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**RED HAWK
ANNEXATION AND DEVELOPMENT AGREEMENT**

DC9615291

DATE: March 22, 1996.

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

U.S. HOME CORPORATION, ("Owner") a Delaware corporation, 5790
S. Greenwood Plaza Boulevard, Suite 101, Englewood, CO 80111.

MORTGAGEES: **DONALD G. & MARILYN L. ANDERSON**

RECITALS:

A. The parties have determined that it is in their mutual interest to define their respective rights, obligations and responsibilities with respect to the development of the Red Hawk property concurrently annexed to the Town of Castle Rock. This agreement is authorized by and in conformance with the Municipal Annexation Act of 1965, as amended.

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B. Owner acknowledges that this agreement contains reasonable conditions and requirements to be imposed upon the development of the property, and that these restrictions are imposed to protect and enhance the public health, safety and welfare of current and future residents of the Town, including those residents of Red Hawk.

C. Mortgagees are signatories to this Agreement solely for the purpose of subordinating their lien against the Property to these covenants and restrictions.

COVENANTS:

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

**ARTICLE I
DEFINITIONS**

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

Agreement: The Red Hawk Annexation and Development Agreement and any amendments to the Agreement.

CDOT: the Colorado Department of Transportation.

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

Code: the Castle Rock Municipal Code, as amended.

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

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

Development Plan: the Zoning Ordinance, Site Plan, the underlying PD zoning ordinance in the Code, and the utilities, drainage and open space and park master plans approved for the Property with the Site Plan.

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

Local Facilities: Facilities which are developed and intended for utilization primarily to serve development on the Property, although other areas of the Town may incidentally benefit from such Facilities, including all water distribution mains, all wastewater collection lines and lift stations, parks and arterial, collector and local streets.

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 needs of that portion of the Property constituting the intended service area (excluding the golf course referenced in 8.04); or (ii) the minimum size or capacity prescribed by Town Regulations, whichever is larger.

Owner: the person(s) in title to any portion of the Property, according to the records of the Douglas County Clerk and Recorder. The use of the singular "Owner" shall refer to all Owners of the Property, unless the context of the Agreement otherwise limits the reference. As of the date of execution of this Agreement, the Owner is U.S. Home Corporation.

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

Plat: a final subdivision plat of the Property.

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

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

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

Site Plan: the Red Hawk Preliminary PD Site Plan recorded at Reception No. 9615290 of the public records of Douglas County, Colorado.

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

Town Regulations: the Charter, ordinances, resolutions, rules and regulations of the Town, including the Code, and the provisions of all zoning, subdivision and building codes, as the same may be amended from time to time and applied uniformly throughout the Town. Reference to Town Regulations shall mean the Town Regulations in effect at the time of application.

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

Water Rights: the right and interest to all Denver Basin groundwater underlying the Property, whether or not adjudicated.

Wholesale Facilities: All Facilities, excluding Local Facilities, including Facilities typically developed by the Town in exchange for imposition of the water and wastewater Development Exactions, but excluding all water distribution mains and all wastewater collection lines and mains.

Zoning Ordinance: Ordinance No. 95-45 of the Town establishing the zoning classifications for the Property.

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

1.02 Cross-reference. Any reference to a section or article number, without further

description, shall mean such section or article in the Agreement.

ARTICLE II APPLICATION AND EFFECT

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

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

2.03 Joint Obligation. The obligation and covenants of the Owner in the Agreement shall be joint and several as between the several Owners at the time the obligation or covenant matures or the performance of which is called by Town in accordance with the Agreement. The fact that performance of an obligation or covenant of the Agreement imposes a disproportionate burden on the obligor, as compared to other Owner(s) of the Property, shall not excuse performance of the Agreement by such obligor, it being the understanding of the parties that the responsibility of apportioning the cost and burden of performance of this Agreement shall rest solely with the several Owners of the Property. Accordingly, Town shall have the right to obtain performance solely from the Owner of the portion of the Property whose development activity invokes the Town's right to performance under the Agreement.

2.04 Town Regulations. Town Regulations shall apply to the Property in the same manner and effect as within other areas of the municipality. Unless expressly stated to the contrary in the Agreement, the Agreement shall not in any manner restrict or impair the lawful exercise by the governing body of the Town of its legislative, quasi-legislative or administrative powers and responsibilities as applied to the Property, including specifically the amendment, modification or addition to the Town Regulations, subsequent to the execution of the Agreement. When the Agreement calls for compliance with an ordinance or other Town Regulations, the operative Town Regulations in effect at the time such compliance is required shall govern, unless the provisions of the Agreement expressly provide to the contrary. Any addition or modification to the Town Regulations with application to the Property, shall be applied and enforced by Town on a Town-wide basis, including other developing areas of the Town, subject to such limitations on application and enforcement which are imposed under existing contractual arrangements between Town and third parties.

**ARTICLE III
GENERAL OBLIGATIONS**

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

3.02 Permitted Development. Owner shall develop the Property in accordance with the Agreement and Town Regulations, and applicable state and federal law and regulations. Town shall allow and permit the development of the Property, upon submission of proper application, payment of fees, exactions and charges imposed by the Town Regulations, including Development Exactions, and compliance with conditions precedent to permitting imposed by the Agreement or Town Regulations. Town shall not unduly delay or hinder the development

of the Property (such as refusing to timely process, review and act upon development applications), nor shall Town unreasonably withhold its consent to or approval of a development request or permit. Town shall coordinate with Owner in any filings or applications before other governmental jurisdictions necessary for Owner to fulfill its obligations under the Agreement or to allow development of the Property, in accordance with the Agreement.

ARTICLE IV WATER RIGHTS

4.01 Owner Obligation. It is the obligation of Owner to acquire or develop water resources, sufficient to support Town's obligation to provide a municipal water supply to the Property in accordance with this Agreement and Town Regulations. Town shall have no obligation to issue land use approvals for the Property unless Owner is in compliance with the provisions of this Article IV. The Town Regulations require the dedication of all adjudicated water rights associated with annexed property concurrently with annexation. Since the rights to all of the Denver Basin groundwater underlying the Property are not adjudicated, Owner shall retain the right and obligation to obtain such adjudications as necessary to satisfy the terms and conditions of this Agreement. Owner shall not sever ownership of the Water Rights from ownership of the Property, except as is expressly authorized by this Agreement.

4.02 Adjudication. Owner has obtained a final decree (94CW275) adjudicating the rights to the Arapahoe and Laramie Fox-Hills aquifers underlying the Property (the "Adjudicated Rights"). Owner has also made application in Water Court Division 1 for decree(s) to the Lower Dawson and Denver aquifers ("Water Proceedings"). Owner shall be responsible for obtaining approval in the Water Proceedings for any plans for augmentation for "not-nontributary" water pursuant to C.R.S. §37-90-137(9)(c) to the extent not-nontributary water is proposed to be offered to Town for credit to the Water Bank, established under 4.07. In providing water to replace depletions during pumping pursuant to any such court-approved plan(s) for augmentation, Owner may designate return flows from the water being adjudicated which is to be discharged through municipal wastewater treatment plants and/or originating from lawn or golf course irrigation and other outdoor uses, provided that, to the extent required by the Court, such irrigation return flows have first been quantified (or a method for such

quantification is approved) by the Court decree or administrative action by the State Engineer and that Owner has obtained a decree consistent with those of the Town for such replacements during pumping of the affected aquifer(s). If such plan(s) for augmentation require replacement of post-pumping depletions and Owner commits to implement such augmentation plans, it shall be the sole responsibility of Owner to acquire, at its expense, such water resources as are necessary for such replacement and, absent further express agreement between Town and Owner, no Town water resources (including any portion of the Water Rights conveyed to Town) shall be used to replace such post-pumping depletions.

4.03 Water Rights Conveyance. Concurrently with recordation of this Agreement, Owner shall convey to Town by the designated document of conveyance:

- (a) the Adjudicated Rights by special warranty deed(s); and
- (b) an undivided interest in any well permits relating to the Adjudicated Rights issued by the State Engineer for wells or well sites on the Property, by written assignment.

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The conveyance of the Adjudicated Rights shall be without cost to the Town, and the property interests so conveyed shall be free and clear of any liens and encumbrances, as evidenced by an opinion of legal counsel, qualified to make such opinion as reasonably determined by Town, which shall be furnished to Town by Owner, prior to Town's acceptance of title.

The conveyance of the Adjudicated Rights shall transfer to Town the right to use, reuse, lease or sell the water withdrawn under the Adjudicated Rights, subject to the terms and conditions adjudicated to the decree. Owner shall execute such further reasonable and additional instruments of conveyance and other documents which Town reasonably determines necessary to grant to the Town the exclusive ownership, management and control of the Adjudicated Rights. Should it subsequently be determined that title to any portion of the Adjudicated Rights was not vested in Town at the time of conveyance in accordance with the aforementioned title opinion, the Water Credit established in 4.05 shall be reduced accordingly.

In addition to the above-described conveyances, if, in the future, the Town reasonably determines that well site(s) are needed on the Property and, further, that the public lands

designated on the Site Plan for dedication to the Town will not suffice for such well site(s), then Owner shall convey to Town appropriately sized well sites, easements and access at such time as Town determines that well development on the Property is necessary. Provided however such well site, easements and access shall be located as much as reasonably possible so as to minimize impact on development of the Property. The well site(s) and related easements shall be maintained by and at the expense of the Town. Any portion of the Property made subject to a Plat shall be released from this covenant, except to the extent the well site and/or related easements and access are dedicated to Town with the Plat or previous conveyances to Town by deed and are recognized on such Plat.

4.04 Not-Nontributary Water. Owner shall diligently prosecute the Water Proceedings to a conclusion subsequent to annexation of the Property. Within 30 days of obtaining a final decree to the Lower Dawson aquifer, (the "Dawson Rights") Owner shall convey to Town all its interest in the Dawson Rights, at no cost to Town. Because Owner does not intend to seek approval of an augmentation plan as part of the decree to the Dawson Rights, no credit or other development entitlements shall be given by Town for this water resource. Town may, at its option and expense, utilize the Dawson Rights for any purpose as part of its general water portfolio. Upon the issuance of a final decree to the Denver aquifer with an approved augmentation plan (the "Denver Rights") in accordance with 4.02, the Denver Rights shall be transferred for credit to the Water Bank as elsewhere provided in this Article IV. The conveyance of the Denver Rights shall be subject to the provisions of 4.03 governing conveyance of the Adjudicated Rights.

4.05 Water Credit. As the Water Rights are conveyed to Town, a credit shall be established against the Town's water dedication requirements for the benefit of the Property (the "Water Credit")¹. The amount of the Water Credit expressed in SFE shall be computed for each aquifer in accordance with the following formula:

¹ No credit is given for the unaugmented Dawson Rights per 4.04.

Water Source	Decreed Annual Withdrawal (AF)	Qualified for Credit (%)	Creditable Annual Withdrawal (AF)	Conversion to SFE (Rate)
Denver		x 100% ²	= 0	.55 AF/SFE
Arapahoe		x 100%	= 253	.55 AF/SFE
Laramie-Fox Hills		x 34%	= 42	.55 AF/SFE

The Water Credit is expressed in a single family equivalent. An SFE is the measure of average annual wholesale water production which must be developed to meet the imputed demand from a single family residence under the Town Regulations. Consequently, a Water Credit of 1 SFE represents that the holder has satisfied the Town's water dedication requirement for one single family residence or the equivalent demand attributable to multi-family, commercial or irrigation uses under the Town Regulations.

4.06 Application of Water Credit. The Water Credit established pursuant to 4.05 shall be reduced:

- (a) at the time of Plat approval of the Property by the total SFE assigned to all uses identified within the Plat including public uses such as parks and schools; and
- (b) at the time of final PD site plan approval (if so identified on the final PD site plan), or otherwise at issuance of a building permit, for any use not ascertained at final subdivision plat approval by the amount of the SFE assigned to such use.

In order to estimate the water demand at the time of final plat approval, Town may apply an empirical planning formula based upon platted area and debit the Water Bank (as that term is defined in 4.07 below). However, when all potable and irrigation tap sizes are known, the Water Bank shall be adjusted to reflect SFE assignment in accordance with Town Regulations. The demand attributed to development shall be reduced to reflect the substitution of treated effluent for potable irrigation. The Water Credit shall be increased upon the

² Assumes that Owner has secured augmentation plans, as necessary, in accordance with 4.02.

conveyance to and acceptance by Town of any additional water resources, as provided in 4.08.

4.07 Water Bank. In order to properly account for the Water Credit, Town shall administratively establish, maintain, and update an account, designated the Red Hawk Water Bank. The Red Hawk Water Bank shall periodically be debited or credited, in accordance with 4.05 and 4.06. The Red Hawk Water Bank shall be formatted as follows:

RED HAWK WATER BANK			
DATE	ENTRY	SFE DEMAND	SFE SUPPLY
	Deeds to Water Rights		536
	Final Subdivision Plat (Final PD Site Plan)	0	
	Net Water Credit		536

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

4.08 Required Water Sources. If the Water Credit is exhausted prior to full development of the Property, Owner shall be required to provide additional water resources, reasonably acceptable to the Town, which may include water rights associated with other properties within the Town, provided that the water rights so offered to the Town will support withdrawal through water production and distribution facilities of the Town then in service. Absent provision of such additional water resources, Town shall not be obligated to approve further development within the Property after exhaustion of the Water Credit.

4.09 Ownership and Transfer of Water Credit. The Water Credit constitutes a personal property interest, held and administered by the Town for the benefit of the Property. The Water Credit shall be applied in accordance with the Agreement on a "first-come, first-served"

basis to approved development within the Property. No purported assignment or allocation of the Water Credit as between the owner(s) of the Property shall be effective or binding upon the Town. The credit remaining in the Red Hawk Water Bank after full buildout of the Property shall revert to the Town. Owner shall not sever ownership of the Water Rights from ownership of the Property, except to convey such rights to Town pursuant to this Agreement, provided however this restriction on alienation shall lapse on December 31, 2015.

4.10 Unified System. Owner acknowledges that the Town will manage the water resources conveyed pursuant to the Agreement as part of its unified municipal water system, and Town is not restricted by the Agreement, from distributing the potable water produced from the Water Rights to any area of the Town, provided that the water supply available to serve existing and/or proposed development on the Property is not jeopardized by such diversion.

**ARTICLE V
FACILITIES DEVELOPMENT**

5.01 Responsibility. Development of the Local Facilities shall be the exclusive obligation of Owner, and Owner shall bear the cost of planning, design, construction and financing of the Local Facilities and all other related and incidental activities. The Local Facilities shall be developed in strict accordance with Town Regulations, the Development Plan, this Agreement and the applicable Plat. Owner shall not be prohibited from developing Local Facilities to a higher standard or more stringent criteria than required under the Agreement, unless the maintenance cost of such Local Facilities is increased materially as a result, in which event the Town may deny approval for such enhanced Local Facilities. Town shall have the obligation to develop the Wholesale Facilities to serve development on the Property. Owner shall have the obligation to construct all water and wastewater lines and mains, irrespective of size or capacity, whether on site or off-site of the Property, provided Town shall pay to Owner the incremental cost of Oversizing of any such line or main in excess of 12-inches in diameter attributable to Oversizing required by Town. Such payment shall be made at the time of acceptance of the line or main. Owner shall have the obligation to construct and pay for all mains and lines 12-inches in diameter or less without participation from Town.

5.02 Review Process. Prior to the commencement of construction of any Local Facilities, Plans shall be submitted and approved by the Town. Prior to the submittal of any Plans, Owner shall request a pre-design meeting at which time the scope of the proposed project shall be discussed. Town shall complete the initial review of plans within 45 days of the date of receipt of a complete submittal. Failure of the Town to review the Plans and to respond in writing to the submittal within such time period shall constitute approval by the Town of the Plans as submitted. With re-submittal of complete Plans by Owner, based upon Town critique, Town shall have an additional 15 days to approve, disapprove or make further comment on the submittal. Disapproval of the Plans shall be accompanied by a specific explanation of the reasons for such disapproval. Once the Plans are finally approved by the Town, the Plans shall not be amended except by written change orders, pursuant to consent of Owner and Town, which consent shall not be unreasonably withheld. Town's approval (express or by default) of Plans shall not constitute a waiver or relaxation of the requirements that all Local Facilities shall be developed in accordance with Town Regulations. Owner shall not undertake the development of Local Facilities, unless the Plans for the Local Facilities have been approved in accordance with provisions of this section. Prior to the bidding of any project, Owner shall provide the Town with all contract documents for the purpose of determining that the documents are consistent with Town Regulations and the terms of this Agreement. Owner shall furnish the Town with a continuous complete record, including but not limited to test results, schedules, change orders and "as-built" drawings, of all Local Facilities prior to and as a condition of town's acceptance.

5.03 Acceptance Upon final completion of the Local Facilities, Owner shall so notify Town in writing and request inspection and acceptance of the completed Local Facilities. Written acceptance or rejection of the Local Facilities shall be given by Town to the Owner within 30 days after the written request for acceptance, provided such inspection may be reasonably accomplished within such period. If such inspection cannot be so accomplished, Town shall, within 30 days after the written request for acceptance, notify Owner in writing as to the additional time required, but in no event to exceed an additional 30 days after the written request for acceptance. Failure of Town to respond to a written request for inspection and acceptance within such 30 day period (or failure to accept or reject the Local Facilities within

the additional time period provided for above) shall constitute acceptance of the Local Facilities tendered for acceptance. Should acceptance of the Local Facilities be denied, the nature of rejection shall describe specifically the defects which preclude acceptance. Should Owner or Town desire that the Local Facilities be placed into service prior to the correction of all deficiencies, responsibilities for maintenance, warranty, operation and correction of deficiencies must be clearly defined by written agreement. In the event Town and Owner are unable to agree as to the modifications need to be made to any Facility or other public improvement to secure its acceptance by Town, or whether Owner has reasonably completed the cure of any defects or need for modification identified by Town, then such dispute shall be resolved through private arbitration by one qualified independent engineer selected by mutual agreement, or in the event agreement cannot be reached as to one engineer, each party shall select a qualified engineer who shall select a third engineer, in which case the majority decision shall be binding upon the parties. In the event the result of such arbitration is in Owner's favor, the warranty period shall be deemed to have commenced thirty (30) days after the date upon which the Facility was completed. The costs of such arbitration shall be paid by the party deemed in error at the conclusion of such arbitration, or the arbitrators may award costs on any basis deemed equitable.

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

5.05 Conveyance. Concurrently with acceptance of the Local Facilities in accordance with the provisions of 5.03, Owner shall convey to Town its entire interest in the Local Facilities. If the Local Facilities have been constructed on properties (or within easements) previously conveyed to the Town, Owner shall convey its interest in the Local Facilities by warranty bill of sale. If the underlying property upon which the Local Facilities are located has not been previously dedicated or conveyed to the Town (or an easement for same previously conveyed to Town), Owner shall convey (or cause to be conveyed by the record owner) such

property interest by special warranty deed, in addition to the tender of the required warranty bill of sale unless the facilities are located entirely underground in which event an appropriate easement shall be conveyed to Town. The conveyance by deed of the fee interest or by bill of sale, as applicable, shall include Owner's warranties as to marketable title to the property interest conveyed, and the obligation to warrant and defend the title against claims of any and all third parties. The conveyance of the Local Facilities and associated property interests shall be free and clear of any liens, encumbrances, easements or rights-of-way except those which do not materially interfere with the use and enjoyment of the Local Facilities by Town. To the extent Owner is required under this section to convey fee title interest to the underlying real property in conjunction with transfer of Facilities, Owner shall furnish Town with an ALTA approved standard coverage title insurance commitment at the time of, and as a condition of conveyance, evidencing the ability of the grantor to convey good and marketable title to such property, in accordance with the title standards set forth in this section. Owner shall cause to be paid the premium for such title insurance. The policy shall be in an amount reasonably approximating the developed cost of the property conveyed (exclusive of the development cost of the Local Facilities located thereon), and Owner shall deliver such policy of insurance to the Town within 30 days after conveyance. Failure to property convey property interests, in accordance with this section shall be grounds for denial of acceptance by the Town.

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

5.07 Wholesale Facilities. In consideration of the payments required to be made under this section, Town shall have the exclusive obligation to construct or acquire sufficient Wholesale Facilities to serve approved development on the Property. The wastewater component of the System Development Fees shall be paid in accordance with Town Regulations. In order to provide Town with working capital to develop water production, treatment and storage to serve initial development on the Property, Owner shall pay to Town the sum of \$950,000 concurrently with, and as a condition to, recordation of the first Plat. Such payment shall be applied by Town as a prepayment of the water component of the System

Development Fees (the "Water Taps"). The number of Water Taps shall be determined by dividing \$950,000 by the per SFE water component of the System Development Fees in effect at the time of such prepayment, and then multiplying the dividend by 1.05³. The Water Taps shall be honored by Town for development anywhere on the Property, but shall not be transferable for utilization elsewhere. The quantity of Water Taps shall not be diluted by a subsequent increase in the amount of the water component of the System Development Fees enacted by Town through the Town Regulations. After all Water Taps have been utilized, the water component of the System Development Fees shall be collected on development in accordance with Town Regulations. Except as provided immediately above, Owner shall have no development or financial obligation towards Wholesale Facilities. After prepayment of the Water Taps, Town shall not withhold development approvals on account of current or projected deficiencies in Wholesale Facilities, provided System Development Fees are paid in accordance with this Agreement. The refusal of Town to approve Plats or other land use approvals to the Property due to the lack of available capacities in Wholesale Facilities shall constitute an event of default under Article X; provided however, Town shall have 180 days from the date of the default notice under 11.03 to effect cure of the default by acquiring or developing the needed facilities and granting the requested land use approvals.

5.08 Phasing of Facilities. As part of the Site Plan, five development phases are defined (the "Phases"). Certain of the Facilities required to be developed under the Town Regulations will serve and benefit more than one Phase (the "Common Facilities"). Recognizing that ownership of the Property may be divided, the parties have devised a phasing plan for the Common Facilities attached as *Exhibit 2* (the "Phasing Plan"). The Common Facilities matched to the Phase must be developed in conjunction with the first Plat within such Phase, unless one or more of such common Facilities, in the reasonably considered opinion of the Town, are not necessary to serve such first Plat (the "Deferred Facilities"). In such event, a sufficient surety shall be provided to insure completion of the Deferred Facilities at such time as they are deemed reasonably necessary by Town to serve a subsequent Plat. Such surety shall continue

³ For example, the current component of the System Development Fees is \$6,100, yielding 163.5 SFE of water taps ($\$950,000 \div \$6,100 \times 1.05$)

to be provided to insure completion of the Deferred Facilities until constructed. The required Common Facilities shall be included in the Facilities subject to surety pursuant to Plat approval. Allocation and apportionment of the cost of development of Common Facilities between the Phases shall be the exclusive obligation of the Owners. Irrespective of such cost allocation or private recoupment arrangements which may be in place, Town shall have the absolute right to withhold further development approvals for any development within the Property which utilizes or benefits from Common Facilities which are not developed when required by the Phasing Plan. In the event of the invocation of such development approval moratorium, Town shall have no liability for any loss or injury incurred to any Owner, as a result of diminution in value of the Property, loss of development rights (whether vested or not), or deprivation of any property interest.

5.9 Subdivision Improvements Agreement. The Town Regulations require that a subdivider enter into a Subdivision Improvements Agreement ("SIA") at the time of approval of a Plat. The SIA addresses with greater specificity the Facilities to be constructed to serve the Plat and the financial guarantees to assure construction of the Facilities. Unless modified in the SIA, the provisions of this Article V will apply to the development of such Facilities, irrespective of whether or not reference to this Article V is made in the SIA.

5.10 Drainage. Included in the Facilities is a stormwater detention pond within the PLD5. The purpose of the detention Facility is to detain historic and non-historic, offsite developed flows.

ARTICLE VI SCHOOL IMPACT FEES

6.01 Purpose. Residential development creates a demand for public school facilities. The Douglas County RE-1 School District (the "District") has encouraged governmental entities in Douglas County to impose a fee or exaction to defray, in part, the incremental cost of developing school facilities to service the demand from new residential development. Owner acknowledges that the maintenance of quality public schools is of vital importance to the community and is a material factor in marketing residential development on the Property. For these reasons, the parties have provided in this Article VI for an impact fee to be collected on

residential development on the Property.

6.02 Calculation of Fee. For each residential dwelling unit there shall be paid an impact fee to the Town in the amount of \$900 (the "Contract Fee"). The Contract Fee shall be collected at the time of issuance of the building permit in the same manner as the Development Exactions are collected by Town. The Contract Fee is subject to adjustment, in the event the Town imposes, by ordinance with general applicability throughout the Town, a school impact fee (the "Ordinance Fee") as follows:

- (a) if the Ordinance Fee is established at a level or rate which would result in an exaction in an amount less than the Contract Fee, then the Contract Fee shall be reduced, prospectively, to the level of the Ordinance Fee; or
- (b) if the Ordinance Fee is established at a level or rate which would result in an exaction in an amount greater than the Contract Fee, then the Contract Fee shall be increased, prospectively, to the level of the Ordinance Fee.

The above provision shall have no retroactive application to the imposition of the Contract Fees collected by Town prior to the commencement of collection of the Ordinance Fee. The Contract Fee shall not be extinguished by adoption of the Ordinance Fee; rather payment of the Ordinance Fee shall be credited, dollar for dollar, against the Contract Fee. Should the imposition of the Ordinance Fee be subject to judicial challenge, and/or should the Ordinance Fee be adjudged to be unlawful, there shall be no affect on imposition of the Contract Fee by Town pursuant to this Article VI. In such event Town shall have no obligation to refund to Owner any difference between the Contract Fee and the Ordinance Fee created by operation of (b) above. In the event the Ordinance Fee is adjudged to be unlawful by a court of final jurisdiction, the Contract Fee shall then revert to the level established in the first sentence of this section.

6.03 Application of Fee. The Contract Fee shall be applied by Town solely for the purpose of funding capital construction of public schools in Douglas County, pursuant to the terms of the applicable intergovernmental agreement which may be in effect between Town and District.

**ARTICLE VII
TRANSPORTATION IMPROVEMENTS**

7.01 Exit 182 Interchange and Future Fifth Street Overpass. Traffic from development on the Property will impact the Exit 182 I-25 Interchange and future Fifth Street Overpass. Based upon the Wolfensberger Interchange Utilization Study undertaken by the Town's transportation consultants, the Property is allocated \$296,000 of the cost of the improvements to the Interchange and the future Fifth Street Overpass. This allocation shall be paid concurrently with, and as a condition to, the recordation of the each final Plat within the Property on a per lot basis (per platted lot based upon and limited to a total lot count of 800 lots) provided however, the entire unpaid portion of the \$296,000 shall become due and payable at the time the Town enters into a contract for the Fifth Street Overpass. In no event shall the total cost of said allocation exceed \$296,000.

7.02 Santa Fe Drive. As referenced in the Phasing Plan, Owner is required to construct Santa Fe Drive, from Wolfensberger Road to its intersection with Meadows Parkway, as part of the Facilities required with the first Plat. Owner shall dedicate to Town a 120-foot right-of-way for Santa Fe Drive across the Property concurrently with recordation of the first Plat. Town shall be responsible for acquiring necessary right-of-way for Santa Fe Drive off-site of the Property. If Town is unable to acquire all of the off-site right-of-way, Owner's obligation to construct Santa Fe Drive shall be deferred until such right-of-way is acquired. Required improvements and associated estimated improvement costs are attached as *Exhibit 3*, ("Santa Fe Drive Onsite", and "Santa Fe Drive Offsite"). Owner shall be required to construct those improvements Onsite to one-half the arterial roadway section per Town specifications. Owner shall be required to construct those improvements Offsite to a roadway section of 32 feet pavement. Both of these sections are identified in *Exhibit 3*.

Changes required by final roadway design, and survey for the Offsite portion of Santa Fe Drive shall be the Owner's obligation. Improvements not shown on *Exhibit 3*, but requested to be constructed by the Town during the design or construction of the Offsite portion of Santa Fe drive shall be at the sole expense of the Town.

7.03 Waiver Street Oversizing Fee. Town shall not collect street oversizing fees otherwise imposed under Chapter 3.12 of the Code on development within the Property.

**ARTICLE VIII
PUBLIC LANDS**

8.01 Required Dedication. As set forth in the Phasing Plan, Public Lands shall be dedicated to Town as a condition to land use approvals. Both of the areas designated "OSD" and "PLD" are Public Lands. In addition, certain of the areas designated "USD" may be Public Lands, in the event Town accepts maintenance of these areas at the time of Plat approval.

8.02 Conveyance. All Public Lands shall be conveyed to Town by general warranty deed, free and clear of liens, encumbrances or other title impediments, and such conveyance shall be in compliance with applicable Town Regulations. Unless otherwise provided in the Town Regulations to the contrary, the grantor shall furnish the Town with a policy of title insurance, issued by a title company licensed to do business in the State of Colorado, in an amount reasonable reflecting the value of the Property conveyed with utilities and access to the site. If so requested by Town or required by the Town Regulations, Owner shall complete an appropriate environmental audit of all Public Lands prior to conveyance and acceptance by

Town, and shall be solely responsible for any remedial environmental measures of hazards identified in the audit.

8.03 Park Development. To defray, in part, the cost of the development of parks on the Property, Owner shall pay to Town the sum of \$60,000 concurrently with recordation of the first Plats, in Phases I and II for a total payment of \$120,000 unless at the time such payment is due, Town has elected the option to develop a golf course on the Property as provided in 8.04, in which event, no further payments pursuant to this section shall be due. Such monies shall be utilized by Town exclusively for the purpose of developing parks on the Public Lands.

8.04 Golf Course Option. As of the date of approval of the execution of this Agreement the Town is undertaking preliminary analysis and study to determine the feasibility of developing a municipal golf course. To assist Town in the feasibility studies and review of the golf course, but without creating any obligation on the Town to select the Property as the golf course site, Owner shall pay to Town the sum of \$50,000 within ten days of the expiration of the referendum period in the ordinance approving the annexation of the Property, unless such ordinance is challenged by a referendum, in which event the provisions of 10.05 shall govern

the obligation to make such payment. The Property may be a suitable location for the golf course, although a site selection and review process has not been completed. In the event the Town should select the Property for the golf course, Town shall give written notice to Owner and Owner, within sixty days thereafter shall convey to Town (in accordance with 8.02) OSD-1,2,3,; PLD-8; and UD-3,4,8. This option to accelerate the conveyance of Public Lands otherwise provided in the Phasing Plan, shall expire on December 31, 1997 if notice of exercise is not given by Town by that date. Concurrently with conveyance of the designated Public Lands, Owner shall furnish Town with a letter of credit, in a form approved by the Town Attorney, in the amount of \$250,000 to secure Owner's financial obligation to the golf course as provided below provided however, such sum shall be reduced by any amounts previously paid by Owner to Town pursuant to 8.03. The parties anticipate entering into a golf course agreement addressing other issues associated with development of the golf course on the Property.

Within thirty days of the date Town gives notice to Owner of the issuance by Town of a notice to proceed under a contract for construction (as opposed to design) of the golf course on the Property, Owner shall pay to Town \$250,000 to be applied by Town for golf course construction. With such payment the letter of credit shall be released by Town; however, in the event of Owner's default in payment, Town may call the letter of credit and utilize \$250,000 of the proceeds to cure Owner's default. The obligation of Owner to contribute towards golf course construction and maintain the required security shall expire on December 31, 2005.

ARTICLE IX LAND USE VESTING

Section 9.01 Vesting. The Development Plan for the Property shall constitute a "site specific development plan" as defined in C.R.S. § 24-68-101 and Chapter 15.24 of the Code, and accordingly vested property rights are established with respect to the Development Plan in accordance with statute and applicable Code provisions. Such vesting shall become effective concurrently with the effective date of the ordinance authorizing this Agreement.

Section 9.02 Duration. Due to the scale of development proposed on the Property and that the cost of Facilities development is recovered sequentially through the development cycle,

property rights in the Development Plan are vested until December 31, 2000. After December 31, 2000 the Development Plan shall remain valid and effective as it exists on the date of lapse; however, the Development Plan shall then be subject to amendment pursuant to a rezoning, in accordance with the law.

Section 9.03 Natural and Manmade Hazards. Nothing in this Agreement or otherwise shall require the Town to approve development or use of any portion of the Property where there exists natural or manmade hazards on or in the vicinity of the proposed area of use, whether or not such natural or manmade hazards could reasonably have been discovered at the time of approval of the Development Plan, provided that such hazards are not or cannot be corrected and that such hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare.

Section 9.04 Compliance with General Regulations. The establishment of the rights vested under this Agreement shall not preclude the application of Town Regulations of general applicability including, but not limited to, Development Exaction, building, fire, plumbing, engineering, electrical and mechanical codes, or the application of regional, state or federal regulations.

Section 9.05 No Monetary Liability of Town. Although C.R.S. § 24-68-101, et seq., allows for monetary damages in the event of breach or default by the Town, the sole remedies hereunder shall be equitable remedies of specific performance or mandatory or prohibitory injunction. Owners hereby waive any rights to money damages either may have under the Constitution and laws of the United States or the State of Colorado for any such breach or default.

ARTICLE X DEFAULT, REMEDIES AND DISCONNECTION

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

10.02 Remedies. In addition to specific remedies provided elsewhere in the Agreement (including Town's right to withhold development approvals), upon default, the non defaulting party shall have the right to take whatever action at law or in equity appears necessary or

desirable to enforce performance and observation of any obligation, agreement or covenant of the defaulting party under the Agreement, or to collect the monies then due and thereafter to become due, subject however, to the limitation on remedies of 9.05. In any such legal action, the prevailing party shall be entitled to recover its reasonable attorney's fees and litigation costs from the other party.

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

10.04 Judicial Action. In the event that the annexation of the Property is voided by final action of any court (such action not being associated with a referendum or initiative action), Town and Owner shall cooperate to cure the legal defect which resulted in disconnection of the Property, and upon such cure this Agreement shall be deemed to be an agreement to annex the Property to the Town pursuant to the Municipal Annexation Act. Any such agreement to annex shall be subject to the terms of this Agreement, the Development Plan, and all other documents referenced herein. Owner shall reapply for annexation as and when the Property becomes eligible for annexation as determined by the Town. No right or remedy of Owner for disconnection of the Property from the Town accrues from this Agreement, other than that provided by Section 31-12-119, C.R.S.

10.05 Referendum and Disconnection. If the annexation of the Property or any portion thereof is challenged by a referendum, all provisions of this Agreement, together with the duties and obligations of each party, shall be suspended, pending the outcome of the referendum election. If the referendum challenge to the annexation results in disconnection of the Property from the Town, then this Agreement and all provisions contained herein shall be null and void and of no further effect as applied to the Property only. In such event Town shall return to

Owner any Development Exactions or impact fees paid with annexation, but excluding the review fees paid pursuant to separate agreement. If the referendum challenge fails, then Owner and Town shall continue to be bound by all terms and provisions of this Agreement. In the event the Property or any portion thereof is disconnected at Owner's request or by judicial decree, the Town shall have no obligation to serve the disconnected portion of the Property and this Agreement shall be void and of no further force and effect as to the Property and the disposition of Development Exactions paid by Owner to date, and the other payments required to be made by Owner to Town with annexation shall be governed by the Agreement for disconnection or by such judicial decree.

ARTICLE XI GENERAL PROVISIONS

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

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

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

11.03 Notice. The addresses of the parties to this Agreement are as listed below. Any and all notices allowed or required to be given in accordance with this Agreement are deemed to have been given when delivered to the other parties or five (5) days following the date the same is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested addressed to the other parties at the addresses noted: or such address as is subsequently endorsed in writing, or in the event of transfer of the Property to the address of such grantee as indicated in the recorded instrument whereby such grantee acquired an interest in the Property.

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

Owner: U.S. Home Corporation
5790 S. Greenwood Plaza Boulevard, #101
Englewood, CO 80111

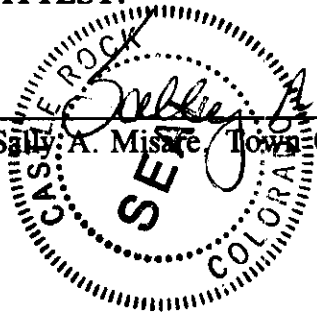
11.04 Severability. It is understood and agreed by the parties hereto that if any part, term, or provision of this Agreement is by the Courts held to be illegal or in conflict with any law of the State of Colorado, the validity of the remaining portions or provisions shall not be affected, and the rights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

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


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

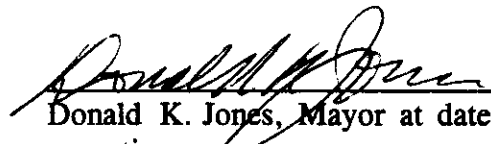
11.07 Entire Agreement. This instrument embodies the whole agreement of the parties. There are no promises, terms, conditions, or obligations other than those contained herein; and this Agreement shall supersede all previous communications, representations, or agreements, either verbal or written.

ATTEST:


Sally A. Misare, Town Clerk

TOWN OF CASTLE ROCK


Mark C. Williams, Mayor at time of approval (11/30/95).


Donald K. Jones, Mayor at date of execution.

Approved as to form:

Robert J. Slentz
Robert J. Slentz, Town Attorney

STATE OF COLORADO)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 22nd day of March, 1996, by Sally A. Misare as Town Clerk and Mark C. Williams as Mayor* of the Town of Castle Rock.

My commission expires: 6/31/98

Witness my hand and official seal.

Judith K. Hoatler
Notary Public
*as of time of approval (11/30/95) and Donald K. Jones as Mayor as of time of execution

U.S. HOME CORPORATION, a Delaware corporation.

By: [Signature]

Its: DIVISION PRESIDENT

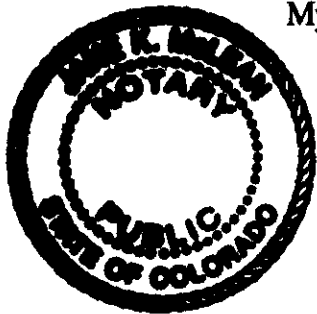
STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

The foregoing instrument was acknowledged before me this 10th day of January, 1996 by Brian Raley as Division President for U.S. Home Corporation, a Delaware corporation.

Witness my official hand and seal.

My Commission expires: 9-24-99

Jane K. McLean
Notary Public



My Commission Expires 09/24/99

9615291 - 03/26/96 13:23 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER \$160.00
B1328 - P0329 - 25/ 32

EXHIBIT I

PROPERTY DESCRIPTION:

A tract of land situated in Section 34, Township 7 South, Range 67 West and in Sections 3 and 4, Township 8 South, Range 67 West of the 6th Principal Meridian, Douglas County, Colorado, more particularly described as follows:

Beginning at the Northwest corner of said Section 3;

Thence N 89°02'38"E a distance of 2626.34 feet to the North $\frac{1}{4}$ corner of said Section 3;

Thence N 89°02'38"E a distance of 1313.17 feet to the Southwest corner of the East $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ of said Section 34;

Thence N 0°46'10"W along the West line of said East $\frac{1}{4}$ of the Southeast $\frac{1}{4}$ a distance of 1495.35 feet to the West Right of Way line of the Atchison, Topeka and Santa Fe Railroad;

Thence Southerly along said West Right of Way line for the next six (6) courses:

1. Thence Southerly along the arc of a curve to the right a distance of 132.78 feet, said curve has a radius of 1357.70 feet and a central angle of 5°36'12" to a point of tangent;
2. Thence S 11°42'22"E along said tangent a distance of 2078.75 feet;
3. Thence N 78°17'38"E a distance of 25.00 feet;
4. Thence S 11°42'22"E a distance of 1939.24 feet to a point of curve;
5. Thence Southerly along the arc of a curve to the left a distance of 632.35 feet, said curve has a radius of 5780.00 feet and a central angle of 6°16'06" to a point of tangent;
6. Thence S 17°58'28"E along said tangent a distance of 429.05 feet to the Northeast corner of the Intermountain Rural Electric Association Sub-Station Site;

Thence N 89°35'48"W a distance of 250.00 feet to the Northwest corner of said Sub-Station Site;

Thence S 17°58'28"E a distance of 450.00 feet to the Southwest corner of said Sub-Station Site and to the North Right of Way fence of Wolfensberger Road;

Thence N 89°30'27"W along said North Right of Way fence a distance of 271.57 feet;

Thence S 85°06'21"W along said North Right of Way fence a distance of 127.52 feet;

Thence S 89°08'27"W along said North Right of Way fence a distance of 1250.52 feet to the Southeast corner of Anderson Subdivision;

Thence N 5°43'41"W a distance of 611.90 feet to the Northeast corner of Anderson Subdivision;

Thence S 62°51'36"W a distance of 427.90 feet to the Northwest corner of Anderson Subdivision;

Thence S 0°15'52"E a distance of 431.34 feet to the Southwest corner of Anderson Subdivision and to the North Right of Way fence of Wolfensberger Road;

Thence S 87°54'50"W along said North Right of Way fence a distance of 228.92 feet;

Thence S 87°02'30"W along said North Right of Way fence a distance of 181.92 feet;

Thence S 88°14'02"W along said North Right of Way fence a distance of 50.00 feet;

Thence N 0°10'47"W a distance of 697.33 feet;

Thence S 89°12'52"W a distance of 1068.77 feet to the West line of the Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of said Section 3;

Thence N 0°10'47"W a distance of 652.83 feet to the Northwest corner of said Northeast $\frac{1}{4}$ of the Southwest $\frac{1}{4}$;

Thence S 89°26'34"W a distance of 1296.77 feet to the West $\frac{1}{4}$ corner of said Section 3;

Thence N 89°52'54"W a distance of 2631.39 feet to the center $\frac{1}{4}$ corner of said Section 4;

Thence N 1°07'29"W a distance of 2657.66 feet to the North $\frac{1}{4}$ corner of said Section 4;

Thence N 89°32'31"E a distance of 2627.54 feet to the point of beginning;

Containing 532.67 acres, more or less.

**EXHIBIT 2
PHASING PLAN**

[The] intended phasing sequence(s) noted herein on this exhibit 2 are set forth such that several phases are dependent upon construction of certain facilities in a previous or subsequent phase.

However, it shall be further noted by this exhibit 2 that if any phase is contemplated for development "out of sequence" from any subsequent "dependent" phase, the particular phase being contemplated shall be obligated to construct all necessary offsite facilities, per Town Standards, to effect required secondary access roadways, water line looping, sewer connections and storm drain/detention facility construction.

PHASE I

PLAT DEDICATION

Wolfensberger 45' additional R.O.W. (Santa Fe to west boundary) PLD-3

Santa Fe Road 120' R.O.W. (Wolfensberger to north property line)

Rail Road R.O.W. (As shown on PPD) PLD-6

Expanded IREA Parcel approximately 2 acres PLD-4

OSD-1 (west portion)

PLD-1

UD-1.2

Exit 182 I-25 interchange allocation

North/south collector from Wolfensberger Rd. to south boundary of OSD-1

FACILITIES

1. Wolfensberger Road - north 1/2 of R.O.W. to minor arterial standards from Santa Fe to west boundary of PLD-3
2. North/south collector-full width collector (44' flowline to flowline) standards from Wolfensberger to south boundary of OSD-1
3. Sewer outfall from Santa Fe and Wolfensberger to south boundary of OSD-1
4. Water main in north/south collector to OSD-1, water main in Santa Fe to intersection of east/west collector per Town Water Facility Master Plan
5. Install storm crossing in north/south collector
6. Box culvert within R.O.W. of Santa Fe Road
7. Detention Pond area
8. 8' trail within OSD-1, PLD-3,5 and UD-1
9. Santa Fe Rd.- per exhibit 3, from Wolfensberger Rd. to Meadows Parkway
10. Secondary access hard surfaced roadway (20' minimum width) to a point of connection on Santa Fe Road.
11. Loop water line from end of the water line in the north/south collector to a water line in Santa Fe Rd.

EXHIBIT 2 (cont.)

PHASE II

PLAT DEDICATION

North/south collector to intersection of east/west collector, from OSD-1 south boundary
East/west collector from north/south collector to intersection with Santa Fe Road
OSD-1 (east portion)
PLD-7 (school site)
UD-3,4,5,6
OSD-3

FACILITIES

1. North/south collector - full width collector standards from south boundary of OSD-1 to intersection of east/west collector
2. East/west collector - full width collector standards from north/south collector to Santa Fe Road
3. Sewer outfall from south boundary OSD-1 to serve R-SF6-2(+/-300')
4. Outfall sewer from existing Town of Castle Rock trunk line (offsite) to R-SF6-2, south of OSD-1, Santa Fe Road, east/west collector, north property line to north/south collector and within east/west collector
5. Water main from south boundary of OSD-1,3 to intersection of east/west collector
6. Water main from east/west - north/south collectors to intersection of Santa Fe Road
7. RCP road crossing at OSD-1,3 and north/south collector to intersection of Santa Fe Road
8. Detention Ponds - 5,6 with inlet and outlet structures
9. RCP road crossing at east/west collector

PHASE III

PLAT DEDICATION

PLD-8
UD-7,8
Dedication of east/west collector and east/west local road

FACILITIES

1. North/south collector-full width collector standards from east/west collector to north property line
2. East/west collector-full width standards from north/south collector to west boundary PLD-8
3. Road crossing at east/west collector and PLD-8
4. Road crossing at east/west local and OSD-3
5. RCP, detention pond outlet structure UD-7
6. RCP, detention pond and outlet structure UD-8
7. Sewer main outfall within east/west collector, north/south collector and adjacent to north property line
8. Water main in east/west collector from north/south collector to PLD-8

EXHIBIT 2 (cont.)

PHASE IV

PLAT DEDICATION

UD-9

PLD-9

FACILITIES

1. 8' trail in CSD-4 and PLD-9
2. RCP local road crossing in PLD-9
3. Sewer main outfall from west boundary of PLD-9 to west boundary of UD-9
4. Water main from west boundary of PLD-9 to future tie-in at Coachline Road
5. RCP, detention pond and outlet structures at UD-9

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pg. 3

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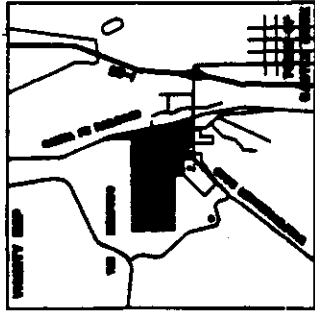
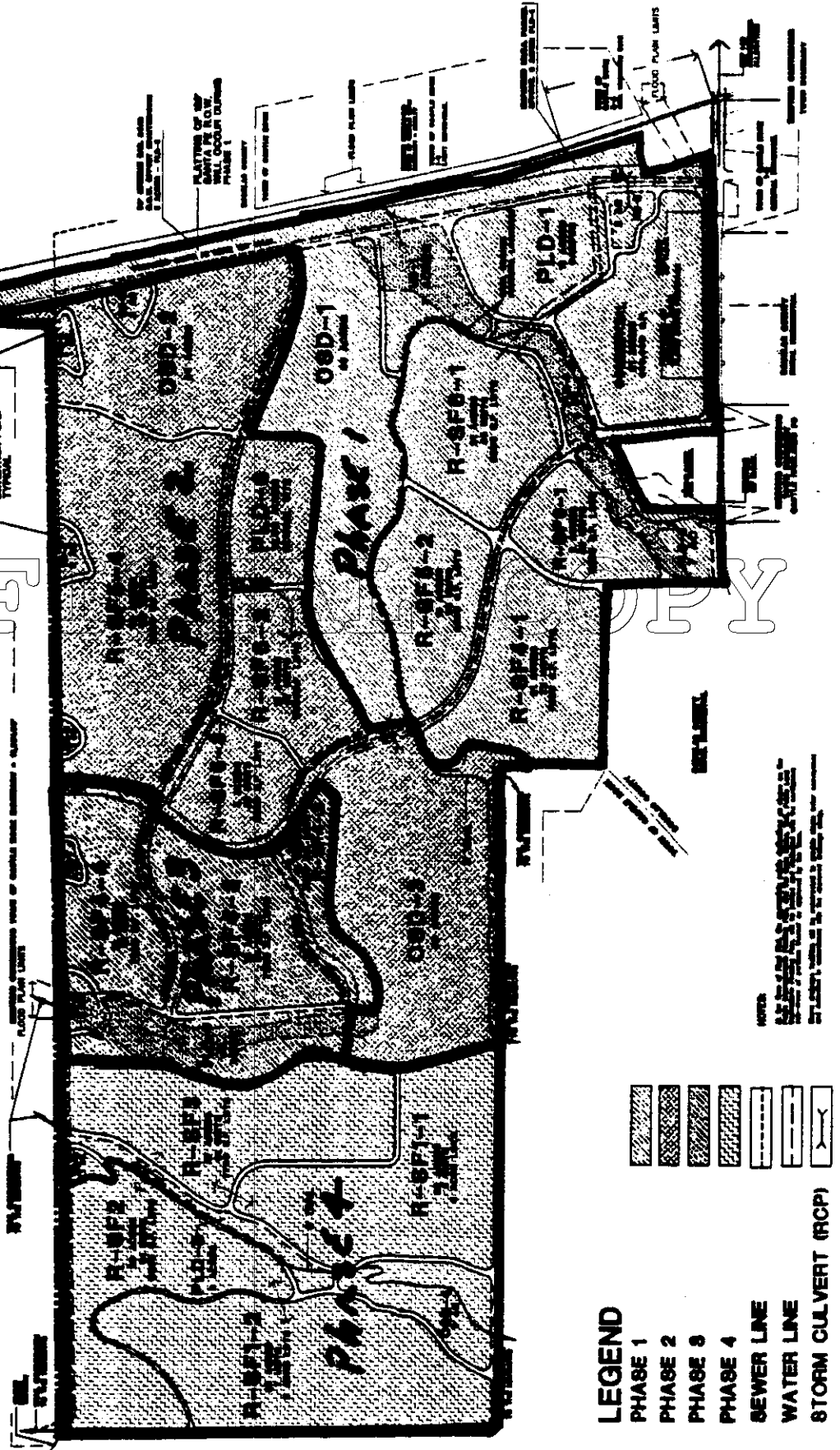


EXHIBIT 2
RED HAWK
PHASING PLAN

PUBLIC IMPROVEMENTS, OPEN SPACE, TRAILS & PARKS LAND DESIGNATIONS



LEGEND

[Pattern 1]	PHASE 1
[Pattern 2]	PHASE 2
[Pattern 3]	PHASE 3
[Pattern 4]	PHASE 4
[Symbol 1]	SEWER LINE
[Symbol 2]	WATER LINE
[Symbol 3]	STORM CULVERT (RCP)

NOTES:
 1. ALL UTILITIES SHOWN ARE BASED ON RECORD DRAWINGS.
 2. ALL UTILITIES SHOWN ARE TO BE DELETED OR RELOCATED AS SHOWN ON THIS PLAN.

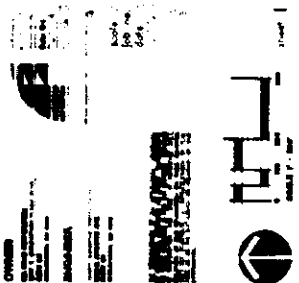
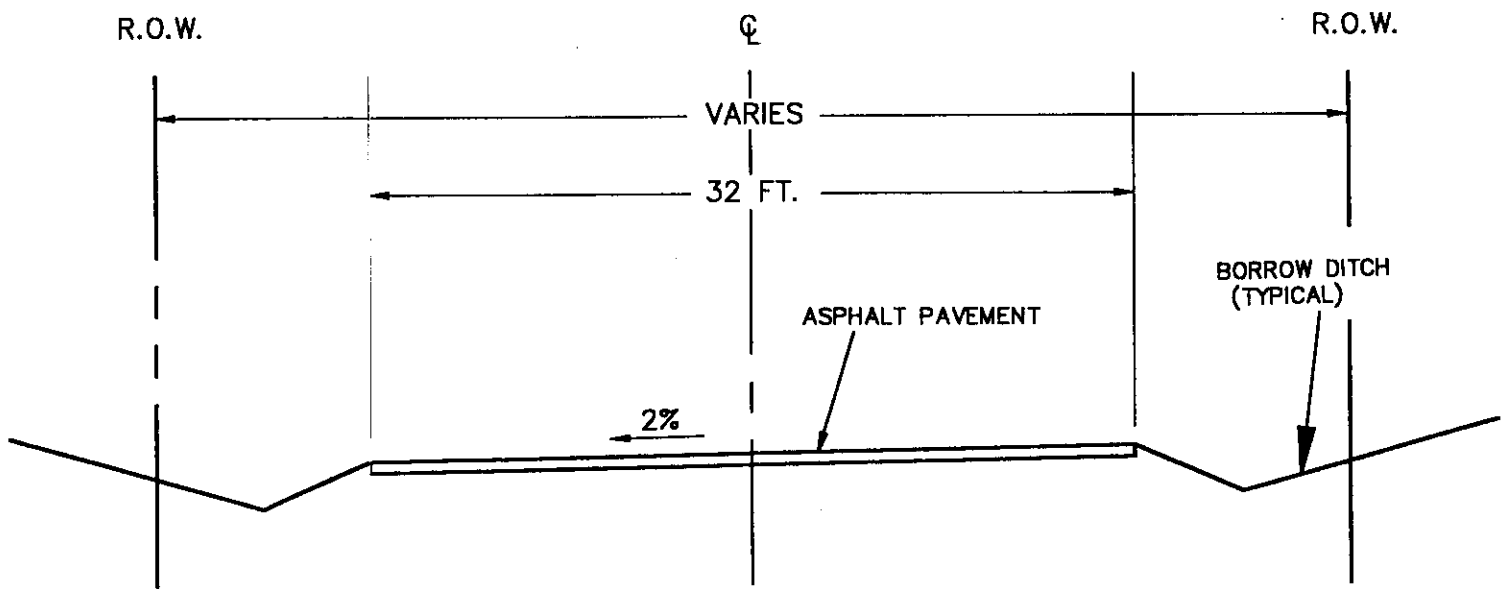
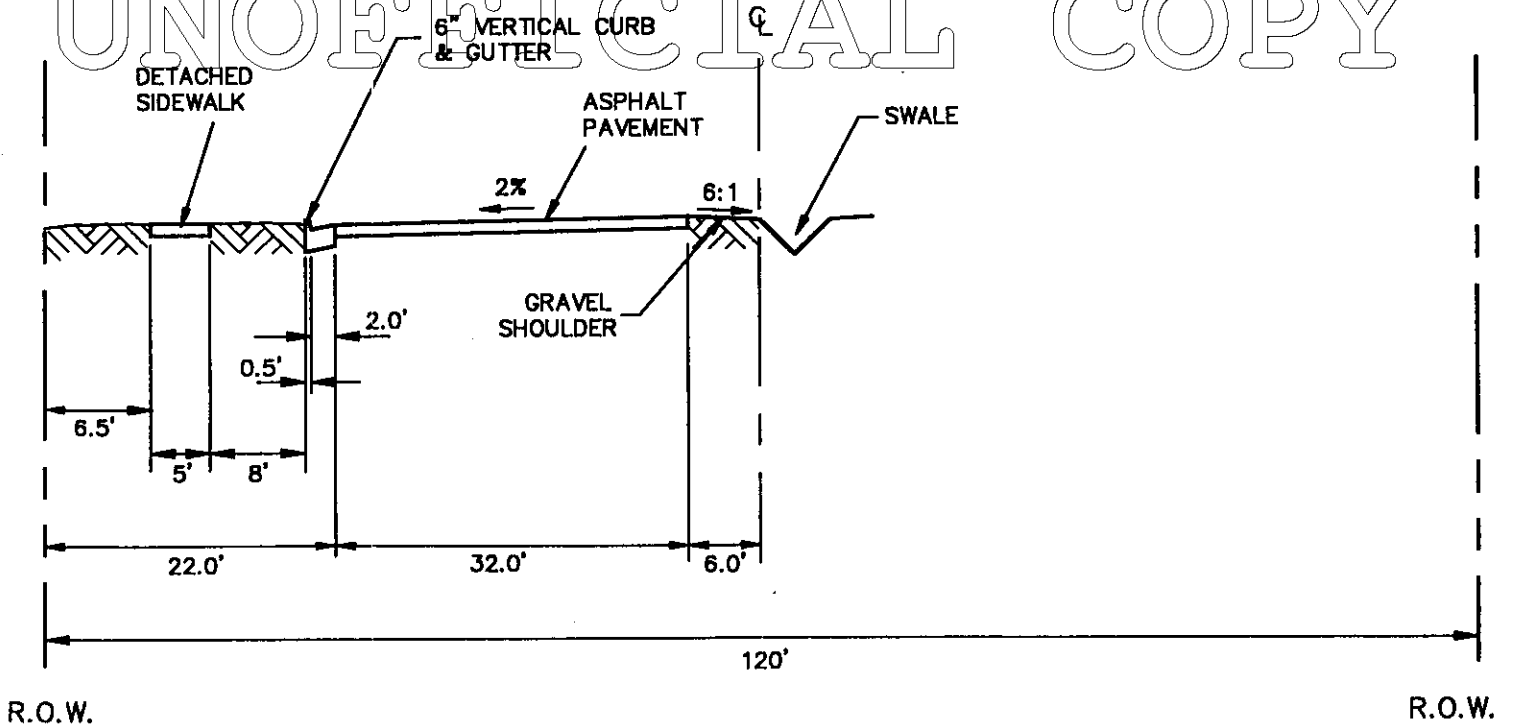


EXHIBIT 3



SANTA FE DRIVE OFFSITE

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1/2 ARTERIAL SANTA FE DRIVE ON-SITE

4

118

**FIRST AMENDMENT TO RED HAWK
ANNEXATION AND DEVELOPMENT AGREEMENT**

DC9710204

DATE: January 9, 1997

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

U.S. HOME CORPORATION ("Owner"), a Delaware corporation, 6000 S. Greenwood Plaza Boulevard, Suite 200, Englewood, Colorado 80111.

RECITALS:

A. Whereas, Town and Owner are parties to an Annexation and Development Agreement dated March 22, 1996, recorded on March 26, 1996 at Reception No. 9615291 in Book 1328 at Page 305 of the public records of Douglas County, Colorado referred to herein as the "Annexation Agreement".

B. Whereas, the parties desire to modify the Annexation Agreement to revise Article VIII regarding golf course development and financial obligations of Owner.

COVENANTS:

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

Section 1. Amendment. Article VIII, Sections 8.03 and 8.04 are repealed and reenacted, and 8.05 is enacted as follows:

8.03 Park Development/Public Land Dedication. Prior to recordation of the first plat in either Phase I or Phase II, the Town elected the option to develop the golf course on the Property as such option was provided for in Paragraph 8.04. Therefore, the payments of \$60,000 each, for a total of \$120,000, due concurrently with the recordation of the first final plat of each Phase are not, nor will they in the future, be due and Paragraph 8.03 of the Agreement is hereby agreed to be repealed and of no further force and effect if Town proceeds with golf course financing and construction. In the event Town does not proceed with golf course financing and construction, Owner shall remain liable solely for payment of the remaining \$20,000 amount due pursuant to the provisions of paragraph 8.03.

Upon dedication by Owner of all the real property identified as Open Space Dedication ("OSD") and Public Land Dedication ("PLD") on the approved Red Hawk Preliminary P.D. Site Plan, as amended, the PLD



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requirements of the Town shall be fulfilled and no further PLD shall be due Town. Assuming that the real property as so identified is dedicated to the Town, no cash in lieu of Public Land Dedication (which shall specifically include all land dedication for school purposes) shall ever be required by Town for itself or for the benefit of any other party.

8.04 Golf Course Option. After approval of the Annexation Agreement the Town undertook preliminary analysis and study to determine the feasibility of developing a municipal golf course. To assist Town in the feasibility studies and review of the golf course, but without creating any obligation on the Town to select the Property as the golf course site, Owner paid to Town the sum of \$50,000 within ten days of the expiration of the referendum period in the ordinance approving the annexation of the Property. Such review was completed and the Property was found to be a suitable location for the golf course. The Town then selected the Property for the golf course, and Owner paid an additional \$100,000 to Town for additional design work. It was understood by Town and Owner that said additional \$100,000 was not refundable to Owner and was to be used exclusively by the Town for the design of the golf course and design of related improvements.

UNOFFICIAL COPY
Owner hereby agrees to convey to the Town of Castle Rock Golf Course Enterprise the property described in the attached **Exhibit 1** ("Golf Course Property"), including property necessary for well site improvements, access to the club house site, and easements necessary for golf course access via Redhawk Drive (formerly known as Auburn Drive) and Santa Fe Drive, on or before February 21, 1997. Owner shall complete a pinned and platted land survey of the property and a precise legal description of the Golf Course Property prior to conveyance, or immediately thereafter (the property described shall be referred to as the "Golf Course Property"). Owner and Town shall share equally the costs of a land survey of the Golf Course Property. Golf Course Property shall be conveyed by Special Warranty Deed, free and clear of all liens and encumbrances except the reservation of such utility easements which shall be reserved to Owner and agreed upon by Town. Owner agrees to provide Town with written findings of a Phase I Environmental Audit performed on behalf of Owner. Owner agrees to provide a title commitment and pay premiums on an owner's policy of title insurance on the Golf Course Property in the amount of \$1,000,000. It is agreed between Town and Owner that upon conveyance of the Golf Course Property, the obligation of the Owner pursuant to Paragraph 8.04 of the Annexation Agreement to convey land to the Town shall be completely satisfied.

Owner represents to Town that Owner has no actual knowledge of

any physical or environmental condition of the Golf Course Property which would preclude its development as a golf course. Owner makes no other representations or warranties concerning market value, suitability for development, fitness for a particular purpose, an/or unknown environmental conditions or hazards affecting the Golf Course Property.

Owner agrees to provide a letter of credit in the amount of \$500,000 on the date that Town of Castle Rock, Colorado Golf Course Enterprise Revenue Bonds ("Bonds") are issued by Town for financing the construction of the golf course, debt service and golf course operation and maintenance. The terms of such letter of credit shall be set forth in a loan agreement to be entered into between the Town and Owner.

Concurrently with conveyance of the designated Golf Course Property, Owner shall pay to Town \$250,000 to be applied by Town for golf course construction. The obligation of Owner to contribute towards golf course development and maintain the required security shall be set forth in a loan agreement to be entered into between the Town and Owner.

In the event Bonds are not issued and net bond proceeds placed in the bond fund, pursuant to the Bond Ordinance (Town of Castle Rock Ordinance No. 96-56), and golf course construction has not commenced on the Golf Course Property prior to March 15, 1997, Town shall cause immediate reconveyance of the Golf Course Property to Owner by Special Warranty Deed, free and clear of all liens and encumbrances except those in existence at the time of conveyance to the Town. In the event of reconveyance, Town agrees to reimburse to Owner the \$250,000 paid pursuant to the immediately preceding paragraph, restore the Golf Course Property to its preexisting contours and reseed any vegetation eliminated through Town's actions; and agrees to provide a title commitment and pay the premiums on an owner's policy of title insurance on the Golf Course Property in the amount of \$1,000,000. Town represents that, if required, it possesses the authority, acting by and through the Town of Castle Rock Golf Course Enterprise, to cause the reconveyance of the Golf Course Property to Owner.

8.05 Golf Course Development. With regard to construction of the golf course on the Property, the parties agree as follows:

(a) Within ninety (90) days of commencement of golf course construction, Owner agrees to submit a minor plat to Town, setting forth the extension of improvements to the club house site, including but not limited to roadway, water, sewer and storm drains. Owner further agrees to construct such improvements at its sole expense, within six months of

Town approval of such minor plat.

(b) Owner agrees to reimburse Town for fifty percent (50%) of Town's costs of certain surplus dirt removal from Golf Course Property to Owner's property and one hundred percent (100%) of the actual costs of compaction, top soil stripping and erosion control associated with removal of surplus dirt to Owner's property. Owner shall submit payment to Town within twenty (20) days of Owner's receipt of contractor's invoice from Town. Town agrees that dirt removal, grading, compaction, top soil stripping and erosion control on Owner's property shall be performed to Owner's specifications, and shall be subject to Owner's acceptance that such improvements conform with Owner's specifications. Parties agree to grant temporary access across either the Golf Course Property or Owner's adjoining property for purposes related to this subsection (b).

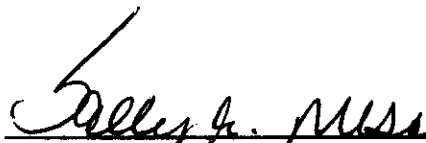
(c) Owner agrees to construct, at its own cost, four separated grade and one road level cart path crossings, at such locations designated by golf course plans, and in conjunction with golf course development. Owner shall be responsible for construction of separated grade crossings or culverts, and paved cart paths at such grades which are reasonable for golf cart ingress and egress. Cart paths shall be solely for golf course use, and not general pedestrian or recreational use. Town shall be responsible for landscaping and maintenance of areas surrounding such golf cart crossings.

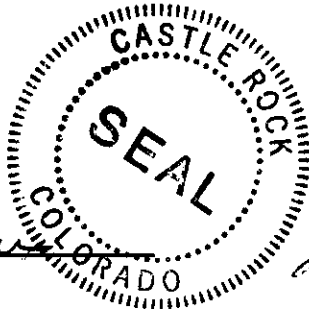
(d) It is agreed that Owner may engage in grading and earth moving activities including the stock piling of materials, dirt compaction and erosion control on any property for which a preliminary plat has been approved or as Town otherwise agrees, solely as such grading, removal, compaction and erosion control of surplus dirt relates to the provisions of subsection (b) above.

Section 2. Scope. This amendment shall supersede any conflicting provisions contained in the Annexation Agreement.


IN WITNESS WHEREOF, the parties have executed this agreement as of the date set forth above.

ATTEST:


Sally A. Misare, Town Clerk



TOWN OF CASTLE ROCK


Donald K. Jones, Mayor

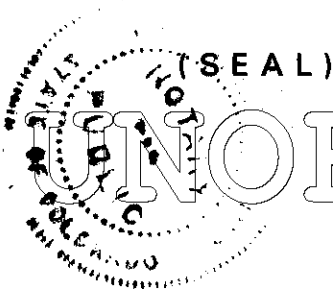
Approved as to form:

Robert J. Sientz
Robert J. Sientz, Town Attorney

STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 21st
day of February, 1997 by Sally A. Misare as Town Clerk and Donald K.
Jones as Mayor of the Town of Castle Rock.

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



Jennifer K. King
Notary Public

UNOFFICIAL COPY

U.S HOME CORPORATION,
a Delaware corporation

By: [Signature]

Its: Land Manager

STATE OF COLORADO)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 21st
day of February, 1997 by Joshua E. Martin as Land Manager
for U.S. Home Corporation, a Delaware corporation.

Witness my official hand and seal.
My commission expires: 6/31/98

(SEAL)

Judith K. Hostler
Notary Public

LEGAL DESCRIPTION

A parcel of land located in the North Half of Section 3, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:


Commencing at the North Quarter corner of said Section 3, thence, along the West line of the Northeast Quarter of said Section 3, South $00^{\circ}31'33''$ East, a distance of 60.00 feet to the TRUE POINT OF BEGINNING.

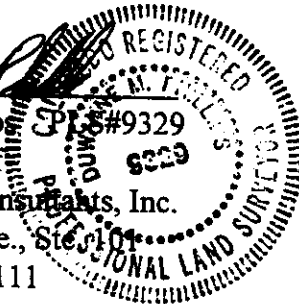
Thence, along a line 60.00 feet South of and parallel with the North line of the Northwest Quarter of said Northeast Quarter of Section 3, North $89^{\circ}01'17''$ East, a distance of 201.76 feet; Thence South $36^{\circ}24'51''$ East, a distance of 253.42 feet; Thence South $26^{\circ}31'55''$ East, a distance of 501.19 feet; Thence North $65^{\circ}45'13''$ East, a distance of 368.89 feet; Thence North $50^{\circ}56'28''$ East, a distance of 72.93 feet; Thence North $30^{\circ}41'08''$ East, a distance of 393.54 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $104^{\circ}41'17''$ an arc distance of 310.62 feet, having a radius of 170.00 feet and a chord bearing North $83^{\circ}01'46''$ East, a distance of 269.18 feet to a point of tangent; Thence, along said tangent, South $44^{\circ}37'35''$ East, a distance of 106.02 feet; Thence South $11^{\circ}42'22''$ East, a distance of 1212.23 feet; Thence South $44^{\circ}16'07''$ West, a distance of 145.41 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $19^{\circ}54'46''$ an arc distance of 163.34 feet, having a radius of 470.00 feet and a chord bearing North $87^{\circ}30'04''$ West, a distance of 162.52 feet; Thence North $36^{\circ}24'36''$ West, a distance of 415.28 feet; Thence North $00^{\circ}48'12''$ East, a distance of 369.65 feet; Thence South $66^{\circ}00'09''$ West, a distance of 654.40 feet; Thence South $80^{\circ}44'36''$ West, a distance of 275.37 feet; Thence North $61^{\circ}53'08''$ West, a distance of 87.30 feet; Thence North $03^{\circ}24'37''$ West, a distance of 97.00 feet; Thence North $24^{\circ}03'22''$ West, a distance of 627.70 feet; Thence South $87^{\circ}53'16''$ West, a distance of 139.75 feet; Thence South $37^{\circ}33'09''$ West, a distance of 273.13 feet; Thence South $72^{\circ}20'26''$ West, a distance of 568.03 feet; Thence South $84^{\circ}58'41''$ West, a distance of 377.27 feet; Thence South $20^{\circ}52'58''$ West, a distance of 226.89 feet; Thence South $62^{\circ}38'37''$ West, a distance of 526.92 feet; Thence South $71^{\circ}23'45''$ West, a distance of 383.01 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $88^{\circ}42'21''$ an arc distance of 572.84 feet, having a radius of 370.00 feet and a chord bearing North $22^{\circ}28'41''$ East, a distance of 517.32 feet to a point of tangent; Thence, along said tangent, North $66^{\circ}49'51''$ East, a distance of 217.40 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of $57^{\circ}48'56''$ an arc distance of 433.90 feet, having a radius of 430.00 feet and a chord bearing North $37^{\circ}55'23''$ East, a distance of 415.73 feet; Thence North $22^{\circ}45'39''$ East, a distance of 244.96 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $58^{\circ}19'05''$ an arc distance of 178.12 feet, having a radius of 175.00 feet and a chord bearing North $51^{\circ}55'12''$ East, a distance of 170.53 feet to a point of tangent; Thence, along said tangent, North $81^{\circ}04'44''$ East, a distance of 149.92 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $102^{\circ}11'47''$ an arc distance of 312.14 feet, having a radius of 175.00 feet and a chord bearing South $47^{\circ}49'22''$ East, a distance of 272.38 feet to a

point of tangent; Thence, along said tangent, South 03°16'32" West, a distance of 103.23 feet; Thence North 72°22'42" East, a distance of 333.79 feet; Thence North 55°55'54" East, a distance of 148.32 feet; Thence North 37°29'29" East, a distance of 239.39 feet to a point 60.00 feet South of the North line of the Northwest Quarter of said Section 3; Thence, along a line 60.00 feet South of and parallel with said North line of the Northwest Quarter of Section 3, North 89°01'25" East, a distance of 278.16 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 2,178,426 square feet or 50.010 acres, more or less.

Bearings are based on the North line of the Northwest Quarter of said Section 3 being North 89°01'25" East.


DuWayne M. Phillip, P.L.S. #9329
For and on Behalf of
Rocky Mountain Consultants, Inc.
8301 E. Prentice Ave., Ste. 101
Englewood, Co. 80111
(303) 741-6000



UNOFFICIAL COPY
Date: 1/27/97

9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B1411 - P0168 - \$55.00 - 7/ 11

REDHAWK
HOLES 1-5 LEGAL DESCRIPTION
RMC JOB NO. 0965.010.06
DOC. C:\projects\0965010\holes1_5.leg
JAN. 24, 1997 JW

LEGAL DESCRIPTION


A parcel of land located in the North Half of Section 3, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:


Commencing at the North Quarter corner of said Section 3, thence, along the West line of the Northeast Quarter of said Section 3, South 00°31'33" East, a distance of 1581.09 feet to the TRUE POINT OF BEGINNING.

Thence North 85°38'45" East, a distance of 72.30 feet; Thence South 78°45'14" East, a distance of 522.70 feet; Thence South 60°19'03" East, a distance of 404.15 feet; Thence North 83°59'24" East, a distance of 61.79 feet; Thence North 20°52'09" East, a distance of 139.68 feet; Thence North 68°00'41" East, a distance of 475.27 feet to a point on a curve; Thence along the arc of said curve to the left through a central angle of 21°50'11" an arc distance of 201.99 feet, having a radius of 530.00 feet and a chord bearing North 89°12'43" East, a distance of 200.77 feet to a point of tangent; Thence, along said tangent, North 78°17'38" East, a distance of 60.69 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 90°00'00" an arc distance of 39.27 feet, having a radius of 25.00 feet and a chord bearing South 56°42'22" East, a distance of 35.36 feet to a point of tangent; Thence, along said tangent, South 11°42'22" East, a distance of 375.38 feet; Thence South 82°17'07" West, a distance of 430.71 feet; Thence North 88°59'20" West, a distance of 372.00 feet; Thence South 87°50'50" West, a distance of 663.62 feet; Thence North 68°33'51" West, a distance of 470.00 feet; Thence South 68°37'47" West, a distance of 584.83 feet; Thence South 69°52'57" West, a distance of 147.97 feet; Thence South 64°47'30" West, a distance of 295.97 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of 06°27'27" an arc distance of 63.68 feet, having a radius of 565.00 feet and a chord bearing North 21°58'47" West, a distance of 63.64 feet; Thence North 21°36'48" West, a distance of 100.12 feet; Thence North 18°45'04" West, a distance of 178.15 feet; Thence North 61°02'22" East, a distance of 580.30 feet; Thence North 85°38'45" East, a distance of 609.05 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 955,614 square feet or 21.938 acres, more or less.

Bearings are based on the North line of the Northwest Quarter of said Section 3 being North 89°01'25" East.


 DuWayne M. Phillips, P.E.S.#9329
 For and on Behalf of:
 Rocky Mountain Consultants, Inc.
 8301 E. Prentice Ave., Ste. 101
 Englewood, Co. 80111
 (303) 741-6000
 Date: 1/27/97



9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
 B1411 - P0169 - \$55.00 - 8/ 11

REDHAWK
 HOLES 6-7 LEGAL DESCRIPTION
 RMC JOB NO. 0965.010.06
 DOC. C:\projects\0965010\holes6_7.leg
 JAN. 24, 1997 JW

LEGAL DESCRIPTION


A parcel of land located in the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:

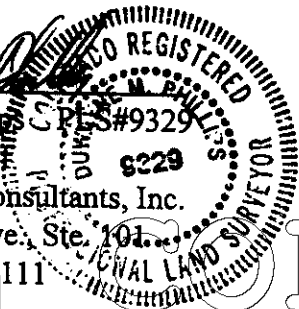
BEGINNING at the East Quarter corner of said Section 4, Thence, along the South line of said Northeast Quarter of Section 4, North $89^{\circ}53'56''$ West, a distance of 1229.33 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $62^{\circ}02'15''$ an arc distance of 189.48 feet, having a radius of 175.00 feet and a chord bearing North $13^{\circ}02'28''$ West, a distance of 180.36 feet to a point of tangent; Thence, along said tangent, North $17^{\circ}58'39''$ East, a distance of 658.97 feet; Thence South $50^{\circ}07'50''$ West, a distance of 707.58 feet; Thence North $80^{\circ}54'36''$ West, a distance of 140.41 feet; Thence South $28^{\circ}37'43''$ West, a distance of 203.84 feet; Thence South $41^{\circ}39'53''$ West, a distance of 255.40 feet to a point on said South line of the Northeast Quarter of Section 4; Thence, along said South line, North $89^{\circ}53'56''$ West, a distance of 448.41 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $64^{\circ}52'51''$ an arc distance of 203.83 feet, having a radius of 180.00 feet and a chord bearing North $18^{\circ}13'28''$ West, a distance of 193.11 feet to a point of tangent; Thence, along said tangent, North $14^{\circ}12'57''$ East, a distance of 159.44 feet; Thence North $26^{\circ}36'32''$ East, a distance of 596.79 feet; Thence North $21^{\circ}41'33''$ East, a distance of 519.46 feet; Thence North $35^{\circ}12'02''$ East, a distance of 346.59 feet to a point on a curve; Thence along the arc of said curve to the left through a central angle of $32^{\circ}58'02''$ an arc distance of 201.39 feet, having a radius of 350.00 feet and a chord bearing South $51^{\circ}00'32''$ East, a distance of 198.62 feet; Thence South $08^{\circ}01'12''$ West, a distance of 327.14 feet; Thence South $83^{\circ}14'39''$ East, a distance of 500.00 feet; Thence North $53^{\circ}32'05''$ East, a distance of 101.15 feet; Thence North $35^{\circ}22'13''$ East, a distance of 661.42 feet; Thence North $83^{\circ}56'10''$ East, a distance of 366.49 feet; Thence South $39^{\circ}42'10''$ East, a distance of 50.00 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of $16^{\circ}50'04''$ an arc distance of 124.87 feet, having a radius of 425.00 feet and a chord bearing South $48^{\circ}07'12''$ East, a distance of 124.42 feet to a point of tangent; Thence, along said tangent, South $56^{\circ}32'14''$ East, a distance of 102.76 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $02^{\circ}59'35''$ an arc distance of 19.59 feet, having a radius of 375.00 feet and a chord bearing South $55^{\circ}02'26''$ East, a distance of 19.59 feet to a point of tangent; Thence, along said tangent, South $53^{\circ}32'38''$ East, a distance of 260.07 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of $47^{\circ}46'20''$ an arc distance of 354.36 feet, having a radius of 425.00 feet and a chord bearing South $77^{\circ}25'48''$ East, a distance of 344.18 feet to a point of tangent; Thence, along said tangent, North $78^{\circ}41'02''$ East, a distance of 13.04 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $84^{\circ}50'34''$ an arc distance of 22.21 feet, having a radius of 15.00 feet and a chord bearing South $58^{\circ}53'41''$ East, a distance of 20.24 feet to a point of reverse curve; Thence along the arc of said curve to the left through a central angle of $48^{\circ}11'20''$ an arc distance of 361.65 feet, having a radius of 430.00 feet and a chord bearing South $40^{\circ}34'04''$ East, a distance of 351.09 feet; Thence South $39^{\circ}24'01''$ East, a distance of 118.71 feet; Thence South $07^{\circ}34'23''$

East, a distance of 460.09 feet; Thence North 75°10'35" East, a distance of 390.59 feet; Thence North 89°47'59" East, a distance of 317.52 feet; Thence South 15°53'19" East, a distance of 100.12 feet to a point on a curve; Thence along the arc of said curve to the left through a central angle of 06°27'27" an arc distance of 71.57 feet, having a radius of 635.00 feet and a chord bearing South 21°58'47" East, a distance of 71.53 feet; Thence South 64°47'30" West, a distance of 250.78 feet; Thence South 00°10'47" East, a distance of 349.67 feet to a point on the South line of said Northwest Quarter of Section 3; Thence, along said South line, South 89°25'48" West, a distance of 1297.02 feet to the POINT OF BEGINNING.

Said parcel of land contains 4,354,646 square feet or 99.969 acres, more or less.

Bearings are based on the South line of said Northeast Quarter of Section 4 being North 89°53'56" West.


DuWayne M. Phillips
For and on Behalf of
Rocky Mountain Consultants, Inc.
8301 E. Prentice Ave., Ste. 101
Englewood, Co. 80111
(303) 741-6000



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Date: 1/22/97

9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B1411 - P0171 - \$55.00 - 10/ 11

REDHAWK
HOLES 8-9 & 13-18 LEGAL DESCRIPTION
RMC JOB NO. 0965.010.06
DOC. C:\projects\0965010\hole8_18.leg
JAN. 24, 1997 JW

LEGAL DESCRIPTION

A parcel of land located in the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the Northwest corner of said Section 3, thence, along the West line of said Northwest Quarter of Section 3, South 01°12'47" East, a distance of 608.56 feet to the TRUE POINT OF BEGINNING.

Thence South 27°59'11" East, a distance of 88.90 feet; Thence South 34°33'20" East, a distance of 698.52 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of 84°50'34" an arc distance of 22.21 feet, having a radius of 15.00 feet and a chord bearing South 36°15'45" West, a distance of 20.24 feet to a point of tangent; Thence, along said tangent, South 78°41'02" West, a distance of 13.04 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 47°46'20" an arc distance of 312.67 feet, having a radius of 375.00 feet and a chord bearing North 77°25'48" West, a distance of 303.69 feet to a point of tangent; Thence, along said tangent, North 53°32'38" West, a distance of 260.07 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of 02°59'35" an arc distance of 22.20 feet, having a radius of 425.00 feet and a chord bearing North 55°02'26" West, a distance of 22.20 feet to a point of tangent; Thence, along said tangent, North 56°32'14" West, a distance of 102.76 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 16°50'04" an arc distance of 110.18 feet, having a radius of 375.00 feet and a chord bearing North 48°07'12" West, a distance of 109.78 feet to a point of tangent; Thence, along said tangent, North 39°42'10" West, a distance of 127.02 feet; Thence North 13°26'24" West, a distance of 502.64 feet; Thence South 70°35'30" West, a distance of 256.16 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 55°41'36" an arc distance of 170.11 feet, having a radius of 175.00 feet and a chord bearing North 81°33'42" West, a distance of 163.49 feet; Thence South 39°16'31" West, a distance of 970.16 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of 66°59'33" an arc distance of 350.77 feet, having a radius of 300.00 feet and a chord bearing North 56°36'15" West, a distance of 331.13 feet to a point of tangent; Thence, along said tangent, North 23°06'28" West, a distance of 30.62 feet; Thence North 39°15'22" East, a distance of 916.08 feet; Thence North 51°46'21" East, a distance of 251.17 feet to a point 60.00 feet South of the North line of said Northeast Quarter of Section 4; Thence, along a line 60.00 feet South of and parallel with said North line of the Northeast Quarter of Section 4, North 89°31'49" East, a distance of 814.02 feet; Thence South 40°43'39" East, a distance of 73.33 feet; Thence South 13°18'38" East, a distance of 411.12 feet; Thence South 27°59'11" East, a distance of 103.40 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 1,020,230 square feet or 23.421 acres, more or less.

Bearings are based on the North line of said Northeast Quarter of Section 4 being North 89°31'49" East.

DuWayne M. Phillips
DuWayne M. Phillips, P.L.S. #9329
For and on Behalf of
Rocky Mountain Consultants, Inc.
8301 E. Prentice Ave., Ste. 301
Englewood, Co. 80111
(303) 741-6000

Date: 1/27/97

9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B1411 - P0172 - \$55.00 - 11/ 11

REDHAWK
HOLES 10-12 LEGAL DESCRIPTION
RMC JOB NO. 0965.010.06
DOC. C:\projects\0965010\hol10_12.leg
JAN. 24, 1997 JW

3
10P

**SECOND AMENDMENT TO
RED HAWK ANNEXATION AND DEVELOPMENT AGREEMENT**

DATE: February 25, 1999.

DC99029103

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

U.S. HOME CORPORATION, a Delaware Corporation, 6000 S. Greenwood Plaza Boulevard, Suite 200, Englewood, Colorado 80111 ("Owner").

RECITALS:

A. Town has concurrently approved the Red Hawk Preliminary PD Site Plan, Amendment No. 1 (the "Amended Plan") which is recorded at Reception No. 99029103 of the public records of Douglas County, Colorado. All references to the Amended Plan shall include the Red Hawk PD Zoning Regulations and all documents and plans which are approved with the Amended Plan.

B. In conjunction with the approval of the Amended Plan the parties have identified the need to amend the Red Hawk Annexation and Development Agreement which is recorded on March 26, 1996 at Reception No. 9615291 of the public records, previously amended by a First Amendment to Red Hawk Annexation and Development Agreement recorded on February 25, 1997 at Reception No. 9710204 (as amended, the "Annexation Agreement") to conform the Amended Agreement to the Annexation Plan and to designate the Amended Plan as a vested property right under applicable statute and ordinance.

UNOFFICIAL COPY

COVENANTS:

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

Section One. Conformance. All references in the Annexation Agreement to "Development Plan", "Phasing Plan" and "Site Plan" shall mean such documents and plans which are approved with the Amended Plan. Any reference to "Facilities" shall mean the infrastructure required to be developed in accordance with the Amended Plan. The attached *Exhibit 1* is substituted as the description for the Property. The attached *Exhibit 2* is substituted for the description of the Phasing Plan.

Section Two. Vesting of Amended Plan. Article IX of the Development Agreement is amended in its entirety to read as follows:

**ARTICLE IX
LAND USE VESTING**

Section 9.01 Vesting. The Amended Plan for the Property shall constitute a "site specific development plan" as defined in C.R.S. § 24-68-101 and Chapter 15.24 of the Code, and accordingly vested property rights are established with respect to the Amended Plan in accordance with statute and applicable Code provisions. Included in such vesting, is the right to develop the Property in accordance with and to the extent permitted on the "Land Use Summary" affixed to the Amended Plan, together with such uses as may be permitted by special use review as provided in the Amended Plan. Such vesting shall become effective concurrently with the effective date of the ordinance authorizing this Agreement.

Section 9.02 Duration. Due to the scale of development proposed on the Property and that the cost of Facilities development is recovered sequentially through the development cycle, property rights in the Amended Plan are vested until December 31, 2009. After December 31, 2009, the Amended Plan shall remain valid and effective as it exists on the date of lapse; however, the Amended Plan shall then be subject to amendment pursuant to a rezoning, in accordance with the law.

Section 9.03 Natural and Manmade Hazards. Nothing in this Agreement or otherwise shall require the Town to approve development or use of any portion of the Property where there exists natural or manmade hazards on or in the vicinity of the proposed area of use, whether or not such natural or manmade hazards could reasonably have been discovered at the time of approval of the Amended Plan, provided that such hazards are not

or cannot be corrected and that such hazards, if uncorrected, would pose a serious threat to the public health, safety and welfare.

Section 9.04 Compliance with General Regulations.

The establishment of a vested property right under this Agreement shall not preclude the application of ordinances or regulations which are general in nature and are applicable to all property subject to land use regulations by the Town, including, but not limited to, building, fire, plumbing, electrical, and mechanical codes. In addition the vested property right shall be subject to the regulations as further provided in 9.06, below.

Section 9.05 No Monetary Liability of Town. Although C.R.S. § 24-68-101, et seq., allows for monetary damages in the event of breach or default by the Town, the sole remedies hereunder shall be equitable remedies of specific performance or mandatory or prohibitory injunction. Owner hereby waives any rights to money damages either may have under the Constitution and laws of the United States or the State of Colorado for any such breach or default.

Section 9.06 Applicability of Mitigation Provisions.

Town has adopted Ordinance No. 99-15 enacting certain land use restrictions within certain designated areas within the Town (the "District Regulations"). Ordinance 99-15 takes effect on April 5, 1999, after the effective date of the vesting of the Amended Plan pursuant to this Article IX. Under Section 17.14.080 of the District Regulations, the Property is subject only to the regulations under 17.14.060(C) of the District Regulations, which addresses mitigation of visual impacts. In consideration of the vesting of the Amended Plan, the Property shall be subject to such mitigation provisions of the District Regulations as contained in Ordinance 99-15. The Property shall not be subject to building siting restrictions or the building height restrictions of the District

Regulations in the form approved by Ordinance 99-15, or as may
be subsequently amended by the Town.

Section 3. Limited Purposes. Except as modified herein, the Development Agreement shall remain in full force and effect.

ATTEST:

TOWN OF CASTLE ROCK

Sally A. Misare
Sally A. Misare, Town Clerk

Al Parker
Al Parker, Mayor

Approved as to form:

Robert J. Slentz
Robert J. Slentz, Town Attorney

STATE OF COLORADO)
COUNTY OF DOUGLAS) ss. UNOFFICIAL COPY

The foregoing instrument was acknowledged before me this 24th day of March, 1999 by Sally A. Misare as Town Clerk and Al Parker as Mayor of the Town of Castle Rock, Colorado.

Witness my official hand and seal.
My commission expires: 10-31-02

(SEAL)

Judy Hostetler
Notary Public

JUDY HOSTETLER
NOTARY PUBLIC
STATE OF COLORADO

EXHIBIT 1

LEGAL DESCRIPTION

A parcel of land located in the Southeast Quarter of Section 34, Township 7 South, Range 67 West and a part of Sections 3 and 4, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:

BEGINNING at the Northeast corner of the Northwest Quarter of the Northeast Quarter of said Section 3, Thence North 00°46'10" West, along the West line of the Southeast Quarter of the Southeast Quarter of said Section 34, a distance of 1495.35 feet to a point on a curve and a point on the Westerly right-of-way of the Atchison, Topeka and Santa Fe Railroad; Thence along said Westerly right-of-way the following five (5) courses:

- 1) along the arc of said curve to the right through a central angle of 05°36'12" an arc distance of 132.78 feet, having a radius of 1357.70 feet and a chord bearing of South 14°30'28" East, a distance of 132.73 feet to a point of tangent;
- 2) Thence, along said tangent, South 11°42'22" East, a distance of 2078.75 feet;
- 3) Thence North 78°17'38" East, a distance of 25.00 feet;
- 4) Thence South 11°42'22" East, a distance of 1939.24 feet to a point of curve;
- 5) Thence along the arc of said curve to the left through a central angle of 02°17'46" an arc distance of 231.62 feet, having a radius of 5780.00 feet and a chord bearing South 12°51'15" East, a distance of 231.61 feet;

Thence South 78°17'38" West, a distance of 54.64 feet; Thence South 11°42'22" East, a distance of 76.73 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 11°27'33" an arc distance of 760.00 feet, having a radius of 3800.00 feet and a chord bearing South 05°58'36" East, a distance of 758.73 feet; Thence South 00°14'49" East, a distance of 100.89 feet; Thence South 17°58'28" East, a distance of 292.07 feet to a point on the Southerly boundary of that parcel of land described in Book 1182 at Page 956 and the Northerly right-of-way of Wolfensberger Road; Thence, along said Southerly boundary and Northerly right-of-way the following three (3) courses:

- 1) North 89°30'27" West, a distance of 271.57 feet;
- 2) Thence South 85°06'21" West, a distance of 127.52 feet;
- 3) Thence South 89°08'27" West, a distance of 1250.52 feet to a point on the Easterly boundary of the ANDERSON SUBDIVISION, a plat recorded at reception no. 9250529;

Thence along the boundary of said subdivision the following three (3) courses:

- 1) North 05°43'41" West, a distance of 611.90 feet;
- 2) Thence South 62°51'36" West, a distance of 427.90 feet;
- 3) Thence South 00°15'52" East, a distance of 431.34 feet to a point on said Southerly boundary of that parcel of land described in Book 1182 at Page 956 and the Northerly right-of-way of Wolfensberger Road;

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

- 1) South 87°54'50" West, a distance of 228.92 feet;
- 2) Thence South 87°02'30" West, a distance of 181.92 feet;
- 3) Thence South 88°14'02" West, a distance of 50.00 feet;

Thence North 00°10'47" West, a distance of 697.33 feet; Thence South 89°12'52" West, a distance of 1068.77 feet to a point on the West line of the Northeast Quarter of the Southwest Quarter of said Section 3; Thence, along said West line, North 00°12'03" West, a distance of 652.25 feet to the Northwest corner of said Northeast Quarter of the Southwest Quarter; Thence, along the South line of the Southwest Quarter of the Northwest Quarter of said Section 3, South 89°25'29" West, a distance of 1296.78 feet to the Southeast corner of the Northeast Quarter of

said Section 4; Thence, along the South line of said Northeast Quarter, North 89°53'56" West, a distance of 2631.74 feet to the Southwest corner of said Northeast Quarter of Section 4; Thence, along the West line of said Northeast Quarter of Section 4, North 01°08'08" West, a distance of 2657.83 feet to the Northwest corner of said Northeast Quarter of Section 4; Thence, along the North line of said Northeast Quarter of Section 4, North 89°31'49" East, a distance of 2627.68 feet to the Northwest corner of said Northwest Quarter of Section 3; Thence, along the North line of said Northwest Quarter of Section 3, North 89°01'25" East, a distance of 2625.83 feet to the Northwest corner of the Northeast Quarter of said Section 3; Thence, along the North line of the West Half of said Northeast Quarter of Section 3, North 89°02'16" East, a distance of 1314.68 feet to the POINT OF BEGINNING.

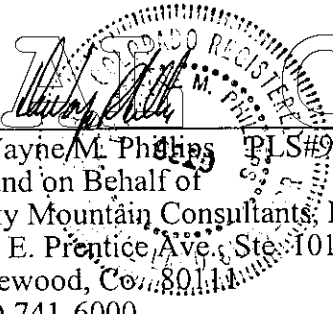
Said parcel of land contains 23,121,633 square feet or 530.800 acres, more or less.

Except Lots 1,7,12,14,16,17,19,20 & 22 of Block 3; Lots 1,3,4 & 5 of Block 4; Lot 5 of Block 6 and Lots 1 & 3 of Block 7 all in RED HAWK FILING NO. 1, a plat recorded at reception number 9750684 of the records of the Clerk and Recorder of said Douglas County, containing 148,251 square feet or 3.403 acres, more or less.

Resulting in a net area of 22,973,382 square feet or 527.397 acres, more or less.

Bearings are based on the South line of the North Half of the Southeast Quarter of said Section 3 being North 89°45'20" East, as shown on the plat of RED HAWK FILING NO. 1.

UNOFFICIAL COPY


DuWayne M. Phillips PLS#9329
For and on Behalf of
Rocky Mountain Consultants, Inc.
8301 E. Prentice Ave., Ste. 101
Englewood, CO 80111
(303) 741-6000

Date: 3/25/99

REDHAWK
RED HAWK PDP BOUNDARY LEGAL
RMC JOB NO. 0965.010.
DOC. C:\projects\0965010\rhdpnew.wpd
MARCH 24, 1999 JW

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EXHIBIT 2 PHASING PLAN

(The) intended phasing sequence(s) noted herein on this exhibit 2 are set forth such that several phases are dependent upon construction of certain facilities in a previous or subsequent phase.

However, it shall be further noted by this exhibit 2 that if any phase is contemplated for development "out of sequence from any subsequent "dependent" phase, the particular phase being contemplated shall be obligated to construct all necessary offsite facilities, per Town Standards, to effect required secondary access roadways, water line looping, sewer connections and storm drain/detention facility construction.

PHASE I

PLAT DEDICATION

- Wolfensberger 45' additional R.O.W. (Santa Fe to west boundary)
- Santa Fe Road 120' R.O.W. (Wolfensberger to north property line)
- Rail Road R.O.W. (As shown on Preliminary PD Site Plan) PLD-6
- PLD-1,2,3,4,5
- UD-1,2
- Exit 182 I-25 interchange allocation
- Red Hawk Drive collector from Wolfensberger Road to north boundary of R-SF2-3
- Red Hawk Ridge Road (local) from Red Hawk Drive to Station 9+44

FACILITIES

- Wolfensberger Road - north 1/2 of R.O.W. to minor arterial standards from Santa Fe to west boundary
- Red Hawk Drive full width collector (44' flowline to flowline) standards from Wolfensberger to north boundary of R-SF2-3
- Sewer outfall from Santa Fe and Wolfensberger to north boundary to south/east boundary of SF2-1
- Water main in Red Hawk Drive to Red Hawk Ridge Road
- Install storm crossing in Red Hawk Drive collector
- Storm Crossings within R.O.W. of Santa Fe Road
- Detention Pond area UD-1
- 8' trail within PLD-1, 2,4,5,6 and UD-1
- Santa Fe Road - per exhibit 3, from Wolfensberger Road to Meadows Parkway
- Secondary access hard surfaced roadway (20' minimum width) to a point of connection on Santa Fe Road
- Water line from existing tank to Red Hawk Ridge Road
- Water line from Red Hawk Ridge Road to Red Hawk Drive
- Red Hawk Ridge Road (local) from Red Hawk Drive to station 9+44

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PHASE II**PLAT DEDICATION**

- Red Hawk Drive to intersection of east/west collector adjacent to PLD-7
- East/west collector from Red Hawk Drive to intersection with Santa Fe Road

FACILITIES

1. Red Hawk Drive - full width collector standards to intersection of east/west collector adjacent to PLD-7, from R-SF2-3 north boundary
2. East/west collector - 1/2 width collector standards from Red Hawk Drive to intersection with Santa Fe Road
3. Sewer outfall from north boundary UD-1 to serve R-SF2-3
4. Outfall sewer from existing Town of Castle Rock trunk line (offsite) to R-SF2-3, west of PLD-6, Santa Fe Road, east/west collector, Red Hawk Drive and within east/west collector
5. Water main from north boundary of R-SF2-3, to intersection of east/west collector
6. Water main within east/west collector - Red Hawk Drive to intersection of Santa Fe Road
7. RCP road crossing at east/west collector

PHASE III**PLAT DEDICATION**

- OSD 1,2
- Dedication Red Hawk Ridge Road local road from station 9+44 to R-SF4-2
- Dedication east/west local road from R-SF3-1 to R-SF4-3
- Dedication east/west local road from R-SF4-2 to R-SF4-3

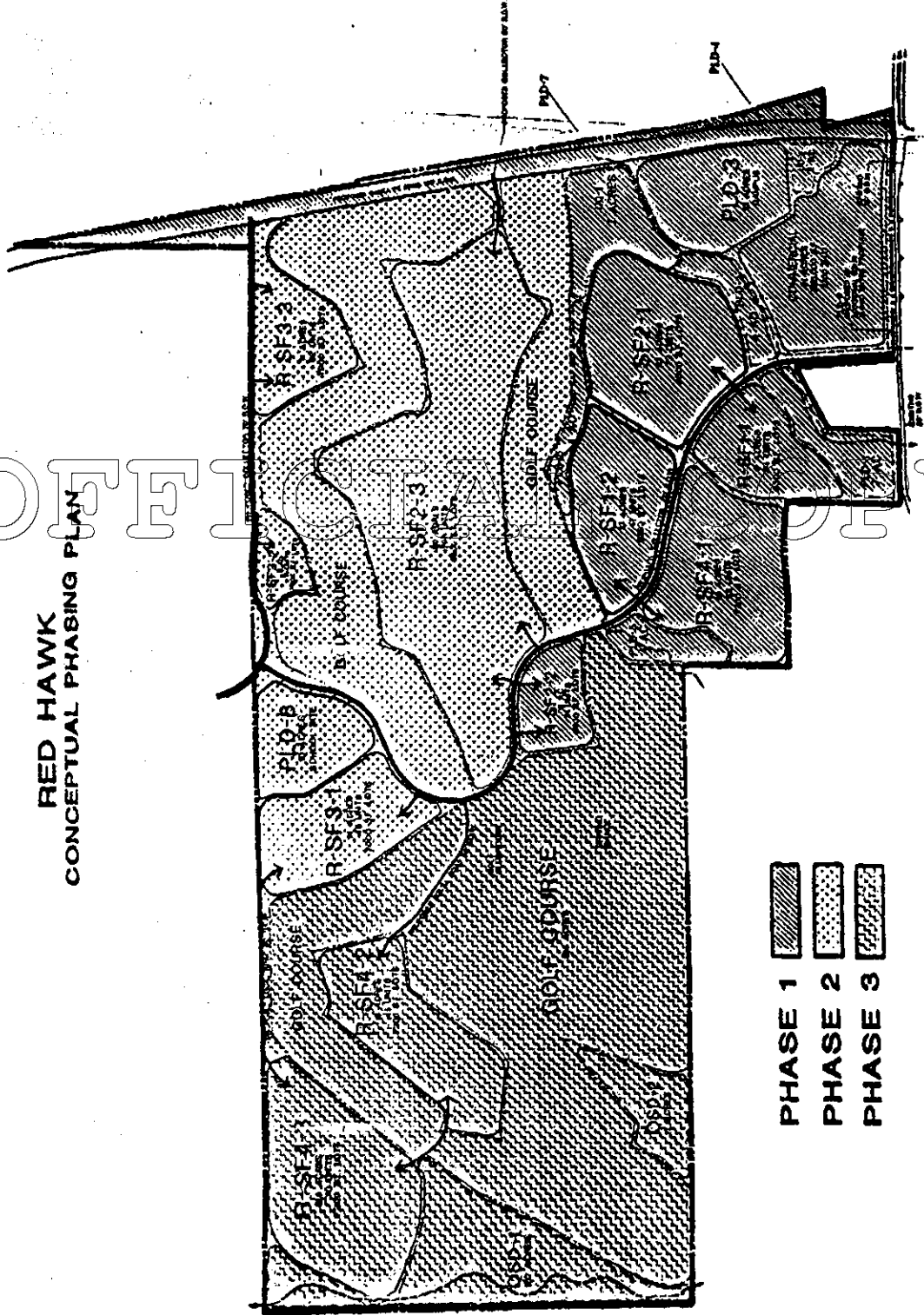
FACILITIES

1. Sewer main outfall within east/west local roads, Red Hawk Drive and adjacent to north property line
2. Water main in east/west local roads from Red Hawk Drive to R-SF4-3
3. 8' trail in OSD-1
4. RCP in east/west local roads
5. Sewer main outfall from east boundary of R-SF4-3 to Red Hawk Drive
6. Water main from east boundary of R-SF4-3 to Red Hawk Drive

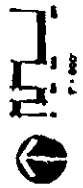
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RED HAWK
CONCEPTUAL PHASING PLAN



- PHASE 1 [diagonal hatching]
- PHASE 2 [dotted pattern]
- PHASE 3 [cross-hatched pattern]



**THIRD AMENDMENT TO
RED HAWK ANNEXATION AND DEVELOPMENT AGREEMENT**

DC00001274

DATE: October 28, 1999

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

28

U.S. HOME CORPORATION, a Delaware corporation, 6000 S. Greenwood Plaza Boulevard, Suite 200, Englewood, CO 80111 ("Owner").

RECITALS:

A. Town has concurrently approved the Red Hawk Filing No. 2 final subdivision plat (the "Plat"). The Plat is subject to the Second Amendment to Red Hawk Annexation and Development Agreement dated February 25, 1999, recorded April 2, 1999 at Reception No. 99029103, beginning in Book 1689 at Page 84 of the public records of Douglas County, Colorado (the "Second Amendment").

B. In conjunction with the approval of the Plat, the parties have determined it is appropriate to defer construction of certain roadway improvements which otherwise are required to be constructed with the Plat under the terms of the Second Amendment.

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COVENANTS:

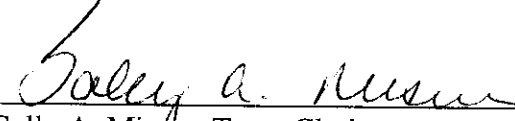
THEREFORE, in consideration of these mutual promises, the parties agree and covenant as follows:


Section 1. Amendment to Phasing Plan. The Phasing Plan which is *Exhibit 2* to the Second Amendment is modified by deferring the construction and dedication of the east/west collector from Red Hawk Drive to Santa Fe Drive to Phase III.

Section 2. Limited Purposes. Except as modified herein, the Development Agreement shall remain in full force and effect.

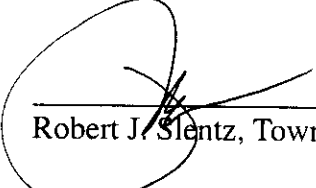
ATTEST:

TOWN OF CASTLE ROCK


Sally A. Misre, Town Clerk


Al Parker, Mayor

Approved as to form:



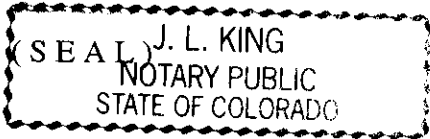
Robert J. Slentz, Town Attorney

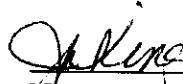
STATE OF COLORADO)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this 20th day of December, 1999 by Sally A. Misare as Town Clerk and Al Parker as Mayor for the Town of Castle Rock, Colorado.

Witness my official hand and seal.


My commission expires: 09/21/03.





Notary Public

U.S. HOME CORPORATION UNOFFICIAL COPY

By: 
Its: Vice President

STATE OF COLORADO)
) ss.
COUNTY OF Arapahoe)

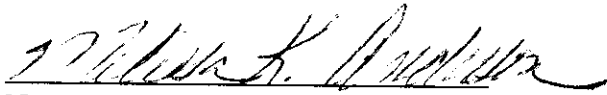
The foregoing instrument was acknowledged before me this 14th day of December, 1999 by William J. ... as Vice President for U.S. Home Corporation, a Delaware corporation.

Witness my official hand and seal.

My commission expires: 10/19/02.

(SEAL)





Notary Public