

RESOLUTION NO. 1708

A RESOLUTION OF THE GOLDEN CITY COUNCIL
AUTHORIZING THE EXECUTION OF A LICENSE
AGREEMENT WITH KELLEY TRUCKING

WHEREAS, Kelley Trucking, has requested approval for a temporary construction water tower at the western corner of Colfax Avenue and Zeta St. in the City of Golden, Colorado; and

WHEREAS, the City of Golden, Colorado is the owner of the property west of the Street right-of-way; and


WHEREAS, the portion of this city property requested for the temporary private use is not being used for public municipal purposes; and

WHEREAS, Kelley Trucking has agreed to certain conditions and provisions under which a portion of the public property West of Zeta Street and North of Colfax Avenue may be utilized by Kelley Trucking for a temporary construction water tower.

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


That the Mayor is authorized to execute on behalf of the City of Golden, a license agreement with Kelley Trucking, substantially in the form attached hereto as Exhibit A.

Adopted this 28th day of September, 2006.



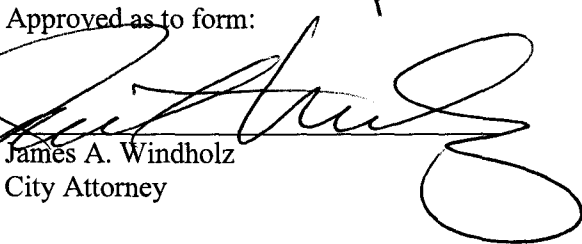
Charles J. Baroch
Mayor

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 28th day of September, A.D., 2006.

(SEAL)

ATTEST:

A handwritten signature in black ink, appearing to read "Susan M. Brooks", written over a horizontal line.

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

EXHIBIT A

LICENSE AGREEMENT

THIS AGREEMENT is entered into the 9th day of June, 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 Tenth Street, Golden, Colorado 80401 and Kelley Trucking, whose address is 6201 McIntyre Street, Golden, CO 80403.

- A. Kelley Trucking is a construction company that has a contract with the Colorado Department of Transportation to expand the Park and Ride facility located at the intersection of I-70 Highway 26 and US-40. The City of Golden is the owner of property West of Zeta Street and North of Colfax Avenue.
- B. Kelley Trucking desires to use the city owned property West of Zeta Street and North of Colfax Avenue to place a temporary water tower for construction water.
- C. The parties hereto wish to agree as to the nature, terms and conditions under which Kelley Trucking may use the city owned property West of Zeta Street and North of Colfax Avenue to place a temporary water tower for construction water.

THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE CITY AND KELLEY TRUCKING AGREE AS FOLLOWS:

1. License. The City grants to Kelley Trucking a non-exclusive revocable license to locate, construct and maintain an accessory storage shed ("improvement") within the affected city owned property as show in the attached Exhibit A.
2. Placement. Plans for the placement of the a temporary water tower for construction water shall be submitted to and approved by the City prior to the placement of the water tower. The placement and maintenance of the temporary water tower shall be the sole responsibility of Kelley Trucking.
3. Maintenance. Kelley Trucking, shall, at their expense, maintain the site and water tower in good condition including keeping the described area clear of hazards.
4. General Obligations with Respect to Initial Placement of the Temporary Water Tower.
 - a. All work performed by Kelley Trucking 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 Kelley Trucking on city owned property shall be subject to inspection by the City. Kelley Trucking shall promptly perform reasonable remedial action as required by the City pursuant to the inspection.

5. Indemnification and Release. Kelley Trucking shall hold harmless, indemnify and defend the City from and against all liabilities, damages and claims that result from the design, initial construction or maintenance of the improvements.
6. 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 Kelley Trucking from complying with any provision of the Golden Municipal Code, including compliance with zoning ordinances, land use regulations, or building codes, nor shall this Agreement be construed as approval by the City to construct the improvements contemplated by Kelley Trucking 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 Kelley Trucking, or otherwise be construed as a release or waiver, with respect to any obligation of Kelley Trucking to not interfere with the subjacent lateral support of the City's right-of-way.
7. 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 right-of-way.
8. Termination. Either party may terminate this Agreement, with or without cause, by providing the other party with ninety (90) days written notice. Upon termination, and at the request of the City, Kelley Trucking shall remove at his expense all improvements located within the right-of-way 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 Kelley Trucking to substantially its former condition after said removal.
9. Assignment. With the prior written permission of the City, such permission not to be unreasonably withheld, Kelley Trucking may assign any or all of his duties and responsibilities set forth in this Agreement.

CITY OF GOLDEN

KELLEY TRUCKING

 Chuck J. Baroch
 Mayor

 John Kelley
 owner

Date: _____

Date: _____

ATTEST:

 Susan M. Brooks, MMC
 City Clerk

Date: _____