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**CASTLE OAKS ESTATES FILING NO. 1
SUBDIVISION IMPROVEMENTS AGREEMENT**

DATE: December 23, 2003.

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 Wilcox Street, Castle Rock, Colorado 80104 (Town).

CASTLE OAKS ESTATES, LLC, a Colorado limited liability company, P.O. Box 87, Castle Rock, Colorado 80104 (Subdivider).

CASTLE OAKS METROPOLITAN DISTRICT, a quasi-municipal corporation and political subdivision of the State of Colorado, c/o McGeady Sisneros, P.C., 1675 Broadway, Suite 2100, Denver, Colorado 80202 (District).

MORTGAGEE: **Bank Midwest, N.A.**
Melody Homes, Inc.

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RECITALS:

A. Subdivider desires to plat and subdivide certain property as Castle Oaks Estates Filing No. 1 (Subdivision), more particularly described in the attached *Exhibit 1* (Property).

B. The subdivision regulations of the Castle Rock Municipal Code require that the Subdivider construct certain public improvements necessary to provide municipal utilities and services to the Subdivision in accordance with Town public works regulations. By this Agreement, the parties address the conditions for construction of such improvements and certain other issues concerning development of the Subdivision.

C. This Agreement is intended to protect the Town from any liability or cost which may result from the failure of the Subdivider to complete construction of such public improvements to Town standards. This Agreement is not made for the benefit of any other party and no representation is made by Town to any owner of a lot or tract within the Subdivision that all necessary Subdivision infrastructure will be completed by the Town in the event of a default by Subdivider.

Rerecorded to incorporate Exhibit 4 into the Agreement.

D. Mortgagees are a party to this agreement solely for the purpose of subordinating their lien and interest in the Property to the terms and conditions of this Agreement.

E. District is authorized by Town to construct infrastructure for the Property and District assumes certain financial obligations under this Agreement.

COVENANTS:

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

Section 1. Definitions. The following words when capitalized in the text shall have the meanings indicated:

Agreement: this Castle Oaks Estates Filing No. 1 Subdivision Improvements Agreement.

Code: the Castle Rock Municipal Code, as amended.

Development Agreement/DA: the Castle Oaks Development Agreement dated October 28, 2002, recorded January 27, 2003 at Reception No. 2003010465 in the Records.

Director: the Town's Assistant Town Manager of Development Services, or designee.

Final Site Plan: the final PD site plan for the Subdivision as approved by the Town on November 4, 2002.

Improvements: the water, wastewater, stormwater drainage, transportation, landscaping or other systems or infrastructure required to serve the Subdivision as identified and described in the Plans (whether on-site or off-site), which upon their completion are to be dedicated to the Town for operation and maintenance by the Town.

Phase: a distinct geographical area of the Subdivision so designated in the Plans (or, if applicable, a sub-Phase).

Phase Improvements: those Improvements required to be constructed with a particular Phase, as prescribed in the Phasing Plan, but excluding Landscaping.

Phase Landscaping: the Landscaping required to be installed within a particular Phase.

Phasing Plan: the depiction or description in the Plans of the Phases and the Improvements to be constructed with each Phase, as approved by the Director.

Plans: the description of the Improvements on the Preliminary Plat, Phasing Plan and related documents as modified and supplemented by approved construction plans and drawings, together with the Landscaping Plan approved with the Final Site Plan.

Plat: the final subdivision plat for the Subdivision as approved by the Town.

Preliminary Plat: the Castle Oaks Filing No. 1 preliminary subdivision plat approved by the Town on November 4, 2002.

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

Records: the public records of Douglas County, Colorado maintained by the Clerk and Recorder.

Subdivision: the Castle Oaks Estates Filing No. 1 subdivision, a subdivision of the Castle Oaks Preliminary PD Site Plan Amendment No. 1.

Town Regulations: the Code, inclusive of the Town public works regulations, as the same may be amended from time to time.

Certain other terms are defined elsewhere in this Agreement. To the extent the District undertakes construction of Improvements, the references in this Agreement to Subdivider shall apply to the District. Subdivider and District shall determine which Improvements each shall construct, provided that the District is authorized under its service plan to develop the Improvements it is allocated. Section references are to the numbered sections of this Agreement.

Section 2. Construction of Improvements. The Improvements shall be constructed in strict accordance with the Plans, or to the extent not otherwise provided in the Plans, in accordance with applicable Town Regulations. The Improvements may be constructed by Phase, in accordance with the applicable Phasing Plan. If so approved by the Director, a sub-Phasing plan may be implemented such that Phase Improvements are developed only as necessary to service specific sub-Phases.

In the event Subdivider has not obtained all necessary Town permits and approvals (which shall not be unreasonably delayed by Town by failing to process, review and comment on applications in a timely manner) and commenced construction of one or more of the Improvements within one year of the date of recordation of this Agreement, the Town's approval of the Plans shall lapse. As a condition to commencement of construction of any of the Improvements thereafter, Subdivider shall demonstrate to the Town Council good cause for the delay and its good faith intention and financial ability to proceed and complete development of the Subdivision; provided that Subdivider shall not be required to resubmit a land use application for the Subdivision. For purposes of this Section 2, Subdivider's compliance with Section 5 of this Agreement shall presumptively demonstrate Subdivider's good faith intention and financial ability to proceed and complete development of the Subdivision.

Phase Improvements must be substantially completed not later than one year after the date of issuance of the last applicable public works permit for such Phase, provided that the completion date shall be extended by the Director for up to 6 months if justified due to adverse weather, material unavailability, or other unanticipated and unavoidable circumstances beyond the control of Subdivider, as determined by the Director.

Section 3. Restrictions Pending Completion of Improvements. No building permits shall be issued by Town within any Phase until the Phase Improvements applicable to the Phase are substantially completed, except when authorized by the Director, as further provided in this section. Substantial completion occurs when the Improvement is functional and operable in all material respects, although not necessarily completed to the standard required for formal acceptance by the Town for operation and maintenance. No certificates of occupancy shall be issued for structures within a Phase unless the Phase Improvements have been accepted by the Town as provided in section 4.

The Director may concur in the issuance of one or more designated building permits prior to substantial completion of the applicable Phase Improvements, if unusual and unanticipated circumstances warrant relaxing the substantial completion requirement. In such event, the Director may impose the condition that all work must cease under such building permit if the Phase Improvements are not substantially completed by the date specified in the permit. In no event shall the Director concur in the issuance of a building permit, unless there is adequate emergency access to the site and the water system is completed sufficiently to provide adequate fire flows for fire protection.

Section 4. Acceptance of Improvements. Upon substantial completion of the Phase Improvements, Subdivider may request inspection. Town shall make inspection within 5 working days of the date Subdivider requests final inspection, and Town shall notify Subdivider of non-conforming work within 5 working days after the inspection is made. Subdivider shall have 30 days from the date of receipt of Town's inspection report to remedy the non-conforming work unless the remedial work is delayed due to weather conditions, in

which event the work shall be completed as soon as reasonably feasible thereafter. Town shall make inspection of Subdivider's remedial work within 5 working days after Subdivider requests inspection of such remedial work and shall notify Subdivider of acceptance of the remedial work within 5 working days after such inspection.

With cure of non-conforming work, receipt of as-built plans and initial acceptance of the Phase Improvements by Town, Subdivider shall promptly convey its interest in the Phase Improvements by document in the form attached as **Exhibit 2**. With conveyance of the Phase Improvements, the applicable warranty period commences.

Section 5. Improvements Security. In accordance with Town Regulations, Subdivider shall provide Town with a letter of credit, cash escrow deposit or performance bond approved by the Town Attorney in the amount of 115% of the estimated construction cost of the Phase Improvements, including early grading and erosion control (Security). The Security for each respective Phase shall be delivered to Town prior to and as a condition of the issuance of the first public works permit within such Phase. All construction cost estimates shall be submitted by Subdivider's registered civil engineer and reviewed and approved by the Town's engineering division, which cost estimates shall be used to estimate the Security requirement. Subdivider shall have the right to substitute equivalent Security from a homebuilder or contractor for the Security provided by the Subdivider.

The purpose of the Security is to provide Town with the financial resources to mitigate any public health and safety hazards and/or regrade and revegetate the Property and/or complete construction or installation of any of the Phase Improvements, should Subdivider default in its obligation to complete the Phase Improvements (Remedial Work). The Town retains the absolute discretion to determine what Remedial Work, if any, is undertaken by Town on the Phase Improvements, in the event of such default. Any portion of the Security not utilized in the Remedial Work shall be returned to the obligor on the Security, or in the event a letter of credit or cash escrow is furnished by Subdivider, to Subdivider.

Provided further, to the extent District constructs Improvements, District may satisfy the Security requirements through establishment of the escrow authorized under 3.02 of the DA. The escrow agreement between Town and District may provide for the initial funding of the escrow at less than 115% of the estimated cost of the Improvements, provided that the Town is provided adequate assurance that additional District funding will be forthcoming, and that disbursement from escrow are appropriately restricted, pending the deposit into escrow of the supplemental funds.

Section 6. Landscaping. Subdivider shall make best efforts to complete all Phase Landscaping in conjunction with completion of the Phase Improvements as provided in section 2. Inspection of Phase Landscaping by the Town shall be made in the same manner as prescribed for Phase Improvements under section 4.

With Town's acceptance of the Phase Landscaping concurrently with the Phase Improvements, the Security pertaining to the Phase Landscaping shall be reduced to 15% of the actual cost of the Phase Landscaping. In such event, the warranty Security pertaining to the Phase Landscaping shall be released in accordance with Town Regulations.

In the event that at the time the Town accepts the Phase Improvements, the Phase Landscaping is not sufficiently completed to allow the Town's acceptance, any portion of the Security pertaining to the Phase Landscaping shall be released and the following provisions shall apply:

- (a) Subdivider shall make a cash deposit to the Town in the amount of 115% of the estimated completion cost of the Phase Landscaping to be held by Town as security for completion of the Phase Landscaping (the "Landscape Deposit");
- (b) the amount of the Landscape Deposit shall be determined by the Town after review of the cost estimate of completion furnished by the Subdivider's landscape architect or contractor;
- (c) the Landscape Deposit must be made prior to and as a condition of the issuance of the first building permit within the Phase;
- (d) upon receipt of the Landscape Deposit the Town will release that portion of the Security applicable to the Phase Landscaping.
- (e) the Landscape Deposit shall not accrue interest;
- (f) Subdivider shall have 180 days from the date the Landscape Deposit is deposited with the Town to complete the Phase Landscaping;
- (g) within 10 days of completion of the Phase Landscaping and acceptance by the Town, Town shall return to Subdivider the Landscape Deposit, less a 15% warranty hold-back and the applicable warranty on the Phase Landscaping shall commence;
- (h) if at the end of such 180 day period the Phase Landscaping has not been completed and accepted by Town, Town may use the Landscape Deposit to the extent necessary to complete the Phase Landscaping, provided Town will not be obligated to spend any Town funds to complete the Phase Landscaping in the event the Landscape Deposit is insufficient to fund completion;

- (i) Town shall promptly return to Subdivider any portion of the Landscape Deposit which remains after the Town has completed the Phase Landscaping, less a 15% hold-back for the warranty period;
- (j) the Landscape Deposit held for the warranty shall promptly be released to Subdivider upon expiration of the Landscaping warranty and Town's final acceptance of the Landscaping.

Section 7. Water Supply. Pursuant to Article V of the DA, 433 SFE of the "Water Credit" (as defined in the DA) have been applied to meet the water supply requirements for the Subdivision (Subdivision Water Credit). Town shall not require additional water rights or water resources as a condition to issuance of land use approvals within the Subdivision, so long as the aggregate water demand from development does not exceed the Subdivision Water Credit. To the extent that the water demand created by development on the Property (computed in accordance with the Article V of the DA), exceeds the Subdivision Water credit, additional entitlements must be allocated to the Property and/or Subdivider must provide additional water resources in accordance with chapter 4.04 of the Castle Rock Municipal Code, sufficient to meet the demand in excess of the initial Water Credit.

Absent compliance with this section, Town may withhold development approvals on the Property for any proposed use, which, after taking into account all previous development within the Subdivision, will create and aggregate water demand in excess of the Subdivision Water Credit (as the same may be subsequently increased in accordance with this section). Should the Subdivision Water Credit not be fully utilized after full development of the Subdivision, the remaining SFE shall revert to the Castle Oaks Water Bank (as that term is defined in the DA).

Section 8. Water Tap Purchase. In accordance with the provisions of 7.01 of the DA, Subdivider and/or District shall purchase from the Town 144 SFE's of the water component of the System Development Fees (Water Taps) for the total purchase price of \$1,098,000. The unit price of \$7625 per Water Tap reflects the \$250 deduction against the Code rate of \$7875 authorized by 7.01(a) of the DA. The use of the Water Taps is subject to the terms and conditions of 7.01 DA, and this section 8 shall constitute the water tap purchase agreement called for in 7.01. 123 of the Water Taps shall be purchased with recordation of this Agreement, with the purchase of the remaining 21 Water Taps due six months after recordation of this Agreement.

The Water Taps shall be utilized by District, and honored by Town as outlined in section 3.03 of the First Amendment to Master Intergovernmental Agreement dated September 2, 2003, entered into between the Town and District. At the time of building permit issuance, Town shall require the tender of a certificate from the District in the form attached as **Exhibit 3** (Certificate), evidencing the permittee's purchase from District of the requisite

number of Water Taps per the building permit. With tender of the duly executed Certificate, Town shall not collect the water component of the system development fees otherwise imposed by the Town under 13.12.080 of the Code.

Section 9. Wastewater Fee Credit. Pursuant to 7.03 of the DA, the wastewater component of the System Development Fees shall be discounted by \$715 per SFE for all wastewater connections on the Property.

Section 10. Interchange Participation. Pursuant to 8.02 of the DA, concurrently with and as a condition to recordation of this Agreement, Subdivider shall pay to Town \$14,500, which represents the pro rata share of the Exit 184/I-25 Interchange improvements imposed on the Property (as well as all other property subject to the DA).

Section 11. Public Tract Dedication. Concurrently with recordation of this Agreement, Subdivider shall convey to Town Tracts Q, T and W (Public Tracts) by special warranty deed, in the manner, and with the quality of title, prescribed by 9.01 of the DA. With such deed, Subdivider shall deliver to Town a title insurance commitments proposing to insure the Town's title to each of the Public Tracts in the amount of \$10,000 per acre, and Subdivider shall pay the premium for the title insurance policy. Subdivider shall indemnify and hold Town harmless from any property taxes on the Public Tracts conveyed to Town. Subdivider, or a homeowners association created by Subdivider shall maintain tracts Q and W to the same standard as Town maintains similar properties. Town retains the obligation to maintain the hard-surface Improvements within Tracts Q and W.

Section 12. Founders Parkway Sidewalk. Subdivider, at its expense, shall install an 8-foot detached sidewalk adjacent to Founders Parkway along the entire Property frontage with Founders Parkway (Sidewalk Improvements). Subdivider may defer construction of the Sidewalk Improvements to a date not later than December 31, 2005. In the event Subdivider fails to complete construction of the Sidewalk Improvements by December 31, 2005, the Town may withhold issuance of building permits for the Subdivision until the Sidewalk Improvements are completed.

Section 13. Wastewater Improvements and Maintenance. As part of the initial Improvements, Subdivider is obligated to construct a force main, lift station, and outfall structure that accepts pressurized wastewater flows from the Property, which connects to the outfall structure located in the Woodlands 12 subdivision (collectively, Wastewater Connection). The Property will not qualify for issuance of building permits until Subdivider has obtained all required governmental permits and approvals for the Wastewater Connection. The Property will not qualify for issuance of certificates of occupancy until the Wastewater Connection is completed, operational and accepted by the Town.

Section 14. Lift Station Maintenance Fund. A wastewater lift station is required to serve the Property (Lift Station). Construction of the Lift Station must be approved by

governmental agencies other than the Town. Subdivider and Town shall cooperate to make application and obtain approval of such governmental agencies for the Lift Station at the earliest possible time. However, Town will not issue any building permits on the Property, prior to the issuance of all necessary governmental approvals and permits for the Lift Station. If approval for the Lift Station is denied, and all reasonable appeals from such adverse decision are exhausted, Subdivider shall grade and revegetate the Property pursuant to an erosion control plan approved by the Town. Any Subdivision development prior to approval of the Lift Station is entirely at the risk of Subdivider.

The Town will own and maintain the Lift Station upon its completion, dedication and acceptance. The costs the Town will incur in operation of the Lift Station are supplemental to the usual and customary costs incurred by the Town in operation of a gravity wastewater collection system. In order to defray such supplemental costs, Subdivider (or District) shall pay to Town the sum of \$81,578 concurrently with and as a condition to the Town's initial acceptance of the Lift Station and the commencement of the applicable warranty period, which amount represents the agreed present value of the future operation and maintenance cost of the Lift Station (Operational Subsidy). In order to enable Subdivider (or District) to recoup the Operational Subsidy, District may impose the sum of \$214.68 per residential unit plus a pro rata share of financing costs incurred by the District to pay the Operational Subsidy (Unit Fee). Subdivider shall include a provision in all contracts for the sale of any portion of the Property which requires the vendee to pay the Unit Fee to the District prior and as a condition to the Town's issuance of a building permit. Payment of the Unit Fee to the District shall be evidenced in the Certificate.

Section 15. Lift Station Well. A Lower Dawson aquifer well, to be used for providing maintenance water for the Lift Station shall be drilled by Subdivider on the lift station parcel, more particularly described in the attached **Exhibit 4**. The well is to be permitted with the Town of Castle Rock as the applicant. Subdivider shall be responsible for all costs associated with the well, including but not limited to the follows:

- (a) acquiring the State well permit;
- (b) drilling and completion of the well;
- (c) equipping the well;
- (d) running power, controls, and raw waterline from the lift station facility to the wellhead; and
- (e) any maintenance costs incurred during the two-year warranty period.

If and when a Town water system main is extended to the intersection of Castle Oaks Drive and South Rocky View Road, Subdivider shall connect a new water service to the facility and pay all applicable System Development and tap fees.

Section 16. Wastewater Maintenance Fund. District shall pay to Town the necessary and reasonable costs incurred by Town in more frequent cleaning and maintenance of oversized wastewater mains that will not achieve flushing velocities, until the Subdivision and future Castle Oaks subdivisions are substantially built out. Periodically, Town shall give District an accounting of the maintenance expenditures incurred, and a final accounting at build-out.

Section 17. Castle Oaks Covenants. Concurrently with recordation of this Agreement, Subdivider intends to record a "Second Amendment To Castle Oaks Declaration of Protective Covenants and Restrictions" (Amendment), which document effects a reconfiguration of certain pre-existing private use rights to coincide with the land uses, lots, tracts, streets and trail and recreation areas established by the Plat. Town may decline to issue construction permits for the Subdivision, if Subdivider fails to finalize, execute and record the Second Amendment, substantially in the form previously reviewed with Town staff.

Prior to recordation of this Agreement, Subdivider shall furnish Town with a title insurance commitment to all public dedications on the Plat (excluding the Public Tracts which are separately addressed in section 11), which proposes to insure the Town's interest in such public dedications, free and clear of liens and encumbrances and restrictive covenants (upon the recordation of the Amendment).

Section 18. Signalization. Subdivider will be required to reimburse the Town for the 50% of the cost of the Founders Parkway traffic signal and 25% of the Ridge Road/Enderud signal. Such payment shall be made pursuant to the terms of section 8.03 of the Development Agreement.

Section 19. Application of Development Agreement. The Development Agreement contains certain other conditions and requirements which apply to the development of the Property, however, In the event of a conflict between the Development Agreement and this Agreement, this Agreement shall govern and control.

Section 20. Construction Damage. Subdivider shall be responsible for any extraordinary damage to Town roads and/or public improvements, resulting from the gross negligence of contractors working on the Improvements or private improvements. Subdivider may assign responsibility and liability for such construction damage to the builders within the Subdivision, provided Subdivider remains obligated to repair such damage, in the event the assignee fails to do so as a result of construction traffic from the Subdivision.

Section 21. Disclosure to Purchaser. Subdivider shall make the following disclosure in any contract for conveyance of any portion of the Property (excluding the sale of a lot to a retail purchaser)

Development of this Property is subject to the Castle Oaks Estates Filing No. 1 Subdivision Improvements Agreement with the Town of Castle Rock. Issuance of development approvals by the Town for your property may be dependent on the completion of certain off-site public improvements by Seller or other parties. Although the Town requires that financial security be provided for construction of public improvements in this subdivision, the Town may not have the financial, legal or practical ability to complete construction of public improvements in the event of a default by the responsible party. The Town regulations and the Subdivision Improvements Agreement address only municipally-owned utilities and therefore the provision of other public utilities such as electricity, natural gas and cable television are governed exclusively by separate contracts with such utilities over which the Town exercises no control.

Section 22. Subdivider/District Default. The following occurrences constitute a default of this Agreement by Subdivider (and District when acting on behalf of Subdivider), or District, independently, with respect to obligations assumed directly by District under this Agreement :

- (a) failure to complete construction of the Phase Improvements within the time periods prescribed in this Agreement;
- (b) failure to cure the defective construction or installation of any Phase Improvement within the applicable cure period;
- (c) after commencing construction of such Phase Improvements, failure to perform work on the Phase Improvements required by this Agreement within the Subdivision for a period of more than 90 consecutive days except when such delay is due to adverse weather, material unavailability, or other circumstances beyond the control of Subdivider;
- (d) Subdivider's insolvency, the appointment of a receiver for the Subdivider or the filing of a voluntary or involuntary petition in bankruptcy respecting the Subdivider;
- (e) Subdivider or District has breached, or caused a breach of any other provision of this Agreement.

As a condition to Town's right to exercise its remedies for default, Town shall give written notice to Subdivider (and/or District, as applicable) of the occurrence of an event of default. Subdivider (and/or District), as applicable shall have 30 calendar days from the receipt of such notice to cure the default, unless such cure is necessarily delayed to adverse weather conditions or other circumstances beyond the control of Subdivider (and/or District, as applicable), in which event the cure period shall be extended by a number of days equal to the number of days of the unavoidable delay. If timely cure of the noticed default(s) is not accomplished, Town shall thereafter be entitled to pursue its remedies against Subdivider (and/or District, as applicable).

Section 23. Town's Rights Upon Default. When any event of default occurs and has not been timely cured, the Town may:

- (a) if the applicable Phase Improvements have not been timely completed, call the Security in accordance with its terms, and apply the Security for the Remedial Work. Subdivider grants to Town and, if applicable, the surety, and their employees, agents and contractors, a non-exclusive right and easement to enter onto the Property after an uncured default for the purpose of undertaking the Remedial Work;
- (b) if Phase Improvements have not been timely completed or as otherwise specifically authorized by this Agreement, withhold issuance of building permits within the affected Phase;
- (c) record a notice of non-compliance with this Agreement in the public records to provide record notice of the default, which notice shall promptly be released by Town upon cure of the default; and
- (d) bring suit against the defaulting party for money damages and/or equitable relief for breach of the Agreement.

Section 24. Town Default and Remedies. In the event Town should fail to timely perform its obligations under this Agreement, Subdivider shall give written notice to Town of such default and Town shall have 10 calendar days from the receipt of such notice to cure the default. If the default is not timely cured, Subdivider shall have the right to seek legal and/or equitable relief against the Town.

Section 25. Indemnification. Subdivider indemnifies and holds the Town harmless from and against all claims, costs and liability of every kind and nature, for injury or damage received or sustained by any person or entity in connection with, or on account of the construction or repair of the Improvements by Subdivider; provided however such

indemnity shall only extend to claims for injury or damage occurring prior to the date of final acceptance of the Improvements by the Town.

Section 26. No Waiver. No waiver of any provision of this Agreement will be deemed or constitute a waiver of any other provision, nor will it be deemed or constitute a continuing waiver unless expressly provided for by a written amendment to this Agreement signed by both Town and Subdivider, nor will the waiver of any default under this Agreement be deemed a waiver of any subsequent default or defaults of the same type. The Town's failure to exercise any right under this Agreement will not constitute the approval of any wrongful act by the Subdivider or the acceptance of any Improvement.

Section 27. Attorney's Fees. Should either party be required to resort to litigation to enforce the terms of this Agreement, the prevailing party, plaintiff or defendant, will be entitled to costs, including reasonable attorney's fees and expert witness fees, from the opposing party. If the court awards relief to both parties, each will bear its own costs in their entirety.

Section 28. Notice. Any notice required or permitted by this Agreement will be deemed effective when personally delivered in writing or by facsimile, or three (3) days after notice is deposited with the U.S. Postal Service, postage prepaid, certified, and return receipt requested, and addressed as follows:

if to Subdivider: Castle Oaks Estates, LLC
 P.O. Box 87
 Castle Rock, CO 80104

with copy to: The Schuck Corporation
 2 North Cascade Avenue, Suite 1280
 Colorado Springs, CO 80903

if to Town: Town of Castle Rock
 Attn: Town Attorney
 100 Wilcox Street
 Castle Rock, CO 80104

Section 29. Recordation and Binding Effect. This Agreement shall be recorded with the Clerk and Recorder's Office of Douglas County, Colorado and shall be binding upon the assigns, successors, and grantees of Subdivider in the same manner as if such third parties were signatories to this Agreement.

Section 30. Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity under any applicable state law.

CASTLE OAKS METROPOLITAN DISTRICT

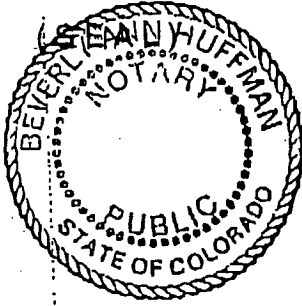
By: A. E. Nichol

Its: BOARD MEMBER

STATE OF COLORADO)
COUNTY OF EL PASO) ss.

The foregoing instrument was acknowledged before me this 23RD day of DECEMBER 2003, by A. E. NICHOLS AS DIRECTOR for Castle Oaks Metropolitan District.

Witness my official hand and seal.
My commission expires: 12/10/05



Beverly Ann Huffman
Notary Public

EXHIBIT 1

LEGAL DESCRIPTION:

A REPLAT OF PORTIONS OF BLOCKS 2 AND 3, OUTLOTS C AND G AND TRACT E, OF CASTLE OAKS SUBDIVISION, BEING A PORTION OF SECTION 6, TOWNSHIP 8 SOUTH, RANGE 66 WEST, AND A PORTION OF THE SOUTHWEST ONE-QUARTER OF SECTION 31, TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BASIS OF BEARINGS: THE WEST LINE OF THE SOUTHWEST ONE-QUARTER OF SAID SECTION 31 BEING MONUMENTED AT THE WEST ONE-QUARTER CORNER OF SAID SECTION BY A 3-1/4" ALUMINUM SURVEYOR'S CAP - STAMPED "PLS 22100" AND AT THE SOUTHWEST CORNER BY A 3-1/4" ALUMINUM SURVEYOR'S CAP - P.L.S. #12046, BEING ASSUMED TO BEAR N00°12'27"E, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO.

COMMENCING AT THE WEST ONE-QUARTER CORNER OF SAID SECTION 31; THENCE N89°15'27"E, A DISTANCE OF 55.00 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF FOUNDERS PARKWAY BEING THE POINT OF BEGINNING;

THENCE ALONG THE FOLLOWING FOUR (4) COURSES;

1. N89°16'26"E, A DISTANCE OF 124.94 FEET;
2. N89°19'10"E, A DISTANCE OF 1220.82 FEET;
3. N89°17'55"E, A DISTANCE OF 2302.20 FEET;
4. N89°29'52"E, A DISTANCE OF 350.00 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY OF CASTLE OAKS DRIVE AS RECORDED AT RECEPTION NO. 205749 OF THE RECORDS OF DOUGLAS COUNTY, COLORADO;

THENCE ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID CASTLE OAKS DRIVE THE FOLLOWING FOURTEEN (14) COURSES;

1. S27°03'11"W, A DISTANCE OF 17.50 FEET TO A POINT OF CURVE;
ALONG THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 39°49'52", A RADIUS OF 440.00 FEET, A DISTANCE OF 305.88 FEET;
3. S12°46'42"E, A DISTANCE OF 181.83 FEET;
4. S12°49'52"E, A DISTANCE OF 60.11 FEET;
5. S12°41'38"E, A DISTANCE OF 471.76 FEET TO A POINT OF NON-TANGENT CURVE;
6. ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S77°10'00"W, HAVING A DELTA OF 30°29'17", A RADIUS OF 360.00 FEET, A DISTANCE OF 191.56 FEET;
7. S17°42'42"W, A DISTANCE OF 394.67 FEET;
8. S17°38'49"W, A DISTANCE OF 117.60 FEET TO A POINT OF NON-TANGENT CURVE;
9. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S72°20'01"E, HAVING A DELTA OF 27°39'00", A RADIUS OF 1040.00 FEET, A DISTANCE OF 501.89 FEET;
10. S09°40'59"E, A DISTANCE OF 90.94 FEET TO A POINT OF NON-TANGENT CURVE;
11. ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS S80°04'11"W, HAVING A DELTA OF 74°04'31", A RADIUS OF 360.00 FEET, A DISTANCE OF 465.43 FEET;
12. S64°12'25"W, A DISTANCE OF 217.19 FEET TO A POINT OF NON-TANGENT CURVE;
13. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S25°50'36"E, HAVING A DELTA OF 39°51'27", A RADIUS OF 440.00 FEET, A DISTANCE OF 306.08 FEET;
14. S24°01'52"W, A DISTANCE OF 39.48 FEET;

THENCE THE FOLLOWING FOUR (4) COURSES;

1. N78°19'44"W, A DISTANCE OF 610.53 FEET;
2. S29°00'34"E, A DISTANCE OF 705.32 FEET;
3. S24°45'13"E, A DISTANCE OF 245.89 FEET;
4. N65°43'08"E, A DISTANCE OF 185.00 FEET TO A POINT OF A NON-TANGENT CURVE ON THE WESTERLY RIGHT OF WAY LINE OF SAID CASTLE OAKS DRIVE;

THENCE ALONG THE WESTERLY RIGHT OF WAY LINE OF SAID CASTLE OAKS DRIVE ALONG THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS N45°54'35"E, HAVING A RADIUS OF 440.00 FEET, A DELTA OF 11°42'51", A DISTANCE OF 89.96 FEET;

THENCE THE FOLLOWING FOUR (4) COURSES;

1. S46°12'36"W, A DISTANCE OF 204.88 FEET;
2. S13°44'46"E, A DISTANCE OF 154.47 FEET;
3. S24°44'19"E, A DISTANCE OF 272.26 FEET;
4. S24°45'06"E, A DISTANCE OF 473.39 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID CASTLE OAKS DRIVE;

THENCE ALONG THE NORTHERLY LINE OF SAID CASTLE OAKS DRIVE THE FOLLOWING TEN (10) COURSES;

1. S54°24'46"W, A DISTANCE OF 153.36 FEET;
2. S54°11'46"W, A DISTANCE OF 29.47 FEET;
3. S54°26'16"W, A DISTANCE OF 1454.90 FEET;
4. S54°23'16"W, A DISTANCE OF 213.10 FEET TO A POINT OF NON-TANGENT CURVE;
5. ALONG THE ARC OF A CURVE TO THE RIGHT WHOSE CENTER BEARS N35°34'29"W, HAVING A DELTA OF 35°52'47", A RADIUS OF 457.18 FEET, A DISTANCE OF 286.30 FEET;
6. N89°39'24"W, A DISTANCE OF 508.71 FEET TO A POINT OF NON-TANGENT CURVE;
7. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE CENTER BEARS S00°19'31"W, HAVING A DELTA OF 31°52'41", A RADIUS OF 440.00 FEET, A DISTANCE OF 244.81 FEET;
8. S58°19'31"W, A DISTANCE OF 175.58 FEET TO A POINT OF CURVE;
9. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 54°49'34", A RADIUS OF 360.00 FEET, A DISTANCE OF 344.48 FEET;
10. N66°50'57"W, A DISTANCE OF 24.35 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY OF FOUNDERS PARKWAY;

THENCE ALONG THE EASTERLY RIGHT OF WAY OF FOUNDERS PARKWAY THE FOLLOWING SIX (6) COURSES;

1. N10°23'45"E, A DISTANCE OF 134.93 FEET TO A POINT OF CURVE;
2. ALONG THE ARC OF A CURVE TO THE LEFT HAVING A DELTA OF 45°41'14", A RADIUS OF 1132.10 FEET, A DISTANCE OF 902.73 FEET;
3. N35°17'28"W, A DISTANCE OF 402.22 FEET TO A POINT OF CURVE;
4. ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A DELTA OF 34°04'46", A RADIUS OF 745.00 FEET, A DISTANCE OF 443.12 FEET;
5. N01°12'43"W, A DISTANCE OF 1586.47 FEET;
6. N00°12'28"W, A DISTANCE OF 2634.56 FEET TO THE POINT OF BEGINNING;

SAID PARCEL CONTAINS A CALCULATED AREA OF 19,543,365 SQUARE FEET OR 448.654 ACRES MORE OR LESS.

EXCEPT:

THAT PARCEL KNOWN AS CASTLE OAKS NO. 9 WELL FIELD AS RECORDED IN BOOK 839 AT PAGE 48 OF THE RECORDS OF DOUGLAS COUNTY, COLORADO, CONTAINING A CALCULATED AREA OF 45,000 SQUARE FEET OR 1.033 ACRES MORE OR LESS.

WITH A RESULTING AREA OF 19,498,365 SQUARE FEET OR 447.621 ACRES MORE OR LESS.

(Exemplar – Not for Execution)

**EXHIBIT 2
PUBLIC IMPROVEMENTS CONVEYANCE AND INITIAL ACCEPTANCE**

TRANSFEROR:

TRANSFeree: Town of Castle Rock, a municipal corporation ("Town")
100 Wilcox Street
Castle Rock, Colorado 80104

Transferor has caused to be constructed certain public improvements and facilities described in the attached **Exhibit A** (the "Improvements"), as required by Town to serve the Castle Oaks Filing No. 1. Town will assume the obligation for maintenance and operation of the Improvements, excepting drainage improvements which will remain the obligation of Transferor, located in rights-of-way, easements or other real property owned by Town, upon the conveyance of the Improvements to Town.

THEREFORE, Transferor grants, conveys and transfers to Town all its interest (real or personal) and title to the Improvements subject to the following:

1. Transferor warrants to Town that Transferor has a good title to the Improvements, free and clear of any lien, claim or right of any third party in or to the Improvements, and Transferor will defend Town's title to the Improvements against the claim of any third party.
2. Transferor warrants that the Improvements are located within the easement, right-of-way or other real property interest designated by the Town for siting of the Improvements. Town acknowledges receipt of as-built drawings of the Improvements dated _____.
3. Transferor warrants that, as constructed, all Improvements are in conformance with the current Town of Castle Rock standards and the approved construction plans, and are free from defects in design, material or workmanship. This warranty is for the period prescribed by the Town's Public Works Regulations, commencing with the date of acceptance made below.
4. Transferor represents that the approximate amount of direct costs of construction of the Improvements (excluding engineering, financing, insurance,

etc.), as determined in accordance with usual and customary construction accounting practices is as follows:

Grading and Erosion Control	_____
Water	_____
Wastewater	_____
Stormwater	_____
Streets	_____
Parks and Recreation	_____
TOTAL	_____

5. Transferor concurrently submits to Town the surety attached as **Exhibit B** in the amount of 15% of the above total to secure Transferor's warranty obligation on the Improvements.

TRANSFEROR:

By: _____

Its: _____

ACCORDINGLY, Town accepts for ownership and maintenance of the Improvements effective _____, 200__, (excluding drainage facilities).

TOWN OF CASTLE ROCK

Engineering Division

EXHIBIT 3

**CASTLE OAKS METROPOLITAN DISTRICT
CERTIFICATE OF PAYMENT FOR FACILITIES DEVELOPMENT FEES**

3-___

The undersigned hereby applies for payment of Facilities Development Fees to the Castle Oaks Metropolitan District (the "District"), pursuant to the Master Intergovernmental Agreement, as amended, between the District and the Town of Castle Rock (the "Town"), dated October 28, 2002. Applicant acknowledges that payment of the Facilities Development Fee entitles Applicant to apply to the Town for a Building Permit and that the Town requires permits and levies charges for said permits and service, separate and apart from the District's Facilities Development Fees.

The District hereby acknowledges that the Applicant paid the Facilities Development Fee and is hereby entitled to apply to the Town for a Building Permit and connection to municipal utilities and services.

A copy of this certificate must be presented when applying to the Town for a Building Permit. If the Applicant desires to transfer or assign this certificate, such assignment must be approved by the District, prior to Building Permit issuance.

Applicant		Phone	
Assignee/Builder		By	
Assignment Approved		Date	

LEGAL DESCRIPTION

Filing Name/No.		Lot/Block No.	
Street Address			
Model No.		Description	
Lot Size		SFE	one

INFRASTRUCTURE DEVELOPMENT FEES (Pre-paid / Collected by District):

	AMOUNT DUE	# SFEs	TOTAL DUE	AMOUNT PAID
Water System	\$250		\$	\$
Sewer System	715		\$	\$
Development Fee Surcharge	\$2,250		\$	\$
Lift Station Surcharge	\$250.00			
Other				
			\$	\$

CASTLE OAKS METROPOLITAN DISTRICT

TO BE COMPLETED BY TOWN:

By: _____

Building Permit Date: _____

Title: District Manager

Building Permit No.: _____

Exhibit 4

LEGAL DESCRIPTION – LIFT STATION

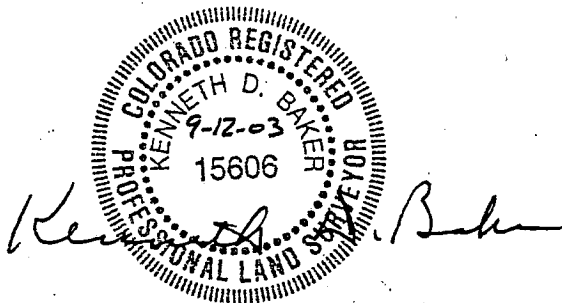
A PORTION OF LOT 14, BLOCK 2, CASTLE OAKS, LOCATED IN THE SOUTHWEST ONE-QUARTER OF SECTION 29, TOWNSHIP 7 SOUTH, RANGE 66 WEST OF THE SIXTH PRINCIPAL MERIDIAN IN THE COUNTY OF DOUGLAS, STATE OF COLORADO, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE EASTERNMOST CORNER OF SAID LOT 14, SAID POINT BEING ON THE WESTERLY RIGHT-OF-WAY LINE OF CASTLE OAKS DRIVE; THENCE S26°03'30"W ALONG THE EASTERLY LINE OF SAID LOT 14 AND SAID WESTERLY RIGHT-OF-WAY LINE, A DISTANCE OF 351.97 FEET; THENCE N65°00'00"W, A DISTANCE OF 245.92 FEET; THENCE N25°46'39"E, A DISTANCE OF 351.44 FEET TO A POINT ON THE NORTHERLY LINE OF SAID LOT 14; THENCE S65°06'58"E ALONG SAID NORTHERLY LINE, A DISTANCE OF 247.65 FEET TO THE POINT OF BEGINNING,

CONTAINING A CALCULATED AREA OF 86,783 SQUARE FEET OR 1.992 ACRES.

SURVEYOR'S STATEMENT

I, KENNETH D. BAKER, A PROFESSIONAL LAND SURVEYOR IN THE STATE OF COLORADO, DO HEREBY STATE THAT THE ABOVE LEGAL DESCRIPTION AND ATTACHED EXHIBIT WERE PREPARED UNDER MY RESPONSIBLE CHARGE, AND ON THE BASIS OF MY KNOWLEDGE, INFORMATION AND BELIEF, ARE CORRECT.



KENNETH D. BAKER, PROFESSIONAL LAND SURVEYOR
COLORADO P.L.S. No. 15606
FOR AND ON BEHALF OF NOLTE ASSOCIATES, INC.
7000 S. YOSEMITE STREET
ENGLEWOOD, COLORADO 80112

60' GAS EASEMENT
PER PLAT

N25°46'39"E
351.44'

S65°06'58"E
247.65'

LOT 15
BLOCK 2



POINT OF BEGINNING
EASTERNMOST
CORNER OF LOT 14,
BLOCK 2

AREA
86,783 S.F.
1.99 ACRES



1 inch = 60 ft.

STREAM AND TRAIL
EASEMENT

N65°00'00"W
245.92'

S26°03'30"W
351.97'

CASTLE OAKS DRIVE

ROCKY VIEW
ROAD

LOT 11
BLOCK 6

LOT 10
BLOCK 4

NOLTE

BEYOND ENGINEERING

7000 SOUTH YOSEMITE ST., SUITE 200, ENGLEWOOD, CO. 80112
303.220.1001 TEL. 303.220.9001 FAX WWW.NOLTE.COM

CASTLE OAKS LIFT STATION PARCEL

PREPARED FOR: MEURER AND ASSOCIATES DATE SUBMITTED: 09/12/03

SHEET NUMBER

2

OF 2 SHEETS

JOB NUMBER
DV1383