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Jefferson County, Colorado

**RESOLUTION NO. 1569**

**A RESOLUTION OF THE GOLDEN CITY COUNCIL  
APPROVING THE CANYON VIEW SUBDIVISION FILING NO.  
2 FINAL PLAT AND AUTHORIZING THE EXECUTION OF A  
SUBDIVISION DEVELOPMENT AGREEMENT WITH RESPECT  
THERETO**

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WHEREAS, the Real Estate Council (subdivider) has submitted a proposed final subdivision plat for property within the City of Golden, State of Colorado, entitled Canyon View Subdivision Filing No. 2; and

WHEREAS, the City of Golden Planning Commission conducted a public hearing on Case No. PC04-53, the preliminary subdivision plat for Canyon View Subdivision Filing No. 2 on February 2, 2005 and recommended to the City Council that the preliminary plat be approved. City Council approved the preliminary plat on February 24, 2005; and

WHEREAS, on May 26, 2005, the Golden City Council conducted a public hearing upon the proposed final subdivision plat entitled Canyon View Subdivision Filing No. 2.

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

Section 1. The final subdivision plat for Canyon View Subdivision Filing No. 2 is hereby approved subject to the following conditions:

- a. The subdivider shall pay a cash fee in lieu of providing a school land dedication of \$57,553.96 prior to recording the final plat. The requirement is in accordance with the city subdivision ordinance and annexation agreement.
- b. The subdivider shall pay a cash fee in lieu of providing water rights of \$4,400 per dwelling unit and an additional \$500 per thousand square feet of landscaped irrigation, in accordance with city subdivision ordinance and annexation agreement. These fees are valid for up to one year from the final plat approval and after such time will be recalculated as per the Kilgroe Annexation No. 1 Official Development Plan.
- c. The subdivider shall pay applicable fees incurred as a result of the application approval, including, but not limited to, utility, remapping, public land dedication, cash-in-lieu fees, legal notice and legal review, and recording fees.
- d. The subdivider shall submit, within ninety (90) days of the date of this approval, all documents required by the Golden Municipal Code for finalization of the subdivision plat.
- e. Within ninety (90) days of the date of this resolution the subdivider shall execute a subdivision development agreement in a form satisfactory to the city attorney which shall provide, inter alia, that the subdivider(s) shall design, construct, install and warrant all public improvements on the property or otherwise serving the property at the developer's expense and provide financial surety, performance and maintenance guarantees for the same in a form and with such guarantor as may be satisfactory to the city attorney and city manager, including but not limited to the following improvements:

1. Domestic water and wastewater facilities as are necessary to serve the subdivision, said design and construction to be in accordance with plans approved by the city engineer, as in conformance with the city's engineering regulations.
2. The design and construction of all streets, trails, and sidewalks within the subdivision. The design and construction shall be in accord with the plans approved by the city engineer, as in compliance with the city's engineering regulations.
3. A prorata cost sharing for 15% of the right-of-way and construction costs for the Mesa Drive extension to Ford Street.
4. All drainage systems, including erosion abatement as are necessary to serve the subdivision, said design and construction to be in accord with the plans approved by the city engineer, as in compliance with the city's engineering regulations. Off-site drainage systems in designated easements shall consist of storm drainage detention and release facilities.
5. Street lighting, street signs, handicap ramps and street intersection, pavement markings, and such other street and sidewalk fixtures as may be required by the city engineer to comply with the city's ordinances and engineering specifications.
6. Establishment of a Homeowners Association with powers and authority to fulfill its obligations to own and maintain common areas within the subdivision.
7. In lieu of providing financial surety, performance and maintenance guarantees, the Subdivision Development Agreement may include a provision whereby conveyance of lots or tracts within the subdivision are prohibited, and Certificates of Occupancy withheld, until such time as all public improvements areas required by the Subdivision Development Agreement are fully completed and initially accepted by the city.

On behalf of the city, the City Manager is authorized to execute the Subdivision Development Agreement, including the cost sharing provision for the bike path and Mesa Drive extension.

- f. The final plat and plans shall contain a note requiring that any fence constructed and maintained along the east property line of the subdivision shall be constructed so as to appear at least 50% open visually.

Section 2. Approval of the final plat is conditioned on revisions to the plat in a form acceptable to the City Attorney providing for the reservation of either lot 1 or 5 of Block 2 as a future secondary access. The specific lot to be determined by the applicant and City Engineer before recording of the final plat. If the City initiates construction of the Mesa Drive extension between Ford Street and SH 93 within 2 years of plat approval, the reservation would be lifted and the lot would again be a buildable lot. The applicant would continue to make the pro-rata 15% share contribution to the extension. After two years, if the extension of Mesa Drive has not be initiated by the City, the reservation for potential secondary access would become permanent, however, the applicant would be relieved of any obligation for the Mesa Drive extension.

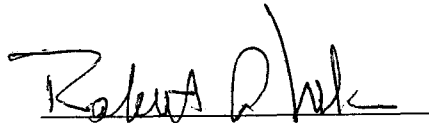
Section 3. The dedication of all streets, avenues, right-of-way, tracts, and easements, and all other places designated for public use as shown upon the final plat of the Canyon View Subdivisions No.

2 is hereby accepted by the City of Golden, subject however, to the condition that the city shall not undertake maintenance of any street or avenue, right-of-way, tract, easement or other place designated for public use until after construction of said public improvement has been satisfactorily completed by the land owner and accepted in writing by the City of Golden.

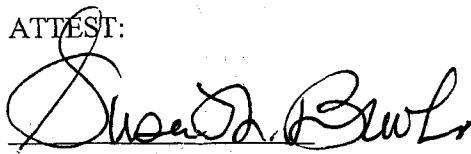
Section 4. The Mayor and City Clerk are hereby authorized and directed to certify upon the final subdivision plat, the city's approval and acceptance thereof. The City Clerk is hereby authorized and directed to file the subdivision plat with the Jefferson County Clerk and Recorder's office upon fulfillment of all conditions as indicated herein.

Section 5. Unless otherwise extended by City Council, the approval of the Canyon View Subdivisions Filing No. 2 shall be null and void if the conditions are not complied with within ninety (90) days of the date of this resolution.

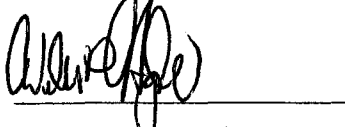
Adopted this 9th day of June, 2005.

  
Robert A. Nelson  
Mayor Pro Tem

ATTEST:

  
Susan M. Brooks, MMC  
City Clerk

APPROVED AS TO FORM:

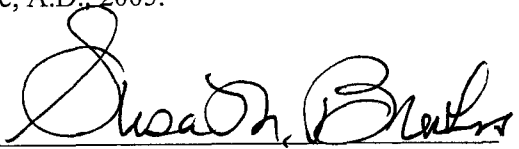
  
James A. Windholz  
City Attorney

4

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 9th day of June, A.D., 2005.

(SEAL)

ATTEST:



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



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Jefferson County, Colorado

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SUBAGR

## SUBDIVISION DEVELOPMENT AGREEMENT

### Canyon View Subdivision Filing No.2

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THIS AGREEMENT is entered into between the City of Golden, Colorado (City) and The Real Estate Council Inc. (Developer), this 24th day of June, 2005.

### RECITALS

A. REAL ESTATE COUNCIL INC. OWNS REAL PROPERTY (THE PROPERTY) WITHIN THE CITY GENERALLY LOCATED AT GOLDEN GATE CANYON ROAD AND COLORADO HIGHWAY 93 AND KNOWN AS THE SUBDIVISION APPROVED AS CANYON VIEW SUBDIVISION FILING NO.2.

B. THE DEVELOPER INTENDS TO IMPROVE AND/OR DEVELOP THE PROPERTY IN A MANNER AS AUTHORIZED BY THE SUBDIVISION APPROVED BY RESOLUTION NO.1569, ADOPTED BY THE CITY ON JUNE 9, 2005. CITY AND DEVELOPER ARE EXECUTING THIS AGREEMENT TO SET FORTH THEIR RESPECTIVE RIGHTS AND OBLIGATIONS WITH RESPECT TO THE PROPOSED USES OF THE PROPERTY AND THE PROPOSED IMPROVEMENTS THEREON.

C. THE CITY, PURSUANT TO THE GOLDEN MUNICIPAL CODE, REQUIRES EXECUTION OF A SUBDIVISION DEVELOPMENT AGREEMENT ESTABLISHING THE OBLIGATION FOR THE PROVISION OF SUCH IMPROVEMENTS NECESSITATED BY SUBDIVISION AND/OR DEVELOPMENT.

D. IN CONSIDERATION OF THE APPROVAL BY THE CITY OF THE PLAT, PLANS AND PROFILES OF THE SUBDIVISION KNOWN AS CANYON VIEW SUBDIVISION FILING NO.2, THE DEVELOPER, ITS HEIRS, SUCCESSORS, AND ASSIGNS AGREE TO COMPLETE THE PUBLIC IMPROVEMENTS AS PROVIDED HEREIN.

### AGREEMENT

#### 1.00 DEFINITIONS

Unless the context otherwise clearly indicates, the following words and phrases shall be defined as follows:

1.01 "City" shall refer to the City of Golden, Colorado, a Municipal Corporation organized pursuant to the laws of the State of Colorado, and shall include the City Manager, or his/her designed or other official, body or agency designated by statute, charter or ordinance to act on behalf of the City.

2

1.02 "Developer" shall include the owner or owners of the Property, and shall include any person acting in accordance with the duly executed power of attorney granting the attorney-in-fact full authority to act in the stead of the Developer.

1.03 "Improvements" shall include any public physical facilities and/or obligations identified by this Agreement and the plat, plans, and profiles, and applicable provisions of the subdivision and zoning ordinance approved by the City in conjunction with the Developer's subdivision/development application.

1.04 "Plat" shall refer to the subdivision plat approved by the City Council of Golden in Resolution No. 1569, and all conditions included therein.

1.05 "Comprehensive plan" shall refer to the Master Planning document of the City of Golden, as adopted by the Planning Commission and approved by the City Council, including all adopted and approved amendments thereto.

1.06 "Property" shall refer to the Property contained in the subdivision plat approved by the City Council of Golden in Resolution No. 1569.

## **2.00 IMPROVEMENTS REQUIRED -- SECURITY**

2.01 Improvements. Developer shall design, construct and provide all public improvements in accordance with the plat, plans and profiles, and the subdivision and zoning ordinances of the City of Golden, Colorado, including, but not limited to adequate drainage systems (on and off site as required to serve the subdivision), erosion control measures, streets, public thoroughfares (including curb, gutter, detached sidewalks, paving, handicap ramps, street signs, pavement markings), water and wastewater facilities to serve the subdivision, fire hydrants, noise abatement measures, right of way landscaping, 10' wide concrete trail with cost sharing as described in paragraph 2.04 below, potential Mesa Drive extension cost sharing as described in paragraph 2.05 below, and the submission of "as-built" plans for such public improvements. Such design and construction shall be in accordance with the plans approved by the City Engineer as in compliance with the city's engineering regulations in effect at the time of construction. The schedule of public improvements, hereto attached as Exhibit "A", outlines those improvements and the estimated costs of such public improvements.

Except as provided in paragraph 2.05 below, it shall be the responsibility of the Developer, at its sole expense, to design, construct and install such improvements for acceptance by the City, or appropriate Governmental entity, according to this Agreement, the plat, the applicable standards, rules and regulations of the City, or appropriate Governmental entity as the case may be, and in accordance with the approved plans and profiles submitted by the Developer and approved by the City. Such improvements shall be completed for initial acceptance within two years of the date hereof; provided, however, that such completion date may be extended for good cause shown in the discretion of the City. The Developer will maintain and repair such improvements until final acceptance thereof by the City and/or District, and/or appropriate Governmental entity.

2.02 Payment of Contractors, Materials, and Laborers. The Developer shall promptly make payments of all amounts due to persons supplying labor, materials or services in connection with the work provided for in this Agreement, and to any persons who may otherwise be entitled to assert a lien upon the Property by virtue of Section 38-22-101, et seq., C.R.S. In the event that any person asserts a lien upon the Property by virtue of Section 38-22-101, et seq., C.R.S., Developer will indemnify and defend the City with respect to the claimed lien, and shall further immediately take any and all steps as are necessary to remove lien from any property dedicated to the City regardless of the merits of the claimant of the lien.

2.03 Performance Surety. No conveyance, sale or transfer of title of the Property or any individual lot, lots, tract or tracts of land within the Property, except conveyances and dedications to the City shall be made; nor shall any Certificates of Occupancy be issued for any residential lots within the Property until the City of Golden has issued a Certificate of Compliance indicating that all public improvements required to serve the Property (with the exception of landscaping and the 10' wide concrete trail if collateral is provided to the City) are fully completed and initially accepted by the City, as more specifically provided for in this Agreement. This restriction on conveyance, sale or transfer of title shall run with the land and shall extend to and be binding upon the heirs, executors, legal representatives and assigns of the Developer.

The foregoing notwithstanding, the Developer may convey 100 percent of the lots or blocks of the subdivision, with the prior written consent of the City Manager, provided, however that such conveyance shall be subject to the foregoing restrictions on subsequent conveyances and restrictions upon Certificates of Occupancy. This provision shall not restrict the Developer from accepting financial deposits for lot reservations nor shall it restrict the issuance of Building Permits upon lots held by the Developer.

Alternatively, the Developer may choose to provide a performance guaranty to the City prior to, or contemporaneously with, the submission of the final plat to the City for recordation, the developer shall furnish to the City, in form and substance acceptable to the City Manager, a performance guaranty in an amount not less than 25% of the total estimated cost of the improvements, as set out in Exhibit A. The security shall be in the form of a irrevocable letter of credit, performance bond, or escrow of either cash or corporate or municipal bonds rated at least AA by Standard and Poor's or an equivalent rating by Moody's, with such escrow agreement as is acceptable to the City Attorney, subject to the following terms and conditions.

(A) The Irrevocable Letter of Credit, Performance Bond, or Escrow shall provide financial guarantee that the Developer will fulfill all obligations under the terms of this Agreement. Reference to exhibit's attached hereto is to establish the amount of the financial guarantee and shall not be construed to limit the liability of such guarantor to improvements set out in specific exhibits.

(B) The entity issuing the Performance Bond shall have at least an "A" Rating from Moody's or an equivalent rating as designated by a nationally recognized rating firm, and shall additionally be included in the most recent listing of companies holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies, Department of Treasury, Circular 570.

(C) The entity issuing the Irrevocable Letter of Credit must maintain an office or corresponding bank within the State of Colorado, and shall have a current rating of 125 or better from IDS Financial Services, Inc., or otherwise be approved by the City Treasurer.

(D) Developer shall not have greater than a 10% ownership or managerial control over the entity issuing any performance guaranty.

(E) In the event that prior to City acceptance of the improvements the Performance Guarantee should expire or the entity issuing the Performance Guarantee becomes non-qualifying, or the cost of improvements construction is reasonably determined by the City to be greater than the amount of security provided, then the City shall furnish the Developer with written notice of such conditions, and within 30 days of receipt of mailing of such notice, the Developer shall provide the City with a substituted qualifying Performance Guarantee, or augment the deficient security to achieve the required security. If such Performance Guarantee is not timely furnished, then the development activities, including, but not limited to, the issuing of building permits and certificates of occupancy may be suspended by the City pending compliance herewith.

(F) Letters of credit acceptable hereunder shall have an expiration date no sooner than six months following the scheduled completion of improvements.

(G) Developer may request and the City shall grant reductions in contract security for improvements constructed and initially accepted by the City, provided however that sufficient proportional security remains to ensure completion of all remaining obligations, but no less than the warranty security required by Section 5.06.

2.04 Cost Sharing for Highway 93 Bike path. City and Developer acknowledge that the Annexation Agreement for the Property, recorded at reception no. F1095547 contains provisions for cost sharing between the City and Developer for the 10' wide concrete trail within Tracts A and B of the subdivision and within the separately acquired City parcel described in Reception #F2181998. Said agreement provides that the City will bear 50% of the cost of construction of said trail, the preliminary estimate of such cost being as noted in Exhibit A. Upon completion of rough grading of the Property by Developer, Developer will cause the preparation of final design and construction plans and an engineer's estimate of cost of construction for said trail and submit such design and plans to the City for review and approval. Developer will secure a unit cost bid for the trail for submission and approval by the City. Proposed change orders must be approved by the City prior to their execution. If the bid exceeds the approved engineer's estimate included in the final trail plans by 10%, the City may require a formal competitive bidding process for the trail construction. If a formal competitive bidding process is required for the construction of the trail, the issuance of Certificates of Occupancy shall not be contingent upon the issuance of a Certificate of Completion by the City for the completion of the trail provided that collateral has been provided by the Developer for the Developer's share of the trail. The City will reimburse the Developer 50% of actual construction costs based upon invoices received. Developer must certify payment to the contractor prior to reimbursement by the City.

2.05 Cost Sharing for Mesa Drive extension. In the event that City Council approves construction of a public street generally aligning with Mesa Drive, and connecting Ford Street and Highway 93 (the Mesa Drive Extension) the Developer shall contribute to 15% of the total cost of



5

off-site right-of-way acquisition, and road design and construction. If the City does not award the bid for construction of the Mesa Drive Extension by July 15, 2007, the Developer's obligations with respect to construction of the Mesa Drive Extension shall become null and void and the bond will be returned to the Developer. Developer shall provide a performance guaranty for this obligation in the amount of \$35,000.00 meeting the criteria of Paragraph 2.03 above as security for the obligations under this paragraph.

### **3.00 ADDITIONAL PROVISIONS**

3.01 Cash Fee in Lieu of Water Rights Pursuant to Resolution 1569 and the Annexation Agreement for the Property, Developer shall pay a cash fee in lieu of providing water rights for each dwelling constructed within the subdivision. Said fee shall be due and payable upon the issuance of the building permit for each dwelling within the subdivision. For each building permit per dwelling unit issued until July 15, 2006, the fee shall be \$4,400. For each 1,000 square feet of irrigated landscaped area, within common areas and not including private individual lots, an additional \$500 shall be paid. After July 15, 2006, water fees shall be recalculated per the requirements of the Kilgroe Annexation No. 1 Official Development Plan.

3.02 Secondary Road Access Fee title to Lot 1, Block 2 of the Property shall be conveyed to the City free and clear of liens and encumbrances through the Final Plat dedication for purposes of constructing a secondary access road to the Property. If the City awards a bid for the construction of the Mesa Drive Extension prior to July 15, 2007, as contemplated by Paragraph 2.05 above, the City shall convey Lot 1, Block 2 back to the Developer.

3.03 Noise Mitigation No Certificate of Occupancy shall be issued for any residential lot within the Property until the City of Golden has inspected and approved the noise abatement measures as approved by City Council, including sound wall construction.

### **4.00 LIABILITY LIMITATIONS -- HOLD HARMLESS**

4.01 Non-Liability. Developer acknowledges that the City's review and approval of the plans for the development of the Property is done in furtherance of the general public health, safety and welfare and that no specific relationship with, or duty of care to the Developer or third parties is assumed by such review approval, or immunity waived, as is more specifically set forth in the Colorado Governmental Immunity Act.

4.02 Hold Harmless. Developer agrees to save, defend and hold the City harmless from any claims of willful misconduct or negligence brought by any third party against the City which is attributable to any act or omission of the Developer, its employees, agents, contractors, subcontractors, and consultants with respect to the Property. Developer shall bear all reasonable costs of investigation and litigation, including reasonable attorney fees, incurred by the City in defending such claim. This indemnification does not extend to claims of willful misconduct or negligence brought by any third party against the City which is attributable to any act or omission of the City. In the event of a claim covered by this indemnification provision, the City shall notify the

Developer of the claim and the Developer shall have the option of retaining counsel to represent the City in the defense of the claim.

4.03 Insurance. The Developer and its contractors performing work in the public right-of-way constructing those improvements contemplated by this agreement shall at all times hereunder have and maintain in full force and effect comprehensive liability insurance, providing general liability, and comprehensive automobile liability insurance. The Developer's engineer responsible for work in the right-of-way shall also carry professional liability insurance. The policies shall name the City and its agents, officials and employees as additional insurers and shall provide coverage for the liability risks identified at Section 4.02 hereof, and shall not be less than the minimum amounts per occurrence as set forth in the Colorado Governmental Immunity Act as that Act may from time to time be amended. The Developer and contractors shall at all times fully comply with the Colorado Workmen's Compensation Act, and shall ensure that each of its contractors and subcontractors are in full compliance with the Act. The Developer shall submit certificates of insurance in compliance with the standards as set forth above. Nothing herein shall be construed to relieve or discharge the Developer of its liability to the City under the terms of this Agreement should the Developer for any reason fail to procure and maintain any required insurance in sufficient amounts.

## 5.00 DEVELOPMENT STANDARDS AND PROCEDURES

5.01 Engineering Services. The Developer shall, at its sole expense, procure all engineering services necessary and appropriate in conjunction with the development of the Property which shall fully conform to the City's ordinances, rules, regulations, standards and specifications. Professional services shall be performed by engineers, surveyors, architects, or other professionals duly licensed by the State of Colorado as may be appropriate.

5.02 Review. All applicable plans for improvements shall be approved by the City, which approval shall not be unreasonably or arbitrarily withheld, and shall be given in a timely fashion. No construction of improvements shall occur without prior plan approval.

5.03 Testing. The Developer, at its sole expense, shall employ a professionally qualified, independent testing company to perform all testing of materials or construction as may be reasonably required by the City to ensure compliance with applicable standards and specifications. Developer shall furnish the City with certified copies of test results, and agrees to release and authorize full access to the City and their designated representatives all work up materials, procedures and documents used in preparing the test results.

5.04 Inspection. At all times during construction of the improvements, and until final acceptance thereof by the City, the City shall have the right, but not the duty to inspect materials and workmanship in order to ascertain conformance with the approved plans, standards and specifications. Developer shall reasonably cooperate and assist the City in gaining appropriate access to the areas designated for inspection. It shall be the duty of the Developer to notify the City upon discovery of any non-conformance with said plans, standards and specifications to which the Developer has or should have actual knowledge of such non-conformance. Inspection and

acceptance of work by the City shall not relieve the Developer of any responsibility under this Agreement.

5.05 Initial Acceptance of Improvements. Upon completion of the improvements the Developer shall submit to the City "as built" drawings of the improvements, proposed documents of conveyance, and a statement certifying that the improvements are fully complete, have been fully paid for, and the Developer has fully paid all persons or entities having furnished labor or materials for the design and construction of the improvements. Upon inspection (which inspection shall occur within 21 days of the Developer's submission) and finding of satisfactory completion of the improvements in compliance herewith and all applicable standards and ordinances of the City, and upon submission and approval of an acceptable replacement Warranty Guarantee (which approval shall occur within 21 days of submission), the City shall issue a "Certificate of Initial Acceptance" to the Developer which shall commence the running of the one (1) year repair/replacement period for improvements, and authorize replacement of the original performance guarantee with the replacement Warranty Guarantee listed in Section 5.06 (b) below.

In the event that the City determines that the improvements have not been completed in a satisfactory fashion or that the replacement Warranty Guarantee is unacceptable, the City shall provide written notice to the Developer specifically delineating any unsatisfactory items and, in such event, the Developer shall correct any unsatisfactory item and provide notice of correction to the City. The City shall then reinspect those items within 15 days of notice from the Developer.

5.06 Warranty Guarantee.

(a) Developer warrants that all improvements hereunder will be free from defects, including but not limited to defects of materials, workmanship or design, and that the improvements otherwise fully comply with the applicable approved plans and profiles, and city standards and specifications.

(b) A Warranty Guarantee shall be posted and shall be equal to 25% of the cost of right of way landscape improvements, and 10% of the total cost of all other improvements, as certified to the City. The Warranty Guarantee shall be in such form and issued by such institution as provided in paragraph 2.03 of this Agreement. The Warranty Guarantee shall provide security for the cost which may be incurred in repairing and/or replacing improvements during the period of two full growing seasons for right of way landscaping, and a period of one (1) year following initial acceptance by the City as defined in Paragraph 5.05, and in defending or removing claims of unpaid laborers, material suppliers and/or subcontractors who may attempt to assert a lien upon the Property.

(c) In the event that any substantial repair or replacement is required to any of the improvements during the one (1) year warranty period or the two growing season warranty period for right of way landscaping and such repair or replacement is not timely made upon notice of defect or in any event before expiration of the repair/replacement period, the City, may, in addition to any other legal or remedies available to the City:

- (1) Extend the repair/replacement period for up to one (1) year following initial acceptance of the completed repair or replacement; and/or

8

- (2) Require that the Developer adjust the amount or term of the Warranty Guarantee as may be appropriate; and/or
- (3) Call the Warranty Guarantee and, at the City's discretion, secure repair or replacement of the non-conforming improvements; and/or
- (4) Order denial or suspension of building permits, utility services or certificates of occupancy outstanding until repair or replacement of any non-conforming improvements have been performed.

5.07 Procedure for Final Acceptance of Improvements. No earlier than 60 days prior to the expiration of the repair/replacement period, the Developer shall submit a written request for final acceptance of the improvements. The City shall conduct a final inspection of the improvements and if such improvements fully conform to this Agreement and the applicable City standards and specifications, and if all repairs as are needed have been made to bring the same into such conformance, then the City shall issue a "Certificate of Acceptance" and certified final inspection and approval of the improvements. After final acceptance the City shall release the performance and/or warranty guarantee provided no lien claims or statements have been filed with respect to the project. Separate acceptance requests for right of way landscaping and other improvements shall be processed if requested by Developer.

## 6.00 OWNERSHIP OF IMPROVEMENTS

Subject to this Agreement and to the provisions of any City ordinances, resolutions, rules, regulations and standards relating to the City acceptance of the improvements provided for herein, the Developer shall convey all of the improvements free and clear of all liens, encumbrances and restrictions.

## 7.00 ENFORCEMENT AND REMEDIES

7.01 Breach of Agreement. In the event that either party should fail to timely comply with any of the terms, conditions, covenants and undertakings hereof, such non-compliance shall be cured and brought into compliance within thirty days of written notice of breach by the other party. Such notice will specify the conditions of default. The City may after the cure period withhold any additional building permits, certificates of occupancy, or provision of new utility fixtures or service only upon reasonable cause. Nothing hereunder shall be construed to limit the parties from pursuing any other remedy at law or in equity which may be appropriate under the charter or ordinances of the City, and the applicable laws and legal standards of the State of Colorado or the United States before any court of competent jurisdiction, including remedies which may be available against the Performance or Warranty Guarantees. Such remedies shall be cumulative.

7.02 Legal Expenses. In the event that it is necessary to initiate legal proceedings to enforce the provisions of this Agreement, the party in default shall be responsible for all reasonable legal expenses and costs incurred by the non-defaulting party.

7.03 Venue. Venue for any legal proceedings shall be in the County of Jefferson, State of Colorado.

9


**8.00 MISCELLANEOUS PROVISIONS**

8.01 No Waiver. Nothing herein shall constitute or be interpreted as a waiver or repeal of existing codes or ordinance or the City's legislative, governmental or police powers, nor shall this Agreement prohibit the enactment by the City of any fees or any other ordinances which are of uniform or general application.

8.02 Section Headings. The section of headings are inserted herein only for convenience or reference, and in no way shall be defined to limit or describe the scope or intent of any of the provisions in this Agreement.

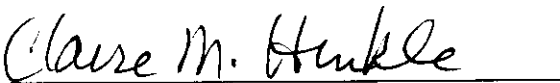
Signed this 27<sup>th</sup> day of June, 2005.

CITY OF GOLDEN

By: 

Michael Bestor  
City Manager

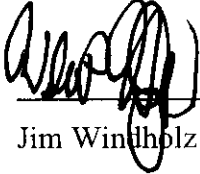
ATTEST:



~~Susan M. Brooks, MMC~~  
City Clerk Acting Deputy

Canyon View Filing No. 2  
Subdivision Development Agreement

APPROVED AS TO FORM:

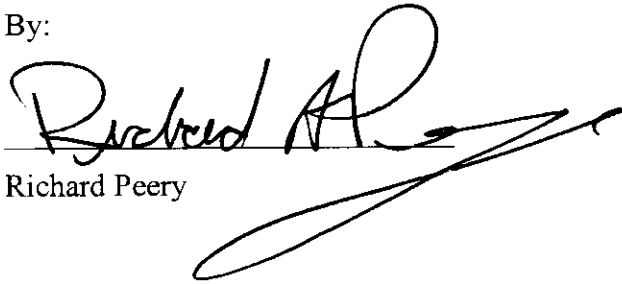


\_\_\_\_\_  
Jim Wintholz  
City Attorney

10

REAL ESTATE COUNCIL INC.

By:



\_\_\_\_\_  
Richard Peery

ATTEST:



\_\_\_\_\_  
Letitia Peery  
Secretary

**EXHIBIT "A"**

	<b>UNIT</b>	<b>QUANTITY</b>	<b>UNIT COST</b>	<b>TOTAL</b>
Site Grading (cut & fill) – no sub ex	SY	80,510	\$1.45	\$116,739.50
Subgrade Prep (Excavation)	SY	8,649	\$1.75	\$15,135.75
6" Full Depth Hot Bituminous Paving	SY	8,649	\$15.60	\$134,924.40
Pavement Marking	LF	80	\$6.00	\$480.00
Misc. Signage	EA	4	\$280.00	\$1,120.00
Type II Curb & Gutter	LF	4,900	\$8.00	\$39,200.00
5' Wide Detached Conc. Sidewalk	LF	4,850	\$11.90	\$57,715.00
Tucker Gulch Bridge	EA	1	\$474,900.00	474,900.00
Sanitary Sewer Main	LF	2,501	\$35.00	\$87,535.00
Sanitary Manholes	EA	16	\$2,175.00	\$34,800.00
Sewer Service	EA	60	\$530.00	\$31,800.00
Water Main	LF	3,182	\$32.00	\$101,824.00
Water Valves	EA	10	\$1,010.00	\$10,100.00
¾ Water Service	EA	60	\$450.00	\$27,000.00
Fire Hydrants	EA	6	\$4,070.00	\$24,420.00
Storm Sewer	LF	1,090	\$32.26	\$35,163.40
Storm Sewer Inlets	EA	4	\$5,297.50	\$21,190.00
Street Lights	EA	4	\$4,500.00	\$18,000.00
Survey Monuments	EA	6	\$1,500.00	\$9,000.00
Landscaping in right-of-way	SF	161,760	\$1.65	\$266,904.00
Revegetation	AC	14	\$1,060.00	\$14,840.00
Cost of 10-ft Concrete Path	SY	2,765	\$30.15	\$83,364.75
				<b>SUBTOTAL</b>
				\$1,606,155.70
				<b>25% guarantee amount</b>
				\$401,538.92
				<b>Guarantee for Mesa Drive extension</b>
				\$35,000.00
				<b>TOTAL DUE</b>
				\$436,538.92