RESOLUTION NO. 1667

A RESOLUTION OF THE GOLDEN CITY COUNCIL ACCEPTING AN AGREEMENT CONVEYING AN ACCESS EASEMENT TO THE CITY OF GOLDEN FROM JEFFERSON COUNTY

WHEREAS, the City of Golden desires to access the 6170 water tank using motor vehicles; and

WHEREAS, Jefferson County has provided an easement agreement conveying the easement necessary for such access; and

WHEREAS, City Council has considered the easement conveyance to the City of Golden.

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

City Council accepts the easement agreement, substantially in the form attached hereto as Exhibit A. The Mayor is authorized to execute such agreement.

Adopted this 27th day of April, 2006.

Charles J. Baroch

Mayor

ATTEST:

Susan M. Brooks, MMC

City Clerk

APPROVED AS TO FORM:

James A. Windholz

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 meeting thereof held on the 27th day of April, A.D., 2006.

(SEAL)

ATTEST:

Susan M. Brooks, City Clerk of the City of

Golden, Colorado

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into by and between the COUNTY OF JEFFERSON, STATE OF COLORADO, a body politic and corporate, ("Grantor") and CITY OF GOLDEN, COLORADO, a Colorado Municipal Corporation, ("Grantee").

RECITALS

A. Grantee has requested, and Grantor is willing to convey an easement over a portion of real property owned by Grantor, legally described at <u>Exhibit A-1</u>, and generally depicted for illustrative purposes only, at <u>Exhibit A-2</u>, attached hereto and incorporated herein, (the "Easement Property").

NOW THEREFORE, in consideration Ten Dollars (\$10.00) and other good and valuable consideration, paid by the Grantee, the receipt and sufficiency of which are hereby acknowledged by Grantee, the parties hereby agree as follows:

ARTICLE 1: GRANT OF EASEMENT

1. In accordance with the terms herein, Grantor hereby grants to Grantee a nonexclusive, permanent easement over, under and across the Easement Property for the purpose of accessing a water tank on its real property, together with all rights and privileges as are necessary or incidental to the reasonable and proper use of the Easement for the limited purposes hereinabove stated.

GENERAL PROVISIONS

- 3. Grantor shall not be liable to Grantee or any other person or entity whatsoever for any injury or damage to persons or property occasioned by reason of the use by Grantee, its contractors, subcontractors, or suppliers, of the Easement Property, or by reason of any act or thing done or omitted to be done during the term of this Easement Agreement, by Grantee, its contractors, subcontractors, agents, employees, licensees, or invitees.
- 4. To the extent authorized by law, and without waiving any provisions of the Colorado Immunity Act, Grantee indemnifies and holds Grantor harmless from any and all loss or damage, including without limitation attorneys' fees, sustained or incurred by Grantor resulting from any loss or injury or damage to any person or property related to the exercise of rights granted herein, or any act or thing done or omitted to be done during the term of this Easement, by Grantee, its contractors, subcontractors, agents, employees, permitees, or invitees. The obligations of Grantee hereunder shall survive termination of this Easement.
- 5. If either party determines that the other party is in violation of the terms of this Agreement, (the "Alleging Party"), it shall give written notice of such violation and demand corrective action sufficient to cure the violation. If the other party fails to, at its sole cost and

expense, cure the violation within thirty (30) days after the receipt of the notice of such alleged breach, or under the circumstances where violations cannot reasonably be cured within such thirty (30) day period, if the other party fails to begin curing such violation within such thirty (30) day period and fails, at its sole cost and expense to continue diligently to cure such violation until finally cured, then the Alleging Party may institute a suit to enforce the terms of this Agreement (including by specific performance) to enjoin the violation by injunction, and to recover any damages to which such party may be entitled for violation of the terms of this Agreement. The prevailing party to any legal action brought to enforce the terms of this Agreement that shall be entitled to all costs of suit, including, without limitation, reasonable attorney's fees.

- 6. Enforcement of the terms of this Agreement will be at the discretion of the parties and any forbearance by either party to exercise its rights under this Agreement will not be deemed or construed to be a waiver of such breach or of any subsequent breach of the same or any other term of this Agreement or of any of the parties' rights under this Easement. No delay or omission by any party in the exercise of any right or remedy will impair such right or remedy or be construed as a waiver.
- 7. Grantor makes no representation, nor will Grantor be liable to Grantee with respect to any prior encumbrances which may affect title to any portion of the Easement Property, and this Agreement is subject to all prior encumbrances, restrictions, rights, claims and interests; of record, or otherwise.
- Grantee covenants, represents, and warrants that: (a)Hazardous Materials will not 8. be handled, treated, used, placed, stored, or otherwise kept, or transported on or across any portion of the Easement Property without the prior written approval of the County; and upon any such approval (b)any handling, transportation, storage, treatment, or usage of Hazardous Materials which may occur on or across any portion of the Easement Property will be in compliance with federal, state, and local laws, regulations, and ordinances. To the extent permitted by law, Grantee does hereby indemnify and hold harmless the County and its agents and employees from and against any and all claims, lawsuits, damages, costs, losses, judgements, of any nature whatsoever, including attorney's fees, suffered or incurred by the County, arising from a breach of the covenants and warranties contained in this paragraph, or as a result of conditions created or acts performed by Grantee, its employees, agents, contractors, permitees, invitees, or assigns. Such indemnity and covenant to hold harmless shall survive the termination of the Easement granted hereunder. The term "Hazardous Materials" herein means any hazardous, toxic, or dangerous substances, materials, or wastes which are regulated under any applicable county, municipal, state, or federal law, rule, ordinance, direction, or regulation.
- 9. This Easement Agreement and the grant of easements herein shall not be strictly construed, but shall be given a reasonable construction so that the intention of the parties hereunder is fulfilled.
- 10. This Easement Agreement may be executed in counterparts, each of which, taken as a whole, shall constitute but a single instrument.

- 11. Grantor reserves the right to use and occupy the Easement for any purpose not inconsistent with the rights and privileges hereinabove granted and which would not interfere with Grantee's use thereof.
- 12. Nothing granted hereunder is intended to convey or imply the approval of any federal, state, or local regulatory or governmental agency, including Jefferson County, with respect to any actions which Grantee may desire to take under the terms of this Agreement.
- 13. This Agreement and the rights and duties of the parties hereunder shall be interpreted in accordance with the laws of the State of Colorado. Venue for any and all legal actions arising hereunder shall lie in the District Court in and for the County of Jefferson, State of Colorado.
- 14. This Easement shall run with the land and be binding upon and inure to the benefit of the parties, and their respective successors and assigns.
- 15. If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provisions shall be fully severable; this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement; and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Agreement. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as a part of this Agreement a legal, valid, and enforceable provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible.
- 16. This written Agreement constitutes the entire agreement of the parties. No provisions regarding the subject matter of this Agreement, other than those expressly set forth in this Agreement, will be of any force and effect. No modification, change or alteration of this Agreement will be of any force or effect, unless in writing and signed by the parties.
- 17. Notices. All notices, demands, requests and other communications required or permitted under this Agreement will be in writing and will be deemed delivered when actually received or, if by telecopy, on the next business day after receipt, or, if earlier, and regardless whether actually received or not, three days after deposit in the United States mails, first class, postage prepaid, registered or certified addressed as follows:

if to Grantee:

City Of Golden, Attn: Steve Glueck

911 10th Street Golden, CO 80401 303-384-8095 (tel)

if to the County:

Open Space Department, Attn: Director

700 Jefferson County Parkway

Golden, CO 80401

303-271-5925 (tel) 303-271-5955 (fax)

with a copy to:

County Attorney's Office 100 Jefferson County Parkway Golden, CO 80419-5540 303-271-8900 (tel) 303-271-8901 (fax)

Any party may change its address by giving notice to the other parties as provided for above.

The parties each expressly reserve the right to assert all defenses and liability 18. limitations set forth in the Colorado Governmental Immunity Act, or any successor act or provision.

DATED this	day of	, 2006.
		COUNTY OF JEFFERSON
·		STATE OF COLORADO
		Ву:
		J. Kevin McCasky, Chairman
		Board of County Commissioners
		CITY OF GOLDEN, COLORADO, a Colorado municipal corporation
		By:
•		Name/Title:
STATE OF COLORADO)	
) ss.	
COUNTY OF JEFFERSO The foregoing Ea . 2006 by J	sement Agree	ment was acknowledged before me this day of asky as Chairman of the Board of County Commissioners
or the County of Jefferso	n, State of Col	lorado.
WITNESS my har My Commission e		seal.
wy commission c		
	No	otary Public
	***	, , , , , , , , , , , , , , , , , , ,

STATE OF COLORADO)		
COUNTY OF JEFFERSON)		
The foregoing Easement A	Agreement was acknowledged before me this as	day of of City
of Golden, Colorado, a Colorado m	nunicipal corporation.	
WITNESS my hand and off My Commission expires:	ficial seal.	
	Notary Public	
APPROVED AS TO FORM: Appe T. Kelson		

Assistant County Attorney

Golden Access Easement on North Table Mountain

An easement, 20 feet in width, for ingress and egress located in the Northwest quarter of the Northeast quarter of Section 21, Township 3 South, Range 70 West of the 6th Principal Meridian, County of Jefferson, State of Colorado, the centerline of which is more particularly described as follows:

Commencing at the Northwest corner of the Northwest quarter of the Northeast quarter of said section 21; thence S13°15'01"W, 174.36 feet to the True Point of Beginning, said point being on the Westerly Right of Way line of State Highway 93 as described in Reception number F0772271 of the Jefferson County records; thence S87°03'02"E, 47.31 feet to a point of curvature; thence on a curve to the left 42.28 feet, said curve having a radius of 200.00 feet, a delta of 12°06'42" and a chord that bears N86°53'38"E, 42.20 feet to a point of tangency: thence N80°50'17"E, 43.99 feet to a point of curvature; thence on a curve to the left 78.88 feet, said curve having a radius of 120.00 feet, a delta of 37°39'48" and a chord that bears N62°00'23"E, 77.47 feet to a point of tangency; thence N43°10'29"E, 97.68 feet to a point of curvature; thence on a curve to the right 81.64 feet, said curve having a radius of 120.00 feet, a delta of 38°58'49" and a chord that bears N62°39'53"W, 80.07 feet to a point of compound curvature; thence on a curve to the right 158.74 feet, said curve having a radius of 80.00 feet, a delta of 113°41'33" and a chord that bears S40°59'56"E, 133.95 feet to a point of tangency; thence S15°47'11"W, 349.97 feet to a point of curvature; thence on a curve to the left 220.00 feet, said curve having a radius of 655.00 feet, a delta of 19°14'40" and a chord that bears S06°09'51"W, 218.97 feet to a point of compound curvature; thence on a curve to the left 151.62 feet, said curve having a radius of 115.00 feet, a delta of 75°32'20", and a chord that bears S41°13'38"E, 140.87 feet to a point of tangency; thence S78°59'48"E, 146.81 feet to a point of curvature; thence on a curve to the right 228.82 feet, said curve having a radius of 320.00 feet, a delta of 40°58'15" and a chord that bears S58°30'41"E, 223.98 feet to a point of compound curvature; thence on a curve to the right 41.89 feet, said curve having a radius of 100.00 feet, a delta of 23°59'54" and a chord that bears \$26°01'36"E, 41.58 feet to a point of tangency; thence \$14°01'39"E, 87.72 feet to a point of curvature; thence on a curve to the left 372.97 feet, said curve having a radius of 405.00 feet, a delta of 52°45'50" and a chord that bears S40°24'34"E, 359.93 feet to the point of terminus on the Northerly boundary of Mesa Meadows Phase 3, recorded in Plat Book 120, Page 53, from which the Southwest corner of the Northwest quarter of the Northeast quarter bears \$89°58'50"W, 968.19 feet. The side lines on both ends of this description are shortened or lengthened accordingly. Said easement contains 43,017 square feet or 0.99 acres, more or less.

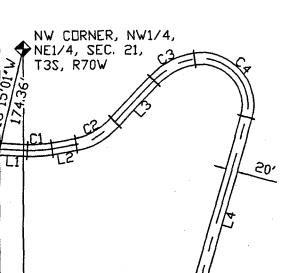
The basis of bearing is the West line of the Northwest quarter of the Northeast quarter of said section 21 being monumented on the North end by a 1-1/2 inch pipe with a 2 inch aluminum cap stamped "KURT O LINN INC, T3S, R70W, 1/4, S16, S21, 1998, PLS 14112" and on the South end by a 3/4 inch by 30 inch rebar with a 2 inch aluminum cap stamped "JEFFCO OPEN SPACE, N1/16, C---C, S21, 1999, LS 27612" with a bearing of S00°02'29"E, a distance of 1321.87 feet.

Prepared for and on behalf of Jefferson County, Colorado



EXHIBIT

A-2



REC. # F0772271

STATE HIGHWAY 93,

 Ω

LINE TABLE					
LINE	BEARING	BEARING			
L1	S87°03′02 ″ E	47.31			
LS	N80°50′17″E	43.99			
L3	N43*10'29*E	97.68			
L4	S15°47′11″W	349.97			
L5	S78°59′48 ″ E	146.81			
L6	S14°01′39″E	87.72			

CURVE TABLE						
CURVE	LENGTH	RADIUS	DELTA	CH BEARING	CH DIST.	
C1	42.28	200.00	12*06'42"	N86*53'38'E	42.20	
CS	78.88	120.00	37*39′48*	Nes.00,53,E	77.47	
C3	81.64	120.00	38*58′49″	N62*39'53'E	80.07	
C4	158.74	80.00	113*41′33*	S40°59′56″E	133.95	
C5	220.00	655.00	19*14'40*	S06*09′51 ″ W	218.97	
C6	151.62	115.00	75*32′20*	S41*13'38'E	140.87	
C7	228.82	320.00	40°58′15°	S58*30'41 " E	223.98	
C8	41.89	100.00	23*59′54*	256.01,36 , E	41.58	
C9	372.97	405.00	52°45′50 °	S40*24'34"E	359.93	

BEARING 1321,877 님 BASIS

ND SCALE

SW CORNER, NW1/4, NE1/4, SEC. 21, T3S, R70W

SDUTH LINE, NW1\4, NE1/4, SEC. 21 S89°58′50*W

968.19' CITY OF GOLDEN, MESA MEADOWS PHASE 3, PLAT BOOK 120 PAGE 53,