOPER may proceed with the bid which it deems most appropriate under the circumstances. The TOWN shall pay its portion after final inspection and acceptance of the line upon completion thereof, and within thirty (30) following of the date of submission of an appropriate statement to the TOWN from the DEVELOPER which shall include invoices and contractor billings.

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

7.6 SEVERANCE To the extent that the LAND, at the time of the last final plat or after ninety (90%) percent build out, whichever occurs later, has an agreed upon surplus of water (total appurtenant non-tributary and/or tributary sources plus augmentation credits based upon effluent and return flows less total water requirements based upon approved uses as adjusted for irrigation reuse and conservation system implementation), the DEVELOPER shall be allowed to transfer such surplus water to other lands owned by DEVELOPER within the corporate limits of the Town of Castle Rock. DEVELOPER may transfer such surplus water to other lands not owned by him within the corporate limits of the Town of Castle Rock, but only after offering said surplus water to the Town of Castle Rock at the cash-in-lieu of water rate in effect by TOWN Resolution or Ordinance at the time of the offer. DEVELOPER shall, pursuant to the notification requirements set forth in this contract, give thirty (30) days written notice to the TOWN of his intention to sell said surplus water. In

:ems installation of said three-pipe system within any non-
:sidential area to be technically infeasible and/or not
:onomically justifiable, DEVELOPER shall present evidence
f such infeasibility or lack of economic justification to
)WN. TOWN shall review the evidence submitted by DEVELOPER
nd the Board of Trustees shall make a determination either
equiring or not requiring the installation of said three-
ipe system.

8.2 INFRASTRUCTURE, OVERSIZING. The TOWN shall
onstruct and maintain such capital plant facilities as are
ecessary to provide effluent to the LAND for irrigation
urposes. Such capital plant facilities shall include the
ecessary transmission line to transport such effluent to
.he boundary of the LAND. Such effluent shall be provided to
1sers within the LAND at the same rates and connection charges
as are then applicable and charged to other users similarily
situated within the TOWN pursuant to ordinance or resolution
of the TOWN. DEVELOPER shall be solely responsible to build
and construct, in accordance with TOWN minimum standards and
design criteria, all irrigation delivery system infrastructure
required upon the LAND to meet the needs of those portions
of the LAND which are served by an irrigation system. Such
infrastructure shall include all mains, service lines, valves
and connections and other necessary facilities for the delivery
of irrigation effluent throughout the LAND. In the event

the event TOWN desires to purchase such water, it shall give written notification to DEVELOPER of its intention to do so within such thirty (30) day period. Payment shall be made by applying credit against Development Fees to the extent of the value of such surplus water. If insufficient credits exist to pay in full for such surplus water, the TOWN shall pay the balance due, after applying such credits, to the DEVELOPER in cash within sixty (60) days of the date of said notice.

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

SECTION VIII

IRRIGATION

8.1 IRRIGATION POLICY The TOWN has adopted a policy requiring all DEVELOPERS to utilize a three-pipe infrastructure system (water, sewer and irrigation). Such three-pipe system shall be utilized in all use areas other than residential areas. In residential areas, with TOWN approval, DEVELOPER may utilize such three-pipe system. In the event DEVELOPER

irrigation mains are required to be engineered and constructed which exceed 12" in diameter, it shall be presumed that the first 12" shall service the LAND and shall accordingly be paid for by the DEVELOPER and that the oversizing shall be the responsibility of TOWN. However, if the TOWN engineers determine that the oversize main has been engineered and constructed to service the LAND only, then the DEVELOPER shall pay the entire cost of such line. Prior to the construction of any such line for which the TOWN is to be responsible for a cost thereof, the DEVELOPER shall follow the procedures set forth in Paragraph 7.4 with regard to bids and their submission to the TOWN.

8.3 CONNECTION, OWNERSHIP It shall be the responsibility of the DEVELOPER to connect to the TOWN's irrigation water system at the point at which the TOWN's system abuts the LAND. Once the irrigation infrastructure to be constructed by DEVELOPER, is engineered, constructed, inspected, approved and accepted, and connected to the TOWN's irrigation system, it shall become solely owned by the TOWN.

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

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

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

SECTION IX

SEWER

9.1 SEWER POLICY, INFRASTRUCTURE, OVERSIZING The TOWN shall provide and maintain such capital plant facilities as are necessary to provide sanitary sewer service to the LAND. The DEVELOPER shall be solely responsible to build and construct, in accordance with TOWN minimum standards and design criteria, all sewage collection system infrastructure required for the LAND and to meet the needs of the LAND. Such infrastructure shall include all mains, service lines, valves and connections, pump stations and other necessary facilities for the recovery of sewage from the LAND. In the event

ewer mains are required to be engineered and constructed hich exceed 12" in diameter it shall be presumed that the irst 12" shall service the LAND and shall accordingly be aid for by the DEVELOPER and that the oversizing shall be he responsibility of TOWN. However, if the TOWN engineers etermine that the oversized main has been engineered and onstructed substantially to service the LAND only, then the EVELOPER shall pay the entire cost of such line. Prior to he construction of any such line for which the TOWN is to e responsible for a cost thereof, the DEVELOPER shall follow he procedures set forth in Paragraph 7.4 with regard to ids and their submission to the TOWN.

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

9.3 CREDITS Understanding their rights and obligations contained hereinabove, the parties further agree, that under appropriate circumstances the TOWN may make arrangements for DEVELOPER to construct capital plant improvements and offset certain development fees.

SECTION X

DRAINAGE

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

SECTION XI

STREETS

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

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

SECTION XII

PUBLIC LAND DEDICATION

12.1 PUBLIC LAND DEDICATION POLICY It is recognized the parties that any annexation and development to the)WN, not only increases the burden upon public utilities ıd services, but it also creates a substantial need for ıdditional public lands for open space, parks, schools and :her public facilities. In this regard, DEVELOPER agrees ɔ dedicate to the TOWN at the time of final platting certain arcels of property as shown on the Preliminary Site Plan pproved contemporaneously with this Agreement. Credit for ll water and water rights appurtenant to such dedicated arcels shall be reserved to the DEVELOPER subject to a eduction for the WET WATER needs of the dedicated parcels.

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

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

12.4 TITLE DOCUMENTS Prior to the acceptance by the TOWN of any tract or parcel of ground, other than streets, easements and rights- of-way, to be utilized for public purposes, DEVELOPER shall provide TOWN with sufficient title work to show that the property is free and clear of all liens and encumbrances which might preclude the LAND from being utilized for the purposes intended by the TOWN. Upon acceptance of the conditions of title, such public property shall be deeded to TOWN by Special Warranty Deed. DEVELOPER shall retain such rights-of-way and easements as may be necessary for DEVELOPER to have access to construct utility lines, detention areas or other required PUBLIC IMPROVEMENTS under this Agreement.

SECTION XIII

PUBLIC IMPROVEMENTS & REQUIRED PRIVATE AMENITIES

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

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

13.3 FAILURE TO COMPLETE Where certain PUBLIC IMPROVE-MENTS and REQUIRED PRIVATE AMENITIES have been required by the TOWN, until they are satisfactorily completed, the TOWN may withhold further pending permits and certificates of occupancy from the DEVELOPER, however, certificates of occupancy may be withheld only if the development of the LAND is in the last final plat or last 15% of the entire developable area.

13.4 ACCEPTANCE, WARRANTY Acceptance of all PUBLIC IMPROVEMENTS by the TOWN shall be in accordance with TOWN Ordinance and all PUBLIC IMPROVEMENTS shall thereafter be subject to a one or two year WARRANTY as set forth in Paragraph 14.7 and/or by TOWN Ordinance.

SECTION XIV

PERFORMANCE OF OBLIGATIONS - REMEDIES

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

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

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

14.3 DEVELOPER DEFAULT In the event of default by DEVELOPER under the provisions of this Agreement, for which surety has been posted with TOWN by DEVELOPER, TOWN reserves the right to withhold building permits, Certificates of Occupancy, or any other permits and approvals within THE LAND, however, Certificates of Occupancy may be withheld only if the development of the LAND is in the last final plat or last 15% of the entire developable area.

14.4 NON-EXCLUSIVE REMEDY It is understood and agreed by the parties hereto that the specific remedies provided in this Agreement are not exclusive, and that the parties hereto shall have all available remedies in law or equity, including but not limited to, specific performance and injunctive relief.

SECTION XV

DEVELOPER'S AGREEMENT TO PAY CERTAIN TOWN FEES

15.1 TOWN FEES DEVELOPER agrees to pay street oversizing fees as established pursuant to Castle Rock Municipal Code, Chapter 3.12, and the capital plant investment fees as established pursuant to Castle Rock Municipal Code, Chapter 3.16, as said chapters may be amended. Said Chapters 3.12 and 3.16 as amended, are incorporated herein by this reference. If for any reason these chapters are held by a court of competent jurisdiction to be invalid or unenforcible, DEVELOPER agrees that the terms of such ordinances shall remain as terms of this contract, (pursuant to the most recent amendment thereof) and that such fees may continue to be charged by TOWN as an exaction upon the LAND pursuant to the terms of this contract, and further, any and all fees recovered prior to such ruling shall also be deemed to have been properly received by the TOWN as an exaction under this contract. It is further agreed however, that DEVELOPER, its heirs, successors or assigns shall not be required to pay such fees pursuant to this Agreement unless this provision is incorporated in all annexation contracts entered into by the TOWN subsequent to the date hereof.

SECTION XVI

DISTRICTS

16.1 DISTRICTS TOWN agrees to cooperate with DEVELOPER in the approval of such Districts as may be deemed by TOWN

and DEVELOPER to be reasonably necessary to construct or maintain PUBLIC IMPROVEMENTS, utilities or other improvements of a quasi-public nature which are not to be dedicated to TOWN.

SECTION XVII

COLORADO LAW

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

SECTION XVIII

BINDING EFFECT

18.1 PARTIES BOUND This Agreement shall be binding upon and inure to the benefit of the parties hereto, the LAND, and all successors, representatives, designees, agents and assigns of the parties, whether designated hereon or otherwise as developers or sub-developers of all or any portion of the LAND.

SECTION XIX

CHANGES & ADDITIONAL PROVISIONS

19.1 CHANGES ONLY IN WRITING Any and all changes to this Agreement, in order to be mutually effective and binding upon the parties and their successors, must be in writing and duly executed by the parties hereto, or their respesctive heirs, successors or assigns.

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

(Additional Conditions commence on page 28)

SECTION XX

ADDITIONAL PROVISIONS

20.1 AMENDMENT OF RECOUPMENT ORDINANCE. TOWN shall provide for DEVELOPER recoupment of off site costs including:

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

(b) Costs of roadway and drainage structure construction.

It is also intended that said ordinance be amended to enlarge the time period for such recoupment, insofar as it relates to private persons, to a period of ten years.

Further, said ordinance is intended to be amended to provide that recoupment will be due, from the owners of all lands annexed subsequent to the date of such amendment, on an "ability to serve" basis, rather than at the time of actual connection to, or utilization of, said improvements, with said amounts being payable, in full, at the time the first final plat is approved for any such owner.

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

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

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

20.4 MAJOR ROADWAYS.

(a) DEVELOPER agrees to dedicate within 120 days of annexation the rights-of-way for Douglas Lane and Plum Creek Boulevard. The right-of-way for Douglas Lane shall be 120 feet in width and the right-of-way for Plum Creek Boulevard shall be 80 feet in width.

(b) The TOWN, DEVELOPER and Environmental Developers, Inc., have entered into an agreement pertaining to the timing of construction and the construction standards to be utilized in the construction of a portion of Douglas Lane and Plum Creek Boulevard. A copy of said agreement is attached hereto and made a part hereof.

20.5 DOUGLAS LANE/I-25 INTERCHANGE. At the present time, discussions are taking place among the TOWN, the DEVELOPER, and other developers which have an interest in the construction of the Douglas Lane interchange. DEVELOPER agrees to continue to participate in said discussions and participate in the funding of a study on a per acre pro rata basis to determine, among other things, the improvements to be included in a cost sharing program; the area of influence; the pro rata share of the costs of the improvements, and the method of financing the improvements. Further, DEVELOPER agrees to participate in the cost of constructing

the interchange through a general, special or assessment district or association of such districts on a fair and equitable pro rata basis with the owners of other property within the area of influence (property benefited by such interchange). DEVELOPER'S pro rata share of the costs of the interchange shall not be increased due to lack of participation of any owner of property annexed to the TOWN within the area of influence, and in no event shall DEVELOPER'S share of said costs be more than the pro rata share of the LAND as such share relates to a total participating benefit area of 4800 acres.

20.6 LIMITATION ON DEVELOPMENT. DEVELOPER agrees that prior to the construction of a grade separated crossing over or under the Denver and Rio Grande Western Railroad Company trackage that the following building limitations shall be in effect:

(a) DEVELOPER may develop without limitation that portion of the LAND which lies north of the creek bed which runs diagonally across the LAND so long as Plum Creek Boulevard provides the primary access for said development.

(b) Prior to the issuance of any building permit within that portion of the LAND lying east of the railroad tracks and south of the creek bed, the DEVELOPER agrees as follows:

i. To extend Douglas Lane from the I-25 service road to the developed area. The cost of improving Douglas Lane beyond DEVELOPER'S property to the service road shall be subject to recoupment under the TOWN recoupment ordinance as amended.

ii. To provide standard electric signalization and cross arm installation as approved by the Colorado Public Utilities Commission on Douglas Lane at the location of the existing public crossing.

iii. To extend Plum Creek Boulevard across the creek bed to provide dual access to any development in the area.

Upon completion of the above improvements the DEVELOPER shall be entitled to 500 building permits within that portion of the LAND lying east of the railroad tracks and south of the creek bed.

(c) DEVELOPER may develop that portion of the LAND which lies west of the railroad tracks prior to installing the signalization crossing of the railroad tracks referred to in paragraph (b)ii above and prior to the construction of any of the roadways referred to in this paragraph 20.6.

20.7 EXTENSION OF IRRIGATION REUSE SYSTEM. The DEVELOPER shall not be required to extend the irrigation reuse system to more than three points on the boundary of the LAND.

20.8 CASH-IN-LIEU OF PUBLIC LAND DEDICATION.

(a) Public land dedication requirements for the LAND shall be as set forth in ordinance or resolution of the TOWN as of the date of TOWN approval of these documents. To the extent such ordinances or resolutions require the provision of cash-in-lieu of lands for public school purposes DEVELOPER may, in substitution for such cash-in-lieu of payments, provide property at a location other than upon the LAND which is approved by TOWN, in consultation with representatives of the school district.

(b) It is understood and agreed that no cash-in-lieu of land payments for public school purposes shall be required until such time as the student impact generated from the LAND exceeds the capacity of the 3.91 acre school site provided, as identified upon the approved preliminary site plan. Based upon the student generation projections for the LAND provided by the Douglas County School District RE-1, dated December 20, 1984, a copy of which is attached hereto as Exhibit B, this point will be reached on the date of issuance of the 305th certificate of occupancy. Thereafter, at the time of approval of each final plat cash-in-lieu of land for public school purposes (or substituted land as provided for above), for the number of dwelling units permitted pursuant to said plat, shall be provided based upon the student generation projections for the LAND as set forth in Exhibit B, until cash-in-lieu of land or such substituted land has been provided for a total of 9.66 acres in cash and/or land in kind, including the 3.91 acres already provided.

(c) The per acre valuation of land for purposes of determining such cash-in-lieu of land payments shall be based upon $10,000 per acre for any plat upon which such payment is due until the first anniversary date of TOWN approval of this contract. Thereafter, the per acre amount of such cash-in-lieu shall be increased or decreased by an amount equal to the increase or decrease in the Consumer

Price Index (all items for Denver, Colorado, published by the Bureau of Labor Statistics of the U.S. Department of Labor), hereinafter referred to as the "Index." The base month for such increase or decrease shall be the month ending November 31, 1985, and such increase or decrease shall be computed from said base month to November 31 of each year during which cash-in-lieu of land payments may be required pursuant to the provisions hereof. The per acre amount of any cash-in-lieu of land payment made in conjunction with the approval of any final plat shall be the increased or decreased amount as determined by reference to the Index for the November 31, preceeding such plat approval.

APPROVAL OF THE BOARD OF TRUSTEES

This Agreement was considered by the Board of Trustees of the Town of Castle Rock, Colorado, at their regular public meeting held on November 29, 1984, and a Resolution No. 84-31 was passed by a vote of 6 for and 0 against approving this Agreement and directing the Mayor of the Town of Castle Rock and the Town Clerk to executed such Agreement.

APPROVAL BY THE DEVELOPER

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

of the date thereof.

TOWN OF CASTLE ROCK

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

ATTEST:

Richard R. Wilson 6-18-85
Richard Wilson (Date)
Town Clerk

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 18th day of June, 1985, by George Kennedy, as Mayor and Richard Wilson, as Town Clerk of the Town of Castle Rock, Colorado, a municipal corporation.

Witness my hand and official seal.

My commission expires: 7-12-88.

Notary Public
318 Fourth St, Castle Rock, CO 80104
Address

DEVELOPER:

FRANCIS A. HECKENDORF and
DARLENE L. HECKENDORF

Francis A. Heckendorf
FRANCIS A. HECKENDORF

Darlene L. Heckendorf
DARLENE L. HECKENDORF

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 9th day of April, 1985, by Francis A. Heckendorf.

Witness my hand and official seal.

My commission expires: 8-20-88.

LANDRY NOTARY PUBLIC STATE OF COLORADO

Myka Landry
Notary Public
440 Comanche
Address
Kiowa, CO 80117

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 9th day of April, 1985, by Darlene L. Heckendorf.

Witness my hand and official seal.

My commission expires: 8-20-88.

MYKA LANDRY NOTARY PUBLIC STATE OF COLORADO

Myka Landry
Notary Public
440 Comanche
Address
Kiowa, CO 80117

HECKENDORF RANCH
LEGAL DESCRIPTION

"EXHIBIT A"

PARCEL A-1

A TRACT OF LAND LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 23, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, AND THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER LYING EAST OF THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE RAILROAD, AND FORMERLY PART OF THE TOWN OF DOUGLAS, IN SECTION 22, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 22, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE N00°09'41"E AND ALONG THE EAST LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 1329.96 FEET; THENCE N89°05'49"W AND ALONG THE SOUTH LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 527.42 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE RAILROAD; THENCE N12°41'08"E AND ALONG SAID EASTERLY RIGHT-OF-WAY LINE A DISTANCE OF 473.46 FEET TO A POINT ON THE SOUTH LINE OF LOT 12, BLOCK 4, AS PLATTED IN THE TOWN OF DOUGLAS, AS RECORDED IN BOOK 1 AT PAGE 4 OF THE DOUGLAS COUNTY RECORDS; THENCE S89°05'22"E AND ALONG THE SOUTH LINE OF SAID LOT 12 A DISTANCE OF 21.71 FEET; THENCE N00°08'35"E AND ALONG THE EASTERLY LINE OF LOTS 11 AND 12, BLOCK 4 AS PLATTED IN THE TOWN OF DOUGLAS, A DISTANCE OF 97.85 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE RAILROAD; THENCE ALONG SAID EASTERLY RIGHT-OF-WAY THE FOLLOWING FOUR COURSES:

1) N12°41'08"E A DISTANCE OF 212.72 FEET.

2) N77°18'52"W A DISTANCE OF 100.00 FEET.

3) N12°41'08"E A DISTANCE OF 509.40 FEET TO A POINT OF CURVE.

4) ALONG A CURVE TO THE RIGHT HAVING A DELTA OF 00°51'39", A RADIUS OF 2814.93 FEET, A DISTANCE OF 42.29 FEET MEASURED ALONG THE ARC TO A POINT ON A CURVE, SAID POINT BEING ON THE NORTHLINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22;

THENCE S89°04'31"E AND ALONG THE NORTH LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 334.60 FEET TO THE EAST ONE-QUARTER OF SAID SECTION 22; THENCE S89°44'48"E AND ALONG THE NORTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 23 A DISTANCE OF 2625.55 FEET TO THE NORTHEAST CORNER OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 23; THENCE S00°07'19"W AND ALONG THE EAST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 23 A DISTANCE OF 2655.85 FEET TO THE

SOUTH ONE-QUARTER OF SAID SECTION 23; THENCE N89°50'08"W AND ALONG THE SOUTH LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 23 A DISTANCE OF 2627.37 FEET TO THE SOUTHWEST CORNER OF SAID SECTION 23, SAID POINT BEING THE POINT OF BEGINNING, SAID PARCEL CONTAINING 173.13 ACRES MORE OR LESS.

PARCEL A-2

A TRACT OF LAND LOCATED IN THE SOUTHEAST ONE-QUARTER OF SECTION 22, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE EAST ONE-QUARTER CORNER OF SAID SECTION 22; THENCE N00°13'50"E AND ALONG THE EASTERLY LINE OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 166.32 FEET TO THE NORTHEAST CORNER OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE N89°04'38"W AND ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 393.93 FEET TO A POINT ON CURVE, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF THE DENVER RIO GRANDE RAILROAD, SAID POINT ALSO BEING THE POINT OF BEGINNING; THENCE SOUTHERLY ALONG THE WESTERLY RIGHT-OF-WAY LINE OF THE DENVER AND RIO GRANDE RAILROAD, THE FOLLOWING TWO COURSES:

1) ALONG A CURVE TO THE LEFT WHOSE CENTER BEARS S73°31'34"E HAVING A DELTA OF 03°47'18", A RADIUS OF 2914.93 FEET, A DISTANCE OF 192.73 FEET MEASURED ALONG THE ARC TO A POINT OF TANGENT;

2) S12°41'08"W A DISTANCE OF 318.24 FEET TO A POINT ON THE SOUTH LINE OF THE NORTH ONE-HALF OF THE NORTH ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22;

THENCE N89°04'50"W AND ALONG THE SOUTH LINE OF THE NORTH ONE-HALF OF THE NORTH ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 803.38 FEET TO THE SOUTHWEST CORNER OF THE NORTH ONE-HALF OF THE NORTH ONE-HALF OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE S00°06'13"W AND ALONG THE WEST LINE OF THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 151.13 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF DOUGLAS LANE; THENCE S89°40'49"W AND ALONG THE NORTH RIGHT-OF-WAY LINE OF DOUGLAS LANE A DISTANCE OF 814.90 FEET TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25, AS RECORDED IN BOOK 160 AT PAGE 46 OF THE DOUGLAS COUNTY RECORDS; THENCE N15°40'46"E AND ALONG THE EASTERLY RIGHT-OF-WAY LINE OF INTERSTATE 25 A DISTANCE OF 515.76 FEET TO THE SOUTHWEST CORNER OF SAID TRACT OF LAND AS RECORDED

IN BOOK 250 AT PAGE 305 OF THE DOUGLAS COUNTY RECORDS; THENCE S85°06'02"E AND ALONG THE SOUTH LINE OF SAID TRACT RECORDED IN BOOK 250 AT PAGE 305 A DISTANCE OF 678.77 FEET; THENCE N00°06'13"E ALONG THE EAST LINE OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 49.70 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE N00°08'19"E AND ALONG THE WEST LINE OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 166.28 FEET TO THE NORTHWEST CORNER OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 22; THENCE S89°04'38"E AND ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF THE NORTHEAST ONE-QUARTER OF SAID SECTION 22 A DISTANCE OF 920.79 FEET TO THE POINT OF BEGINNING; SAID PARCEL CONTAINING 17.85 ACRES MORE OR LESS.