

RESOLUTION NO. 2045

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
AUTHORIZING THE EXECUTION OF A LICENSE AGREEMENT
WITH THE COLORADO SCHOOL OF MINES**

WHEREAS, the Colorado School of Mines is the owner of a structure located at 1610 Illinois Street, known as Brown Hall, which structure includes a concrete stairway and masonry walls located within a portion of the 17th Street right-of-way, City of Golden; and

WHEREAS, the City of Golden, Colorado is the owner of the 17th Street right-of-way; and

WHEREAS, the Colorado School of Mines has requested authorization to alter the existing encroaching stairway, slightly decreasing the depth of encroachment, and also desires to construct and maintain a raised landscape planter within a portion of the 17th Street right of way; and

WHEREAS, the portion of 17th Street right-of-way requested for the temporary private use is not otherwise being used for public municipal purposes; and

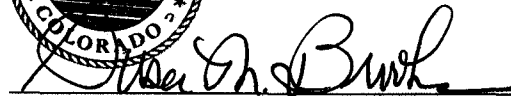
WHEREAS, the Colorado School of Mines wishes to agree as to certain conditions and provisions under which the affected portion of the public right-of-way of 17th Street may be utilized for the existing and proposed structures.

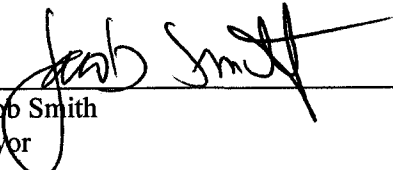
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

City Council hereby approves the license agreement between the City and Colorado School of Mines. The Mayor is authorized to execute on behalf of the City of Golden, a license agreement with the Colorado School of Mines, substantially in the form attached hereto as Exhibits A.

Adopted this 22nd day of April, 2010.




Susan M. Brooks, MMC
City Clerk


Jacob Smith
Mayor

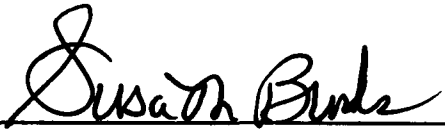
APPROVED AS TO FORM:


David S. Williamson
City Attorney

I, Susan M. Brooks, City Clerk of the City of Golden, Colorado, do hereby certify that the foregoing is a true copy of a certain Resolution adopted by the City Council of the City of Golden, Colorado at a regular business meeting thereof held on the 22nd day of April, A.D., 2010.



ATTEST:



Susan M. Brooks, City Clerk of the City of
Golden, Colorado

LICENSE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2010, by and between the CITY OF GOLDEN, COLORADO, a municipal corporation organized under the laws of the State of Colorado, (the "City"), with offices at 911 Tenth Street, Golden, Colorado, and The Board of Trustees of the Colorado School of Mines, for an on behalf of the COLORADO SCHOOL OF MINES, whose address is 1500 Illinois Street, Golden, Colorado 80401.

A. The Colorado School of Mines, is the owner of Block 78, South Side of Clear Creek in the City of Golden a.k.a. 1610 Illinois Street and the City of Golden is the owner of the 17th Street right-of-way.

B. The Colorado School of Mines desires to make certain improvements to its property, which include the alteration of existing concrete steps in the street right-of-way, and the construction of a new raised landscape planter within the 17th Street right of way.

C. The parties hereto wish to agree as to the nature, terms and conditions under which the Colorado School of Mines may alter and construct improvements within the 17th Street right-of-way.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE CITY AND THE COLORADO SCHOOL OF MINES AGREE AS FOLLOWS:

1. License. The City grants to the Colorado School of Mines a non-exclusive revocable license to locate, construct and maintain within the affected right-of-way area described as follows:
Commencing at the southwest corner of Block 78, South of Clear Creek, thence from the point of beginning easterly along the southerly line of Block 78 a distance of 35.0 feet, thence southerly on a line perpendicular to the southerly line of Block 78 a distance of 8 feet to a point in 17th Street right-of-way, thence easterly along a line parallel to southerly line of Block 78 a distance of 160 feet to a point in 17th Street right-of-way, thence northerly 8 feet to a point on the southerly line of Block 78, thence westerly a distance of 160 feet to the point of beginning.
2. Construction. Plans for the construction of the improvement which will be within the 17th Street right-of-way shall be submitted to and approved by the City. The design, construction and maintenance of the improvements shall be the sole responsibility of the Colorado School of Mines.
3. Maintenance. The Colorado School of Mines shall, at its expense, maintain the improvements in good condition including the landscape within the above described area.

4. **General Obligations with Respect to Initial Construction and Maintenance Work.**

- a. All work performed by the Colorado School of Mines pursuant to this Agreement shall be done:
- 1) In a good workmanlike manner, and
 - 2) In a timely and expeditious manner, and
 - 3) In a manner which minimizes inconveniences to the public and individuals, and
 - 4) In accordance with all codes, rules and regulations of the City, if applicable.
- b. Inspection -- All work performed by the Colorado School of Mines within the right-of-way shall be subject to inspection by the City. The contractor performing the work shall apply for a curb, gutter and sidewalk permit prior to starting the work. The Colorado School of Mines shall promptly perform any reasonable remedial action as required by the City pursuant to the inspection.

5. **Compliance with laws.** This Agreement relates only to permission to encroach onto a public right-of-way under the terms and conditions set forth herein. The execution of this license agreement shall not relieve the Colorado School of Mines from complying with provision of the Golden Municipal Code, if applicable, including compliance with zoning ordinances and subdivision regulations, if applicable, nor shall this Agreement be construed as approval by the City to construct the improvements contemplated by the Colorado School of Mines to the extent that City approvals or permits are otherwise required by the Golden Municipal Code or statute, if applicable. The execution of this license agreement, and the improvements constructed pursuant to this Agreement, shall not relieve the Colorado School of Mines, or otherwise be construed as a release or waiver, with respect to any already existing obligation, if any, of the Colorado School of Mines to not interfere with the subjacent lateral support of the City's right-of-way.

6. **Police Power Reserved.** The rights granted herein shall not limit or otherwise restrict the right of the City to exercise its police power with respect to its control of the right-of-way.

7. **Termination.** Either party may terminate this Agreement, with or without cause, by providing the other party with 120 days written notice. Upon termination, and at the request of the City, the Colorado School of Mines shall remove, at its expense, all improvements located within the right-of-way pursuant to this Agreement if the City determines, in its sole discretion, that such improvements may, now or in the future, constitute a hazardous condition or otherwise interfere with a public use of the right-of-way. All property and improvements affected by such a removal shall be restored by the Colorado School of Mines to substantially its former condition after said removal.

8. Assignment. With the prior written permission of the City, such permission not to be unreasonably withheld, the Colorado School of Mines may assign any or all of its duties and responsibilities set forth in this Agreement.

CITY OF GOLDEN

THE COLORADO SCHOOL OF MINES

Jacob Smith
Mayor

By: _____

Date:

ATTEST:

Susan M. Brooks
City Clerk

Date:

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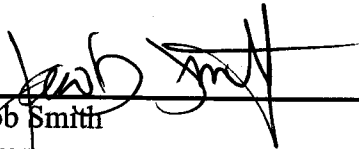
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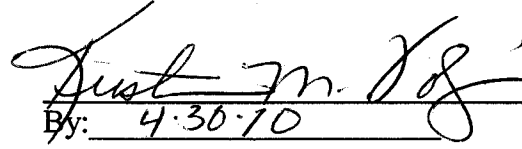
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CITY OF GOLDEN

THE COLORADO SCHOOL OF MINES

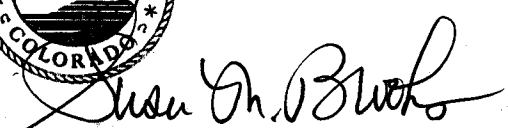


Jacob Smith
Mayor



By: 4-30-10

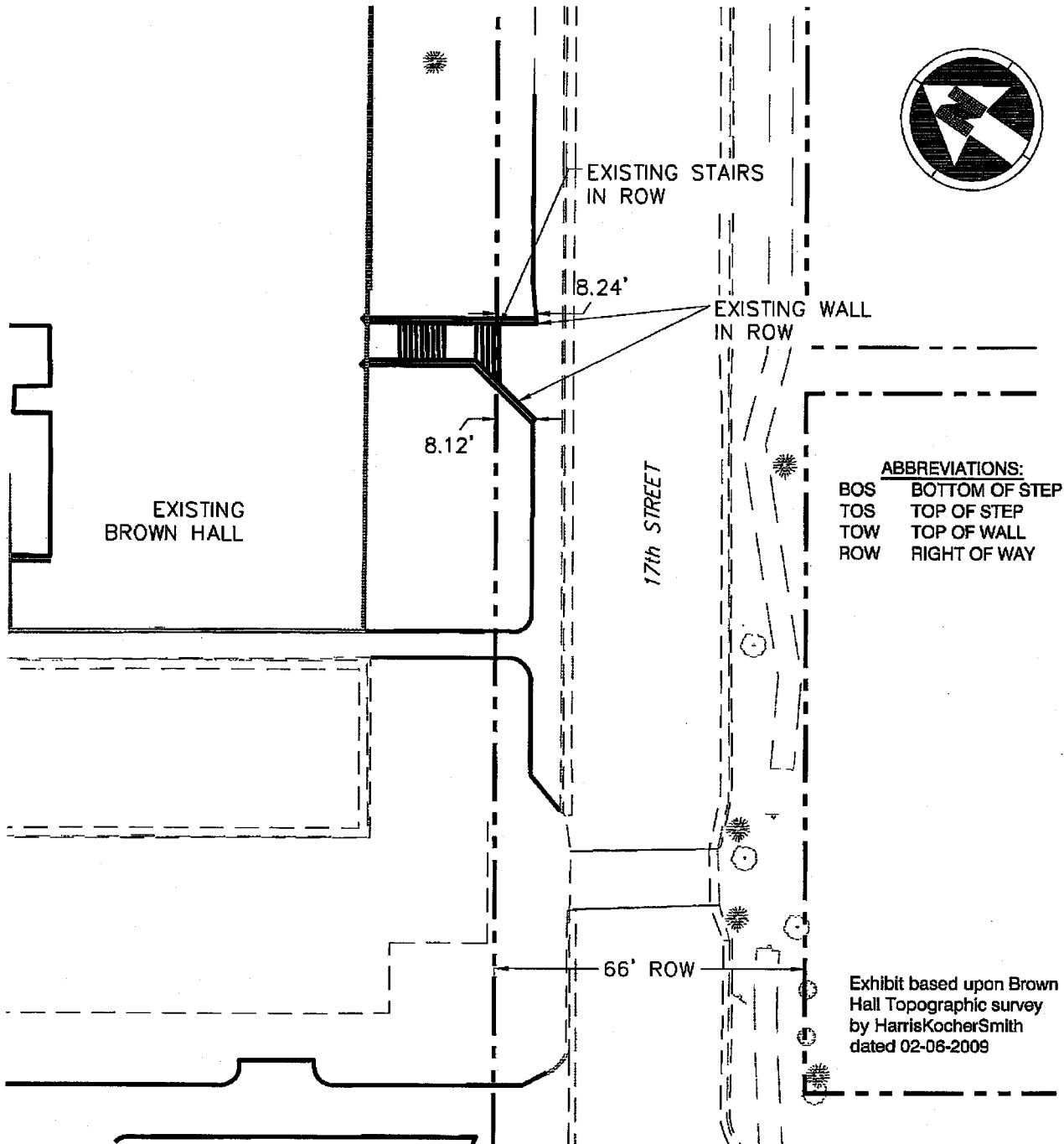
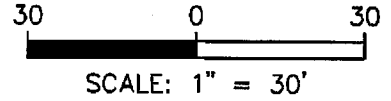



Susan M. Brooks
City Clerk

Date: 4/22/10

3198 Speer Boulevard
Denver, CO, 80211
303 294 9448
Fax 303 294 0762
amd@amdaarchitects.com

**AndersonMasonDale
Architects**



17th Street ROW License Agreement Exhibit: Existing Condition

Project Number 20080037.00
Brown Hall Addition & Renovation
Golden, CO

Issue PUD Revision
Drawing Date 16 March, 2010
Drawn By JBW
Reference Drawing PUD-2

CSK-A

3188 Speer Boulevard
Denver, CO, 80211
303 294 9448
Fax: 303 294 0762
amd@amdarchitects.com

**AndersonMasonDale
Architects**

30 0 30
SCALE: 1" = 30'

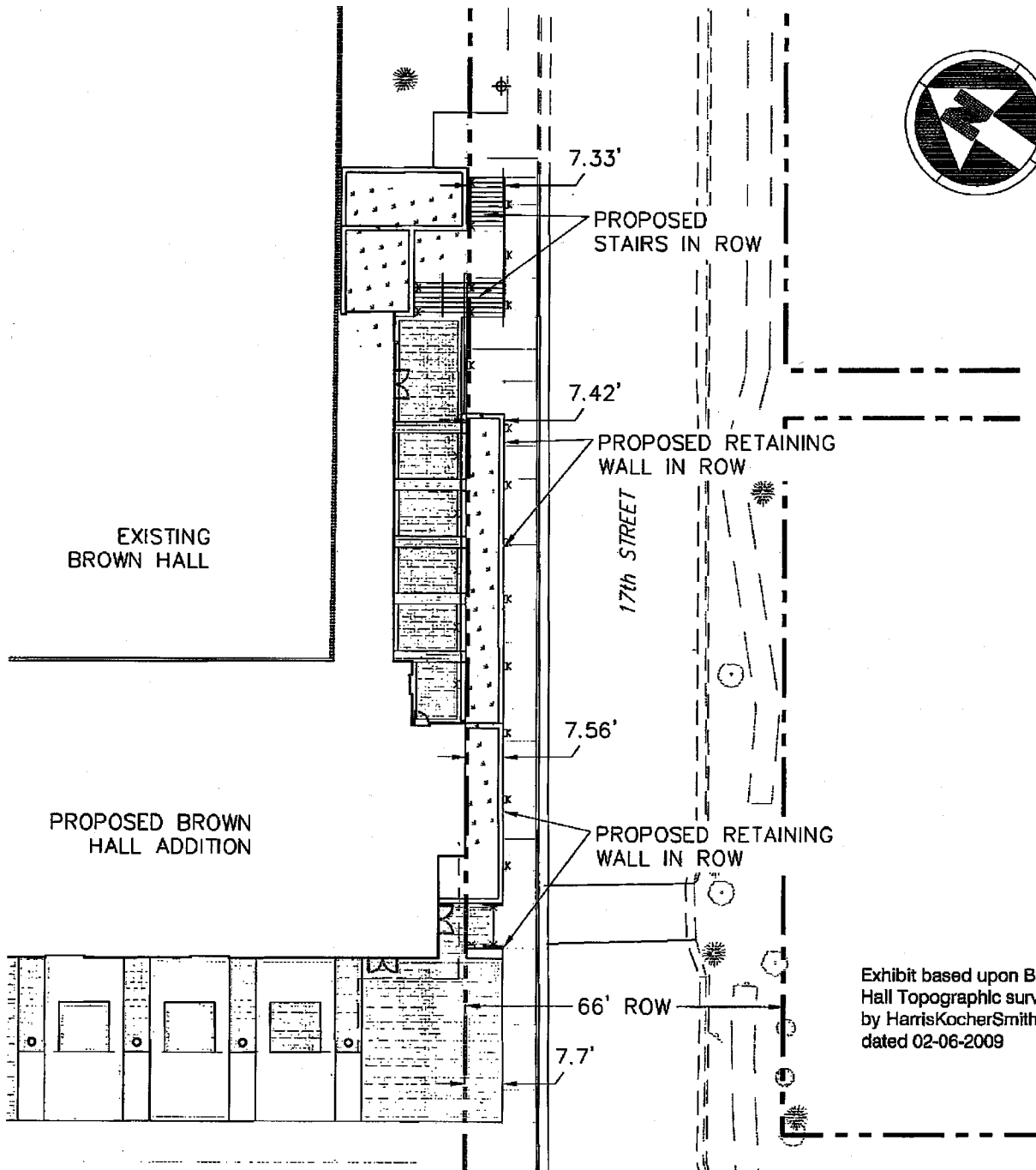
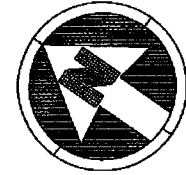


Exhibit based upon Brown Hall Topographic survey by HarrisKocherSmith dated 02-06-2009

17th Street ROW License Agreement Exhibit: Proposed Condition

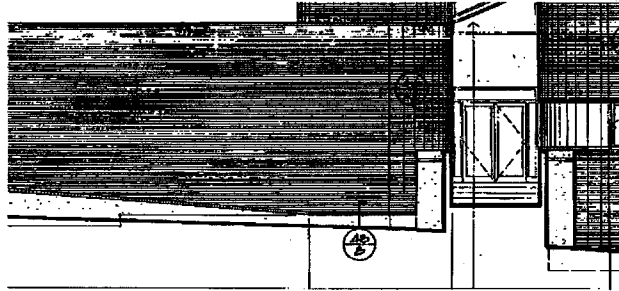
Project Number 20080087.00 Brown Hall Addition & Renovation Golden, CO

Issue PUD Revision
Drawing Date 16 March, 2010
Drawn By JBW
Reference Drawing PUD-2

CSK-B

3198 Speer Boulevard
Denver, CO, 80211
303 294 9448
Fax 303 294 0762
amd@amdarchitects.com

**AndersonMasonDale
Architects**

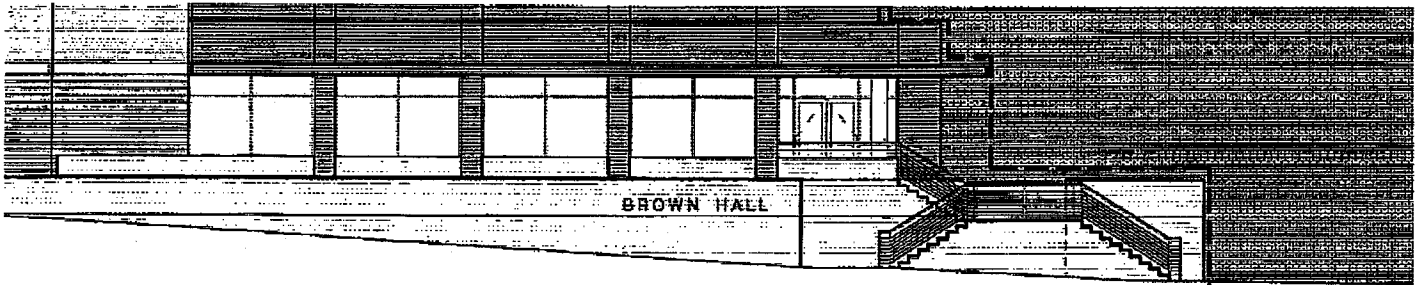


EXISTING EXTERIOR STAIRWAY



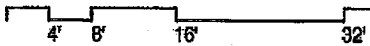
1/16" = 1'-0"

1
CSK-C



NEW ADDITION | EXISTING BUILDING

PROPOSED EXTERIOR STAIRWAY



1/16" = 1'-0"

2
CSK-C

17th Street ROW License Agreement Exhibit: Proposed Condition

Project Number 20080037.00
Brown Hall Addition & Renovation
Golden, CO

Issue PUD Revision
Drawing Date 16 March, 2010
Drawn By SKH
Reference Drawing PUD-3

CSK-C

**PARTIAL WATER AND WASTEWATER SYSTEM DEVELOPMENT FEE
DEFERRAL AGREEMENT**

This Agreement is effective the 14th day of April, 2011, by and between **Francis Cavanaugh**, whose address is 911 6th Street, Unit 3 (aka 909 6th Street) Golden, Colorado, 80403 (Applicant), and the **City of Golden**, a Colorado municipal corporation of the County of Jefferson, State of Colorado (City).

WHEREAS, the Applicant has requested and the City is willing to defer a portion of the water and wastewater system development fee associated with the conversion of the 1875 Miners Condominium project into the 1875 Miners Townhome development; and

WHEREAS, City Council on December 9, 2010 authorized staff to work with the three owners within the existing condominium association to assist them in their goal to install separate water and wastewater services to each of the three dwelling units; and

WHEREAS, upon conversion of the property from condominium ownership to townhome ownership, the Applicant will own fee title to the Benefitted Property, as defined below.

NOW THEREFORE, in consideration of the recitals, premises, mutual covenants and agreements herein contained, the parties agree as follows:

AGREEMENT PERTAINING TO PARTIAL FEE DEFERRAL

1 Per City Council's direction on December 9, 2010, the total water and wastewater system development fee associated with the conversion of the condominium project to a townhome project is \$38,112 (plus associated meter set and street cut permit fees). Per the request of the three owners (who are splitting the City fees equally) upon the submittal of \$28,112 of the above water and wastewater system development fee plus anticipated meter set fees, the City hereby agrees to defer the payment of \$10,000 of the share owned by Francis Cavanaugh according to the following terms:

- A. This partial deferment represents a portion of development charges or fees which would otherwise be payable to the City by reason of the conversion to a townhome project. The specific beneficiary of the deferment is Lot 3, 1875 Miners Townhome Plat as recorded in the records of Jefferson County at Reception No. 2011031823 ("Benefitted Property").
- B. The maximum term of deferment shall be six years. The principal due as a result of this deferment shall be assessed an annual interest payment of 4.0% of the unpaid balance. Any unpaid principal or interest remaining as of July 15th, 2017 shall be due and payable at that time.
- C. Payments shall be due on January 15th and July 15th of each year, according to the amortization schedule in Exhibit A to this Agreement.

- D. The forgoing notwithstanding, the entire unpaid balance (principal and interest) shall be due in full upon the prior sale or conveyance of the Benefitted Property by the Applicant.
- E. Any deferred and unpaid amounts in conjunction with this provision of water and wastewater services shall constitute a perpetual and continuing lien upon the Benefitted Property to which the water and sanitary sewer services are provided. Such lien shall be prior and superior to all other liens, claims, titles and encumbrances whether prior in time or not, except liens for general taxes; provided, however, that the city may, in its sole discretion, subordinate such lien for the purpose of effecting development or construction on such property.
- F. In addition to other remedies as may be available to the city for non-payment of any water or sewer connection charges deferred pursuant to this section, the city may discontinue water service to the subject property following the procedures as are provided for in Chapter 13.08 of the Golden Municipal Code.

4. Recordation. This agreement shall be recorded with the Jefferson County Clerk and Recorder's office in conjunction with recordation of the documents that will effectuate the conversion of the property from condominiums to townhomes.

5. Notices. All notices, demands or other documents required or desired to be given to either party under this Agreement shall be made in writing and shall be deemed effective upon receipt and shall be personally delivered or mailed by certified mail as follows:

City: City Manager
City of Golden
911 - 10th Street
Golden, CO 80401

Applicant : Francis Cavanaugh
909 6th Street
Golden, CO 80403

6. Severability. If any covenant, stipulation or obligation of this Agreement is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of the Agreement. The parties hereby declare that they would have entered into this Agreement and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

7. Binding Effect of Agreement. This Agreement is personal to the parties executing it and is not transferable.


8. Remedies. It is understood and agreed by the parties that they shall have all available remedies for breach of this Agreement in law or in equity, including but not limited to

specific performance and damages. In the event of litigation related to this Agreement, the prevailing party shall be awarded its costs, expert fees and legal fees.

9. Venue. This Agreement shall be governed by the laws of the State of Colorado with venue in the County of Jefferson.

10. Entire Agreement. This Agreement contains the entire agreement between the parties and shall not be amended except by written agreement executed with the same formality of this Agreement.

FRANCIS CAVANAUGH



4/8/11

CITY OF GOLDEN:

By:

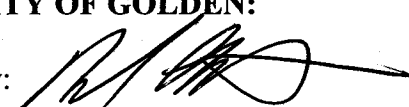


Michael C. Bestor,
City Manager
Susan Brink
City Clerk

EXHIBIT "A"

Pmt No.	Payment Date	Beginning Balance	Scheduled Payment	Extra Payment	Total Payment	Principal	Interest	Ending Balance
1	1/15/2012	\$ 10,000.00	\$ 945.60		\$ 945.60	\$ 745.60	\$ 200.00	\$ 9,254.40
2	7/15/2012	9,254.40	945.60	-	945.60	760.51	185.09	8,493.90
3	1/15/2013	8,493.90	945.60	-	945.60	775.72	169.88	7,718.18
4	7/15/2013	7,718.18	945.60	-	945.60	791.23	154.36	6,926.95
5	1/15/2014	6,926.95	945.60	-	945.60	807.06	138.54	6,119.89
6	7/15/2014	6,119.89	945.60	-	945.60	823.20	122.40	5,296.69
7	1/15/2015	5,296.69	945.60	-	945.60	839.66	105.93	4,457.03
8	7/15/2015	4,457.03	945.60	-	945.60	856.46	89.14	3,600.57
9	1/15/2016	3,600.57	945.60	-	945.60	873.58	72.01	2,726.99
10	7/15/2016	2,726.99	945.60	-	945.60	891.06	54.54	1,835.93
11	1/15/2017	1,835.93	945.60	-	945.60	908.88	36.72	927.05
12	7/15/2017	927.05	945.60	-	927.05	908.51	18.54	0.00