

GDP99SHW

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: EASEMENT

NAME OF AGENCY OR CONTRACTOR: GARY D. PLSEK, THOMAS G. TOWNER, M.D. AND LORI M. TOWNER

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: PARADISE HILLS BOULEVARD  
AKA SUMMERHILL BOULEVARD, PLSEK/CROWE SIMPLE LAND DIVISION,

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1999

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT is made and entered into this 23<sup>rd</sup> day of March, 1999, by and between Gary D. Plsek, "Grantor", whose address is 696 Cloverdale Drive, Grand Junction, Colorado 81506-8302, Thomas G. Towner, M.D. and Lori M. Towner, "Grantees", whose address is ~~872~~<sup>840</sup> 26 1/2 Road, Grand Junction, Colorado 81506, and the City of Grand Junction, a Colorado home rule municipality, "City", whose address is 250 North 5<sup>th</sup> Street, Grand Junction, Colorado 81501.

Recitals

- A. Grantor is the owner of that certain real property in the County of Mesa, State of Colorado, described on **Exhibit "A"** attached hereto and incorporated herein by reference, said real property hereinafter referred to as "Grantors' Property" or the "Servient Property."
- B. Grantees are the owners of that certain real property in the County of Mesa, State of Colorado, described on **Exhibit "B"** attached hereto and incorporated herein by reference, said real property hereinafter referred to as "Grantee's Property" or the "Dominant Property."
- C. The City will be constructing a new public roadway, to be known as Paradise Hills Boulevard, during the 1999 construction season (the "Project"). The Project is located adjacent to both Grantors' Property and Grantees' Property. The City Council of the City has determined that the Project is necessary for the health, safety and welfare of the inhabitants of the City of Grand Junction.
- D. Grantees' Property has historically received irrigation water from an open ditch (the "Ditch") located upon and across Grantors' Property. Construction of the Project by the City requires the installation and construction of certain improvements to certain portions of the Ditch so that Grantees' Property may continue to receive irrigation water as has been historically established.

NOW, THEREFORE, based on the recitals above and the terms, covenants and conditions hereinafter set forth, the Owners and the City agree as follows:


- 1. Grant of Easement. For and in consideration of the sum of One Hundred Seventy-Nine and 01/100 Dollars (\$179.01), paid by the City to Grantor, the receipt and sufficiency of which is hereby acknowledged, Grantor has sold, granted and conveyed, and by these presents does hereby sell, grant and convey unto Grantees, for the specific purposes hereinafter set forth, a Perpetual Irrigation Easement on, along, over, under, through and across those portions of Grantors' Property as described on **Exhibit "C"** attached hereto and incorporated herein by reference, to have and to hold unto the said Grantees, subject to the terms and conditions contained herein.
- 2. Grantors' Right to Use and Occupy. Grantor reserves the right to use and occupy Grantors' Property for any lawful purpose which is not inconsistent with and which will not interfere with the full use and quiet enjoyment by Grantees' of the easement rights herein granted; provided, however, that Grantor hereby covenants and agrees that the easement herein granted shall not be burdened or overburdened by the installation or construction of any improvements or structures thereon which might be detrimental to the irrigation facilities situate within said easement or which might act to prevent reasonable ingress and egress for workers and equipment on, along, over, under, through and across the easement.
- 3. Grantors' Right to Relocate. Grantor shall have the right, at Grantors' expense, to relocate the easement hereby granted and the irrigation facilities situate therein to allow for the use and development of Grantors' Property; provided, however, that such relocation shall not impede the delivery of irrigation water to Grantees' Property; that such relocation shall allow reasonable and feasible access to Grantees' irrigation facilities; and that any such relocation shall be accomplished only upon the prior written approval of Grantees, which approval shall not be unreasonably withheld. To accommodate reasonable and feasible access to the Grantee's irrigation facilities, the City will install a gate at the current location of said irrigation facilities; provided, however, that any relocation of the Easement by the Grantor shall, at Grantor's expense, include moving the gate to the new location. In the event that Grantor installs underground pipe to deliver Grantee's water to the easement, this easement shall immediately terminate.
- 4. Automatic Termination. At such time and in the event the easement herein conveyed shall be abandoned for a period of three (3) consecutive years, the easement interest of Grantees shall immediately terminate and shall thereafter revert to Grantor, his heirs, successors or assigns.
- 5. Grantors' Covenants. Grantor hereby covenants with Grantees that he has good title to the Easement herein granted; that he has good and lawful right to grant this easements; that he will warrant

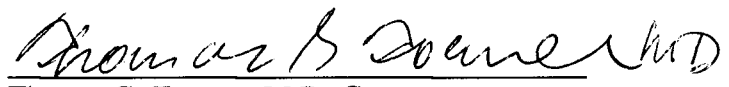
and forever defend the title and quiet possession thereof against the lawful claims and demands of all persons by, through or under Grantor.

6. Entire Agreement. This Easement Agreement constitutes the entire agreement between the parties hereto and supersedes all prior and contemporaneous agreements, representations and understandings. No supplement, modification or amendment of this Agreement shall be binding unless executed in writing by the parties hereto, or by their respective heirs, successors or assigns.

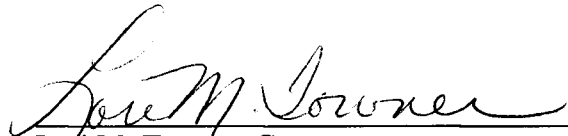
7. Inurement. The benefits, duties, responsibilities and obligations of this Easement Agreement shall be binding upon and inure to the benefit of the parties hereto, and upon their respective heirs, successors and assigns.


Executed and delivered as of the day and year first above written.

  
\_\_\_\_\_  
Gary D. Plsek, Grantor

  
\_\_\_\_\_  
Thomas G. Towner, M.D. Grantee

For the City of Grand Junction

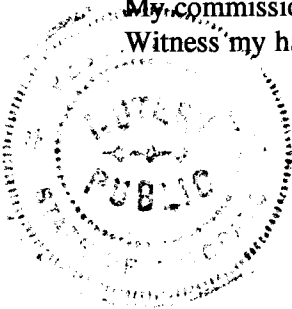
  
\_\_\_\_\_  
Lori M. Towner, Grantee

  
\_\_\_\_\_  
Tim Woodmansee, Property Agent

State of Colorado )  
 )ss.  
County of Mesa )

The foregoing instrument was acknowledged before me this 23<sup>rd</sup> day of March, 1999, by Gary D. Plsek.

My commission expires: 3.3.01  
Witness my hand and official seal.

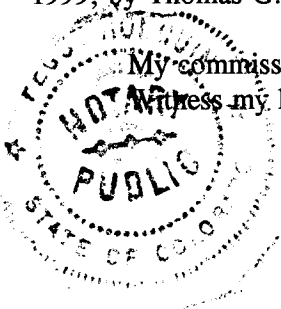


Peggy Holquin  
Notary Public

State of Colorado )  
 )ss.  
County of Mesa )

The foregoing instrument was acknowledged before me this 30<sup>TH</sup> day of APRIL, 1999, by Thomas G. Towner, M.D., and Lori M. Towner.

My commission expires: 3.3.01  
Witness my hand and official seal.

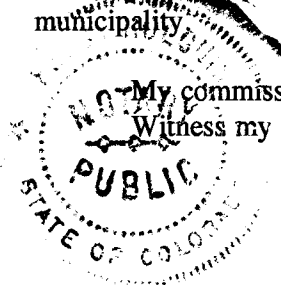


Peggy Holquin  
Notary Public

State of Colorado )  
 )ss.  
County of Mesa )

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of May, 1999, by ~~Tom~~ Woodmansee as Property Agent for the City of Grand Junction, a Colorado home rule municipality.

My commission expires: 3.3.01  
Witness my hand and official seal.



Peggy Holquin  
Notary Public

EXHIBIT "A"

Legal Description of Grantors' Property  
also known as the Servient Property

Parcel 2, Plsek/Crowe Simple Land Division, Section 26, Township 1 North, Range 1 West.

EXHIBIT "B"Legal Description of Grantees' Property  
also known as the Dominant Property

Beginning at the Northwest corner of the SE1/4 of Section 26, Township 1 North, Range 1 West of the Ute Meridian and considering the North line of said SE1/4 to bear North 89°57'50" East with all bearings contained thereto;

thence North 89°57'50" East along the North line of said SE1/4 a distance of 558 feet;

thence South 00°07'50" West a distance of 465 feet;

thence along the arc of a curve to the right whose radius is 280.00 feet and whose long chord bears South 30°08'40" West a distance of 144.80;

thence South 45°07'50" West 265.28 feet;

thence along the arc of a curve to the right whose radius is 280.00 feet and whose chord bears South 67°37'50" West 214.30 feet;

thence North 89°52'10" West 100 feet to a point on the West line of the SE 1/4;

thence North 00°07'50" East along the West line of said SE1/4 a distance of 858.34 feet to the point of beginning;

EXCEPT tract conveyed to Mesa County by instrument recorded April 6, 1961 in Book 800 at page 77.

AND EXCEPT Beginning at the Northwest corner of the SW1/4 SE1/4 of said Section 26;

thence North 00°07'50" East a distance of 462.16 feet;

thence South 89°52'10" East 40.00 feet to the TRUE POINT OF BEGINNING;

thence South 89°52'10" East 60.00 feet;

thence along a radius of a curve to the left 280.00 feet the chord of which bears North 67°37'50" East a distance of 214.30 feet;

thence North 45°07'50" East 265.28 feet;

thence along a radius of a curve to the left 280.00 feet the chord of which bears North 30°08'40" East 144.80 feet;

thence North 00°07'50" East a distance of 465.00 feet;

thence South 89°57'50" West to the center line of the natural drainageway;

thence South and Westerly direction following the centerline of the drainageway to a point of the East right-of-way line of 26 1/2 Road; thence South 00°07'50" West to the TRUE POINT OF BEGINNING.

In Mesa County, Colorado

Legal Description of Irrigation Easement

Commencing at the Center 1/4 Corner of Section 26, Township 1 North, Range 1 West of the Ute Meridian, City of Grand Junction, County of Mesa, State of Colorado, and considering the West line of the SW1/4 SW1/4 NE1/4 of said Section 26 to bear N 00°07'50" E with all bearings contained herein being relative thereto;

thence N 00°07'50" E along the West line of said SW1/4 SW1/4 NE1/4 a distance of 30.00 feet; thence leaving the West line of said SW1/4 SW1/4 NE1/4, N 89°57'41" E a distance of 30.00 feet to the southwest corner of Parcel 2, Plsek/Crowe Simple Land Division, thence N 89°57'50" E a distance of 311.26 feet to the True Point of Beginning;

thence N 39°57'50" E a distance of 20.40 feet;

thence N 84°57'50" E a distance of 3.54 feet;

thence S 50°02'10" E a distance of 5.00 feet;

thence S 05°02'10" E a distance of 3.54 feet;

thence S 39°57'50" W a distance of 12.01 feet;

thence S 89°57'50" W a distance of 13.05 feet to the Point of Beginning,

containing 180.82 square feet as described herein and depicted on **Exhibit "A"** attached hereto and incorporated herein by reference.