

IRV90WTP

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: EASEMENT

NAME OF AGENCY OR CONTRACTOR: IRVIN RENTALS COMPANY A
PARTNERSHIP; BEVERLY T. TALLMAN, REBECCA I. CLEMENT AND PAT
R. IRVIN

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: IN VICINITY
OF WATER TREATMENT PLANT AND CRAWFORD'S TOMB

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1990

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

NELSON,
HOSKIN &
FARINA



Professional Corporation

ATTORNEYS AT LAW

May 17, 1990

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Dan G. Wilson, Esq.
City Attorney
City of Grand Junction
250 N. 5th Street
Grand Junction, Colorado 81501

Re: Irvin

Dear Dan:

Enclosed are the following original documents:

1. Grant of Easement from Irvin Rentals Company, et al. to the City of Grand Junction, recorded in Book 1786 at Page 562; and
2. Agreement dated April 18, 1990 between Irvin Rentals Company, et al. and the City of Grand Junction, recorded in Book 1786 at Page 553.

I have also enclosed with this letter a copy of a recorded Grant of Easement from the City of Grand Junction to Irvin Rentals Company, et al., recorded in Book 1786 at Page 551. I have kept the original of this Grant of Easement.

I appreciate your cooperation in this matter. If you have any questions concerning this matter, please contact me.

Very truly yours,

David M. Scanga

DMS:kkh
Enclosures
xc: Pat Irvin

200 Grand Avenue, Suite 400, Post Office Box 40, Grand Junction, Colorado 81502 (303) 242-4903 FAX: (303) 241-3760

Gregory K. Hoskin
Terrance Farina
Frederick G. Aldrich
Gregg K. Kampf
Edward A. Lipton

Curtis G. Taylor
Theodore Allegra
David A. Younger
David M. Scanga
David A. Price

Michael J. Russell
Susan R. Lundberg
James E. Majors

Of Counsel:
William H. Nelson

GRANT OF EASEMENT

IRVIN RENTALS COMPANY, a partnership, BEVERLY I. TALLMAN, REBECCA I. CLEMENT, PAT R. IRVIN, whose address is 130 Bree Avenue, Anchorage, Alaska 99515, for the consideration of TEN DOLLARS (\$10.00) and other valuable consideration in hand paid, hereby sells and grants to THE CITY OF GRAND JUNCTION, COLORADO, a municipal corporation, whose address is 250 North 5th Street, Grand Junction, of the County of Mesa, State of Colorado, the following real property in the County of Mesa and State of Colorado, to wit:

An easement described on the attached Exhibit A; with all its appurtenances, SUBJECT to the provisions and agreements contained and referred to in Resolution No. 33-90, passed and adopted by the City Council of the City of Grand Junction on April 18, 1990 and an Agreement dated April 18, 1990 between Grantor and Grantee referred to in Resolution 33-90 and recorded in the Mesa County Real Property records.

SIGNED this 30 day of April, 1990.

IRVIN RENTALS COMPANY
a partnership

By Beverly I Tallman
Beverly I. Tallman, General Partner

By Rebecca I Clement
Rebecca I. Clement, General Partner

By Pat R Irvin
Pat R. Irvin, General Partner

Beverly I Tallman
Beverly I. Tallman, individually

Rebecca I Clement
Rebecca I. Clement, individually

Pat R Irvin
Pat R. Irvin, individually

STATE OF ALASKA)
Municipality of _____) ss.
~~COUNTY OF~~ Anchorage)

The foregoing instrument was acknowledged before me this 30th day of April, 1990, by Beverly I. Tallman, individually, and as a General Partner of Irvin Rentals Company, a partnership.

Witness my hand and official seal.
My commission expires: 11-21-92.

Wanda Spence
Notary Public

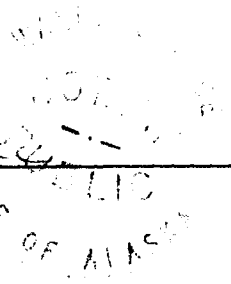


STATE OF ALASKA)
Municipality of _____) ss.
~~COUNTY OF~~ Anchorage)

The foregoing instrument was acknowledged before me this 30th day of April, 1990, by Rebecaa I. Clement, individually, and as a General Partner of Irvin Rentals Company, a partnership.

Witness my hand and official seal.
My commission expires: 11-21-92.

Wanda Spence
Notary Public

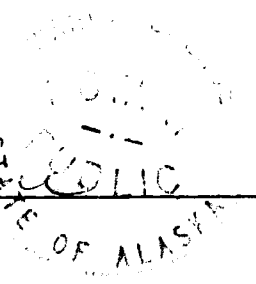


STATE OF ALASKA)
Municipality of _____) ss.
~~COUNTY OF~~ Anchorage)

The foregoing instrument was acknowledged before me this 30th day of April, 1990, by Pat R. Irvin, individually, and as a General Partner of Irvin Rentals Company, a partnership.

Witness my hand and official seal.
My commission expires: 11-21-92.

Wanda Spence
Notary Public



An easement to a parcel of land in the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 26, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado, the purpose of which is to provide ingress and egress along an existing roadway 20 feet in width, being 10 feet right and 10 feet left of the following described centerline, to wit:

Commencing at the Northwest corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26;
thence South along the West line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 26 a distance of 360 feet;
thence East a distance of 356.22 feet to the Point of Beginning;
thence N 45°11'14" W a distance of 2.35 feet;
thence N 07°46'26" W a distance of 23.43 feet;
thence N 49°35'37" W a distance of 129.17 feet, more or less, to a Point of Terminus.

EXHIBIT A

AGREEMENT1541368 04:03 PM 05/08/90
E.SAWYER, CLK&REC MESA COUNTY CO

THIS AGREEMENT is made as of this 18th day of April, 1990, between IRVIN RENTALS COMPANY, a partnership, BEVERLY I. TALLMAN, REBECCA I. CLEMENT, PAT R. IRVIN (collectively herein referred to as "Irvins") and the CITY OF GRAND JUNCTION ("City").

RECITALS:

A. Irvins own the real property described on attached Exhibit 1 ("Irvin Property"). The Irvin Property is immediately adjacent on its south boundary to real property which the Mesa County real property records show is in title to Richard Lough, Rodger Lough, and Lyman Lough ("Lough Property"). The Irvin Property is also immediately adjacent on its northwest corner to real property described on Exhibit 2 owned by the City ("City Property").

B. The City has purchased tax certificates for delinquent taxes that are owed on the Lough Property.

C. Irvins desire to retain a recorded easement on the Lough Property along an existing roadway described on attached Exhibit 3 ("Irvin Roadway"). Irvins have been granted an easement on Irvin Roadway by the City.

D. The City desires to obtain a recorded easement on the Irvin Property along an existing roadway described on attached Exhibit 4 ("City Roadway").

NOW, THEREFORE, in consideration of the above recitals and the mutual covenants and agreements contained herein, Irvins and the City agree as follows:

1. Irvins agree to grant to the City an easement over the Irvin Property for the City Roadway subject to the terms of this Agreement.

2. If the City obtains title by recorded conveyance or otherwise to the Lough Property, the City shall execute any and all documents necessary to grant Irvins, their heirs, successors, transferees, and assigns, an easement over the Lough Property for the Irvin Roadway consistent with the terms of the easement previously granted to Irvins by the City.

3. The easement granted to the City by Irvins will be subject to the following conditions:

a. Irvins make no warranties concerning the stability, usability, safety or condition of the roadway;

Irvins shall not be held liable or responsible for maintaining, repairing or rebuilding the roadway.

b. The City, its invitees, heirs, successors and assigns agree to exercise the rights granted to them with due care, and all damages to persons or property resulting from the City, its officers, agents, employees, heirs, successors or assigns' (but excluding the general public) failure to exercise due care, or other standard of care as may be applicable and not arising from the willful misconduct of Irvins, shall be paid for or repaired at the sole expense of the City, its officers, agents, employees, heirs, successors and assigns (but excluding the general public).

c. The City, on its behalf and on behalf of the owners and/or occupiers of the lands benefited by this grant, agree to indemnify Irvins, their officers, employees and agents with respect to, and to hold Irvins, their officers, employees and agents harmless from, any damages or claims for injury to persons or property arising out of this grant which should result from, arise out of or be attributable to the use of the easement by the City (but excluding the general public) whether or not such use is permitted hereunder, not arising from the willful misconduct of Irvins.

d. The City, its invitees, heirs, successors or assigns shall only utilize the rights granted to them so that those rights and associated uses do not prohibit or limit the joint use of the roadway by Irvins, their employees, agents, successors or assigns. Irvins, their successors or assigns, shall have the right to enter upon the easement area to improve, maintain, repair, and rebuild the roadway, and further, Irvins shall have the right to prohibit or restrict the City's use of the easement area in connection with such right to improve, maintain, repair and rebuild.

e. At such time and in the event the easement shall be abandoned for a period of three (3) years, the property interest of the City therein shall immediately terminate and shall thereafter revert to Irvins, their successors and assigns.

f. The easement is limited to use of the City Roadway for ingress and egress to the memorial for Crawford's Tomb on the City Property.

g. Irvins, at their sole cost and expense, retain and reserve the right to relocate the easement provided the

relocation shall be accomplished only upon the approval of the City, which approval shall not be unreasonably withheld.

4. The conditions and provisions contained herein shall constitute a covenant running with the real property described on Exhibits 1 and 2, and shall benefit and be binding upon the City and Irvins and their heirs, successors, transferees and assigns.

DATED as of the day and year first above written.

IRVIN RENTALS COMPANY
a partnership

By Beverly I Tallman
Beverly I. Tallman, General Partner

By Rebecca I. Clement
Rebecca I. Clement, General Partner

By Pat R. Irvin
Pat R. Irvin, General Partner

Beverly I Tallman
Beverly I. Tallman, individually

Rebecca I. Clement
Rebecca I. Clement, individually

Pat R. Irvin
Pat R. Irvin, individually

Attest:

Neva B. Lockhart, CMC
Neva B. Lockhart, City Clerk

CITY OF GRAND JUNCTION
a municipal corporation

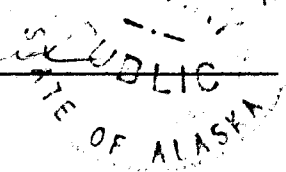
By Mark K. Achen
Mark K. Achen, City Manager

STATE OF ALASKA)
Municipality of _____) ss.
~~COUNTY OF~~ Anchorage)

The foregoing instrument was acknowledged before me this 30th day of April, 1990, by Beverly I. Tallman, individually, and as a General Partner of Irvin Rentals Company, a partnership.

Witness my hand and official seal.
My commission expires: 11-21-92.

Wanda Spence
Notary Public

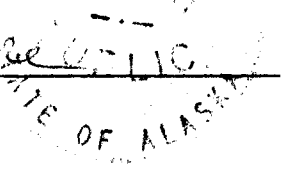


STATE OF ALASKA)
Municipality of _____) ss.
~~COUNTY OF~~ Anchorage)

The foregoing instrument was acknowledged before me this 30th day of April, 1990, by Rebecaa I. Clement, individually, and as a General Partner of Irvin Rentals Company, a partnership.

Witness my hand and official seal.
My commission expires: 11-21-92.

Wanda Spence
Notary Public

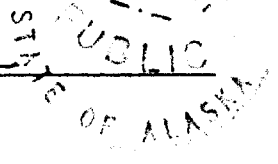


STATE OF ALASKA)
Municipality of _____) ss.
~~COUNTY OF~~ Anchorage)

The foregoing instrument was acknowledged before me this 30th day of April, 1990, by Pat R. Irvin, individually, and as a General Partner of Irvin Rentals Company, a partnership.

Witness my hand and official seal.
My commission expires: 11-21-92.

Wanda Spence
Notary Public

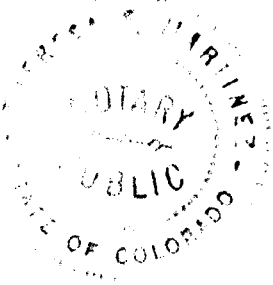


STATE OF COLORADO)
) ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me this 8 day of May, 1990, by Mark K. Achen, as City Manager, and by Neva B. Lockhart, as City Clerk, of the City of Grand Junction, a municipal corporation.

Witness my hand and official seal.

My commission expires: June 13, 1991.



Theresa S. Martinez
Notary Public

The following described real property located in County of Mesa, State of Colorado:

Beginning at a point 250 feet South of the Northwest corner of the Northeast One-Quarter (NE1/4) of the Southwest One-Quarter (SW1/4) of Section 26, Township 1 South, Range 1 West of the Ute Meridian, thence East 250 feet, thence North 170 feet, thence East 175 feet, thence North 80 feet, thence East 655 feet, thence South 360 feet, thence West 1,080 feet, thence North 110 feet to the Point of Beginning.

EXHIBIT 1

DOMINANT ESTATE (a/k/a Crawford's Tomb)

A parcel of real property located in the County of Mesa, State of Colorado, described as follows:

Beginning at the Northwest corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 26;
thence East a distance of 250 feet;
thence South a distance of 250 feet;
thence West a distance of 250 feet;
thence North a distance of 250 feet to the Point of Beginning.

EXHIBIT 2

An easement to a parcel of land located in Mesa County, Colorado, in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T1S, R1W of the Ute Meridian, the purpose of which is ingress and egress along an existing roadway 10 feet right and 10 feet left of the following described centerline.

Commencing at the Northwest Corner of said NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26 from whence the Northeast Corner of the NW $\frac{1}{4}$ SE $\frac{1}{4}$ of said Section 26 bears N90°00'00"E 2635.89 feet; thence S26°40'30"E 1119.44 feet to a point on the City of Grand Junction Water Treatment Plant Road said point being the beginning of a 72.76 foot radius curve to the left, the central angle of which is 42°18'56" and the chord of which bears N75°52'18"E 52.52 feet; thence along the arc of said curve 53.73 feet more or less to the boundary of the City of Grand Junction Water Treatment Tract and the beginning of a 72.76 foot radius curve to the left, the central angle of which is 80°41'04" and the chord of which bears N14°22'18"E 94.20 feet; thence along the arc of said curve 102.46 feet; thence N25°58'14"W 69.86 feet to the beginning of a 444.45 foot radius curve to the right, the central angle of which is 13°51'54" and the chord of which bears N19°02'17"W 107.29 feet; thence along the arc of said curve 107.55 feet; thence N12°06'20"W 76.15 feet to the beginning of a 491.28 foot radius curve to the left, the central angle of which is 6°41'20" and the chord of which bears N15°27'00"W 57.32 feet; thence along the arc of said curve 57.35 feet; thence N18°47'40"W 178.88 feet to a point from whence said road divides, the east fork of which bears N12°11'27"W 76.64 feet to a point which bears S48°28'56"E 543.09 feet from said Northwest Corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26, and the west fork of which bears N42°15'29"W 98.58 feet to a point which bears S44°41'23"E 506.37 feet from said Northwest Corner of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ Section 26.

To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the grantor, either in law or in equity, to the proper use, benefit and behalf of the grantees, their heirs, successors and assigns.

EXHIBIT 3

An easement to a parcel of land in the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 26, Township 1 South, Range 1 West of the Ute Meridian, Mesa County, Colorado, the purpose of which is to provide ingress and egress along an existing roadway 20 feet in width, being 10 feet right and 10 feet left of the following described centerline, to wit:

Commencing at the Northwest corner of the NE $\frac{1}{4}$ of the SW $\frac{1}{4}$ of said Section 26;
thence South along the West line of the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of said Section 26 a distance of 360 feet;
thence East a distance of 356.22 feet to the Point of Beginning;
thence N 45°11'14" W a distance of 2.35 feet;
thence N 07°46'26" W a distance of 23.43 feet;
thence N 49°35'37" W a distance of 129.17 feet, more or less, to a Point of Terminus.

GRANT OF EASEMENT

THE CITY OF GRAND JUNCTION, COLORADO, a municipal corporation, whose address is 250 North 5th Street, Grand Junction, of the County of Mesa, State of Colorado, for the consideration of TEN DOLLARS (\$10.00) and other valuable consideration in hand paid, hereby sells and grants to IRVIN RENTALS COMPANY, a partnership, BEVERLY I. TALLMAN, REBECCA I. CLEMENT, PAT R. IRVIN, whose address is 130 Bree Avenue, Anchorage, Alaska 99515, the following real property in the County of Mesa and State of Colorado, to wit:

An easement described on the attached Exhibit A;

with all its appurtenances, SUBJECT to the provisions and agreements contained and referred to in Resolution No. 33-90, passed and adopted by the City Council of the City of Grand Junction on April 18, 1990.

SIGNED this 8th day of May, 1990.

Attest:

CITY OF GRAND JUNCTION
a municipal corporation

Neva B. Lockhart CMC
Neva B. Lockhart, City Clerk

By Mark K. Achen
Mark K. Achen, City Manager

STATE OF COLORADO)
) ss.
COUNTY OF MESA)

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Witness my hand and official seal.

My commission expires: June 13, 1991.



Theresa L. Martini
Notary Public

An easement to a parcel of land located in Mesa County, Colorado, in the NE $\frac{1}{4}$ SW $\frac{1}{4}$ of Section 26, T1S, R1W of the Ute Meridian, the purpose of which is ingress and egress along an existing roadway 10 feet right and 10 feet left of the following described centerline.

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To have and to hold the same, together with all and singular the appurtenances and privileges thereunto belonging, or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the grantor, either in law or in equity, to the proper use, benefit and behalf of the grantees, their heirs, successors and assigns.

EXHIBIT A