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**CASTLEWOOD RANCH FILING NO. 1 – PARCEL 12
SUBDIVISION IMPROVEMENTS AGREEMENT**

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DATE: December 5, 2002.

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

CASTLEWOOD RANCH LLC, a Colorado limited liability company
(Subdivider), 8480 E. Orchard Road, Suite 5550, Englewood,
Colorado 80111.

RECITALS:

A. Subdivider desires to plat and subdivide certain property as Castlewood Ranch Filing 1 – Parcel 12 (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 the 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.

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 Castlewood Ranch Filing No. 1 – Parcel 12 Subdivision Improvement Agreement.

Code: the Castle Rock Municipal Code, as amended.

Development Agreement: the Castlewood Ranch Development Agreement recorded at Reception No. 98105516 of the Records.

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

District: the Castlewood Ranch Metropolitan District

Final Site Plan: the final PD site plan for the Subdivision as approved by the Town.

Improvements: the water, wastewater, stormwater drainage, transportation, park, 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.

Landscaping: the Landscaping required on public areas or tracts and/or prescribed under the Final Site Plan or applicable subdivision and zoning regulations.

Phase: a contiguous geographical area of the Subdivision so designated in the Plans.

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 or designee.

Plans: the description of the Improvements on the Preliminary Plat 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 Castlewood Ranch Filing No. 1 preliminary subdivision plat approved by the Town.

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 Castlewood Ranch Filing No. 1 – Parcel 12 subdivision.

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. 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 ordinances, rules and regulations. The Improvements may be constructed by Phase, in accordance with the applicable Phasing Plan, if any.

In the event Subdivider has not obtained all necessary Town permits and approvals and commenced construction of the initial Phase Improvements as shown on the Phasing Plan within one year of the date of recordation of this Agreement, the Town's approval of the Subdivision 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

Phase Improvements must be completed not later than one year after the date of issuance of the first public works permit for such Phase Improvements, provided that the completion date may 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.

The requirements for completion of Landscaping are contained in section 6.

Section 3. Restrictions Pending Completion of Improvements. No building permits shall be issued by Town within any Phase until the Phase Improvements required by the Phasing Plan for such 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 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, in his/her absolute discretion, may authorize issuance of one or more designated building permits prior to substantial completion, if unusual and unanticipated circumstances warrant granting a relaxation of 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. Unless the underlying Security is a cash escrow, or letter of credit, Subdivider shall establish a separate cash escrow in the amount of 115% of the estimated cost of completion of the Improvements, which escrow shall be supplemental to the underlying Security. In no event shall the Director authorize 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.

The requirements for completion of Landscaping are contained in section 6.

Section 4. Acceptance of Improvements. Upon substantial completion of the Phase Improvements, Subdivider may request inspection. Town shall make inspection within five (5) working days of the date Subdivider requests final inspection, and Town shall notify Subdivider of non-conforming work within five (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.

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**. On the date of conveyance of the Phase Improvements, the applicable warranty period commences.

The acceptance process for Landscaping is addressed in section 6.

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, which Subdivider is constructing. Attached as **Exhibit 3** is a performance bond form which has been approved for use by Subdivider. 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 permitted equivalent Security from a homebuilder 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 such party.

With Town's initial acceptance of the Phase Improvements, the Security shall be reduced to 15% of the actual construction cost of the Phase Improvements in accordance with Town Regulations. The warranty portion of the Security shall be released as authorized in the Town Regulations. The release of the Security applicable to Landscaping is subject to the further restrictions and requirements of section 6.

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, 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 (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 return to Subdivider any portion of the Landscape Deposit which remains after the Town has completed the Phase Landscaping within 10 days after completion of such Phase Landscaping, less a 15% hold-back for the warranty period;
- (j) the Landscape Deposit held for the warranty shall be released to Subdivider within 10 days of the date of expiration of the Phase Landscaping warranty and Town's final acceptance of the Phase Landscaping.

Section 7. Water Rights. The water rights requirement under the Code for the Property was addressed at the time of approval of the Development Agreement. No further water rights or water resources are required to be transferred to the Town.

Section 8. Design Standards. The Final Site Plan for the Subdivision contains certain building and design restrictions and requirements, affecting design elements such as setbacks and building elevations (Design Guidelines). Town shall have the right, but not the obligation, to enforce the Design Guidelines through the withholding of building permits or certificates occupancy, in the event of non-compliance with the Design Guidelines.

Section 9. Application of Development Agreement. The Development Agreement contains certain other conditions and requirements which apply to the development of the Property. In the event of a conflict between the Development Agreement and this Agreement, this Agreement shall govern and control.

Section 10. Construction Damage. Subdivider shall be responsible for any extraordinary damage to any roadways or public improvements internal to the Subdivision, resulting from the gross negligence of contractors working on the Improvements. Subdivider may assign responsibility and liability for such construction damage to the builders within the Subdivision. Town consents to such assignment, without relieving Subdivider of the obligation to repair damage, in the event the assignee fails to do so. Subdivider's responsibility under this section applies only to damage inflicted prior to final acceptance of the Improvements.

per **Section 11. Signal Participation.** Concurrently with recordation of this Agreement, Subdivider shall pay to Town \$50,500, which amount represents the Subdivision's pro rata share of the total cost of installation of traffic signals at Enderud and Mikelson Boulevard and Ridge Road and Enderud, and 50% of the estimated cost of the pedestrian crossing signal on Mikelson Boulevard. The intersection signalization and pedestrian crossing shall be installed by Town when warranted, without further financial participation attributed to the Subdivision, irrespective of the actual cost incurred by Town in such installations. The required payment of \$50,500 shall not entitle Subdivider to any offsets or reductions against impact fees imposed under the Code.

Section 12. 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 Castlewood Ranch Filing No. 1 – Parcel 12 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 13. Default. The following occurrences constitute a default of this

Agreement:

- (a) failure to commence or 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) 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 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 of the occurrence of an event of default. Subdivider 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 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.

Section 14. 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, provided such right of entry shall irrevocably terminate when all Improvements are completed and accepted by Town;
- (b) if Phase Improvements have not been timely completed, withhold issuance of building permits;

- (d) 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
- (e) bring suit against the defaulting party for money damages and/or equitable relief for breach of the Agreement.

Section 15. 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 Phase 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 Phase Improvements by the Town.

Section 16. 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 17. 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 18. 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: Castlewood Ranch, LLC
8480 E. Orchard Road, Suite 5550
Englewood, CO 80111

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

Section 19. 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 20. Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity under any applicable state law.

[REMAINDER INTENTIONALLY LEFT BLANK]

TOWN OF CASTLE ROCK

Mark Stevens
Mark Stevens, Town Manager

Approved as to form:

Robert J. Slentz
Robert J. Slentz, Town Attorney

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

The foregoing instrument was acknowledged before me this 9th day of December, 2002, by Mark Stevens as Town Manager the Town of Castle Rock.

Witness my official hand and seal.
My Commission expires: 9.21.03.

(SEAL)

J. L. King
Notary Public

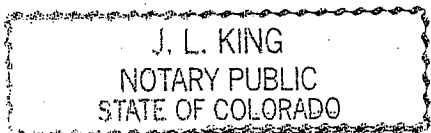


Exhibit 1

LEGAL DESCRIPTION

A PARCEL OF LAND LOCATED IN THE SOUTH ONE-HALF OF SECTION 8 AND THE NORTH ONE-HALF OF SECTION 17, TOWNSHIP 8 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 EAST LINE OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 8, BEING MONUMENTED AT THE SOUTH 1/16 CORNER OF SECTIONS 8 & 9 BY A 2-1/2" ALUMINUM CAP STAMPED LS 28656 AND AT THE SOUTHEAST CORNER OF SAID SECTION 8 BY A 2-1/2" ALUMINUM CAP STAMPED LS 28656, ASSUMED TO BEAR S00°42'04"E.

COMMENCING AT THE SOUTH ONE-SIXTEENTH CORNER BETWEEN SAID SECTIONS 8 AND 9, THENCE S89°10'47"W ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 8 A DISTANCE OF 818.88 FEET TO THE POINT OF BEGINNING;

THENCE ALONG THE WESTERLY LINE OF CASTLEWOOD RANCH SUBDIVISION - FILING NO. 1 - PARCEL 1 THE FOLLOWING THREE (3) COURSES:

1. ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT WHOSE RADIUS POINTS BEARS S 24°41'03" W, HAVING A RADIUS OF 642.50 FEET, A CENTRAL ANGLE OF 37°36'34" AND AN ARC LENGTH OF 421.74 FEET;
2. S 18°03'30" W A DISTANCE OF 8.55 FEET;
3. S 25°21'50" E A DISTANCE OF 50.00 FEET TO THE MOST NORTHERLY CORNER OF CASTLEWOOD RANCH SUBDIVISION - FILING NO. 1 - PARCEL 5

THENCE ALONG THE NORTHWESTERLY BOUNDARY OF SAID PARCEL 5 THE FOLLOWING EIGHT (8) COURSES:

1. S 65°04'56" W A DISTANCE OF 629.79 FEET;
2. S 00°36'16" E A DISTANCE OF 338.43 FEET;
3. S 80°59'21" W A DISTANCE OF 358.00 FEET;
4. S 51°33'36" W A DISTANCE OF 232.05 FEET;
5. N 54°57'28" W A DISTANCE OF 82.07 FEET;
6. S 66°25'42" W A DISTANCE OF 196.62 FEET;
7. S 19°43'48" W A DISTANCE OF 167.69 FEET;
8. S 25°22'07" E A DISTANCE OF 170.34 FEET;

THENCE ALONG THE NORTHERLY LINE OF SAID PARCEL 1 THE FOLLOWING SIX (6) COURSES:

1. N 82°56'48" W A DISTANCE OF 160.74 FEET;
2. ALONG THE ARC OF A CURVE TO THE LEFT WHOSE RADIUS POINTS BEARS S 07°03'12" W, HAVING A RADIUS OF 1232.50 FEET, A CENTRAL ANGLE OF 12°05'17" AND AN ARC LENGTH OF 260.03 FEET;
3. N 50°36'15" W A DISTANCE OF 7.12 FEET;
4. S 83°34'20" W A DISTANCE OF 50.00 FEET;
5. S 37°44'55" W A DISTANCE OF 7.12 FEET;
6. ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT WHOSE RADIUS POINTS BEARS S 07°49'15" E, HAVING A RADIUS OF 1232.50 FEET, A CENTRAL ANGLE OF 20°24'21" AND AN ARC LENGTH OF 438.96 FEET;

THENCE ALONG THE EASTERLY LINE OF SAID PARCEL 1 THE FOLLOWING NINE (9) COURSES:

1. N 24°43'16" W A DISTANCE OF 422.66 FEET;
2. N 44°14'11" E A DISTANCE OF 261.79 FEET;
3. N 36°20'55" E A DISTANCE OF 204.10 FEET;
4. S 59°56'42" E A DISTANCE OF 141.01 FEET;
5. N 44°58'55" E A DISTANCE OF 622.77 FEET;
6. N 30°50'47" W A DISTANCE OF 200.43 FEET;
7. N 28°04'51" E A DISTANCE OF 224.38 FEET;
8. N 89°10'47" E A DISTANCE OF 200.69 FEET;
9. N 00°49'13" W A DISTANCE OF 110.00 FEET;

THENCE N 89°10'47" E ALONG THE NORTH LINE OF THE SOUTH ONE-HALF OF THE SOUTHEAST ONE-QUARTER OF SAID SECTION 8 A DISTANCE OF 1017.52 FEET TO THE POINT OF BEGINNING.

CONTAINING 1,833,998 SQUARE FEET OR 42.103 ACRES.

(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 Castlewood Ranch Filing No 1 – Parcel 12. 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:

(Exemplar – Not for Execution)

Grading and Erosion	_____
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

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That _____
(full name and address or legal title of Contractor)
_____ as Principal,
hereinafter called Contractor, and as Surety, _____
(full name and address or legal title of Surety).
_____ hereinafter called Surety, are held and firmly bound unto _____
(full name and address or legal title of Owner)

as Obligee, hereinafter called Owner, in the amount of _____ Dollars (\$_____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Contractor has by written agreement dated _____, 200__, entered into a contract with Owner for _____, Project No. _____ in accordance with Drawings and Specifications prepared by the Town of Castle Rock, 100 North Wilcox Street, Castle Rock, Colorado, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform said Contract then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The Surety hereby waives notice of any alteration of the contract or extension of time made by Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or;
2. Obtain a bid or bids for completing the contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price" as used in this paragraph, shall mean the total amount payable by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or the heirs, executors, administrators or successors of the Owner.

igned and sealed this _____ day of _____, 200__.

Witness

Principal

Title

Title

Witness

Title

Title

Title