

DEC00NTH

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: **EASEMENT**

PURPOSE: INSTALLATION AND MAINTENANCE OF UNDERGROUND DOMESTIC WATER LINES AND APPURTENANCES

NAME OF PROPERTY OWNER OR GRANTOR: DAMBA EASTGATE CORPORATION

STREET ADDRESS/PARCEL NAME/SUBDIVISION (LOT AND BLOCK): EASTGATE SHOPPING CENTER SUBDIVISION AND 2836 NORTH AVENUE AND 2842 NORTH AVENUE

PARCEL NO: 2943-073-17-001 &
2943-073-17-002

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 2000

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE



EASEMENT DEED AND AGREEMENT

This EASEMENT DEED AND AGREEMENT ("Agreement") made, effective as of May 18, 2000, by and among **DAMBA EASTGATE CORPORATION** of 1 Independence Plaza, Red Bank, NJ 07701, hereinafter referred to as "Grantor," and **THE CITY OF GRAND JUNCTION** of 250 North 5th Street, Grand Junction, CO 81501, hereinafter referred to as "Grantee," and **TIERRA VENTURES, LLC** of 1353 Grand Avenue, Grand Junction, CO 81501, hereinafter referred to as "Developer."

The parties agree as follows:

SECTION ONE CONVEYANCE OF EASEMENT

Grantor, for and in consideration of good and valuable consideration, hereby grants and conveys to Grantee an easement over and across the property of Grantor described as follows:

See Exhibit "A" attached hereto and by this reference incorporated herein.

The easement is and shall be perpetual and non-exclusive.

SECTION TWO DESCRIPTION OF EASEMENT

An easement over and across the property of Grantor for the use and benefit of Grantee, its employees, agents, tenants and contractors, or any of its successors in title. The easement is for the installation and maintenance of underground domestic water lines and appurtenances.

SECTION THREE CONDITIONS

- (a) Grantor shall not fence the easement, or otherwise use the surface of the easement in a manner inconsistent with the rights granted herein to Grantee and Grantee understands and agrees that Grantor has no responsibility for the repair and maintenance of the domestic water line in the easement.
- (b) Grantee shall, following execution and recordation of this Deed and Agreement, be responsible for the repair and maintenance of the domestic water line from the easement west to 28½ Road. The Grantee may vacate, abandon or modify the line at its sole and absolute discretion so long as domestic water service is provided to the Grantor and the Developer's project without charge other than the normal use fee.

(c) Grantee shall maintain and repair the domestic water line, located in the easement, in accordance with its necessary, reasonable and customary practices.

(d) Developer shall install the domestic water line in the easement granted herein upon construction of the subdivision improvements for Camelot Gardens Subdivision and shall, at that time, contract with the Grantee for installation of a tap valve and two (2) gate valves on the domestic water line.

(e) Installation of any utilities and repair and maintenance of installed utilities shall occur at a time and in a manner least disruptive to the operation of the Eastgate Shopping Center. Installation of utilities shall not interfere with or cause damages to any existing easements or utilities. Any damage to existing easements or utilities caused by the installation shall be repaired immediately by developer at the sole cost and expense of developer.

**SECTION FOUR
EASEMENT TO RUN WITH LAND**

This grant of easement shall run with the land and shall be binding on and shall inure to the benefit of Grantor and Grantee, their respective heirs, successors, or assigns.

**SECTION FIVE
NOTICES**

Any notice provided for or concerning this agreement shall be in writing and be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth above.

**SECTION SIX
GOVERNING LAW**

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Colorado. The rule of strict construction does not apply to this instrument. This Easement Deed shall be given a reasonable construction in light of the intention of the parties to provide a looped domestic water line to the property of Developer subject to the maintenance obligations of Grantee.

**SECTION SEVEN
ENTIRE AGREEMENT**

This Agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Agreement shall not be binding upon either party except to the extent incorporated in this Agreement.

SECTION EIGHT
MODIFICATION OF AGREEMENT

Any modification of this Agreement or additional obligation assumed by either party in connection with this Agreement shall be binding only if evidenced in writing signed by each party or an authorized representative of each party.

IN WITNESS WHEREOF, each party to the Agreement has caused it to be executed as of the date and year first above written.

"GRANTOR"

DAMBA EASTGATE CORPORATION

By: *Marescotti Ruspoli*
~~James O. Duffy, Attorney-in-Fact~~
Marescotti Ruspoli, President

Attest:
[Signature]
Title: PRESIDENT

4/12/2000



NOTARY
MILENA KRÁLOVÁ

"GRANTEE"

THE CITY OF GRAND JUNCTION

By: *David Valdez*
Title: ACTING CITY MANAGER

"DEVELOPER"

TIERRA VENTURES, LLC, a Colorado limited liability company

By: *[Signature]*
David L. Woodward, Manager

Běžné číslo ověřovací knihy: 0-32 93/ 2000
Ověřuji, že

Marescotti Ruspoli
max. 6.3.1995
Bilpa

dnešního dne v mé přítomnosti vlastnoručně podepsal tuto listinu (uznal podpis na listině se již nacházející za vlastní).
Notář provedením legalizace neodpovídá za obsah listiny 12-04-2000
v Praze dne:



[Signature]
JUDr. Milena KRÁLOVÁ
notářka v Praze

STATE OF NEW JERSEY)
) ss.
COUNTY OF)

The foregoing instrument was acknowledged before me this _____ day of _____, 2000,
by James O. Duffy, Attorney-in-Fact of Damba Eastgate Corporation.

WITNESS my hand and official seal.
My commission expires:

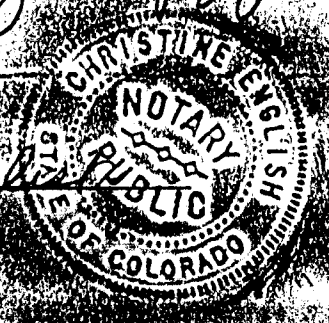
Notary Public

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 18th day of May, 2000
by David Warley, the Acting City Manager of the City of Grand
Junction, Colorado.

WITNESS my hand and official seal.
My commission expires: 2/6/02

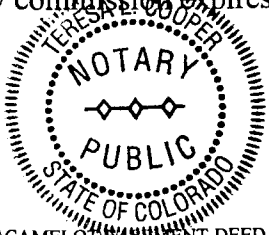
Christine English



STATE OF COLORADO)
) ss.
COUNTY OF MESA)

Subscribed and sworn to before me this 20th day of March, 2000, by
David L. Woodward, the Manager of Tierra Ventures, LLC, a Colorado limited liability company.

WITNESS my hand and official seal.
My commission expires: 8/27/2001



Teresa L Cooper
Notary Public

EXHIBIT "A"

A Utility Easement located in the Southeast Quarter of the Southeast Quarter of the Southwest Quarter (SE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 7, Township 1 South, Range 1 East, of the Ute Meridian, being part of Eastgate Shopping Center Subdivision, more particularly described as follows:

Commencing at the Southwest Corner of the Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 7, Township 1 South, Range 1 East, of the Ute Meridian. Whence the Northwest Corner of said Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$) of Section 7 bears North 00 degrees 00 minutes 32 seconds West, a distance of 658.95 feet, for a basis of bearings, with all bearings contained herein being relative thereto; thence South 89 degrees 56 minutes 55 seconds East, along the North line of Eastgate Shopping Center as recorded in Plat Book 11, at page 125, Mesa County Records, a distance of 100.59 feet to the POINT OF BEGINNING thence South 00 degrees 03 minutes 05 seconds West, a distance of 20.00 feet; thence North 89 degrees 56 minutes 55 seconds West, parallel with the north line of said Eastgate Shopping Center, a distance of 726.28 feet to a point on the Easterly Right-of-Way line of 28 $\frac{1}{4}$ Road; thence North 00 degrees 04 minutes, 58 seconds East, along said Right-of-way line, a distance of 10.00 feet; thence South 89 degrees 56 minutes 55 seconds East, parallel with the north line of said Eastgate Shopping Center, a distance of 706.27 feet thence North 00 degrees 03 minutes 05 seconds East, a distance of 10.00 feet, to a point on the North line of said Eastgate Shopping Center; thence along said North line, South 89 degrees 56 minutes 55 seconds East, a distance of 20.00 feet; to the POINT OF BEGINNING