

**MEADOWS FILING NO. 6
PUBLIC IMPROVEMENTS AGREEMENT**

DC01022037

DATE: _____, 2001.

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

ENGLE HOMES/COLORADO, INC., a Florida corporation,
("Builder") 7340 E. Caley Avenue, #300, Englewood, Colorado
80111. 9F

RECITALS:

A. Builder owns certain lots within the platted area of Meadows Filing No. 6
(the "Subdivision").

B. Builder desires to construct certain improvements within the subdivision
to service such lots owned by Builder.

C. This Agreement is intended to protect the Town from any liability or cost
which may result from the failure of Builder 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 infrastructure will be completed by Town in the event
of a default by Builder.

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 Meadows Filing 6 Public Improvements Agreement.

Director: the Director of Public Works for the Town of Castle Rock, or his/her
designee.

Improvements: the water, wastewater, stormwater drainage, and transportation
or other systems or infrastructure required to be constructed under applicable
Town regulations to serve the Subdivision (whether on-site or off-site), which

upon their completion are to be dedicated to the Town for operation and maintenance by the Town. The Improvements are identified and described in the Plans.

Plans: the description of the Improvements on the Subdivision preliminary plat and related documents as modified and supplemented by approved construction plans and drawings.

Plat: the final subdivision plat recorded on June 24, 1988 at Reception No. 8814214 of the Records.

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

Subdivision: Meadows Filing No. 6.

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.

In the event Builder has not obtained all necessary Town permits and approvals and commenced construction of one or more of the Improvements within one year of the date of recordation of this Agreement, the Town's approval of the Subdivision shall lapse. As a condition to commencement of construction of any of the Improvements thereafter, Builder 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 Builder shall not be required to resubmit a land use application for the Subdivision.

Improvements must be completed not later than one year after the date of issuance of the first public works permit, 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 Builder as determined by the Director.

Section 3. Restrictions Pending Completion of Improvements. No building permits shall be issued by Town within any Phase until the Improvements 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 unless the Improvements have been accepted by the Town as provided in section 4.

The Director, in his/her absolute discretion, may concur in the building department's 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 Improvements are not substantially completed by the date specified in the permit. Unless the underlying Security is a cash escrow or letter of credit, Builder shall establish a 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.

Section 4. Acceptance of Improvements. Upon substantial completion of the Improvements, Builder may request inspection. Town shall make inspection within 5 working days of the date Builder requests final inspection, and Town shall notify Builder of non-conforming work within 5 working days after the inspection is made. Builder 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 Improvements by Town, Builder shall promptly convey its interest in the Improvements by document in the form attached as *Exhibit 1*. With conveyance of the Improvements, the applicable warranty period commences.

Section 5. Improvements Security. In accordance with Town Regulations, Builder 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 Improvements (the "Security"). The Security shall be delivered to Town prior to and as a condition of the issuance of the first public works permit. All construction cost estimates shall be submitted by Builder'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.

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 Subdivision and/or complete construction or installation of any of the Improvements, should Builder default in its obligation to complete the Improvements (the "Remedial Work"). The Town retains the absolute discretion to determine what Remedial Work, if any is undertaken by Town on the 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 Builder, to Builder.

(EXEMPLAR – NOT FOR EXECUTION)

EXHIBIT 1
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 _____. 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 at 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 _____

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__.

TOWN OF CASTLE ROCK

Engineering Division

With Town's initial acceptance of the Improvements, the Security shall be reduced to 15% of the actual construction cost of the Improvements in accordance with Town Regulations. The warranty portion of the Security shall be released as authorized in the Town Regulations.

Section 6. Default. The follow occurrences constitute a default by the Builder:

- (a) failure to commence or complete construction of the Improvements within the time periods prescribed in Section 3, above;
- (b) failure to cure the defective construction of any Improvement within the applicable cure period;
- (c) failure to perform work on the 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 Builder;
- (d) Builder's insolvency, the appointment of a receiver for the Builder or the filing of a voluntary or involuntary petition in bankruptcy respecting the Builder;
- (e) Builder has breached, or caused a breach of any other provision of this Agreement.

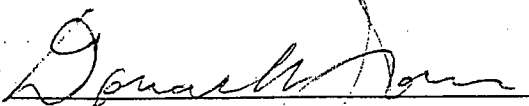
As a condition to Town's right to exercise its remedies for default, Town shall give written notice to Builder of the occurrence of an event of default. Builder shall have thirty (30) calendar days from the receipt of such notice to cure the default. If timely cure of the noticed default(s) is not accomplished, Town shall thereafter be entitled to pursue its remedies against Builder.

Section 7. Town's Rights Upon Default. When any event of default occurs and has not be timely cured, the Town may:

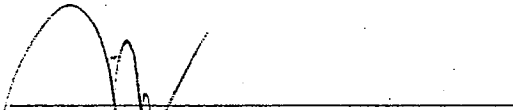
- (a) if the applicable Improvements have not been timely completed, call the Security in accordance with its terms, and apply the Security for the Remedial Work. Builder grants to Town and, if applicable, the surety, and their employees, agents and contractors, a non-exclusive right and easement to enter onto the Subdivision after an uncured default for the purpose of undertaking the Remedial Work;
- (b) if Improvements have not been timely completed, withhold issuance of building permits, certificates of occupancy and tap connections for which the Improvements have not been completed or accepted;

Section 13. Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity under any applicable state law.

TOWN OF CASTLE ROCK


Town Manager

Approved as to form:

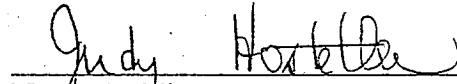

Robert J. Stentz, Town Attorney

STATE OF _____)
COUNTY OF Dale) ss.

The foregoing instrument was acknowledged before me this 20th day of March, 2001 by Donald K. Jones as Town Manager for the Town of Castle Rock, Colorado.

Witness my official hand and seal.
My commission expires: 10-31-02

(SEAL)


Notary Public

JUDY HOSTETLER
NOTARY PUBLIC
STATE OF COLORADO

