

DPH95CLX

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: EASEMENT

NAME OF AGENCY OR CONTRACTOR: DEPARTMENT OF PUBLIC HEALTH
AND ENVIRONMENT

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: A PEDESTRIAN
BRIDGE ACROSS THE COLORADO RIVER AT THE CLIMAX MILL SITE
COLORADO WEST DEVELOPMENT PARK

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1995

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

Original - Good
CONTRACT #

FAZ 96-0442

CITY OF GRAND JUNCTION
BRIDGE PROJECT

Book 2190 Page 844

GRANT OF EASEMENT

1738250 0301PM 12/01/95
MONIKA TODD CLK&REC MESA COUNTY CO
DOCUMENT FEE \$EXEMPT

THIS EASEMENT, is granted this 15th day of September, 1995, pursuant to the Uranium Mill Tailings Radiation Control Act ("UMTRCA"), Pub. L. 95-604, 42 U.S.C. 7901 et. seq., and acts amendatory thereof or supplementary thereto, to the CITY OF GRAND JUNCTION, Colorado, hereinafter referred to as "City," by the COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, hereinafter referred to as the "DEPARTMENT."

WHEREAS, the STATE OF COLORADO, Department of Public Health and Environment, acquired the Climax Mill Site in Grand Junction, Colorado at the direction of the U.S. Department of Energy, hereinafter referred to as "DOE," in order to complete remedial actions in accordance with UMTRCA; and

WHEREAS, surface remediation of the Climax Mill Site is complete; however, groundwater remediation at the site has not yet begun; and

WHEREAS, the City acknowledges the statutory requirement of DOE and the Department to perform groundwater remediation at the Climax Mill Site; and

WHEREAS, the City desires to construct a pedestrian bridge across the Colorado River at the Climax Mill site, hereinafter referred to as "the bridge", and

WHEREAS, the City's use of this land is compatible with DOE's and the Department's future groundwater remediation and monitoring; and

WHEREAS, the Nuclear Regulatory Commission, hereinafter referred to as the "NRC," has regulatory oversight over remediation activities at the site and must certify when remediation at the Climax Mill Site is complete.

NOW, THEREFORE, in consideration of the covenants and commitments herein stated and other good and valuable consideration, the sufficiency of which is hereby acknowledged and stipulated to, the parties covenant and agree as follows:

1. Subject to the restrictions, reservations and covenants stated herein, the Department does hereby grant unto the City an easement (until December 31, 2045) on,

over, under, and across the Climax Mill site which is further described in Exhibit A, and shown on Exhibit B attached hereto and by reference made a part hereof. This easement may be renewed for additional (50-year) periods solely at the option of the City.

2. The rights being granted to the City, as described in paragraph 1, hereof, shall be subject to: (i) coal, oil, gas, or other mineral rights in any party; (ii) existing rights-of-way for roads, railroads, telephone lines, transmission lines, utilities, ditches, conduits, or pipelines on, over, or across said lands; (iii) existing court liens, judgments, or financial encumbrances, such as deeds of trust, for which a formal consent or order has been obtained from the court of the lien holder; and (iv) other rights, interests, reservations or exceptions of record.

3. The easement granted herein is subject to the following covenants which are made in favor and to the benefit of, and which are enforceable by, the Department and shall run with the land and be binding upon the City, its successors and assigns:

A. This easement is limited to those activities necessary for the City to construct, maintain, and operate the pedestrian bridge, including the right of the City to survey, construct, reconstruct, relocate, operate, inspect and maintain, including ingress and egress to and from, the bridge, and stockpile excess earthfill materials on, over, under, and across the Climax Mill Site provided, however, that any such construction, reconstruction, operation, maintenance, or relocation of the bridge shall not impact groundwater nor interfere with the UMTRA Groundwater Restoration Phase. The City shall obtain written approval of DOE prior to any such reconstruction or relocation.

B. Groundwater shall not be used for any purposes without obtaining appropriate water rights, and without the approval of DOE and the Department. The DOE and the Department will evaluate any request to use groundwater to determine whether residual contamination poses an unacceptable health risk, or whether such use would adversely impact the UMTRA Groundwater Restoration Phase.

C. All construction shall be in accordance with the latest standards and codes for construction of such projects.

D. After construction, any disturbed areas shall be restored and regraded to a condition equal to or better than that which existed prior to construction, and in a manner that facilitates revegetation, drainage without erosion, and blends with the surrounding terrain. Any destruction, scarring, damage, or defacing of the landscape caused by the City or its agents will be repaired, reseeded, replanted, or otherwise corrected.

E. This easement is subject to the rights and responsibilities of the Department and DOE as described in UMTRCA, Cooperative Agreement Number DE-FC04-81AL16257 between the Department and DOE, any subsequent cooperative agreements between the Department and DOE; and as described herein.

F. This easement is subject to the right of the Department and DOE to access and enter the area covered by this easement as may be necessary for the Department, DOE, and their employees, contractors and agents to complete their UMTRCA activities.

G. The City agrees that it will not disturb or alter any wells or monitoring devices without the prior written concurrence of DOE. If the City damages or alters any wells or monitoring devices despite this agreement, the City will replace at its own cost such wells or monitoring devices with comparable installations.

H. All construction, operation, and maintenance of the bridge shall be coordinated with the Department and DOE. Such coordination will ensure that the Department and DOE can continue necessary monitoring, access, and any necessary remedial activities while not unreasonably interfering with bridge construction and operation.

I. The City agrees to assume maintenance responsibilities on the area covered by this easement once construction of the bridge begins and will take all reasonable measures to prevent adverse impacts to the public health, safety and the environment, including but not limited to site security, monitoring, and compliance with all applicable federal, state and local laws. This maintenance includes controlling vegetation, the prevention and control of erosion, security of fences and gates, and any other activities consistent with good custodial management.

J. The City will notify DOE and the Department 20 days prior to commencing any construction.

K. The City will be responsible for treating any contaminated groundwater encountered during the construction, operation, and maintenance of the bridge prior to any discharge or release, in accordance with applicable rules, regulations, and laws including the Colorado Discharge Permit System and the U. S. Environmental Protection Agency's proposed groundwater protection standards to be included as 40 CFR Part 192. The City is responsible for ensuring that any additional contaminated materials, including mill tailings and hazardous substances as that term is defined in 42 U.S.C. § 9601(14), that may be encountered during the construction, operation, and maintenance of the bridge will be disposed of according to applicable rules, regulations, and laws. It is understood that this responsibility extends only to substances released or encountered as a result of the City's activities and does not extend to the pre-existing contamination unaffected by the City's construction, operation and maintenance of the bridge.

L. The City agrees that it will be responsible for any claims, injuries, or damages that may occur as a result of its actions under this Easement, and covenants not to sue the Department or DOE as a result of any actions of the City pursuant to this easement. The City agrees that the Department and DOE are not responsible in any manner for the work or other actions taken by or on behalf of the City, and the City shall require each of its contractors and subcontractors to maintain liability insurance with a minimum combined single occurrence limit of not less than \$600,000, and a minimum aggregate limit of not less than \$1,000,000.

M. The City agrees that it is responsible for any contaminated materials it encounters during construction, operation and maintenance of the bridge, waives any claims against the Department and DOE as a result of, or based upon contamination encountered, and the City covenants not to sue the Department or the DOE based on any contamination encountered.

N. The bridge shall be designed so that no groundwater from the site, will be used for any purpose associated with the construction, operation, and maintenance of the bridge. The bridge and any other building, structure or facility shall be designed and

utilize appropriate construction materials so as to minimize impacts to groundwater, and to ensure that its activities do not aggravate existing groundwater contamination.

O. Upon completion of construction, the City, at its sole cost and expense, within the easement herein described, will: (i) replace or repair with materials of like kind and equal quality any fences, ditches, pipelines, driveways, or roadways, including appurtenances thereto existing at the time of the grant of this easement by the Department that are damaged or destroyed by construction of the bridge and appurtenant structures, (ii) grade to reasonably even and regular surfaces all fills, cuts, and waste banks, (iii) restore the remaining land in the easement as near as practical to the condition of the site prior to construction, and (iv) complete the above actions in coordination with the Department and DOE.

P. The City will not sell, transfer, assign, lease or make any other use of this easement without prior written approval of the Department and DOE. If the City determines for any reason to not utilize the easement as described herein, the City will initiate abandonment of said easement to the then owner of record. Upon abandonment by the City of the easement or any part thereof, as evidenced by a written notice to that effect from the City, the title and interest herein granted shall end, cease, and terminate, and title to rights herein granted shall revert to the then owner of record, and the City will be responsible for removing all structures including the bridge and/or restoring the property as near as practical to the condition of the parcel prior to construction.

Q. The Department and DOE make no representations or warranties, express or implied, as to the suitability of the Climax Mill Site for the purposes to which the City intends to put it.

R. The City is solely responsible for obtaining and complying with all necessary permits, approvals, etc..

S. The Department agrees that it will not make any use of the easement area described in paragraph 1 hereof that may unreasonably interfere with or be inconsistent with the City's use and enjoyment of this easement and that: (i) no buildings or structures of a permanent nature will be constructed within the easement without the approval of the City which shall not be unreasonably withheld; (ii) removal of materials

from or placement of materials upon the area shall be subject to the approval of the City which shall not be unreasonably withheld; and (iii) any future easements to third parties on, over or across the easement area will be subject to the approval of the City which shall not be unreasonably withheld. Furthermore, the Department's future use of this land will not unreasonably interfere with the bridge and the Department will coordinate any future use or development of this land with the City.

T. The Department agrees to coordinate with the City before selling or transferring any remaining interest in the Climax Mill site in the future. If mutually agreeable to all parties, fee title ownership of the Climax Mill site or any portion thereof may be conveyed to the City in the future.

U. The Department will provide a recorded copy of the title to the property. Additional abstracts or certificates of title or title insurance required by the City will be procured by the City at its expense unless otherwise provided in this easement. The expense of recording this Grant of Easement shall be borne by the City.

V. The City shall reimburse the Department for any expenses it reasonably incurs including recording fees, transfer taxes and similar expenses incidental to granting the easement described herein to the City. The Department agrees to furnish the City evidence that these items of expenses have been billed to and paid by the Department.

W. In the event that liens or encumbrances, other than those of record and as expressly provided herein, do exist, the City may, at its option, remove any and all such outstanding liens and encumbrances, but this provision shall not be construed to authorize the incurrence of any lien or encumbrance as against this easement, nor as an assumption of any lien or encumbrance by the City already in existence on the date of this easement. The City shall promptly remove any liens and encumbrances filed against the property as a result of the activities of the City's agents, contractors, employees, successors, and assigns actions.

X. This Easement shall become effective to bind the City to acquire said property rights immediately upon execution and shall inure to the benefit of and be binding on the administrators, successors and assigns of the Department and the City. This Easement is enforceable in a court of competent jurisdiction and the City agrees to

pay the Department its fees and costs if the city is determined to be in violation of this easement.

Y. If the City determines that the title to the servient estate should be acquired by the City, either to procure a safe title or to obtain title more quickly or for any other reason, the Department and the City hereby stipulate that the amount to be paid for the interest acquired in said lands shall be the same amount as the purchase price herein provided. The City will pay all usual and customary costs of such acquisition and in any disputes over sale of the property between the Department and the City, each party shall bear their own expenses. Any subsequent transfer of the interest acquired thereby shall be subject to all the terms and conditions of the Easement or the grant shall be null and void. The City acknowledges and agrees that any such transfer of the property to the City by the Department is subject to the approval of DOE and NRC.

4. The Department recognizes that public access to and from the bridge is necessary. Therefore, the Department agrees to amend this easement to provide such access upon request by the City, and upon receipt of a specific legal description of the access requested.

IN WITNESS WHEREOF, the parties hereto have signed their names the day and year first above-written.

STATE OF COLORADO
Roy Romer, Governor
Acting by and through STATE OF COLORADO

City of Grand Junction

Colorado Department of Public
Health and Environment

By: Ron Maupin
Ron Maupin,
Mayor

By: Patti Shwayder
Patti Shwayder,
Acting Executive Director

GENERAL SUPPORT SERVICE
STATE BUILDINGS PROGRAM
DEPARTMENT OF PERSONNEL

J. Brauer

APPROVALS:

GENERAL SUPPORT SERVICES
DIVISION OF PURCHASING
DEPARTMENT OF PERSONNEL

By: _____

By: J. Brauer

~~§ 24-82-202, C.R.S. CONTROLLER, STATE OF COLORADO~~

APPROVED AS TO FORM 7
GALE A. NORTON
ATTORNEY GENERAL
BY: David M. Kaye
DAVID M. KAYE
FIRST ASSISTANT ATTORNEY GENERAL
CENTRAL LEGAL SERVICES

EXHIBIT A

A tract or parcel of land for the construction and installation of a pedestrian bridge over the Colorado River, situate in the NE 1/4 of the SW 1/4 of Section 24, Township 1 South, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

Commencing at the Northwest Corner of the NE 1/4 SW 1/4 of said Section 24; thence East along the North line of said NE 1/4 SW 1/4 a distance of 235.0 feet to the True Point of Beginning;

thence South a distance of 638.0 feet, more or less, to a point on the North Bank of the Colorado River;

thence Northeasterly along the North Bank of the Colorado River a distance of 310.0 feet, more or less;

thence North a distance of 570.0 feet, more or less, to a point on the North line of said NE 1/4 SW 1/4;

thence West along the North line of said NE 1/4 SW 1/4 a distance of 300.0 feet to the True Point of Beginning.

A 30-foot wide non-exclusive Easement for Ingress and Egress purposes situate in the SE 1/4 of the NW 1/4 of Section 24, Township 1 South, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, being more particularly described as follows:

Commencing at the Southwest Corner of the SE 1/4 NW 1/4 of said Section 24; thence East along the South line of said SE 1/4 NW 1/4 a distance of 273.79 feet to the True Point of Beginning;

thence North a distance of 100.0 feet;

thence 288.26 feet along the arc of a curve to the left having a radius of 367.03 feet, a central angle of 45°00'00", and a long chord bearing N 22°30'00" W a distance of 280.91 feet to a point of reverse curvature;

thence 311.83 feet along the arc of a curve to the right having a radius of 397.03 feet, a central angle of 45°00'00", and a long chord bearing N 22°30'00" W a distance of 303.87 feet;

thence North a distance of 374.73 feet;

thence 47.12 feet along the arc of a curve to the left having a radius of 30.00 feet, a central angle of 90°00'00", and a long chord bearing N 45°00'00" W a distance of 42.43 feet;

thence West a distance of 20.00 feet to a point on the West right-of-way line for South 15th Street;

thence North along the West right-of-way line for South 15th Street a distance of 30.00 feet;

thence leaving said right-of-way line, East a distance of 20.00 feet;

thence 94.25 feet along the arc of a curve to the right having a radius of 60.00 feet, a central angle of 90°00'00", and a long chord bearing S 45°00'00" E a distance of 84.85 feet;

thence South a distance of 374.73 feet;

thence 288.26 feet along the arc of a curve to the left having a radius of 367.03 feet, a central angle of 45°00'00", and a long chord bearing S 22°30'00" E a distance of 280.91 feet to a point of reverse curvature;

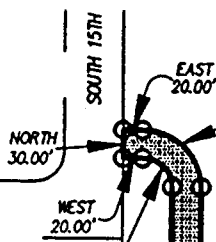
thence 311.83 feet along the arc of a curve to the right having a radius of 397.03 feet, a central angle of 45°00'00", and a long chord bearing S 22°30'00" E a distance of 303.87 feet;

thence South a distance of 100.00 feet to a point on the South line of the SE 1/4 NW 1/4 of said Section 24;

thence West along the South line of said SE 1/4 NW 1/4 a distance of 30.00 feet to the True Point of Beginning.

EXHIBIT B

COLORADO WEST DEVELOPMENT PARK

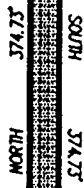


$\Delta = 90^{\circ}00'00''$
 $R = 60.00'$
 $L = 94.25'$
CHD = S $45^{\circ}00'00''$ E
84.85'

WINTERS AVENUE(60')

COLORADO WEST DEVELOPMENT PARK
FILING TWO

$\Delta = 90^{\circ}00'00''$
 $R = 30.00'$
 $L = 47.12'$
CHD = N $45^{\circ}00'00''$ W
42.43'

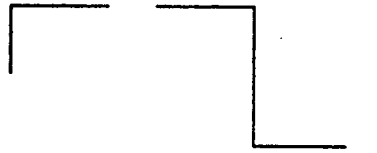


SE 1/4 NW 1/4 SECTION 24

$\Delta = 45^{\circ}00'00''$
 $R = 397.03'$
 $L = 311.83'$
CHD = N $22^{\circ}30'00''$ W
303.87'

$\Delta = 45^{\circ}00'00''$
 $R = 367.03'$
 $L = 288.26'$
CHD = S $22^{\circ}30'00''$ E
280.91'

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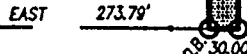


STATE OF COLORADO
DEPARTMENT OF HEALTH

$\Delta = 45^{\circ}00'00''$
 $R = 367.03'$
 $L = 288.26'$
CHD = N $22^{\circ}30'00''$ W
280.91'

$\Delta = 45^{\circ}00'00''$
 $R = 397.03'$
 $L = 311.83'$
CHD = S $22^{\circ}30'00''$ E
303.87'

WEST LINE SE 1/4 NW 1/4

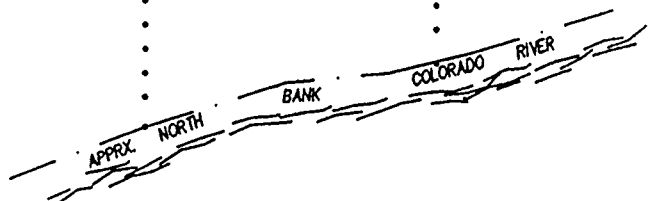


S.W. CORNER
SE 1/4 NW 1/4
SECTION 24
T.1.S.R.1.W.U.M.

STATE OF COLORADO
DEPARTMENT OF HEALTH

PEDESTRIAN BRIDGE
CONSTRUCTION EASEMENT

NE 1/4 SW 1/4 SECTION 24



DRAWN BY: SRP
DATE: 05-30-95
SCALE: 1" = 200'
APPR. BY: [Signature]
FILE NO: PBRIDGE.DWG

RIGHT-OF-WAY DESCRIPTION MAP
INGRESS/EGRESS EASEMENT
FOR THE OPERATION AND MAINTENANCE
OF THE PEDESTRIAN BRIDGE

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
CITY OF GRAND JUNCTION

COLORADO WEST DEVELOPMENT PARK

WINTERS AVENUE(60')

COLORADO WEST
DEVELOPMENT PARK
FILING TWO

SOUTH 15TH

30' ACCESS/EASEMENT

SE 1/4 NW 1/4
SECTION 24

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STATE OF COLORADO
DEPARTMENT OF HEALTH

EAST

235.00'

WEST

300.00'

NORTH LINE NE 1/4 SW 1/4

N.W. CORNER
NE 1/4 SW 1/4
SECTION 24
T.I.S. R.I.W. U.M.

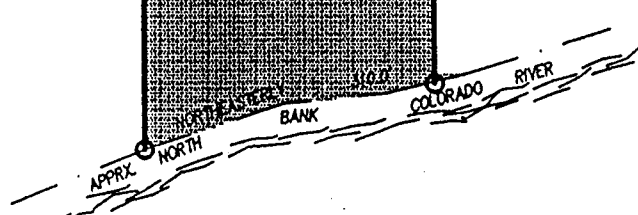
STATE OF COLORADO
DEPARTMENT OF HEALTH

WEST LINE NE 1/4 SW 1/4

638.0'
SOUTH

570.0'
NORTH

NE 1/4 SW 1/4
SECTION 24



INDIAN ROAD INDUSTRIAL SUB.

DRAWN BY: SRP
DATE: 05-30-95
SCALE: 1" = 200'
APPR. BY: *Tom W.*
FILE NO: PBRIDGE.DWG

RIGHT-OF-WAY DESCRIPTION MAP

CONSTRUCTION EASEMENT
FOR PROPOSED PEDESTRIAN BRIDGE

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
CITY OF GRAND JUNCTION