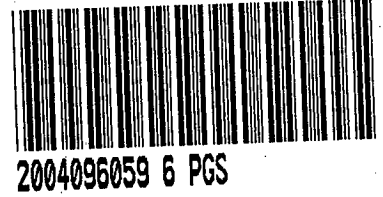


2004096059
09, 2004 10:50 AM



FIRST AMENDMENT
TO
CASTLE OAKS ESTATES FILING NO. 1
SUBDIVISION IMPROVEMENTS AGREEMENT

DATE: August 4, 2004

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, 1675 Broadway, Suite 2100, Denver, Colorado 80202 (District)

MORTGAGEES: **BANK MIDWEST, N.A.**
~~**MELODY HOMES, INC.**~~

RECITALS:

A. Town, Subdivider, and District, with the joinder of the Mortgagees, entered into that certain Castle Oaks Estates Filing No. 1 Subdivision Improvements Agreement dated December 23, 2003 (the "Subdivision Improvements Agreement"), which agreement was recorded on January 14, 2004, at Reception No. 2004005961, in the records of the Clerk and Recorder for the County of Douglas, State of Colorado.

B. The parties desire to modify certain provisions of the Subdivision Improvements Agreement in order to better fulfill the purposes of the Subdivision Improvements Agreement.

NOW, THEREFORE, in consideration of the premises, the parties hereby agree to amend the Subdivision Improvements Agreement as follows:

1. Section 5. **Improvements Security**, is hereby amended by the addition of the following paragraph:

"If Subdivider elects to provide to the Town substitute equivalent Security from more than one homebuilder or contractor, as permitted under the first paragraph under this Section 5, Subdivider shall also provide and deliver to the Town, prior to and as a condition of the issuance of the first Public Works Permit, an additional letter of credit, cash escrow deposit or performance bond approved by the Town Attorney (the "Additional Security") in the amount of \$750,000, for the

purpose of providing the Town with the financial resources to mitigate any public health and safety hazards and/or regrade and vegetate the Property, should Subdivider default in its obligation to complete the Phase Improvements. The Town may look to the Additional Security in lieu of, or in addition to, the other Security provided to the Town by the Subdivider.”

2. The first paragraph of Section 8, **Water Tap Purchase**, is amended and restated in its entirety to read as follows:

“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 \$1,154,736. The unit price of \$8,019 per Water Tap reflects the \$250 deduction against the Code rate of \$8,269 authorized by 7.01(a) of the DA. The use of the Water Taps is subject to the terms and conditions of 7.01 of the DA, and this Section 8 shall constitute the Water Tap Purchase Agreement called for in Section 7.01 of the DA. All of the Water Taps shall be purchased prior to and as a condition of the issuance of the first Public Works Permit for the first Phase Improvements to be constructed pursuant to this Subdivision Improvements Agreement.”

3. Except as expressly modified herein, the parties hereby ratify and affirm the Subdivision Improvements Agreement in its entirety and acknowledge and agree that none of the parties to the Subdivision Improvements Agreement are in default of their obligations thereunder or otherwise in violation of any provisions of the Subdivision Improvements Agreement.

4. This First Amendment to the Castle Oaks Estates Filing No. 1 Subdivision Improvements 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 First Amendment and the original Subdivision Improvements Agreement.

[Remainder of page intentionally left blank]

