

**RESOLUTION NO. 2115**

**A RESOLUTION OF THE GOLDEN CITY COUNCIL  
AUTHORIZING A PARTIAL FEE DEFERMENT AND  
PAYMENT AGREEMENT FOR A PORTION OF THE WATER  
AND WASTEWATER SYSTEM DEVELOPMENT AND  
CONNECTION FEES ASSOCIATED WITH THE  
ESTABLISHMENT OF THE 1875 MINERS TOWNHOME PLAT  
AND ASSOCIATION**

WHEREAS, the City Council has received and considered a request to phase a portion of the water and wastewater system development and connection fees associated with the conversion of a three unit condominium project at 911 6<sup>th</sup> Street into a townhome ownership project; and

WHEREAS, Council wishes to authorize an Agreement with Francis Cavanaugh, one of the three affected owners to allow a phased payment of a portion of the fee associated with Mr. Cavanaugh's share of the overall fees due to the city, said share as determined by the three property owners.

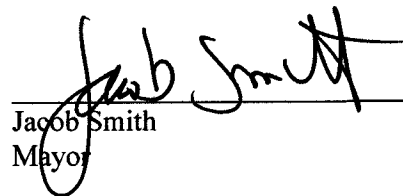
THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

City Council approves the Deferment and Phased Payment Agreement substantially in the form attached as Exhibit A. The City Manager is authorized to execute the Agreement on behalf of the City in a form acceptable to the City Attorney.


Adopted the 14<sup>th</sup> day of April, 2011.



  
Susan M. Brooks, MMC  
City Clerk

  
Jacob Smith  
Mayor

APPROVED AS TO FORM:

  
David S. Williamson  
City Attorney

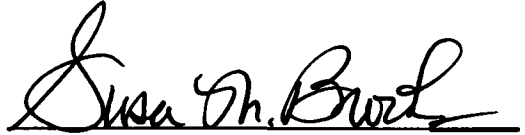
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Page 2

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 14<sup>th</sup> day of April, A.D., 2011.



ATTEST:

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

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

This Agreement is effective the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by and between **Francis Cavanaugh**, whose address is 911 6<sup>th</sup> Street, Unit 3 (aka 909 6<sup>th</sup> 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. \_\_\_\_\_ ("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 15<sup>th</sup>, 2017 shall be due and payable at that time.

- C. Payments shall be due on January 15<sup>th</sup> and July 15<sup>th</sup> 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 6<sup>th</sup> 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**

\_\_\_\_\_

**CITY OF GOLDEN:**

By: \_\_\_\_\_

Michael C. Bestor,  
City Manager

**ATTEST:**

\_\_\_\_\_  
City Clerk

**EXHIBIT "A"**

<b>Pmt No.</b>	<b>Payment Date</b>	<b>Beginning Balance</b>	<b>Scheduled Payment</b>	<b>Extra Payment</b>	<b>Total Payment</b>	<b>Principal</b>	<b>Interest</b>	<b>Ending Balance</b>
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	780.51	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