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

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02/27/2006 11:27 AM

**RED HAWK FILING NO. 3
SUBDIVISION IMPROVEMENTS AGREEMENT**

DATE: February 3, 2006.

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

LENNAR COLORADO, LLC, a Colorado limited liability company
(Subdivider), 9990 Park Meadows Drive, Lone Tree, Colorado 80124.

**INCIDENTAL
OWNER:**

ACACIA CREDIT FUND 10-A L.L.C., a Delaware limited liability
company, c/o Acacia Capital Corporation, 400 East Van Buren Suite
650, Phoenix, Arizona 85004-2293 (Acacia).

RECITALS:

A. Subdivider desires to plat and subdivide certain property as Red Hawk Filing No. 3 (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. Acacia owns Lots 1-19, Block 6, Lots 1-23, Block 7, Lots 1-12, Block 8, and Tracts E-J and M of the Subdivision (Acacia Lots), but does not intend to participate in the development of the Property, which will be undertaken solely by Subdivider. Consequently, Acacia joins this Agreement for the purposes set forth in this recital and subject to the exculpation provisions set forth in section 34, below, and Acacia subordinates its interest in the Acacia Lots to this Agreement.

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 Red Hawk Filing No. 3 Subdivision Improvement Agreement.

Code: the Castle Rock Municipal Code, as amended.

Development Agreement: the Red Hawk Annexation and Development Agreement recorded in the Records on March 26, 1996 at Reception No. 9615291, as amended by First Amendment to Red Hawk Annexation and Development Agreement recorded in the Records on February 25, 1997 at Reception No. 9710204; Second Amendment to Red Hawk Annexation and Development Agreement recorded in the Records on April 2, 1999 at Reception No. 99029103; and Third Amendment to Red Hawk Annexation and Development Agreement recorded in the Records on January 6, 2000 at Reception No. 00001274.

Director: the Director of Development Services, or designee.

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.

Mitigation Agreement: the Red Hawk Golf Course Construction Mitigation Agreement

dated September 16, 2005 between Subdivider and Town.

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 Red Hawk Filing No. 3 preliminary subdivision plat approved by the Town and recorded in the Records on April 28, 2005 at Reception No. 2005036994.

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 Red Hawk Filing No. 3 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.

In the event Subdivider has not obtained all necessary Town permits and approvals and commenced construction 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, 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.

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 the 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. The Property shall not qualify for building permits 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. The Property will not qualify for certificates of occupancy unless the Improvements have been accepted by the Town as provided in section 4. This Agreement contains other restrictions on land use approvals based on specific conditions.

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 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 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 Improvements by Town, Subdivider shall promptly convey its interest in the Improvements by document in the form attached as **Exhibit 2**. On the date of conveyance of the 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 Improvements (Security). The form of the Security is subject to approval by the Director. The Security shall be irrevocable for a term extending 60 days beyond the Completion Date. The Security for the Improvements 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 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 all or a portion of the Security provided by the Subdivider, subject to the further provisions of section 18.

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 Improvements, should Subdivider default in its obligation to complete the Improvements (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 Subdivider, to such party.

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. 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 Landscaping in conjunction with completion of the Improvements as provided in section 2. Inspection of Landscaping by the Town shall be made in the same manner as prescribed for Improvements under section 4.

With Town's acceptance of the Landscaping concurrently with the Improvements, the Security pertaining to the Landscaping shall be reduced to 15% of the actual cost of the Landscaping. In such event, the warranty Security pertaining to the Landscaping shall be released in accordance with Town Regulations.

In the event that at the time the Town accepts the Improvements the 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 Landscaping to be held by Town as security for completion of the 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;
- (d) upon receipt of the Landscape Deposit the Town will release that portion of the Security applicable to the 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 Landscaping;
- (g) within 10 days of completion of the 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 Landscaping shall commence;
- (h) if at the end of such 180-day period the Landscaping has not been completed and accepted by Town, Town may use the Landscape Deposit to the extent necessary to complete the Landscaping, provided Town will not be obligated to spend any Town funds to complete the 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 Landscaping within 10 days after completion of such 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 Landscaping warranty and Town's final acceptance of the Landscaping.

Section 7. Water Supply. 257 SFE (Water Demand) of the "Water Rights Credit" provided in Article IV of the Development Agreement have been applied to meet the bulk of the water supply requirements for the Subdivision (Subdivision Water Credit). The Subdivision Water Credit shall result in a 257 SFE debit to the Red Hawk Water Bank established under 4.07 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 water demand for the Dedicated Tracts (see section 8) has not been ascertained and potable and/or irrigation tap connections made by Town for the Dedicated Tracts will result in additional debits to the Red Hawk 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 Red Hawk 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 Red Hawk Water Bank, as provided in the Development Agreement.

Section 8. Public Land and Open Space Dedication. Concurrently with and as a condition to recordation of this Agreement, Tracts A and G, as well as the parcel identified as OSD 2 on the Preliminary PD Site Plan, Amendment No. 1, recorded April 2, 1999 at Reception No. 99029101 in the Records, and more particularly described in the attached **Exhibit 3** (collectively, 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.

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 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 9. Traffic Signal Participation. Subdivider shall pay to Town \$185,000, as its share of one of the Red Hawk Drive/Fairway Woods Circle traffic signal. Town shall signalize that intersection at its expense when warranted by traffic impacts. Prior to issuance of the first public works permits, Subdivider shall provide the Town with an irrevocable letter of credit in the amount of \$185,000 in a form acceptable to the Town Attorney, to secure its obligations hereunder.

In addition, Subdivider shall pay to Town \$100,000 for the cost of two pair of flashing school zone beacons. Prior to issuance of the first public works permit, Subdivider shall

provide the Town with an irrevocable letter of credit in the amount of \$100,000 in a form acceptable to the Town Attorney, to secure its payment obligations hereunder. If at any time it is conclusively determined a school will not be constructed in the Subdivision, Town shall release the \$100,000 letter of credit. In the event it is determined that a fewer number of beacons are needed, the Town shall consent to a proportionate reduction in the amount of the letter of credit. For the purpose of this paragraph, "conclusively determined" shall mean that the Douglas County School District (DCSD) has delivered a letter to either Town or Subdivider stating that DCSD has determined that a school will not be constructed within the Subdivision. If within ten (10) years following the recordation of this Agreement, the need for the beacons has not been conclusively determined, the Town shall release the \$100,000 letter of credit.

Section 10. Sanitary Sewer System. Subdivider shall connect to the Meadows Filing No. 18 sanitary sewer system (Meadows System). The Subdivision shall not qualify for building permits until the gravity connection to the Meadows System has been made, except as otherwise provided for in section 3.

Section 11. Excess Fill Removal. Subdivider has stockpiled excess fill dirt (Fill Dirt) on Tract G, which was not authorized with the grading plan approved with the Preliminary Plat. Tract G is to be dedicated to the Town in accordance with section 8. Prior to the issuance of the first building permit within this Plat, Subdivider shall complete removal of the stockpiled Fill Dirt from Tract G, and shall grade Tract G pursuant to the approved construction drawings associated with this Plat approved by the Town on 11/23/05. Any Fill Dirt not used on the Property must be exported off of the Property. In the event Subdivider chooses to stockpile the Fill Dirt elsewhere in the Town, Subdivider must obtain all appropriate permits pursuant to Town Regulations.

Section 12. Secondary Access Restrictions. Until such time as a secondary access is made available through the Meadows Filing No. 18 subdivision, the following restrictions shall apply:

- (a) No building permits may be issued for Lots 1-21, Block 9 and Lots 1-8, Block 10.
- (b) No more than 30 certificates of occupancy may be issued within Blocks 1, 2, 3, and 4.

Section 13. Golf Cart Crossing. No building permits may be issued on the Property until the golf cart crossing described in the Plans is constructed and substantially accepted by the Town for operation and maintenance.

Section 14. Construction Mitigation Agreement. Subdivider and Town are parties to the Mitigation Agreement, attached as *Exhibit 4*. Subdivider agrees to comply with the terms and conditions set forth in the Mitigation Agreement with regards to the construction of the Improvements. In the event of a conflict between this Agreement and the Mitigation Agreement, the provision that places greater obligation on the Subdivider shall apply. A default of the Mitigation Agreement shall constitute a default of this Agreement.

Pursuant to the Mitigation Agreement, Subdivider shall obtain the necessary temporary construction easements from the Town prior to construction of Improvements in areas which impact the Red Hawk Ridge Golf course. Construction of the Improvements within the temporary construction easement shall be in strict accordance with the Mitigation Agreement.

Section 15. Trail Construction. Subdivider shall construct all trails and the associated Tract A landscaping and mitigation as depicted on the Final PD Site Plan and the approved civil construction plans for said trail with construction of the Improvements. Construction of the trails and Tract A landscaping and mitigation shall be in strict compliance with the approved Plans and all construction activity is limited to those areas identified in the Plans. Compliance with this section shall be a condition to issuance of any building permits on the Property.

Section 16. 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 17. 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 18. Responsibility for Improvement Construction. Subdivider shall be obligated to perform the covenants of Subdivider under this Agreement, until and unless the obligations are assigned to and assumed by a third party (Builder) as follows:

- (a) the Builder acquires title to the Property from Subdivider;
- (b) the Builder executes the Partial Assumption of Subdivision Improvements Agreement in the form attached as **Exhibit 5**; and
- (c) the Builder furnishes the Town with the Security and rights of entry to assure construction of the Improvements as required by this Agreement.

Upon compliance with the above conditions, Builder shall be solely responsible for completion of the Improvements.

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 19. 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 20. 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 21. 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 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, this Agreement shall govern and control. The Plat is vested in accordance with the Development Agreement.

Section 22. 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 23. 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 Red Hawk Filing No. 3 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 24. 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 as provided in the Code. Accordingly, the schedule of such Development Exactions in effect at the time of such building permit issuance establishes the level of Development Exactions.

Section 25. Default. The following occurrences constitute a default of this Agreement:

- (a) failure to commence or complete construction of the Improvements within the time periods prescribed in this Agreement;
- (b) failure to cure the defective construction or installation 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 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;
- (f) the breach of the Mitigation Agreement.

As a condition to Town's right to exercise its remedies for default, Town shall give written notice to Subdivider and Acacia 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 26. Town's Rights Upon Default. When any event of default occurs and has not been timely cured, the Town may:

- (a) if the 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 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;
- (e) bring suit against the defaulting party for money damages and/or equitable relief for breach of the Agreement; and/or
- (f) exercise any of the remedies afforded Town under the specific provisions of this Agreement or the Mitigation 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 27. 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 28. 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 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 Improvements by the Town.

Section 29. 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 30. 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 31. 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: Lennar Colorado, LLC
 9990 Park Meadows Drive
 Lone Tree, CO 80124

if to Incidental
Owner: Acacia Credit Fund 10 – A L.L.C.
 c/o Acacia Capital Corporation
 400 East Van Buren, Suite 650
 Phoenix, AZ 85004-2293

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

Section 32. 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 33. Immunity. Nothing contained in this Agreement constitutes a waiver of the Town's sovereign immunity under any applicable state law.

Section 34. Incidental Owner Liability. Acacia is a signatory to this Agreement solely to subordinate its interest in the Acacia Lots to this Agreement. Acacia assumes no obligation to undertake or perform any obligation of Subdivider under this Agreement and Acacia shall have no liability to Town of any nature, in the event of a default of this Agreement by Subdivider. However, all development approvals on the Acacia Lots are subject to the full performance of this Agreement by Subdivider. Acacia shall be entitled to cure any default by Subdivider under this Agreement. In such event, on reasonable terms and conditions established by Town, Acacia shall have the right to utilize the Surety in order to cure such default.

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Exhibit 1

A parcel of land in the Southeast Quarter of Section 34, Township 7 South, Range 67 West, the North Half of Section 3, and the Northeast Quarter of Section 4, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado, being more particularly described as follows:

BEGINNING at the North Quarter corner of said Section 3;

Thence North 89°01'20" East along the northerly line of the Northeast Quarter of said Section 3 a distance of 1,313.16 feet;

Thence North 00°38'55" West a distance of 783.97 feet to the southwesterly right of way line of Santa Fe Drive;

Thence South 11°42'53" East along said southwesterly right of way line a distance of 1,023.41 feet to the northerly lines of the parcels described in Book 1411 at Page 118;

Thence along said northerly lines the following forty-nine (49) courses;

1. North 44°37'38" West a distance of 106.02 feet to a point of curvature;
2. along the arc of a curve to the left having a central angle of 104°41'17", a radius of 170.00 feet, and an arc length of 310.62 feet (chord bears South 83°01'44" West, 269.18 feet);
3. South 30°41'05" West a distance of 393.54 feet;
4. South 50°56'25" West a distance of 72.93 feet;
5. South 65°45'10" West a distance of 368.89 feet;
6. North 26°31'58" West a distance of 501.19 feet;
7. North 36°24'54" West a distance of 253.42 feet;
8. South 89°01'14" West a distance of 479.92 feet;
9. South 37°29'26" West a distance of 239.38 feet;
10. South 55°55'51" West a distance of 148.32 feet;
11. South 72°22'39" West a distance of 333.79 feet;
12. North 03°16'29" East a distance of 103.23 feet to a point of curvature;
13. along the arc of a curve to the left having a central angle of 102°11'47", a radius of 175.00 feet, and an arc length of 312.14 feet (chord bears North 47°49'25" West, 272.38 feet);
14. South 81°04'41" West a distance of 149.92 feet to a point of curvature;
15. along the arc of a curve to the left having a central angle of 58°19'05", a radius of 175.00 feet, and an arc length of 178.12 feet (chord bears South 51°55'09" West, 170.53 feet);
16. South 22°45'36" West a distance of 223.92 feet;
17. South 09°00'52" West a distance of 20.44 feet to a point of curvature;
18. along the arc of a curve to the right having a central angle of 57°48'56", a radius of 435.00 feet, and an arc length of 438.95 feet (chord bears South 37°55'20" West, 420.56 feet);
19. South 66°49'48" West a distance of 217.40 feet to a point of curvature;
20. along the arc of a curve to the left having a central angle of 73°02'48", a radius of 365.00 feet, and an arc length of 465.34 feet (chord bears South 30°18'24" West, 434.46 feet) to a point of non-tangency
21. South 83°46'48" West a distance of 70.00 feet;
22. North 05°35'27" West a distance of 9.51 feet;
23. North 34°33'23" West a distance of 688.20 feet;
24. North 28°01'18" West a distance of 192.36 feet;

Exhibit 1, continued

25. North 13°17'11" West a distance of 288.99 feet;
 26. North 13°18'41" West a distance of 122.10 feet;
 27. North 40°43'42" West a distance of 73.33 feet;
 28. South 89°31'46" West a distance of 814.02 feet;
 29. South 51°48'17" West a distance of 251.17 feet;
 30. South 39°15'19" West a distance of 916.08 feet;
 31. South 23°06'31" East a distance of 30.62 feet to a point of curvature;
 32. along the arc of a curve to the left having a central angle of 66°59'33", a radius of 300.00 feet, and an arc length of 350.77 feet (chord bears South 56°36'18" East, 331.13 feet) to a point of non-tangency;
 33. North 39°16'28" East a distance of 970.16 feet to a point of non-tangent curvature;
 34. along the arc of a non-tangent curve to the left having a central angle of 55°41'36", a radius of 175.00 feet, and an arc length of 170.11 feet, (chord bears South 81°33'45" East, 163.49 feet);
 35. North 70°35'27" East a distance of 256.16 feet;
 36. South 13°26'27" East a distance of 502.64 feet;
 37. South 39°42'13" East a distance of 77.02 feet;
 38. South 50°17'47" West a distance of 50.00 feet;
 39. South 83°56'07" West a distance of 366.49 feet;
 40. South 35°22'10" West a distance of 661.42 feet;
 41. South 53°32'02" West a distance of 101.15 feet;
 42. North 83°14'41" West a distance of 500.00 feet;
 43. North 08°01'09" East a distance of 327.14 feet to a point of non-tangent curvature;
 44. along the arc of a non-tangent curve to the right having a central angle of 32°58'02", a radius of 350.00 feet, and an arc length of 201.39 feet, (chord bears North 51°00'34" West, 198.62 feet) to a point of non-tangency;
 45. South 35°11'59" West a distance of 346.59 feet;
 46. South 21°41'30" West a distance of 519.46 feet;
 47. South 26°36'29" West a distance of 596.79 feet;
 48. South 14°12'54" West a distance of 159.44 feet to a point of curvature;
 49. along the arc of a curve to the left having a central angle of 64°52'51", a radius of 180.00 feet, and an arc length of 203.83 feet (chord bears South 18°13'32" East, 193.11 feet) to a point of non-tangency on the southerly line of the Northeast Quarter of said Section 4;
- Thence North 89°53'59" West along said southerly line a distance of 167.68 feet to the westerly line of said Northeast Quarter;
- Thence North 01°08'05" West along said westerly line a distance of 2,657.83 feet to the North Quarter corner of said Section 4;
- Thence North 89°31'53" East along the northerly line of said Northeast Quarter a distance of 1313.85 feet to the East Sixteenth corner between Sections 4 and 33;
- Thence North 89°31'53" East along the northerly line of said Northeast Quarter a distance of 1313.85 feet to the Northwest corner of said Section 3;
- Thence North 89°01'18" East along the northerly line of the Northwest Quarter of said Section 3 a distance of 2,625.84 feet to the POINT OF BEGINNING.

For the purpose of this description the bearings are based on the Northerly line of the Northeast Quarter of Section 3 as monumented by a 3-1/4" aluminum cap stamped PLS 12046 at the North Quarter corner and by a 3-1/4" aluminum cap stamped TST PLS 12046 at the East 1/16 corner between Sections 3 and 34 bearing North 89°01'20" East, 1313.16 feet.

LEGAL DESCRIPTION CREATED BY:

High Country Engineering, Inc.
14 Inverness Drive East, Suite F-120
Englewood, CO 80112

(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 Red Hawk Filing No. 3 subdivision. 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 _____

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

Exhibit 3

DESCRIPTION

A parcel of land in Section 4, Township 8 South, Range 67 West of the Sixth Principal Meridian, County of Douglas, State of Colorado, more particularly described as follows:

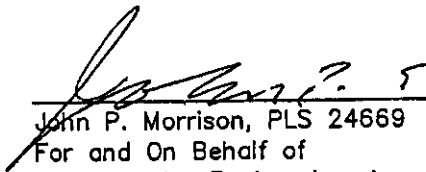
COMMENCING at the South Quarter corner of said Section 4;
Thence South 89°53'59" East along the southerly line of said Section 4 a distance of 615.92 feet to boundary line of Red Hawk Ridge Golf Course as described in Book 1411 at Page 118 in the Douglas County Clerk and Recorder's Office and the POINT OF BEGINNING;

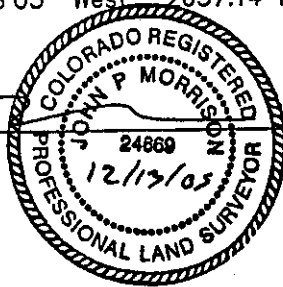
Thence along the boundary line of said Golf Course the following six (6) courses;
1. North 41°39'57" East a distance of 255.46 feet;
2. North 28°37'47" East a distance of 203.84 feet;
3. South 80°54'32" East a distance of 140.41 feet;
4. North 50°07'54" East a distance of 707.58 feet;
5. South 17°58'43" West a distance of 658.97 feet to a point of curvature;
6. along the arc of a curve to the left having a central angle of 62°02'48", a radius of 175.00 feet, and on arc length of 189.51 feet (chord bears South 13°02'41" East, 180.38 feet) to a point of non-tangency on the southerly line of said Section 4;

Thence North 89°53'59" West along said southerly line a distance of .786.54 feet to the POINT OF BEGINNING.

Containing 307,030 square feet or 7.048 acres, more or less.

For the purpose of this description the bearings are based on the westerly line of said Section 4 as monumented by a 2-1/2" aluminum cap stamped PLS 12046 at the South Quarter corner and the 3-1/4" aluminum cap stamped PLS 23042, bearing North 01°08'05" West 2657.14 feet.


John P. Morrison, PLS 24669
For and On Behalf of
High Country Engineering, Inc.



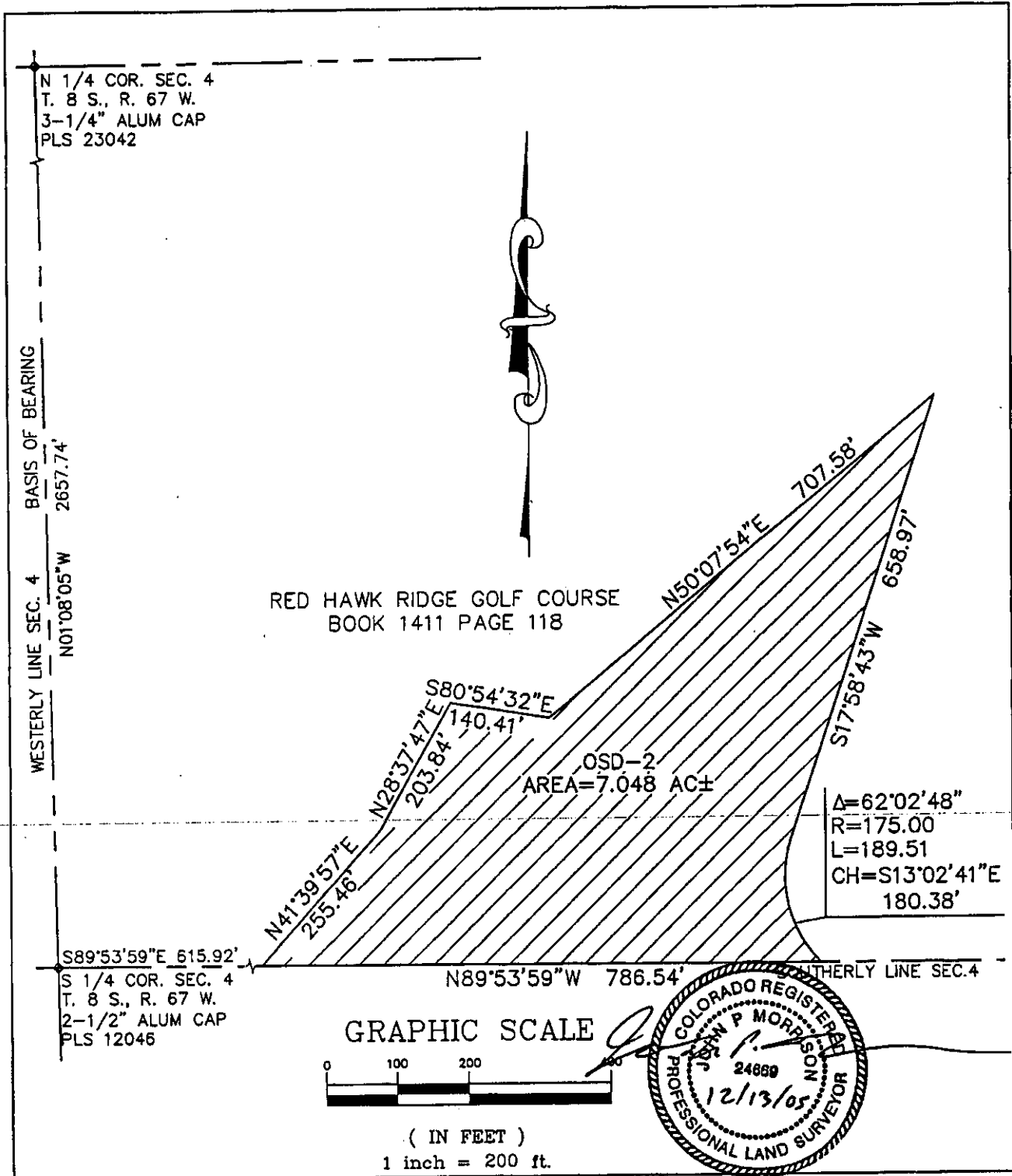
HIGH COUNTRY ENGINEERING, INC.

14 INVERNESS DRIVE EAST, STE F-120, ENGLEWOOD, CO 80112
PHONE (303) 925-0544 FAX (303) 925-0547
1517 BLAKE AVENUE, STE 101, GLENWOOD SPRINGS, CO 81601
PHONE (970) 945-8676 FAX (970) 945-2555
www.hceng.com

date:	12/13/05
file:	dwg\EXH\OSD2.dwg
Project No:	202/2008
drawn by:	jnm

EXHIBIT _____
PAGE 1 OF 2

Exhibit 3



HIGH COUNTRY ENGINEERING, INC.

14 INVERNESS DRIVE EAST, STE F-120, ENGLEWOOD, CO 80112
PHONE (303) 925-0544 FAX (303) 925-0547
1517 BLAKE AVENUE, STE 101, GLENWOOD SPRINGS, CO 81601
PHONE (970) 945-8676 FAX (970) 945-2555
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date:	12/13/05
file:	dwg\EXH\OSD2.dwg
Project No:	202/2008
drawn by:	jmm

EXHIBIT _____

PAGE 2 OF 2

Exhibit 4

RED HAWK GOLF COURSE CONSTRUCTION MITIGATION AGREEMENT

THIS GOLF COURSE MITIGATION AGREEMENT (this "Agreement") is made and entered into as of this 16th day of September, 2005, by and between the TOWN OF CASTLE ROCK, COLORADO, a home rule municipal corporation (the "Town"), and LENNAR COLORADO, LLC, a Colorado limited liability company ("Lennar").

RECITALS

A. Lennar owns certain property located in the Town commonly referred to as Red Hawk Filing No. 3, (the "Property"), as more particularly described in *Exhibit A*.

B. The Town owns certain property located in the Town adjacent to the Property and commonly referred to as the Red Hawk Golf Course (the "Golf Course"), as more particularly described in *Exhibit B*.

C. The Town, as a home rule municipality, has jurisdiction over local land use matters and accordingly, the Property.

D. On December 21, 2004, the Town Council conditionally approved the Preliminary Plat/Final Planned Development Site Plan for the Property (the "PP/FPD").

E. Approval condition number 3 of the PP/FPD ("Condition 3") required that Lennar submit a mitigation plan "for any impact on golf course during grading and/or construction activities, including compensation for financial impact." Condition 3 also required the plan "meet the approval of the Director of Parks and Recreation or his designee prior to recordation of the Final PD Site Plan and prior to the issuance of any permits."

F. On February 23, 2005, the Town issued an early grading permit for the Property.

G. On April 26, 2005, the Town approved an amendment to the PP/FPD, which, among other things, revised Condition 3 requiring Lennar to submit to the Town for approval a mitigation plan prior to recordation of the Final Plat and prior to the issuance of any public works permits for the Property.

H. The Parties wish to comply with Condition 3 as revised by the Town on April 26, 2005, by entering into this Agreement, which sets forth their respective duties and obligations concerning construction work undertaken by Lennar in and around the Golf Course.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual agreements and the undertakings set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby the Town and Lennar (collectively "Parties" or individually a "Party") agree as follows:

Exhibit 4

1. Construction Activities - General

1.1 Lennar will conduct construction activities on the Property (the "Construction Activities") only within the limits of construction set forth on the approved final plat construction documents for the Property (the "Construction Documents"), or as otherwise approved by the Town prior to the commencement of Construction Activities. Any construction not identified on the Construction Documents shall require additional approval and an additional mitigation plan prior to commencement of the additional construction activity. Lennar's Construction Activities on Property shall not negatively impact golf operations, customer rounds or golf course revenue.

1.2 Prior to commencing Construction Activities, Lennar will install appropriate erosion control devices as described on the Construction Documents or as otherwise necessary to prevent erosion from encroaching onto adjacent property and specifically the Golf Course. Lennar will conduct erosion mitigation in accordance with the approved Storm Water Management Plan for the Property and other applicable Town regulations. In the event Town notifies Lennar that erosion from its Construction Activities is negatively impacting golf operations, Lennar shall repair any damage to the Golf Course within 24 hours, or shall reimburse the Town for all costs the Town incurs in repairing the damage, if Lennar does not repair the damage within 24 hours. Lennar shall also reimburse the Town for any lost revenue as a result of the damage. In addition, Lennar shall install erosion mitigation measures to prevent any further erosion from negatively impacting golf operations. Lennar shall be responsible for continuous monitoring of all erosion control devices during any weather where there is potential for damage to the Golf Course. Lennar shall provide Town a contact name and number for the Town to report any erosion control issues. The Lennar contact shall respond and resolve any erosion control issues identified by the Town within eight hours of the Town reporting the erosion control issue.

1.3 Erosion in the drainage channel between holes 10 and 11 on the Golf Course has increased the possibility of undercutting the main irrigation line to the back nine holes of the Golf Course, in addition to creating other erosion damage. Accordingly, Lennar shall submit to the Town for approval plans detailing Channel Improvements together with a schedule for completing the Channel Improvements. The Channel Improvements shall be designed and constructed in a manner that does not negatively impact the Golf Course's aesthetics. The Channel Improvements shall be constructed concurrently with the Construction Activities as set forth on the Construction Documents.

1.4 During Construction Activities, Lennar will adhere to applicable dust abatement procedures as set forth by Colorado Department of Public Health and the Environment Regulations and noise regulations as set forth in section 9.16 of the Municipal Code. In the event Town notifies Lennar that dust from its Construction Activities is negatively impacting golf operations, Lennar shall abate the dust and its negative impact to the Golf Course within 24 hours, and shall

Exhibit 4

install dust abatement procedures to prevent any further dust from negatively impacting golf operations.

1.5 If Lennar conducts any Construction Activities outside the limits of construction set forth on the Construction Documents or as otherwise permitted by the Town, it will immediately cease such Construction Activities when it becomes aware of the activity and notify the Town. Lennar shall be liable for any violation of encroaching beyond the limits of construction set forth on the Construction Documents, and to the extent that the encroachment is on the Golf Course or any other property owned by the Town, Lennar shall compensate Town for any damages to the Golf Course or other Town property. In addition, Lennar shall also reimburse the Town for any lost revenue as a result of the damage.

1.6 Lennar shall submit to the Director for approval detailed plans to revegetate the two areas in Tract A to be dedicated to the Town as Open Space where Lennar previously conducted construction activities. Revegetation for these areas shall include at a minimum planting of native shrubs and trees over double the area disturbed by Lennar in its construction activities. Lennar shall complete revegetation prior to the Town issuing any permits for the Property. Lennar shall also maintain and guarantee the plant material installed for a period of not less than three years.

1.7 Lennar shall provide Town a contact name and number for the Town to report any debris or trash issues on the Golf Course as a result of the Construction Activities. The contact name shall respond and resolve any trash or debris issues identified by the Town within eight hours of the Town reporting the trash or debris issue.

2. Construction Activities – Golf Course

2.1 At least two weeks prior to commencing any Construction Activities within 50 feet of the Golf Course (the "Buffer Zone") or on the Golf Course proper, Lennar will submit for the Town's approval a detailed construction schedule for such activities, which shall include exact dates of construction and a daily schedule of working hours, as well as a full description of the Construction Activities and equipment to be used in the Construction Activities. The Town will review the construction schedule within one week of submittal and provide Lennar with comments or approval, if any. In the event the Town fails to provide any comments or approval within one week of submittal, the Town will be deemed to have approved the construction schedule.

2.2 Construction Activities are permitted on the Golf Course between November 1 and March 1 on dates and during hours determined by the Director (which will be hours when the Director anticipates that no golf will be played on Golf Course). Any Construction Activities performed by Lennar on the Golf Course outside of the dates set forth herein, or during hours prohibited by Director, or outside the scope of the Construction Activities approved by Town

Exhibit 4

shall be deemed to have negatively affected golf course operations, and Lennar shall be liable to Town for any damages, including loss of revenue, as set forth below.

2.3 At least 72 hours prior to initiating Construction Activities on the Golf Course as described in the Construction Documents, Lennar will place stakes on the Golf Course indicating the extent of any potential disturbance of the Golf Course and notify the Director that the stakes are in place. The Director will review and approve the location of the stakes and accordingly the limits of the proposed Construction Activities within 24 hours after being notified by Lennar that the stakes are in place, and prior to Lennar commencing construction activities within the staked area. If the Director does not contact Lennar within 24 hours of notification, the Town will be deemed to have approved the location of the stakes and accordingly the limits of proposed Construction Activities. Lennar shall not perform any Construction Activities on the Golf Course outside of the area as staked and approved by the Director.

2.4 Lennar will return areas of the Golf Course disturbed by Construction Activities to their pre-disturbed condition. Lennar will submit a revegetation plan to the Town for approval prior to commencing such repair work. The revegetation plan will include a proposed seed mix design, methods of planting, and proposed care until the plantings are established. If Lennar's repair of disturbed areas of the Golf Course are not satisfactory to the Town in its reasonable discretion, Lennar will be notified by the Director of the unacceptable condition and given five days to make the repair satisfactory. If after five days the disturbed area is still not-satisfactory, the Town may make the repair, in which case, Lennar will reimburse the Town for its reasonable costs incurred in repairing the disturbed area. Lennar may review and approve the proposed costs associated with the repair work prior to the Town commencing such repair work.

2.5 Lennar shall obtain from Town a temporary construction easement to construct the sewer line between holes 10 and 11 through Golf Course. The easement shall be approved by the Town prior to any Construction Activities. The easement shall contain language that insures that all Golf Course property be returned to pre-disturbed condition including but not limited to all irrigation lines, irrigation control wiring, vegetation and cart paths in accordance with Section 2.

3. Construction Activities – Buffer Zone

3.1 Construction Activities are permitted within the Buffer Zone between November 1 and March 1 in the same manner as set forth above in section 2.1.

3.2 Lennar may conduct Construction Activities within the Buffer Zone between March 2 and October 31, provided such activities do not materially interfere with normal Golf Course operations as determined and subject to rescheduling as set forth above in section 2.3. Construction Activities that

Exhibit 4

materially interfere with Golf Course operations do not include home construction activities or normal, light construction activities, but potentially only those activities involving heavy equipment, including large bulldozers and scrapers.

4. Enforcement

4.1 In the event of a breach of this Agreement, either Party may enforce its rights by any legal means available to it, including without limitation an action for breach of contract seeking specific performance and/or damages.

4.2 Measure of Damages to Golf Course. The Town's consent to this agreement is conditioned upon Lennar's agreement to mitigate any negative impact to the Golf Course and its operations during Construction Activities, including compensating the Town for any lost revenue which logically flows from damage to the Golf Course. It shall be the discretion of the Director and Town Attorney to determine and identify any negative impacts to Golf Course operations during Construction Activities. Accordingly, in the event of damage to the Golf Course, in addition to any monetary damages associated with repairing the Golf Course or other Town property, Lennar will pay to the Town any lost revenue occasioned from and directly attributable to damage to the Golf Course. The amount of such damages shall be calculated using the average number of rounds per hour (as estimated from the previous 3 years data at similar times of the year) multiplied by the number of hours the Golf Course is damaged and the cost of a round at that time.

5. General Provisions

5.1 Dates. If any date set forth in this Agreement for the delivery of any document or the happening of any event should, under the terms hereof, fall on a weekend or holiday, then such date will be automatically extended to the next succeeding weekday that is not a holiday.

5.2 Governing Law. This Agreement will be construed and enforced in accordance with the laws of the State of Colorado.

5.3 Notice. Any notice required to be given pursuant to this agreement will be made as follows:

If to the Town:

Rob Hanna
Director of Parks and Recreation
Town of Castle Rock Recreation Center
2301 N. Woodlands Drive
Castle Rock, CO 80104

Exhibit 4

EXHIBIT A

Exhibit 4

A PARCEL OF LAND IN THE SOUTHEAST QUARTER OF SECTION 34, TOWNSHIP 7 SOUTH, RANGE 67 WEST, THE NORTH HALF OF SECTION 3, AND THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 8 SOUTH, RANGE 67 WEST OF THE SIXTH PRINCIPAL MERIDIAN, TOWN OF CASTLE ROCK, COUNTY OF DOUGLAS, STATE OF COLORADO, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SAID SECTION 3;
 THENCE NORTH 89°01'20" EAST ALONG THE NORTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 3 A DISTANCE OF 1,313.16 FEET;
 THENCE NORTH 00°38'35" WEST A DISTANCE OF 763.97 FEET TO THE SOUTHWESTERLY RIGHT OF WAY LINE OF SANTA FE DRIVE;
 THENCE SOUTH 11°42'33" EAST ALONG SAID SOUTHWESTERLY RIGHT OF WAY LINE A DISTANCE OF 1,023.41 FEET TO THE NORTHERLY LINES OF THE PARCELS DESCRIBED IN BOOK 1411 AT PAGE 118;
 THENCE ALONG SAID NORTHERLY LINES THE FOLLOWING FORTY-NINE (49) COURSES:
 1. THENCE NORTH 44°37'38" WEST A DISTANCE OF 108.02 FEET TO A POINT OF CURVATURE;
 2. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 104°41'17", A RADIUS OF 170.00 FEET, AND AN ARC LENGTH OF 310.82 FEET (CHORD BEARS SOUTH 83°01'44" WEST, 288.18 FEET);
 3. THENCE SOUTH 30°41'05" WEST A DISTANCE OF 383.54 FEET;
 4. THENCE SOUTH 50°58'25" WEST A DISTANCE OF 72.93 FEET;
 5. THENCE SOUTH 65°48'10" WEST A DISTANCE OF 368.89 FEET;
 6. THENCE NORTH 25°31'58" WEST A DISTANCE OF 501.19 FEET;
 7. THENCE NORTH 36°24'54" WEST A DISTANCE OF 253.42 FEET;
 8. THENCE SOUTH 89°01'14" WEST A DISTANCE OF 479.92 FEET;
 9. THENCE SOUTH 37°29'28" WEST A DISTANCE OF 239.38 FEET;
 10. THENCE SOUTH 55°53'51" WEST A DISTANCE OF 148.32 FEET;
 11. THENCE SOUTH 72°22'38" WEST A DISTANCE OF 333.79 FEET;
 12. THENCE NORTH 03°18'29" EAST A DISTANCE OF 183.23 FEET TO A POINT OF CURVATURE;
 13. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 102°11'47", A RADIUS OF 175.00 FEET, AND AN ARC LENGTH OF 312.14 FEET (CHORD BEARS NORTH 47°49'25" WEST, 272.38 FEET);
 14. THENCE SOUTH 81°04'41" WEST A DISTANCE OF 149.92 FEET TO A POINT OF CURVATURE;
 15. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 58°19'05", A RADIUS OF 175.00 FEET, AND AN ARC LENGTH OF 178.12 FEET (CHORD BEARS SOUTH 51°53'09" WEST, 170.53 FEET);
 16. THENCE SOUTH 22°45'36" WEST A DISTANCE OF 223.92 FEET;
 17. THENCE SOUTH 09°00'52" WEST A DISTANCE OF 20.44 FEET TO A POINT OF CURVATURE;
 18. THENCE ALONG THE ARC OF A CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 57°48'56", A RADIUS OF 435.00 FEET, AND AN ARC LENGTH OF 438.85 FEET (CHORD BEARS SOUTH 37°55'20" WEST, 420.58 FEET);
 19. THENCE SOUTH 66°49'48" WEST A DISTANCE OF 217.40 FEET TO A POINT OF CURVATURE;
 20. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 73°02'48", A RADIUS OF 365.00 FEET, AND AN ARC LENGTH OF 465.34 FEET (CHORD BEARS SOUTH 30°18'24" WEST, 434.46 FEET) TO A POINT OF NON-TANGENCY;
 21. THENCE SOUTH 83°48'48" WEST A DISTANCE OF 70.00 FEET;
 22. THENCE NORTH 05°35'27" WEST A DISTANCE OF 8.51 FEET;
 23. THENCE NORTH 34°33'23" WEST A DISTANCE OF 888.20 FEET;
 24. THENCE NORTH 28°01'18" WEST A DISTANCE OF 182.36 FEET;
 25. THENCE NORTH 13°17'11" WEST A DISTANCE OF 288.99 FEET;
 26. THENCE NORTH 13°18'41" WEST A DISTANCE OF 122.10 FEET;
 27. THENCE NORTH 40°43'42" WEST A DISTANCE OF 73.33 FEET;
 28. THENCE SOUTH 89°31'48" WEST A DISTANCE OF 814.02 FEET;
 29. THENCE SOUTH 51°48'17" WEST A DISTANCE OF 251.17 FEET;
 30. THENCE SOUTH 39°15'19" WEST A DISTANCE OF 918.08 FEET;
 31. THENCE SOUTH 23°08'31" EAST A DISTANCE OF 30.82 FEET TO A POINT OF CURVATURE;
 32. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 86°59'33", A RADIUS OF 300.00 FEET, AND AN ARC LENGTH OF 350.77 FEET (CHORD BEARS SOUTH 58°38'18" EAST, 331.13 FEET) TO A POINT OF NON-TANGENCY;
 33. THENCE NORTH 39°18'28" EAST A DISTANCE OF 970.16 FEET TO A POINT OF NON-TANGENT CURVATURE;
 34. THENCE ALONG THE ARC OF A NON-TANGENT CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 55°41'36", A RADIUS OF 175.00 FEET, AND AN ARC LENGTH OF 170.11 FEET, (CHORD BEARS SOUTH 81°33'45" EAST, 163.48 FEET);
 35. THENCE NORTH 70°35'27" EAST A DISTANCE OF 258.16 FEET;
 36. THENCE SOUTH 13°28'27" EAST A DISTANCE OF 502.64 FEET;
 37. THENCE SOUTH 39°42'13" EAST A DISTANCE OF 77.02 FEET;
 38. THENCE SOUTH 50°17'47" WEST A DISTANCE OF 50.00 FEET;
 39. THENCE SOUTH 83°58'07" WEST A DISTANCE OF 366.49 FEET;
 40. THENCE SOUTH 35°22'10" WEST A DISTANCE OF 681.42 FEET;
 41. THENCE SOUTH 53°32'02" WEST A DISTANCE OF 101.15 FEET;
 42. THENCE NORTH 83°14'41" WEST A DISTANCE OF 500.00 FEET;
 43. THENCE NORTH 06°01'09" EAST A DISTANCE OF 327.14 FEET TO A POINT OF NON-TANGENT CURVATURE;
 44. THENCE ALONG THE ARC OF A NON-TANGENT CURVE TO THE RIGHT HAVING A CENTRAL ANGLE OF 32°58'02", A RADIUS OF 350.00 FEET, AND AN ARC LENGTH OF 201.39 FEET, (CHORD BEARS NORTH 51°00'34" WEST, 198.82 FEET) TO A POINT OF NON-TANGENCY;
 45. THENCE SOUTH 35°11'59" WEST A DISTANCE OF 346.59 FEET;
 46. THENCE SOUTH 21°41'30" WEST A DISTANCE OF 518.48 FEET;
 47. THENCE SOUTH 28°38'28" WEST A DISTANCE OF 596.79 FEET;
 48. THENCE SOUTH 14°12'54" WEST A DISTANCE OF 158.44 FEET TO A POINT OF CURVATURE;
 49. THENCE ALONG THE ARC OF A CURVE TO THE LEFT HAVING A CENTRAL ANGLE OF 64°52'51", A RADIUS OF 180.00 FEET, AND AN ARC LENGTH OF 203.83 FEET (CHORD BEARS SOUTH 18°13'32" EAST, 183.11 FEET) TO A POINT OF NON-TANGENCY ON THE SOUTHERLY LINE OF THE NORTHEAST QUARTER OF SAID SECTION 4;
 THENCE NORTH 88°53'49" WEST ALONG SAID SOUTHERLY LINE A DISTANCE OF 187.88 FEET TO THE WESTERLY LINE OF SAID NORTHEAST QUARTER;
 THENCE NORTH 01°08'05" WEST ALONG SAID WESTERLY LINE A DISTANCE OF 2,857.83 FEET TO THE NORTH QUARTER CORNER OF SAID SECTION 4;
 THENCE NORTH 89°31'53" EAST ALONG THE NORTHERLY LINE OF SAID NORTHEAST QUARTER A DISTANCE OF 2,827.70 FEET TO THE NORTHWEST CORNER OF SAID SECTION 3;
 THENCE NORTH 89°01'18" EAST ALONG THE NORTHERLY LINE OF THE NORTHWEST QUARTER OF SAID SECTION 3 A DISTANCE OF 2,828.84 FEET TO THE POINT OF BEGINNING.

CONTAINING 4,714,472.43 SQUARE FEET OR 108.229 ACRES, MORE OR LESS.

Exhibit 4

EXHIBIT B

Exhibit 4

LEGAL DESCRIPTION

A parcel of land located in the North Half of Section 3, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the North Quarter corner of said Section 3, thence, along the West line of the Northeast Quarter of said Section 3, South $00^{\circ}31'33''$ East, a distance of 60.00 feet to the TRUE POINT OF BEGINNING.

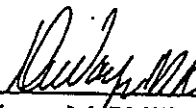
Thence, along a line 60.00 feet South of and parallel with the North line of the Northwest Quarter of said Northeast Quarter of Section 3, North $89^{\circ}01'17''$ East, a distance of 201.76 feet; Thence South $36^{\circ}24'51''$ East, a distance of 253.42 feet; Thence South $26^{\circ}31'55''$ East, a distance of 501.19 feet; Thence North $65^{\circ}45'13''$ East, a distance of 368.89 feet; Thence North $50^{\circ}56'28''$ East, a distance of 72.93 feet; Thence North $30^{\circ}41'08''$ East, a distance of 393.54 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $104^{\circ}41'17''$ an arc distance of 310.62 feet, having a radius of 170.00 feet and a chord bearing North $83^{\circ}01'46''$ East, a distance of 269.18 feet to a point of tangent; Thence, along said tangent, South $44^{\circ}37'35''$ East, a distance of 106.02 feet; Thence South $11^{\circ}42'22''$ East, a distance of 1212.23 feet; Thence South $44^{\circ}16'07''$ West, a distance of 145.41 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $19^{\circ}54'46''$ an arc distance of 163.34 feet, having a radius of 470.00 feet and a chord bearing North $87^{\circ}30'04''$ West, a distance of 162.52 feet; Thence North $36^{\circ}24'36''$ West, a distance of 415.28 feet; Thence North $00^{\circ}48'12''$ East, a distance of 369.65 feet; Thence South $66^{\circ}00'09''$ West, a distance of 654.40 feet; Thence South $80^{\circ}44'36''$ West, a distance of 275.37 feet; Thence North $61^{\circ}53'08''$ West, a distance of 87.30 feet; Thence North $03^{\circ}24'37''$ West, a distance of 97.00 feet; Thence North $24^{\circ}03'22''$ West, a distance of 627.70 feet; Thence South $87^{\circ}53'16''$ West, a distance of 139.75 feet; Thence South $37^{\circ}33'09''$ West, a distance of 273.13 feet; Thence South $72^{\circ}20'26''$ West, a distance of 568.03 feet; Thence South $84^{\circ}58'41''$ West, a distance of 377.27 feet; Thence South $20^{\circ}52'58''$ West, a distance of 226.89 feet; Thence South $62^{\circ}38'37''$ West, a distance of 526.92 feet; Thence South $71^{\circ}23'45''$ West, a distance of 383.01 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $88^{\circ}42'21''$ an arc distance of 572.84 feet, having a radius of 370.00 feet and a chord bearing North $22^{\circ}28'41''$ East, a distance of 517.32 feet to a point of tangent; Thence, along said tangent, North $66^{\circ}49'51''$ East, a distance of 217.40 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of $57^{\circ}48'56''$ an arc distance of 433.90 feet, having a radius of 430.00 feet and a chord bearing North $37^{\circ}55'23''$ East, a distance of 415.73 feet; Thence North $22^{\circ}45'39''$ East, a distance of 244.96 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $58^{\circ}19'05''$ an arc distance of 178.12 feet, having a radius of 175.00 feet and a chord bearing North $51^{\circ}55'12''$ East, a distance of 170.53 feet to a point of tangent; Thence, along said tangent, North $81^{\circ}04'44''$ East, a distance of 149.92 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $102^{\circ}11'47''$ an arc distance of 312.14 feet, having a radius of 175.00 feet and a chord bearing South $47^{\circ}49'22''$ East, a distance of 272.38 feet to a

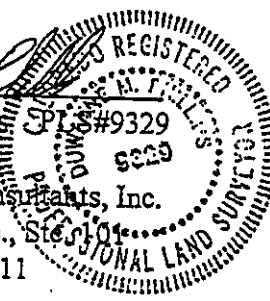
Exhibit 4

point of tangent; Thence, along said tangent, South 03°16'32" West, a distance of 103.23 feet; Thence North 72°22'42" East, a distance of 333.79 feet; Thence North 55°55'54" East, a distance of 148.32 feet; Thence North 37°29'29" East, a distance of 239.39 feet to a point 60.00 feet South of the North line of the Northwest Quarter of said Section 3; Thence, along a line 60.00 feet South of and parallel with said North line of the Northwest Quarter of Section 3, North 89°01'25" East, a distance of 278.16 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 2,178,426 square feet or 50.010 acres, more or less.

Bearings are based on the North line of the Northwest Quarter of said Section 3 being North 89°01'25" East.


 DuWayne M. Phillip
 For and on Behalf of
 Rocky Mountain Consultants, Inc.
 8301 E. Prentice Ave., Ste 101
 Englewood, Co. 80111
 (303) 741-6000



Date: 1/27/97

9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B1411 - P0168 - \$55.00 - 7/ 11

REDHAWK
HOLES 1-5 LEGAL DESCRIPTION
RMC JOB NO. 0965.010.06
DOC. C:\projects\0965010\holes1_5.leg
JAN. 24, 1997 JW

LEGAL DESCRIPTION

Exhibit 4


A parcel of land located in the North Half of Section 3, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:

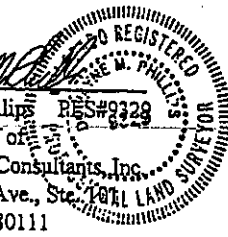
Commencing at the North Quarter corner of said Section 3, thence, along the West line of the Northeast Quarter of said Section 3, South 00°31'33" East, a distance of 1581.09 feet to the TRUE POINT OF BEGINNING.

Thence North 85°38'45" East, a distance of 72.30 feet; Thence South 78°45'14" East, a distance of 522.70 feet; Thence South 60°19'03" East, a distance of 404.15 feet; Thence North 83°59'24" East, a distance of 61.79 feet; Thence North 20°52'09" East, a distance of 139.68 feet; Thence North 68°00'41" East, a distance of 475.27 feet to a point on a curve; Thence along the arc of said curve to the left through a central angle of 21°50'11" an arc distance of 201.99 feet, having a radius of 530.00 feet and a chord bearing North 89°12'43" East, a distance of 200.77 feet to a point of tangent; Thence, along said tangent, North 78°17'38" East, a distance of 60.69 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 90°00'00" an arc distance of 39.27 feet, having a radius of 25.00 feet and a chord bearing South 56°42'22" East, a distance of 35.36 feet to a point of tangent; Thence, along said tangent, South 11°42'22" East, a distance of 375.38 feet; Thence South 82°17'07" West, a distance of 430.71 feet; Thence North 88°59'20" West, a distance of 372.00 feet; Thence South 87°50'50" West, a distance of 663.62 feet; Thence North 68°33'51" West, a distance of 470.00 feet; Thence South 68°37'47" West, a distance of 584.83 feet; Thence South 69°52'57" West, a distance of 147.97 feet; Thence South 64°47'30" West, a distance of 295.97 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of 06°27'27" an arc distance of 63.68 feet, having a radius of 565.00 feet and a chord bearing North 21°58'47" West, a distance of 63.64 feet; Thence North 21°36'48" West, a distance of 100.12 feet; Thence North 18°45'04" West, a distance of 178.15 feet; Thence North 61°02'22" East, a distance of 580.30 feet; Thence North 85°38'45" East, a distance of 609.05 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 955,614 square feet or 21.938 acres, more or less.

Bearings are based on the North line of the Northwest Quarter of said Section 3 being North 89°01'25" East.


DuWayne M. Phillips
For and on Behalf of
Rocky Mountain Consultants, Inc.
8301 E. Prentice Ave., Ste. 100
Englewood, Co. 80111
(303) 741-6000



Date: 1/27/97

9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B1411 - P0169 - \$55.00 - 8/ 11

REDHAWK
HOLES 6-7 LEGAL DESCRIPTION
RMC JOB NO. 0965.010.06
DOC. C:\projects\0965010\holes6_7.leg
JAN. 24, 1997 JW

Exhibit 4

LEGAL DESCRIPTION

A parcel of land located in the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:

BEGINNING at the East Quarter corner of said Section 4, Thence, along the South line of said Northeast Quarter of Section 4, North $89^{\circ}53'56''$ West, a distance of 1229.33 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $62^{\circ}02'15''$ an arc distance of 189.48 feet, having a radius of 175.00 feet and a chord bearing North $13^{\circ}02'28''$ West, a distance of 180.36 feet to a point of tangent; Thence, along said tangent, North $17^{\circ}58'39''$ East, a distance of 658.97 feet; Thence South $50^{\circ}07'50''$ West, a distance of 707.58 feet; Thence North $80^{\circ}54'36''$ West, a distance of 140.41 feet; Thence South $28^{\circ}37'43''$ West, a distance of 203.84 feet; Thence South $41^{\circ}39'53''$ West, a distance of 255.40 feet to a point on said South line of the Northeast Quarter of Section 4; Thence, along said South line, North $89^{\circ}53'56''$ West, a distance of 448.41 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of $64^{\circ}52'51''$ an arc distance of 203.83 feet, having a radius of 180.00 feet and a chord bearing North $18^{\circ}13'28''$ West, a distance of 193.11 feet to a point of tangent; Thence, along said tangent, North $14^{\circ}12'57''$ East, a distance of 159.44 feet; Thence North $26^{\circ}36'32''$ East, a distance of 596.79 feet; Thence North $21^{\circ}41'33''$ East, a distance of 519.46 feet; Thence North $35^{\circ}12'02''$ East, a distance of 346.59 feet to a point on a curve; Thence along the arc of said curve to the left through a central angle of $32^{\circ}58'02''$ an arc distance of 201.39 feet, having a radius of 350.00 feet and a chord bearing South $51^{\circ}00'32''$ East, a distance of 198.62 feet; Thence South $08^{\circ}01'12''$ West, a distance of 327.14 feet; Thence South $83^{\circ}14'39''$ East, a distance of 500.00 feet; Thence North $53^{\circ}32'05''$ East, a distance of 101.15 feet; Thence North $35^{\circ}22'13''$ East, a distance of 661.42 feet; Thence North $83^{\circ}56'10''$ East, a distance of 366.49 feet; Thence South $39^{\circ}42'10''$ East, a distance of 50.00 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of $16^{\circ}50'04''$ an arc distance of 124.87 feet, having a radius of 425.00 feet and a chord bearing South $48^{\circ}07'12''$ East, a distance of 124.42 feet to a point of tangent; Thence, along said tangent, South $56^{\circ}32'14''$ East, a distance of 102.76 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $02^{\circ}59'35''$ an arc distance of 19.59 feet, having a radius of 375.00 feet and a chord bearing South $55^{\circ}02'26''$ East, a distance of 19.59 feet to a point of tangent; Thence, along said tangent, South $53^{\circ}32'38''$ East, a distance of 260.07 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of $47^{\circ}46'20''$ an arc distance of 354.36 feet, having a radius of 425.00 feet and a chord bearing South $77^{\circ}25'48''$ East, a distance of 344.18 feet to a point of tangent; Thence, along said tangent, North $78^{\circ}41'02''$ East, a distance of 13.04 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of $84^{\circ}50'34''$ an arc distance of 22.21 feet, having a radius of 15.00 feet and a chord bearing South $58^{\circ}53'41''$ East, a distance of 20.24 feet to a point of reverse curve; Thence along the arc of said curve to the left through a central angle of $48^{\circ}11'20''$ an arc distance of 361.65 feet, having a radius of 430.00 feet and a chord bearing South $40^{\circ}34'04''$ East, a distance of 351.09 feet; Thence South $39^{\circ}24'01''$ East, a distance of 118.71 feet; Thence South $07^{\circ}34'23''$

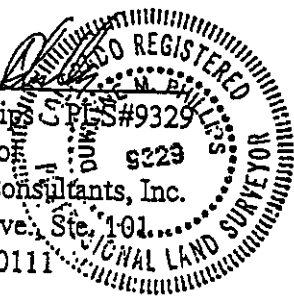
Exhibit 4

East, a distance of 460.09 feet; Thence North 75°10'35" East, a distance of 390.59 feet; Thence North 89°47'59" East, a distance of 317.52 feet; Thence South 15°53'19" East, a distance of 100.12 feet to a point on a curve; Thence along the arc of said curve to the left through a central angle of 06°27'27" an arc distance of 71.57 feet, having a radius of 635.00 feet and a chord bearing South 21°58'47" East, a distance of 71.53 feet; Thence South 64°47'30" West, a distance of 250.78 feet; Thence South 00°10'47" East, a distance of 349.67 feet to a point on the South line of said Northwest Quarter of Section 3; Thence, along said South line, South 89°25'48" West, a distance of 1297.02 feet to the POINT OF BEGINNING.

Said parcel of land contains 4,354,646 square feet or 99.969 acres, more or less.

Bearings are based on the South line of said Northeast Quarter of Section 4 being North 89°53'56" West.

DuWayne M. Phillips
 DuWayne M. Phillips
 For and on Behalf of
 Rocky Mountain Consultants, Inc.
 8301 E. Prentice Ave., Ste. 101
 Englewood, Co. 80111
 (303) 741-6000



Date: 1/22/97

9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B1411 - P0171 - \$55.00 - 10/ 11

REDHAWK
HOLES 8-9 & 13-18 LEGAL DESCRIPTION
RMC JOB NO. 0965.010.06
DOC. C:\projects\0965010\hole8_18.leg
JAN. 24, 1997 JW

LEGAL DESCRIPTION

Exhibit 4

A parcel of land located in the Northwest Quarter of Section 3 and the Northeast Quarter of Section 4, Township 8 South, Range 67 West of the Sixth Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado being more particularly described as follows:

Commencing at the Northwest corner of said Section 3, thence, along the West line of said Northwest Quarter of Section 3, South 01°12'47" East, a distance of 608.56 feet to the TRUE POINT OF BEGINNING.

Thence South 27°59'11" East, a distance of 88.90 feet; Thence South 34°33'20" East, a distance of 698.52 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of 84°59'34" an arc distance of 22.21 feet, having a radius of 15.00 feet and a chord bearing South 36°15'45" West, a distance of 20.24 feet to a point of tangent; Thence, along said tangent, South 78°41'02" West, a distance of 13.04 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 47°46'20" an arc distance of 312.67 feet, having a radius of 375.00 feet and a chord bearing North 77°25'48" West, a distance of 303.69 feet to a point of tangent; Thence, along said tangent, North 53°32'38" West, a distance of 260.07 feet to a point of curve; Thence along the arc of said curve to the left through a central angle of 02°59'35" an arc distance of 22.20 feet, having a radius of 425.00 feet and a chord bearing North 55°02'26" West, a distance of 22.20 feet to a point of tangent; Thence, along said tangent, North 56°32'14" West, a distance of 102.76 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 16°50'04" an arc distance of 110.18 feet, having a radius of 375.00 feet and a chord bearing North 48°07'12" West, a distance of 109.78 feet to a point of tangent; Thence, along said tangent, North 39°42'10" West, a distance of 127.02 feet; Thence North 13°26'24" West, a distance of 502.64 feet; Thence South 70°35'30" West, a distance of 256.16 feet to a point of curve; Thence along the arc of said curve to the right through a central angle of 55°41'36" an arc distance of 170.11 feet, having a radius of 175.00 feet and a chord bearing North 81°33'42" West, a distance of 163.49 feet; Thence South 39°16'31" West, a distance of 970.16 feet to a point on a curve; Thence along the arc of said curve to the right through a central angle of 66°59'33" an arc distance of 350.77 feet, having a radius of 300.00 feet and a chord bearing North 56°36'15" West, a distance of 331.13 feet to a point of tangent; Thence, along said tangent, North 23°06'28" West, a distance of 30.62 feet; Thence North 39°15'22" East, a distance of 916.08 feet; Thence North 51°46'21" East, a distance of 251.17 feet to a point 60.00 feet South of and parallel with said North line of the Northeast Quarter of Section 4; Thence, along a line 60.00 feet South of and parallel with said North line of the Northeast Quarter of Section 4, North 89°31'49" East, a distance of 814.02 feet; Thence South 40°43'39" East, a distance of 73.33 feet; Thence South 13°18'38" East, a distance of 411.12 feet; Thence South 27°59'11" East, a distance of 103.40 feet to the TRUE POINT OF BEGINNING.

Said parcel of land contains 1,020,230 square feet or 23.421 acres, more or less.

Bearings are based on the North line of said Northeast Quarter of Section 4 being North 89°31'49" East.

DuWayne M. Phillips
 DuWayne M. Phillips PLS#9329
 For and on Behalf of
 Rocky Mountain Consultants, Inc.
 8301 E. Prentice Ave., Ste. 500
 Englewood, Co. 80111
 (303) 741-6000



Date: 1/27/97

9710204 - 02/25/97 16:06 - RETA A CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
 B1411 - P0172 - \$55.00 - 11/ 11

REDHAWK
 HOLES 10-12 LEGAL DESCRIPTION
 RMC JOB NO. 0965.010.06
 DOC. C:\projects\0965010\hol10_12.leg
 JAN. 24, 1997 JW

(EXEMPLAR – NOT FOR EXECUTION)
EXHIBIT 5
PARTIAL ASSIGNMENT AND ASSUMPTION
OF
SUBDIVISION IMPROVEMENTS AGREEMENT

This Assignment and Assumption (this "Assignment") is made this _____ day of _____, 200____, by and between _____ (Assignor"), whose address is _____, Attention _____, and _____, a _____ ("Assignee") whose address _____.

The parties agree as follows:

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 Red Hawk Filing No. 3 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 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 Improvements Agreement; and (e) the obligation to perform all warranty obligations pertaining to Builder's Improvements.

(EXEMPLAR – NOT FOR EXECUTION)

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 18 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:

By: _____
President

ATTEST:

Secretary

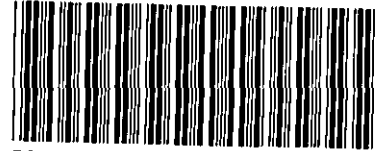
(EXEMPLAR – NOT FOR EXECUTION)
EXHIBIT A
TO
PARTIAL ASSIGNMENT AND ASSUMPTION
OF
SUBDIVISION IMPROVEMENTS AGREEMENT

Description of Improvements to be constructed by Assignee

58
04
After recorder return to:
Town of Castle Rock
100 Wilcox Street
Castle Rock, CO 80104
Attn: Town Attorney

OFFICIAL RECORDS
DOUGLAS COUNTY CO
JACK ARROWSMITH
CLERK & RECORDER
RECORDING FEE: \$26.00
5 PGS

2007066107
08/17/2007 10:19 AM



2007066107 5 PGS

**FIRST AMENDMENT TO
RED HAWK FILING NO. 3
SUBDIVISION IMPROVEMENTS AGREEMENT**

DATE: July 25, 2007.

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

LENNAR COLORADO, LLC, a Colorado limited liability company
(Subdivider), 9990 Park Meadows Drive, Lone Tree, Colorado 80124.

**INCIDENTAL
OWNER:** **ACACIA CREDIT FUND 10-A L.L.C.**, a Delaware limited liability
company, c/o Acacia Capital Corporation, 400 East Van Buren Suite
650, Phoenix, Arizona 85004-2293 (Acacia).

RECITALS:

A. The Town and Subdivider are parties to the Red Hawk Filing No. 3 Subdivision Improvements Agreement dated February 3, 2006, recorded in the Records on February 27, 2006 at Reception No. 2006015963 (SIA).

B. It has been determined it is necessary to amend the SIA to provide for phasing of construction of the Improvements and to address construction of the public trail system through the Property.

COVENANTS:

NOW, THEREFORE, in consideration of these mutual promises, the parties agree and covenant as follows:

Section 1. Amendment. Section 1. Definitions of the SIA is amended to incorporate

the following definitions:

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 (Public and Private) 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 of Public Works.

Any reference in the SIA to Improvements shall now mean Phase Improvements. Any reference in the SIA to Landscaping shall now mean Phase Landscaping.

Section 2. Amendment. Section 15 of the SIA is amended in its entirety to read as follows:

Section 15. Trail Construction. Subdivider shall pay to Town cash-in-lieu in the amount of \$176,300 for all trails and the associated Tract A Landscaping and mitigation as depicted on the Final PD Site Plan and the approved civil construction plans for said trail. Town will construct such trail and landscaping mitigation at its expense when deemed necessary.

Section 3. Ratification. In all other respects, the SIA shall remain in force and effect.

Section 4. Recordation. This 1st Amendment to the Red Hawk Filing No. 3 Subdivision Improvements Agreement shall be recorded in the public records of Douglas County, Colorado.


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TOWN OF CASTLE ROCK



Mark Stevens, Town Manager

Approved as to form:

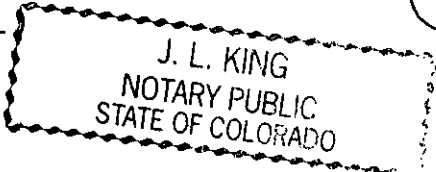
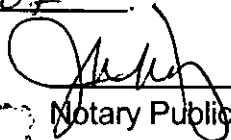


Robert J. Slentz, Town Attorney

STATE OF COLORADO)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 25th day of July, 2007, by Mark Stevens as Town Manager the Town of Castle Rock.

Witness my official hand and seal.
My Commission expires: 9-21-07

(SEAL)  

Notary Public

INCIDENTAL OWNER:

ACACIA CREDIT FUND 10 – A L.L.C., a
Delaware limited liability company.

By: Fund 10 – A Management Company L.L.C, a Delaware
limited liability company.

Its: Managing Member

By: Acacia Capital Corporation, a California corporation

It: Managing Member

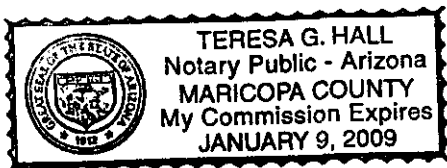
By: *Steven S. Benson*
Steven S. Benson

Its: *Executive Vice President*

STATE OF)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this 16th day of
July, 2007 by Steven S. Benson as Exec. Vice President for Acacia
Credit Fund 10 – A L.L.C., a Delaware limited liability company..

Witness my hand and official seal.
My commission expires: 01/09/09



Teresa G. Hall
Notary Public

*
Acacia Capital Corporation, Managing member of Fund 10-A Management
Company L.L.C., Managing member of