

MSA020RC:

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: **EASEMENT**

PURPOSE: INSTALLATION, OPERATION, MAINTENANCE, REPAIR AND REPLACEMENT OF A PUBLIC PEDESTRIAN SIDEWALK

NAME OF PROPERTY OWNER OR GRANTOR: STATE OF COLORADO, FOR THE USE AND BENEFIT OF THE DEPARTMENT OF HIGHER EDUCATION ACTING BY AND THROUGH THE TRUSTEES OF THE STATE COLLEGES IN COLORADO

PURPOSE: 7' EASEMENT ALONG ORCHARD AVENUE

STREET ADDRESS/PARCEL NAME/SUBDIVISION (LOT AND BLOCK): 1040 MESA AVENUE AT MESA STATE COLLEGE - BLOCKS 1,2,3,4 & 5 - GARFIELD PARK SUBDIVISION

PARCEL NO.: 2945-114-04-923

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 2002

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

WHEN RECORDED RETURN TO:
City of Grand Junction
Real Estate Division
250 North 5th Street
Grand Junction, CO 81501

BOOK 3087 PAGE 228

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT, written in four (4) counterparts, is made and entered as of the 10th day of April, 2002, by and between the STATE OF COLORADO, for the use and benefit of the Department of Higher Education acting by and through the Trustees of the State Colleges in Colorado, hereinafter referred to as "Grantor", and the CITY OF GRAND JUNCTION, a Colorado home rule municipality, hereinafter referred to as the "Grantee".

WITNESSETH:

2058694 05/30/02 0907AM
MONIKA TODD CLK&REC MESA COUNTY CO
REC FEE \$45.00
DOCUMENTARY FEE \$EXEMPT

That, for and in consideration of the payment hereinafter stipulated and the keeping and performance of the covenants and agreements hereinafter expressed, Grantor grants to Grantee an easement for the installation, operation, maintenance, repair and replacement of a public pedestrian sidewalk, over and across a portion of Lot 1, Block 1 and a portion of Lots 1 through 10, Block 2 of Garfield Park Subdivision, situate in the Northeast 1/4 of the Southeast 1/4 ("NE 1/4 SE 1/4") of Section 11, Township 1 South, Range 1 West of the Ute Meridian, County of Mesa, State of Colorado, as recorded in Plat Book 6 at Page 23 in the office of the Mesa County Clerk and Recorder, the boundaries of said easement being more particularly described as follows, to wit: Beginning at the Northwest corner of Lot 1, Block 2 of said Garfield Park Subdivision, and considering the North line of the NE 1/4 SE 1/4 of said Section 11 to bear N 88°29'00" E with all bearings contained herein being relative thereto;

Thence from said Point of Beginning, N 88°29'00" E along the North line of said Garfield Park Subdivision, said North line lying 30.00 feet South of and parallel with the North line of the NE 1/4 SE 1/4 of said Section 11 and being the South right-of-way for Orchard Avenue, a distance of 676.93 feet;

Thence leaving the North line of said Garfield Park Subdivision, S 01°31'00" E a distance of 7.00 feet;

Thence S 88°29'00" W along a line which is 7.00 feet South of and parallel with the North line of said Garfield Park Subdivision a distance of 14.89 feet;

Thence leaving said parallel line, S 01°31'00" E a distance of 3.51 feet;

Thence S 46°22'55" W a distance of 5.94 feet;

Thence N 41°55'17" W a distance of 9.84 feet to a point on a line which is 7.00 feet South of the North line of said Garfield Park Subdivision;

Thence S 88°29'00" W along a line which is 7.00 feet South of and parallel with the North line of said Garfield Park Subdivision a distance of 643.60 feet;

Thence leaving said parallel line, S 45°00'00" W a distance of 10.44 feet, more or less, to a point on the East right-of-way for Cannell Avenue as shown on the Plat of said Garfield Park Subdivision, said point being on the West line of Lot 1, Block 2 of said Garfield Park Subdivision;

Thence N 01°47'21" W along said East right-of-way for Cannell Avenue and the West line of Lot 1, Block 2 of said Garfield Park Subdivision, a distance of 14.18 feet to the Point of Beginning, containing 4,813.9 square feet (0.111 acres), more or less, as described herein and depicted on Exhibit "C" attached hereto and incorporated herein by reference.

TO HAVE AND TO HOLD, for the purpose of constructing, installing, operating, repairing, maintaining and replacing a public pedestrian sidewalk, for the term of ten (10) years, commencing on the 1st day of June, 2002, and ending on the 31st day of May, 2012, in consideration for the payment of Twenty-five Dollars (\$25.00), for the full term, payable upon execution of this Agreement, receipt of which is hereby acknowledged by Grantor.

GRANTOR AND GRANTEE, MUTUALLY, EXPRESSLY COVENANT AND AGREE:

1. Grantee's use of this easement is for the purpose of supplying goods or services to the State and/or others, for which use Grantee has paid Grantor the sum of Twenty-five Dollars (\$25.00), the receipt of which is hereby acknowledged, the amount determined under the "LAND USE CONSIDERATION STATEMENT" and "LAND USE COMPENSATION SCHEDULE" (as modified by the footnote to the Land Use Consideration Statement), which are attached hereto as Exhibits "A" and "B", respectively, and which are incorporated herein by reference.

2. That if Grantee does not for a period of 366 consecutive days make use of the easement for the purpose aforesaid, Grantor may, in its sole discretion, immediately declare the easement abandoned and shall so notify Grantee by certified mail with return receipt requested. In the event of such abandonment, any unused portion of the consideration shall be forfeited.

3. This grant of easement is subject to any and all easements and rights-of-way previously granted and now in force and effect.

4. The signatories aver that to their knowledge, no State employee has any personal or beneficial interest whatsoever in the service or property described herein.

5. This Agreement shall not be deemed valid unless and until approved by the officials and officers of the State of Colorado as required by Chapter 24-82-202 C.R.S. 1973, and by the Controller of the State of Colorado, or such assistants as they may designate.

GRANTOR EXPRESSLY COVENANTS:

1. That, at the sole option of Grantee, Grantee may renew this easement for additional successive terms, indefinitely, provided that at least thirty (30) calendar days prior to the last day of each of said terms Grantee delivers written notice to Grantor of Grantee's resolve and intention to exercise such option to renew; and provided further that payment in full of the consideration for the whole next ensuing term accompanies the said written notice to renew.

2. That Grantee and Grantee's agents, successors and assigns shall have access at all times to said property for construction and maintenance of said easements.

GRANTEE EXPRESSLY COVENANTS:

1. Grantor shall have, during the continuance of the said easement, the right to dispose of the land and to use the same for other purposes subject to the rights and privileges herein granted to Grantee. In the event Grantor shall, in the future, wish to grant an easement or right-of-way which encroaches upon the easement granted herein, Grantee expressly agrees and

covenants it will consent to share a portion thereof, provided the proposed installation shall in no way interfere with the purposes for which the instant grant is made, and Grantee shall be entitled to such damages as may result from any impairment of Grantee's use of the land for such purpose. Grantor reserves all rights to any and all metallic and non-metallic minerals, ores and metals of any kind and character, including but not limited to coal, asphaltum, oil and gas in or under said easement.

2. That where circumstances require enclosure, or result in a severance of a portion of the land as the result of such installation, Grantee agrees to pay to Grantor the increase in payment provided under "VARIATIONS" of the said Exhibit "B".

3. That for good and sufficient cause Grantor may, at any time, require Grantee to relocate such portion or portions of Grantee's facility by giving Grantee at least ninety (90) days prior written notice of such requirement, but with the understanding and agreement by the parties that such new and different course will cause the Grantee the least hardship of any alternate course available. Cost to the Grantee for the aforesaid relocation shall not exceed fifty percent (50%) of the total cost. This relocation provision shall apply only during such time as Grantor is the owner of the underlying fee.

4. That in the event of termination, Grantee, at its expense, shall remove all appurtenances from the premises and restore the said premises as nearly as is practicable to the condition of the land existing immediately prior to Grantee's first use.

5. That Grantee may construct only that facility as shown on the attached Exhibit "C" and no other. If the land is used for any purpose other than stated herein, this easement is automatically terminated.

6. That Grantee will comply with all reasonable rules, regulations and policies authoritatively promulgated pertaining to use of the subject land and not in conflict with Grantee's use herein provided.

7. Grantee shall indemnify Grantor, defend and hold Grantor harmless against all liability, loss and expense for claims for injuries to persons or damage to property arising out of construction, use or maintenance of said easement, unless the claim arises out of the negligence of employees of Grantor; but Grantee shall not be relieved of responsibility to third parties as a joint tortfeasor.

8. Grantee agrees that all excavations or other temporary removal of soil as required for the installation and proper maintenance of said easement shall be properly replaced so far as is feasible to restore and maintain the said area to its original level. Grantee shall be responsible at all times for the immediate repair or replacement of, or reimbursement for any damage to the property due to the installation or for maintenance thereof. Routes of ingress and egress for construction or for maintenance are to be limited to the minimum necessary locations, and all roadways and work areas created on State land for the purpose of construction must be obliterated, protected against erosion, and restored to the former condition of the land, as nearly as possible.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed in four (4) counterparts the day and year first above written.

GRANTOR:

STATE OF COLORADO
Bill Owens, Governor

By *Lee A. Halgren*
For the Use and Benefit of the Department
of Higher Education Acting By and Through
the Trustees of the State Colleges in Colorado

STATE OF COLORADO)
)ss.
COUNTY OF ADAMS)

The foregoing instrument was acknowledged before me the 9th day of April, 2002,
by Lee A. Halgren acting on behalf of the State of Colorado, Department of
Higher Education, Acting by and through the Trustees of the State Colleges in Colorado.

Witness my hand and official seal.
My commission expires July 21, 2005



Stefanie Quintana
Notary Public

APPROVALS:

APPROVED:
STATE OF COLORADO
DEPARTMENT OF LAW
Ken Salazar, Attorney General
(or authorized Delegate)

By: *Ken Salazar*
Date: 4/10/02

APPROVED:
STATE OF COLORADO
STATE CONTROLLER'S OFFICE
Arthur L. Barnhart, State Controller
(or authorized Delegate)

By: *Linda S. Curran*
Date: 4/10/02

APPROVED:
DEPARTMENT OF PERSONNEL / GSS
STATE BUILDINGS AND REAL ESTATE PROGRAMS
Larry Friedberg, Manager
(or authorized Delegate)

By: *Larry Friedberg*
Date: 4-10-02

(Corporate Seal)



GRANTEE:

THE CITY OF GRAND JUNCTION,
a Colorado home rule municipality

Attest:

Stephanie Twin
City Clerk

[Signature]
City Manager

STATE OF COLORADO)
)ss.
COUNTY OF MESA)

The foregoing instrument was acknowledged before me the 10th day of APRIL, 2002,
by KELLY ARNOLD as City Manager and attested to by
STEPHANIE TWIN as City Clerk of the City of Grand
Junction, a Colorado home rule municipality.

Witness my hand and official seal.
My commission expires: 5/11/2006

Jim Woodmansee
Notary Public

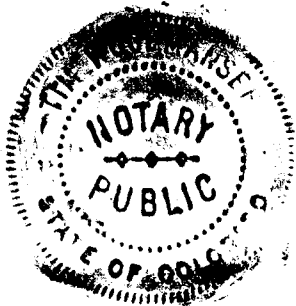


EXHIBIT "A"

LAND USE CONSIDERATION STATEMENT

APRIL 9, 2002
Date

INSTITUTION/AGENCY: Department of Higher Education acting by and through the Trustees of State Colleges in Colorado.

GRANTEE: The City of Grand Junction, a Colorado home rule municipality

GRANTEE ADDRESS: 250 North 5th Street, Grand Junction, CO 81501

Type of Right-of-Way: Easement for Public Pedestrian Sidewalk

Area Required 0.111 acres

4,813.9 sq.ft.

Estimated Market Value of Area @ \$N/A per N/A acre

N/A sq.ft. \$ N/A

Term Consideration per Right-of-Way
Land Use Schedule for ten (10) years \$ N/A

Variation Charge for Enclosure
or Severance \$ N/A

Right-of-Way Consideration
for Period June 1, 2002 to May 31, 2012: \$25.00¹

¹ Pursuant to Article XI, Section 7 of the Constitution of the State of Colorado, the Grantor has determined to and does hereby waive the consideration required under the Land Use Compensation Schedule attached as Exhibit "B" to this Easement.

EXHIBIT "B"

LAND USE COMPENSATION SCHEDULE

Percentage of Appraised Value
for Computation of Consideration

	<u>Easement Class</u>	<u>Percentage</u>
a.	Highways, roads (fences), railroads, reservoirs, ditches, canals; also improvements, etc., having exclusive, or nearly exclusive use and occupation of right-of-way	100
b.	Secondary roads	90
c.	Underground installations, such as pipelines, communication cables, electric power distribution lines, etc.; also overhead lines for communication and electric power distribution or transmission:	
	i. On remote grazing land (no probable change)	50
	ii. On grazing and agricultural land which may go to other use	60
	iii. On land in path of development	70
	iv. On land considered to be development land now	80

VARIATIONS:

When any right of way restricts or limits the use of such land by the Grantor, an additional charge, not to exceed 60 percent of the value of such area affected, will be required.

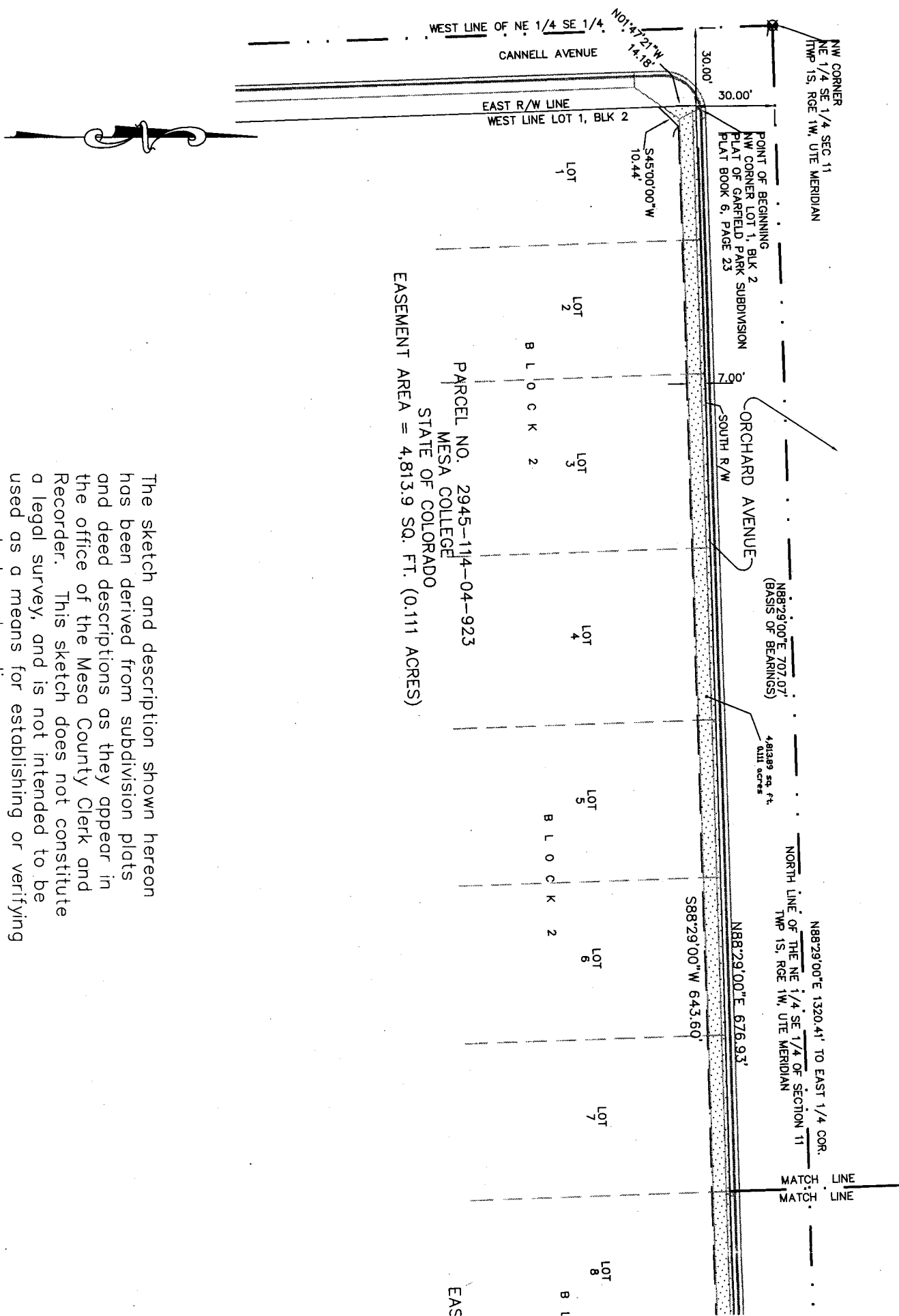
Any unusual situation will be considered on its merits.

CONSIDERATION PROCEDURES:

The consideration for the area of each right of way shall be governed by the land use percentage schedule for the specific right of way class and computed on the basis of the estimated market value of the land.

The minimum consideration for each easement or right of way shall not be less than \$250.

EXHIBIT "C"



The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.

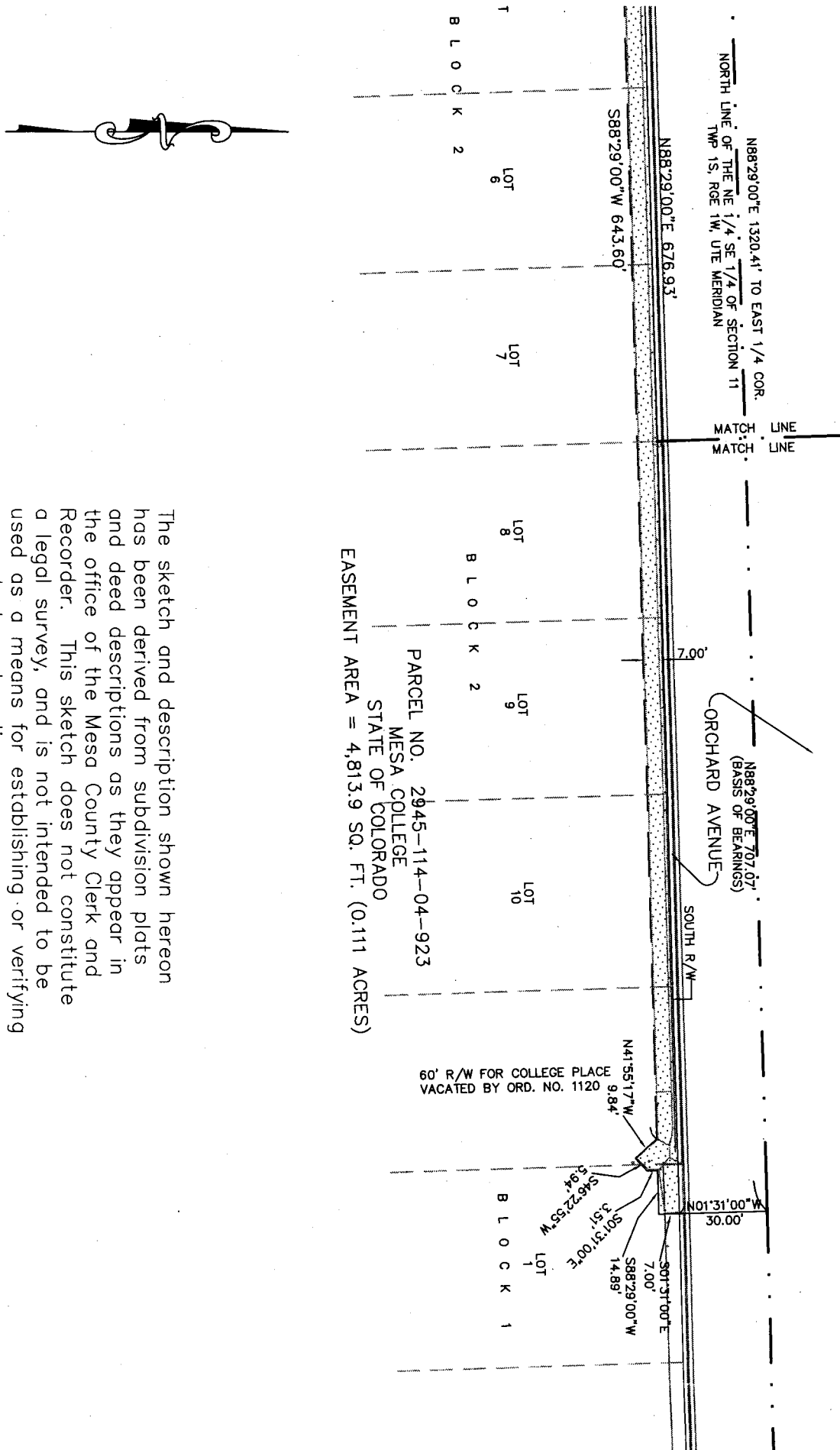
SHEET 1 OF 2

DRAWN BY: P.I.K.
DATE: 03-07-2002
SCALE: 1" = 50'
APPR. BY: TW
FILE NO: MESA.DWG

7' EASEMENT ALONG ORCHARD AVE.
MESA STATE COLLEGE
2945-114-04-923

DEPARTMENT OF PUBLIC WORKS
ENGINEERING DIVISION
CITY OF GRAND JUNCTION

EXHIBIT "C"



The sketch and description shown hereon has been derived from subdivision plats and deed descriptions as they appear in the office of the Mesa County Clerk and Recorder. This sketch does not constitute a legal survey, and is not intended to be used as a means for establishing or verifying property boundary lines.

SHEET 2 OF 2

DRAWN BY: P.T.K.
 DATE: 03-07-2002
 SCALE: 1" = 50'
 APPR. BY: TW
 FILE NO: MESA.DWG

7' EASEMENT ALONG ORCHARD AVE.
 MESA STATE COLLEGE
 2945-114-04-923

DEPARTMENT OF PUBLIC WORKS
 ENGINEERING DIVISION
 CITY OF GRAND JUNCTION