

ENCROACHMENT LICENSE AGREEMENT

This Encroachment License Agreement (“Agreement”) is entered into this ____ day of _____, 20____, by and between **BACHELOR GULCH METROPOLITAN DISTRICT**, a quasi-municipal corporation and political subdivision of the State of Colorado (“Licensor”) and _____ (“Licensee” and, together with Licensor, the “Parties”).

WHEREAS, Licensor is the owner of a _____ [water/sewer/utility/drainage/ recreational trail/access] easement as described on **Exhibit A** attached hereto (collectively, the “Easement”); and

WHEREAS, Licensee is the fee owner of real property encumbered by the Easement (the “Property”) which Property is more particularly depicted on **Exhibit B** attached hereto; and

WHEREAS, Licensee proposes to encroach upon Licensor’s Easement for the benefit of Licensee’s Property by locating certain improvements thereon, the area, nature and purpose of the encroachment (“Encroachment”) being more fully described on **Exhibit C** attached hereto (the area of the Encroachment being referred to as the “Encroachment Area”); and

WHEREAS, Licensor generally prohibits encroachments into Licensor’s easements, but recognizes extenuating circumstances occasionally make such an encroachment appropriate; and

WHEREAS, Licensor has, in this case, determined to consent to the Encroachment upon the terms and conditions contained herein.

NOW, THEREFORE, in consideration of the terms and conditions hereinafter set forth, the Parties agree as follows:

1. **Consent to Encroachment.** Licensor hereby consents to the Encroachment as fully described on Exhibit C. Any and all rights granted to Licensee under this Agreement shall be exercised at Licensee’s sole cost, risk and expense, and shall be subject to the dominant and continuing right of Licensor to use any and all of the Encroachment Area for Licensor’s purposes; and shall further be subject to all prior deeds, easements, dedications, conditions, franchises, covenants, restrictions, encroachments and claims of title of record that may affect the Encroachment Area. Nothing contained in this Agreement shall be deemed to grant, convey, create or vest in Licensee any real property interest in the land; including, but not limited to, any fee, leasehold interest, easement, servitude or irrevocable license.

2. Use of Encroachment Area. Licensee agrees that it will utilize the Encroachment Area solely for the Encroachment purposes described on Exhibit C, and for no other purpose.

3. No Interference. All costs associated with modification, removal or damage to Licensee's Encroachment by the Licensor related to Licensor's use of the Easement (and all incremental costs initially incurred by Licensor in attempting to avoid the modification, removal or damage to Licensee's Encroachment) shall be solely the responsibility of Licensee. Licensee, in the performance and exercise of its rights under this Agreement, shall not damage or interfere in any way with the use, operation, maintenance, repair, or replacement of any facility that is owned, operated and maintained by Licensor or its assignees within the Easement. Should Licensee's Encroachment cause Licensor's use of the Easement and related facilities to be more costly, or to be interfered with or damaged, Licensee shall, within thirty (30) days of billing, pay all costs and expenses associated with Licensor's more costly use or with Licensor's repair of any damage to Licensor's facilities or removal of any interference. Under any and all circumstances, all work that is necessary to repair any damage to or remove any interference with the Licensor's facilities shall be at Licensee's sole cost and expense. Licensor, in emergency situations, may, at Licensee's sole cost and expense, repair any and all damage to and remove any and all interference with the Licensor's facilities without prior notice to Licensee. In using its Easement, Licensor agrees to make a reasonable effort to avoid damage to Licensee's Encroachment, but Licensor shall not be liable for any damage to the Encroachment. In the event Licensor incurs additional costs as a result of any efforts to avoid damage to Licensee's Encroachment, Licensee shall within thirty (30) days of billing, pay all costs and expenses associated with such efforts.

4. Compliance with Laws. Licensee shall comply with all federal, state and local laws in the exercise and performance of its rights and obligations under this Encroachment Agreement.

5. Encroachment Policy. This Encroachment Agreement is subject to the reasonable terms and conditions of any encroachment policy as it may now exist or may subsequently be amended by the Licensor at its sole discretion and without notice.

6. Indemnification and Waiver. To the extent authorized by law Licensee hereby agrees to indemnify, defend, protect and hold harmless Licensor, its officers and employees, from and against any and all claims, damages, losses, liabilities, fines, penalties, of whatsoever kind or nature, including, but not limited to reasonable attorneys' fees that are incurred by Licensor and that arise in connection with Licensee's activities that are undertaken, authorized or obligated pursuant to this Agreement. Such liability shall specifically, without limitation, extend to claims of third parties arising from the presence of the Licensee's Encroachment

7. Limitation on Licensor's Liability. Licensor shall have no liability to Licensee or third persons related to Licensee's Encroachment, including, but not limited to, damages to the Licensee's improvements resulting from Licensor's dominant use of the Encroachment Area or from the repair of Licensor facilities or the installation of any additional facilities in the future within the Easement.

8. Termination. Licensor may terminate this Agreement at any time, without notice, by recording in the Eagle County, Colorado, Clerk and Recorder's Office a notice of termination of Encroachment License Agreement if Licensor determines that the Licensee's improvements interfere with Licensor's current or prospective use of the Easement. Licensor shall endeavor, but not be obligated, to provide Licensee with thirty (30) days' notice of its intent to terminate the Agreement.

9. Successors and Assigns. The rights and obligations of this Agreement shall be appurtenant to and deemed to run with the Property, or until such earlier time as the Licensor terminates this Agreement or abandons the Easement. This Agreement shall be recorded against the Property in accordance with the laws of the State of Colorado.

10. Integrated Agreement. This Agreement contains the entire understanding between the Parties hereto with respect to the subject matter hereof. There are no representations, agreements or understandings (whether oral or written) between or among the Parties relating to the subject matter of this Agreement which are not fully expressed herein.

IN WITNESS WHEREOF, and in order to bind themselves legally to the terms and conditions of this Agreement, duly authorized representatives of the Parties have executed this Agreement as of the date first set forth above.

BACHELOR GULCH METROPOLITAN
DISTRICT (LICENSOR)

By: _____
Name: _____
Its: _____

LICENSEE

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENT

STATE OF COLORADO

ss.

COUNTY OF EAGLE _____

The foregoing instrument was acknowledged before me this ___ day of _____, 20___, by _____ as _____ of **LICENSEE**.

Witness my hand and official seal.

My commission expires: _____

Notary Public

EXHIBIT A

(Description of Easement)

EXHIBIT B

(Description of Property)

EXHIBIT C

(Description of Encroachment)