

RESOLUTION NO. 2205

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GOLDEN APPROVING A RIGHT OF WAY LICENSE AGREEMENT WITH THE JEFFERSON COUNTY EMERGENCY COMMUNICATIONS AUTHORITY PERTAINING TO RIGHT OF WAY NEAR ILLINOIS STREET AND JEFFERSON COUNTY PARKWAY

WHEREAS, the Jefferson County Emergency Communications Authority (Authority) is a quasi governmental corporation established pursuant to state statute; and

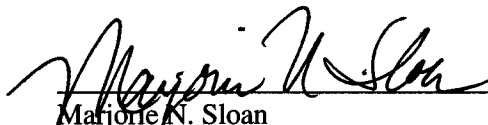
WHEREAS, the Authority proposes to locate and operate a public fiber optic communications network system to benefit the Authority and its members partially within city right of way; and

WHEREAS, the City agrees to permit such use by the Authority subject to certain terms conditions set forth in a license agreement.

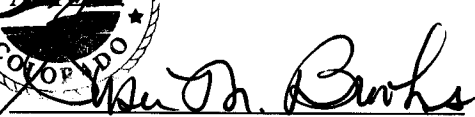
HEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GOLDEN, COLORADO:

Section 1. The License Agreement between the City of Golden and the Jefferson County Emergency Communications Authority is approved in substantially the same form as the copy attached hereto as Exhibit A and made a part of this resolution. The Mayor is authorized to execute the agreement on behalf of the City of Golden.


Adopted this 9th day of August, 2012.


Marjorie N. Sloan
Mayor




Susan M. Brooks, MMC
City Clerk

Approved as to form:


David S. Williamson
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 rescheduled regular business meeting thereof held on the 9th day of August, A.D. 2012.



ATTEST:

A handwritten signature in cursive script, reading "Susan M. Brooks", is written over a horizontal line.

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

RIGHT-OF-WAY
LICENSE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2012 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, and the Jefferson County Emergency Communications Authority, (Licensee) a quasi corporation organized pursuant to C.R.S. § 29-1-201 *et. seq.* whose address is P.O. Box 16184, Golden, Colorado 80402-6003.

A. The Licensee is a governmental agency that is building a public fiber optic communications network system ("Fiber") in the City and County of Denver and Jefferson County.

B. The Licensee desires to install and maintain the Fiber in certain City street rights-of-way.

C. The parties hereto wish to agree as to the nature, terms and conditions under which the Licensee may construct and maintain the Fiber within those City street rights-of-way that are described in Exhibit A, attached hereto and incorporated herein by this reference, entitled, "the Encroached Street Rights-of-Way".

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL PROMISES HEREIN, THE CITY AND THE LICENSEE AGREE AS FOLLOWS:

1. License. Subject to the terms and conditions herein, the City grants to the Licensee a non-exclusive license to locate, construct and maintain Fiber within the affected City right-of-way area described in the attached Exhibit A.
2. Construction. Plans for the construction of the Fiber shall be submitted to and approved by the City. The design, construction and maintenance of the improvements shall be the sole responsibility of the Licensee.
3. Maintenance. The Licensee shall, at its expense, have sole responsibility for maintaining the Fiber. Licensee shall replace any landscape disturbed by the Fiber installation or maintenance.
4. General Obligations with Respect to Initial Construction and Maintenance Work.
 - a. All work performed by The Licensee 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 the Licensee within the right-of-way shall be subject to inspection by the City. The contractor performing the work shall apply for a curb; gutter and sidewalk permit prior to starting the work, if required by City code. The Licensee shall promptly perform reasonable remedial action as required by the City pursuant to the inspection.
 - c. Upon completion of construction, Licensee will provide to the City full and complete "as-built" drawings that show the exact location of the Fiber in the right-of-way.

- d. **Street Cut Permits** - Licensee shall comply with the "street-cut" requirement contained in Chapter 11.20 of the Golden Municipal Code.

5. **Indemnification and Release.** The Licensee shall be solely responsible for, any and all liabilities, damages and claims which result from the design, construction or maintenance of the Fiber in the right-of-way.

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 the Licensee from complying with provision of the Golden Municipal Code, including compliance with zoning ordinances and subdivision regulations nor shall this Agreement be construed as approval by the City to construct the improvements contemplated by the Licensee 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 the Licensee, or otherwise be construed as a release or waiver, with respect to any obligation of the Licensee 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. **Relocation of Fiber.** In the event that the City, in its sole discretion, determines that the public health, safety or welfare requires that the Fiber be relocated to a new location within City right-of-way, the City shall provide written notice to Licensee of such determination. Upon such notice, Licensee may either (1) immediately terminate this Agreement; or (2) within 120 days of such notice relocate the Fiber to an alternate location in the right-of-way as is approved by the City Engineer. All costs of relocation shall be the responsibility of Licensee. The provisions of Paragraph 4 above shall apply to the relocation work.

9. **Term and Termination.** The initial term of this License shall run through December 31, 2012. The term shall automatically renew for successive one-year terms unless either party provides written notice to the other party no later than October 1 of the current term of its intent not to renew the License, and thereby terminate this Agreement at the end of the then current term. Upon termination, and at the request of the City, the Licensee shall, within 180 days of the termination of this Agreement, remove at its expense all Fiber located within the right-of-way pursuant to this Agreement if the City determines, in its sole discretion, that such Fiber 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 The Licensee to substantially its former condition after said removal.

10. **Governmental Immunity Act.** Nothing herein shall be construed as a waiver by the City or Licensee of any of the provisions of the Colorado Governmental Immunity Act.

11. **Assignment.** With the prior written permission of the City, such permission not to be unreasonably withheld, The Licensee may assign any or all of its duties and responsibilities set forth in this Agreement.

CITY OF GOLDEN

THE LICENSEE

Marjorie N. Sloan
Mayor

By: _____
Lynn Johnson, Chairman

ATTEST:

Susan M. Brooks, MMC
City Clerk

Exhibit A
"The Encroached Street Rights of Way"

Jefferson County Parkway - (the "Parkway") – All that certain portion of the public right-of-way of the Parkway, being a non-exclusive strip of land that is approximately Seventy One Feet (71') in length, more or less, by approximately Two Feet (2') in width, more or less, and being a perpendicular crossing between the Parkway's east and west right-of-way boundary lines, located on the north side of the intersection of the Parkway and Sixth Avenue, that traverses the Parkway at a location that is approximately Three Hundred Eighteen Feet (318') north, northeast of the centerline of Sixth Avenue, as more particularly delineated on the attached Plans and Drawings same having been previously approved by the City Engineer and all of which are incorporated into this Agreement by this reference.

RIGHT-OF-WAY
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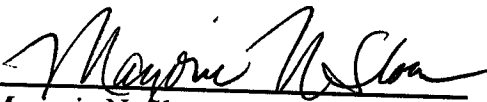
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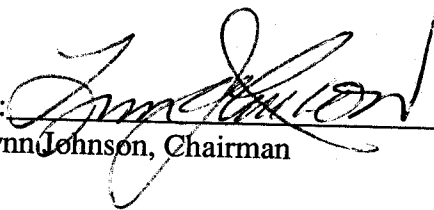
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CITY OF GOLDEN

THE LICENSEE


Marjorie N. Sloan
Mayor

By: 
Lynn Johnson, Chairman



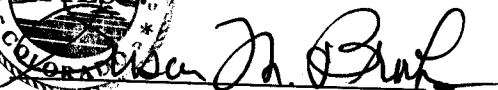
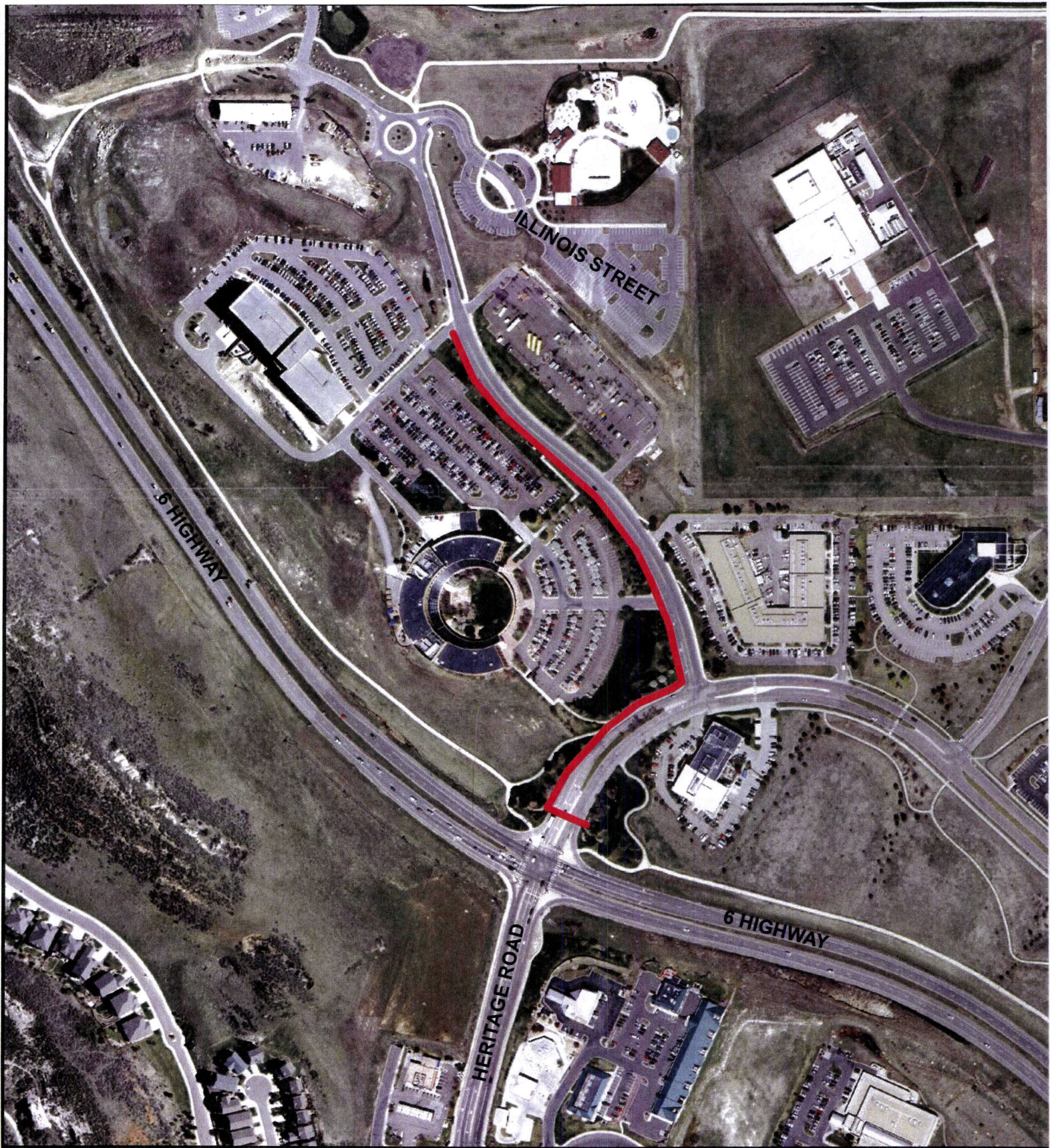

Susan M. Brooks, MMC
City Clerk

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0 300 600 Feet

**Jefferson County
Emergency Communication Authority
License Agreement**