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**THE MEADOWS FILING NO. 16 – PARCELS 1, 2, 3 & 4
SUBDIVISION IMPROVEMENTS AGREEMENT**

DATE: October 13, 2004.

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

CASTLE ROCK DEVELOPMENT COMPANY, a Colorado corporation,
(Subdivider) 3033 E. First Avenue, Suite 410, Denver, Colorado
80206.

MORTGAGEES: **California Bank & Trust**, a California banking corporation
Castle Rock Land Co., LLC, a Colorado limited liability company

RECITALS:

A. Subdivider desires to plat and subdivide certain property as The Meadows Filing No. 16 – Parcels 1, 2, 3 & 4 (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 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 Town makes no representation 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.

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.

COVENANTS:

NOW, THEREFORE, in consideration of these mutual promises, the parties agree

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

Agreement: this Meadows Filing No. 16 – Parcels 1, 2, 3 & 4 Subdivision Improvement Agreement.

Code: the Castle Rock Municipal Code, as amended.

Development Agreement: the Meadows (Fourth Amendment) Development Agreement dated April 14, 2003, recorded July 10, 2003 at Reception No. 2003102970 of the Records.

Director: the Director of Development Services, or designee.

Districts: the Meadows Metropolitan District Nos. 1-7. "Districts" or "District" may refer to any one or all of the Meadows Metropolitan District Nos. 1-7 as the context requires.

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

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.

Landscaping: the landscaping required on public areas, streetscapes, or tracts as prescribed in the Final Site Plan, including any landscaping guidelines.

Meadows: the Property, together with all other properties in the Meadows P.D., inclusive of the Meadows Filings 1-12, 14 and 15 Plats.

Phase: a contiguous 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 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.

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

Preliminary Plat: the Meadows Filing No. 16 preliminary subdivision plat approved by the Town by Resolution No. 2004-35 on February 24, 2004.

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 Meadows Filing No. 16 – Parcels 1, 2, 3 & 4 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. If so approved by the Director, a sub-Phasing plan may be implement 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 and commenced construction of at least one of the Phases 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. For the 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 completed by either the date specified in the Town Regulations, or if no such date is prescribed, one year after the date of issuance of the first public works permit for such Phase Improvements (Completion Date), 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 reasonably determined by the Director. As a condition to such extension, the term of the required Security shall be extended so as to conform with the requirements of Section 5.

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

Section 3. Restrictions Pending Completion of Improvements. No Phase shall qualify for building permits 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 Phase shall qualify for certificates of occupancy 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 that are not substantially complete, 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 such 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 in the amount of 115% of the estimated construction cost of the Phase Improvements (Security). The form of the Security is subject to approval by the Director. The Security shall be irrevocable for a period or term extending 60 days beyond the Completion Date. Security which has a term expiring on or before 60 days after the Completion Date shall contain a provision that unless renewed or substitute Security is provided, prior to its expiration date, it may be called by the Town. 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 (or as applicable, Districts') 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 all or a portion of the Security provided by the Subdivider, subject to the further provisions of section 16.

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 or Districts 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 or Districts, 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 Supply. 999 SFE of the "Water Rights Credit" provided in Article V of the Development Agreement have been applied to meet the water supply requirements

for the Subdivision (Subdivision Water Credit). The Subdivision Water Credit shall result in a 999 SFE debit to the Meadows Water Bank established under 5.08 of the Development Agreement. 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 (public and private) does not exceed the Subdivision Water Credit. The parties acknowledge that the water demand for the Dedicated Tracts (see section 14) has not been ascertained and potable and/or irrigation tap connections made by Town or the Douglas County School District for the Dedicated Tracts will result in additional debits to the Meadows Water Bank.

To the extent that the water demand created by development on the Property (computed in accordance with Town ordinances, regulations and the Development Agreement) exceeds the Subdivision Water Credit, Town is authorized to debit the Meadows Water Bank in the number of SFE necessary to offset the demand in excess of the initial Subdivision Water Credit. Should the Subdivision Water Credit not be fully utilized after full development of the Subdivision, the remaining SFE shall revert to the Meadows Water Bank, as provided in the Development Agreement.

Section 8. Water Facilities. Subdivider, its predecessors in title to the Property and the Districts have constructed the existing water production, treatment, storage and transmission facilities in the Meadows which are owned and operated by the Town to provide water to the Meadows and other areas of the Town (Water Facilities). Attached as **Exhibit 3** is an accounting of the water supply attributable to the Water Facilities and the demand for such facilities from all approved subdivisions within the Meadows, including the Subdivision. **Exhibit 3** is computed in accordance with 7.01 of the Development Agreement and it demonstrates that there is sufficient unused treatment, transmission and storage capacity in the existing Water Facilities to serve the Subdivision through full buildout.

Accordingly, the capacities indicated on **Exhibit 3** are applied and dedicated to meet the incremental demand for development of the Subdivision.

Section 9. Red Pressure Zone Facilities. A portion of the Property is served by the Red Zone water storage tank that is currently under construction by Subdivider. Prior to and as a condition to the issuance of the first residential building permit within any Phase that is served by the Red Pressure Zone water storage tank, the Red Pressure Zone water storage tank and booster station must be substantially completed and provisionally accepted by Town, which acceptance shall not be unreasonably withheld.

Section 10. Skyline/Ridgeline Regulations. Certain lots within the Subdivision are affected by the Skyline/Ridgeline Protection Regulations adopted by Town as Chapter 17.14 of the Code (Ridgeline Regulations). Subdivider shall include a provision in all of its contracts entered into subsequent to the date of this Agreement with homebuilders for any portion of the Property subject to the Ridgeline Regulations requiring the homebuilder to make diligent efforts to notify homebuyers of the mitigation requirements set forth in the Ridgeline Regulations, including the requirement to accept prescribed tree plantings.

Required Landscaping under 17.14.060C.2 of the Ridgeline Regulations shall be completed prior to the occupancy of each home, subject to seasonal restrictions on tree planting, in which event the obligation to install "mitigation" trees shall be assured through the permitting process of the home, on such terms as Town may reasonably impose.

Section 11. Wastewater Facilities. Pursuant to intergovernmental agreement between the Town and Districts, the Meadows Filing 11 Subdivision Improvements Agreement dated December 3, 1999 and recorded on December 3, 1999 beginning in Book 1784 at Page 1877 of the Records (Filing 11 SIA), and section 7.06 of the Development Agreement, Subdivider has purchased a total of 2882 SFE wastewater treatment capacity. When all 2882 SFE have been utilized in the Meadows, thereafter the provisions of 7.06 of the Development Agreement shall govern Subdivider's rights and obligations to obtain wastewater service for the Subdivision.

Section 12. Traffic Signal Participation. Subdivider shall pay to Town \$480,000 on January 3, 2005, as its proportionate share of three traffic signals in Neighborhood D (Meadowview Drive/Meadows Boulevard, Wolfensberger Road/Coachline Road, Coachline Road/Meadows Parkway), and in satisfaction of the traffic signal financial participation imposed for Neighborhood D in the phasing plan to the Development Agreement. Town shall signalize these intersections at its expense when warranted by traffic impacts.

Section 13. Public Land Dedication. Concurrently with and as a condition to recordation of this Agreement, Tracts 1-A, 1-K, 1-N, 1-S, 2-L, 2-M, 2-P, 3-E, 3-F, 3-G and 4-A (Dedicated Tracts) shall be conveyed to the Town by special warranty deed free and clear of any liens, encumbrances or assessments that would impair the use of the property by the Town for intended purpose as reasonably determined by Town. Subdivider shall furnish Town with an ALTA form policy of title insurance, issued by a title company licensed to do business in the State of Colorado, and which insures the Town's title in the amount of \$10,000 per acre, for each Dedicated Tract. Subdivider shall pay the premium for such title insurance. Taxes for prior years shall be paid in full and current year taxes shall be prorated and paid to Town with recordation of the deed to the Dedicated Tracts.

Pursuant to 9.05 of the Development Agreement, the Dedicated Tracts shall not be encumbered by any private restrictive covenants.

Within 60 days after recordation of this Agreement, Subdivider shall submit to Town a noxious weed survey and noxious weed management plan for the Dedicated Tracts. Upon approval of the plan by the Town, which approval shall not be unreasonably withheld, Subdivider shall make one application of the recommended chemicals, at its sole cost not to exceed \$100.00 per acre, to manage noxious weed areas within the Dedicated Tracts (if any such areas are identified in the noxious weed survey). This chemical application shall be made at the time prescribed in the management plan. All other noxious weed management steps identified in the noxious weed management plan shall be the sole responsibility of the Town and, following the one chemical application as described above, Subdivider shall be

relieved of all further responsibility with regard to implementation of the noxious weed management plan for the Dedicated Tracts.

Section 14. Trail Construction. Subdivider shall construct all trails as depicted on the Final PD Site Plan with construction of the applicable Phase Improvements.

Section 15. Water Conservation Regulations. The landscaping of all lots shall conform to the Town's adopted water conservation requirements in effect at the time of the building permit application for such lot.

Section 16. Responsibility for Improvement Construction. Subdivider shall be obligated to perform the covenants of Subdivider under this Agreement, until and unless the obligations with respect to a designated Phase are assigned to and assumed by a third party (Builder) as follows:

- UNOFFICIAL COPY
- (a) the Builder acquires title to the Phase from Subdivider;
 - (b) the Builder executes the Partial Assumption of Subdivision Improvements Agreement in the form attached as *Exhibit 4*; and
 - (c) the Builder furnishes the Town with the Security and rights of entry to assure construction of the Phase Improvements as required by this Agreement.

Upon compliance with the above conditions, Builder shall be solely responsible for completion of the Phase Improvements. However, in the event the applicable Phase Improvements service other Phases and Builder defaults in its obligation to complete the Phase Improvements, Town shall have the right to withhold issuance of building permits and certificates of occupancy for the Subdivision (as further authorized in section 3, above) that may affect other portions of the Subdivision owned by Subdivider or other Builders. Similarly, if there is a default by Subdivider (or other Builders) in completion of Phase Improvements required to serve Builder's Phase, the right to withhold building permits and certificates of occupancy shall be applicable, even though Builder is not in default of this Agreement.

Subdivider and Builder shall have the right but not the obligation to cure a default by the other. When the provisions of this section are operative, references in this Agreement to Subdivider shall mean Builder, unless the context clearly indicates to the contrary.

Section 17. Design Standards. The Final Site Plan for the Subdivision contains certain building and design restrictions and requirements, affecting design elements such as setbacks, 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 of occupancy for any structure which is not in compliance with the applicable Design Guidelines.

Section 18. Required Covenant Provisions. Any declaration of covenants,

conditions and restrictions creating a scheme of restrictive covenants on the Property shall contain a provision which provides that in the event of a conflict between such covenants and the Town Regulations, the Town Regulations shall govern and control. In the absence of inclusion of such provision, this Agreement shall constitute such declaration of supremacy of the Town Regulations.

Section 19. Application of Development Agreement. The Development Agreement contains certain other conditions and requirements which apply to the development of the Property. The enumeration in this Agreement of certain of obligations triggered under the phasing plan of the Development Agreement is not inclusive of all such obligations. In the event of a conflict between the Development Agreement and this Agreement, the Development Agreement shall govern and control, provided that the deferral of the signal participation contribution prescribed in section 13 supersedes the complimentary provisions in the Development Agreement. The Plat is vested in accordance with 10.09 of the Development Agreement.

Section 20. Construction Damage. Subdivider shall be responsible for any extraordinary damage to existing roadways or public improvements internal to the Subdivision, 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. Town consents to such assignment, without relieving Subdivider of the obligation to repair damage, in the event the assignee fails to do so as a result of construction traffic from the Subdivision. Provided however, where a third party assumes the role of Subdivider by applying for a public works permit and constructing public works for dedication to the Town, such third party shall be considered to be the Subdivider for purposes of this section and shall be responsible to the Town for construction damage.

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 Meadows Filing No. 16, Parcels 1-4 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. Statutory Impact Fee Compliance. For the purpose of interpreting

and applying the provisions of CRS §29-20-104.5(6), the parties concur that the "completed application" which triggers the Town's right to impose and collect Development Exactions, as that term is defined in the Development Agreement, is a completed building permit application. Accordingly, the schedule of such Development Exactions in effect at the time of such building permit issuance establishes the level of Development Exactions.

Section 23. 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. However, if Subdivider is unable to effect a cure a default under (a) above, solely due to adverse weather conditions, then the right to cure shall be extended for an additional 90 days provided Subdivider provided Subdivider extends the term of the Security to extend 60 days beyond the date of the extended cure period.

If timely cure of the noticed default(s) is not accomplished, Town shall thereafter be entitled to pursue its remedies against Subdivider. As applicable under section 16, Builder shall receive notice of a default and have the right to cure the default.

Section 24. 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 in the affected Phase;
- (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.

On such terms and conditions as are reasonably acceptable to Town, Town shall permit Subdivider, or as applicable, Builder, to undertake the Remedial Work and to utilize the Security for such purpose in the event of an uncured default by the other. In the event that Subdivider (or Builder) elects to undertake the Remedial Work, it shall so notify Town in writing, and Town shall have 30 days from receipt of such notice to specify the terms and conditions under which the Subdivider (or Builder) may perform the Remedial Work and access the Security to pay for the Remedial Work.

Section 25. Town Default. 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 26. 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 27. 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 28. 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 29. 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 Rock Development Company
3033 E. First Avenue, Suite 410
Denver, CO 80206

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

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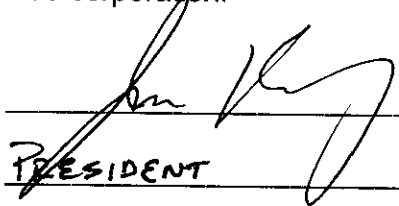
Section 30. Recordation and Binding Effect. This Agreement shall be recorded with the Clerk and Recorder's Office of Douglas County, Colorado and shall be binding upon the assigns, successors, and grantees of Subdivider in the same manner as if such third parties were signatories to this Agreement. Provided further however, this Agreement shall be of no effect or application and shall no longer constitute an encumbrance upon a platted lot, at such time as a final certificate of occupancy for private improvements is issued by the Town on such lot.

Section 31. Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity under any applicable state law.

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SUBDIVIDER:

CASTLE ROCK DEVELOPMENT COMPANY
a Colorado corporation.

By: 
Its: PRESIDENT

STATE OF)
) ss.
COUNTY OF)

UNOFFICIAL COPY
The foregoing instrument was acknowledged before me this 2th day of October, 2004 by Jim Riley as President for Castle Rock Development Company, a Colorado corporation.

Witness my hand and official seal.
My commission expires: 11-1-07

Stephanie L. Sims
Notary Public
State of Colorado
My Commission Expires 11/01/2007


Notary Public

EXHIBIT 1
(Page 1 of 4)

Parcel 1

A TRACT OF LAND BEING A PART OF SECTIONS 4 AND 5, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

"COMMENCING" AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 5 AND CONSIDERING THE EAST LINE OF SAID NORTHEAST QUARTER TO BEAR SOUTH 00°25'00" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE SOUTH 46°04'31" WEST, A DISTANCE OF 787.55 FEET TO A NON-TANGENT POINT OF CURVE ON THE WESTERLY LINE OF THE PLAT OF FOOTHILLS DRIVE, A SUBDIVISION RECORDED AS RECEPTION NUMBER 8727782 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AND THE "POINT OF BEGINNING"; THENCE SOUTHERLY AND EASTERLY ALONG SAID WESTERLY LINE THE FOLLOWING 11 (ELEVEN) COURSES:

- 1) SOUTHERLY ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 32°05'26", AN ARC LENGTH OF 593.69 FEET, A RADIUS OF 1060.00 FEET AND A CHORD WHICH BEARS SOUTH 02°11'17" EAST, A DISTANCE OF 585.96 FEET;
- 2) SOUTH 13°51'26" WEST, A DISTANCE OF 100.00 FEET TO A POINT OF CURVE;
- 3) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 14°16'17", AN ARC LENGTH OF 650.11 FEET, A RADIUS OF 2610.00 FEET AND A CHORD WHICH BEARS SOUTH 06°43'17" WEST, A DISTANCE OF 648.43 FEET;
- 4) SOUTH 00°24'51" EAST, A DISTANCE OF 100.00 FEET TO A POINT OF CURVE;
- 5) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 109°27'20", AN ARC LENGTH OF 1929.46 FEET, A RADIUS OF 1010.00 FEET AND A CHORD WHICH BEARS SOUTH 55°08'31" EAST, A DISTANCE OF 1649.16 FEET;
- 6) NORTH 70°07'49" EAST, A DISTANCE OF 425.00 FEET TO A POINT OF CURVE;
- 7) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 19°27'20", AN ARC LENGTH OF 292.02 FEET, A RADIUS OF 860.00 FEET AND A CHORD WHICH BEARS NORTH 79°51'29" EAST, A DISTANCE OF 290.62 FEET;
- 8) NORTH 89°35'09" EAST, A DISTANCE OF 100.00 FEET TO A POINT OF CURVE;
- 9) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 43°11'41", AN ARC LENGTH OF 561.65 FEET, A RADIUS OF 745.00 FEET AND A CHORD WHICH BEARS NORTH 67°59'18" EAST, A DISTANCE OF 548.44 FEET;
- 10) NORTH 46°23'28" EAST, A DISTANCE OF 50.87 FEET TO A POINT OF CURVE;
- 11) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 90°00'23", AN ARC LENGTH OF 31.42 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS SOUTH 88°36'21" EAST, A DISTANCE OF 28.29 FEET TO A POINT ON THE WESTERLY LINE OF THE PLAT OF COACHLINE ROAD, A SUBDIVISION RECORDED AS RECEPTION NUMBER 8706572 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE THE FOLLOWING 4 (FOUR) COURSES;

- 1) SOUTH 43°36'09" EAST, A DISTANCE OF 691.30 FEET TO A POINT OF CURVE;
- 2) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 17°06'25", AN ARC LENGTH OF 349.33 FEET, A RADIUS OF 1170.00 FEET AND A CHORD WHICH BEARS SOUTH 35°02'57" EAST, A DISTANCE OF 348.03 FEET;
- 3) SOUTH 26°29'44" EAST, A DISTANCE OF 1351.82 FEET TO A POINT OF CURVE;
- 4) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 83°00'29", AN ARC LENGTH OF 854.77 FEET, A RADIUS OF 590.00 FEET AND A CHORD WHICH BEARS SOUTH 67°59'59" EAST, A DISTANCE OF 781.95 FEET;

THENCE SOUTH 01°44'24" WEST, A DISTANCE OF 537.79 FEET TO A POINT ON THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 4; THENCE NORTH 89°51'24" WEST, ALONG SAID SOUTH LINE, A DISTANCE OF 1286.99 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 88°56'32" WEST, ALONG THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 4, A DISTANCE OF 2732.30 FEET TO THE SOUTHWEST CORNER OF SAID SOUTHWEST QUARTER, SAID POINT BEING ALSO THE SOUTHEAST CORNER OF THE SOUTHEAST QUARTER OF SAID SECTION 5; THENCE SOUTH 89°33'32" WEST, ALONG THE SOUTH LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 5, A DISTANCE OF 2174.44 FEET; THENCE NORTH 00°24'01" WEST, PARALLEL WITH THE WEST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 466.70 FEET; THENCE SOUTH 89°33'32" WEST, PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 466.70 FEET TO THE WEST LINE OF SAID SOUTHEAST QUARTER; THENCE NORTH 00°24'01" WEST, ALONG SAID WEST LINE OF THE SOUTHEAST QUARTER, A DISTANCE OF 2144.55 FEET TO THE NORTHWEST CORNER OF SAID SOUTHEAST QUARTER; THENCE NORTH 04°39'04" EAST, A DISTANCE OF 212.78 FEET TO A POINT OF CURVE; THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 73°56'57", AN ARC LENGTH OF 774.40 FEET, A RADIUS OF 600.00 FEET AND A CHORD WHICH BEARS NORTH 41°37'33" EAST, A DISTANCE OF 721.75 FEET TO A POINT OF REVERSE CURVATURE; THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 18°36'02", AN ARC LENGTH OF 374.07 FEET, A RADIUS OF 1152.26 FEET AND A CHORD WHICH BEARS NORTH 69°18'01" EAST, A DISTANCE OF 372.43 FEET; THENCE NORTH 60°00'00" EAST, A DISTANCE OF 500.00 FEET; THENCE NORTH 39°00'48" EAST, A DISTANCE OF 329.94 FEET; THENCE NORTH 50°43'09" WEST, A DISTANCE OF 115.01 FEET; THENCE NORTH 44°09'10" WEST, A DISTANCE OF 165.54 FEET; THENCE NORTH 45°41'18" WEST, A DISTANCE OF 75.29 FEET TO A POINT ON THE SOUTHERLY LINE OF THE PLAT OF THE MEADOWS FILING No. 12, A SUBDIVISION RECORDED AS RECEPTION No. 2003015978 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER; THENCE EASTERLY ALONG SAID SOUTHERLY LINE THE FOLLOWING 4 (FOUR) COURSES:

- 1) NORTH 54°11'59" EAST, A DISTANCE OF 525.16 FEET TO A POINT OF CURVE;
- 2) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 14°32'32", AN ARC LENGTH OF 295.89 FEET, A RADIUS OF 1165.00 FEET AND A CHORD WHICH BEARS NORTH 61°28'15" EAST, A DISTANCE OF 294.89 FEET;
- 3) NORTH 68°44'30" EAST, A DISTANCE OF 123.42 FEET TO A POINT OF CURVE;
- 4) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 93°01'29", AN ARC LENGTH OF 32.47 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS SOUTH 64°44'45" EAST, A DISTANCE OF 29.02 FEET TO THE "POINT OF BEGINNING".

CONTAINING 390.655 ACRES OR 17,016,934 SQUARE FEET MORE OR LESS.

UNOFFICIAL COPY

EXHIBIT 1 (cont.)

(Page 2 of 4)

Parcel 2

A TRACT OF LAND BEING A PART OF SECTIONS 4 AND 5, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

"COMMENCING" AT THE NORTHEAST CORNER OF THE NORTHEAST QUARTER OF SAID SECTION 5 AND CONSIDERING THE EAST LINE OF SAID NORTHEAST QUARTER TO BEAR SOUTH 00°25'00" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE SOUTH 81°18'08" EAST, A DISTANCE OF 786.72 FEET TO A NON-TANGENT POINT OF CURVE ON THE SOUTHERLY LINE OF THE PLAT OF MEADOWS BOULEVARD, A SUBDIVISION RECORDED AS RECEPTION NUMBER 8727783 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER, SAID POINT BEING THE "POINT OF BEGINNING"; THENCE EASTERLY ALONG SAID SOUTHERLY LINE THE FOLLOWING 6 (SIX) COURSES:

- 1) ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 33°52'43", AN ARC LENGTH OF 535.12 FEET, A RADIUS OF 905.00 FEET AND A CHORD WHICH BEARS SOUTH 75°44'37" EAST, A DISTANCE OF 527.36 FEET;
- 2) SOUTH 89°01'30" EAST, A DISTANCE OF 101.00 FEET TO A NON-TANGENT POINT OF CURVE;
- 3) EASTERLY, ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 07°54'42", AN ARC LENGTH OF 126.62 FEET, A RADIUS OF 917.00 FEET AND A CHORD WHICH BEARS NORTH 77°03'03" EAST, A DISTANCE OF 126.52 FEET TO A POINT OF REVERSE CURVE;
- 4) ALONG THE ARC OF A REVERSE CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 86°35'27", AN ARC LENGTH OF 30.23 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS SOUTH 63°36'35" EAST, A DISTANCE OF 27.43 FEET TO A POINT ON THE EASTERLY LINE OF THE PLAT OF COACHLINE ROAD, A SUBDIVISION RECORDED AS RECEPTION NUMBER 8706572 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE SOUTHERLY ALONG SAID EASTERLY LINE THE FOLLOWING 5 (FIVE) COURSES:

- 1) SOUTH 20°18'51" EAST, A DISTANCE OF 228.51 FEET TO A POINT OF CURVE;
- 2) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 29°55'20", AN ARC LENGTH OF 465.84 FEET, A RADIUS OF 892.00 FEET AND A CHORD WHICH BEARS SOUTH 05°21'11" EAST, A DISTANCE OF 460.56 FEET;
- 3) SOUTH 09°36'29" WEST, A DISTANCE OF 468.27 FEET TO A POINT OF CURVE;
- 4) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 53°12'38", AN ARC LENGTH OF 956.56 FEET, A RADIUS OF 1030.00 FEET AND A CHORD WHICH BEARS SOUTH 16°59'50" EAST, A DISTANCE OF 922.55 FEET;
- 5) SOUTH 43°38'09" EAST, A DISTANCE OF 214.85 FEET TO A POINT OF CURVE ON THE NORTHERLY LINE OF THE PLAT OF FOOTHILLS DRIVE, A SUBDIVISION RECORDED AS RECEPTION NUMBER 8727782 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE WESTERLY AND NORTHERLY ALONG SAID NORTHERLY LINE THE FOLLOWING 12 (TWELVE) COURSES:

- 1) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 89°59'37", AN ARC LENGTH OF 31.41 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS SOUTH 01°23'39" WEST, A DISTANCE OF 28.28 FEET;
- 2) SOUTH 46°23'28" WEST, A DISTANCE OF 50.88 FEET TO A POINT OF CURVE;
- 3) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 43°11'41", AN ARC LENGTH OF 516.41 FEET, A RADIUS OF 885.00 FEET AND A CHORD WHICH BEARS SOUTH 67°59'18" WEST, A DISTANCE OF 504.27 FEET;
- 4) SOUTH 89°35'09" WEST, A DISTANCE OF 100.00 FEET TO A POINT OF CURVE;
- 5) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 19°27'20", AN ARC LENGTH OF 312.40 FEET, A RADIUS OF 920.00 FEET AND A CHORD WHICH BEARS SOUTH 79°51'29" WEST, A DISTANCE OF 310.90 FEET;
- 6) SOUTH 70°07'49" WEST, A DISTANCE OF 425.00 FEET TO A POINT OF CURVE;
- 7) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 109°27'20", AN ARC LENGTH OF 1814.84 FEET, A RADIUS OF 950.00 FEET AND A CHORD WHICH BEARS NORTH 55°08'31" WEST, A DISTANCE OF 1551.19 FEET;
- 8) NORTH 00°24'51" WEST, A DISTANCE OF 100.00 FEET TO A POINT OF CURVE;
- 9) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 14°16'17", AN ARC LENGTH OF 635.16 FEET, A RADIUS OF 2550.00 FEET AND A CHORD WHICH BEARS NORTH 06°43'17" EAST, A DISTANCE OF 633.52 FEET;
- 10) NORTH 13°51'26" EAST, A DISTANCE OF 100.00 FEET TO A POINT OF CURVE;
- 11) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 32°21'23", AN ARC LENGTH OF 632.49 FEET, A RADIUS OF 1120.00 FEET AND A CHORD WHICH BEARS NORTH 02°19'16" WEST, A DISTANCE OF 624.12 FEET TO A POINT OF REVERSE CURVE;
- 12) ALONG THE ARC OF A REVERSE CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 87°22'25", AN ARC LENGTH OF 30.50 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS NORTH 25°11'15" EAST, A DISTANCE OF 27.63 FEET TO A POINT ON THE SOUTHERLY LINE OF THE PLAT OF WEST MEADOWS DRIVE, (RENAMED MORNING VIEW DRIVE) A SUBDIVISION RECORDED AS RECEPTION NUMBER 8727779 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE EASTERLY ALONG SAID SOUTHERLY LINE THE FOLLOWING 4 (FOUR) COURSES:

- 1) NORTH 68°44'07" EAST, A DISTANCE OF 83.64 FEET TO A POINT OF CURVE;
- 2) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 26°51'02", AN ARC LENGTH OF 241.34 FEET, A RADIUS OF 515.00 FEET AND A CHORD WHICH BEARS NORTH 82°09'38" EAST, A DISTANCE OF 239.14 FEET;
- 3) SOUTH 84°24'51" EAST, A DISTANCE OF 335.39 FEET TO A POINT OF CURVE;
- 4) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 60°59'08", AN ARC LENGTH OF 622.67 FEET, A RADIUS OF 585.00 FEET AND A CHORD WHICH BEARS NORTH 65°05'35" EAST, A DISTANCE OF 593.69 FEET;
- 5) NORTH 34°36'01" EAST, A DISTANCE OF 112.45 FEET TO A POINT OF CURVE;
- 6) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 86°35'43", AN ARC LENGTH OF 30.23 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS NORTH 77°53'53" EAST, A DISTANCE OF 27.43 FEET TO THE "POINT OF BEGINNING".

CONTAINING 122.363 ACRES OR 5,330,149 SQUARE FEET MORE OR LESS.

Parcel 3

A TRACT OF LAND BEING A PART OF THE WEST HALF OF SECTION 4, TOWNSHIP 8 SOUTH AND THE SOUTHWEST QUARTER OF SECTION 33, TOWNSHIP 7 SOUTH, ALL IN RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

"COMMENCING" AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4 AND CONSIDERING THE WEST LINE OF SAID NORTHWEST QUARTER TO BEAR SOUTH 00°25'00" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE SOUTH 83°51'41" EAST, A DISTANCE OF 1620.06 FEET TO A NON-TANGENT POINT OF CURVE ON THE SOUTHERLY LINE OF THE PLAT OF MEADOWS BOULEVARD, (RENAMED MEADOWS PARKWAY) A SUBDIVISION RECORDED AS RECEPTION NUMBER 8727783 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER, SAID POINT BEING THE "POINT OF BEGINNING"; THENCE NORTH-EASTERLY ALONG SAID SOUTHERLY LINE, ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 38°54'28", AN ARC LENGTH OF 614.56 FEET, A RADIUS OF 905.00 FEET AND A CHORD WHICH BEARS NORTH 46°48'20" EAST, A DISTANCE OF 602.82 FEET; THENCE CONTINUING ALONG SAID SOUTHERLY LINE, NORTH 27°21'05" EAST, A DISTANCE OF 235.94 FEET TO A POINT ON THE SOUTHERLY LINE OF THE PLAT OF MEADOWS FILING 11-PARCEL 14, A SUBDIVISION RECORDED AS RECEPTION NUMBER 000378900 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER; THENCE SOUTH 61°32'27" EAST, ALONG SAID SOUTHERLY LINE, A DISTANCE OF 181.87 FEET; THENCE CONTINUING ALONG SAID SOUTHERLY LINE, SOUTH 44°11'05" EAST, A DISTANCE OF 345.76 FEET; THENCE SOUTH 44°10'36" EAST, A DISTANCE OF 145.20 FEET TO THE NORTHEAST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4; THENCE SOUTH 01°10'44" EAST, ALONG THE EAST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 2657.82 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER; THENCE SOUTH 46°23'51" WEST, A DISTANCE OF 292.59 FEET TO A POINT ON THE EASTERLY LINE OF THE PLAT OF COACHLINE ROAD, A SUBDIVISION RECORDED AS RECEPTION NUMBER 8706572 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER;

THENCE NORTHWESTERLY ALONG SAID EASTERLY LINE THE FOLLOWING 5 (FIVE) COURSES:

- 1) NORTH 43°36'09" WEST, A DISTANCE OF 682.47 FEET TO A POINT OF CURVE;
- 2) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 53°12'38", AN ARC LENGTH OF 900.84 FEET, A RADIUS OF 970.00 FEET AND A CHORD WHICH BEARS NORTH 16°59'50" WEST, A DISTANCE OF 868.81 FEET;
- 3) NORTH 09°36'29" EAST, A DISTANCE OF 487.38 FEET TO A POINT OF CURVE;
- 4) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 29°55'20", AN ARC LENGTH OF 502.92 FEET, A RADIUS OF 963.00 FEET AND A CHORD WHICH BEARS NORTH 05°21'11" WEST, A DISTANCE OF 497.22 FEET;
- 5) NORTH 20°18'51" WEST, A DISTANCE OF 218.46 FEET TO A POINT OF CURVE;
- 6) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 86°34'26", AN ARC LENGTH OF 30.22 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS NORTH 22°58'21" EAST, A DISTANCE OF 27.43 FEET TO THE "POINT OF BEGINNING".

CONTAINING 61.353 ACRES OR 2,672,535 SQUARE FEET, MORE OR LESS.

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EXHIBIT 1 (cont.)

(Page 4 of 4)

Parcel 4

A TRACT OF LAND BEING A PART OF THE NORTHWEST QUARTER OF SECTION 4, TOWNSHIP 8 SOUTH AND THE WEST HALF OF SECTION 33, TOWNSHIP 7 SOUTH, ALL IN RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING DESCRIBED AS FOLLOWS:

"COMMENCING" AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF SAID SECTION 4 AND CONSIDERING THE WEST LINE OF SAID NORTHWEST QUARTER TO BEAR SOUTH 00°25'00" EAST, WITH ALL BEARINGS CONTAINED HEREIN RELATIVE THERETO; THENCE SOUTH 83°21'28" EAST, A DISTANCE OF 1153.33 FEET TO A POINT ON THE NORTHERLY LINE OF THE PLAT OF MEADOWS BOULEVARD, A SUBDIVISION RECORDED AS RECEPTION NUMBER 8727783 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER, SAID POINT BEING THE "POINT OF BEGINNING"; THENCE DEPARTING SAID NORTHERLY LINE, ALONG THE EASTERLY BOUNDARIES OF THE PLATS OF THE MEADOWS FILING 11-PARCEL 11, A SUBDIVISION RECORDED AS RECEPTION NUMBER 2003076006 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER AND THE MEADOWS FILING 11-PARCEL 10, A SUBDIVISION RECORDED AS RECEPTION NUMBER 20030158045 IN THE RECORDS OF THE OFFICE OF THE DOUGLAS COUNTY CLERK AND RECORDER, THE FOLLOWING 7 (SEVEN) COURSES:

- 1) NORTH 30°48'07" EAST, A DISTANCE OF 182.90 FEET TO A POINT OF CURVE;
- 2) ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 56°14'39", AN ARC LENGTH OF 242.02 FEET, A RADIUS OF 246.55 FEET AND A CHORD WHICH BEARS NORTH 02°40'48" EAST, A DISTANCE OF 232.42 FEET;
- 3) NORTH 25°26'32" WEST, A DISTANCE OF 637.98 FEET TO A POINT OF CURVE;
- 4) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 34°42'27", AN ARC LENGTH OF 514.90 FEET, A RADIUS OF 850.00 FEET AND A CHORD WHICH BEARS NORTH 08°05'18" WEST, A DISTANCE OF 507.06 FEET;
- 5) NORTH 09°15'55" EAST, A DISTANCE OF 518.88 FEET;
- 6) NORTH 28°27'38" EAST, A DISTANCE OF 1347.18 FEET;

7) NORTH 51°37'11" EAST, A DISTANCE OF 668.06 FEET;
THENCE SOUTH 22°54'15" EAST, A DISTANCE OF 74.47 FEET; THENCE SOUTH 18°26'32" WEST, A DISTANCE OF 152.62 FEET; THENCE SOUTH 46°54'01" WEST, A DISTANCE OF 225.05 FEET; THENCE SOUTH 41°03'16" WEST, A DISTANCE OF 393.92 FEET; THENCE SOUTH 27°17'38" WEST, A DISTANCE OF 373.59 FEET; THENCE SOUTH 11°18'52" WEST, A DISTANCE OF 356.40 FEET; THENCE SOUTH 00°48'24" EAST, A DISTANCE OF 192.83 FEET; THENCE SOUTH 19°21'07" EAST, A DISTANCE OF 243.61 FEET; THENCE SOUTH 28°53'48" EAST, A DISTANCE OF 161.99 FEET; THENCE SOUTH 29°29'10" EAST, A DISTANCE OF 581.47 FEET; THENCE SOUTH 41°01'13" EAST, A DISTANCE OF 401.33 FEET TO A POINT ON SAID NORTHERLY LINE OF MEADOWS BOULEVARD (RENAMED MEADOWS PARKWAY) THENCE SOUTHWESTERLY ALONG SAID NORTHERLY LINE THE FOLLOWING 9 (NINE) COURSES:

- 1) SOUTH 27°21'06" WEST, A DISTANCE OF 512.50 FEET TO A POINT OF CURVE;
- 2) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 24°08'01", AN ARC LENGTH OF 334.86 FEET, A RADIUS OF 795.00 FEET AND A CHORD WHICH BEARS SOUTH 39°25'06" WEST, A DISTANCE OF 332.39 FEET TO A NON-TANGENT POINT;
- 3) SOUTH 62°00'32" WEST, A DISTANCE OF 98.86 FEET TO A NON-TANGENT POINT OF CURVE;
- 4) ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 07°18'21", AN ARC LENGTH OF 99.84 FEET, A RADIUS OF 783.00 FEET AND A CHORD WHICH BEARS SOUTH 62°16'09" WEST, A DISTANCE OF 99.77 FEET TO A POINT OF COMPOUND CURVE;
- 5) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 93°45'26", AN ARC LENGTH OF 32.73 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS NORTH 67°11'57" WEST, A DISTANCE OF 29.20 FEET TO A NON-TANGENT POINT;
- 6) SOUTH 69°40'46" WEST, A DISTANCE OF 60.00 FEET;
- 7) SOUTH 20°19'14" EAST, A DISTANCE OF 12.03 FEET TO A POINT OF CURVE;
- 8) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 93°41'57", AN ARC LENGTH OF 32.71 FEET, A RADIUS OF 20.00 FEET AND A CHORD WHICH BEARS SOUTH 26°31'45" WEST, A DISTANCE OF 29.18 FEET TO A POINT OF COMPOUND CURVE;
- 9) ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 23°54'33", AN ARC LENGTH OF 331.75 FEET, A RADIUS OF 795.00 FEET AND A CHORD WHICH BEARS SOUTH 85°19'59" WEST, A DISTANCE OF 329.35 FEET TO THE "POINT OF BEGINNING".

CONTAINING 46.448 ACRES OR 2,023,241 SQUARE FEET, MORE OR LESS.

UNOFFICIAL COPY

(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 Meadows Filing No. 16, Parcels 1-4. Town will assume the obligation for maintenance and operation of the Improvements, 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 on 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:
Water _____

(EXEMPLAR – NOT FOR EXECUTION)

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.

UNOFFICIAL COPY

TRANSFEROR:

By: _____

Its: _____

ACCORDINGLY, Town accepts for ownership and maintenance of the Improvements effective _____, 200__.

TOWN OF CASTLE ROCK

Engineering Division

**EXHIBIT 3
THE MEADOWS - WATER FACILITIES**

Water SFE's	Existing Filings 1-15	Filing 16 Phase 1	TOTAL
Residential	3,428	955	4,383
Commercial/Industrial	46	0	46
Schools ^{(1) (2)}	16	0	16
Parks/Open Space/Landscaping	259	⁽³⁾ 44	259
TOTAL WATER SFE's	3,749	999	4,748

(1) Any SFE for DC High School #8 to be included in future SIA; (2) If, after auditing of financial records, the Town determines that it collected fees for Castle Rock Middle School and such fees were paid to the Metropolitan District, then those SFE used by CRMS will be included in a future SIA.; (3) Subject to adjustment pursuant to Section 7 of this Agreement.

Water Supply

Required Well Capacity in gpm (1 SFE = 400gpd*2.65PF = 0.7361 gpm)

3,495

(Deficit)/
Surplus

Existing Well Capacity, gpm

A-1

400

A-2

350

A-3

767

A-4

600 ⁽⁴⁾

A-5

570

A-8

350

D-1

570

D-5

310

D-6

240 ⁽⁴⁾

DA-6

60 ⁽⁴⁾

D-7A

90

Total gpm

4,307

812

Total SFE

5,851

1,103

(4) - Final well capacity to be determined as per the Denver Basin Well Development and Acceptance Procedures

Less Most Productive Well (A-3)

(767)

Total firm gpm

3,540

45

Total firm SFE

4,809

61

Water Treatment

(Deficit)/
Surplus

Required Treatment Capacity

3,495

Existing Treatment Capacity (gpm)

5,556

2,061

Existing Treatment Capacity (SFE)

7,548

2,800

Water Storage

Required Storage Volume in MG (1 SFE = 400gpd * 2.65 PF = 1060 gal.)

5.03

Existing Storage Volume

Demands by PZ

(Deficit)/
Surplus

Blue Tank #8

3.00

Fire Storage (Blue Tank)

(0.63)

2.17

0.20

Yellow Tank #12a

4.00

2.79

1.21

Red Zone Tank

2.00

Fire Storage (Red Tank)

(0.84)

0.07

1.09

Total Storage MG

7.53

5.03

2.50

Total storage SFE

7,104

2,356



Meadows SFE Summary Through F16 Phase I

Subdivision Plat/Tap		Pressure Yellow		Total
Residential				
Meadows Filing No. 1		345		345
Meadows Filing No. 2		149		149
Meadows Filing No. 5		175		175
Meadows Filing No. 6		187	25	212
Meadows Filing No. 7		142		142
Meadows Filing No. 8	465			465
Meadows Filing No. 9		143		143
Meadows Filing No. 11 - Parcel 1		43		43
Meadows Filing No. 11 - Parcel 2		53		53
Meadows Filing No. 11 - Parcel 3		207		207
Meadows Filing No. 11 - Parcel 4		121		121
Meadows Filing No. 11 - Parcel 5		225		225
Meadows Filing No. 11 - Parcel 6		167	411	578
Meadows Filing No. 12			326	326
Meadows Filing No. 15			244	244
Meadows Filing No. 16 Phase I			888	955
			67	
Irrigation				
Irrigation - Meadows Prky & Hwy 85 Entrance (3/4")		1		1
Irrigation - Meadows Prky - Entry Feature by Rock Walls (3")		18		18
Irrigation - Meadows Prky & East of Prairie Hawk (3")		18		18
Irrigation - Meadows Blvd. & Meadows Prky (2")		8		8
Irrigation - Meadows Blvd. West of Middle School (2")		8		8
Irrigation - Meadows Blvd. & Wildflower Way (2")		8		8
Irrigation - Meadows Blvd. At Butterfield Park (2")		8		8
Irrigation - Meadows Blvd. & Butterfield West Side (2")		8		8
Irrigation - Meadows Blvd. & Butterfield East Side (1 1/2")		4		4
Irrigation - Butterfield & Meadowlark Dr. (3/4")		1		1
Irrigation - Butterfield & Blue Grass Cir. (1 1/2")		4		4
Irrigation - N. Meadows Dr. & Butterfield (1 1/2")		4		4
Irrigation - Meadows Blvd. & Cherokee Dr. (2")		8		8
Irrigation - Meadows Blvd. & Springbriar Dr. (2")			8	8
Irrigation - Meadows Blvd. & Shane Valley Tr.(2")			8	8
Irrigation - Meadows Blvd. & Morningview Dr.(2")			8	8
Irrigation - South Entry Feature (1 1/2")			4	4
Butterfield Park Irrigation (4")		36		36
F9 Park Irr. Tap (3/4")		1		1
F11 Parcel 1 - Irrigation Tap (1 1/2")		4		4
F11 Parcel 2 - Irrigation Tap (3")		18		18
F11 Parcel 7 Butterfield School - (1")		2		2
F11 Parcel 6 - 5 Irrigation Taps (1 1/2")		8	12	20
F12 - Soaring Hawk Elementary School (2"- Irrigation)			8	8
Filing 11 Parcel 10 - Paint Brush Park (3" and 1")			20	20



Meadows SFE Summary Through F16 Phase I

Subdivision Plat/Tap	Pressure Yellow	Total
Irrigation		
F11 Parcel 3 - Irrigation Tap (3/4")	1	1
F11 Parcel 12 - Irrigation Tap (A-5 Well) (3/4")	1	1
Dist. 3 - New Hope Church (1 1/2" Irr)	4	4
F11 Parcel 8 - LDS Church Irr Tap (1 1/2")	4	4
Meadows Filing #12 - Irrigation Tract A (1 1/2")	4	4
Meadows Filing #12 - Irrigation Tract K (1")	2	2
Meadows Filing #12 - Irrigation Tract J (1 1/2")	4	4
Meadows Filing #12 - Irrigation Tract E (3/4")	1	1
Meadows Filing #12 - Irrigation Tract E (1")	2	2
Meadows Filing #15 - Irrigation Tract F (3/4")	1	1
F16 Parcel1 Irrigation #3 (2")	8	8
F16 Parcel1 Irrigation #10 (1")	2	2
F16 Parcel1 Irrigation #4 (2")	8	8
F16 Parcel1 Irrigation #5 (1 1/2")	4	4
F16 Parcel2 Irrigation #1 (2")	8	8
F16 Parcel2 Irrigation #2 (2")	8	8
F16 Parcel3 Irrigation #6 (1 1/2")	4	4
F16 Parcel4 Irrigation #7 (1")	2	2
Nonresidential Buildings		
Meadows Fire Station (1 1/2")	4	4
Meadows Greeting House (3/4")	1	1
Butterfield Park Bathrooms (1 1/2")	4	4
Meadows Pool House (2")	8	8
F11 Parcel 7 Butterfield School - (2")	8	8
A-1 Well Facility (3/4")	1	1
A-2 Well Facility (3/4")	1	1
A-8 Well Facility (1")	2	2
Blue Zone Pump Station (3/4")	1	1
Meadows Filing #5 Lift Station (3/4")	1	1
Meadows WTP (2")	8	8
Dist. 3 - New Hope Church (1")	2	2
F12 - Soaring Hawk Elementary School (2"- Building)	8	8
F11 Parcel 8 - LDS Church - (2")	8	8
F11 P11 Grange Cultural Arts Center - (1 1/2")	4	4
F15 Waste Water Lift Sta. (3/4")	1	1
Total Residential SFE per Zone	1957	4383
Total Irrigation SFE per Zone	172	303
Total Nonresidential SFE per Zone	40	62
Total per Zone	2169 SFE	4748 SFE TOTAL

(EXEMPLAR – NOT FOR EXECUTION)

EXHIBIT 4

PARTIAL ASSIGNMENT AND ASSUMPTION
OF
SUBDIVISION IMPROVEMENTS AGREEMENT

This Assignment and Assumption (this "Assignment") is made this ____ day of _____, 200____, by and between CASTLE ROCK LAND COMPANY, LLC , a Colorado limited liability corporation ("Assignor"), whose address is 3033 East First Avenue, Suite 410, Denver, Colorado 80206, Attention _____, and _____, a _____ ("Assignee") whose address _____.

The parties agree as follows:

UNOFFICIAL COPY

1. Property. The "Property" shall mean the following described property located within the Town of Castle Rock, Douglas County, Colorado:

(See Attached Legal Description)

2. Subdivision Improvements Agreement. The "Subdivision Improvements Agreement" shall mean The Meadows Filing No. 16, Parcels 1-4 Subdivision Improvements Agreement dated _____ between Assignor and the Town of Castle Rock, a Colorado municipal corporation (the "Town"), recorded _____ under Reception No. _____ of the Douglas County Records. Terms which are defined in the Subdivision Improvements Agreement shall have the same meaning in this Assignment as defined in the Subdivision Improvements Agreement unless otherwise provided herein or the context otherwise requires.

3. Assumed Obligations. The "Assumed Obligations" shall mean all of the liability and obligations of Assignor as the Subdivider under and pursuant to the Subdivision Improvements Agreement which shall arise or accrue, or be required to be paid or performed, on or after the Effective Date as they pertain to those Phase Improvements which are more particularly described on the attached Exhibit A to this Agreement ("Builder's Improvements") which Exhibit A is incorporated herein by reference, including, without limitation, the following obligations under the Subdivision Improvements Agreement: (a) the obligation to construct any and all Builders Improvements; (b) the obligation to deliver the Security to the Town pertaining to Builder's Improvements; (c) if required pursuant to the Subdivision Improvements Agreement, the obligation to deliver the Landscape Deposit, if any, pertaining to Builder's Improvements; (d) the obligation to establish a cash escrow for the issuance of a building permit prior to substantial completion of Builder's Improvements pursuant to the Subdivision

(EXEMPLAR – NOT FOR EXECUTION)

Improvements Agreement; and (e) the obligation to perform all warranty obligations pertaining to Builder's Improvements.

4. **Retained Rights.** The "Retained Rights" shall mean the rights and interests of Assignor under the Subdivision Improvements Agreement in connection with any default by Assignee under the Subdivision Improvements Agreement, including, without limitation, the right to receive notice from the Town in connection therewith, to cure any such default by Assignee and to perform the Remedial Work, and to utilize the Security in connection therewith. Assignee acknowledges that it constitutes a "Builder" as contemplated by Section 6 of the Subdivision Improvements Agreement.

5. **Assignment.** Assignor hereby assigns and transfers to Assignee all right, title and interest of Assignor as the Subdivider under and pursuant to the Subdivision Improvements insofar as such rights pertain to the Builder's Improvements, excluding, however, the Retained Rights, which Retained Rights are accepted and reserved to Assignor.

6. **Delegation and Assumption.** Assignor hereby delegates the Assumed Obligations to Assignee and Assignee hereby assumes and agrees to pay and perform all of the Assumed Obligations. Assignor shall have the right to obtain the agreement of the Town to release Assignor from any liability for the performance of the Assumed Obligations.

7. **Binding Effect.** The terms and provisions of this Assignment shall be binding upon, and inure to the benefit of, Assignor and Assignee and their respective successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment the day and year first above written.

ASSIGNOR: CASTLE ROCK DEVELOPMENT COMPANY, a Colorado corporation

(EXEMPLAR – NOT FOR EXECUTION)

By: _____
, President

ATTEST:

Secretary

ASSIGNEE: _____, a

UNOFFICIAL COPY

By: _____

Title: _____

STATE OF COLORADO)
CITY AND) ss.
COUNTY OF DENVER)

The foregoing instrument was acknowledged before me this ___ day of _____, 200__,
by _____ as President, and _____ as Secretary of Castle Rock Development
Company, a Colorado corporation.

Witness my hand and official seal.

My commission expires: _____.

Notary Public

(EXEMPLAR – NOT FOR EXECUTION)

STATE OF COLORADO)
) ss.
CITY AND COUNTY OF)

The foregoing instrument was acknowledged before me this ____ day of _____, _____, by
_____ as _____ of _____, a
_____.

Witness my hand and official seal.

My commission expires: _____

~~UNOFFICIAL COPY~~
Notary Public

(EXEMPLAR – NOT FOR EXECUTION)

EXHIBIT A
TO
PARTIAL ASSIGNMENT AND ASSUMPTION
OF
SUBDIVISION IMPROVEMENTS AGREEMENT

Description of Phase Improvements to be constructed by Assignee

UNOFFICIAL COPY