

RESOLUTION NO. 1620

**A RESOLUTION OF THE GOLDEN CITY COUNCIL
AUTHORIZING THE EXECUTION OF A LICENSE
AGREEMENT WITH KB HOMES**

WHEREAS, KB Homes is in the process of developing the Canyon View Subdivision Filing No. 2; and


WHEREAS, the City of Golden, Colorado approved the final plat for the Canyon View Subdivision Filing No. 2 on June 9, 2005 through Resolution No. 1569 with certain conditions, including the construction of the Joseph Circle right-of-way and the dedication of Tracts A and B; and

WHEREAS, the City and KB Homes wish to agree as to conditions under which a portion of the public right-of-way for Joseph Circle may be utilized by KB Homes for certain subdivision entry improvements.

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

Section 1. The Golden City Council hereby approves a license agreement with KB Homes, substantially in the form attached hereto as Exhibit 1. The Mayor is authorized to execute on behalf of the City of Golden, and the City Clerk to record such license agreement with the Jefferson County Clerk and Recorder.

Adopted this 17th day of November, 2005.

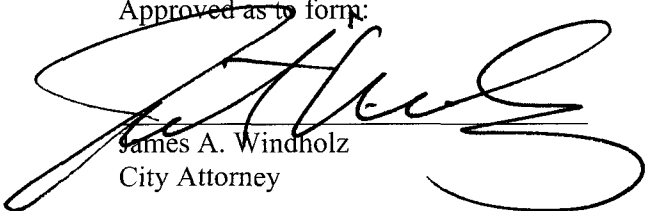


Charles J. Baroch
Mayor

ATTEST:


Susan M. Brooks, MMC
City Clerk

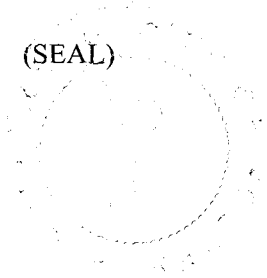
Approved as to form:


James A. Windholz
City Attorney

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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 meeting thereof held on the 17th day of November, A.D., 2005.

(SEAL)



ATTEST: *Dominique Fauble, Deputy*
Susan M. Brooks, City Clerk of the City of
Golden, Colorado

Exhibit 1

LICENSE AGREEMENT

THIS AGREEMENT is entered into this _____ day of _____, 2005 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 10th Street, Golden, Colorado and KB Homes, a Colorado Corporation (referred to as "Licensee").

- A. The Golden City Council approved a final subdivision plat for the subdivision entitled Canyon View Subdivision Filing No. 2 on June 9, 2005, by Resolution No. 1569.
- B. In said Canyon View Subdivision Filing No. 2 final subdivision plat, the original subdivider dedicated lands to the City for roadway purposes for the creation of Joseph Circle.
- C. In the course of said subdivision development, Licensee proposed to the City that the Licensee be permitted to erect and maintain a subdivision entry feature with signage and landscaping improvements, in the Joseph Circle right-of-way, Tract A and Tract B.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE CITY AND KB HOMES AGREE AS FOLLOWS:

1. License. The City grants to Licensee a non-exclusive revocable license to (1) erect and maintain the subdivision identification entry monument within the Joseph Circle right-of-way and in Tracts A and B, including landscaping and decorative rock walls incorporated into the concrete culvert which conveys Tucker Gulch below Joseph Circle, in accordance with the design specifications included within the architectural drawing attached to this agreement as Exhibit A; and (2), erect and maintain the subdivision identification sign in accordance with the locations and design specifications included within the drawing attached to this agreement as Exhibit B. Any such subdivision identifications sign must be approved by the Planning and Development Department, as in conformance with Chapter 18.32 of the Golden Municipal Code.

2. Construction. Plans for the construction of the improvements shall be submitted to and approved by the City. The design, construction and maintenance of the improvements shall be the sole responsibility of The Licensee.

3. Repair, Maintenance, and Restoration. Licensee shall, at its expense, maintain and keep in good repair all improvements constructed pursuant to this Agreement and properly restore to its original state any area disturbed pursuant to this Agreement in a manner acceptable to the City Manager upon termination of this Agreement. Said restoration shall include but not be limited to grading, revegetation, clean-up, and removal of all equipment and supplies. Ongoing maintenance, also at the expense of the Licensee, shall include but is not limited to, irrigation tap fees and payment for monthly utility costs such as electric, water, and sewer costs.

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

- a. All work performed by The Licensee 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 applicable codes, rules and regulations of the City.
- b. Inspection -- All work performed by The Licensee 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 Licensee shall promptly perform reasonable remedial action as required by the City pursuant to the inspection.
- c. Street Cut Permits- - Licensee shall comply with the "street-cut" requirement contained in Chapter 11.20 of the Golden Municipal Code.

5. Insurance. At all times during the term of this Agreement, Licensee shall maintain general liability insurance with policy limits per occurrence of at least \$500,000.00. The policy shall be written by an insurance carrier authorized to do business in the State of Colorado, and approved by the City. The policy shall include coverage on an "occurrence" basis, or include such extensions as may be required by the City in the event that the policy is written on a "claims made" basis. The City shall be included as a "co-insured" on such policy. Licensee shall provide the City with such documentation as may be necessary to establish compliance with this paragraph.

6. Indemnification and release. Licensee shall hold harmless, indemnify and defend the City from and against all liabilities, damages and claims which result from the design, location, operation, restoration, or maintenance of the activities which are the subject of this Agreement.

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

8. 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 property.

9. Termination. Either party may terminate this Agreement, with or without cause, by providing the other party with 30 days written notice. Upon termination, and at the request of the City, The Licensee shall remove, within 90 days from the date of termination, at its expense, all improvements located within the Joseph Circle right-of-way and Tracts A and B 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 Licensee to substantially its former condition after said removal.

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

CITY OF GOLDEN

KB Homes

Charles J. Baroch

Mr. John Healy, Senior Vice-President

ATTEST:

ATTEST:

Susan M. Brooks, MMC
City Clerk

By:
Secretary