

RECORDING MEMORANDUM  
GRAND JUNCTION ENTRY SIGN WEST OF EXIT 26, EASTBOUND I-70

By and between Ute Water Conservancy District and City of Grand Junction  
Concerning and relating to an easement shown at Reception #1768902


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This memorandum relates to a certain agreement (Agreement) by and between Ute Water Conservancy District (Ute) and the City of Grand Junction (City) concerning the licensing, construction, and maintenance of an entry sign located on certain real property/property interest (Easement) held by Ute in Mesa County, Colorado.

By virtue of this notice being recorded in the land title records of the Mesa County Clerk and Recorder, any and all persons, including subsequent owner(s) is(are) on notice in accordance with this memorandum that the City and Ute each have respective interests in the Agreement, and that prior to any person or entity acting relative to the Agreement and/or the Easement, said person shall consult the Agreement, which is now and will remain on file in the Office of the City Clerk, 250 N. 5<sup>th</sup> Street, Grand Junction, Colorado.

NOW THEREFORE, the City Clerk of the City of Grand Junction does represent that the Agreement is on file as represented herein.

CITY OF GRAND JUNCTION:

 12/28/23

Amy Phillips  
City Clerk

Date

This GRAND JUNCTION ENTRY SIGN – WEST SIDE OF EXIT 26-EASTBOUND I-70 CONSTRUCTION, MAINTENANCE AND LICENSE AGREEMENT (Agreement) is made this day of December 2023, and is between the Ute Water Conservancy District (UTE), whose address is 2190 H ¼ Road, Grand Junction, Colorado 81505, and the CITY OF GRAND JUNCTION (CITY), whose address is 250 North 5th Street, Grand Junction, CO 81501. Collectively UTE and the CITY shall be referred to as the “Parties” and separately referred to as a “Party.”

RECITALS:

- A. UTE is the owner of a certain 30 foot wide easement (As shown on rec. No. 1768902) and a 12 inch waterline therein located at 651 Railhead Circle (Mesa County Assessor parcel number 2697-364-08-001) in Mesa County, Colorado. The easement and waterline are for the delivery of domestic water to Ute’s customers (Ute Facilities).
- B. The CITY has proposed to design, construct, and perpetually maintain, pursuant to the terms of this Agreement, an entry sign (“Sign”) over and adjacent to the 12 inch Ute Waterline.
- C. The CITY sought UTE’s approval of its plans for the Sign and licensed use of the surface of the Ute easement to the City to occupy the surface above and the subsurface near the 12 inch Ute waterline to construct, install and perpetually maintain and repair the Sign.

NOW THEREFORE, in consideration of the Recitals above, the mutual covenants and promises set forth below, UTE and the CITY agree as follows:

- 1. Plans. The CITY has prepared and UTE has reviewed and approved certain plans for the Sign dated December 1, 2023 and identified as Grand Junction Entry Signs – West Side of Exit 26 – Eastbound I-70 (Plans), which are incorporated herein by this reference. The CITY represents, warrants, and agrees as follows:
  - a. The CITY warrants and represents to UTE that the Plans have been created, developed, and reviewed by a professional engineer(s), are free from material errors, defects, or omissions, are suitable for the construction and installation of the Sign and that once installed, the Sign will not interfere or hinder the operation and maintenance the Ute Facilities that are the subject of this Agreement.
  - b. The CITY acknowledges and agrees that any review and/or approval of the Plans by UTE, including, but not limited to, the review of the same by any consultant engaged by UTE for such purpose, is solely and only for the use and benefit of UTE and is not intended and may not be construed as UTE’s or its consultant’s warranty, certification, or representation that the Plans are accurate, free from material errors or defects or are suitable for construction of the Project.
  - c. The CITY waives any and all claims against UTE arising from or related to UTE’s review of the Plans, or the approval of any portion thereof, including, but not limited to, any claim for negligence, comparative negligence, breach of contract or breach of warranty. The CITY assumes all risks related to the accuracy and suitability of the Plans for the Project and the Sign contemplated thereby.



2. Grant of License; Limitations.

a. UTE grants to the CITY a non-exclusive license (License) to enter upon the real property described in the Plans (License Area) for the sole and only purpose of constructing the Sign and thereafter perpetually maintaining and repairing the Sign to maintain its function and purpose according to the Plans. The License shall be comprised of a surface and subsurface grant and right of use and occupancy for the installation and maintenance and repair of the Sign and a subsurface Easement for the purpose of operating the Improvements. The surface of the Ute easement shall only be used for the installation of the Sign and thereafter for the maintenance and repair of the Sign as necessary.

b. The License is granted without UTE's representation or warranty of any type, whether express or implied, as to UTE's legal title to, suitability of or any physical condition of the surface or subsurface of the License area. The CITY assumes all risks regarding the physical condition of the surface and subsurface of the License area.

c. The CITY shall not grant, convey, transfer, assign or dedicate any right, title or interest in or to the License or the License area including, but not limited to, an easement, license, lease, sublease, concession, permit, right of use or any other interest of any type or character in or to the surface or subsurface of the License and License area at any time to any third party or to the public without UTE's express written consent. Excepted from this subparagraph are contracts to perform or conduct the operation, maintenance, repair, or replacement of the Sign in accordance herewith.

d. At all times, the License shall be subordinate and subject to UTE's dominant right to operate, maintain and repair the Ute Facilities.

3. Construction of the Sign.

a. The Work. The CITY shall perform, contract, engage, obtain, or otherwise provide for, all labor, materials, equipment, supplies, permits, rights-of-way, or easements that are reasonable or necessary for the construction of the Sign related thereto, hereafter the "Work."

b. Construction Schedule. Prior to the commencement of any Work, the CITY shall provide UTE with a construction schedule, including the anticipated times, dates or points of construction requiring inspection by any governmental entity having jurisdiction over the Work, including the CITY.

c. Conditions of Construction.

i. The Work shall (A) be constructed strictly in conformance with the Plans unless deviations are approved by UTE in writing, (B) be pursued with diligence and in a good and workmanlike manner, and (C) comply with all laws, ordinances, rules, regulations, and orders of any applicable governmental authority bearing on the performance of the Work, including any applicable construction code(s). Any Work not conforming thereto shall be corrected by the CITY immediately at its sole expense.

ii. The CITY shall pay all costs, expenses and fees which are reasonable or necessary for the performance of the Work in a timely manner.

- iii. The CITY shall ensure that all employees or subcontractors performing the Work shall at all times observe and conduct themselves in a disciplined and professional manner. The CITY shall not employ or engage any person, contractor, or subcontractor, or suffer or permit the employment of any employee of any contractor or subcontractor that is unfit or not skilled in the task assigned to him or her. The CITY or its designee shall furthermore be responsible for initiating, maintaining, and supervising reasonable safety precautions and programs in connection with the Work to prevent (A) bodily injury, death, or property damage to the CITY, any of the CITY'S employees, contractors and subcontractors and any member of the public and (B) unrepaired damage to the Ute Facilities. Conducting the Work/construction of the Sign shall not be deemed to be damage.
- v. The CITY shall not cause or suffer any mechanic's lien or other encumbrance to be placed upon the License area, or any part of the Ute Facilities in connection with the performance of the Work or the construction, repair, or maintenance of the Sign. In the event any mechanic's lien or other encumbrance is asserted or filed on the License Area or any part of the Ute Facilities, the CITY shall immediately cause a removal thereof by payment of the lien or bond under the Colorado Mechanic's Lien Act.
- vi. Upon completion of the Work, the CITY shall remove all waste material and rubbish from the License area, as well as all tools, construction equipment, and machinery and, to the extent that the CITY disturbs any Ute Facilities restore all the land affected by the Sign to the condition existing prior to the commencement of construction, except as is specifically provided in the Plans.
- d. Subcontractors. The CITY shall cause its contractor to maintain insurance against claims and liabilities arising under the laws of the State of Colorado or as otherwise required by the City pertaining to workers' compensation and general liability.
- 4. CITY's Obligation to Maintain and Repair.
  - a. Agreement to Maintain and Repair. Following completion of the Project, the CITY agrees at its sole cost and expense to perpetually maintain and repair the Sign to function according to its intended purpose according to the Plans and in such a manner that it does not interfere with UTE's use, operation, control, repair, or maintenance of the Ute Facilities.
  - b. In the event the Sign causes or threatens an interruption of water deliveries to UTE's customers or causes or threatens the imminent loss of life or property damage , whether due to a defect in design, or errors or omissions in installation, operation, repair or maintenance of the Sign or the failure of the materials used for the Work, then no advance notice of default shall be required to establish a default hereunder and UTE may seek legal and/or equitable remedies, including temporary restraining orders, preliminary or permanent injunctions and compensatory damages.
  - c. Undertake such actions as UTE determines reasonable and necessary in its discretion to exercise self-help to cure a default under this Agreement including but not limited to, undertaking any corrective work to repair or restore any aspect of the Ute Facilities damaged or impaired by the City's failure to maintain or repair the Sign.



d. The City further understands that while UTE has reviewed and accepted the sign design and location, the City acknowledges and agrees that the sign may be damaged from a water line break/leak or during the repair of a break/leak. In the event of such damage, the repair of the sign will be at the City's sole expense provided UTE's work that resulted/may be claimed to have resulted in damage to the sign was completed in a proper, reasonable workmanlike and professional manner.

5. Miscellaneous.

a. Benefit. The terms of this Agreement shall inure to the benefit of and be binding upon the Parties and their successors, legal representatives, and assigns.

b. Modification. This Agreement may not be modified except in writing signed by both parties hereto. Verbal modifications shall have no force or effect.

c. Notice. Whenever required hereunder notice shall be deemed sufficiently given if in writing, upon mailing, United States mail, postage prepaid, certified, and return receipt requested, to the Parties addresses set forth below:


UTE: 2190 H 1/4 Road, Grand Junction, Colorado 81505

CITY: 250 North 5th Street, Grand Junction, CO 81501

d. Integration. This Agreement is intended to be the full, complete, and integrated expression of the Parties' agreements regarding the subject matter hereof, all prior agreements, negotiations and discussions being merged herein.

DATED the year and date first above written.

UTE Water Conservancy District

By:   
GREGORY WILLIAMS - ASSISTANT MGR. UTE WATER

STATE OF COLORADO )

) ss.

COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 8 day of December, 2023 by Gregory Williams Ute Water conservancy District.

Witness my hand and official seal.

My commission expires:

Notary Public



GEORGE STENGEL  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20234035390  
MY COMMISSION EXPIRES SEPTEMBER 15, 2027

CITY OF GRAND JUNCTION

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

STATE OF COLORADO )

) ss.

COUNTY OF MESA )

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of December, 2023 by Greg Caton, City Manager of the City of Grand Junction

Witness my hand and official seal.

My commission expires: May 25, 2025 Notary Public

*Jennifer L. Cinquini*

**JENNIFER L. CINQUINI**  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID #20084026733  
My Commission Expires May 25, 2025