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**PUBLIC IMPROVEMENTS AGREEMENT**

DC9825907

**DATE:** MAY 22, 1997

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

**ROBERT A. MARTINEZ**, 6880 South Interstate 25, Castle Rock, Colorado 80104 ("Developer").

**RECITALS:**

**WHEREAS**, Town has concurrently issued a building permit for the construction of improvements on Lot 1, Citadel Station Filing No. 6, Amendment No. 1, Town of Castle Rock, Colorado ("Lot 1");

**WHEREAS**, it has been represented to Town that the owner of Lot 1 will make certain street and utility improvements concurrently with development of Lot 1; and

**WHEREAS**, Town desires to obtain financial assurances that if such improvements are not completed upon development of Lot 1 that there will be adequate monies available to complete such street and utility improvements.

**COVENANTS:**

**NOW, THEREFORE**, in consideration of these mutual covenants, the parties agree as follows:

**Section 1. Street Improvements.**

1.01 Developer agrees to extend the existing roadway on Lot 1, including curb and gutter but excluding sidewalk, from its present point of terminus to the westerly boundary of Lot 1. No temporary or permanent cul-de-sac will be required by Town at the boundary of Lot 1.

1.02 Developer agrees to construct street lights, in accordance with plans approved by Town, between the present point of terminus in Topeka Way to the westerly boundary of Lot 1.

**Section 2. Utilities.**

2.01 Developer agrees to extend a twelve inch (12") water line and an eight inch (8") sewer line from their present point of terminus in Topeka Way to a location west of the westerly boundary of Lot 1, in accordance with plans approved by Town.

2.02 Developer shall pay to Town the sum of \$15,387.00 as its pro rata share of the total cost of a future loop water line from the present point of terminus in Topeka Way to a point of connection with an existing water line in Atchison Way, as determined by Town. Such payment represents Developer's share of all loop water line construction costs, including materials, installation, right-of-way, legal costs and other incidental expenses. Developer shall not be responsible for any additional payments related to the above-mentioned loop water line.

**Section 3. Recoupment.** Town shall make good faith and diligent efforts to obtain an agreement with the owners of properties abutting the above-mentioned street and utility improvements which are benefitted by such improvements, whereby a portion of the Development Fees collected on the applicable properties is paid to Developer. The allocation of the Development Fees to Developer shall be in proportion to the relative benefit accruing to the applicable properties from Developer's construction of street and utility improvements. In the event such funds become available to be paid to Developer, such payment shall not exceed fifty percent (50%) of the costs of extending such improvements along the boundaries of applicable properties. Except as set forth in this Agreement, Owner waives any rights of recoupment from development on other properties within the Town utilizing the Wholesale Facilities.

**Section 4. Surety.** In accordance with Town regulations, Developer shall provide Town with a surety bond approved by the Town Attorney in the amount of 100% of the estimated construction cost of the Improvements (the "Security"), as a condition to Town's obligation to issue any permits for construction of Improvements. The purpose of the Security is to provide Town with the financial resources to complete construction of any of the Improvements, should Developer default in its obligation to complete the Improvements. With Town's acceptance of the Improvements, the Security shall be reduced to 15% of the actual construction cost of the Improvements to secure Subdivider's one year warranty on the Improvements.

The Town at its option may call the Security and apply the proceeds to complete the improvements substantially in accordance with the plans approved by Town. Any proceeds remaining after completion of the landscaping shall be returned to Developer.

**Section 5. Release.** The Security shall be released by Town upon the completion of street and utility improvements in accordance with the plans approved by Town.

**Section 6. Recordation.** This Agreement shall be recorded in the public records of Douglas County, Colorado and shall be binding on the successors and developers to Lot 2.



